

# BOARD OF SUPERVISORS

## AGENDA

Meetings are located at:  
Yuba County Government Center  
Board Chambers, 915 Eighth Street  
Marysville, California



Agenda materials are available at the Yuba County Government Center, 915 8<sup>th</sup> Street, the County Library, 303 Second Street, Marysville, and [www.co.yuba.ca.us](http://www.co.yuba.ca.us). Any disclosable public record related to an open session item and distributed to all or a majority of the Board less than 72 hours prior to the meeting is available for public inspection at Suite 109 of the Government Center during normal business hours.

**FEBRUARY 8, 2011**

**8:30 A.M. YUBA COUNTY WATER AGENCY**

**9:15 A.M. YUBA COUNTY REDEVELOPMENT COUNCIL**

**9:30 A.M. YUBA COUNTY BOARD OF SUPERVISORS - Welcome to the Yuba County Board of Supervisors meeting. As a courtesy to others, please turn off cell phones, pagers, or other electronic devices, which might disrupt the meeting. Thank you.**

I. **PLEDGE OF ALLEGIANCE** - Led by Supervisor Abe

II. **ROLL CALL** - Supervisors Vasquez, Nicoletti, Griego, Abe, Stocker

III. **CONSENT AGENDA:** All matters listed under the Consent Agenda are considered to be routine and can be enacted in one motion.

A. **Community Development and Services**

1. Approve lease agreement with North Yuba Little League for joint use and associated improvements at the North Yuba Little League complex known as Sperbeck Field in Browns Valley and authorize the Chairman to execute same. (Land Use and Public Works Committee recommends approval) (056-11)
2. Adopt resolution summarily vacating bike easement over lot "H" of Tract Map No. 98-578, Rio Del Oro, Large Lot Final Map. (Land Use and Public Works committee recommends approval.) (057-11)
3. Approve Memorandum of Understanding with City of Yuba City regarding routing maintenance responsibilities for the Fifth Street Bridge and authorize the Chairman to execute same. (058-11)

B. **County Administrator**

1. Approve authorization of a Regional Waste Management Authority grant application on the County's behalf for the Local Government Waste Tire Cleanup and Amnesty Event Grant Program by authorizing the County Administrative Officer to execute submittal letter. (059-11)

IV. **SPECIAL PRESENTATION**

1. Present proclamation to Virgil Zimmerman honoring his years of service on the Planning Commission. (Five minute estimate) (060-11)

V. **PUBLIC COMMUNICATIONS:** Any person may speak about any subject of concern provided it is within the jurisdiction of the Board of Supervisors and is not already on today's agenda. The total amount of time allotted for receiving such public communication shall be limited to a total of 15 minutes and each individual or group will be limited to no more than 5 minutes. Prior to this time speakers are requested to fill out a "Request to Speak" card and submit it to the Clerk of the Board of Supervisors. Please note: No Board action can be taken on comments made under this heading.

VI. **ORDINANCES AND PUBLIC HEARINGS:** If you challenge in court the action or decision of the Yuba County Board of Supervisors regarding a zoning, planning, land use or environmental protection matter made at any public hearing described in this notice, you may be limited to raising only those issues you or someone else raised

**at such public hearing, or in written correspondence delivered to the Yuba County Board of Supervisors at, or prior to, such public hearing.**

- A. Public Hearing - Hold public hearing and approve amended Conflict of Interest Codes for the Marysville Levee Commission, Wheatland Cemetery District, Yuba Local Agency Formation Commission, Yuba County, and Yuba County Water Agency. (061-11)

VII. **CORRESPONDENCE** - (062-11)

- A. Letter from Federal Emergency Management Agency revalidating determinations for properties in letters of map changes previously issued.
- B. Brochure from National Association of Counties regarding April 2011 as National County Government Month.
- C. Letter from Reclamation District (RD) 784 requesting abandonment of Murphy Road west of Feather River Boulevard. Referred to Community Development.
- D. Memo from RD 784 enclosing a copy of Escrow documents from Leslye Rossiter of North State Title Company concerning conveyance of portions of Ella Basin to RD 784 and payment of pro-rata taxes. Referred to Auditor.
- E. Memo from Amador County Board of Supervisors regarding Tax Neutrality Guidelines for Pacific Gas and Electric donated lands.
- F. Letter from Area 4 Agency on Aging Advisory Council advising of three vacancies.

VIII. **BOARD AND STAFF MEMBERS' REPORTS:** This time is provided to allow Board and staff members to report on activities or to raise issues for placement on future agendas.

IX. **CLOSED SESSION:** Any person desiring to comment on any matter scheduled for this closed session may address the Board at this time.

- A. Threatened litigation pursuant to Government Code §54956.9(b) - One Claim

X. **2:00 P.M. SPECIAL PRESENTATION**

- A. Receive information on Draft General Plan 2030 and Draft Environmental Impact Report contents. (No additional background) (90 minute estimate) (063-11)

XI. **RECESS TO FEBRUARY 9, 2011 - 3:00 P.M.**

XII. **ORDINANCES AND PUBLIC HEARINGS:** If you challenge in court the action or decision of the Yuba County Board of Supervisors regarding a zoning, planning, land use or environmental protection matter made at any public hearing described in this notice, you may be limited to raising only those issues you or someone else raised at such public hearing, or in written correspondence delivered to the Yuba County Board of Supervisors at, or prior to, such public hearing.

- A. Public Hearing - Hold public hearing to receive public comments on the Draft General Plan 2030 and Draft Environmental Impact Report; provide direction regarding comments received; and direct staff to prepare Final Environmental Impact Report and response to comments. (064-11)

XIII. **ADJOURN**

**NO COMMITTEE MEETINGS**

02/08/2011 5:00 P.M. **Wheatland City/County Liaison Committee - CANCELLED**  
Wheatland City Hall  
111 C Street  
Wheatland, California

**02/09/2011 5:00 P.M.**     **Linda Liaison Committee - CANCELLED**  
**Linda Fire Protection District**  
**1286 Scales Avenue**  
**Marysville, California**

**02/11/2011 11:00 A.M.**     **Olivehurst Public Utility District/County Liaison Committee**  
**OPUD Board Room**  
**1970 9th Avenue**  
**Olivehurst, California 95961**

In compliance with the American with Disabilities Act, the meeting room is wheelchair accessible and disabled parking is available. If you have a disability and need disability-related modifications or accommodations to participate in this meeting, please contact the Clerk of the Board's office at (530) 749-7510 or (530) 749-7353 (fax). Requests must be made one full business day before the start of the meeting.

To place an item on the agenda, contact the office of the Clerk of the Board of Supervisors at (530) 749-7510.

### **PUBLIC INFORMATION**

**PUBLIC COMMUNICATIONS:** Members of the public shall be allowed to address the Board of Supervisors on items not appearing on the agenda which are of interest to the public and are within the subject matter jurisdiction of the Board, provided that no action shall be taken unless otherwise authorized by law. The total amount of time allotted for receiving such public communication shall be limited to a total of 15 minutes and each individual or group will be limited to no more than 5 minutes.

**AGENDA ITEMS:** The opportunity of the public to be heard on an item shall be provided during the consideration of that item. In the interest of time, the Board has limited the length of such comment or input on each item to 15 minutes total, with a limit of no more than 5 minutes per person or group. The period for public comments on a particular item may be extended upon a majority vote of the Board. These time limits do not apply to applicants appearing before the Board on behalf of their applications.

**ACTION ITEMS:** All items on the Agenda under the headings "Consent," "County Departments," Ordinances and Public Hearings," "Items of Public Interest," and "Closed Session," or any of them, are items on which the Board may take any action at this meetings.

**PUBLIC HEARINGS:** All members of the public shall be allowed to address the Board as to any item which is noticed on the Board's agenda as a public hearing. The Board has limited each person or group input to no more than 3 minutes. Any person or group may provide the Board with a written statement in lieu of or in supplement to any oral statement made during a public hearing. Written statements shall be submitted to the Clerk of the Board.

**ORDINANCES:** Ordinances shall not be passed within five days of their introductions, nor at other than a regular meeting or at an adjourned regular meeting. The Board of Supervisors will address ordinances at first readings. The public is urged to address ordinances at first readings. Passage of ordinances will be held at second readings, after reading the title, further reading is waived and adoption of the ordinance is made by majority vote. An urgency ordinance may be passed immediately upon introduction. The Board reserves the right to amend any proposed ordinances and to hold a first reading in lieu of a second reading.

**INFORMATIONAL CORRESPONDENCE:** The Board may direct any item of informational correspondence to a department head for appropriate action.

**SCHEDULED LUNCH BREAK:** Between the hours of 12:00 noon and 1:00 p.m. and at the discretion of the Chair, the Board will recess one hour for lunch.

**SPECIAL MEETINGS:** No public comment shall be allowed during special meetings of the Board of Supervisors, except for items duly noticed on the agenda.

**PUBLIC INFORMATION:** Copies of §6.7 shall be posted along with agendas.

**End**







*CONSENT*  
*AGENDA*



# The County of Yuba

## Community Development & Services Agency

**Kevin Mallen, Director**

Phone - (530) 749-5430 • Fax - (530) 749-5434  
915 8<sup>th</sup> Street, Suite 123  
Marysville, California 95901  
[www.co.yuba.ca.us](http://www.co.yuba.ca.us)



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**FINANCE AND ADMINISTRATION**  
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February 8, 2010

TO: YUBA COUNTY BOARD OF SUPERVISORS

FROM: MICHAEL LEE, PUBLIC WORKS DIRECTOR   
RYAN McNALLY, PARKS AND LANDSCAPE COORDINATOR 

SUBJ: APPROVE LEASE AGREEMENT WITH THE NORTH YUBA LITTLE LEAGUE FOR JOINT USE AND ASSOCIATED IMPROVEMENTS

### RECOMMENDATION:

That the Yuba County Board of Supervisors approve a 10 year Lease Agreement with the North Yuba Little League, excluding the "snack bar" facility, for the use of their field in support of our recreation program in exchange for our assistance with critical facility improvements.

### BACKGROUND:

In FY 2010 – 2011, the Community Development and Services Agency budgeted \$35,000 in improvements for the North Yuba Little League complex, otherwise known as Sperbeck Field in Browns Valley. A component of this project is also the execution of a ten year lease which would allow the County free access for functions pursuant to its ongoing recreation program.

The scheduled improvements will include minor road improvements into the facility, basic baseball field rehabilitation and a new child's play area.

### DISCUSSION:

The attached lease agreement with the North Yuba Little League will give the County free, unobstructed access to the facility when not otherwise occupied for Little League games for the purpose of expanding outdoor recreational programming into the Browns Valley area as demand increases.

### COMMITTEE ACTION:

On February 01, 2010, the Land Use and Public Works Committee recommended approval by your full Board.

### FISCAL IMPACT:

No additional fiscal impact as this is a budgeted item.

## LEASE AGREEMENT

THIS LEASE is made and entered into this \_\_\_\_\_ day of \_\_\_\_\_ 2011, by and between NORTH YUBA LITTLE LEAGUE, a 501(c)(3) non-profit corporation (herein referenced as "Lessor"), and the COUNTY OF YUBA, a political subdivision of the State of California (hereinafter called "Lessee"):

RECITALS:

1. Lessor is the owner in fee simple of the real property commonly known as NORTH YUBA LITTLE LEAGUE PARK (hereafter "the Park") as further described in the legal description attached hereto as Exhibit A.
2. The purpose of this lease is to permit and encourage the development of recreational facilities as identified by the Yuba County Parks Master Plan for the general rural area of northeast Yuba County, State of California. The portion of the property described in Exhibit A, excluding the "snack bar" facility, is hereby incorporated as the subject of this lease (hereafter "the Leased Premises").

AGREEMENTS:

It is mutually agreed by the parties hereto as follows:

1. Lease of Property – Lessor, in consideration of the rent provided herein and the performance of all covenants of this agreement, leases to the Lessee the Leased Premises, described in Exhibit A, attached hereto.
2. Rent – County of Yuba will pay rent to North Yuba Little League in the amount of \$1.00 to be paid upon the commencement of this Lease.

3. Term – The term of this lease shall be 10 years. The term will commence upon the execution of this lease and end on the \_\_\_\_\_ day of \_\_\_\_\_, 2021. Upon the termination of this lease there shall be an option to extend this Agreement for an additional 10 years.

4. Site Administration – All Site Administration of the facilities described in this Agreement shall be solely conducted and paid for by the Lessor, unless otherwise agreed upon by both parties as an addendum to this Agreement.

5. Maintenance – All maintenance of the facilities described in this Agreement shall be solely conducted and paid for by the Lessor, unless otherwise agreed upon by both parties as an addendum to this Agreement.

6. Use of Premises – Lessee agrees that the Leased Premises and the improvements thereon shall be made reasonably available for the use and furtherance of general recreational activities and services for the benefit of the public, so as to not conflict with normal Little League functions. No other improvements may be erected, constructed or emplaced on the Leased Premises by the Lessee, whether they are temporary or permanent, without the prior express written consent of the Lessor.

7. Public Access – The property and/or improvements described in this Agreement in general shall be made available to the public through Yuba County Recreation Program classes when not in use for Little League functions.

8. Indemnity - The Lessor shall defend, hold harmless and indemnify the Lessee, its officers, agents and employees from any and all claims of any third party arising from Lessor's ownership, operation or maintenance of the Park, including the

Leased Premises, except and to the extent such claims arise from the negligent acts or omissions of Lessee.

The Lessee shall hold harmless and indemnify the Lessor, its officers, agents, and employees from any and all claims arising from Lessee's exercise of the rights granted herein, including Lessee's exercise of Site Control in accordance with Paragraph 4, except and to the extent such claims arise from the negligent acts or omissions of Lessor.

9. Modification – Modification of the terms of this lease may be made by mutual agreement of the parties without further consideration.

10. Notice – All notices provided to be given herein shall be addressed to Lessor:

North Yuba Little League  
9481 Browns Valley School Road  
Browns Valley, CA 95918

and to Lessee:

County of Yuba  
Community Development and Services Agency  
915 Eighth Street, Suite 125  
Marysville, CA 95901

IN WITNESS WHEREOF the parties hereto have executed this Lease Agreement on the day and date first above shown.

COUNTY OF YUBA

By: \_\_\_\_\_  
Roger Abe, Chairman  
Yuba County Board of Supervisors

ATTEST: DONNA STOTTLEMEYER  
Clerk of the Board of Supervisors

By: \_\_\_\_\_

NORTH YUBA LITTLE LEAGUE

By: Clarence Weckman  
\_\_\_\_\_, President - CLARENCE EUGENE "WECKMAN"  
North Yuba Little League

APPROVED AS TO FORM

Thomas E. Jones  
Angil Morris-Jones  
County Counsel

## EXHIBIT A

### LEGAL DESCRIPTION

All that portion of the Northwest  $\frac{1}{4}$  of Section 22, Township 16 North, Range 5 East M.D.M. described as follows:

Beginning at a point on the westerly line of said Section 22, from which the northwesterly corner thereof bears North 00 degrees 23 minutes 10 seconds West 660 feet.

THENCE FROM SAID POINT OF BEGINNING North 8 degrees 22 minutes, 46 seconds East for a distance of 910.00 feet following along the southerly line of the Foothill School district parcel as described in that certain document filed in volume 111 Yuba County Official Records at page 293 and the easterly extension thereof,

THENCE South 00 degrees 37 minutes 14 seconds East for a distance of 581.96 feet;

THENCE South 89 degrees 22 minutes 45 seconds West for a distance of 497.08 feet to a point in the easterly line of the Brown's Valley Cemetery District parcel as described in that certain document No. 95-03693, Yuba County Official Records;

THENCE North 01 degrees 19 minutes 00 seconds west for a distance of 363.99 feet continuing northerly along said easterly line to the northeasterly corner of said Cemetery District parcel;

THENCE South 89 degrees 09 minutes 00 seconds West for a distance of 103.30 feet along the northerly line of said Cemetery District parcel to the southeasterly corner of that certain parcel described in the deed to the Loma Rica Browns Valley Volunteer Fire District in Document 90-1551, Yuba County Official Records;

THENCE North 00 degrees 23 minutes 10 seconds West for a distance of 158.76 feet along the easterly line of said Fire District Parcel to the northeasterly corner thereof;

THENCE South 89 degrees 09 minutes 00 seconds West for a distance 306.10 feet laong the northerly line of said Loma Rica Browns Valley Volunteer Fire District parcel and the westerly extension thereof to a point in the westerly line of said Section 22;

THENCE North 00 degrees 23 minutes 10 seconds West for a distance of 60.88 feet along said westerly line of said Section 22 to the Point of Beginning.

Said Property contains 7.62 acres more or less.



# The County of Yuba

## Community Development & Services Agency

**Kevin Mallen, Director**

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[www.co.yuba.ca.us](http://www.co.yuba.ca.us)



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**FINANCE AND ADMINISTRATION**

749-5430 • Fax 749-5434

**DATE: FEBRUARY 8, 2011**

**TO: BOARD OF SUPERVISORS**

**FROM: MICHAEL LEE, DIRECTOR OF PUBLIC WORKS** 

**SUBJECT: SUMMARY VACATION OF THE BIKE EASEMENT OVER LOT "H" OF TRACT MAP NO. 98-578, RIO DEL ORO, LARGE LOT FINAL MAP**

**RECOMMENDATION:** The Public Works Department recommends approval of the summary vacation of the bicycle easement over Lot "H" as shown on the Large Lot Map of Tract Map No. 98-578, Rio Del Oro subdivision.

**BACKGROUND:** The "Large Lot Final Map for Tract Map No. 98-578, Rio Del Oro" was filed in the Recorder's office on October 16, 2003 in Book 75 of Maps at page 22. Item (F) of the Owner's Statement, provides for an irrevocable offer of dedication for an "easement for the installation and maintenance of a bike trail, together with any and all appurtenances pertaining thereto on, over and across the lands designated "Bike Easement" (BE)." The main purpose of Lot "H" as shown on the final map is to accommodate a linear detention pond as a part of the Master Drainage Plan for Reclamation District 784. Lot "H" is currently in the process of being deeded to RD 784 by the owner, Rio Del Oro Farms #2, LLC. However, due to the increased liability of having a bike path located in close proximity of the detention pond, the Reclamation District is unwilling to take title to the land that is encumbered by the bike easement.

**DISCUSSION:** The bike trail as proposed has not yet been constructed. Lot "H" is currently also encumbered by an open space easement and a drainage easement. This proposed vacation of the bike easement will have no effect on those easements. The vacation will also have no effect on any public utility facilities.

**COMMITTEE:** This item was brought before the Land Use and Public Works Committee on January 11, 2011. The committee agreed with the recommendation to vacate the Bike Easement encumbering Lot "H" as shown on the Large Lot Map of Tract Map No. 98-578, Rio Del Oro subdivision.

**FISCAL IMPACT:** None.

Recorded at the Request of:  
After Recording Please return to:

Clerk of the Board of Supervisors  
915 8<sup>th</sup> Street, Suite 107  
Marysville, CA 95901

---

**BEFORE THE BOARD OF SUPERVISORS  
OF THE COUNTY OF YUBA**

**RESOLUTION SUMMARILY     )  
VACATING BIKE EASEMENT     )  
OVER LOT "H" OF TRACT MAP)  
NO. 98-578, RIO DEL ORO     )**

**RESOLUTION NO. \_\_\_\_\_**

WHEREAS, the vacation which is the subject of this resolution is made pursuant to Division 9, Part 3, Chapter 4 of the California Streets and Highways Code commencing at section 8333; and

WHEREAS, the County of Yuba acquired and accepted an offer of dedication for a bike easement over Lot "H" of Tract Map No. 98-578, Rio Del Oro, filed on October 10, 2003, in Book 75 of Maps at page 22, in the office of the recorder of Yuba County; and

WHEREAS, the bike easement has not been used for the purpose for which it was dedicated or acquired for five consecutive years immediately preceding the proposed vacation; and

WHEREAS, no public money has been expended for the construction of or the maintenance of such bike trail within Lot "H";

NOW, THEREFORE, the Yuba County Board of Supervisors hereby finds, declares, orders and resolves:

1. That the foregoing recitals are true and correct.

2. That this vacation is made pursuant to Streets and Highways Code section 8333 et seq.

3. That the bike easement hereinabove described is hereby summarily vacated.

4. That from and after the date this resolution is recorded, the bike easement hereby summarily vacated shall no longer constitute a bike trail.

5. The Clerk of the Board of Supervisors shall cause a certified copy of this resolution to be recorded in the office of the County Recorder, County of Yuba.

PASSED AND ADOPTED at a regular meeting of the Board of Supervisors of the County of Yuba, State of California, on the \_\_\_\_\_ day of \_\_\_\_\_, 2011, by the following vote:

AYES:

NOES:

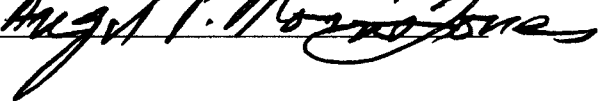
ABSENT:

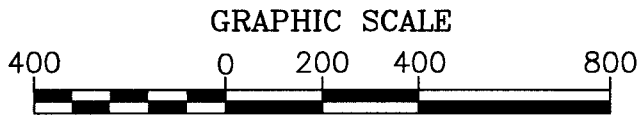
\_\_\_\_\_  
Chairman of the Board of Supervisors

ATTEST: Donna Stottlemeyer  
Clerk of the Board of Supervisors

APPROVED AS TO FORM  
Angil Morris-Jones, County Counsel

By: \_\_\_\_\_

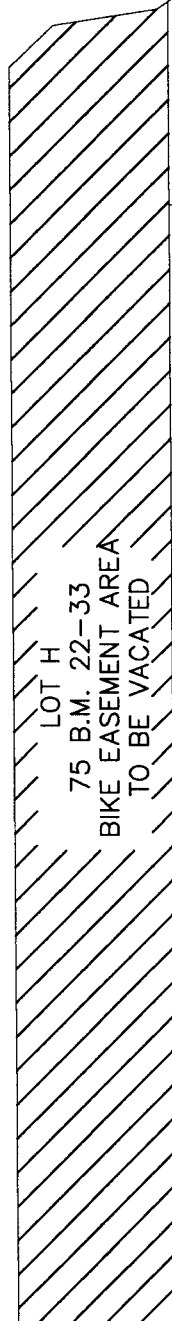
By: \_\_\_\_\_



( IN FEET )  
1 inch = 400 ft.



SCALE: 1" = 400'



RIO DEL ORO  
VILLAGE 8  
79 B.M. 29-34

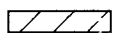
RIO DEL ORO  
VILLAGE 9  
79 B.M. 36-39

RIO DEL ORO  
VILLAGE 10  
79 B.M. 40-42

RIO DEL ORO  
VILLAGE 12  
80 B.M. 44-50

LOT DD  
75B.M. 22-33

**LEGEND**



BIKE EASEMENT AREA  
TO BE VACATED

**YUBA COUNTY PUBLIC WORKS DEPT.**

**EXHIBIT "A"  
FOR**

**BIKE EASEMENT VACATION**

AS SHOWN ON THE MAP OF ARBOGA COLONY UNIT #2 FILED IN  
BOOK 2 OF MAPS, PAGE 15, YUBA COUNTY RECORDS.

DRAWN BY *GS*

SCALE: 1"=300'

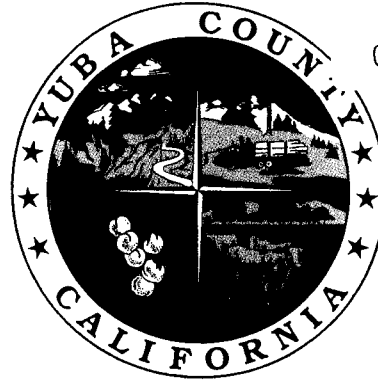
DATE: 12-16-2010

# The County of Yuba

## Community Development & Services Agency

**Kevin Mallen, Director**

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058-11

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February 8, 2011

TO: YUBA COUNTY BOARD OF SUPERVISORS

FROM: MICHAEL LEE, DIRECTOR OF PUBLIC WORKS

SUBJ: APPROVE A MEMORANDUM OF UNDERSTANDING WITH THE CITY OF YUBA CITY  
PERTAINING TO ROUTINE MAINTENANCE OF THE FIFTH STREET BRIDGE

### RECOMMENDATION:

Approve the attached MOU with the City of Yuba City pertaining to maintenance of the Fifth Street Bridge.

### BACKGROUND:

The existing Fifth Street Bridge was constructed across the Feather River replacing the former bridge that was damaged by the floods of 1955. At that time, Sutter County and Yuba County took the lead on the construction of the new bridge since the cities of Yuba City and Marysville did not have the staffing levels or expertise to lead these efforts. The construction of the new bridge was completed in 1958 and the maintenance lead responsibility remained shared between Sutter and Yuba Counties.

In March 1990, a joint resolution was adopted by the two counties and two cities outlining each jurisdiction's maintenance responsibilities related to the Fifth Street Bridge. The Counties alternate being the lead agency for "routine" maintenance every five years with an equal cost share. Any "major" maintenance costs that may be required are borne equally by all four jurisdictions (2 Counties and 2 Cities). The County acting as the lead agency for routine maintenance is also responsible for managing "major" maintenance projects.

### DISCUSSION:

The City of Yuba City recently requested to become the lead agency in responsible charge of replacing the existing Fifth Street Bridge. Since past practice has been the lead agency is also responsible for routine maintenance, Public Works approached Yuba City requesting that the City also assume responsibility for routine maintenance, relieving us of our obligation pursuant to the joint maintenance resolution. Yuba City Public Works agreed and this MOU is the mechanism to implement the change. The proposed MOU transfers the County of Yuba's routine maintenance responsibility for the Fifth Street Bridge to the City of Yuba City. Major maintenance projects will still be funded equally by all four jurisdictions in accordance with the joint resolution adopted in March 1990.

### COMMITTEE ACTION:

The Land Use and Public Works Committee was bypassed due to the routine nature of the request.

### FISCAL IMPACT:

Execution of the MOU will save the County's General Fund an estimated \$5,000 to \$10,000 per year.

## MEMORANDUM OF UNDERSTANDING

BETWEEN

THE COUNTY OF YUBA

And

CITY OF YUBA CITY

This Memorandum of Understanding (MOU) is between the Yuba County, hereinafter referred to as "COUNTY", and Yuba City, hereinafter referred to as "CITY".

WHEREAS, the Board of Supervisors of the County of Sutter, the Board of Supervisors of the County of Yuba, the City Council of the City of Yuba City, and the City Council of the City of Marysville approved a joint resolution in March 1990 apportioning maintenance responsibilities for the Fifth Street Bridge; and

WHEREAS, pursuant to said resolution, routine maintenance responsibility of the Fifth Street Bridge alternates every 5 years between Yuba County and Sutter County, with the current responsibility lying with Yuba County; and

WHEREAS, CITY desires to be, and currently is, the lead agency with management responsibilities for the Fifth Street Bridge Replacement Project;

NOW THEREFORE, County and City hereto, for and in consideration of the mutual covenants, conditions and agreements herein contained, do hereby agree as follows:

1. CITY assumes all COUNTY routine maintenance responsibilities as outlined in the March 1990 joint resolution apportioning maintenance responsibilities for the existing Fifth Street Bridge.

IN WITNESS WHEREOF the parties hereto have caused this instrument to be executed this \_\_\_\_\_ day of \_\_\_\_\_, 2011.

YUBA COUNTY

BY \_\_\_\_\_

Roger Abe  
Chair, Board of Supervisors

YUBA CITY

BY \_\_\_\_\_

*John Dukes*  
John Dukes, Mayor

APPROVED AS TO FORM

ANGIL P. MORRIS-JONES

COUNTY COUNSEL

BY: *Pat Garmore*

# The County of Yuba

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## OFFICE OF THE COUNTY ADMINISTRATOR

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GOVERNMENT CENTER - 915 8<sup>TH</sup> STREET, SUITE 115  
MARYSVILLE, CALIFORNIA 95901-5273  
(530) 749-7575 FAX (530) 749-7312



ROBERT BENDORF  
COUNTY ADMINISTRATOR

RANDY MARGO  
SISTANT COUNTY ADMINISTRATOR

JOHN FLEMING  
ECONOMIC DEVELOPMENT COORDINATOR

RUSS BROWN  
COMMUNICATIONS & LEGISLATIVE  
AFFAIRS COORDINATOR

GRACE M. MULL  
MANAGEMENT ANALYST

TEENA CARLQUIST  
EXECUTIVE ASSISTANT TO THE  
COUNTY ADMINISTRATOR

TO: Board of Supervisors  
FROM: Robert Bendorf, County Administrative Officer *RB*  
SUBJECT: Authorize Regional Waste Management Authority Grant Application for  
Local Government Waste Tire Cleanup and Amnesty Event Grant  
Program – FY 2011/12  
DATE: February 8, 2011

### **Recommended Action:**

Approve authorization of a Regional Waste Management Authority (RWMA) grant application on the County's behalf for the Local Government Waste Tire Cleanup and Amnesty Event Grant Program implementation in FY 2011/12, by authorizing the County Administrative Officer to execute submittal letter.

**Background and Discussion:** The RWMA is preparing a grant application for submittal to the California Department of Resources, Recycling and Recovery (CalRecycle) for the 2010/11 cycle of the Local Government Waste Tire Cleanup and Amnesty Event Grant Program for implementation in Fiscal Year 2011/12. The grant application is being submitted as a regional program under the authority of the RWMA Joint Powers Agreement.

The public education and amnesty program will function similar to the current waste tire program. The tire amnesty portion of the program will be designed to motivate residents to clean-up nuisance tires and small tire piles. The grant program will provide free tire coupons for direct haul to local transfer stations plus six waste tire bins for community clean-up events. Tires will not be accepted from tire businesses and private citizens with a coupon, will be permitted to drop off up to 19 tires at one time. The public education component of the program will focus on proper tire disposal; proper tire care to extend tire life; and, on the health, safety, and environmental issues associated with waste tires. The grant request will be for \$31,240 in program funding.

The RWMA Board authorized the submittal of an application at their meeting on January 20, 2011. The Department of Resources, Recycling and Recovery requires authorization, in the form of a letter executed by the County Administrative Officer, for the RWMA to act on behalf of each of the member jurisdictions.

**Committee Recommendation:** No committee recommendation was sought due to the routine nature of the action.

**Fiscal Impact:** There are no known costs to the County for these grant funds.

**DRAFT**

February 8, 2011

Mr. Keith Martin, Administrator  
Regional Waste Management Authority  
2100 B Street  
Marysville, CA 95901

**RE: Authorization Letter for the Regional Waste Management Authority to  
apply for a CalRecycle FY 2010/11 Local Government Waste Tire Cleanup  
and Amnesty Event Grant (TCA8 Cycle)**

Dear Mr. Martin:

The County of Yuba authorizes the Regional Waste Management Authority to submit a regional application, including the County of Yuba as a grant participant and the Regional Waste Management Authority as the lead agency and applicant, for the FY 2010/11 Local Government Waste Tire Cleanup and Amnesty Event Grant (TCA8 Cycle). On behalf of the County of Yuba, the Regional Waste Management Authority is authorized and empowered to execute all necessary grant related documents, including applications, agreements, amendments and payment requests necessary for the purposes of securing grant funds and to implement and carry out the program specified in the grant application.

Sincerely,

Robert Bendorf  
County Administrator







THE COUNTY OF YUBA

BOARD OF SUPERVISORS



— P R O C L A M A T I O N —

HONORING  
VIRGIL ZIMMERMAN

060-11

WHEREAS, Virgil Zimmerman was appointed to the Yuba County Planning Commission on October 1, 1997 as the District One Commissioner serving on behalf of Supervisor Al Amaro, and through various reappointments served through January 2011; and

WHEREAS, Virgil also represented District One Supervisors Daniels Logue and Andy Vasquez, and was elected Chairman 6 times in 2000, 2004, 2005, 2007, 2008, and 2009 and elected Vice Chairman in 2006; and

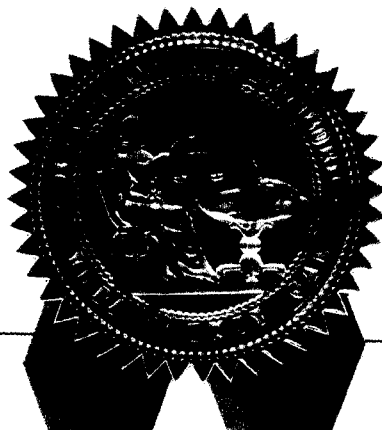
WHEREAS, during his tenure on the Planning Commission, Virgil worked on several mining projects including Simpson Lane, Triangle/Dantoni, Garcia Sand and Gravel, and Teichert Marysville; and had input on two major amendments to the Plumas Lake Specific Plan, as well as subdivision maps in both Plumas Lake and East Linda Specific Plan between 1999 and 2010; and

WHEREAS, Virgil reviewed and voted on over 60 tentative subdivision map projects located within the various valley communities totally over 4,800 new housing units, and including 2003 and 2008 Housing Elements and the 2030 General Plan Update; and

WHEREAS, Virgil worked with five Planning Directors beginning with Jim Manning, Pete Calarco, Tim Snellings, Chuck Thistlewaite, and Wendy Hartman, and numerous other Planning staff; Virgil's reputation of being direct and to the point - "no skirting around the issues" - fair and honest, and having a great deal of integrity was always appreciated.

NOW, THEREFORE, the Yuba County Board of Supervisors hereby commends Virgil Zimmerman for 11 years of dedicated service to the citizens of Yuba County.

  
CHAIRMAN



  
CLERK OF THE BOARD OF SUPERVISORS

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*ORDINANCES  
AND  
PUBLIC HEARINGS*



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OFFICE OF YUBA COUNTY COUNSEL



061-11

# MEMORANDUM

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**TO:** YUBA COUNTY BOARD OF SUPERVISORS  
**FROM:** PAT GARAMONE, CHIEF DEPUTY COUNTY COUNSEL  
**DATE:** FEBRUARY 8, 2011  
**SUBJECT:** 2010 AMENDMENTS TO THE CONFLICT OF INTEREST CODES FOR MARYSVILLE  
LEVEE COMMISSION, WHEATLAND CEMETERY DISTRICT, YUBA LAFCO, YUBA  
COUNTY AND YUBA COUNTY WATER AGENCY

---

**Recommendation:**

Adopt 2010 Amendments to the Conflict of Interest Codes for Marysville Levee Commission, Wheatland Cemetery District, Local Agency Formation Commission of Yuba County ("Yuba LAFCO"), Yuba County, and Yuba County Water Agency and direct the Clerk of the Board of Supervisors to notify the local agencies of the Board's approval.

**Discussion:**

Government Code sections 87300 et seq. require each local agency and County to keep a Conflict of Interest Code which must be reviewed during each even-numbered year and updated to reflect changes that occur in the organization of County departments. Proposed changes must be submitted to the Board of Supervisors no later than March first of the subsequent odd-numbered year.

The County Counsel's office conducted a survey of all County departments to determine the current allocated County positions and their proper disclosure categories. Based on the information submitted, an Amendment to the Conflict of Interest Code has been prepared and is attached.

The Clerk of the Board of Supervisors recently received the amended Conflict of Interest Codes for Marysville Levee Commission, Wheatland Cemetery District, Yuba LAFCO, and Yuba County Water Agency. An agency's Conflict of Interest Code is not effective until after approval by the code reviewing body. The Yuba County Board of Supervisors is the code reviewing body for local agencies whose boundaries are within the County of Yuba.

A Notice of Public Hearing has been published and a copy transmitted to the agencies with instruction to post the notice.

Following the public hearing, it is recommended that the Board of Supervisors approve

the Marysville Levee Commission, Wheatland Cemetery District, Yuba LAFCO, Yuba County and Yuba County Water Agency amended Conflict of Interest Codes and direct the Clerk of the Board of Supervisors to thereafter advise the agencies as such.

**Fiscal Impact:**

No impact to the General Fund.

**Committee Action:**

No committee action required because this is a routine and recurring matter mandated by the State.

PLG:amd

Enc.



## RESOLUTION NO. LC-2010-08

RESOLUTION OF THE MARYSVILLE  
LEVEE COMMISSION AMENDING THE  
CONFLICT OF INTEREST CODE

At a special meeting of the Marysville Levee Commission, State of California, held on the 19<sup>th</sup> day of October, 2010.

WHEREAS, Appendix "A" of the Conflict of Interest Code for the Marysville Levee Commission has been updated to reflect the current designated positions in the City of Marysville; and

WHEREAS, this body has determined that the attached Appendices accurately set forth those positions which should be designated and the categories of financial interests which should be made reportable.

NOW, THEREFORE, BE IT RESOLVED AS FOLLOWS:

1. The term of 2 Cal. Adm. Code Section 18730 and any amendments to it duly adopted by the Fair Political Practices Commission along with the attached Appendices in which officials and employees are designated and disclosure categories are set forth, are hereby incorporated by reference and constitute the Conflict of Interest Codes of the employees set forth in the Appendices.
2. Pursuant to Section 4 of the Code, all designated employees shall file their statements with the City Clerk to whom the Marysville Levee Commission hereby delegates the authority to carry out the duties of filing officer.

\*\*\*\*\*

I HEREBY CERTIFY that the foregoing Resolution was duly and regularly introduced and adopted by the Marysville Levee Commission, State of California, on the 19<sup>th</sup> day of October, by the following vote:

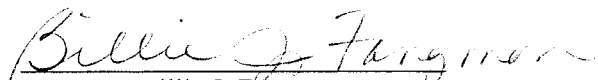
AYES: Benjamin Bramer, II, Patrick Ajuria, and Jerome Crippen

NOES: None

ABSENT: None

ABSTAINED: None

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of the said City on the 19<sup>th</sup> day of October, 2010.

  
Billie J. Fangman  
City Clerk

## APPENDIX "A"

<u>DESIGNATED POSITIONS</u>	<u>DISCLOSURE CATEGORY</u>
*President/Commissioners	1
*Attorney	1
Manager	1
**Consultant	1

\*Disclosure obligations for these positions are set forth in 87200 et.seq. of the Government Code and are included herein only for disqualification purposes.

\*\*The President may determine in writing that a particular consultant, although a "designated position," is hired to perform a range of duties that are limited in scope and thus is not required to fully comply with the disclosure requirements in this article. Such a written determination shall include a description of the consultant's duties and, based upon that description, a statement of the extent of disclosure requirements. The President's determination is a public record and shall be retained for public inspection in the same manner and location as this Conflict of Interest Code.

## APPENDIX "B"

### GENERAL PROVISIONS

When a designated employee is required to disclose investments, sources of income, and business positions, he need only disclose investments in, sources of income from, and positions in, business entities which do business in the jurisdiction, plan to do business in the jurisdiction or have done business in the jurisdiction within the past two years. In addition to other activities, a business entity is doing business within the jurisdiction if it owns real property within the jurisdiction. When a designated employee is required to disclose interests in real property, he need only disclose real property which is located in whole or in part within or not more than two miles outside the boundaries of the jurisdiction or within two miles of any land owned or used by the local government agency.

Designated employees shall disclose their financial interests pursuant to the appropriate disclosure category as indicated in Appendix "A."

### DISCLOSURE CATEGORIES

Category 1: All investments, sources of income, and business positions.

Category 2: All interests in real property.

*The foregoing instrument is a correct copy of  
the original on file in this office.*

ATTEST: *Belle G. Longman*  
City Clerk of the City of Marysville, California

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DEPUTY CLERK

# CONFLICT OF INTEREST CODE FOR THE WHEATLAND CEMETERY DISTRICT COUNTY OF YUBA

(A) The Political Reform Act of 1974, Government Code § 81000, et seq., requires state and local government agencies to adopt and promulgate Conflict of Interest Codes. The Fair Political Practices Commission has adopted a regulation, 2 California Code of Regulations § 18730, which contains the terms of a standard model Conflict of Interest Code, which can be incorporated by reference, and which may be amended by the Fair Political Practices Commission to conform to amendments in the Political Reform Act after public notice and hearings. Therefore, the terms of 2 California Code of Regulations § 18730 and any amendments to it duly adopted by the Fair Political Practices Commission, along with the attached Appendix in which officials and employees are designated and disclosure categories are set forth are hereby incorporated by reference and constitute the Conflict of Interest Code of the WHEATLAND CEMETERY DISTRICT.

(B) Pursuant to Government Code § 81008 and 2 California Code of Regulations § 18730(b)(4), all designated employees shall file Statements of Economic Interests (FPPC form 700) with the WHEATLAND CEMETERY DISTRICT. Statements for all designated employees shall be retained by the agency, which shall make the statements available for public inspection and reproduction.

(C) Designated employees are set forth in Appendix A, attached hereto and incorporated herein by reference. Disclosure categories are set forth in Appendix B, attached hereto and incorporated herein by this reference.

## APPENDIX A: DESIGNATED POSITIONS

### List of Designated Positions

### Assigned Disclosure Categories

Trustees - 3	1
Consultants - 0	NOT APPLICABLE
Secretary/Manager - 1	EXEMPT
Administrative Assistant - 1	EXEMPT
Supervising Groundskeeper - 1	EXEMPT
Groundskeeper - 1.5	EXEMPT

---

1. For purposes of this Code, a "consultant" is any natural person who provides, under contract, information, advice, recommendation or counsel to the WHEATLAND CEMETERY DISTRICT, provided however, that "consultant" shall not include a person who:

(a) Conducts research and arrives at conclusions with respect to his or her rendition of information, advice, recommendation or counsel independent of the control and direction of the agency or of any agency official, other than normal contract monitoring; and

(b) Possesses no authority with respect to any agency decision beyond the rendition of information, advice, recommendation or counsel

Consultants to the WHEATLAND CEMETERY DISTRICT shall be subjected to disclosure under Category 1, subject to the following limitation:

The Board of Trustees may determine in writing that a particular consultant, although a "Designated Employee", is hired to perform a range of duties that is limited in scope and thus is not required to fully comply with the disclosure requirements of Category 1. In such cases, the Board of Trustees may designate a different disclosure requirement. Such designation must be made in writing and based upon that description, a statement to the extent of the consultant's disclosure requirements. The Board of Trustees designation must be filed in advance of the disclosure by the consultant, with the WHEATLAND CEMETERY DISTRICT's Conflict of Interest Code and also filed with the code reviewing body and must be delivered to the consultant along with a copy of the Conflict of Interest Code and the manual and forms for disclosure (FPPC Form 730).

## **EXHIBIT B:DISCLOSURE CATEGORIES**

### **Disclosure Category 1:**

A member, officer, consultant or employee holding a position assigned in Disclosure Category 1 shall report:

#### **All investments and business positions in business entities and sources of income in the jurisdiction;**

When a member, officer or employee who holds a designated position is required to disclose investments and sources of income, he or she shall disclose investments in business entities and sources of income which do business in the jurisdiction, or have done business in the jurisdiction within the past two (2) years. In addition to the other activities, a business entity is doing business within the jurisdiction if it owns real property with the jurisdiction.

#### **All interest in real property in the jurisdiction, which was acquired by, leased or otherwise used by the WHEATLAND CEMETERY DISTRICT:**

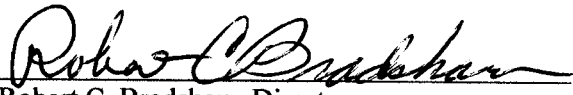
When a member, officer or employee who holds a designated position is required to disclose interests in real property, he or she shall disclose the type of real property described below, if it is located in whole or in part within, or not more than two (2) miles outside the boundaries of the jurisdiction, or within two (2)

miles of any land owned or used by the WHEATLAND CEMETERY DISTRICT.

**His or her status as director, officer, partner, trustee, employee or holder of a management position in any business entity in the jurisdiction.**

When a member, officer or employee who holds a designated position is required to disclose business position, he or she shall disclose positions in business entities that do business in the jurisdiction, plan to do business in the jurisdiction or have done business in the jurisdiction within the past two (2) years.

Dated: Nov 1<sup>st</sup>, 2010

  
Robert C. Bradshaw, Director  
WHEATLAND CEMETERY DISTRICT  
Board of Trustees

**Resolution 2010-0010**  
**of the**

**Local Agency Formation Commission**  
**Of**  
**Yuba County, California**

*Resolution of Local Agency Formation Commission of Yuba County*  
*Amending the Yuba LAFCO Conflict of Interest Code*

**WHEREAS**, amendments to the Political Reform Act, Government Code Sections 81000, *et seq.*, have in the past and foreseeably will in the future require conforming amendments to be made in Conflict of interest Codes adopted and promulgated pursuant to its provisions; and

**WHEREAS**, the Fair Political Practices Commission (FPPC) has adopted a regulation, 2 California Code of Regulations section 18730, which contains the terms of a standard Conflict of Interest Code, which can be incorporated by reference, and which will be amended to conform to amendments in the Political Reform Act after public notice and hearings conducted by the FPPC pursuant to the Administrative Procedure Act, Government Code Section 11370, *et seq.*; and

**WHEREAS**, incorporation by reference of the terms of the aforementioned regulation and amendments to it in conflict of Interest Codes saves Yuba LAFCO time and money by minimizing the actions required to keep the Code in conformity with the Political Reform Act.

**NOW THEREFORE, THE YUBA LAFCO DOES RESOLVE AS FOLLOWS:**

1. All previously adopted resolutions approving various separate conflict of interest codes are hereby rescinded and superseded.
2. The terms of 2 California Code of Regulations Section 18730, as it may be amended from time to time by the Fair Political Practices Commission, along with the attached appendix "A" in which officials and employees are designated and disclosure categories are set forth, are hereby incorporated by reference and constitute the Conflict of Interest Code for Yuba LAFCO.
3. Designated officials and employees shall file statements of economic interests with the Executive Officer, who will make the statements available for public inspection and reproduction.
4. In completing statements of economic interest, all designated officials and employees must disclosure all investments and business positions in business entities

within Yuba LAFCO's jurisdiction, sources of income from entities within Yuba LAFCO's jurisdiction, and interests in real property located within Yuba LAFCO's jurisdiction.

5. The Yuba LAFCO policy regarding reports filed after deadlines set by this Act is to impose the maximum fine allowed by the law.

**PASSED AND ADOPTED** at a regular meeting of the Yuba Local Agency Formation Commission, State of California, on the 3rd day of November 2010 by the following vote:

AYES: Commissioners Abe, Elphick, Hastey and Wirtschafter

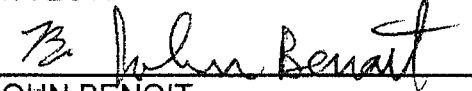
NOES: None

ABSTAINS: None

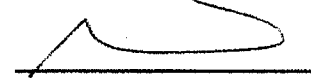
ABSENT: Commissioner Griego

  
Brent Hastey ~~MARY JANE GRIEGO, CHAIR~~ Vice-  
YUBA LOCAL AGENCY Chair  
FORMATION COMMISSION

ATTEST:

  
JOHN BENOIT  
Executive Officer

APPROVED AS TO FORM:

 11/3/10  
Michael G. Colantuono  
Counsel



APPENDIX "A"  
DESIGNATED OFFICERS AND EMPLOYEES – 2010

<u>DEPARTMENT/POSITION</u>	<u>DISCLOSURE CATEGORY</u>
Commissioners	II
Alternate Commissioners	II
Executive Officer	II
General Counsel and Alternate Counsel	II

**CONSULTANTS**

Consultants are defined for reporting purposes as persons who prepare a product or perform services of a general nature and/or on an on-going basis and participate by direct advice to the decision makers. Generally, consultants who prepare a product or perform services for a single specific matter are not the type of consultants required to be covered by a code, whereas consultants who provide more general assistance and advice to a government agency on an ongoing basis should be covered. Only those consultants who provide the Yuba LAFCO with an ongoing service or advice will be required to disclosure, and that shall be pursuant to the Type I category.

**DISCLOSURE CATEGORIES**

- |    |   |   |
|----|---|---|
| I  | = | Original Form 700 filed with the Yuba LAFCO's Executive Officer   |
| II | = | Original Form 700 filed with Fair Political Practices Commission (FPPC),<br>Sacramento and a copy filed with Yuba LAFCO's Executive Officer |

**CONFLICT OF INTEREST CODE FOR  
THE COUNTY OF YUBA  
(2010)**

The Political Reform Act, Government Code Sections 81000, et seq., requires state and local government agencies to adopt and promulgate conflict of interest codes. The Fair Political Practices Commission has adopted a regulation, 2 California Code of Regulations, Section 18730, which contains the terms of a standard conflict of interest code. The regulation can be incorporated by reference and may be amended by the Fair Political Practices Commission, after public notice and hearings, to conform to amendments to the Political Reform Act. Therefore, the terms of 2 California Code of Regulations, Section 18730, and any amendments thereto duly adopted by the Fair Political Practices Commission, are hereby incorporated by reference and, along with the attached Appendices in which officers, employees and consultants are designated and disclosure categories are set forth, constitute the conflict of interest code of the County of Yuba.

Recognizing that different positions have different levels of power and responsibility, this Conflict of Interest Code establishes categories of disclosure to which positions are assigned based on the scope of their decision making authority. Positions with no significant decision making responsibility are classified as exempt and are not required to file statements under this Code.

The job titles of the officers, employees, and consultants of this governmental entity and the categories to which they are assigned are set forth in **Appendix A** attached hereto and incorporated herein by reference. The specific disclosure and reporting requirements of each category are set forth in **Appendix B** attached hereto and incorporated herein by reference.

Consultants are also subject to the disclosure requirements of this conflict of interest code if they are in a position to make decisions or influence decisions that could have an effect on their financial interest.

Designated employees shall file statements of economic interest with the Yuba County Clerk before April first of each year. The Yuba County Clerk shall make the statements available for public inspection and reproduction when appropriate pursuant to Government Code section 81008.

In any event, all County officers, employees and agents are disqualified and shall not make, participate in making or in any way attempt to use his or her official position to influence the making of any governmental decisions which he or she knows or has reason to know will have a reasonably foreseeable material financial effect, distinguishable from its effect on the public generally, upon such officer, employee or agent, or a member of his or her immediate family.

A copy of the California Code of Regulations shall be available for review at the Yuba County Library.

# APPENDIX

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### **Appendix B:**

Disclosure Categories .....	10-11
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## APPENDIX "A"

Job Title	Assigned Disclosure Categories
<b>Administrative Services</b>	
Accounting Specialist .....	Exempt
Administrative and Accounting Supervisor .....	10
Administrative Assistant .....	Exempt
Administrative Services Assistant Director .....	1
Administrative Services Director .....	1
Administrative Technician .....	Exempt
Airport Maintenance Coordinator .....	5
Airport Manager .....	1
Building Maintenance Custodian .....	Exempt
Building Maintenance Technician I/II .....	5
Buildings & Grounds Supervisor .....	5, 7
Contract and Purchasing Administrator .....	5, 6, 10
Facilities Manager .....	5, 7, 16
Information Systems Manager .....	10, 15, 16
Information Systems Specialist .....	15
Information Systems Analyst I/II/III .....	15
Information Technology Supervisor .....	10, 15
Lead Building Maintenance Custodian .....	5
Office Assistant I/II .....	Exempt
Office Specialist .....	Exempt
Printing Services Coordinator .....	5
Senior Accounting Technician .....	10
<b>Agricultural Commissioner, Weights/Measures</b>	
Agricultural Commissioner/Director of Weights & Measures .....	1
Assistant Agricultural Commissioner/Director of Weights & Measures .....	1
Agricultural Weights & Measures Specialist I/II/III .....	Exempt
Executive Assistant .....	Exempt
Office Assistant Specialist .....	Exempt
<b>Assessor</b>	
Assessor (Elected) .....	1
Assessment Assistant I/II .....	Exempt
Assessment Specialist .....	Exempt
Assistant Assessor .....	1
Auditor-Appraiser I/II/III .....	1
Cadastral Drafting Technician .....	Exempt
Chief Deputy Assessor, Administration .....	1
Real Property Appraiser I/II/III .....	1

## APPENDIX "A"

Job Title	Assigned Disclosure Categories
Transfer Analyst I/II .....	1
<hr/>	
<b>Auditor-Controller</b>	
Accountant/Auditor I/II .....	Exempt
Accounting Specialist .....	Exempt
Assistant Auditor-Controller .....	1
Auditor-Controller (Elected) .....	1
Senior Accounting Technician .....	Exempt
<hr/>	
<b>Board of Supervisors</b>	
Members of the Board of Supervisors*	
Clerk of the Board .....	5
Deputy Clerk of the Board .....	Exempt
*Board of Supervisors to file pursuant to Government Code Sections 87200 et seq.	
<hr/>	
<b>Child Support Services</b>	
Director .....	1
Deputy Director of Administrative Affairs .....	1
Deputy Director of Legal Affairs .....	1
Accounting Assistant I/II .....	Exempt
Account Specialist .....	Exempt
Administrative & Accounting Supervisor .....	Exempt
Case Manager I/II .....	Exempt
Child Support Attorney I/II/III .....	1
Child Support Technician I/II .....	Exempt
Customer Relations Supervisor .....	Exempt
Executive Assistant .....	Exempt
Legal Office Assistant I/II .....	Exempt
Office Assistant I/II .....	Exempt
Senior Supervising Case Manager .....	Exempt
Supervising Case Manager .....	Exempt
Supervising Office Assistant .....	Exempt
Training Coordinator .....	Exempt
<hr/>	
<b>Community Development &amp; Services Agency</b>	
Accounting Assistant .....	Exempt
Accounting Specialist .....	Exempt
Accounting Technician .....	Exempt
Administrative & Accounting Supervisor .....	Exempt
Administrative Technician .....	Exempt

## APPENDIX “A”

Job Title	Assigned Disclosure Categories
Assistant Chief Building Official	1
Assistant/Associate Engineer	3, 4, 5, 8, 9, 10
Assistant Planner	1
Assistant Planning Director	1
Assistant Public Works Director	1
Assistant Public Works Superintendent	1
Associate Civil Engineer	3, 4, 5, 8, 9, 10
Associate Planner	1
Associate Surveyor	1
Building Inspector I/II	4, 7, 8
Building Inspector III	4, 7, 8
Chief Building Official	1
Code Enforcement Officer I/II	1
Code Enforcement Officer III	1
Community Development Specialist	1
Community Development Specialist I/II/III/IV	Exempt
County Surveyor	3, 4, 5, 8, 9, 10
Director of Community Development & Services Agency	1
Director of Environmental Health	1
Engineering Technician I/II	3, 4, 5, 8, 9, 10
Environmental Health Supervisor	1
Environmental Health Specialist I/II	4
Environmental Health Technician	4
Equipment Service Specialist	Exempt
Finance & Administration Manager	1
Fire Prevention Planner	1
Fiscal Analyst	Exempt
Hazardous Materials Supervisor	1
Heavy Equipment Mechanic	Exempt
Housing and Community Services Manager	1
Housing Specialist	4
Office Assistant I/II	Exempt
Office Specialist	Exempt
Office Specialist	Exempt
Park & Landscape Coordinator	Exempt
Park Coordinator	3, 4, 5, 8, 9, 10
Permit Technician	Exempt
Plan Checker I/II	4, 7, 8
Planning Director	1
Principal Engineer	3, 4, 5, 8, 9, 10
Principal Planner	1
Project Planner	1
Public Works Director	1
Public Works Superintendent	1
Road Maintenance Supervisor	3, 4, 5, 8, 9, 10
Road Maintenance Worker I/II	Exempt
Senior Account Technician	Exempt
Senior Environmental Health Specialist	4, 7, 8
Senior Housing Specialist	4
Senior Permit Technician	Exempt
Senior Planner	1

## APPENDIX "A"

Job Title	Assigned Disclosure Categories
Senior Road Maintenance Worker .....	Exempt
Supervising Building Official .....	4, 7, 8
Supervising Mechanic .....	Exempt

---

### County Administration

County Administrator*	
Management Analyst I/II .....	1
Administrative Assistant .....	Exempt
Assistant County Administrator/Principal Administrative Analyst I/II .....	1
Communications & Legislative Affairs Coordinator .....	1
Deputy County Administrator/ Emergency Services .....	1
Economic Development Coordinator .....	1
Emergency Services Officer .....	1
Executive Assistant to the County Administrator .....	Exempt

---

\*County Administrator to file pursuant to Government Code Section 87200 et seq.

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### County Clerk/Recorder

County Clerk/Recorder (Elected)* .....	1
Deputy Clerk/Recorder .....	Exempt
Elections Supervisor .....	Exempt
Office Specialist .....	Exempt

---

County Clerk/Recorder to file pursuant to Government code Section 87200, et seq.

---

### County Counsel

County Counsel*	
Chief Deputy County Counsel .....	1
Deputy County Counsel I/II/III .....	1
Legal Secretary .....	Exempt
Office Specialist .....	Exempt
Paralegal .....	Exempt

---

\*County Counsel to file pursuant to Government Code Section 87200, et seq.

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## APPENDIX "A"

Job Title	Assigned Disclosure Categories
<hr/>	
<b>District Attorney</b>	
District Attorney*	
Chief Deputy District Attorney .....	1
Deputy District Attorney I/II/III .....	1
District Attorney Investigator .....	Exempt
Legal Office Assistant I/II .....	Exempt
Legal Services Supervisor .....	5

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\*District Attorney to file pursuant to Government Code Section 87200, et seq.

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<b>Health and Human Services</b>	
Accounting Assistant I/II .....	Exempt
Accounting Specialist .....	Exempt
Accounting Technician .....	Exempt
Administration & Accounting Supervisor .....	Exempt
Administrative Analyst - Human Services .....	Exempt
Administrative Technician .....	Exempt
Appeals Specialist .....	Exempt
CCS Case Manager .....	Exempt
Correctional Facility Licensed Vocational Nurse .....	Exempt
Correctional Facility Medical Assistant .....	Exempt
Correctional Facility Registered Nurse .....	Exempt
Deputy Director of Health & Human Services .....	1
Director of Health & Human Services .....	1
Director of Nurses .....	1
Eligibility Supervisor .....	Exempt
Eligibility Technician I/II .....	Exempt
Employment & Training Specialist I/II .....	Exempt
Epidemiologist .....	Exempt
Executive Assistant .....	Exempt
Family Nurse Practitioner .....	Exempt
Finance & Administrative Supervisor .....	Exempt
Health & Human Services Aide .....	Exempt
Health & Human Services Program Manager .....	1
Health Aide .....	Exempt
Health Education Specialist I/II .....	Exempt
Health Officer .....	1
Legal Office Assistant I/II .....	Exempt
Office Assistant I/II .....	Exempt
Office Specialist .....	Exempt
Physical Therapist .....	Exempt
Program Aide .....	Exempt
Program Assistant .....	Exempt
Program Specialist .....	Exempt
Project Manager .....	1

## APPENDIX "A"

Job Title	Assigned Disclosure Categories
Public Health Nurse I/II	Exempt
Public Health Nurse III	Exempt
Registered Nurse	Exempt
Senior Accounting Technician	Exempt
Senior Correctional Facility Registered Nurse	Exempt
Senior Eligibility Technician	Exempt
Senior Substance Abuse Counselor	Exempt
Senior Welfare Fraud Investigator	Exempt
Social Worker I/II (Employ)	Exempt
Social Worker I/II/III/IV (AS)	Exempt
Social Worker III/IV (CWS)	Exempt
Social Worker Supervisor (AS)	Exempt
Social Worker Supervisor (CWS)	Exempt
Social Worker Supervisor (Employ)	Exempt
Substance Abuse Counselor I/II	Exempt
Supervising Legal Office Assistant	Exempt
Supervising Office Assistant	Exempt
Supervising Public Health Nurse	Exempt
Supply/Mail Clerk I/II	Exempt
Systems Support Analyst	Exempt
Veterans' Services Officer	1
Veterans' Services Representative	Exempt
Welfare Fraud Investigator	Exempt

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### Human Resources and Organizational Services

Director	1
Deputy Director	1
Human Resources Analyst I/II	Exempt
Human Resources Specialist	Exempt
Office Assistant I/II	Exempt

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### Library

Library Director	1
Executive Assistant	Exempt
Library Technician I/II/III/IV	Exempt

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### Probation

Administrative Services Manager	5, 6, 10, 11, 15, 16
Administrative Services Officer I/II	5,6,10,11,15,16
Administrative Technician	5,6,10,11
Administrative Technician	Exempt

## APPENDIX "A"

Job Title	Assigned Disclosure Categories
Accounting Technician	Exempt
Accounting Specialists I/II	Exempt
Accounting Specialists I/II	Exempt
Chief Probation Officer	1
Clinical Social Worker	1
Control Room Operator	Exempt
Cook	Exempt
Deputy Probation Officer I/II/III	Exempt
Deputy Superintendent of Institutions	1
Group Counselor I/II	Exempt
Intervention Counselors I/II	Exempt
Kitchen Supervisor	5
Legal Office Assistant I/II	Exempt
Office Assistant I/II	Exempt
Probation Program Manager	1
Program Aide	Exempt
Senior Deputy Probation Officer	1
Senior Victim/Witness Advocate	5
Superintendent of Institutions	1
Supervising Group Counselor	Exempt
Victim/Witness Advocate I/II	Exempt
Victim Witness Program Manager	1
<b>Public Guardian</b>	
Public Guardian/Conservator	1
Deputy Public Guardian	1
Office Specialist (Deputy)	1
<b>Sheriff/Coroner/Public Administrator</b>	
Sheriff/Coroner (Elected)*	1
Accounting Technician	5,6,10,11
Animal Care Services Officer	Exempt
Animal Care Technician	Exempt
Building Maintenance Technician I/II	Exempt
Crime Analyst	Exempt
Commissary Assistant	Exempt
Commissary Coordinator	5, 6, 10
Communication Dispatcher I/II	Exempt
Community Services Officer	Exempt
Cook	Exempt
Corporal	Exempt
Corrections Food Services Supervisor	5
Deputy Sheriff I/III	Exempt
Evidence Technician	1
Executive Assistant to the Sheriff	Exempt
Office Specialist	Exempt
Sheriff's Captain	5
Sheriff's Communications & Records Supervisor	Exempt

Sheriff's Financial Manager .....	5, 6, 10, 11
Sheriff's Lieutenant .....	1
Sheriff's Legal Specialist .....	1
Sheriff's Records Clerk .....	Exempt
Sheriff's Sergeant .....	Exempt
Senior Accounting Technician .....	5,6,10
Supervising Animal Care Services Officer .....	4, 5, 10
Undersheriff .....	1

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\*Sheriff to file pursuant to Government Code Section 87200 et seq.

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### **Treasurer/Tax Collector**

Treasurer/Tax Collector (Elected)*	
Accounting Assistant I/II .....	Exempt
Accounting Specialist .....	Exempt
Accounting Technician .....	Exempt
Assistant Treasurer & Tax Collector .....	1
Chief Deputy Treasurer & Tax Collector .....	1
Senior Accounting Technician .....	1

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\* Treasurer/Tax Collector to file pursuant to Government Code Section 87200 et seq.

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### **Miscellaneous**

Consultants .....	19
Grand Jury Members .....	20

**COUNTY OF YUBA  
CONFLICT OF INTEREST CODE  
APPENDIX "B"**

**DISCLOSURE CATEGORIES**

**Disclosure  
Category**

- |    |   |
|----|---|
| 1  | All investments and business positions in business entities, sources of income and interests in real property within the County of Yuba and within two miles of the exterior boundaries of Yuba County.     |
| 2  | Investments and business positions in business entities, and all sources of income.   |
| 3  | Interests in real property.   |
| 4  | Investments and business positions in, and income (including gifts or loans) from business entities or individuals who are subject to regulation, inspection or licensing by the County of Yuba.            |
| 5  | Investments and business positions in business entities, and sources of income from entities providing supplies, services, equipment or machinery of the type used in the designated employee's department. |
| 6  | Investments and business positions in, and income from entities which are vendors, book outlets, or providers of business services.   |
| 7  | Investments and business positions in business entities and income from sources engaged in construction, building, or material supply.  |
| 8  | Investments and business positions in business entities and income from sources engaged in construction, land development, or the acquisition or sale of real property.                                     |
| 9  | Investments and business positions in, and income from sources engaged in, the construction of public works projects.   |
| 10 | Investments and business positions in business entities and income from business entities of the type providing bids, supplies, vehicles and equipment.   |
| 11 | Investments and business positions in business entities which provide training, services, or facilities of the type utilized by the County.   |
| 12 | Investments and business positions in business entities and sources of income which provide services and supplies of the type used in emergency services coordination and training activities.              |
| 13 | Investments and business positions in, and income from, union pension funds that may be affected by the outcome of negotiations involving monetary settlements  |

and employer-employee memorandums.

- 14 Investments and business positions in, and income from entities providing medical, health, mental, or social services or facilities for such purposes of the type used or provided by the County.
- 15 Investments and business positions in, and income from, business entities supplying or manufacturing electronic equipment, supplies or services of the type utilized by the County.
- 16 Investments and business positions in, and income from business entities providing supplies, services, equipment or machinery of the type used by the County.
- 17 Investments and business positions in, and income from employment agencies or entities which provide employment or pre-employment services. Services include, but are not limited to, testing, training, consulting, job classification studies and salary surveys.
- 18 Investments and positions in, and income from, business entities which are of the type to provide any of the various types of employee insurance coverage and/or actuarial services.
- 19 The County Administrator shall determine in writing that a particular consultant, although a "designated position," is hired to perform a range of duties that is limited in scope and thus is not required to fully comply with the disclosure requirements described in this appendix. Such written determination shall include a description of the consultant's duties and, based upon that description, a statement of the extent of disclosure requirements. The County Administrator's determination is a public record and shall be retained for public inspection in the same manner and location as this conflict of interest code.
- 20 All investments and positions in business entities within Yuba County held during the previous two years which have done business with an entity currently under civil investigation by the Grand Jury; and income from individuals who are employees of the county and/or entities under investigation; and all interests in real property.

**Amended**  
**CONFLICT OF INTEREST CODE**  
**FOR**  
**THE YUBA COUNTY WATER-AGENCY**

The Political Reform Act, Government Code Sections 8100, et seq. , requires State and local government agencies to adopt and promulgate Conflict of Interest Codes. The Fair Political Practices Commission has adopted a regulation, 2 California Code of Regulations, Section 18730, which contains the terms of a standard conflict of interest code, which can be incorporated by reference, and which may be amended by the Fair Political Practices Commission to conform to amendments to the Political Reform Act after public notice and hearings. Therefore, the terms of 2 California Regulations, Section 18730, and any amendments thereto duly adopted by the Fair Political Practices Commission, along with the attached Appendix in which officials and employees are designated and disclosure categories are set forth, are hereby incorporated by reference and constitute the Conflict of Interest Code of the Yuba County Water Agency.

Recognizing that different employees have different levels of authority and responsibility, the Conflict of Interest Code establishes four categories of disclosure to which employees are designated based on the scope of their decision making authority. Employees with no significant decision making responsibility are classified as exempt, and are not required to file reports under this Code.

The Non-exempt Agency employees and officers listed on Exhibit A, attached hereto and incorporated herein by reference, are designated as persons who are deemed to make, or participate in the making of, decisions that may have a material effect on a financial interest. The specific disclosure and reporting requirements of each category are set forth in EXHIBIT "B" attached hereto and incorporated herein by reference. Consultants are also subject to the disclosure requirements of this Conflict of Interest Code if they are in a position to make decisions, or influence decisions, that could have an effect on their financial interest.

The persons holding designated positions listed on Exhibit A shall disclose interest and investments in accordance with the corresponding disclosure categories also described in Exhibit A and defined in Exhibit B. The designated employees, officers and consultants shall file their annual statements of economic interest with the Administrative Coordinator by April 1 of each year.

To assure the designated employees understand their duties under 2 California Code of Regulations, Section 18730, a copy of said Regulation is attached as EXHIBIT "C" and is incorporated herein by reference. A copy of the California Code of Regulations shall be available for review at the Yuba County Library.

## EXHIBIT "A"

### Yuba County Water Agency LIST OF EMPLOYEE JOB TITLES

<b><u>POSITION</u></b>	<b><u>DISCLOSURE CATEGORY</u></b>
General Manager	1/
<del>Assistant Manager</del>	
Finance Manager	1/
<del>Assistant Manager-Administration</del>	
Water Resources Manager	Category 1, 2, 3 & 4
<del>Assistant Manager for Project</del>	
Projects Manager	Category 1, 2, 3 & 4
<del>Management Development</del>	Category 1, 2, 3 & 4
Members of the Board of Directors	1/
Administrative Services Manager	Category 1, 2, 3 & 4
Power Systems Manager	Category 1, 2, 3 & 4
Assistant Power Systems Manager	Category 1, 2, 3 & 4
Senior Accountant	Category 1 & 2
Associate Accountant	Category 1 & 2
<del>Accounting Specialist</del>	Exempt
Administrative Coordinator	Exempt
Administrative Assistant	Exempt
<del>Administrative Specialist</del>	Exempt
Office Manager	Exempt
Working Foreman	Category 1, 2 & 3
Supervising Communications Technician	Category 1, 2 & 3
Supervising Electrical Technician	Category 1, 2 & 3
Senior Operator	Exempt
Operator	Exempt
Plant Mechanic	Exempt
Utility Worker	Exempt
Hydro Maintenance Worker	Exempt
Ditch Tender	Category 1 & 2
Assistant Ditch Tender	Category 1 & 2

1/ Officials Who Manage Public Investment: It has been determined that the persons in these positions manage public investments within the meaning of Government Code section 87200 and California Code of Regulations, title 2, section 18720; therefore, they are subject to state law requirements concerning disclosure and filing of statements of economic interest.

2/ Consultants: Consultants (as defined at FPPC Regulation, 2 CCR section 18700) shall be included in the list of designated positions and shall disclose interests and investments in accordance with the broadest disclosure category in the Agency's conflict of interest code, subject to the following limitation. The Engineer-Administrator may determine (a) whether a particular independent contractor is a consultant, as defined, and (b) that a particular consultant, although a 'designated position,' is hired to perform a range of duties that is limited in scope and thus is not required to fully comply with the disclosure requirements described in this section. The Engineer-Administrator's determination under (b) shall be in writing and include a description of the consultant's duties, and based on that description, a statement of the extent of disclosure requirements. The written determination is a public record and shall be retained for public inspection in the same manner and location as the Agency's conflict of interest code.



Peripheral Facilities Care Taker	Category 1 & 2
Electrician	Exempt
Communications Technician	Exempt
Safety & Records Coordinator	Exempt
Hydrographer	Exempt
General Counsel	Category 1, 2, 3 & 4
Consultants	<sup>2/</sup>

- The Assistant Manager position has been deleted
- The Assistant Manager-Administration position became Finance Manager
- The Assistant Manager for Project position became Projects Manager
- The Accounting Specialist position became Associate Accountant
- The Administrative Specialist position became Administrative Assistant

Revised 8/24/2010

<sup>1/</sup> Officials Who Manage Public Investment: It has been determined that the persons in these positions manage public investments within the meaning of Government Code section 87200 and California Code of Regulations, title 2, section 18720; therefore, they are subject to state law requirements concerning disclosure and filing of statements of economic interest.

<sup>2/</sup> Consultants: Consultants (as defined at FPPC Regulation, 2 CCR section 18700) shall be included in the list of designated positions and shall disclose interests and investments in accordance with the broadest disclosure category in the Agency's conflict of interest code, subject to the following limitation. The Engineer-Administrator may determine (a) whether a particular independent contractor is a consultant, as defined, and (b) that a particular consultant, although a 'designated position,' is hired to perform a range of duties that is limited in scope and thus is not required to fully comply with the disclosure requirements described in this section. The Engineer-Administrator's determination under (b) shall be in writing and include a description of the consultant's duties, and based on that description, a statement of the extent of disclosure requirements. The written determination is a public record and shall be retained for public inspection in the same manner and location as the Agency's conflict of interest code.

## EXHIBIT "B"

Category 1

Category 2

Category 3

Category 4

### DISCLOSURE CATEGORIES

<u>Category</u>	<u>Description of Interest to be Disclosed</u>
-----------------	--

I.	Investment and Real Property Interests
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Reporting requirements are set forth in 2 California Code of Regulations, §18730, (b), Section 7 (A) as follows:

1. A statement of the nature of the investment or interest.
6. The name of the business entity in which each investment is held, and a general description of the business activity in which the business entity is engaged.
7. The address or other precise location of the real property.
8. A statement whether the fair market value of the investment or interest in real property exceeds \$1,000, \$10,000 or \$100,000.

For the purpose of disclosure only (not disqualification), an interest in real property does not include the principal residence of the filer.

1/ Officials Who Manage Public Investment: It has been determined that the persons in these positions manage public investments within the meaning of Government Code section 87200 and California Code of Regulations, title 2, section 18720; therefore, they are subject to state law requirements concerning disclosure and filing of statements of economic interest.

2/ Consultants: Consultants (as defined at FPPC Regulation, 2 CCR section 18700) shall be included in the list of designated positions and shall disclose interests and investments in accordance with the broadest disclosure category in the Agency's conflict of interest code, subject to the following limitation. The Engineer-Administrator may determine (a) whether a particular independent contractor is a consultant, as defined, and (b) that a particular consultant, although a 'designated position,' is hired to perform a range of duties that is limited in scope and thus is not required to fully comply with the disclosure requirements described in this section. The Engineer-Administrator's determination under (b) shall be in writing and include a description of the consultant's duties, and based on that description, a statement of the extent of disclosure requirements. The written determination is a public record and shall be retained for public inspection in the same manner and location as the Agency's conflict of interest code.

Investments and interests in real property which have a fair market value of less than \$1,000 are not investments and interests in real property within the meaning of the Political Reform Act. However, investments or interests in real property of an individual include those held by the individual Is Spouse and dependent children as well as a pro rata share of any investment or interest in real property of any business entity or trust in which the individual, spouse and dependent children own, in the aggregate, a direct, indirect or beneficial interest of ten percent or greater.

## II. Income, Gifts and Loans

Reporting requirements are set forth in 2 California Code of Regulations, §18730, (b) , Section 7 (B) as follows:

1. The name and address of each source of income aggregating \$250 or more in value, or \$50 dollars or more in value if the income was a gift, and a general description of the business activity, if any, of each source.
2. A statement whether the aggregate value of income from each source, or in the case of a loan, the highest amount owed to each source was \$1,000 or less, greater than \$1,000, or greater than \$10,000.
3. A description of the consideration, if any, for which the income was received.
4. In the case of a gift, the name, address and business activity of the donor and any intermediary through which the gift was made; a *description* of the gift; the amount or value of the gift; and the date on which the gift was received.
5. In the case of a loan, the annual interest rate and the security, if any, given for the loan.

Income includes community property interest of employee in the

1/ Officials Who Manage Public Investment: It has been determined that the persons in these positions manage public investments within the meaning of Government Code section 87200 and California Code of Regulations, title 2, section 18720; therefore, they are subject to state law requirements concerning disclosure and filing of statements of economic interest.

2/ Consultants: Consultants (as defined at FPPC Regulation, 2 CCR section 18700) shall be included in the list of designated positions and shall disclose interests and investments in accordance with the broadest disclosure category in the Agency's conflict of interest code, subject to the following limitation. The Engineer-Administrator may determine (a) whether a particular independent contractor is a consultant, as defined, and (b) that a particular consultant, although a 'designated position,' is hired to perform a range of duties that is limited in scope and thus is not required to fully comply with the disclosure requirements described in this section. The Engineer-Administrator's determination under (b) shall be in writing and include a description of the consultant's duties, and based on that description, a statement of the extent of disclosure requirements. The written determination is a public record and shall be retained for public inspection in the same manner and location as the Agency's conflict of interest code.

income of his or her spouse, but does not include salary or reimbursement for expenses received from a state, local or federal government agency.

### III. Business Entity Income

Reporting requirements are set forth in 2 California Code of Regulations, §18730, (b), Section 7 (C) as follows:

1. The name, address, and a general description of the business activity of the business entity.
2. The name of every person from whom the business entity received payments if the filer's pro rata share of gross receipts from such person was equal to or greater than \$10,000.

Income of a business entity is if the direct, indirect, or beneficial interest of the filer and the filer's spouse in the business entity aggregates a 10 percent or greater interest.

### IV. Business Positions

Reporting requirements are set forth in 2 California Code of Regulations, §18730, (b), Section 7 (D) as follows:

1. The name and address of each business entity in which the employee is a director, officer, partner, trustee, employee, or in which he or she holds any position of management.
2. A description of the business activity in which the business entity is engaged.
3. The employee's position with the business entity.

1/ Officials Who Manage Public Investment: It has been determined that the persons in these positions manage public investments within the meaning of Government Code section 87200 and California Code of Regulations, title 2, section 18720; therefore, they are subject to state law requirements concerning disclosure and filing of statements of economic interest.

2/ Consultants: Consultants (as defined at FPPC Regulation, 2 CCR section 18700) shall be included in the list of designated positions and shall disclose interests and investments in accordance with the broadest disclosure category in the Agency's conflict of interest code, subject to the following limitation. The Engineer-Administrator may determine (a) whether a particular independent contractor is a consultant, as defined, and (b) that a particular consultant, although a 'designated position,' is hired to perform a range of duties that is limited in scope and thus is not required to fully comply with the disclosure requirements described in this section. The Engineer-Administrator's determination under (b) shall be in writing and include a description of the consultant's duties, and based on that description, a statement of the extent of disclosure requirements. The written determination is a public record and shall be retained for public inspection in the same manner and location as the Agency's conflict of interest code.



# Federal Emergency Management Agency

Washington, D.C. 20472

062-11

The Honorable Mary Jane Griego  
Chair, Board of Supervisors  
915 Eighth Street, Suite 109  
Marysville, CA 95901

**JAN 20 2011**

Case No: 08-09-0895V  
Community: Yuba County, CA  
Community No.: 060427  
Effective Date: February 19, 2011  
LOMC-VALID

Dear Supervisor Griego:

This letter revalidates the determinations for properties and/or structures in the referenced community as described in the Letters of Map Change (LOMCs) previously issued by the Department of Homeland Security's Federal Emergency Management Agency (FEMA) on the dates listed on the enclosed table. As of the effective date shown above, these LOMCs will revise the effective National Flood Insurance Program (NFIP) map dated February 18, 2011 for the referenced community, and will remain in effect until superseded by a revision to the NFIP map panel on which the property is located. The FEMA case number, property identifier, NFIP map panel number, and current flood insurance zone for the revalidated LOMCs are listed on the enclosed table.

Because these LOMCs will not be printed or distributed to primary map users, such as local insurance agents and mortgage lenders, your community will serve as a repository for this new data. We encourage you to disseminate the information reflected by this letter throughout your community so that interested persons, such as property owners, local insurance agents, and mortgage lenders, may benefit from the information.

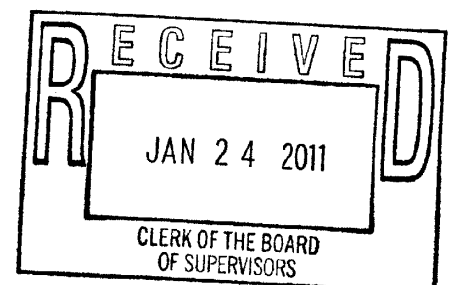
For information relating to LOMCs not listed on the enclosed table or to obtain copies of previously issued LOMR-Fs and LOMAs, if needed, please contact our FEMA Map Information eXchange (FMIX), toll free, at 1-877-FEMA-MAP (1-877-336-2627).

Sincerely,

Luis Rodriguez, P.E., Chief  
Engineering Management Branch  
Federal Insurance and Mitigation Administration

Enclosure

cc: Community Map Repository  
Michael Lee, Director, Public Works Department, Yuba County  
LOMC Subscription Service  
Mr. Ricardo Pineda, State NFIP Coordinator  
Mr. Eric Simmons, Senior Engineer, FEMA Region IX



**REVALIDATED LETTERS OF MAP CHANGE FOR YUBA COUNTY , CA**  
**Case No: 08-09-0895V** **Community No.: 060427**

**February 19, 2011**

<b>Case No.</b>	<b>Date Issued</b>	<b>Identifier</b>	<b>Map Panel No.</b>	<b>Zone</b>
92-09-079B	04/27/1992	4040 MARY AVENUE	06115C0410D	X
92-09-150G	07/13/1992	TRACT 89-451, CALIFORNIA HEARTLANDS, UNITS 1-4, LOTS 53-55, 58-64, 68-110 & 171-186	06115C0410D	X
92-09-201G	11/04/1992	TRACT 89-451, CALIFORNIA HEARTLANDS, UNITS 3-4, LOTS 151-170	06115C0410D	X
93-09-051A	11/23/1992	4070 MARY AVENUE	06115C0410D	X
93-09-202A	02/11/1993	EDGEWATER UNIT 1, LOTS 1-175	06115C0410D	X
93-09-484A	06/24/1993	TRACT 89-451, CALIFORNIA HEARTLANDS, UNITS 3-4, LOTS 111-128 & 210	06115C0410D	X
93-09-624A	08/11/1993	TRACT 89-451, CALIFORNIA HEARTLANDS, UNIT 3, LOTS 129-150	06115C0410D	X
93-09-789A	11/10/1993	TRACT 89-451, CALIFORNIA HEARTLANDS, UNIT 4, LOTS 187-197, 202-209 & 211	06115C0410D	X
94-09-507A	05/25/1994	TRACT 89-451, CALIFORNIA HEARTLANDS, UNIT 4, LOTS 201 & 212 -- 4237 & 4238 DONALD DRIVE	06115C0410D	X
95-09-102A	12/27/1994	OSTROM ACRES NO. 2, LOT 135 -- 4080 MARY AVENUE	06115C0410D	X
98-09-386A	02/19/1998	TRACT 89-451, CALIFORNIA HEARTLANDS, LOTS 1-52, 56-57, 65-67 & 198-200	06115C0410D	X
99-09-995A	07/27/1999	TRACT 210, LOT 3 -- 1886 18TH STREET	06115C0410D	X
00-09-002A	10/22/1999	TRACT 90-460, LOT 15 -- 4250 FRUITLAND ROAD	06115C0410D	X
01-09-193A	03/14/2001	EDGEWATER UNIT 3A, LOTS 1-3, & 33-35; UNIT 3B, LOTS 18-20, 22-25, & 27-29	06115C0410D	X
01-09-516A	06/01/2001	TRACT 210, KINGS MANOR NO. 1, LOT 33 -- 1877 18TH STREET AVENUE	06115C0410D	X
04-09-0383A	03/25/2004	TRACT 99-584, COLLEGE VIEW UNIT 3, LOTS 1-5 -- 2115, 2123, 2129, 2135 & 2141 ROBERTA AVENUE	06115C0345D	X
04-09-0582A	04/14/2004	OSTRAM TRACT ACRES, LOTS 33-34 & 38-39	06115C0410D	X

**REVALIDATED LETTERS OF MAP CHANGE FOR YUBA COUNTY , CA**  
**Case No: 08-09-0895V** **Community No.: 060427**

**February 19, 2011**

<b>Case No.</b>	<b>Date Issued</b>	<b>Identifier</b>	<b>Map Panel No.</b>	<b>Zone</b>
04-09-0702A	04/28/2004	12845 HONCUT ROAD -- PORTION OF SECTION 13, T17N, R4E, M.D.B.&M.	06115C0250D	X
04-09-0691A	05/26/2004	RIVER GLEN UNIT 1, LOTS 2, 4-12, 29-31, 33-38, 41-43, 47-51, & 62-65	06115C0410D	X
04-09-1719A	11/05/2004	EDGEWATER, UNIT 2A, LOTS 1, 20-21, 46-47, 49-68, 77-81, UNIT 5, LOTS 39-40, 51-71, 91-92, 97-98, UNI	06115C0410D	X
05-09-0107A	02/09/2005	RIVER GLEN SUBDIV UNIT II, LOTS 1-156	06115C0410D	X
05-09-1018X	06/01/2005	RIVER GLEN SUBDIV, UNIT 1, LOTS 1, 3, 13-28, 32, 39-40, 44-46, 52-61, 66-79	06115C0410D	X
05-09-0603A	06/09/2005	EDGEWATER UNIT 10, LOTS 20-31, 44-49	06115C0410D	X
05-09-1017A	06/27/2005	PARCEL MAP 9.78, PARCEL 2--10179 LARKSPUR WAY	06115C0250D	X
05-09-1400A	09/13/2005	TRACT NO. 2005-14-EDGEWATER, UNIT 11, LOTS 1-65, 77-87	06115C0410D	X
05-09-1705A	11/01/2005	EDGEWATER, UNITS 12, LOTS 1-22, 28-55, EDGEWATER, UNITS 14, LOTS 12-60, EDGEWATER, UNITS 15, LOT 19	06115C0410D	X
06-09-B809A	07/18/2006	PEORIA RIDGE ESTATES, LOT 10 -- 9870 TOWNSHIP ROAD (CA)	06115C0275D	X
07-09-0431A	01/23/2007	ORCHARD SUBDIVISION Phase 3, LOTS 213-221, 234-257, 262-294	06115C0410D	X
07-09-1186A	05/24/2007	TRACT 03-003, EDGEWATER UNIT NO. 4, LOTS 1-28, 60-67, 87-110	06115C0410D	X
07-09-1615A	09/18/2007	4074 MARY AVENUE	06115C0410D	X
08-09-0796A	05/15/2008	10790 TEXAS HILL ROAD -- PORTION OF SECTION 32, T18N, R7E, M.D.B.&M.	06115C0300D	X
08-09-1145A	06/30/2008	OSTROM ACRES 2, LOT 110 -- 1918 HARVEY ROAD	06115C0410D	X
08-09-1899A	10/30/2008	TRACT 114, LOT 25 -- 4525 BOMANN DRIVE	06115C0410D	X
09-09-0580A	01/29/2009	16912 CACHE LANE -- PORTION OF SECTION 3, T18N, R6E, M.D.B.&M.	06115C0125D	X
09-09-0683A	02/03/2009	1773 & 1773A LINDA AVENUE	06115C0345D	X
09-09-2646A	10/06/2009	SECTION 8,T14N, R4E -- 4293 OLIVEHURST AVE	06115C0410D	X

# Serving Our Veterans, Armed Forces and Their Families

Dear Fellow County Official,

We know that America's counties provide essential programs and services to communities, but it is up to us to tell the public about the responsibilities counties have and the great programs and services they provide. My County Government Works presidential initiative is a yearlong effort to raise awareness and understanding about counties.

National County Government Month (NCGM) in April and my County Government Works presidential initiative (see page 9) are terrific opportunities to deliver important messages to the communities we serve. This booklet provides ideas for a variety of ways counties can celebrate county government month and participate in the County Government Works initiative throughout the year.

This year's county government month theme is "**Serving Our Veterans, Armed Forces and Their Families.**" Counties should try to link activities to this theme by recognizing, honoring and thanking veterans and military personnel for their service. There are specific ideas to consider listed throughout this booklet. It is important and timely as more veterans, military service members and their families turn to their county government for services and help.

NACo always encourages counties to actively promote county government services and programs. National County Government Week was expanded to a full month to offer counties more opportunities to participate. Counties aren't expected to hold veterans or public awareness events every day, but they can schedule activities any time over the four weeks.

**COPY OF REFERENCED  
DOCUMENT ON FILE WITH  
CLERK OF THE BOARD**

Popular events include holding public tours of county facilities, talking to students, community organizations and business leaders about county programs and services; holding essay and art contests; and sponsoring "County Family Day" events on the courthouse grounds. You can hold media events, write newspaper columns, or be a guest on local radio and TV shows. Find a way to discuss new county programs, highlight existing ones or just explain what you do and the good work your county does.

In addition to my County Government Works initiative, I have created a Veterans and Military Service Task Force (see page 10) to encourage NACo members to develop and highlight best practices and to promote innovative programs, services and benefits for our heroes. Counties should do what they can to meet the diverse needs of our veterans and work hard to help service members and families successfully transition after deployment. I encourage you to learn more about the activities and initiatives of our new task force and work them into your county government month plans.

Use this booklet and the online tools available at [www.naco.org](http://www.naco.org) to learn how your county can take advantage of county government month, the County Government Works raising awareness program and the opportunity to honor and help veterans, our returning service members and their families. Take the time to educate your community about your county and to lend a hand to our veterans.

I know you are proud of your county's programs and services, the men and women who deliver them and the men and women who defend our country and our freedom. Start planning today to celebrate county government month.



*Glen Whitley*  
Glen Whitley  
NACo President  
County Judge, Tarrant County, Texas

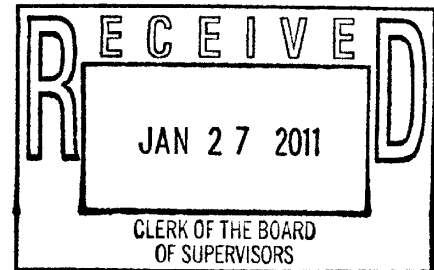




*Yuba County, California*

January 24, 2011

Yuba County Board of Supervisors  
Government Center  
915 8<sup>th</sup> Street, Suite 109  
Marysville, CA 95901



Subject: Murphy Road Abandonment

Dear Supervisors

The Trustees of Reclamation Board 784 request the Yuba County Board of Supervisors formally abandon Murphy Road west of Feather River Boulevard. This section of Murphy Road dead ends into the Feather River setback levee and is bounded by orchards on each side. The land on the waterside of the Feather River levee is currently owned by TRLIA but will be deeded to the State of California in the future. There are no private residences on the waterside of the levee in this location. Orchards which are continuing to be farmed are being leased from TRLIA and individuals and organizations with legal access to the waterside of the levee have already been accommodated.

Public access to the section of Murphy Road west of Feather River Boulevard and landside of the levee serves few if any legitimate purposes. The land is bounded by private orchards. The west end of the road is blocked by a gate to prevent unauthorized access to the levee. A shallow drainage ditch runs parallel to the levee on the landside. Farm roads also parallel the levee east of the ditch.

Public access on this section of Murphy Road has resulted in damage to private property in the orchards, farm roads and the orchards themselves. Garbage including tires, discarded furniture, oil, building debris and other refuse has been dumped on private property and into the drainage ditch. The drainage ditch has been blocked and in some areas damaged. Public and private funds have been expended to constantly clean up the garbage.

Unauthorized motorists have driven through the ditch, onto the levee toe roads and up the sides of the levee. Levee repairs have run from hundreds to tens of thousands of dollars. Private property has been similarly damaged by unauthorized motorists and trespassers.

1-27-11:CC - Community Development and Services:Public Works/rf

1594 Broadway, Arboga, CA 95961 530-742-0520 fax 530-742-3021 email: rd784.org

**BOS CORRESPONDENCE** C

At one point, this section of Murphy Road was being considered as a public access point to the floodway. Another location was selected so abandoning this section of Murphy Road would not have an adverse impact on that plan.

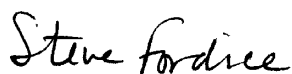
During construction of the setback levee discharge pipes were built up and over the levee at Murphy Road in anticipation of the construction of RD784's Pump Station 10. This pump station will be located at the northwest corner of Ella Basin where the section of Murphy Road east of Feather River Boulevard ends. The plan is to run discharge pipes under the full length of Murphy Road and connect to the pipes already built into the levee. If the western section of Murphy Road were already abandoned the construction process might be expedited. The District is applying for grants to build the pump station and discharge pipes.

If the west section of Murphy Road were abandoned, Reclamation District 784 would work closely with the Danna and Danna, the private landowners, to protect the levee. The District has already entered into a partnership with another orchardist to the north of Murphy Road along Feather River Boulevard by jointly erecting a gate. That property had been used for dumping garbage and to access the levee. Since the gate was installed those activities have been greatly curtailed.

Reclamation District 784 staff understands that two letters have been sent by Danna and Danna to Yuba County requesting the west section of Murphy Road be abandon.

We believe the levee and private property would be better protected and the public interest better served if the west section of Murphy Road were closed. To that end, the Trustees of Reclamation Board 784 formally request the Yuba County Board of Supervisors abandon the west section of Murphy Road while retaining public utility easements. The Trustees of Reclamation Board 784 also request the surveying and other Public Works fees be waived.

With Kindest Regards,



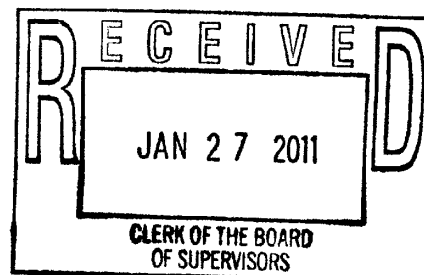
Steve Fordice, General Manager  
Reclamation District 784  
1594 Broadway  
Arboga, CA 95961  
Phone: 530-742-0520  
Cell: 530-682-0303  
Fax: 530-742-3021



*Yuba County, California*

January 25, 2011

Yuba County Board of Supervisors  
Government Center  
915 8<sup>th</sup> Street, Suite 109  
Marysville, CA 95901



Refer: Escrow No. : 4211003856-LR

Property: Portion of 013-370-059-0000 - Olivehurst, CA 95961

Tax: Pro-rata Taxes – 01/10/2011 to 07/01/2011 - \$1,919.25

To: Letter and Attachment from Leslye Rossiter, North State Title Company concerning conveyance of portions of Ella Basin to Reclamation District 784.

Dear Sir or Madame,

On 01/10/2011, Reclamation District 784 accepted portions of the Ella Basin. In order to speed up the conveyance process, Reclamation District 784 "Paid \$1,919.25 pro-rata taxes for the period of 01/10/2011 to 07/01/2011."

Reclamation District 784 requests the \$1,919.25 be returned to them, as the Special District is tax exempt.

A handwritten signature in cursive script that reads "Steve Fordice".

Steve Fordice  
General Manager

1-27-11:CC-Auditors office/rf

**BOS CORRESPONDENCE D**

[illegible]

RECORDING REQUESTED BY:

North State Title Company

Order No.: 4211003856-LR

APN: Portion of 013-370-059

TERRY A. HANSEN  
YUBA COUNTY RECORDER  
MARYSVILLE, CA  
RECORDED ON

01/10/2011 01:26PM

REC FEE: 0.00

PAGE 1 OF 4

DEPUTY INITIALS: SS

When Recorded Mail Document and Tax Statements to:

Reclamation District 784  
1594 Broadway  
Arboga, CA 95961

SPACE ABOVE THIS LINE IS FOR RECORDER'S USE

**Grant Deed**

The undersigned grantor(s) declare(s):

Documentary Transfer Tax is \$ 0 R-T 11922 Conveyance to a Government Agency

(X) computed on full value of property conveyed, or

( ) computed on full value less of liens and encumbrances remaining at time of sale.

(X) Unincorporated area: ( ) City of

FOR A VALUABLE CONSIDERATION, receipt of which is hereby acknowledged,

John Michael Smith and Marilee Smith, husband and wife, as community property with right of survivorship, as to an undivided 1/2 interest and Foothill Partners, a California General Partnership, as to an undivided 1/2 interest

hereby GRANT(S) to

Reclamation District 784, a Reclamation District formed and operating under the laws of California

that property in Unincorporated area of Yuba County, State of California, described as follows:

See "Exhibit A" attached hereto and made a part hereof.

Date: December 02, 2010

John Michael Smith

Marilee Smith

Foothill Partners, a General Partnership

By:

Lynn Pomeroy  
General Partner

State of \_\_\_\_\_

County of \_\_\_\_\_

On \_\_\_\_\_ before me, \_\_\_\_\_, a  
Notary Public, personally appeared \_\_\_\_\_  
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within  
instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by  
his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the  
instrument.

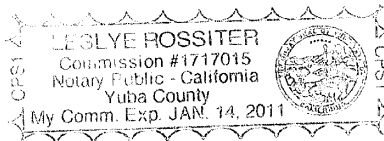
I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature \_\_\_\_\_

Name \_\_\_\_\_

(typed or printed)



(Area reserved for official notarial seal)

## EXHIBIT "A"

All that certain real property situate in the County of Yuba, State of California, being a portion of Section 7, Township 14 North, Range 4 East, M.D.M., described as follows:

Commencing at the Southwest corner of Lot 13 of "Farmland Colony No. 1", filed in Book 1 of Maps at Page 23, Yuba County Recorder, marked by a concrete nail and tag stamped LS3341 at the intersection of the centerline of Ella Road with the East boundary line of Feather River Boulevard, thence North  $88^{\circ}24'06''$  East along said Ella Road centerline, a distance of 2291.73 feet to the Southeast corner of Lot 14 of Block 7 of said Farmland Colony No. 1; thence continuing along said centerline of Ella Road, North  $88^{\circ}23'47''$  East 29.76 feet to the TRUE POINT OF BEGINNING of the herein described parcel of land; thence from said True Point of Beginning and leaving said centerline, North  $01^{\circ}38'16''$  West 629.01 feet; thence North  $01^{\circ}04'16''$  East 508.07 feet; thence North  $88^{\circ}21'45''$  East 529.60 feet; thence South  $78^{\circ}30'13''$  East 36.36 feet; thence South  $54^{\circ}16'39''$  East 30.78 feet; thence South  $08^{\circ}56'28''$  West 61.33 feet to the beginning of a curve concave to the southwest having a radius of 72.00 feet, through a central angle of  $60^{\circ}42'47''$ , the chord of which bears, South  $50^{\circ}42'08''$  East 72.77 feet; thence on the arc of said curve a distance of 76.29 feet; thence North  $69^{\circ}39'15''$  East 40.99 feet; thence South  $51^{\circ}09'16''$  East 25.69 feet; thence South  $33^{\circ}45'14''$  East 38.80 feet; thence South  $15^{\circ}32'03''$  East 45.02 feet; thence South  $01^{\circ}38'15''$  East 921.96 feet to a point on the centerline of Ella Road; thence along said centerline of Ella Road, South  $88^{\circ}23'47''$  West 747.00 feet to the point of beginning and containing 18.93 acres.

SUBJECT TO Easements, rights-of-way and rights of record.



*Donald L. Solheim*  
9-16-2010

4  
14

## CERTIFICATE OF ACCEPTANCE

Pursuant to the provisions of Government Code section 27281, this is to certify that the interest in real property conveyed by the grant dated December 7, 2010, from Foothill Partners ETAL to Reclamation District 784, a special district duly formed and operating under the laws of the State of California and a governmental agency, is hereby accepted by the undersigned agent on behalf of Reclamation District 784 and consents to recordation thereof by its duly authorized agent.

Dated: \_\_\_\_\_, 2010

\_\_\_\_\_  
Rick Brown  
President  
Reclamation District 784

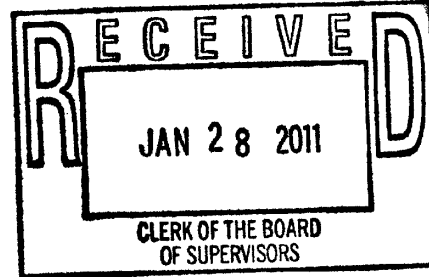
\_\_\_\_\_  
ATTEST: Steve Fordice  
Secretary of the Board of Trustees

\_\_\_\_\_  
APPROVED AS TO FORM  
CARL R. LINDMARK, COUNSEL



# BOARD OF SUPERVISORS

810 COURT STREET • JACKSON, CA 95642 • (209) 223-6470 • FAX (209) 257-0619



January 25, 2011

To: Alpine County  
Butte County  
Calaveras County  
El Dorado County  
Fresno County  
Kern County  
Lake County  
Lassen County  
Madera County  
Mariposa County  
Mendocino County

Merced County  
Nevada County  
Placer County  
Plumas County  
San Luis Obispo County  
Shasta County  
Tehama County  
Tulare County  
Tuolumne County  
Yuba County

Re: Tax Neutrality Guidelines for PG&E donated lands

The Pacific Forest and Watershed Lands Stewardship Council (Stewardship Council) recently drafted "Guidelines for Achieving Property Tax Neutrality" on donated PG&E lands and requested comments. Amador County reviewed the draft guidelines and prepared the attached response. The draft guidelines will be detrimental to counties in at least three ways. 1) tax neutrality is defined as property tax neutrality, disregarding the Stipulation agreement which requires "an analysis of tax and other economic and physical impacts". The Stewardship Council will not consider other taxes, such as recreational tax or timber yield tax. 2) Future tax payments will be based upon current property taxes, without regards to changes in land uses. For example, lands currently zoned Timber Production Zone (TPZ) will continue to pay the TPZ property tax rate, even if the transfer requires a conversion out of TPZ. 3) The Stewardship Council will pay 100% of the tax neutrality payments for all donees except a county donee. Moreover, counties will not be able to use the revenues from the donated lands to pay the tax payments. Therefore, counties will have an added cost of ownership that no other donee will have.

We hope you will join Amador County in sending a letter to the Stewardship Council addressing these issues. Deadline for comments is February 18.

Sincerely,

A handwritten signature in cursive script, appearing to read "John Plasse".

John Plasse  
Chairman, Amador County Board

## BOARD OF SUPERVISORS

810 COURT STREET • JACKSON, CA 95642 • (209) 223-6470 • FAX (209) 257-0619



January 25, 2011

Stewardship Council  
15 N Ellsworth Ave, Suite 100  
San Mateo, CA 94401-2831  
[comments3@stewardshipcouncil.org](mailto:comments3@stewardshipcouncil.org)

Dear Watershed Planning Committee members and Council staff:

The Amador County Board of Supervisors appreciates the efforts to develop tax neutrality guidelines and the opportunity to comment. An important part of the Stipulation to the Settlement Agreement was that counties not suffer any losses in tax and other economic losses due to the change in ownership of the PG&E lands. The Stipulation requires in part: “an analysis of tax and other economic and physical impacts of such disposition strategy, and a commitment by an appropriate entity...to provide property tax revenue, other equivalent revenue source, or a lump sum payment, so that the totality of dispositions in each affected county under this Land Conservation Commitment will be ‘tax neutral’ for that county” (emphasis added). Tax neutrality is further defined in the Glossary of Terms, Volume I of the Land Conservation Plan as “Disposition of the Watershed Lands or Carrizo Plain such that the economic and physical impacts of the disposition, when evaluated over the totality of all dispositions made in each affected county, do not result in a decrease or increase of tax revenues for that county”. The commitment clearly was that a county by county analysis would be made for the donated lands of the tax revenue and other economic and physical impacts to the county. An appropriate entity would then be required to provide compensation for any tax, economic and physical changes through adjusted payments of a property tax, other equivalent county revenue sources or a lump sum payment equivalent to the estimated losses or gains in tax revenues.

“Tax neutrality” does not and was never intended to equate solely to property tax neutrality. For many counties, other economic and physical impacts will apply, such as recreational taxes, timber yield taxes, changes in road usage, changes in land use, participation in plan development and permitting services. The guidelines must provide the methodology for the economic and physical analysis of which property tax is only one component. Property tax payments may be the means of achieving the tax neutrality, but the payments may not be equivalent to the previous property tax payments depending on the analysis.

Property tax assessments are based upon intended uses which may change with the donation. Chapter 4 page 13 of the Land Conservation Plan Volume 1 acknowledges that “31 percent of the total acreage of Watershed Lands are classified as TPZ [timber production zone] lands”. It goes on to state the State Board of Equalization (SBE) levies property taxes based upon typical appraisal methods, however, “Timberland production zones (TPZ) on the Watershed Lands present an exception to this methodology ...and are appraised based on their use for growing and harvesting timber.” TPZ property tax appraisals are made exclusive of the timber on the land, with a restrictive commitment from the landowner to grow and eventually harvest trees within a reasonable period of time. Upon

harvest, the owner will pay an additional “property tax” based on the value of the trees harvested, referred to as a timber yield tax. It is appropriate to pass on the TPZ methodology of computing property tax payments only if the land owner also accepts the commitment to establish as a priority, the growing, and within a reasonable period of time, the harvesting of trees. That commitment may not be appropriate for all dispositions of the donated lands. Where it is not, a conversion is required and a reassessment based upon non-TPZ appraisals. Other property tax codes, such as Williamson Act, provide similar discounts that must be considered in the tax neutrality analysis.

The draft guidelines propose to withdraw from the tax neutrality requirement, “timber yield tax or any other taxes associated with the conversion of natural resources to revenues”. This is a direct violation of the Stipulation to provide an analysis of “tax and other economic and physical impacts”. While it may not be possible to accurately estimate the changes in future harvest, a good faith estimate is required. This is especially true where conservation easements severely restrict future timber harvest and in the conversion of TPZ lands. Per the Stipulation, any foreseeable loss in timber yield tax payments or other taxes to the county must be included in the tax neutrality analysis.

Tax neutrality payments must be assessed equally to all donees. Unfortunately, the draft guidelines provide an unfair prejudice against counties. The Stewardship Council proposes to accept payment responsibilities for the entire tax neutrality payment for all donees except counties regardless of whether the land produces revenues. Moreover, if revenues are produced, counties cannot use the revenues toward the county income share of the payment. Revenues will first be used to pay for the special district portion of the tax payment with the balance used for land enhancements. Counties thereby have an additional economic responsibility over any other potential donee, creating an economic disadvantage.

The Amador Board of Supervisors urges the Committee and Council staff to honor its obligation to provide a complete tax and other economic and physical impacts analysis to produce an honest tax neutral assessment. Additionally, the Board urges a fair and equal obligation among all donees in achieving the tax neutrality commitment.

The Amador Board of Supervisors appreciates the opportunity to comment and requests a written response to these issues following review by the staff and Watershed Planning Committee but prior to a presentation to the Board so that we can determine an appropriate course of action.

Sincerely,



John Plasse

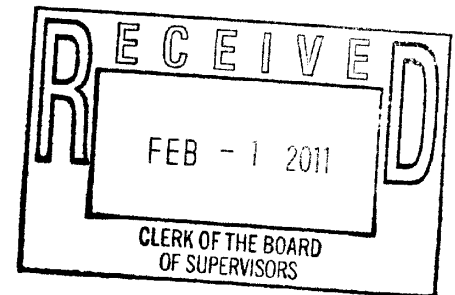
Chairman, Amador County Board of Supervisors

cc: Pacific Gas and Electric  
Public Utilities Commission  
Regional Council of Rural Counties, Patricia Megason  
California State Association of Counties



January 31, 2011

The Honorable Roger Abe, Chair  
Yuba County Board of Supervisors  
915 Eighth Street, #109  
Marysville, CA 95901



Dear Supervisor Abe and Members of the Board:

**SUBJECT:** Appointment to Fill Vacancy on A4AA Advisory Council

The Area 4 Agency on Aging (A4AA) Advisory Council continues to lack full membership representation from your county. Currently, there are three vacancies, two of which require appointment by your Board. A4AA is a funding agency (among other things) for programs serving persons aged 60 years and older. In order to ensure that the interests of seniors in your county are represented, we request that the Yuba County Board of Supervisors appoint a representative to fill each vacancy.

Advisory Council meetings are held monthly, generally the third Thursday of the month and alternate among A4AA's service area. An average of 6-10 hours of commitment per month is expected. This includes travel time, general meetings and committee work. Members are reimbursed for mileage at the current IRS business rate.

The A4AA Governing Board and Advisory Council are committed to expanding representation to ethnic communities, and therefore, are actively seeking individuals who mirror the Yuba County older adult population.

If you have questions, please do not hesitate to contact Tai Love, Office Administrator or me directly. We look forward to written correspondence confirming your appointments.

Sincerely,

A handwritten signature in cursive script, appearing to read "Deanna Lea".

Deanna Lea  
Executive Director

DL:tl

2/01/11:Commission on Aging - 1 Vacancy for appointment/rf

## **BOS CORRESPONDENCE**

*Serving Nevada, Placer, Sacramento, Sierra, Sutter, Yolo & Yuba Counties*

# The County of Yuba

## Community Development & Services Agency

**Kevin Mallen, Director**

Phone - (530) 749-5430 • Fax - (530) 749-5434

915 8<sup>th</sup> Street, Suite 123  
Marysville, California 95901

[www.co.yuba.ca.us](http://www.co.yuba.ca.us)



064-11 **BUILDING**  
749-5440 • Fax 749-5616

**CODE ENFORCEMENT**  
749-5455 • Fax 749-5464

**ENVIRONMENTAL HEALTH • CUPA**  
749-5450 • Fax 749-5454

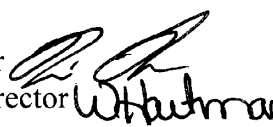
**HOUSING AND COMMUNITY SERVICES**  
749-5460 • Fax 749-5464

**PLANNING**  
749-5470 • Fax 749-5434

**PUBLIC WORKS • SURVEYOR**  
749-5420 • Fax 749-5424

**FINANCE AND ADMINISTRATION**  
749-5430 • Fax 749-5434

**TO:** Board of Supervisors

**FROM:** Kevin Mallen, CDSA Director  
Wendy Hartman, Planning Director 

**DATE:** February 9, 2011

**SUBJECT:** Draft Yuba County General Plan 2030 & Draft EIR

### **RECOMMENDATION**

Provide direction regarding comments received on the Draft Yuba County General Plan 2030 (Draft GP) and direct staff to prepare the Final Environmental Impact Report (FEIR) which includes responses to comments on the Draft Environmental Impact Report (DEIR).

### **BACKGROUND**

The Draft GP was released for public review on August 10, 2010. Two public meetings were held on August 25, 2010 and September 8, 2010 to allow for the public to learn about the plan and submit comments. A public hearing was held with the Planning Commission on September 22, 2010 and staff was directed to give more time for the public to review the plan. On December 15, 2010, the Planning Commission held a second public hearing on the Draft GP and made a recommendation to the Board to approve the plan and to take careful consideration of the comments received to date. This issue is discussed more fully below in the DISCUSSION section.

The Draft GP is an attempt to combine the feedback of the public and decision makers into a document that best represents the vision of the residents of Yuba County. The following is a brief description of the format of the Draft GP. More detail on the Draft GP can be found in Attachment 1.

### **DRAFT GENERAL PLAN 2030:**

The Draft GP is divided into 10 chapters:

1. Vision
2. Purpose & Contents
3. Context
4. General Plan Update Process
5. Community Development
6. Public Health & Safety
7. Natural Resources
8. Housing (Adopted in December 2009)
9. General Plan Implementation
10. Glossary

### **Community Development, Public Health & Safety, and Natural Resources Elements:**

The heart of the Draft GP is the Community Development, Public Health & Safety, and Natural Resources elements which describe the various Goals, Policies and Actions the County will use in making decisions about issues covered in the plan. The decision to combine the required elements of Land Use, Circulation, Open Space, Conservation, Noise, and Safety into these three elements was chosen to assist in the understanding that each of these topics are interrelated and dependent upon the success of the other.

#### **Community Development:**

The Community Development Element focuses on the following topic areas:

- Land Use and Community Design
- Economic Development
- Infrastructure, Facilities, and Services
- Circulation

#### **Public Health & Safety:**

The Public Health & Safety Element focuses on the following topic areas:

- Flooding and Dam Inundation
- Fire Risk
- Air Quality and Climate Change
- Water Quality
- Airports
- Geology & Soils
- Hazards and Hazardous Materials
- Emergency Preparedness/Response
- Noise and Vibration
- Healthy Communities

#### **Natural Resources:**

The Natural Resources Element focuses on the following topic areas:

- Preservation of Open Space
- Extraction and Use of Natural Resources
- Conservation of Agricultural, Cultural, and Natural Resources
- Restoration of Natural Resources.

### **DRAFT ENVIRONMENTAL IMPACT REPORT:**

Under the provisions of the California Environmental Quality Act (CEQA), Yuba County is the lead agency for the proposed project for the purposes of environmental review. In accordance with Section 15082 of the CEQA Guidelines, Yuba County published a Notice of Preparation (NOP) of an EIR on June 30, 2010. This notice was circulated to the public, local, state, and federal agencies and other interested parties for 30 days to solicit comments on the proposed project. Concerns raised in response to the NOP were considered during preparation of the DEIR.

The DEIR was released for public review and comment on December 10, 2010. The public review and comment period ends February 9, 2011, which is 60 days from the date the Notice of Completion (NOC) was received by the State Clearinghouse, 15 days longer than is required by

law. After the public review and comment period is closed, an FEIR will be prepared, addressing comments received during the public review period and making any corrections to the DEIR if necessary. The completed FEIR will be presented to the Board for certification, along with a Mitigation Monitoring Plan that lists the mitigation measures contained in the FEIR. Upon certification of the FEIR, the Board may then take action on the Yuba County General Plan 2030.

A list of the identified impacts can be found in Attachment 2. For each significant and unavoidable environmental impact identified in the FEIR, the Board must adopt a Statement of Overriding Considerations with Findings of Fact as part of the project prior to taking any action on the Draft GP.

## **DISCUSSION**

### **DRAFT YUBA COUNTY GENERAL PLAN 2030**

Over the course of the last few months, a number of comments regarding the Draft GP have been submitted to the Planning Department and at the Planning Commission hearings. At its final hearing on the Draft GP, the Planning Commission recommended the Board adopt the Draft GP and to also give careful consideration to all comments received. In order to assist the Board in its consideration of these comments, staff has reviewed each written comment and prepared a general summary of recommendations for how the Board could proceed regarding proposed changes to the Draft GP.

There are generally four categories of recommendations regarding the comments received from the public and interested stakeholders. These include those comments that staff recommends making changes to the Draft GP, those comments that have received no recommendation because they are considered a policy choice that the Board can direct staff to address or not, comments that staff would recommend not making changes due to the implications for the Draft GP's legal sufficiency and other factors, and those comments that are not requests for actual changes to the Draft GP (e.g. editorial in nature, related to other issues such as the zoning ordinance rather than the Draft GP, process, etc). The following identifies how various comments fit into each category and some examples of how they may be addressed by the Board:

### **Recommended Changes**

The following comments submitted by the public or interested agencies have raised issues that staff recommends drafting changes to the Draft GP. This section would also address technical edits where errors were found in the document (e.g. spelling/grammar, outdated exhibits, etc...). Staff has highlighted a couple of issues where changes should be made. Recommended language will be drafted subsequent to direction from the Board in preparing a Revised Draft GP.

- 4/5 vote for general plan amendments – Valid concerns regarding the initial intent of this proposal and the practical implications of its implementation warrant reconsideration of the scope of this policy. Staff recommends a clearer, more-limited standard where it applies to changes to the Valley Growth Boundary. All other amendments would be consistent with standard majority vote processes. If the Board is not comfortable with retaining the 4/5 vote for the Valley Growth Boundary, staff will then remove all language contained in the draft GP associated with this concept. There are ample policies

contained in the draft GP to convey to future Boards the importance being placed on containing urban growth and protecting natural resources. The 4/5 vote was simply intended to add emphasis to this topic.

- GHG efficiency thresholds – Achieving the proper balance between meeting the County’s obligations related to GHG reduction goals and creating a fair system and certainty for future development is a challenge in this current regulatory environment. Staff recommends further investigation into whether the current proposed threshold is the least burdensome on projects while still meeting our obligations (CEQA Guidelines, AB 32, SB 375). This will also give the County more flexibility as we prepare our Climate Action Plan and Zoning Ordinance Update.

Other topics where staff recommends modifications include:

- Deer Herds & Corridors
- NCCP/HCP support
- Incorporation & SOIs
- Stronger coordination with LAFCO
- Water policies for new urban growth
- Preservation of wetlands, riparian areas
- Septic systems in high groundwater recharge areas
- Floodplains
- Fire Safety & Evacuation routes
- Definitions – boutique farming, cottage industry, etc.
- Language modifications regarding transit
- Waste collection in urban areas
- Road standards – slopes
- School facilities planning
- Delete Exhibit Public Health & Safety – 10

### **Policy Direction Needed**

The following comments submitted by the public or interested agencies have raised issues that staff considers matters of policy best left to the Board to consider. Staff has highlighted a couple of examples of this below and asks the Board to provide direction on any issue that it would like to see a modification. Any recommended changes will be drafted subsequent to direction from the Board in preparing a Revised Draft GP.

- Land use on Hwy 65 – The Draft GP incorporates the future development of the Hwy 65 corridor and includes policies about when this development could occur. It is currently identified as ‘Planning Reserve’, though policies would allow the development whenever a proposal could be shown to advance the County’s job-generation goals. The issue for the Board to consider is whether there is an interest to remove the area from ‘Planning Reserve’ and actively define the area’s land use. One example would be to designate the area as an “Employment Village” with policies designed to facilitate development of job producing uses along the Highway 65 Corridor and support services to Beale Air Force Base.



- Committee on attracting business – The County already employs an Economic Development Coordinator who also convenes an economic development committee of business owners and representatives among other things. The issue for the Board to consider is whether it believes these programs are sufficient or whether additional action items in the Draft GP are necessary.
- Land Use in “Woodbury” area – This area along Erle Rd. and Hwy 70 is currently identified as ‘Planning Reserve.’ Similar to the Hwy 65 corridor, the issue for the Board to consider is whether there is an interest to remove this area from ‘Planning Reserve’ and actively define its land use. For example, the area could be identified as additional ‘Valley Neighborhood.’
- Policy CD1.3 – One commenter requested the language for this Planning Reserve policy be modified from “is needed” to “will help” regarding meeting the County’s jobs/housing goals. The difference between the two could best be described as how high of a bar the County wants to put for a project to provide job-generating benefits when opening up new areas for development. Existing language requires a stronger commitment to that goal than the amended language requested would.
- Stronger Jobs/Housing balance policies – The commenter argues the need to meet jobs/housing goals not only relates to the number of jobs per house, but also the type of housing and type of job. While the Draft GP provides policies along these lines such as CD10.5 & 10.6, the question for the Board to consider is whether there needs to be a stronger emphasis of this issue in the plan.
- Stronger Agricultural (Ag) policies – The commenter argues the Draft GP policies on agriculture could be stronger to protect this important County land use. The Draft GP utilizes a Valley Growth Boundary, Ag buffers, and other mechanisms to assist with agricultural land support and preservation, but the issue for the Board is if this is sufficient. Some suggestions included mitigation standards, Williamson Act, and the removal of incompatible uses.
- Mining on Ag land – The Draft GP anticipates the implementation of Action NR8.1 related to the allowance of mining on agricultural land only when it is returned to an equivalent agricultural value at completion of the activities. The commenter requests this Action be deleted because of the barriers it would create for mining and reclamation on such lands. The Board needs to consider whether there is any need to either modify or eliminate this policy.
- Policy NR8.6 – This policy supports the requirement for additional public benefits in the form of fees or other mechanisms for mining activities to off-set the loss of non-renewable resources within the County. The commenter argues the current fee is sufficient for this purpose and should not be expanded. The issue for the Board is if there is a need for the policy to be modified or deleted.
- Waste Management policies – The commenter suggests the County should take a more active role in the waste management arena related to general plan policies than currently

proposed in policies such as CD12.4 & CD 15.11. The issue for the Board is whether there is a desire for staff to look for appropriate opportunities to further address this policy area. If so, to what extent should this involvement go?

- Services in Foothills (Medical/Education) – Much of the availability of these types of services is out of the County's control, but not completely. The commenter expresses a desire to see increased services in this area, and policies in the Draft GP can be of some assistance to meeting that goal. The 'Rural Community Centers' concept can be one method of implementing this goal, and a number of policies calling for cooperation with schools and services providers are in the Draft GP. The issue for the Board is whether there is a desire to take a more active role in bringing these types of services into rural areas.
- State Highway System related policies – The commenter requests stronger policies indicating the connection between new development and responsibilities for shared funding of state highway system infrastructure. This has historically been the norm in regards to improvements to access points such as interchanges, but the request would further extend into the realm of capacity improvements such as additional lanes to the state highway system funded by land development fees or related measures. The issue for the Board is whether there is a desire to expand upon current new development funding practices.

### **No Change Recommended**

The following comments submitted by the public or interested agencies have raised issues that staff would recommend not making changes to the Draft GP. Staff has highlighted a couple of examples of these below. This recommendation from staff is based upon the concern that the requested modifications could jeopardize the legal sufficiency of the Draft GP and/or is inconsistent with past direction from the Board.

- Climate Change policies – While some commenters have raised issues with the reliability of climate change science, these concerns do not change the fact that the County has an obligation to address it (CEQA Guidelines, AB 32, SB 375). This Draft GP is designed to achieve a balance between various objectives. Many GHG policies also provide co-benefits that would otherwise require additional policies in those areas such as, air quality, circulation, and infrastructure. Consequently, staff recommends that these policies remain.
- Building code standards in rural areas – One commenter suggested that the building code restrictions in rural areas should be reduced. However, this would be inconsistent with state law. The California Building Code is the minimum standard that applies to all construction projects. While local jurisdictions have the option to increase requirements above the minimum, Yuba County routinely adopts the minimum standard. Staff recommends that building code related policies remain the same.

Other topics include:

- Various biological/natural resource comments (i.e. Agricultural buffers, special status species, wildlife areas, cultural resources, wetland/riparian areas, etc...)

- Changes to the general plan land use classifications including expansion of community boundaries & SOIs
- General format and content of the Draft GP
- Development standards including lot sizes, uses, development patterns, building code requirements, etc...
- Amount of growth proposed & location of growth
- Economic growth assumptions and emphasis on economic development
- Adequacy of policies related to safety and public services (e.g. school facilities, recreation, Opticoms/emergency response, fire risk responsibilities, municipal service provision, etc...)
- Phasing of infrastructure & timing of development
- Adequacy or relevance of water quality and water supply policies
- Stronger support of existing specific plans

### **Remaining comments**

The remaining comments not already identified in the three previous categories are considered informative, though unrelated to requests for changes to the Draft GP. All comment letters received to date are included in this staff report for review ([Attachment 4](#)).

### **DRAFT EIR**

At the time of this report, five comment letters have been received on the DEIR ([Attachment 5](#)). None of the comments have raised any issues that staff believes would require re-circulation of the DEIR. However, final comments are not due until February 9, 2011. Consequently, staff will update the Board at the public meeting regarding the sufficiency of the DEIR and subsequent preparation of the FEIR.

### **FISCAL ANALYSIS**

The County has contracted with Economic & Planning Systems (EPS) to prepare a fiscal impact analysis to estimate the impacts to annual operating budgets as a result of new development or changes in the organization of and/or levels of services as this relates to the Draft GP. The Draft GP fiscal impact analysis will examine the cumulative “buildout” of new development for a baseline and three alternative growth scenarios. The analysis focuses solely on new development rather than combining existing residents and employees with future population and employment. Consequently, the results of the new growth analysis would represent the net difference in anticipated County general fund revenues and expenditures associated with buildout of the Draft GP. Staff anticipates the report to be available for review about the time of the meeting scheduled on February 9, 2011. A summary of the findings of the report will be presented at that time.

### **COMMITTEE ACTION**

This item was heard by the Planning Commission on September 22, 2010. After taking public comment on the Draft GP, the Planning Commission tabled the item for 60 days to allow more time for public review. Since the sixty days ended during Thanksgiving week, staff decided to

wait until the next regularly scheduled Planning Commission meeting. On December 15, 2010 the Planning Commission re-opened the public hearing on the Draft GP, took into consideration the public's comments and the Draft EIR and recommended that the Draft GP and DEIR be forwarded to the Board of Supervisors for action (Attachment 3).

**FISCAL IMPACT:**

Most changes to the Draft GP requested by the Board would likely be accommodated within the current scope and budget as approved. However, depending upon the nature and extent of the changes requested to the Draft GP, there could be the need to revisit some analysis in the DEIR. The cost for additional analysis, if any, is not known at this time. If necessary, staff will return with a formal contract amendment for consideration by the Board.

**Attachments:**

1. Draft GP Summary
2. DEIR Summary
3. Planning Commission Recommendation from December 15, 2010
4. Annotated Comments Received on Draft GP
5. Comments Received on DEIR
6. Draft GP (Submitted under separate cover). The document is also available for review at the Planning Department, the Yuba County Library, and [www.yubavision2030.org](http://www.yubavision2030.org).
7. Draft EIR (Submitted under separate cover). The document is also available for review at the Planning Department, the Yuba County Library, and [www.yubavision2030.org](http://www.yubavision2030.org).



# *County of Yuba*

## **Community Development & Services Agency**

915 8<sup>th</sup> Street, Suite 123, Marysville, CA 95901

### **Planning Department**

Phone: (530) 749-5470

Fax: (530) 749-5434

Web: [http:// www.co.yuba.ca.us](http://www.co.yuba.ca.us)

064-11

### **ATTACHMENT 1**

#### **DRAFT YUBA COUNTY GENERAL PLAN 2030 (DRAFT GP)**

The Draft GP format was chosen to convey the larger themes that run throughout the General Plan and have fundamental ties to the various topics in the plan:

- Economic, Environmental, and Social Sustainability
- Managed Growth and Development
- Use and Conservation of Resources
- Protection of Public Health, Safety, and Welfare
- Regional Coordination
- Rural Lifestyle
- Local Quality of Life

These themes were developed through the Sustainable Yuba County plan approved by the Board to guide the Draft GP.

#### **Chapters:**

The Draft GP is divided into 10 chapters:

1. Vision
2. Purpose & Contents
3. Context
4. General Plan Update Process
5. Community Development
6. Public Health & Safety
7. Natural Resources
8. Housing (Adopted by Board in December 2009)
9. General Plan Implementation
10. Glossary

These chapters address all of the elements required by state law, as well as additional topic areas of importance to Yuba County such as economic development and healthy communities.

#### **Vision:**

The Vision chapter is a description of both the past and desired future of Yuba County. It is a summary, as expressed by the community and the Board, of the aspirations of the County as it grows and changes over the next 20 years and beyond. It also provides a description of the themes that run throughout the policies and programs in the Draft GP, as well as goals the

County has set for itself such as reaching economic independence and improving the overall quality of life.

Purpose & Contents:

The chapter on Purpose & Contents describes the role of a General Plan to speak to the world about the vision Yuba County has for its future, the plan's role in the County's decision making process, and how the Draft GP meets legal requirements under state law. It also outlines the requirements for a complete General Plan and how the Draft GP meets them.

Context:

The importance of the Context chapter is to understand the challenges and opportunities Yuba County faces today. It is an important part of planning for the future to recognize the unique challenges and benefits Yuba County experiences. Any future planning must consider such things as current development patterns, historical and forecasted trends, and its regional setting.

GPU Process:

The GPU Process chapter recognizes the substantial involvement of the public process in the effort to update the Yuba County General Plan. There is a review of the history of the County's General Plan and updates over time, a look at the goals and priorities used in the development of the Draft GP, and the recognition of the many alternatives analyzed and considered by the public and the Board before settling on the selection of the Sustainable Yuba County plan.

Community Development, Public Health & Safety, and Natural Resources Elements:

The Community Development, Public Health & Safety, and Natural Resources elements are the heart of the Draft GP and describe the various Goals, Policies and Actions the County will use in making decisions about issues covered in the plan. The decision to combine the required elements of Land Use, Circulation, Open Space, Conservation, Noise, and Safety into these three elements assists in the understanding that each of these topics are interrelated and dependent upon the success of the other. Each of these elements will be defined in more detail below.

Housing:

The Housing Element was separately adopted in December, 2009 by the Board to meet requirements of state law. It is incorporated by reference into the Draft GP and will be included as part of the final General Plan.

General Plan Implementation:

The chapter on Implementation is designed to assist current and future decision makers and the public in understanding how the Draft GP would be implemented over time. The chapter outlines the role of the Draft GP in County decisions, how it can be amended over time, the process for consideration of other planning documents such as Specific Plans and Rural Community Plans, as well as how the County will use the Draft GP to update its rules, ordinances and regulations. It also identifies the role of the Draft GP in coordination with outside agencies such as the Local Agency Formation Commission (LAFCO) and the Sacramento Area Council of Governments (SACOG).

### Glossary:

The Glossary is a key component of the Draft GP to assist the reader with understanding any important concepts that might require definition, as well as provide a clear definition for words used by the County that could be ambiguous or have different meanings in different contexts. Any dispute over a definition of a term or word used in the Draft GP would be settled first by looking to the glossary for guidance.

GENERAL PLAN ELEMENTS: The Draft GP format varies from the current Yuba County General Plan in a number of ways. While the role of written policies is still important to the structure of the Draft GP, whenever possible graphics are used to help the reader visualize how implementation of written policies might look when projects are built. Each element also combines logically-related topics areas that are important to Yuba County:

- Community Development
  - Land Use and Community design
  - Economic Development
  - Infrastructure, Facilities, and Services
  - Circulation
- Public Health & Safety
  - Flooding and Dam Inundation
  - Fire Risk
  - Air Quality and Climate Change
  - Water Quality
  - Airport Operations
  - Geology & Soils
  - Hazardous Materials
  - Emergency Preparedness, response, and evacuation
  - Noise and Vibration
  - Healthy Communities
- Natural Resources
  - Open Space Preservation
  - Extraction and Use of Natural Resources
  - Conservation of Agricultural, Cultural, and Natural Resources
  - Restoration of Natural Resources

### Community Development:

The Community Development Element focuses on the following topic areas:

- Land Use and Community design
- Economic Development
- Infrastructure, Facilities, and Services
- Circulation

The intent of the Draft GP and its Goals, Policies, and Actions is to attempt to optimize the relationships between these interrelated topics. For example, economic goals and fiscal sustainability will depend on development patterns and development phasing that allow for

efficient and cost-effective infrastructure and public service provision. Land use and transportation policies that encourage walking, biking, and transit also support public health and local economic goals. Additionally, compact development patterns that facilitate multi-modal transportation also provide for better air quality, reduce household transportation costs, improve energy efficiency, and minimize up-front and ongoing infrastructure costs. Common themes in the Community Development Element include:

- Valley Growth Management
- Reinvestment
- Mixing & Separating Land Uses
- Valley Neighborhoods
- Pedestrian Orientation & Design
- Rural Areas

Land Use and Community Design: The land use plan is designed to be very flexible. There are six land use categories that allow a wide range of land uses with less focus on individual buildings and specific land uses. The intent is to recognize that many different land uses and destinations are necessary for functioning and sustainable communities. Consequently, the Draft GP is designed for activities and how places function for people as much as what land uses should be located in a particular location. There is also a strong emphasis on flexibility. It is anticipated that communities will change and adjust over time. Under the system in the Draft GP, change is accommodated without the need to approve general plan amendments when the change is consistent with the overall goals and policies of the Draft GP.

Another important emphasis is on the character of the County's communities. People experience their surroundings based largely on their perception of place—the totality of individual buildings, streets, landscaping, and other elements of the built environment. Policies in the Draft GP are designed to ensure high-quality communities with centers of activity that will be attractive to residents, workers, businesses, and employers. The Draft GP describes the nature of these “placetypes” or “centers” as follows:

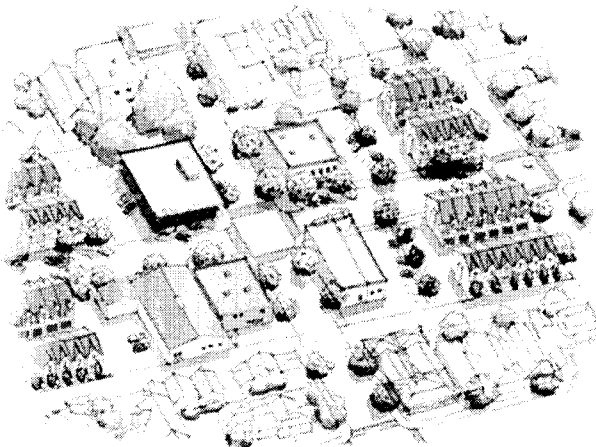
- Neighborhood Centers – Locations within the urban/suburban environment where activities, destinations, and compact housing choices are focused in accessible locations. Creating these focal points helps fiscal sustainability, allows transit, walking, and biking, and preserves the small town character of the County's existing communities.
- Rural Centers – Provides for a variety of activities and services needed by the local population consistent with the scale and intensity of the rural environment.
- Employment Centers – Locations where focal points of pedestrian / bike / transit access can be encouraged within the context of broad “Employment” areas.
- Commercial Centers – Locations where focal points of pedestrian / bike / transit access can be encouraged within the context of broad “Commercial/Mixed-Use” areas.
- Mixed-Use Corridors – Major corridors that require infrastructure improvements to encourage investment with mixed-use and pedestrian orientation.

Another key component in the Draft GP is the use of illustrations to assist in understanding written policies and how they would be implemented into projects. For example, the following illustrations explain how neighborhood centers that are centrally located within communities,

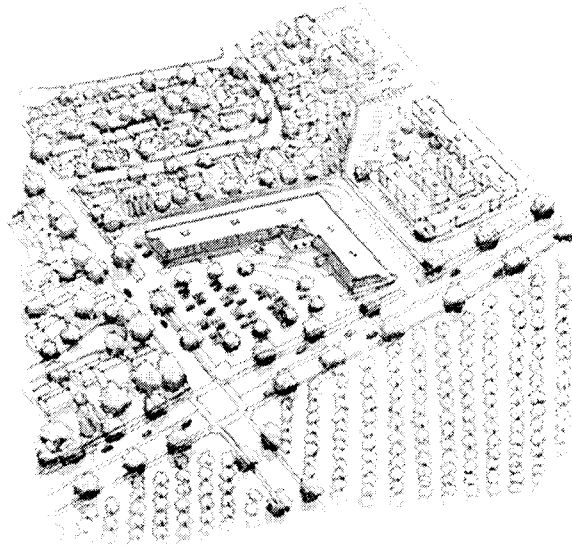


provide for increased connectivity, and consist of a mix of uses would be consistent with the Draft GP. Alternatively, a center located along the edges of the community and isolated from surrounding uses would be inconsistent with policies in the Draft GP.

Consistent with the 2030 General Plan



Inconsistent with the 2030 General Plan



Economic Development: The Draft GP has a strong focus on job creation throughout the plan, but there is a particular emphasis on Economic Development focusing on the County's ability to promote:

- Improved match between local jobs and local labor force – Key to attracting employers and promoting economic activity is recognizing the opportunities created by pursuing local job-generating development that is in-line with the skills and desires of local residents.
- 0.8 total local jobs for every member of the labor force by 2030 – The County seeks to get back to a jobs/housing ratio the County enjoyed prior to the major housing boom experienced in the mid-2000s.
- Quality of life and local advantages – Promoting and enhancing local quality of life will attract new residents that can provide new skills to the local labor force and attract additional employers looking to tap into these new skills.

Infrastructure, Facilities, and Services: Key to the County's fiscal health and the promotion of Economic Development is the orderly development of infrastructure. The goal is to keep costs down and fees as low as possible while planning for the extension of services to areas identified as targeted job-creating areas.

- Level of Service – Recognizing the rural environment and the urban environment have different expectations regarding County services promotes a more fiscally sustainable plan for the County.

- Phasing and location of development – Keeps costs down for both new development and the maintenance of existing development when extension of facilities is orderly and a part of a plan that emphasizes efficient delivery of much-needed services to residents.
- Coordinated regional services – The Draft GP also promotes coordination with regional agencies when feasible to help keep short and long-term costs down.
- Smart design – Phasing and extension of infrastructure is not the only way to control costs. The Draft GP also encourages the design and locations for infrastructure to minimize conflicts with sensitive habitat, encourage efficiency through mixed-land uses, joint-use projects such as drainage/parkland facilities, and the use of concepts like Low Impact Development Standards (LIDS) to increase groundwater infiltration and reduce the need for more drainage and retention systems.

Circulation: The Goals, Policies, and Actions in the Circulation section are designed to promote enhanced mobility, improve the local quality of life, and enhance economic opportunity. In order to achieve these goals, the circulation section seeks to promote the relationships between other Community Development policies. The section is designed with the following goals in mind:

- Integrated Land Use & Transportation Planning – To promote the success of land use goals and enhance multi-modal transportation opportunities.
- Urban Design & Mobility – To promote the effectiveness of the transportation network to enhance the performance of the County's economic and social objectives.
- Transportation Planning to Improve Air Quality & Public Health – To promote the reduction of greenhouse gas emissions, ozone and other pollutants, and noise-related impacts to local residents.
- Economic Development & Access Policies – To promote the reduction of household transportation costs which contributes to economic productivity, as well as ensure the efficient movement of raw materials and finished products around the County.

To implement these larger policy goals, the circulation section outlines a number of diagrams and standards to address issues such as:

- Level of Service & Travel Demand Management – To consider both the supply and demand sides of the transportation network to address cost efficiency and the promotion of multi-modal travel opportunities.
- Regional coordination – Recognizing the need for major regional infrastructure components such as the "Third Bridge" over the Feather River and capacity expansions along the State Highway system.
- Connectivity & Freedom of Travel Mode Choice – To promote roadway design & development patterns that encourage increased travel options such as transit, bike, and pedestrian options for both new and existing development.
- Parking & Loading – Encouraging parking design that enhances circulation and land-use policies promoting connectivity and multi-modal travel options.

### Public Health & Safety:

The Public Health & Safety Element focuses on the following topic areas:

- Flooding and Dam Inundation
- Fire Risk
- Air Quality and Climate Change
- Water Quality
- Airports
- Geology & Soils
- Hazards and Hazardous Materials
- Emergency Preparedness/Response
- Noise and Vibration
- Healthy Communities

The intent of the Draft GP and its Goals, Policies, and Actions is to attempt to optimize the relationships between these interrelated topics. For example, an efficient land use pattern and transportation system contributes greatly to improvements to air quality and the reduction of greenhouse gas emissions, an important part of this element. Additionally, these same policies contribute to the County's ability to react to natural hazards such as fire and flooding risks by providing for an efficient evacuation system and access by emergency personnel. The Common themes in the Public Health & Safety Element include:

- Flood and Dam Inundation – Emphasizing continuation of current efforts and to comply with state law for development in the floodplain.
- Fire Risk – To promote the implementation of “fire resilient communities” that are designed and built to not only survive a fire event, but to also recover quickly from the effects of a wildfire.
- Airports – Encourages collaboration of planning efforts with airports to ensure compatibility and safety.
- Air Quality & Climate Change – Focuses on construction emissions, as well as the development of a Greenhouse Gas Reduction Plan to address requirements of state law, ensure the County's access to transportation funding opportunities, reduce other air pollutants, and increase energy efficiency in new and existing developed areas.
- Hazards and Hazardous Materials – Addresses the standard concerns regarding contamination and toxic chemicals, but also the more unique issue to Yuba County of the old Camp Beale site and the potential for unexploded ordnance hazards known to be in the area.
- Healthy Communities – Addressed throughout the Draft GP, this section also promotes policies that encourage access to healthy food choices, transit opportunities, and exercise and recreation.
- Noise and Vibration – With the inclusion of major noise-generating facilities such as the Sleep Train Amphitheater, Beale Air Force Base, and the Yuba County Airport, as well as major highways and railways, policies are designed to manage unwanted noise to preserve the overall well-being of County residents.
- Geology and Soils – Focuses on areas of high erosion risk, common for lands in foothill and mountainous regions, and grading and drainage issues that coincide with development of homes and businesses.

### Natural Resources:

The Natural Resources Element focuses on the following topic areas:

- Preservation of open space
- Extraction and use of natural resources
- Conservation of agricultural, cultural, and natural resources
- Restoration of natural resources.

The intent of the Draft GP and its Goals, Policies, and Actions is to attempt to optimize the relationships between these interrelated topics. For example, an emphasis on urban greening not only promotes aesthetic improvements to new and existing communities, it also contributes to improving water quality and air quality in the County. Maintenance of farm and forest lands contributes to carbon absorption to help meet the County's greenhouse gas reduction goals. Additionally, buffering urban uses from important farmland and other natural open spaces protects water quality, separates sensitive uses from sources of air pollution, and supports recreational opportunities that enhance the health and quality of life of local residents. The Common themes in the Natural Resources Element include:

- Increase recreational opportunities – To promote the continued development of high-quality recreational opportunities for economic opportunities, healthy lifestyles, and increased quality of life for local residents.
- Protect farm and forest lands - A major economic driver for Yuba County, policies are designed to both protect existing farm and forest land from encroachment, but also promote new opportunities such as agricultural tourism and processing.
- Promote urban greening of communities - To make aesthetic improvements, while improving water quality and air quality, as well as using the Draft GP as a strategic way to leverage outside funding opportunities.
- Protect important biological, visual, and cultural resources – Implement policies that protect important biological habitat, preserve historic resources from Yuba County's past, as well as policies to ensure the long-term beauty of the County's important visual resources.
- Promote energy efficiency – Encourages the design and implementation of energy efficient development, as well as encourage the use of renewal energy technologies.
- Use of important county resources – To promote the continued use and protection of important natural resources such as aggregate mining and the County's water supply.

MAJOR POLICY DIFFERENCES FROM 1996 GENERAL PLAN: Much of the Draft GP is similar to the 1996 Yuba County General Plan, though it has been modified and additions have been made to coincide with the needs and desires of local residents and the requirements of state law in 2010. However, there are a few policy changes that would be considered a significant change from current policy that were not already discussed earlier in this report. They include:

- Valley Growth Boundary
- Land Use Categories – Placetypes
- General Plan Amendments
- Rural Communities – Community Plans

Valley Growth Boundary: The 1996 General Plan included what is called the Linda-Olivehurst Community Boundary. Together with the East Linda Specific Plan and the Plumas Lake Specific Plan, the total comprised the primary area for unincorporated valley growth. However, there were no policies regarding when or how development could extend beyond the boundaries identified in the 1996 General Plan.

The Draft GP puts much stronger emphasis on the Valley Growth Boundary. It is clearly described as the extent of urbanized development planned until at least 2030. Action CD1.1 Calls for a review of the boundary every eight (8) years to coincide with the County's update of its Housing Element. The goal is to ensure that adequate lands are identified to handle future growth and provide for the orderly phasing of development over time to ensure the success of the other policies in the Draft GP.

Land Use Categories / Placetypes: The 1996 General Plan included 16 different land use classifications ranging from Valley Agriculture to Regional Commercial and seven Land Use Diagrams, including six community Land Use Diagrams that allow for additional land use designations. The system creates an emphasis on exact locations of various land use designations and the need to ultimately apply for amendments to the general plan anytime an applicant wanted to make an adjustment to the allowed uses for that property.

The Draft GP Land Use Plan is fundamentally different. First, there are only six land use designations: Valley Neighborhood, Commercial/Mixed-Use, Employment, Public/Quasi-Public, Natural Resources, and Rural Community. The result is that each designation can allow for a broad range of uses so long as they are consistent with the intent of the land use designation. For instance, Valley Neighborhood will allow for the whole range of uses consistent with a neighborhood, from neighborhood commercial, to single-family residences, multi-family apartments, parks, schools, and public buildings. Key to future development is that a use can be found consistent if it is consistent with the intent of the land use designation.

To provide some direction to future property owners and developers, however, the Draft GP also includes the concept of "Placetypes". These are concepts that describe how "focal points" of development should occur that emphasize the creation of centers of social, economic, and other activities and create a sense of place within communities. Together, the broad land use categories and "Placetypes" allow for significant flexibility in drafting County zoning and development ordinances. It will also allow for adjustments to be made over time without necessarily requiring a general plan amendment to make the adjustment.

General Plan Amendments: The Draft GP includes a policy requiring a 4/5 vote in order to approve any general plan amendment. The policy behind this process is due to the significant flexibility in the plan. Most of the proposed general plan amendments over the last few years have been for a small increase in density or a change from residential to commercial along well-traveled corridors. Under the Draft GP such changes would likely not require a general plan amendment to process.

A proposed project requiring a general plan amendment to the Draft GP would most likely be a significant departure from the goals of the plan. Considering the many years and significant input in public feedback and the underlying goal to reflect the community vision and sentiment in the

Draft GP, the 4/5 vote requirement is designed to promote consensus among decision makers when considering such a departure from the adopted General Plan.

Rural Communities / Community Plans: Most of the rural communities identified in the 1996 General Plan are consistent with the Goals, Policies, and Actions in the Draft GP. There are three existing communities that were not previously identified that are now recognized in the Draft GP: Collins Lake, Hallwood, and Camp Far West. The only rural community that would significantly change is the Smartsville community. The River Highlands Community Plan would no longer be included in the Draft GP, and in its place would be the Smartsville community that would have policies consistent with all of the other rural communities in the foothills.

Where the Draft GP is different, however, is in the land use designations. Similar to the Valley Neighborhood designation, the Rural Community designation would allow for a full range of uses consistent with the needs of a community, though at a scale and character consistent with a rural way of life. Additionally, if residents of that community desire, a "Rural Community Plan" can be adopted that would facilitate the creation of rural centers and services desired by that community. It is anticipated that funding for the creation of these plans would come from local residents or as grant funding can be received. These plans, if consistent with the goals and policies of the Draft GP, would be consistent with the Draft GP and no general plan amendment would be required. Until a "Rural Community Plan" is adopted, zoning and development standards are anticipated to be similar to what is in place today.



# *County of Yuba*

## Community Development & Services Agency

915 8<sup>th</sup> Street, Suite 123, Marysville, CA 95901

### Planning Department

Phone: (530) 749-5470

Fax: (530) 749-5434

Web: [http:// www.co.yuba.ca.us](http://www.co.yuba.ca.us)

064-11

### ATTACHMENT 2

### DRAFT ENVIRONMENTAL IMPACT REPORT(DEIR)

**DEIR Conclusions:** Table 2-1, "Summary of Environmental Impacts and Mitigation Measures" and Section 6.1.4, "Cumulative Effects of the 2030 General Plan" of the DEIR identify the potential environmental impacts and required mitigation measures for the Draft GP. The DEIR analysis found that the following impacts would be potentially significant, but could be reduced to a less-than-significant level with implementation of proposed policies and feasible mitigation measures:

#### Project-Impacts

- Potential for Direct and Indirect Impacts on Federally Protected Wetlands and Other Waters of the United States;
- Increases in Vibration Levels;
- Noise Levels Near Airports; and,
- Exceed Wastewater Treatment Requirements.

The Draft EIR analysis found that the following impacts could not be adequately mitigated and would remain **significant and unavoidable**:

#### Project-Impacts

- Adverse Impacts on Scenic Vistas;
- Degradation of Visual Character;
- Increase in Nighttime Lighting and Daytime Glare;
- Loss of Important Farmland and Conversion of Agricultural Land to Non-Agricultural Uses;
- Loss of Forest Land or Conversion of Forest Land to Non-Forest Use;
- Generation of Long-Term Operational, Regional Emissions of Criteria Air Pollutants and Precursors and Consistency with Air Quality Planning Efforts;
- Generation of Short-Term Construction-Related Emissions of Criteria Air Pollutants and Precursors;
- Exposure of Sensitive Receptors to Emissions of Toxic Air Contaminants;
- Exposure of Sensitive Receptors to Emissions of Odors;
- Impacts to Special Status Wildlife and Fish Species;
- Loss and Degradation of Sensitive Habitats;
- Interference with Movement or Migratory Patterns of Fish or Wildlife Species;
- Damage to Identified Historical Resources and Unique Archaeological Resources;

- Damage of Previously Unidentified Cultural Resources;
- Disturbance and Damage to Human Remains;
- Loss of Availability of Known Mineral Resources;
- Possible Damage to Unknown, Potentially Unique Paleontological Resources;
- Increase in Greenhouse Gas Emissions;
- Impacts of Climate Change on Yuba County;
- Induce Population Growth;
- Displacement of Existing Population and Housing;
- Exposure to or Generation of Noise Levels in Excess of Local Standards;
- Increases in Ambient Noise Levels;
- Need for New or Expanded Parks and/or Recreation Facilities and Potential for Accelerated Deterioration of Existing Parks;
- Increase in Traffic Levels;
- Potential Traffic Impacts in Other Jurisdictions;
- Traffic Impacts on Caltrans' Facilities;
- Increased Vehicle Miles of Travel (VMT);
- Introduce New Traffic Hazards;
- Construction of New or Expanded Water or Wastewater Facilities;
- New or Expanded Storm Water Drainage Facilities;
- Increased Energy Demand and Need for Additional Energy Infrastructure;
- Cumulative aesthetic resources impacts;
- Cumulative agricultural and forest resources impacts;
- Cumulative air quality impacts;
- Cumulative biological resources impacts;
- Cumulative cultural resources impacts;
- Cumulative air quality impacts;
- Cumulative cultural resources impacts;
- Cumulative geology & soils impacts;
- Cumulative greenhouse gas emissions impacts;
- Cumulative hydrology & water quality impacts;
- Cumulative land use, housing, and population impacts;
- Cumulative noise impacts;
- Cumulative parks & recreation impacts;
- Cumulative transportation & traffic impacts;
- Cumulative wastewater management services impacts; and,
- Cumulative energy impacts.

There are generally two types of significant and unavoidable environmental impact identified in the EIR. Some of those identified will have a direct impact on the resource or issue due to the full implementation of the Draft GP. For example, the following impact to Agricultural Resources is identified:

<b>IMPACT</b> <b>4.2-1</b>	<b>Loss of Important Farmland and Conversion of Agricultural Land to Non-Agricultural Uses.</b> <i>Buildout of the 2030 General Plan could result in the conversion of as many as 5,682 acres of Important Farmland and 44,901 acres of grazing land to nonagricultural uses. This impact is considered <b>potentially significant</b>.</i>
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The 2030 General Plan includes policies that are intended to conserve agricultural land and reduce conflicts between agricultural operations and adjacent uses. However, the 2030 General Plan identifies areas for development that are currently used for agriculture and areas currently zoned for agricultural use. Implementation of the General Plan would result in the loss of agricultural land uses, including Important Farmland and lands zoned for agricultural use, to urban development. Any actions taken by the County, including policies contained within the proposed 2030 General Plan, would only extend the timeframe for conversion of Important Farmland associated with development; loss of Important Farmland would still occur. This impact would remain **significant and unavoidable**.

The other type of impact identified is one that must be considered significant and unavoidable, because the County does not control implementation of some or all of the actions necessary to address it and thus cannot guarantee that the impact will be fully mitigated. For example, the following impacts to Parkland are identified:

**IMPACT 4.12-4 Need for New or Expanded Parks and/or Recreation Facilities and Potential for Accelerated Deterioration of Existing Parks.** *Implementation of the 2030 General Plan would result in an increase in population in Yuba County, which would result in an increase in demand for parks and recreation services and require the construction of additional and/or expanded parks and recreation facilities. The construction of facilities could potentially have adverse impacts on the physical environment. Increased population in the unincorporated County could result in heavier use of existing parks within and outside of the unincorporated County, which could lead to accelerated deterioration of such facilities. The General Plan provides the policy direction necessary to fund and construct parks and recreational facilities needed to respond to increased demand. However, this would depend on the cooperation of agencies outside the County's direct control. Therefore, the impact is considered **potentially significant**.*

NR1.1), but the County cannot unilaterally implement this policy and implantation framework. Because the County cannot guarantee the full implementation of parkland and recreational policies and actions, and because it is possible that parkland and recreational facilities may not be provided at an adequate rate to avoid overuse of existing facilities, this impact is considered **potentially significant**.

The County has provided policies and an action in the General Plan that would guide the provision of parkland and recreational programming to ensure adequate facilities and avoid the overuse of existing facilities. There is no feasible mitigation available to the County beyond that which is provided in policy and action statements in the General Plan. The impact is considered **significant and unavoidable**.

**BEFORE THE COUNTY OF YUBA  
PLANNING COMMISSION**

**RESOLUTION RECOMMENDING  
THE BOARD OF SUPERVISORS  
ADOPT THE YUBA COUNTY  
GENERAL PLAN 2030**

)  
)  
)  
)  
) **RESOLUTION NO. 2010-0008**  
)  
)

**WHEREAS**, Section 65300 of the State of California Government Code states that each planning agency shall prepare and the legislative body of each county shall adopt a comprehensive, long-term general plan for the physical development of the county and any land outside its boundaries which, in the planning agency's judgment, bears relation to its planning; and,

**WHEREAS**, Section 65354 of the State of California Government Code states that the local agency's planning commission shall make a written recommendation on the adoption or amendment of a general plan; and,

**WHEREAS**, State law requires that local agencies adopt general plans addressing specific mandatory topics; and,

**WHEREAS**, State law also provides for periodic review, updates, and amendments of local general plans; and,

**WHEREAS**, the County of Yuba initiated an update to the General Plan in 2007, which consisted of numerous town hall meetings, General Plan Update Advisory Committee meetings, and meetings with the Planning Commission and the Board of Supervisors; and,

**WHEREAS**, the County determined that the General Plan Update (also referred to herein as the "General Plan 2030" and the "Project") was a project requiring review pursuant to the California Environmental Quality Act (CEQA), Public Resources Code 21000 et seq., and that an Environmental Impact Report (EIR) be prepared to evaluate the potential environmental effects of the project; and,

**WHEREAS**, a Notice of Preparation was released for public and agency review and comment on June 18, 2010, for the General Plan 2030 Draft EIR, with public review period starting June 18, 2010, and ending on July 19, 2010, and a public scoping meeting to receive comments on topics and issues that should be evaluated in the Draft EIR was held by the County on July 7, 2010; and,

**WHEREAS**, the County held two public meetings on August 25, 2010 and September 8, 2010 to receive public comments on the 2030 General Plan; and,

**WHEREAS**, a Notice of Completion for the Draft EIR (State Clearinghouse #2010062054) was also submitted to the State Clearinghouse for state agency review with public review period starting December 10, 2010 and ending on February 9, 2011; and,

**WHEREAS**, the Planning Commission considered the draft General Plan 2030 during a noticed public hearing on September 22, 2010 and on December 15, 2010 considered recommendations to the Board of Supervisors regarding the General Plan 2030;

**NOW, THEREFORE, BE IT RESOLVED AS FOLLOWS:**

1. The foregoing recitals are true and correct.
2. The Planning Commission bases its recommendation upon the testimony and information presented at the hearing, including consideration of the Draft Environmental Impact Report and all evidence in the whole record pertaining to the General Plan 2030.
3. The Planning Commission recommends that the Board of Supervisors finds that the General Plan 2030 is comprehensive and long-term in focus.
4. The Planning Commission recommends that the Board of Supervisors finds that the General Plan 2030 and its elements and parts comprise of an integrated, internally consistent and compatible statement of policies.
5. The Planning Commission recommends that the Board of Supervisors finds that the General Plan 2030 addresses all of the elements required by California Government Code § 65302 and are of sufficient degree of specificity and level of detail to reflect local conditions and circumstances.
6. The Planning Commission hereby recommends that the Yuba County Board of Supervisors adopt Yuba County General Plan 2030.

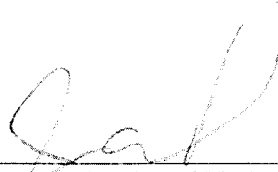
**PASSED AND ADOPTED** at a regular meeting of the Planning Commission of the County of Yuba, State of California, on the 15th day of DECEMBER 2010, by the following vote.

**AYES:** COMMISSIONER BARKER, RIPPEY & RODDA

**NOES:** COMMISSIONER MESSICK

**ABSENT:**

**ABSTAIN:** COMMISSIONER ZIMMERMAN

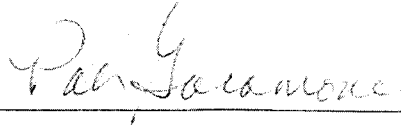


JON MESSICK, CHAIRMAN  
Yuba County Planning Commission

ATTEST:  
Tony Gon  
Planning Commission Secretary

APPROVED AS TO FORM:  
Angil P. Morris-Jones  
County Counsel

BY: 

BY: 

## **Attachment 4**

**Annotated Comments  
Received on Draft GP**

RECEIVED

SEP 21 2010

Community Development  
Planning Agency

September 19, 2010

Yuba County Planning Dept.  
915 8<sup>th</sup> St.  
Marysville, Ca. 95901

Gentlemen:

In your consideration of the new Yuba County Master Plan, careful thought should be given to future housing development. During the past few years, the County has experienced the start of many subdivisions which have never been completed, leaving a great deal of undeveloped building sites. Before any new subdivisions are allowed to be completed, these areas should be filled.

We have unfinished developments scattered all over the South County, creating eyesores and affecting farming operations. It is an established fact that in the entire United States housing or bedroom communities do not pay their way. Until such time as existing unfinished areas are built out, there is no chance of any city incorporation, leaving all of Yuba County paying the burden of unlimited police protection and street maintenance. Millions of dollars have been spent to supposedly protect the majority of these new homes from flooding. Let us make use of it.

Yuba County needs commercial development to create jobs and every effort should be directed to this end. Consideration of ANY new housing development should not be currently allowed until the need arises.

Sincerely yours,

*Roger L. Murray*  
Roger L. Murray



1-1

1-2



State of California-The Natural Resources Agency

DEPARTMENT OF FISH AND GAME

North Central Region

1701 Nimbus Road, Suite A

Rancho Cordova, CA 95670

(916) 358-2900

<http://www.dfg.ca.gov>

ARNOLD SCHWARZENEGGER, Governor

John McCamman, Director



September 20, 2010

Dan Cucchi

Project Planner, Yuba County General Plan Update

County of Yuba

Planning Department

915 8<sup>th</sup> Street, Suite 123

Marysville, CA 95901

[dcucchi@co.yuba.ca.us](mailto:dcucchi@co.yuba.ca.us)

Subject: Draft Yuba County General Plan 2030 and Notice of Preparation (NOP) for the Yuba County General Plan Update Draft Environmental Impact Report (DEIR)

Dear Mr. Cucchi:

The California Department of Fish and Game (DFG) has reviewed the above-referenced Yuba County Draft General Plan 2030 (Plan) and the NOP for the Yuba County General Plan Update DEIR. The Plan represents the proposed project which will be evaluated in the DEIR. The Plan was not available at the time the NOP was issued, but a planning document, "Yuba County General Plan Update Vision, Goals, and Strategies," was available which outlined project objectives in terms of vision, goals and strategies related to quality of life, economic independence, "sustainable and vibrant" valley communities, rural lifestyle preservation and resource protection, and presented a buildout estimate of between 80,000 and 100,000 additional people living in unincorporated areas of the county (e.g. excluding the incorporated Cities of Marysville and Wheatland), with an additional 47,000-67,000 jobs. At the time this letter was finalized, the Draft General Plan had become available, articulating objectives, policies and actions to guide future growth. The Plan includes a Community Development Element that includes a Land Use Diagram for the county depicting the location of a set of land uses, and describes land use designations and associated allowable building densities and use descriptions, as well as land use goals, policies and actions. The Plan also includes a Natural Resources Element which includes an Open Space Diagram and Natural Resource goals, policies and actions.

This letter provides our DEIR scoping comments and recommendations in response to Yuba County's NOP as well as providing our response to Yuba County's request for comments on the Draft General Plan 2030. These comments do not necessarily reflect a complete set of comments on the Yuba County General Plan 2030, and The DFG may provide additional comments as additional documents become available.

The DFG jurisdiction pertains to the Yuba County General Plan update process in several ways. The DFG is a trustee agency with responsibility under the California Environmental Quality Act (CEQA) for commenting on projects that could affect fish and wildlife resources. As described in Section 1802 of the California Fish and Game Code,

*Conserving California's Wildlife Since 1870*

the DFG has jurisdiction over the protection and management of fish, wildlife, native plants, and the habitat necessary for biologically sustainable populations of those species.

The DFG manages over 700 wildlife areas and ecological reserves throughout the State, including Yuba County's Spenceville and Daugherty Hills Wildlife Areas and the Star Bend and Lake of the Woods Units of the Feather River Wildlife Area. In addition, there have been recent acquisitions along the Bear River riparian corridor.

As you are aware, the DFG also has regulatory authority with regard to activities occurring in streams (which includes ephemeral streams, washes, etc.) The General Plan Update includes areas that may encroach on such water bodies. For any activity that will divert or obstruct the natural flow or change the bed, channel or bank of a river or stream, remove riparian vegetation, or use material from a streambed, the DFG may require a Streambed Alteration Agreement (SAA), pursuant to Fish and Game Code Section 1600 et seq. The DEIR should evaluate and address project-related impacts to streams and should include appropriate avoidance and minimization measures. We recommend contacting Kelley Barker (916) 358-4353 for any further information regarding notification requirements as well as measures appropriate for inclusion in the DEIR.

The DFG has jurisdiction over fully protected species of birds, mammals, amphibians, reptiles, and fish, pursuant to Fish and Game Code Sections 3511, 4700, 5050, and 5115. "Take" of any fully protected species is prohibited, and the DFG cannot authorize their "take" for development, or other activities. For example, the white-tailed kite is a fully-protected species that is known to nest, roost and forage in the Plan area. The DEIR should evaluate and address project-related impacts to this species and should include appropriate species-specific avoidance and minimization measures.

The DFG also has jurisdiction over actions which may result in the disturbance or destruction of active nest sites or the unauthorized "take" of birds. Sections of the Fish and Game Code that protect birds, their eggs, and nests include Sections 3503 (regarding unlawful "take" possession or needless destruction of the nest or eggs of any bird), 3503.5 (regarding the "take", possession, or destruction of any birds-of-prey or their nests or eggs), and 3513 (regarding unlawful "take" of any migratory nongame bird). The DEIR should evaluate and address project-related impacts to birds, and should include appropriate species-specific avoidance and minimization measures.

Pursuant to Fish and Game Code Section 5650, it is unlawful to deposit in, permit to pass into, or place where it can pass into the "Waters of the State" any substance or material deleterious to fish, plant life, or bird life, including nonnative species. The Regional Water Quality Control Board also has jurisdiction regarding discharge and pollution to "Waters of the State."

The DFG has regulatory authority over projects that could result in the take of any species listed as threatened or endangered under the California Endangered Species Act (CESA), pursuant to Fish and Game Code Section 2081. The DFG has also been authorized by the Legislature to enter into an agreement with a public entity such as Yuba County for the purpose of preparing a Natural Community Conservation Plan



(NCCP) to preserve and protect the State's wildlife heritage, including threatened and endangered species, while continuing to allow for appropriate development and growth. The DEIR should evaluate and address project-related impacts to State-listed species, and should include appropriate species-specific avoidance and minimization measures.

The DEIR should address direct, indirect, and cumulative impacts expected to adversely affect biological resources, with specific measures to offset such impacts. The regional setting is critical to an assessment of environmental impacts. As described in the General Plan Guidelines 2003 (Governor's Office of Planning and Research), the DEIR should evaluate the effect of the General Plan Update on both the existing physical conditions of today's environment as well as the environmental conditions envisioned by the current Yuba County General Plan.

There will be impacts to State and federally-listed and candidate species, fully protected species, species of special concern, and sensitive plant species as a result of the proposed project. Although the Biological Resources Background Report provides a species list and description, the DEIR should provide an inventory of natural vegetation, fish, wildlife and their habitats, including rare, threatened and endangered species, at a level of detail whereby a meaningful assessment of the impacts of full buildout of the General Plan can be made. The DEIR should assess how particular land use designations (and associated "reasonably foreseeable" potential zoning) will affect areas of habitat for State and federally-listed species and other special-status species. For example, the document should include an assessment of how the "Rural Communities" designation will affect the recently discovered population of the State threatened California black rail (*Laterallus jamaicensis corniculus*) and its habitat and should include appropriate species-specific avoidance and minimization measures.

On the valley floor, the DEIR should address how the particular land use designations of Valley Neighborhood, Commercial Mixed Use, Employment Rural Communities and Natural Resources along with the reasonably foreseeable zoning and potential build-out would affect such species as Swainson's hawk (*Buteo swainsonii*), tricolored blackbird (*Agelaius tricolor*), giant garter snake (*Thamnophis gigas*), western pond turtle (*Emys marmorata marmorata*), vernal pool fairy shrimp (*Branchinecta lynchi*) and other species including those described in the Biological Resources Background Report. To conduct the assessment, the DEIR should provide an inventory at a level of detail that will allow meaningful impact analysis. The DEIR should evaluate and address project-related impacts to these species and should include appropriate species-specific avoidance and minimization measures.

There may be impacts to great gray owl (*Strix nebulosa*), which occurs within the project area, and should be added to the list of species that have the potential to be impacted by the proposed project. The DEIR should assess how land use designations (and associated "reasonably foreseeable" potential zoning) will affect this species. The DEIR should evaluate and address project-related impacts to this species and should include appropriate species-specific avoidance and minimization measures.

Rural Community Land Use Designation: Page 14 of the Community Development Element of the Draft General Plan states that "Residential development at the edges of Rural Community Boundary areas should generally occur on larger lots (of 20 acres or

more). It is not clear whether this statement refers to development within the Rural Community Areas, or outside of them. We support larger lot sizes and open space designations within the Rural Community Land Use Designation, to the extent that this provides corridors and linkages for wildlife movement, including deer.

Natural Resource Land Use Designation: Page 14 of the Community Development Element of the Draft General Plan describes a "natural resource" land use that appears to replace the old "foothill agricultural" but does not specify the minimum lot size for the area. Lack of specified lot size may create a significant impact upon deer and other wildlife resources. Within deer winter range the DFG recommends a minimum parcel size of 40 acres for deer herd conservation. Within critical deer winter range, the DFG recommends a minimum parcel size of 80 acres for adequate conservation of deer herds. Clustered development may be appropriate on lots over 40 acres in size, with corresponding open space that is part of a broader wildlife habitat plan. Open space should be dedicated to a third party for protection in perpetuity, and with an endowment sufficient for its future management.

Deer Winter Range: The Draft General Plan does not contain a figure depicting the Deer Winter Range and Critical Deer Winter Range. An overlay of these areas with the proposed land use designations with these areas is necessary for an evaluation of impacts within the DEIR.

Policies to Protect Wildlife Areas: Similarly, the current General Plan includes specific objectives and associated policies and implementation measures for protection of designated wildlife areas from incompatible development projects (19-OSCO), retention and protection of "District 10" waterfowl habitat areas (20-OSCO), the identification and protection of remaining areas containing habitat suitable for threatened, endangered or special-status species (21-OSCO), creation of a habitat and wetland mitigation banking program (23-OSCO), and connection of wildlife preserves and parklands to wildlife and open space corridors (24-OSCO). These policies provide a foundation for conservation of natural resources in Yuba County and could also support a conservation strategy as part of the Yuba-Sutter Habitat Conservation Plan/Natural Communities Conservation Plan (HCP/NCCP). Removal of these policies may have a significant impact upon the resources that they address. The DEIR should evaluate the impact on biological resources of removing these policies from the general plan.

Analysis of Rural Communities Footprint: Another example of impacts that should use both the current physical conditions and the current general plan as an environmental baseline is the "Rural Community" designation. The combined footprint of the "Rural Community" areas of Loma Rica and River Highlands create a solid band across mid-Yuba County (see Community Development Element 2 – Land Use Diagram). According to Table Community Development 2 (Community Development Element page 14), a "Rural Community" land use designation allows for an overall residential density of 1 unit per 5 acres. This level of density across the area shown on the land use diagram would impact up- and down-slope movement of deer, and is a potentially significant impact to deer herds. If there are open space areas within these "Rural Communities," they should be designated on the Land Use Diagram. This would facilitate efforts to plan for areas of connecting habitat.

Growth-Inducing Effects: The DEIR should evaluate any growth-inducing effects, and the implications of those effects for biological resources that would be produced by full buildout. An example is the new highways described in the Community Development Element, such as the Goldfields Parkway, the Plumas Arboga Extension, and the Wheatland Bypass.

Goal NR 5: *“Protect and restore habitat for special status-species that have the potential to occur in Yuba County”* is an important goal, and is consistent with Yuba County’s responsibilities as a CEQA lead agency. However, NR 5 does not reflect the importance of non-listed fish and wildlife resources to the Yuba County economy, or the fact that the in-progress HCP/NCCP involves an approach that seeks to protect ecosystem function and biodiversity. The DFG recommends either broadening the goal, or adding additional goals to include non-listed wildlife species as well as habitat connectivity and biological diversity. For example, The DFG’s wildlife management mandate, and Yuba County’s recreational vision both support maintenance of habitat connectivity for Columbian black-tailed deer (*Odocoileus hemionus columbianus*). This species is not described as a “special-status” species in the Biological Background report, nor would habitat protection and restoration alone be adequate for their continued viability – a broader approach is necessary.

Policy NR5.4: Please add the California Department of Fish and Game to the list of cooperating agencies.

Policy NR5.10: Under the Natural Communities Conservation Planning Act, pursuant to Fish and Game Code Sections 2800-2835, the Yuba-Sutter NCCP will implement mitigation and conservation strategies designed to sustain and restore covered species and their habitat. Policy NR5.10 indicates that mitigation fees from the plan would fund the County’s open space strategy. The DFG could authorize use of mitigation funding in such a way only if the open space strategy were consistent with conservation plan requirements of Fish and Game Code Section 2820. The General Plan and the DEIR should more clearly describe the County’s open space strategy and how it relates to the protection of habitat, natural communities and species diversity through the HCP/NCCP. The County may want to adopt a policy that endorses of the use of such tools as landowner incentives, conservation easements and mitigation banking for the purposes of achieving the conservation objectives of the HCP/NCCP.

Policy NR5.11: We recommend that this setback policy be broadened to encompass new developments adjacent to both existing and future State Wildlife Areas. We also recommend that setbacks be a minimum of 150 yards, to avoid adverse effects of development on wildlife habitat, and also to avoid potential for any inadvertent violations of Fish and Game Code Section 3004 on the part of hunters within State Wildlife Areas. We are concerned that residential construction and eventual occupancy within 150 yards is a risk that is remedied only through reducing the amount of valuable public land available for public use in the State Wildlife Areas.

Policy NR 5.14: The current Yuba County General Plan includes a map of Deer Winter Range and Critical Deer Winter Range, and a set of land use objectives, policies and implementation measures (16-21 LUP) designed to reduce the impact of development to deer herds within the “foothill agricultural” lands. Land Use Policies 16 and 17 (16- and

17-LUP) provide greater specificity than the corresponding policy in the Draft General Plan, Natural Resources Policy 5.14 (NR5.14), which does not include direction regarding the amount of open space to be conserved. This general policy may increase confusion and acrimony over the types of development allowed, and may cause a significant impact on deer and other wildlife resources. The DEIR should assess the impacts of Policy NR5.14 against both the conditions envisioned in the existing set of Land Use policies in the current General Plan as well as today's existing physical conditions.

The Department requests written notification of proposed actions and pending decisions regarding this project, pursuant to Public Resources Code Sections 21092 and 21092.2. Written notifications should be directed to this office.

If the Department can be of further assistance, please contact me at (916) 358-2919, or Julie Newman, Staff Environmental Scientist, at (530) 283-6866.

Sincerely,



Jeff Drongesen  
Acting Environmental Program Manager

cc: Kelley Barker  
Stuart Itoga  
Sandi Jacks  
Henry Lomeli  
Tracy McReynolds  
Dale Whitmore  
Department of Fish and Game

1. Under the Land Use Element of the Yuba County 2030 Draft General Plan does not address the real present need for employment. No provision to make useable acreage available for Employment Development.

3-1

2. The Land Use Element has no provisions for what the county could do if Yuba County Water Agency is successful in the reticence of Bullard's Bar Dam.

3-2

3. Municipal Service Review is not evident in this document. If the Municipal Service Reviews are incorporated in the General Plan there needs to be an index indicating where these reports can be found.

3-3

4. The General Plan is not specific on where Wheatland's area of influence is designated. I want to be sure that the property I own south of Ostrum Road, and is located approximately six miles more or less from the Town of Wheatland is not included in any discussions of what happens to my property.

3-4

5. I wish to request the Planning Commission to consider changing the Land Use Element to show the property I own South of Ostrum Road as Employment Village property. Part of the property is east of the Union Pacific Railroad tracks and all of it is West of Bradshaw Road. The property has access and frontage on three county roads. The Western Pacific Railroad track is within a half-mile of State Route 65, 40 Mild Road and Ostrum Road Overpass. Rancho Road is to the North West and State Route 70 and MacGrown Overpass which provides excellent access to rail and highway usage.

3-5

6. If all the Commissioners have not read the General Plan Draft including all the public comments which are not included in the draft the Commission should not consider approving the resolution for the draft. If all the Commissioners are not present then the Draft General Plan should not be approved.

7. The General Plan needs an index which lists the comments and where inserted in each of the elements for the publics knowledge and ability to respond to those comments.

3-6

8. The Draft General Plan of 2030 shows great harmony, in the pictures between various land uses. This is not correct for example, I have a rice field three miles away from a subdivision and when I use noise makers to keep the birds away I receive threatening phone calls. The General Plan needs to indicate the true difficulties between different land uses.

3-7

*Frances Hofman*  
*Submitted at meeting*  
*9-22-10*



LAW OFFICES  
ESTABLISHED 1896

2150 RIVER PLAZA DRIVE  
SUITE 450  
SACRAMENTO, CA  
95833-4136  
TEL: (916) 925-6620  
FAX: (916) 925-1127

GREGORY A. FOREST  
EMAIL: GFOREST@HSMILAW.COM

October 1, 2010

**RECEIVED**

OCT - 4 2010

Community Development &  
Services Agency

Yuba County Planning Department  
Dan Cucchi, Project Planner  
915 8th Street, Suite 123  
Marysville, CA 95901

**Re: Climate Change Policies HS 5.2 and 5.4 and Water Quality Policy HS 3.14  
of the Yuba County Draft 2030 General Plan Update ("Draft GPU")**

Dear Dan:

As you know, our firm represents CEM Investments, the proponent of the Magnolia Ranch Specific Plan project ("Magnolia Ranch") in Yuba County. We have previously submitted comments related to the Draft GPU that was released on August 10, 2010 and in response to the NOP for the Draft GPU EIR. This letter conveys our comments related to certain environmental policies in the Draft GPU regarding greenhouse gas (GHG) emissions (Policies HS 5.2 and 5.4) and water quality (Policy HS 3.14). We think these Policies conflict with other Policies in the Draft GPU and could make new development in the County infeasible.

Climate Change

The Draft GPU recognizes the inherent difficulty with meeting the state's ambitious climate change policy goals (calling for a reduction of 80% below 1990 emissions by 2050). Yuba County is not an urban county; it has none of the high intensity and high density development found in San Francisco or downtown Sacramento. The Draft GPU recognizes that existing development in Yuba County faces major barriers to reducing vehicle miles travelled (VMT) because the County has a low-density development pattern that is designed around automobile travel. However, the Draft GPU does not adequately recognize that new development will inherit this existing road network and development pattern where very few destinations are within the convenient reach of a bus or bicycle.

Certainly many new schools, retail and employment destinations can be planned in the Draft GPU within walking distance of residences or along major transportation corridors served by transit. However, most residents of the County will probably have little alternative to driving to perform their daily tasks over the next twenty years. While it is commendable for the County to strive for a new development pattern that encourages alternatives to the automobile, the Draft GPU should take a realistic view of how much transit and bicycle ridership in Yuba County can

4-1

be increased over the next General Plan cycle. Greater gains in the reduction of VMT will probably come from adding retail and employment uses on the valley floor that reduce commuting and shopping trips to destinations in other counties.

Just as residents' preference for the automobile should not be dismissed, the Draft GPU must also recognize that housing preferences are not likely to change dramatically over the next twenty years. Compact development, characterized by apartments, townhomes and small-lot single family homes, is not likely to become a housing type with broad appeal in Yuba County. It is easy to make the case for compact and "transit-oriented" development near downtown Sacramento (where residents can easily ride transit or even bike to work). It is much harder to envision compact development receiving mass appeal in Yuba County. By and large, the proportion of Yuba County residents interested in a loft or apartment is likely to continue to be relatively small. Most residents in the County have preferred, and will probably continue to prefer, a traditional low-density single-family neighborhood with good schools and convenient services. The Draft GPU should not assume that this preference is going to change overnight.

According to the Climate Change Scoping Plan, published in December 2008 by the California Air Resources Board (pursuant to AB 32), California's average GHG emissions rate is 12.7 MT per capita.<sup>1</sup> **The Draft GPU does not estimate the current rate of GHG emissions in Yuba County.** The Draft GPU acknowledges that 47% of the County's GHG emissions are produced by cars and trucks, which is significantly more than the statewide average of 38% stated in the CARB Scoping Plan. This suggests that Yuba County residents drive greater distances (and ride transit less) than most Californians. Those familiar with Yuba County also know that the vehicle fleet probably contains more light trucks (and fewer hybrids) than the statewide average. These factors probably contribute to a higher rate of GHG emissions in Yuba County than the state. Until the current rate of GHG emissions for Yuba County can be estimated, it will not be possible for the County to set a realistic GHG emissions target (or other "efficiency-based standard").<sup>2</sup>

The U.S. Environmental Protection Agency website includes a household GHG emissions calculator at [http://www.epa.gov/climatechange/emissions/ind\\_calculator.html](http://www.epa.gov/climatechange/emissions/ind_calculator.html). By entering basic household information, such as the rate of driving, the fuel efficiency of vehicles, and the amount of monthly gas and electric bills, a family can estimate its household GHG emissions. When divided by the number of persons in the household, this becomes the per capita GHG emissions rate. While this provides a useful way for residents to estimate their own "carbon footprint," it cannot estimate the GHG emissions rate for the County as a whole. Computer modeling has not advanced to the point that the County can readily estimate GHG emissions associated with different land use patterns and policies, which further calls into question the use of quantitative GHG emissions targets in the Draft GPU.

<sup>1</sup> The Scoping Plan lists California's current emissions rate as 14 tons per capita (or 12.7 metric tons). ES-1.

<sup>2</sup> Notably, the County also applies a qualitative approach to GHG emissions in Policy HS 5.3.

*The GHG Standards in Policies HS 5.2 and 5.4  
Are Likely Infeasible*

Draft GPU Policy HS 5.2 sets new and aggressive GHG emissions thresholds of 6.4 MT of CO<sub>2</sub>e per person and 4.4 MT per service population. **The Draft GPU should explain how these thresholds were derived.** As noted above, the Draft GPU does not estimate the current rate of GHG emissions in the County, yet the GHG emissions thresholds are purportedly based on Yuba County's "fair share" of GHG emissions per person. The GHG emissions thresholds in Policy HS 5.2 appear to be roughly *half* of the current statewide averages, based on the CARB Scoping Plan estimate of 12.7 MT per person. As noted, the actual rate of GHG emissions for Yuba County is not shown, but is probably significantly higher than the statewide average (possibly as high as 15 MT per person). Policy HS 5.2 exempts all existing development, but demands any new development meet a new threshold of 6.4 MT per capita (or 4.4 MT per job). Policy HS 5.4 would impose an "efficiency-based standard" for GHG emissions on all new development proposals. Such a standard would likely prohibit any new development that could not show a large proportion of transit or bicycle trips in place of standard vehicle trips (called "travel demand management" in the Draft GPU). The Draft GPU should explain how new development is going to achieve such drastic reductions in the rate of GHG emissions when transit and bicycling is not likely to become a viable everyday transportation option for most residents.

According to the Draft GPU, "there is great opportunity to address climate change goals" in "growing areas like Yuba County" where much development remains to be planned. By focusing future development inside the Valley Growth Boundary near Beale AFB and future employers, the County can reduce driving and therefore reduce GHG emissions. However, the Draft GPU must recognize that the intensification of the County's existing developed areas will occur gradually over many decades. Only once this pattern has actually shifted (and residents can find more schools, jobs and shopping closer to their neighborhoods) can the County expect to see lower rates of VMT and GHG emissions. Until that day arrives it will be necessary for the County to add more offices, stores and schools on the valley floor in order to provide in-County destinations and reduce out-of-County commuting.

By setting overly aggressive GHG emissions targets in Policies HS 5.2 and 5.4, the County will make it much harder for new schools and businesses to locate in the County. **If the GHG emissions thresholds in Policy HS 5.2 are adopted, virtually any new store or business in the County will require an EIR.**<sup>3</sup> This would obviously have devastating consequences for economic development. Even worse, the "efficiency-based standard" proposed in Policy HS 5.4 would add another significant hurdle for anyone proposing to develop new "homes, retail, office, [or] other uses" in the County. Depending on how Policy HS 5.4 is

<sup>3</sup> By setting a CEQA threshold for GHG emissions in the General Plan, any project that would exceed those levels would automatically require an EIR absent sufficient, feasible mitigation to reduce the level of significance.



interpreted, **any new development project that could not prove that GHG emissions fell below a prescribed standard would be prohibited altogether.** In practice, only stores and offices that could prove that a large proportion of vehicle trips would be replaced by transit and bicycle trips could be developed. This puts the cart before the horse. The Draft GPU should plan more jobs and retail opportunities closer to existing neighborhoods so that people look first to Yuba County for their household needs. Such planning will do more to reduce VMT than setting unrealistic GHG emissions thresholds in Policies HS 5.2 and 5.4.

#### Policy HS 3.14

Policy HS 3.14 relates to the County's Water Quality Goal, which is to "[p]reserve, protect, and improve the quality of regional water supplies." As currently drafted, this policy would require – *in all circumstances, and without respect to feasibility or practicality* – the preservation of "wetlands," "riparian corridors" and "other types of open space that provide water quality benefits." Preservation would apparently be required for any and all such features regardless of their status under state and federal law. This requirement is in addition to Policy NR 5.8, which separately requires avoidance and "no net loss" of *jurisdictional* wetlands, "in accordance with federal and state law."

As you probably know, the federal government already tightly regulates impacts to waters of the United States pursuant to the federal Clean Water Act. The State also regulates alterations to certain wetlands and riparian areas pursuant to the lake and streambed alteration program (Fish and Game Code 1602). It is unclear, under proposed Policy HS 3.14, how the County proposes to further regulate wetlands and riparian areas that may (or may not) already be subject to these state and federal laws (particularly when compared to Policy NR 5.8). Policy HS 3.14 is also unclear because the terms "wetland," "riparian corridor" and "open space" are not defined anywhere in the Draft GPU. Finally, since Policy HS 3.14 apparently requires "preservation" in every case, it is unclear when "creation" or "restoration" of such features would ever be appropriate.

In place of the sweeping language found in the current draft, we suggest the following revisions to Policy HS 3.14:

The County will ~~require the preservation of, and will encourage the preservation,~~ creation or restoration of riparian corridors, wetlands, open space buffers, and other types of open space that provide water quality benefits but which do not contain waters of the United States.

By eliminating the requirement to preserve "wetlands" and "riparian corridors" at all costs (since this would conflict with Policy NR 5.8), the proposed language would make this policy workable and provide greater certainty to landowners and project proponents that the County does not

Dan Cucchi  
October 1, 2010  
Page 5

require preservation of wetlands beyond the already difficult and time consuming 404 Permit process for jurisdictional wetlands (or "waters of the United States").

The proposed language would also retain the County's goal of encouraging the preservation of open space areas that are not protected by the federal Clean Water Act. This matches Draft GPU Policy NR 5.3, which requires preservation of native plants "to the maximum extent feasible" (and Policy NR 5.7, which requires buffers from riparian wildlife habitat areas). Those areas that fall outside of federal jurisdiction but which provide water quality benefits would be preserved, created or restored to the extent such preservation, creation or restoration is feasible and desirable in light of the competing policies of the General Plan.

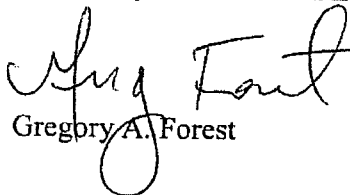
#### Conclusion

Clearly environmental sustainability is an important goal for the County, as it should be. However, the General Plan must balance the goal of sustainability with the County's need to promote economic development. As currently drafted, Policies HS 5.2, 5.4 and 3.14 of the Draft GPU do not strike this balance. These policies would place impractical and unattainable requirements on new development that would stifle the attainment of Yuba County's economic development strategy. Revising these policies is essential to make the General Plan workable and to achieve a proper balance of environmental and economic goals.

Very truly yours,

HEFNER, STARK & MAROIS, LLP

By



Gregory A. Forest

GAF

cc: CEM Investments  
Andy Vasquez, Jr., Supervisor, District 1  
John Nicoletti, Supervisor, District 2  
Mary Jane Griego, Supervisor, District 3  
Roger Abe, Supervisor, District 4  
Hal Stocker, Supervisor, District 5

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# COLLINS LAKE RECREATION AREA

RECEIVED

OCT - 5 2010

Community Development &  
Services Agency

October 3, 2010

Yuba County Planning Department  
915 8<sup>th</sup> Street  
Marysville, CA 95901

ATTN: Dan Cucchi, Project Planner  
RE: General Plan Update

Dear Mr. Cucchi,

I understand there was additional time granted for community comments & input for the Draft General Plan update. If so, then I have two issues that I would like to have addressed:

1. Under Community Development, I see Collins Lake is being proposed as a separate Rural Community instead of being included in the Oregon House/Dobbins community as it has in the past. I don't see any conflicts with this change, but note that the Collins Lake rural community currently does not have a Rural Center and isn't likely to have one in the future. It is a long, narrow strip of land on the West side of Collins Lake. This shouldn't be an issue, except when reading the "Allowable Density & Intensity" table on page 14, it expands the previous 1 unit per 5 acres definition to also state that residential development should occur on smaller lots around a Rural Center and on larger lots (of 20 acres or more) at the edges of the Rural Community. Although this description may work for a circular shaped community with the housing being built radiating out from one Rural Center, it doesn't work for a long, narrow Rural Community without a Rural Center, especially where virtually all of the parcels are touching some edge of the boundary because it is so long and narrow. Without addressing this issue, this description could adversely limit development to 20 acre parcels since they are technically "edge" properties, which is not what this community wants. To solve this problem, I propose you change the definition on page 14, Rural Community/Residential to read as follows:

"Overall density of 1 unit per 5 acres within Rural Communities, consistent with the relevant Community Plan. For Rural Communities with a Rural Center, then dwellings should be clustered on smaller lots around Rural Centers and residential development at the edges of the Rural Community Boundary should generally occur on larger lots (of 20 acres or more)."

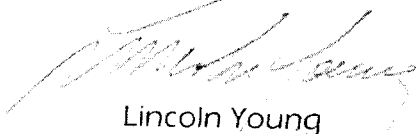
5-1

With this change, then communities like Collins Lake would remain simply 1 unit per 5 acres as an overall density goal. Other communities that embrace the cluster housing will still strive for an overall average of 1 unit per 5 acres, but do so with higher densities at the center and lower densities on the perimeter.

2. Under Natural Resources, the Recreational Open Space Diagram described in pages 7-9 appears to be incomplete. It appears to have missed several of Yuba County's largest and most used outdoor recreational areas, including Collins Lake, Bullards Bar, Lake Francis, Thousand Trails and Camp Far West. Instead, the Recreational Open Space Diagram appears to be focusing on existing or planned trails, local parks and regional parks which are primarily operated by the County. However, these other lakes and their campgrounds definitely need to be incorporated somehow into the General Plan as land intended for Outdoor Recreational activities. The closest description for these areas to your model would be a "Regional Park" since they provide camping and access to reservoirs, except they are much larger than 25 to 100 acres in size. Collins Lake Recreation Area for example is 1,600 acres in size. I recommend you consider adding an additional category to your Recreational Open Space Guidelines on page 8 to accurately describe these areas and mark them accordingly on the diagram on page 9. I recommend that you call these areas simply, "Recreation Areas", "Outdoor Recreation Areas" or something to that effect. In addition to the lakes and their campgrounds/resorts, the "Recreation Areas" icon could also be used to more accurately describe venues like the moto-cross tracks in the riverbottoms, etc.

Under Natural Resources, the Open Space Designations shown on page 4 also needs a "Public Recreation" classification similar to the "Private Recreation" classification. This would greatly help eliminate misunderstandings in the future separating lands that are intended for Public Recreation purposes from lands that are intended for leaving primarily open and undeveloped for habitat preservation, etc. This becomes even more necessary since many of these areas were omitted in error from the "Recreational Open Space Diagram" above.

Sincerely,



Lincoln Young  
General Manager  
Collins Lake Recreation Area  
530-692-1600  
lincoln@collinslake.com

**REMY, THOMAS, MOOSE and MANLEY, LLP**  
**ATTORNEYS AT LAW**

MICHAEL H. REMY  
1944 – 2003

TINA A. THOMAS  
OF COUNSEL

JAMES G. MOOSE  
WHITMAN F. MANLEY  
ANDREA K. LEISY  
TIFFANY K. WRIGHT  
SABRINA V. TELLER

455 CAPITOL MALL, SUITE 210  
SACRAMENTO, CALIFORNIA 95814

Telephone: (916) 443-2745  
Facsimile: (916) 443-9017  
E-mail: [info@rtmmlaw.com](mailto:info@rtmmlaw.com)  
<http://www.rtmmlaw.com>

BRIAN J. PLANT  
ASHLE T. CROCKER  
OF COUNSEL

JENNIFER S. HOLMAN  
HOWARD F. WILKINS III  
SENIOR COUNSEL

AMANDA R. BERLIN  
LAURA M. HARRIS  
CHRISTOPHER J. BUTCHER  
JEANNIE LEE  
ASSOCIATES

October 21, 2010

*VIA FACSIMILE AND MAIL*

Supervisor Andrew Vasquez  
Supervisor John Nicoletti  
Supervisor Mary Jane Griego  
Supervisor Roger Abe  
Supervisor Hal Stocker  
Yuba County Board of Supervisors  
915 8<sup>th</sup> Street, Suite 109  
Marysville, CA 95901  
Facsimile: (530) 749-7353

Re: Draft Yuba County 2030 General Plan Update

Dear Supervisors:

These comments are provided on behalf of the Woodbury owners group. As you know, an application for the Woodbury Specific Plan has been filed with the County. The 1,345-acre Woodbury Specific Plan area is located just south of Erle Road, in the Highway 65 Corridor between Linda and Wheatland. The proposed Specific Plan includes a mix of residential, commercial, park, public (schools), and open space uses. As discussed in more detail below, development of Woodbury will be key to the County's ability to fulfill its vision and goals as set forth in the "General Plan Update Vision, Goals and Strategies" document and the Draft General Plan.

Although there are many goals and policies in the Draft General Plan that are supportive of the type of development planned for Woodbury, there are a few policies that would impede Woodbury's development and frustrate the County's overarching goals. We write to request a few changes to the Draft General Plan. Specifically, we request the County to assign a land use designation of Valley Neighborhood to Woodbury, which is more

appropriate than the current proposal to designate Woodbury as Natural Resources. We also request amendments to the policies regarding the "Planning Reserve" overlay that impose unnecessary obstacles to well-planned development.

**Woodbury will be key to County's efforts to fulfill its visions and goals.**

In 2009, the Board of Supervisors adopted its "Vision, Goals & Strategies" for the General Plan Update. The primary themes of that document are economic development and independence, sustainable development, and improved quality of life. Woodbury is key to fulfilling these goals. Specifically, Woodbury will help to:

- Provide a range of sustainable travel choices that serve County residents and businesses;
- Locate retail, services, and jobs in a way that is convenient for residents in order to reduce vehicle miles traveled and associated air pollution, hold down household transportation costs, and minimize costs of constructing and maintaining transportation facilities;
- Encourage efficient, cost-effective, and sustainable infrastructure and public services at appropriate levels for urban and rural communities;
- Create a distinctive sense of place, character, and vibrancy that attracts people and investment.

Realistically, the County will only be able to deliver on these goals through approval of specific plans, such as Woodbury, that are large enough to incorporate a mix of uses, generate sufficient fees for adequate infrastructure, and provide sufficient development that will subsidize desired land uses such as parks and schools. And Woodbury will help the County develop Commercial Centers and Neighborhood Centers called for in the Draft General Plan.

The Placetypes Diagram locates a Commercial Center and Neighborhood Center on the north and northwestern boundaries of the Woodbury property. (Exhibit Community Development-5.) The General Plan explains that "[i]n the vicinity of the areas where a Commercial Center is identified, important design features include bicycle lanes or pathways, sidewalks and transit access, in addition to vehicular access." (Community Development-16.) But all of these features are useless if adequate residential and mixed uses do not surround the Commercial Center.

Similarly, the Draft General Plan depicts a Neighborhood Center on the northern boundary of Woodbury. This is a logical location for a Neighborhood Center. As explained in the Draft GP, "[t]he intent is to develop and redevelop neighborhoods in a

way that allows most residents to be within walking or bicycling distance of daily destinations (school, shops, parks, etc.). To meet this goal, the County intends for higher-activity land uses, such as schools, parks, retail and commercial services, offices, civic uses, and apartments, to be clustered together in an area serving the surrounding existing or planned neighborhood.”

But it makes little sense to designate an area as a Neighborhood Center, and then plan for development on only one side of the center. In order to support the land uses planned for a Neighborhood Center, and to put them within walking distance of residences, the Neighborhood Center must be surrounded by residential and mixed land uses. Furthermore, the proposed policies describing the Neighborhood Center demand more housing units in close proximity than can be provided in the proposed land use designations: 3,000 to 5,000 existing or planned residents in the surrounding neighborhoods. (Policy CD6.2.)

The Draft General Plan expressly acknowledges that “large specific plans are being considered by the County and must be considered concurrently with the update of the General Plan.” (Process-4.) The Draft General Plan also recognizes that the “[t]he Highway 65 corridor, between Linda and Wheatland, has been identified as a key area of consideration.” (Process-4.) The Draft General Plan also reports that “[t]he County has assumed potential development in the Planning Reserve area,” and yet, the land use designations and proposed policies would impede development in these areas.

The reality is that the County simply cannot provide the types of amenities (schools, parks, recreation areas), transportation options, and sustainable development, without the level of development provided by a specific plan. Similarly, improvements to infrastructure and the transportation network can only realistically be funded by development of the size and intensity of a specific plan such as Woodbury. While infill and redevelopment are important factors to improving the region, the County still needs specific plans such as Woodbury to achieve its goals. We therefore request edits to the General Plan that will remove unnecessary obstacles to well-planned development.

**The Draft General Plan should be revised to help the County achieve its vision.**

The most important change that the Board of Supervisors should recommend is to change the land use designation for the Woodbury area from Natural Resources to Valley Neighborhood. The Woodbury Specific Plan is consistent with the description of the Valley Neighborhood designation as set forth in draft Goal CD5. Without such a change, the General Plan places unnecessary obstacles in the path of achieving its goals.

A primary goal of the General Plan is economic development; a closely related goal is improving the jobs-housing balance. Key to meeting these goals is Policy CD10.5, which provides that "[t]he County will support community and specific planning efforts following General Plan adoption that identify employment-generating uses and the housing and infrastructure that is needed to support the local workforce." Thus, the General Plan should not designate areas proposed for specific plans that will meet these goals as Natural Resources. 6-3

The Draft General Plan even specifies that "[u]ncorporated County development between present and 2030 shall be focused within the Valley Growth Boundary and Rural communities." (Policy CD13.3.) And yet, just a few policies away, the Draft GP proposes a policy that is inconsistent with this policy and would impede fulfillment of the goals and policies discussed above:

Policy CD13.5 For areas designated Planning Reserve, allowable land use will be regulated according to the underlying land use designation unless 4 of 5 members of the Board of Supervisors approve the following findings:

- The subject project or plan proposed within the Planning Reserve Area promotes the goals and is consistent with the policies of the Community Development Element, Natural Resources Element, Housing Element, and Public Health & Safety Element; and
- The subject project or plan proposed within the Planning Reserve Area will directly provide substantial basic (exporting) employment development potential; or
- The subject project or plan proposed within the Planning Reserve Area will construct water, wastewater, and drainage infrastructure that will serve future employment development, with the understanding that project applicants are repaid on a fair-share basis for the cost of providing off-site infrastructure to employment centers. 6-3

First, the 4/5 majority requirement is excessive and unnecessary. Furthermore, the findings to be made are constructed too narrowly. It should be sufficient that a project will promote the goals of the General Plan. We therefore request that this policy be eliminated, or significantly revised to be internally consistent with the General Plan's goals. 6-4

We also request that the County delete the language at Community Development-22 that states "[t]his Element also identifies a 'Planning Reserve Area,' which is not planned for 6-5



development under the General Plan, but which would be the subject of planning and development in future General Plan updates or to serve future needs for housing and jobs growth." This language is inconsistent with many facets of the Draft General Plan, such as: focusing growth within the Valley Growth Boundary, focusing on the Highway 65 corridor, supporting specific plans that fulfill the General Plans goals, and providing Commercial Centers and Neighborhood centers that are closely located to surrounding residential uses. 6-5

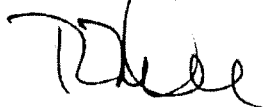
Similarly, Policy CD1.3 should be edited. We suggest the following edits, as making the currently proposed findings would be very difficult for any project to satisfy:

CD1.3      General Plan land use designations will not be assigned within the Planning reserve area unless the County determines that these lands ~~are needed~~ will help to fulfill either the County's regional housing needs allocation or accommodate job-generating developments ~~needed~~ that will help to achieve the County's job-housing goals. 6-6

### Conclusion

We thank you for your attention to these important issues. The County has established lofty, but attainable goals in its Draft General Plan. We believe these suggested edits are critical to meeting those goals. We may have additional comments on other policies in the Draft General Plan, but wanted to ensure that these comments are considered before the County finalizes the Draft Environmental Impact Report for the General Plan Update.

Very truly yours



Tiffany K. Wright

cc:    Kevin Mallen  
      Wendy Hartman  
      Daniel Cucchi

October 25th, 2010

To The Yuba County Board of Supervisors  
The Yuba County Community Development & Services Agency  
County Council  
Yuba County Sheriff Steve Durfor

The Yuba County 2030 General Plan should represent the most comprehensive statement of the counties interest and welfare. The plan should address all local relevant issues in a complete and constant manner and the adoption of the following amendments will aid the county in reaching those goals. Without these amendments, we question the adequacy of the plan.

7-1

By establishing provisions in our Code consistent with the Attorney General's opinion, counties are able to encompass and regulate *unlicensed* group home type facilities, boarding houses, and other residential properties in which individual rooms are rented without consideration as to who the renters are, to preserve the residential character of neighborhoods. To aid Yuba County in the implementation of the proposed zoning and code ordinances, staff reports from other cities that have sought to preserve and maintain the character of residential neighborhoods from multiple lease properties are attached.

If it is truly the goal of Yuba County to create a distinctive sense of place, character, and vibrancy that attracts people and investment, the county will act swiftly to enact these codes and ordinances.

Thank you,

The Brophy Farming Community

Lew Clift 742-1440

Marcie Baker 743-7374



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## Welcome to the online source for the California Code of Regulations

**9 CA ADC § 10501**  
§ 10501. Definitions.



Term

9 CCR § ←10501 →

Cal. Admin. Code tit. 9, § ←10501 →

Barclays Official California Code of Regulations Currentness

Title 9. Rehabilitative and Developmental Services

Division 4. Department of Alcohol and Drug Programs

Chapter 5. Licensure of Residential Alcoholism or Drug Abuse Recovery or Treatment Facilities

Subchapter 1. Purpose and Definitions

Article 2. Definitions

→§ 10501. Definitions.

(a) The following general definitions shall apply to terminology used in Chapter 5, except where specifically noted otherwise:

(1) "Adolescent" means an individual between fourteen (14) and eighteen (18) years of age, who has not been emancipated pursuant to Part 6 (commencing with Section 7000), Division 11 of the Family Code.

(2) "Adult" means a person who is 18 years of age or older or a minor who has been emancipated pursuant to Part 6 (commencing with Section 7000), Division 11 of the Family Code.

(3) "Adult Facility" means a residential alcoholism or drug abuse recovery or treatment facility which is designed to serve adults.

(4) "Alcoholism or Drug Abuse Recovery or Treatment Planning" means the development of a resident specific goal and a continuum of recovery or treatment objectives. It is the licensee's responsibility to provide the activities to facilitate this process.

(5) "Alcoholism or Drug Abuse Recovery or Treatment Service" means a service which is designed to promote treatment and maintain recovery from alcohol or drug problems which includes one or more of the following: detoxification, group sessions, individual sessions, educational sessions, and/or alcoholism or drug abuse recovery or treatment planning.

(6) "Alcoholism or Drug Abuse Recovery or Treatment Facility" means any facility, building or group of buildings which is maintained and operated to provide 24-hour residential nonmedical alcoholism or drug abuse recovery or treatment services.

(7) "Authorized Representative" means any person or entity authorized by law to act on behalf of any resident of a residential alcoholism or drug abuse recovery or treatment facility. An authorized representative may be a minor's parent, a legal guardian, a conservator, a public placement agency, or a person granted power of attorney by the resident.

(8) "Capacity" means the maximum number of residents for whom the facility has been licensed to provide services at any one time.

- (9) "Conviction" means a final judgment on a verdict or finding of guilty, a plea of guilty, or a plea of nolo contendere.
- (10) "Day" means calendar day unless otherwise specified.
- (11) "Detoxification Service" means a service designed to support and to assist an individual in the alcohol and/or drug withdrawal process and to explore plans for continued service.
- (12) "Department" means the Department of Alcohol and Drug Programs.
- (13) "Director" means the Director of the Department of Alcohol and Drug Programs.
- (14) "Education Session" means a planned, structured, didactic presentation of information related to alcoholism and alcohol or drug abuse.
- (15) "Evaluator" means any agent or employee of the Department who is authorized by the Director to conduct licensing evaluations on behalf of the Department.
- (16) "Facility" means a residential alcoholism or drug abuse recovery or treatment facility.
- (17) "Facility Administrator" means the individual responsible for the overall management of a residential alcoholism or drug abuse recovery or treatment facility.
- (18) "Goal" means a general statement of the applicant's or licensee's purpose in operating an alcoholism or drug recovery or treatment facility.
- (19) "Group Session" means group interaction that encourages residents to identify and resolve alcohol- and/or drug-related problems, to examine personal attitudes and behavior, and provides support for positive changes in life style and recovery from alcoholism and/or drug abuse.
- (20) "Illicit drug" means any substance defined as a drug in Section 11014, Chapter 1, Division 10 of the Health and Safety Code, except:
- (A) Drugs or medications prescribed by a physician or other person authorized to prescribe drugs, pursuant to Section 4036, Chapter 9, Division 2 of the Business and Professions Code, and used in the dosage and frequency prescribed; or
  - (B) Over-the-counter drugs or medications used in the dosage and frequency described on the box, bottle, or package insert,
- (21) "Individual Session" means a private interaction between a resident and program staff which focuses on identification and resolution of alcohol- and/or drug-related problems, to examine personal attitudes and behavior and other barriers to recovery.
- (22) "Licensee" means the entity identified on the license(s), issued by the Department of Alcohol and Drug Programs, to provide residential alcoholism or drug abuse recovery or treatment services in accordance with the provisions of Chapter 7.5 (commencing with Section 11834.01), Part 2, Division 10.5 of the Health and Safety Code and the requirements of this chapter.
- (23) "Objective" means a specific, measurable step which can be evaluated to assess the licensee's progress toward the achievement of the stated goal.
- (24) "Physician" means a person licensed as a physician and surgeon by the Medical Board of California or by the Osteopathic Medical Board of California.
- (25) "Premises" means the land, buildings, or other structures included in the license issued for an alcoholism or drug abuse recovery or treatment facility.
- (26) "Resident" means an individual who resides in and receives services from a residential alcoholism or drug abuse recovery or treatment facility.

(27) "Residential Alcoholism or Drug Abuse Recovery or Treatment Facility" means any facility, building, or group of buildings which is maintained and operated to provide 24-hour, residential, nonmedical, alcoholism or drug abuse recovery or treatment services.

(28) "Revocation of License" means a disciplinary action taken by the Department to rescind a license issued pursuant to the provisions of Chapter 7.5 (commencing with Section 11834.01), Part 2, Division 10.5 of the Health and Safety Code and the requirements of this chapter.

(29) "Substantial Compliance" means the absence of any Class A or Class B deficiencies, as defined in Section 10543.

(30) "Suspension of License" means a disciplinary action taken by the Department to discontinue program operations, as permitted under the license, for a specified period of time.

(31) "Volunteer" means uncompensated personnel.

Note: Authority cited: Sections 11755, 11834.50 and 11835, Health and Safety Code. Reference: Sections 11834.01, 11834.02 and 11834.50, Health and Safety Code.

#### HISTORY

1. New section filed 2-7-85 as an emergency; operative 2-7-85 (Register 85, No. 8).
2. Repealed by operation of law 2-1-86. Readoption of section filed 1-24-86 as an emergency; operative 2-1-86 (Register 86, No. 4).
3. Repealed by operation of law 6-2-86. Readoption of section filed 5-30-86 as an emergency; operative 6-1-86 (Register 86, No. 22).
4. Repealed by operation of law 9-29-86. Readoption of section filed 9-26-86 as an emergency; operative 9-29-86 (Register 86, No. 39). A Certificate of Compliance must be transmitted to OAL no later than 1-27-87 or section will be repealed by operation of law (Government Code section 11346.1(g)).
5. Readoption of section filed 1-26-87 as an emergency; operative 1-27-87 (Register 87, No. 5). A Certificate of Compliance must be transmitted to OAL no later than 5-26-87 or section will be repealed by operation of law (Government Code section 11346.1(g)).
6. Readoption of section filed 5-26-87 as an emergency; operative 5-26-87 (Register 87, No. 22). A Certificate of Compliance must be transmitted to OAL no later than 9-23-87 or section will be repealed by operation of law (Government Code section 11346.1(g)).
7. Repealer and new section transmitted to OAL 9-23-87 and filed 10-23-87; operative 10-23-87 (Register 87, No. 43).
8. Amendment of subsection (a) filed 12-27-89 as an emergency; operative 1-1-90 (Register 90, No. 1). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed by operation of law on 5-1-90.
9. Amendment of subsection (a) refiled 4-30-90 as an emergency; operative 4-30-90 (Register 90, No. 22). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed by operation of law on 8-28-90.
10. Certificate of Compliance as to 4-30-90 order including amendment of NOTE transmitted to OAL 8-27-90 and filed 9-26-90 (Register 90, No. 44).
11. Amendment of section and Note filed 4-18-94; operative 5-18-94 (Register 94, No. 16).
12. Change without regulatory effect adopting new article 2 heading filed 11-17-94 pursuant to section 100, title 1, California Code of Regulations (Register 94, No. 46).
13. Repealer of subsection (a)(2) and subsection renumbering filed 3-18-97; operative 4-17-97 (Register 97, No. 12).

14. Change without regulatory effect amending subsections (a)(1)-(2) filed 6-15-99 pursuant to section 100, title 1, California Code of Regulations (Register 99, No. 25).

15. Change without regulatory effect amending definitions of "Adolescent" and "Adult" filed 6-12-2007 pursuant to section 100, title 1, California Code of Regulations (Register 2007, No. 24).

9 CCR § **←10501→**, 9 CA ADC § **←10501 →**

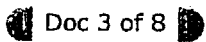
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## Chapter 18.02 DEFINITIONS

### Sections:

- 18.02.02 Intent and Purpose.
- 18.02.04 Specific Definitions.

#### **18.02.02 Intent and Purpose.**

For the purpose of this Ordinance certain terms used are herewith defined. When not inconsistent with the context, words used in the present tense include the future, words in the singular number include the plural number, and words in the plural number include the singular number. The word "shall" is always mandatory and is not merely directory. The word "may" is permissive. See also Section 18.37.04 for definitions relating to signs.

#### **18.02.04 Specific Definitions.**

(1) **Accessory Building.** A subordinate building on the same lot or building site, the use of which is incidental to that of the main building, and which is used exclusively by the occupants of the main building.

(2) **Accessory Uses.** A use customarily incidental and accessory to the principal use of a lot or building located upon the same lot or building site.

(3) **Alley.** A public thoroughfare other than a street, having a width of not less than twenty-five (25) feet which affords only a secondary means of access to abutting property.

(4) **Animal Parlor.** A completely enclosed establishment where animals no larger than the largest breed of dogs are given bathing, clipping, grooming, and incidental veterinary services. Use as a kennel is prohibited.

(4.1) **Antenna.** Any system of wires, poles, rods, reflecting discs or similar devices used for the transmission or reception of electromagnetic waves which system is external to or attached to the exterior of any building. (Ord. 522, Sec. 2 (part), 1984)

(4a) **Auction.** The public sale of goods, property, or services to the highest bidder.

(5) **Authorized Agent.** A person acting with power-of-attorney for a property owner or owners, who is empowered to make decisions and who is authorized in writing by the owner or owners to agree to any conditions which may be imposed with regard to petitions for rezoning, variances, conditional use permits, appeals, building permits, certificates of occupancy, and other actions as provided for in this Ordinance.

(6) **Automobile Parking Space.** A permanently maintained space on the same lot or building site as the use it is designed to serve, and so located and arranged as to permit the storage of, and be readily accessible to, a passenger automobile of average size under its own power.

(6a) **Automobile Service Station.** (See Section 18.33.06).

(7) **Automobile Wrecking.** The dismantling or wrecking of used motor vehicles or trailers or the storage, sale or dumping of dismantled or wrecked motor vehicles. The use of more than two hundred (200) square feet of the area of any lot for this purpose shall be deemed an auto wrecking yard.

(8) **Basement.** A story partly underground and having at least one-half its height measured from its floor to its finished ceiling, below the average adjoining grade. A basement shall be counted as a story if the vertical distance from the average adjoining grade to its finished ceiling is over four (4) feet.

(9) **Boarding, Rooming or Lodging House.** A building or portion thereof which is used to accommodate, for compensation, three or more boarders or roomers in addition to the members of the occupant's immediate family occupying such building.

(10) **Borrow Pit.** Any lot where dirt, soil, sand, gravel or other material is removed by

excavation or otherwise below the grade of surrounding land for any purpose other than that necessary and essential to grading or preparation for building construction or operation on the premises; excluding necessary excavations for installation of public utilities and public rights of way or easements.

(11) Building or Shelter. Any structure either temporary or permanent, having a roof and used or built for the shelter or enclosure of persons, animals, or property of any kind. This shall include tents, awnings, or vehicles, situated on private property and used for the purpose of a building.

(11a) Building Face. The total width of the elevation of a structure as viewed from the property line the building is generally oriented to. This includes irregularly faced structures where a portion of the building face can be seen from more than one property line. (Ord. 491, Sec. 1, (part), 1983)

(12) Building, Height. Building height is the vertical distance above a reference datum measured to the highest point of the coping of a flat roof or to the deck line of a mansard roof or to the average height of the highest gable of a pitched or hipped roof. The reference datum is the elevation of the highest adjoining ground surface within a five foot horizontal distance of the exterior wall of the building. If, however, the highest point of the five foot horizontal distance is greater than ten feet above the lowest point, then the reference datum shall be ten feet above the lowest point. The height of a stepped or terraced building is the maximum height of any segment of the building. (Ord. 513, Sec. 1, 1984)

(13) Building, Main. A building within which is conducted the principal use permitted on the lot, as provided by this ordinance.

(14) Building Site. The ground area of a building, together with all open spaces as required by this ordinance.

(14.1) Business Districts. An area located in a commercial or industrial zone comprised of contiguous property which is primarily in use for business and distinguished by common characteristics or a discernible boundary. (Ord. 597, Sec. 1, 1989)

(14a) Canopy. A roofed structure or architectural feature that covers vehicle or pedestrian passageways. Awnings and arcades are considered canopies. (Ord. 491, Sec. 1 (part), 1983)

(14b) Child Home Care. A service provided in a dwelling which consists of supervision and care of not to exceed six (6) children who are not members of the family providing such service. Such service shall be non-institutional in character and shall be licensed and supervised by those governmental agencies having jurisdiction in the matter. (Ord. 277, Sec. 2 (part), 1974)

(15) City Council. The City Council of the City of Norco.

(16) Club. A nonprofit association of persons, whether incorporated or unincorporated, for some common purpose, but not including groups organized primarily to render a service customarily carried on as a business.

(17) Cluster Housing. A grouping of individually-owned dwelling units, which may or may not be attached, on lots smaller than the minimum required in the base zone, with usable common open space areas around the grouping at least equal to the difference in lot sizes between that required and that proposed.

(18) Compensation. The word "compensation" shall include payment made directly or indirectly in money, goods, wares, merchandise, labor or anything else of value.

(18.5) Commercial Coach. A structure transportable in one or more sections, designed and equipped for human occupancy for industrial, professional, or commercial purposes, which is required to be moved under permit. (Ord. 471, Sec. 1, 1982)

(19) Dwelling. Any building or portion thereof which is used as the private residence or sleeping place of one or more human beings, but not including any institution such as an asylum, hospital, or jail where human beings are housed by reason of illness or under legal restraint.

(20) Dwelling, Caretaker. A permanent attached or detached dwelling secondary to the main dwelling unit and used exclusively by an individual or family employed to assist



in the full time maintenance, operation, or surveillance of a licensed agricultural enterprise, a public or private institution allowed within the zone, or a residential estate. (Ord. 497, Sec. 1, 1983)

(21) Dwelling: Multiple-Family. A building or portion thereof used to house two (2) or more families, including domestic employees of each such family, living independently of each other and doing their own cooking, including "Row Houses," "Town Houses," and "Apartments."

(22) Dwelling: Single-Family. A dwelling containing but one kitchen, designed or used to house not more than one family including all domestic employees of such family and including not more than two roomers or boarders, but not including hotels, motels, clubs, mobile homes, trailers, or lodging houses.

(23) Educational Institution. Schools, colleges, or universities, supported wholly or in part by public funds, and other schools, colleges, and universities giving general instructions, as determined by the California State Board of Education.

(24) Equestrian. A facility or facilities or land dedicated or used for activity relating to the use of horses, and closely related activities.

(25) Erected. The word "erected" includes built, built upon, altered, added to, constructed, reconstructed, moved upon, or any physical operations on the premises required for building or structure.

(25.5) Factory-built Housing. A residential building, dwelling unit, or an individual dwelling room or combination of rooms thereof or building component, assembly, or system manufactured in such a manner that all concealed parts or processes of manufacture cannot be inspected before installation at the building site without disassembly, damage, or destruction of the part, including units designed for use as part of an institution for resident or patient care, which is either wholly manufactured or is in substantial part manufactured at an off-site location to be wholly or partially assembled on-site in accordance with building standards published in the State Building Standards Code and other regulations adopted by the Planning Commission pursuant to Section 19990 of the California Health and Safety Code. Factory-built housing does not include a mobile home, mobile accessory building, or structures, a recreational vehicle, or a commercial coach. (Ord. 471, Sec. 2, 1982)

(26) Family. An individual or two (2) or more persons related by blood or marriage, or a group of not more than five (5) persons, excluding servants, who are not related by blood, marriage, or adoption, living together as single housekeeping unit in a dwelling unit.

(26a) Game Arcade. Any place of business to which the public is admitted wherein six (6) or more coin or slug operated, or electrically, electronically, or mechanically controlled amusement machines are maintained. (Ord. 468, Sec. 1, 1981)

(27) Garage, Private. A detached accessory building or a portion of a main building on the same lot for the parking of vehicles of the occupants of the premises, with no service or storage for compensation.

(28) Garage, Public. A garage other than a private garage, used for the storage, care or repair of self-propelled vehicles or where any such vehicles are equipped for operation or kept for hire.

(29) Garage, Storage. Any building or portion thereof, other than one defined herein as a public garage or private garage, used only for storage of self-propelled vehicles.

(30) Grade. The lowest point of elevation of the finished surface of the ground between the exterior wall of a building and a point 5 feet distant from said wall, or the lowest point of elevation of the finished surface of the ground between the exterior wall of a building and the property line if it is less than 5 feet distant from said wall. In case walls are parallel to and within 5 feet of a public sidewalk, alley, trail, or other public way, the grade shall be the elevation of the sidewalks, alley, trail or other public way.

(31) Home Occupation. A home occupation is any use conducted within a dwelling and private garage on the same lot by only the inhabitants thereof, which use is clearly incidental and secondary to the use of the dwelling for dwelling purposes and does not

change the character thereof.

(32) Hospital. Any building or portion thereof, used for the accommodation of sick or injured persons, and shall include sanitarium, convalescent and rest homes, and boarding homes for children and aged persons; also orphanages; but shall not include asylums, detention, or similar building where human beings are housed or detained under legal restraint.

(33) Hospital, Large Animal. An establishment where large animals and livestock (such as equines, bovines, and swines), as well as small animals, are given medical and surgical treatment. Boarding of animals shall be limited to that necessary for and incidental to the principal use as herein described.

(34) Hospital, Small Animal. A completely enclosed establishment where animals no larger than the largest breed of dogs are given medical or surgical treatment. Use as a kennel shall be limited to short-time boarding necessary for and incidental to the principal use as herein described.

(35) Hotel. A building containing six (6) or more guest rooms intended to be occupied by six (6) or more guests for compensation and in which no more than 10 percent of the guest units contain kitchens. Jails, hospitals, asylums, sanitariums, orphanages, prisons, detention homes, and similar facilities where persons are housed and detained under legal restraint are not included.

(35a) Industrial Park. Any property or combination of properties that primarily contains manufacturing or administrative uses in a singly planned development of at least 10 acres. (Ord. 491, Sec. 1 (part), 1983)

(35b) Interior Property Line. A property line other than a street line. (Ord. 491, Sec. 1, (part), 1983)

(36) Junk Yard. The use of more than 200 square feet of the area of any lot for the storage of junk, including scrap metals or other scrap materials.

(37) Kennel. Any lot, building, structure, enclosure, or premises whereupon or within which 5 or more dogs over 120 days of age are kept or maintained for any purpose or reason whatsoever.

(38) Kitchen. Any room in a building or dwelling unit which is used for cooking or preparation of food.

(39) Land Improvement. All improvements to the land which render it basically impervious to water absorption. This includes, but is not limited to, buildings and structures, concrete and asphalt improvements, wood planking, stone, masonry or brick slabs, and any other impervious covering over the ground.

(40) Landscaping. A combination of permanently maintained trees, lawn, shrubs, or other plant materials, fountains, ponds, sculpture, and paved areas and gravel or decorative rock where they are an integral part of a landscaping scheme.

(41) Loading Space. Any off-street space or berth on the same lot with a building or contiguous to a group of buildings, for the temporary parking of a commercial vehicle while loading or unloading materials.

(42) Lot. A parcel of land in single or individual ownership of at least sufficient size to meet minimum zoning requirements for use, coverage, and area, and to provide such yards and other open spaces as are herein required. Such lot may consist of:

(a) A single lot of record;

(b) A combination of complete lots or record, of complete lots or record and portions of lots or record, or of portions of lots of record;

(c) A parcel of land described by metes and bounds;

provided that in no case of division or combination shall any residual lot or parcel be created which does not meet the requirements of this Ordinance.

(43) Lot Area. The total horizontal area within the lot lines of a lot. In the case of a flag lot, the area of the "stem" or access portion of the lot shall not be included in computing the required minimum lot size.

(44) Lot: Corner. A lot located at the junction of two (2) or more intersecting streets having an angle of intersection of not more than one hundred thirty-five (135) degrees,

with a boundary line thereof bordering on two (2) of the streets.

(45) Lot: Interior. A lot other than a corner lot.

(46) Lot: Key. The first lot to the rear of a reversed corner lot and not separated by an alley.

(47) Lot Lines. Lot lines shall include lease lines or other lines defining a building site. The boundary lines of lots are:

(a) Front Lot Lines. The line dividing a lot from a street, or from a permanent access easement located on the same lot. On a corner lot only one street line shall be considered as a front lot line and the shorter street line shall be considered the front lot line.

(b) Rear Lot Line. The line opposite the front lot line.

(c) Side Lot Line. Any lot line other than the front lot line or rear lot line.

(48) Lot: Reversed Corner. A corner lot, the side street line of which is substantially a continuation of the front lot line of the lot upon which it rears.

(49) Lot: Through. An interior lot having frontage on two (2) parallel or approximately parallel streets.

(50) Menagerie. A place where wild or strange animals are kept in cages or enclosures.

(50.1) Miniature Horse. A horse, donkey, or mule which as an adult measures a maximum of 38 inches in height at the withers. (Ord. 624, Sec. 1, 1991)

(50.2) Miniaturized Pig. A swine which as an adult measures a maximum of 18 inches in height at the shoulders, and would have a maximum weight between 30 and 75 pounds. (Ord. 664, 1993)

(50a) Mini-warehouse. A facility designed or operated exclusively for the storage of goods in individual compartments or rooms, none of which exceed five hundred square feet in area and which are available for use by the general public on a rental or lease basis. Except for administration of the facility, a mini-warehouse shall not include any manufacturing, retail or wholesale selling, or office functions. (Ord. 409, Sec. 1, 1978)

(51) Mobile Home. A structure transportable in one or more sections, designed and equipped to contain not more than one dwelling unit to be used with or without a foundation system. A mobile home does not include a recreational vehicle, commercial coach or factory-built housing. (Ord. 471, Sec. 3, 1982)

(52) Mobile Home Park. Any lot on which mobile homes are located and which homes are being used for living and/or sleeping purposes shall constitute a mobile home park.

(53) Motel. A group of attached or detached building containing individual sleeping or living units of which a maximum of 10 percent may have kitchens, with garage attached or parking space conveniently located to each unit, all for the temporary use by automobile tourists or transients; includes tourist courts, motor lodges, auto courts.

(53a) Name Plate. Deleted Ord. 651, 1992. (Ord. 491, Sec. 1 (part), 1983)

(53b) Neighborhood Center. A group of unrelated commercial businesses located either on the same lot, or as part of an integrated center designed to serve the immediate area or provide services to the traveling public.

(54) Non-Conforming Structure. A structure which was legal when established, but which because of the adoption or amendment of this Ordinance now conflicts with the provisions of this Ordinance applicable to the district or zone in which it is situated.

(55) Non-Conforming Use. The use of a structure or premises or land which was legal when established, but which because of the adoption or amendment of this Ordinance now conflicts with the provisions of the ordinance applicable to the district or zone in which it is situated.

(56) Occupancy: Change of. The term "change of occupancy" shall mean a discontinuance of an existing use and the substitution therefor of a use of a different kind or class.

(57) Occupied. The word "occupied" includes arranged, designed, built, altered, converted to, rented, leased, or intended to be occupied.

(58) **Off-Street Parking Space.** A space permanently allocated off of any vehicular, pedestrian, and/or equestrian easements or right-of-way, and designed and constructed to the dimensional and structural standards of the City of Norco.

(58a) **Parapet.** Any protective wall or barrier projecting above any canopy, balcony or roof. (Ord. 491, Sec. 1 (part), 1983)

(58b) **Parolee-Probationer Home.** Notwithstanding the definition of Rooming and Boarding House, any residential structure or unit, whether owned and/or operated by an individual or for-profit or nonprofit entity, which houses two or more parolee-probationers (as defined herein), unrelated by blood, marriage, or legal adoption, in exchange for monetary or nonmonetary consideration given and/or paid by the parolee-probationer and/or any individual or public/private entity on behalf of the parolee-probationer, excluding parolee-probationers who reside in a State-licensed residential care facility.

1. **Parolee-Probationer.** An individual as follows: (1) convicted of a federal crime, sentenced to a United States federal prison, and received conditional and revocable release in the community under the supervision federal probation officer; (2) who is serving a period of supervised community custody as defined by California State Penal Code Section 3000, following a term of imprisonment in a State prison, and is under the jurisdiction of the California Department of Correction, Parole and Community Services Division; or (3) an adult or juvenile individual sentenced to a term in the California Youth Authority and received conditional and revocable release in the community under the supervision of a Youth Authority parole officer. (Ord. 883, 2007)

(59) **Person.** The word "person" includes association, company, firm, governmental entity, co-partnership, corporation, partnership, or joint venture.

(60) **Pets or Domestic Animals.** Those animals, fowls, insects, or fish which are normally and reasonably kept as household pets or for domestic purposes. Specifically not included are beasts, wild animals, or other creatures which if not contained would be construed to be dangerous.

(61) **Place of Public Assembly.** Any place designed for or used for congregation or gathering of 20 or more persons in one room where such gathering is of a public nature, assembly hall, church, auditorium, recreational hall, pavilion, place of amusement, dance hall, opera house, motion picture theater, outdoor theater, or theater, are included within this term.

(62) **Planning Agency.** In the City of Norco, the Planning Commission has been designated (by Ordinance 181) as the City's Planning Agency with the powers and duties necessary to fulfill the functions specified by Article 1 of Chapter 3 of Title 7 of the Government Code of the State of California.

(63) **Planning Commission.** The Planning Commission of the City of Norco, as provided for by City ordinances and amendments thereto.

(64) **Plant Material.** Trees, shrubs, vines, ground covers, or flowers.

(65) **Recreational Vehicles.** A motor home, travel trailer, truck camper, or camping trailer, with or without motor power, designed for human habitation for recreational or emergency occupancy, which meets all of the following criteria:

(a) Contains less than 320 square feet of internal living room area, excluding built-in equipment, including, but not limited to, wardrobe, closets, cabinets, kitchen units or fixtures, and bath or toilet rooms.

(b) Contains 400 square feet or less of gross area measured at maximum horizontal projections and does not exceed 40 feet in length.

(c) Is built on a single chassis.

(d) Is either self-propelled, truck-mounted, or permanently towable on the highways without a permit.

(e) Requires licensing and registration by the State Department of Motor Vehicles. (Amended by Ord. 497 Sec. 2, 1983)

(66) **Recreational Vehicle Park.** Any area or tract of land where one or more lots are rented or leased or held out for rent or lease to owners or users of recreational vehicles or tents used for travel or recreational purposes and which is occupied on a temporary

and transient basis.

(66a) Recreational Vehicle Storage Lot. An area of land used exclusively for the storage of campers, vessels, and other recreational vehicles not in use.

(66b) Regional Center. Any property or combination of properties in which there exists or there is a plan for a commercial development on at least 20 acres of land for establishments that are designed or function as a unit and share a common parking area and/or a common building under a common roof. (Added by Ord. 491, Exhibit A Sec. 1 (part), 1983)

(66c) Rooming and Boarding House. A residence or dwelling, other than a hotel, wherein three or more rooms, with or without individual or group cooking facilities, are rented to individuals under separate rental agreements or leases, either written or oral, whether or not an owner, agent or rental manager is in residence. Included within the definition of Rooming and Boarding House are Parolee-Probationer Home and Sober Living Home as defined herein. (Ord. 883, 2007)

(67) Roof. The outside top covering of a building or structure designed to enclose the building and to provide shade and protection from the elements. False roofs designed for architectural purposes, such as a false mansard, are considered roofs. (Amended by Ord. 491, Exhibit A Sec. 1 (part), 1983)

(67a) Roof Line. Either the uppermost edge of the roof or the top of a parapet wall, whichever forms the top line of the building or structure silhouette. (Added by Ord. 491, Exhibit A Sec. 1 (part), 1983)

(68) School. Any institution or place where organized instruction, or training, or day care of preschool children is provided, whether at no cost or otherwise, including nursery schools.

(69) Screen Planting. Landscaping at least 30 inches high designed to screen or otherwise hide from view certain elements of development such as parking lots, utility structures, etc.

(69a) Senior Citizen. Deleted by Ord. 757 § 1, 2000. (Added by Ord. 509 Sec. 1 (part), 1984)

(69b) Senior Citizen Housing. A professionally managed housing complex consisting of a group of dwelling units and supporting common facilities designed and operated exclusively for the housing of senior citizens and spouse. (Added by Ord. 509 Sec. 1 (part), 1984)

(70) Sign. Deleted by Ord. 651, 1992. (Amended by Ord. 491, Exhibit A Sec. 1 (part), 1983)

(70a) Sign, Attached. Deleted by Ord. 651, 1992. (Added by Ord. 491, Exhibit A Sec. 1 (part), 1983)

(70b) Sign, Construction. Deleted by Ord. 651, 1992. (Added by Ord. 491, Exhibit A Sec. 1 (part), 1983)

(70c) Sign, Directional. Deleted by Ord. 651, 1992. (Added by Ord. 491, Exhibit A Sec. 1 (part), 1983)

(70d) Sign, Entertainment Reader. Deleted by Ord. 651, 1992. (Added by Ord. 491, Exhibit A Sec. 1 (part), 1983)

(70e) Sign, Fence. Deleted by Ord. 651, 1992. (Added by Ord. 491, Exhibit A Sec. 1 (part), 1983)

(70f) Sign, Fin. Deleted by Ord. 651, 1992. (Added by Ord. 491, Exhibit A Sec. 1 (part), 1983)

(70g) Sign, Freestanding. Deleted by Ord. 651, 1992. (Added by Ord. 491, Exhibit A Sec. 1 (part), 1983)

(70h) Sign, Industrial Park. Deleted by Ord. 651, 1992. (Added by Ord. 491, Exhibit A Sec. 1 (part), 1983)

(70i) Sign, Monument. Deleted by Ord. 651, 1992. (Added by Ord. 491, Exhibit A Sec. 1 (part), 1983)

(70j) Sign, Noncommercial. Deleted by Ord. 651, 1992. (Added by Ord. 491, Exhibit A Sec. 1 (part), 1983)

- (70k) Sign, Off-premises Advertising. Deleted by Ord. 651, 1992. (Added by Ord. 491, Exhibit A Sec. 1 (part), 1983)
- (70l) Sign, Painted. Deleted by Ord. 651, 1992. (Added by Ord. 491, Exhibit A Sec. 1 (part), 1983)
- (70m) Sign, Pole. Deleted by Ord. 651, 1992. (Added by Ord. 491, Exhibit A Sec. 1 (part), 1983)
- (70n) Sign, Political. Deleted by Ord. 651, 1992. (Added by Ord. 491, Exhibit A Sec. 1 (part), 1983)
- (70o) Sign, Projecting. Deleted by Ord. 651, 1992. (Added Exhibit A Sec. 1 (part), 1983)
- (70p) Sign, Real Estate. Deleted by Ord. 651, 1992. (Added Exhibit A Sec. 1 (part), 1983)
- (70q) Sign, Readerboard. Deleted by Ord. 651, 1992. (Added Exhibit A Sec. 1 (part), 1983)
- (70r) Sign, Regional Center. Deleted by Ord. 651, 1992. (Added by Ord. 491, Exhibit A Sec. 1 (part), 1983)
- (70s) Sign, Roof. Deleted by Ord. 651, 1992. (Added by Ord. 491, Exhibit A Sec. 1 (part), 1983)
- (70t) Sign Structure. Deleted by Ord. 651, 1992. (Added by Ord. 491, Exhibit A Sec. 1 (part), 1983)
- (70u) Sign, Subdivision. Deleted by Ord. 651, 1992. (Added by Ord. 491, Exhibit A Sec. 1 (part), 1983)
- (70v) Sign, Suspended. Deleted by Ord. 651, 1992. (Added by Ord. 491, Exhibit A Sec. 1 (part), 1983)
- (70w) Sign, Temporary. Deleted by Ord. 651, 1992. (Added by Ord. 491, Exhibit A Sec. 1 (part), 1983)
- (70x) Sign, Time and Temperature. Deleted by Ord. 651, 1992. (Added by Ord. 491, Exhibit A Sec. 1 (part), 1983)
- (70y) Sign, Vehicle. Deleted by Ord. 651, 1992. (Added by Ord. 491, Exhibit A Sec. 1 (part), 1983)
- (70z) Sign, Wall. Deleted by Ord. 651, 1992. (Added by Ord. 491, Exhibit A Sec. 1 (part), 1983)
- (70aa) Sign, Window. Deleted by Ord. 651, 1992. (Added by Ord. 491, Exhibit A Sec. 1 (part), 1983)
- (70ab) Sober Living Home. Notwithstanding the definition of Rooming and Boarding House, any residential structure or unit which houses two or more persons unrelated by blood, marriage, or legal adoption, in exchange for monetary or non-monetary consideration who reside in said residential structure or unit for the purpose of recovering from problems related to alcohol, drug, or alcohol and drug misuse or abuse, and the facility does not provide alcohol or drug recovery or treatment services on-site, thereby not requiring a license from the State. (Ord. 883, Sec. 4, 2007)
- (71) Stable Commercial. A stable for horses which are let, hired, or used or boarded on a commercial basis and for compensation.
- (72) Story. That part of any building included between the surface of any floor and the roof next above or the surface of the floor next above.
- (73) Street. A public or an approved private thoroughfare or road easement which affords the principal means of access to abutting property but not including an alley.
- (74) Street Line. The boundary line between a street and abutting property.
- (75) Street, Side. That street bounding a corner lot and which extends in the same general direction as the line deemed the depth of the lot.
- (76) Structure. Anything constructed or erected which requires location on the ground or attached to something having a location on the ground. (Amended by Ord. 491, Exhibit A Sec. 1 (part), 1983)
- (77) Structure Alterations. Any change in the supporting members of a building, such as bearing walls, columns, beams, girders, floor joists, or roof joists.

(78) Trail, Equestrian and/or Pedestrian. An area devoted to the exclusive use of equestrians and/or pedestrians and which any form of motor vehicle (other than for maintenance purposes) shall not occupy except when crossing perpendicular thereto. Existing equestrian and/or pedestrian trails may have been established formally or informally by dedication, lease, temporary occupancy, accommodation, or habitual use. Equestrian and/or pedestrian trails may exist within, alongside, or completely independent of, motor vehicle rights-of-way.

(79) Trailer. A vehicle designed for carrying persons or property on its own structure and for being drawn by a motor vehicle.

(80) Usable Open Space. See Section 18.17.36.

(81) Use. The purpose for which land or the building or buildings thereon is occupied, used, or maintained.

(82) Used. The word "used" includes occupied, arranged, designed, or intended to be used.

(82a) Vehicle Sales Facility. See Section 18.34.06.

(82b) Wind Energy Conversion System. A machine that converts the kinetic energy in the wind into a usable form (commonly known as a wind turbine or windmill). Said system includes all appurtenant components of the system including the tower and transmission equipment necessary to transmit the energy generated. (Added by Ord. 522 Sec. 2 (part), 1984)

(83) Yard. An open space other than a court unoccupied and unobstructed by any structure or portion of a structure from the ground upward, except as provided in Chapter 18.31 (YARDS, SETBACKS, AND HEIGHT EXCEPTIONS).

(84) Yard Abutting Street. A yard extending along any lot perimeter where abutting a street, and between the street line and a parallel line on the lot.

(85) Yard: Front. A yard extending between side lot lines across the front of a lot adjoining a public street, and between the front lot line and a parallel line on the lot.

(86) Yard: Rear. A yard extending across the rear of the lot, between the side lot lines, and between the rear lot line and a parallel line on the lot. In the case of corner lots, the rear yard shall extend from the rear line of the side yard adjacent to the street to the opposite side lot line.

(87) Yard: Side. A yard extending from the rear line of the front yard to the front line of the rear yard, and between the side lot line and a parallel line on the lot. In the case of corner lots, the side yard adjacent to the street shall extend to the rear lot line.

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**Chapter 18.59  
ROOMING AND BOARDING HOUSE**

**Sections:**

- 18.59.02 Rooming and Boarding Houses.
- 18.59.04 Conditional Use Permit Required.
- 18.59.06 Filing Requirements.
- 18.59.08 Site Location Criteria.
- 18.59.10 Development Standards.
- 18.59.12 Notification.
- 18.59.14 Existing Uses.
- 18.59.16 Changes to Operation.
- 18.59.18 Existing Facilities.

**18.59.02 Rooming and Boarding Houses.**

Rooming and Boarding Houses (including Parolee-Probationer Homes and Sober Living Homes) as defined in Chapter 18.02.04(a) of this Title, may be established only upon approval of a conditional use permit for six or fewer occupants, and shall be prohibited for more than six occupants subject to the following standards. (Ord. 883, 2007)

**18.59.04 Conditional Use Permit Required.**

It shall be unlawful to operate a Rooming and Boarding House, a Parolee-Probationer Home and/or Sober Living Home without first having obtained a conditional use permit.

**18.59.06 Filing Requirements.**

The application for a conditional use permit for a Rooming and Boarding House, Parolee-Probationer Home or Sober Living Home shall include the following information:

- a. Client profile (the subgroup of the population the facility is intended to serve, such as single men, families, elderly, minor children, developmentally disabled, etc.);
- b. Maximum number of occupants including support staff;
- c. Proposed maximum stay for each resident, parolee-probationer or occupant;
- d. Support services to be provided on-site and projected staffing level, if any;
- e. Site plan and floor plans; and
- f. Rules of conduct and business management plan.

**18.59.08 Site Location Criteria.**

In evaluating a proposed Rooming and Boarding House, Parolee-Probationer Home or Sober Living Home, the following criteria shall be considered:

- a. Compatibility of the use with neighboring uses;
- b. Establishment of the facility will not result in harm to the health, safety or general welfare of the surrounding neighborhood, and substantial adverse impacts on adjoining properties or land uses will not result;
- c. The facility shall be located along or near a collector or arterial street with reasonable access to public transportation;
- d. The facility shall be accessible to necessary support services;
- e. To avoid an overconcentration of Rooming and Boarding Houses, Parolee-Probationer Homes and Sober Living Homes, there shall be a 1,000-foot separation requirement as measured from the nearest outside building walls between the subject use and any other Rooming and Boarding House, Parolee-Probationer Home or Sober Living Home;
- f. To avoid over-concentration of housing facilities, there shall be a one thousand-



foot separation requirement as measured from the nearest outside building walls between the subject use and any other group housing as defined in this Title or State Law; and

g. In the case of the Sober Living and Parolee-Probationer Home, it shall not be located within one thousand feet of a public or private school (pre-school through twelfth grade), student housing, senior housing, child care facilities, public parks or businesses licensed for on-or off-site sales of alcoholic beverages, as measured from any point on the outside walls of the Home to the nearest property line of the noted use.

#### **18.59.10 Development Standards.**

Any Rooming and Boarding House, Parolee-Probationer Home or Sober Living Home shall comply with the following:

- a. The facility shall be compatible with the character of the surrounding neighborhood;
- b. Sufficient on-site parking shall be provided. The precise number of parking spaces required will be determined by the approving authority based on the operating characteristics of the specific proposal;
- c. Both indoor and outdoor open areas shall be provided on site;
- d. All setback standards of the underlying zone shall be met;
- e. Signs as permitted in Chapter 18.37;
- f. On-site staff supervision shall be required for parolee-probationer homes and sober living homes during all hours of operation;
- g. Individual client stays at parolee-probationer homes and sober living homes shall not exceed one hundred eighty (180) days; and
- h. The facility's management shall participate in any formal residential crime prevention program (i.e., Crime Free Multi-Housing Program) provided by the City and as required under the conditional use permit. If the program offers certification then that certification shall be obtained and maintained in current status.

#### **18.59.12 Notification.**

Notification of the conditional use permit public hearing shall be done in accordance with Chapter 18.45 of this Title.

#### **18.59.14 Existing Uses.**

Any existing Rooming and Boarding House, Parolee-Probationer Home or Sober Living Home must comply with these requirements, submitting for the required conditional use permit within sixty (60) days of the effective date of this ordinance and completing the conditional use permit within one hundred-and-eighty (180) days of the effective date of this ordinance. A filing extension may be granted by the Planning Director when it is verified that good faith efforts to budget and/or secure funds are made, financial hardship exists, and a favorable recommendation is obtained from the Department. The Police Department recommendation is based upon a review of calls for service and criminal history at the parolee-probationer home or sober living home for the previous twelve (12) months. This subsection shall sunset and no longer be effective on the date that is two years after the effective date of this ordinance.

#### **18.59.16 Changes to Operation.**

Any change in operating conditions from what was originally approved and imposed by the City, including, but not limited to, the number of occupants, residents or parolees-probationers, or any modifications to the conditions of approval pursuant to the required conditional use permit shall require the immediate submittal of a request for revision of the required conditional use permit.

#### **18.59.18 Existing Facilities.**

An existing Rooming and Boarding House, Parolee-Probationer Home or Sober Living Home established pursuant to any conditional use permit discontinued for any period of

time, excluding a maximum thirty-day closure required to perform necessary repairs or restoration which does not increase the square footage of the residence, is deemed abandoned and any subsequent establishment of a Rooming and Boarding House, Parolee-Probationer Home or Sober Living Home shall be required to first obtain a new conditional use permit.

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### COMPLAINT CHALLENGING BOCA RATON ORDINANCE THAT BANS "SOBER HOUSES"

Filed March 7, 2003

United States District Court

Southern District of Florida

JEFFREY O., MICHAEL DOE, TODD C., DOUG B., WILLIAM F., STEVE L., PETER B., REGENCY PROPERTIES OF BOCA RATON, INC., a Florida corporation, and AWAKENINGS OF FLORIDA, INC., a Florida corporation,

Plaintiffs,

vs.

CITY OF BOCA RATON, a Florida municipal corporation,

Defendant.

#### COMPLAINT

Plaintiffs Jeffrey O., Michael Doe, Todd C., Doug B., William F., Steve L., Peter B., Regency Properties of Boca Raton, Inc. ("Boca House"), a Florida corporation, and Awakenings of Florida, Inc. ("Awakenings"), a Florida corporation, sue Defendant City of Boca Raton (the "City"), a Florida municipal corporation, and allege:

#### Introduction

1. By this action, Plaintiffs seek relief from a zoning ordinance (City Ordinance No. 4649; the "Ordinance") recently adopted by the City that prohibits sober living residences for people in recovery persons recovering from drug or alcohol addiction from being located residing in any residential neighborhoods within the City. The Ordinance specifically targets Plaintiffs and other related non-parties by banishing persons recovering from drug and alcohol addiction from the City's residential areas. The Ordinance takes effect immediately and makes no provision for grandfathering the City's 12-plus existing sober living residences, so that they will have to cease providing drug and alcohol-free housing to persons in recovery. The City's conduct threatens to displace Boca House's and Awakenings' current residents from the residential neighborhood where they now reside and has caused continuing harm to Plaintiffs, as well as to Boca House's and Awakenings' prospective handicapped and disabled residents, who are on waiting lists and in need of independent, drug and alcohol-free housing opportunities. Plaintiffs also challenge the City's refusal to make a reasonable accommodation with respect to other zoning provisions that prohibit sober living residences from having four or more unrelated residents in a single dwelling unit, even on a temporary or emergency basis.

2. The Ordinance specifically targets Plaintiffs and other related non-parties by banishing persons recovering from drug and alcohol addiction from the City's residential areas. The City's has not offered a tenable pretense of having any non-discriminatory intent was clearly discriminatory, as both City officials and the constituency they seek to placate, have made abundantly clear through their statements and actions that they intended to preclude persons recovering from drug and alcohol addiction from continuing to reside near the non-disabled population of the City. The City was motivated by public prejudice against persons in recovery. In fact, the hearing at which the Ordinance was enacted is rife with statements to the effect that sober living facilities attract "pedophiles, murderers, God knows what . . ." and that persons in recovery are "not our citizens." The City enacted the Ordinance based on these expressed stereotypes and generalized fears about people in recovery with disabilities. The City made its decision in the context of strong, discriminatory opposition to persons who live in

sober houses, which in turn tainted the City with discriminatory intent. The result of the Ordinance is to prohibit in most of the City any residential use that seeks to provide the drug and alcohol-free environment critically needed for persons to recover successfully from addiction. Thus, the City would now force the relocation away from other City residents of persons who, due to addiction, need drug and alcohol-free sober living residences to relocate to areas segregated from other City residents. The City now restricts such residences to areas which are zoned for medical and hospital or motel uses --, in essence creating a defined ghetto for persons in recovery.

#### Parties and Jurisdiction

3. This action arises under the Fair Housing Act of 1968, as amended, 42 U.S.C. § 3601, et seq. (the "FHAA"), the Americans with Disabilities Act, 42 U.S.C. 11213, et seq. (the "ADA"), the Declaratory Judgment Act, 28 U.S.C. § 2201, and the equal protection and due process guarantees of the 14<sup>th</sup> Amendment to the United States Constitution for which 42 U.S.C. § 1983 provides a remedy. The action arises from the City's discrimination on the basis of handicap or disability in the zoning and regulation of housing. This Court has jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1343 (a)(3) and (a)(4), and pursuant to 42 U.S.C. § 3613.

4. Venue is appropriate in the Southern District of Florida because the cause of action accrued in Palm Beach County, Florida and because the Defendant is a municipality located in Palm Beach County, Florida.

5. Plaintiff, Jeffrey O., is a recovering alcoholic with disabilities, who is in need of stable housing during his transition from rehabilitation to integrated community living.

6. Plaintiff, Michael Doe, is a recovering alcoholic with disabilities who is in need of stable housing during his transition from rehabilitation to integrated community living.

7. Plaintiff, Todd C., is a recovering alcoholic with disabilities who is in need of stable housing during his transition from rehabilitation to integrated community living.

8. Plaintiff, Doug B., is a recovering drug addict with disabilities who is in need of stable housing during his transition from rehabilitation to integrated community living.

9. Plaintiff, William F., is a recovering drug addict with disabilities who is in need of stable housing during his transition from rehabilitation to integrated community living.

10. Plaintiff, Steve L., is a recovering drug addict with disabilities who is in need of stable housing during his transition from rehabilitation to integrated community living.

11. Plaintiff, Peter B., is a recovering drug addict with disabilities who is in need of stable housing during his transition from rehabilitation to integrated community living.

12. Plaintiffs Jeffrey O., Michael Doe, Todd C., Doug B., William F., Steve L., Peter

B., (the "Residents") currently reside in drug and alcohol-free rental housing for persons recovering from drug and/or alcohol addiction operated by Plaintiff Boca House. They will be forced to move out of the single and multi-family residential areas of the City if injunctive relief barring enforcement of the Ordinance is not granted. The Residents are qualified persons with disabilities that affect one or more major life activities that are of central importance to most people's daily lives, including abstaining from alcohol or drug abuse without a structured supportive setting and living independently without a sober housing environment. In addition, they have been diagnosed as suffering from alcohol or drug dependence; they are participating in alcohol or drug treatment on an outpatient basis at facilities unrelated to Boca House and Awakenings; and they are regarded as disabled. All other individuals residing at Boca House and Awakenings are similarly "handicapped" within the meaning of the FHAA and 24 C.F.R. § 100.201(a)(2), and are "qualified persons with disabilities" within the meaning of the ADA, 42 U.S.C. § 12102(2).

13. Boca House is a Florida corporation whose principal place of business is in Boca Raton, Florida. Awakenings is a Florida corporation whose principal place of business is in Boca Raton, Florida. Boca House and Awakenings own housing units (apartments, townhomes and single family homes) in residential settings, which they rent to individuals who are recovering from substance addiction so they can live in a drug and alcohol-free environment.

14. Because of the City's actions described above and below, the Plaintiffs have

been and will continue to be injured by the City's discriminatory housing practices and are therefore "aggrieved persons" within the meaning of the Fair Housing Act, 42 U.S.C. § 3602(d). Boca House and Awakenings have standing as housing providers to bring this action on behalf of themselves and on behalf of their residents who are persons with disabilities.

15. The City is a municipal corporation established and organized under the laws of Florida and is located in Palm Beach County, Florida. As such, it is, and was, acting under color of state law. Further, it provides programs and services in the form of zoning laws and enforcement of those laws.

#### **Background Facts**

##### **The Sober Living Residences**

16. Since 1990, in response to an ever increasing demand for safe, drug and alcohol-free housing, Boca House and Awakenings have operated apartment buildings and rented housing to persons that are recovering from drug or alcohol addiction who are currently not illegally using controlled substances, and to any other persons with disabilities who want to live in a supportive drug and alcohol-free environment.

17. Boca House and Awakenings provide their residents a safe environment to live in, typically after they have successfully completed substance abuse treatment. To accomplish this, both Boca House and Awakenings require drug testing as a condition of residency and expel residents found to be using drugs or alcohol. Although Boca House and Awakenings provide a supportive environment, they do not provide treatment or counseling for drug or alcohol addiction.

18. Alcoholism and drug addiction are lifetime diseases. They are chronic, progressive and, ultimately, fatal. Avoiding relapse and progressing in recovery are therefore the most important aspects of a recovering addict's life. Finding and staying in a healthy, functional environment, surrounded by people who are not using alcohol or drugs, away from people and situations that previously triggered substance use, with access to transportation and work opportunities, are essential elements to avoiding relapse.

19. Sober living residences such as Boca House and Awakenings provide such an environment and operate on the premise that people in the early, and for some, later stages of recovery from drug and alcohol addiction will have a better chance of success in remaining sober if they live in a highly supportive environment where substance abuse is not tolerated.

20. Each apartment, townhome or single family home operated by Boca House and Awakenings is unsupervised and is governed by its residents, who pay rent and maintain the household. The residents in each home are the functional equivalent of a family and run their household as they see fit. Any resident who uses drugs or alcohol is immediately and automatically expelled. While many Boca House and Awakenings residents have made multiple prior attempts at long-term recovery, the majority of those who live at Boca House or Awakenings for one year or more maintain long-term sobriety.

21. People who are handicapped or disabled by alcoholism or drug abuse are more likely to need living arrangements such as what a sober living residence provides, in which groups of unrelated individuals reside together in residential neighborhoods for mutual support during the recovery process. The Ordinance therefore has a disparate impact on such handicapped or disabled people in recovery.

22. Between 1990 and the passage of the Ordinance on May 29, 2002, Boca House and Awakenings purchased various buildings in the City and renovated them according to code in order to provide affordable drug and alcohol-free housing to disabled persons. Boca House and Awakenings invested time, money and effort into these projects.

23. Boca House and Awakenings intend to continue renting housing to persons who are recovering from drug or alcohol addiction and any other persons with a disability who want to live in a supportive drug and alcohol-free environment. The City has, however, routinely targeted them for arbitrary, discriminatory and abusive regulatory and enforcement actions. It has also refused to provide necessary reasonable accommodations from zoning restrictions, such as a City's limitation on four or more unrelated persons residing in a single dwelling unit, even where such accommodation was sought for temporary or emergency situations. The City's efforts were meant to impede Boca House's and Awakenings' ability to provide the drug and alcohol-free housing needed by persons in recovery. These efforts culminated with the passage of the Ordinance on May 29, 2002, which imposes an outright ban on sober living residences in residential zoning districts.

24. Since the enactment of the Ordinance, Boca House and Awakenings have had opportunities to acquire additional properties that would provide much needed housing for persons recovering from alcoholism or substance addiction. But, because of the City's actions, Boca House and Awakenings has had to forgo providing any additional such housing. The City's actions currently prevent Boca House and Awakenings from acquiring or converting any property in the City's residential areas to provide housing in a supportive drug and alcohol-free environment for persons recovering from alcoholism or substance addiction. In addition, the City's overly restrictive interpretation of its zoning code and refusal to provide a reasonable accommodation therefrom has limited the number of residents at Boca House's and Awakenings' existing properties. The City's actions have thus caused significant and continuing harm to Boca House and Awakenings. The City's actions have also caused significant and continuing harm to Boca House's and Awakenings' prospective residents, who are on waiting lists for sober living residence housing.

25. Florida state law does not prohibit the current uses of Boca House and Awakenings' properties, and contains no prohibition against private housing providers requiring drug or alcohol testing as a condition of residency. But because the Ordinance would apply to the established use of Boca House and Awakenings' properties, it threatens to prevent them from continuing to provide housing to persons who are recovering from drug or alcohol addiction and other persons with disabilities who want to live in a supportive, drug and alcohol-free environment.

#### **The City's Ordinance**

26. On May 29, 2002, the City's Council enacted the Ordinance which provides:

Section 1. Section 28-2, Code of Ordinances, is amended to read:

"~~Substance Abuse Treatment Facility~~" shall mean a service provider or facility that is: 1) licensed or required to be licensed pursuant to Section 397.311(18), Fla. Stat. or 2) used for room and board only and in which treatment and rehabilitation activities are provided at locations other than the primary residential facility, whether or not the facilities used for room and board and for treatment and rehabilitation are operated under the auspices of the same provider. For the purposes of this paragraph (2), the following shall be deemed to satisfy the "treatment and rehabilitation activities" component: (a) service providers or facilities which require tenants to participate in treatment and rehabilitation activities as a term or condition of, or essential component of, the tenancy; or (b) service providers or facilities which facilitate, promote, monitor, or maintain records of, tenant participation in treatment and rehabilitation activities, or perform testing to determine whether tenants are drug and alcohol free, or receive reports of results of such testing.

"Social Service activities" shall mean the administration of any community-oriented service including offices, meetings, storage, library and similar administrative users. It shall not mean any social service activities, including without limitation, substance rehabilitation services, counseling activities and services, shelters for the homeless or abused, food/meal distribution for the needy, job training, and teen oriented programs.

Section 2. Section 28-197, Code of Ordinances, is created to read:

Section 28-197. Status of Substance Abuse Treatment Facilities.

Any substance Abuse Treatment Facility that exists as of the effective date of this ordinance must comply with all provisions and requirements of this ordinance no later than eighteen (18) months after its effective date.

Section 3. Section 28-743, Code of Ordinances, is amended to read:

Section 28-743. Conditional uses.

(e) Substance Abuse Treatment Facility, provided that such facilities shall not be located within a radius of 1,000 feet of another existing facility.

27. The ordinance allows the uses it defines as "Substance Abuse Treatment Facilities" only in the areas that are zoned for medical and hospital uses (the MC - Medical Center district), or with conditional approval from the City council to areas zoned for motel/business use (the RB-1 - Motel Business district). In subsequent correspondence, the City has confirmed that uses that meet the revised definition of "Substance Abuse Treatment Facility" are restricted to the MC or RB-1 districts, that the Ordinance prohibits such uses in any other zoning district, and that at the end of the 18-month period set forth in Section 2 of the

Ordinance any established use meeting the definition of "Substance Abuse Treatment Facility" would be subject to the locational requirements of the Ordinance.

28. The Ordinance targets any residential use that makes treatment or rehabilitation a condition of residency even if the treatment or rehabilitation takes place off site and is unaffiliated with the housing provider. It also extends to residential uses that require drug or alcohol testing as a condition of residency or so much as receive a report of drug or alcohol testing regarding a resident. The City thus now prohibits sober living residences from being established or expanded in any of the City's residential zoning districts. And established sober living residences may not be continued in such areas past November 2003.

29. The Ordinance as originally drafted applied only to licensed facilities providing treatment or rehabilitation services. During the Commission's debate, however, the Ordinance was revised first to include within the definition of a "Substance Abuse Treatment Facility" non-licensed facilities, and then broadened to include even mere residential uses based solely upon the receipt of a report of substance abuse testing regarding a resident.

30. The City is, therefore, not simply targeting licensed facilities or the provision of counseling or medical treatment. Rather, the Ordinance constitutes a sweeping attack aimed at excluding persons in recovery from residing in any residential district in the City. The Ordinance is expressly designed to relegate any housing provider that provides the environment needed by persons in recovery to the MC or RB-1 districts, where no other residential uses are located. In effect, the City has segregated from the remainder of the City's residential population those City residents that due to addiction require a supportive drug and alcohol-free environment. This causes the type of isolation of handicapped and disabled persons that the FHAA and the ADA were enacted to prohibit.

31. Additionally, the Ordinance requires that Substance Abuse Treatment Facilities "not be located within a radius of 1,000 feet of another existing facility" thereby restricting these facilities to the point where they may cease to exist altogether.

32. The Ordinance applies retroactively requiring that "any substance abuse treatment facility that exists as of the effective date of this Ordinance must comply with all provisions and requirements of this ordinance no later than 18 months after its effective date." This last requirement was inserted specifically to target Boca House and Awakenings and to displace the Residents. The Ordinance was thus created as a means to expel and ban specific, disabled or handicapped persons from the City's residential neighborhoods based solely on their federally protected status.

33. The City's discriminatory intent to oust specific disabled or handicapped individuals from the City's residential districts is reflected by the statements of the City Attorney Diana Grub Frieser, Mayor Steve Abrams, and Council Members during regular Council meetings.

34. For instance, City Attorney Diana Grub Frieser explained how the Ordinance was intended to address not just licensed facilities but any residential use that houses persons in recovery in residential areas:

This Ordinance as drafted was intentionally drafted, based on direction from this council, to broadly encompass both the statutory definitions [of a treatment facility] and more. And the reason I say that is as you will recall, when the statute was going through the legislative process at different times it had a much broader scope. And what was adopted, in fact, had a narrower scope excluding certain facilities that the city had concerns about and wanted to address, because we believe that they had similar adverse impacts in our residential areas. And that's why it was drafted broader.

35. Throughout the Council meeting at which the Ordinance was enacted, neighbors expressed their disdain for the Residents and made clear their desire to expel the Residents from the City. Among them:

a) Rose Vinti, the President of Boca Hill Condominium Association (condominiums located across the street from Boca House) explained that "living in a sober house area would be deteriorating to the surrounding neighborhood," and that the condominium owners "would like to see them go."

b) Grace Fisher, another resident, insisted that allowing former substance abusers to continue residing in the City's neighborhoods would result in the ghettoization of those neighborhoods, particularly her own. She was concerned that "adult drug addicts [were being put] into a residential neighborhood" where she felt they did not have a right to be and that

Boca House and Awakenings attract "pedophiles, murderers, God knows what . . . . You are putting adult drug addicts into a residential neighborhood."

c) Another neighbor, Anthony Amunatogul, stated: "My concern, is not with the halfway house. It's the location in my neighborhood. . . . There [are] appropriate places to house those type[s] of facilities and we should house those facilities in those places."

d) Mark Travels, the President of Boca Marquee's Condominium Association (located on Southwest 6th Street) also voiced his opinion: "Addicts in every family, sure, but do they have to be in my backyard and across the street, down everywhere in such concentration?"

e) Carolyn O'Brien, a business owner, landlord and resident of the City: "[I]et's get them [addicts] out."

36. During the Council Meeting Mayor Abrams and several Council Members acknowledged that the Ordinance serves to ease the frustrations and complaints of the neighbors of sober living residences. The statements of the Mayor and Council Members confirm that the City's intent of the Ordinance was to discriminate against handicapped individuals and segregate them from the remainder of the City's residents. Particularly indicative of this intent is Mayor Abrams' exclamation that "[t]here is a time and place for everything, and there are appropriate places for these facilities, but this neighborhood is not it."

37. Councilwoman Carol Hanson followed by remarking on her six year struggle to make the sort of "improvements" the Ordinance accomplishes. Most of the other Council Members agreed, including Councilwoman Susan Haynie who referred to herself as the Council's "original NIMBY" and acknowledged that the Ordinance was enacted to provide a solution to the "problem" of persons in recovery residing in the City's residential neighborhoods.

38. In addition to the Ordinance, the City's discrimination has been carried out through the use of unreasonably restrictive zoning and regulations, arbitrary, capricious and abusive zoning and building code enforcement practices, and attempts to convince other governmental bodies to take overly aggressive regulatory actions -- all of which were intended to limit Boca House's and Awakenings' ability to rent housing to handicapped or disabled persons and to limit handicapped or disabled persons' choice of housing in residential areas. The Ordinance is the culmination of the City's discriminatory efforts, and now prohibits both the establishment and continuation of sober living residences in any residential areas.

39. The Ordinance is purposefully discriminatory against persons with disabilities and discriminatory on its face, and for both reasons is therefore a per se violation of the FHAA and ADA. Nevertheless, Plaintiffs have requested reasonable accommodations from the Ordinance necessary to afford equal housing opportunities to persons with disabilities. Suggested accommodations included removing the Ordinance's retroactive language to allow grandfathering of existing uses and modifying its definition of the term "Substance Abuse Treatment Facility" to exclude residential uses that do not provide treatment or counseling services. The City has refused to make such accommodations. City officials have indeed refused to so much as place the issue on the City Commission's agenda, despite various requests from the Plaintiffs.

40. Further, Plaintiffs have requested a reasonable accommodation from the City's limitation on four or more unrelated persons living together, regardless of the size of the living unit, but the City has continued to enforce that prohibition even where the limitation is exceeded only on a temporary or emergency basis.

41. Plaintiffs have attempted to resolve their concerns regarding the Ordinance amicably but to no avail. Throughout various attempts to negotiate with the City, all that has been accomplished is the City attorney's suggestion that the City Council might consider making changes to the Ordinance at some indefinite future time.

42. Meanwhile, however, the Ordinance remains in effect and is causing ongoing harm to Plaintiffs and the Residents, as well as other members of the City's targeted class of persons recovering from drug and alcohol addiction. Additionally as Boca House and Awakenings are now prohibited from providing any additional drug and alcohol free housing, the City's conduct is causing ongoing harm to persons who have applied to become Boca House's and Awakenings' residents and are on waiting lists for independent housing opportunities.

43. The Plaintiffs have retained counsel to represent them in this action and have agreed to pay them reasonable attorneys' fees and costs.

**Count One: Violations of the Fair Housing Amendments Act**



44. The Plaintiffs re-allege paragraphs 1 through 43.

45. The City's Ordinance violates the FHAA, 42 U.S.C. § 3604 (f), because the Ordinance discriminates against the Plaintiffs and other Boca House and Awakenings residents on the basis of their disabled and handicapped status.

46. The City's Ordinance is discriminatory on its face. Additionally, it was enacted with discriminatory intent and has a disparate impact on persons recovering from drug and alcohol addiction.

47. The City has refused to provide a reasonable accommodation from the City's limitation on four or more unrelated persons living together, regardless of the size of the living unit, and has continued to enforce that prohibition even where the limitation is exceeded only on a temporary or emergency basis.

48. The City's Ordinance does not contain, and the City has refused to make, a reasonable accommodation, even though reasonable accommodations are necessary to afford handicapped and disabled persons equal opportunity to use and enjoy a dwelling.

49. As a result of the City's unlawful conduct, the Plaintiffs and other Boca House and Awakenings residents have been and continue to be damaged.

#### **Count Two: Violations of the Americans with Disabilities Act**

50. The Plaintiffs re-allege paragraphs 1 through 43.

51. The City's Ordinance violates the ADA, 42 U.S.C. § 12101 et seq., because it subjects the Plaintiffs to discrimination.

52. The Plaintiffs and the other residents of Boca House and Awakenings are "qualified individuals" as defined by 42 U.S.C. § 12131.

53. The Plaintiffs and the other residents of Boca House and Awakenings qualify as persons with disabilities as defined by 42 U.S.C. § 12131.

54. The City is a public entity as defined by 42 U.S.C. § 12131.

55. The Plaintiffs and the other residents of Boca House and Awakenings would and could have legally resided in their current residences but for the Ordinance.

56. The City is in violation of the Americans with Disabilities Act by enacting the Ordinance and refusing to repeal it.

57. The City's Ordinance is discriminatory on its face. Additionally, it was enacted with discriminatory intent and has a disparate impact on persons recovering from drug and alcohol addiction.

58. The City has refused to provide a reasonable accommodation from the City's limitation on four or more unrelated persons living together, regardless of the size of the living unit, and has continued to enforce that prohibition even where the limitation is exceeded only on a temporary or emergency basis.

59. The City's Ordinance does not contain, and the City has refused to make, a reasonable accommodation, even though reasonable accommodations are necessary to afford handicapped and disabled persons equal opportunity to use and enjoy a dwelling.

60. As a result of the City's unlawful conduct, the Plaintiffs and the other residents of Boca House and Awakenings have been and continue to be damaged.

#### **Count Three: Declaratory Judgment**

61. The Plaintiffs re-allege and restates paragraphs 1 through 43.

62. This is an action for a declaratory judgment pursuant to 28 U.S.C. § 2201 where the Plaintiffs seek a declaration of their rights.

63. There is an actual, ongoing controversy between the Plaintiffs and the City as to whether the Ordinance violates federal law or is otherwise illegal or unconstitutional, and whether the City has illegally refused to provide a necessary reasonable accommodation from the limitation on four or more unrelated persons occupying a dwelling unit.

64. The Plaintiffs have a reasonable apprehension of enforcement or other proceedings by the City.

65. The controversy between the Plaintiffs and the City is ripe for resolution.

#### **Count Four: 42 U.S.C. § 1983**

66. The Plaintiffs re-allege paragraphs 1 through 43.

67. The Plaintiffs and the other residents of Boca House and Awakenings have been deprived, under color of state law, of rights, privileges and immunities secured by the Constitution and laws of the United States, particularly the equal protection guarantee of the Fourteenth Amendment to the United States Constitution, for which 42 U.S.C. § 1983 provides a remedy.

68. The City's actions, taken under color of law, are arbitrary, capricious and unreasonable, discriminate against disabled and handicapped persons, and violate the Equal Protection clause of the Fourteenth Amendment to the United States Constitution.

69. As a result of the City's unlawful conduct, the Plaintiffs have been and continue to be damaged.

#### **Relief Requested**

Wherefore, the Plaintiffs request that this Court:

- a. Enter judgment in favor of Plaintiffs, declaring that the City violated the Fair Housing Act, the Americans with Disabilities Act, and Equal Protection Clause of the Fourteenth Amendment, declaring the City's Ordinance unlawful and void ab initio, and declaring that the City must provide a reasonable accommodation to allow four or more unrelated persons in a sober living residence dwelling unit;
- b. Enter a preliminary and permanent Injunction enjoining the City, its officers and officials, their successors in office, their agents, and all those acting or purporting to act in concert with them, from enforcing the Ordinance or, as it applies to sober living residences, the limitation on four or more unrelated persons in a dwelling unit;
- c. Award the Plaintiffs actual and compensatory damages;
- d. Award the Plaintiffs their reasonable attorney's fees and costs pursuant to 42 U.S.C. §§ 1988 and 3613, and 29 U.S.C. § 794 (a); and
- e. Award all further relief that the Court deems proper and necessary.

Dated: March 7<sup>th</sup>, 2003.

#### **Briefs and Complaints**

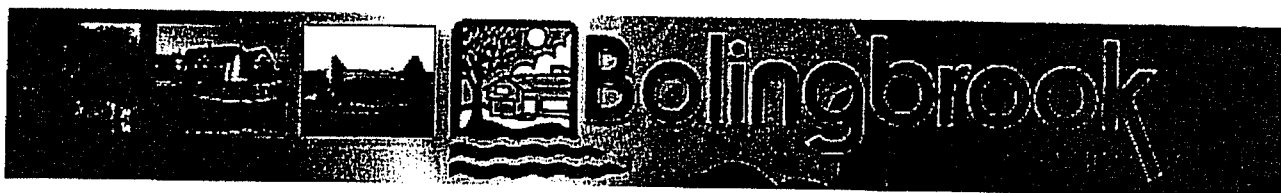
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[Application Form](#)

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[Lease Addendum \(Mandatory\)](#)

[Municipal Code Chapter 27, Article 2](#)

[Nuisance Defined](#)

[Good Neighbor Training Video](#)

[Costs and Steps Involved To Be A Landlord](#)

[Rental Occupancy Permit](#)

## **BOLINGBROOK GOOD NEIGHBOR RENT/LEASE PROGRAM**

The Bolingbrook "Good Neighbor" Rent Lease Program requires all landlords/agents to have a valid license from the Village of Bolingbrook effective July 1st of 2007 before renting or leasing property in accordance with Chapter 27, article 2 of the Village of Bolingbrook Municipal Code (27-207).

Some frequently asked questions about the program (FAQ):

**1. Is the program mandatory?** – YES beginning July 1, 2007.

**2. How much does a license cost?** - The annual fee for the license is \$35.00.

**3. How long is a license valid?** – All licenses expire April 30th of each year.

**4. Who must obtain a license?** - Each owner, agent and/or manager of any rental dwelling within the Village of Bolingbrook who signs or has authority to sign leases and/or rental agreements. The ordinance further defines a "Managing Agent" to mean "any person or firm, acting for another, with authority to rent, manage and make expenditures".

**5. What types of properties are covered?** – Only "Rental Dwellings" which are defined by the ordinance as "any multiple dwelling or dwelling unit (occupied for living purposes including eating, sleeping, cooking & sanitation provisions) which is not owner-occupied and which is either rented, leased or made available for leasing or rental to others by the property owner or his/her agent. The rental of a single room or the sharing of a dwelling unit between the property owner of the dwelling unit and others shall not constitute a rental dwelling. The term "leased" shall include the occupancy of property pursuant to articles of agreement for purchase or a contract for deed until the deed is delivered by the owner.

**6. Where can I obtain a license?** – Village of Bolingbrook Town Center located at 375 W. Briarcliff Road, Bolingbrook Illinois, 60440. The Clerk's Office, enter through the West doors and application forms are available at the counter. Applications are also available online by clicking [here](#).

**7. What are the benefits of the program?** – There are several, including:

- A stable, more satisfied tenant base & less turn-over
- Increased demand for rental units with a reputation for active "no nonsense" management
- Lower maintenance and repair costs
- Increased property values
- Improved personal safety for tenants

**8. What are the components of the program?**

- Landlords must be licensed by the Village of Bolingbrook
- At the time of application they must certify that they have viewed the one-hour training video
- Landlords must include a "Mandatory Addendum to Rent / Lease Agreement". The lease addendum spells out grounds for termination----it outlines what conduct is not consistent with being a "good neighbor" and gives landlords the tools needed to terminate the relationship.
- All rental /leased units must be inspected by the Village of Bolingbrook Code Enforcement PRIOR to occupancy

**9. What conduct does the Mandatory Addendum to Rent / Lease Agreement prohibit?** - Criminal activity, drug activity, or Maintaining a "nuisance" as defined by Village of Bolingbrook Municipal Code 27-212.

**10. In addition to Village of Bolingbrook Ordinance(s), are there other laws that a property owner / landlord need be concerned about?** –

Yes. There are various Federal & State laws governing fair housing, rights and responsibilities. A few are listed below as a resource. Landlords may wish to consult with an attorney prior to engaging in complex business dealings.

- RELATED ILLINOIS STATUTES

765 ILCS 705/ Landlord and Tenant Act

765 ILCS 710/ Security Deposit Return Act

765 ILCS 715/ Security Deposit Interest Act

765 ILCS 720/ Retaliatory Eviction Act

765 ILCS 730/ Rent Concession Act

765 ILCS 735/ Rental Property Utility Service Act

765 ILCS 740/ Tenant Utility Payment Disclosure Act

Bolingbrook Municipal Code - Chapter 27 - Property Maintenance Regulations

TO VIEW ALL DOCUMENTS, YOU WILL NEED ADOBE READER.

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**AB 1531 Vehicles: Disabled Parking.**

This law raises the fine for parking illegally in a disabled parking space. It also requires local agencies to provide signs indicating the minimum fine for violations and to mark disabled parking spaces with highly visible paint. In addition, this measure allows temporary placards to be renewed no more than six consecutive times.

**AB 321 Vehicles: Prima Facie Speed Limits: Schools.**

This bill allows local governments to adopt local ordinances that extend school safety zones from 500 feet to 1,000 feet. The measure also allows local governments to reduce the prima facie speed limit from 25 miles per hour to 15 miles per hour when approaching a school at a distance of 500 feet, passing a school while children are entering or leaving school grounds, and during noon recess.

**AB 1589 Vehicles: Reports: Reexaminations: Removal.**

This law allows peace officers, traffic officers, or parking employees to remove vehicles that display license plates that have been issued to other vehicles, forged, counterfeited, or are otherwise being used inappropriately.

**AB 468 Vehicles: Abandoned Vehicle Abatement.**

This bill clarifies the definition of "abatement" in the Abandoned Vehicle Abatement Program to include either the removal or the disposal of abandoned vehicles. The measure also states that program funding may be used for both of these purposes.

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**ENVIRONMENTAL GROUP HOUSING****Group Homes**

By: Krista MacNevin Jee

How and whether to regulate "group homes" is a sensitive subject as of late, for communities throughout California. On the one hand, when run well, these residential settings have always offered handicapped and disabled individuals the opportunity to integrate into and to contribute to a community, as well as to live independently. On the other hand, there has been a recent proliferation of group living arrangements that are not well-run and are more often characterized by property owners looking only to make a profit, by manipulating the characterizations applied to their residents in order to take unfair advantage of the protections offered to handicapped or disabled individuals. Cities have clamored for a way to control the latter situation, but must do so in line with both federal and state laws relative to disabled and handicapped individuals. This article will summarize some of the major legal concepts, as well as common misconceptions and possible approaches.

First, cities *cannot* regulate individuals or their living arrangements based upon the status of individuals as handicapped or disabled. The federal Fair Housing Amendments Act ("FHA") protects disabled and handicapped individuals from discrimination in housing, including prohibiting local zoning regulations that distinguish between individuals on the basis of their disability or handicap. In particular, the FHA recognizes recovering substance abuse addicts as "disabled" or "handicapped" for purposes of protection from discrimination in housing under the Act and prohibits discrimination of such individuals in decisions, rules or policies of cities. Cities are also prohibited by federal law from distinguishing between related and unrelated individuals residing together. For instance, cities *could not* prohibit certain renters from locating in residential zones simply based on the fact that the renters are not related to each other.

Generally, the above provisions ensure that any group of individuals, whether related or unrelated, is the functional equivalent of a "family" (essentially living together as a single housekeeping unit), then that group of individuals must be treated as a family for city zoning purposes.

Second, cities may regulate maximum occupancy under federal law. 42 U.S.C. § 3607 (b)(1) (FHA specifically exempts from its regulations "any reasonable local, State or Federal restrictions regarding the maximum number of occupants permitted to occupy a dwelling"). However, under California law, this is preempted by mandatory maximum occupancy standards required under state law.

Third, State law requires that certain residential facilities, serving six or fewer persons, be treated as a family, that they be permitted in residential zones and that they cannot be required to obtain a conditional use permit, variance or other zoning clearance. See, e.g., Cal. Health & Safety Code § 11834.23. These facilities include "community care facilities," as defined under state law. There are often misconceptions regarding what types of group living arrangements are protected by this preemption. Many assume that this applies to any residential facility serving six or fewer, and often

"group home" owners or advocates claim this interpretation. However, the above preemption only applies to facilities *licensed* by the state or county.

Determining whether this preemption applies becomes particularly tricky when considering "sober living" homes. An alcohol and drug recovery facility is not required to be licensed if it provides no care or supervision. Cal. Health & Safety Code § 11834.21. Therefore, if a sober living type group home provides no care or supervision to its residents, then it is not required to obtain a license and is not entitled to the protection of the preemption. The same would be true of any other unlicensed facilities or group homes.

In addition, not all substance abusers qualify as disabled or handicapped. For instance, those who are currently engaged in the use of illegal drugs are not disabled. 29 C.F.R. § 1630.3. Only those who are not currently engaged in the use of drugs and have "successfully completed a supervised drug rehabilitation program," are "participating in a supervised rehabilitation program," or have "otherwise been rehabilitated successfully" qualify as disabled or handicapped for purposes of the FHA. *Id.*

One way to regulate group uses is to focus on the nature of the use. For instance, those facilities that are run by individuals attempting to profit and take advantage of federal and state protections for disabled and handicapped individuals may not actually function like a family and are not truly group homes in the traditional sense of a group that lives together as a single housekeeping unit. Therefore, regulation of such uses, which are not consistent with residential zones, would not be a regulation of disabled or handicapped individuals.

However, in any regulation of residential uses, including all design standards, reasonable accommodation must be afforded to disabled or handicapped individuals to the extent they demonstrate that the application of, even generally applicable, standards to them is a hardship. 42 U.S.C. § 3604 (f)(3)(B). Whether this is done by administrative process or adopted code regulations is up to individual cities, although a formally adopted city policy, particularly a codified one, would usually be the more prudent choice.

This is, of course, only a general overview of some primary concepts in a complicated area of the law. Any city adopting or modifying its zoning regulations which would impact group living arrangements should carefully consider all of the applicable legal requirements.

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## VII. ADDITIONS TO THE FIRM

### ATTORNEY SPOTLIGHT:

RICHARD L. ADAMS II, ESQ .

#### ADMITTED

- California State Bar in 1977
- United States District Court, Central District of California

#### EDUCATION

- Juris Doctor, University of West Los Angeles , School of Law (1977)
- Bachelor of Arts, California State University at Los Angeles (1972)

#### PRACTICE

Mr. Adams is a highly respected transactional attorney, with extensive experience in the representation of Public Agencies. In 1989 his private practice transitioned into public agency law, when he became a deputy city attorney for the City of Pomona . Mr. Adams currently serves as the City Attorney for the City of South Pasadena and has served as Assistant City Attorney for both the City of Pomona and the City of Bell Gardens and has served as the City Attorney for the City of Pico Rivera .

Mr. Adams has extensive experience in all areas of public agency law practice, including land use matters, personnel issues, telecommunication law, election law, public contract law, public safety issues, collective bargaining and general administrative litigation.

Mr. Adams served for many years as the legal counsel to the Pomona Planning Commission, and has handled numerous City Council and Planning Commission meetings. He has experience in a variety of land use, CEQA and Brown Act issues. Additionally, he has assisted on a number of redevelopment transactions, and has a diverse background in numerous public agency contract matters.

Mr. Adams has conducted work shops for a number of clients on such matters as AB 1234 Ethics

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## News

# SJ Council asks for a study on recovery group homes

**Some neighbors, council members want more control**

**By Kate Carter**

The San Jose City Council last week agreed to continue to research ways of "balancing" requests by group home operators to expand their programs in residential areas with concerns by residents that such expansions aren't good for those in the homes or in the neighborhoods.

The Jan. 22 public discussion was sparked by concerns raised by neighbors in southern Willow Glen and Almaden who are facing increases in occupancy at three nearby group homes: from six to 17 in a 1,906-square-foot home on Kilo Avenue in Willow Glen; from six to 18 in a 2,592-square-foot home on Meridian Avenue south of Willow Glen; and from 6 to 22 in a 3,113-square-foot home on Micro Court. The well-organized neighbors, who have hired attorney Nick Petredis to represent them and their issue to the city, say the service providers are businesses and should be treated as such when they

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ask for permission to house more than six people in a single-family home. But city officials, who have already approved more than half such "reasonable accommodation" requests submitted by providers of sober-living communities, say the federal Fair Housing Act gives special consideration to such programs. Denying requests to operate "business" programs in residentially zoned areas rather than commercial areas, senior deputy city attorney Brian Doyle said, would require proving they would negatively impact the neighborhoods based on quantifiable factors such as traffic, safety, noise and other measurable reports; fear and bias are discriminatory reasons and are illegal, he said.

The many neighbors who spoke at the public hearing said they didn't oppose the rehabilitation homes or the services they provide for people recovering from substance abuse. But they were concerned about the number of homes and increasing occupancy in residential neighborhoods and feared the homes were not taking into consideration the best interests of their clients or the neighborhoods.

Proposition 36, passed by California voters in November 2000, approved legislation to allow criminal drug and alcohol offenders to receive treatment rather than go to jail. The ensuing increase in demand for treatment programs like Rainbow Recovery, which operates several recovery homes in the county, including the one on Kilo Avenue and the one on Meridian Avenue, has caused them to request permission for more residents in their homes, program officials say.

Some on the city council want more power to control the occupancy in these homes.

"San Jose has a very novel, first-of-its-kind group home ordinance that other places don't have," District Deputy Attorney Julianne Sylva told the Willow Glen Resident. "It's real cutting edge, and it's been in place for a few years."

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FOOD

Something to say?



But it also ties the city's hands, forcing it to comply with state law, Senior Planner Darryl Boyd told the Resident.

"They have changed how we would have dealt with this," said Acting Planning Director Joseph Horwedel of the regulations at the hearing.

But some neighbors said the city is using those regulations as an excuse and not dealing with the real problems recovery homes create in their neighborhoods.

Pamela Baker, who lives near the Meridian Avenue home, said she is afraid for her two children, as well as the children living in the recovery home, when she hears screaming and fighting and sees inappropriate behavior near the home. However, Meridian house manager Deborah Gerkin denied Baker's allegations and invited the council members and community to visit the home.

Following the extensive discussion, the council asked staff to continue to look into ways the city can further ensure the good-neighborliness of recovery homes in residential areas, concentrating particularly on priorities submitted in a memo by District 10 City Councilwoman Pat Dando, District 9 City Councilman John Diquisto, District 3 City Councilwoman Cindy Chavez and Mayor Ron Gonzales. Those priorities include treating recovery homes as businesses that should: conform to certain operational guidelines in residential areas; include minimum shared living space requirements in addition to the existing minimum sleeping space requirements for additional residents in homes; create minimum standards by which group homes must operate; change the notification policy to require notification within a greater distance from a home; and consider a policy to disperse homes throughout the city so no area has significantly more or less than any other.

One of the complicating factors is that home

operators face a "Catch-22" when applying for reasonable accommodation. They must be certified by Santa Clara County to receive approval, but the county requires accommodation approval before it provides certification. In addition, code enforcement violations are handled by the city and the county, who often don't share information to come up with an accurate record of a particular home's compliance.

District 1 City Councilwoman Linda LeZotte encouraged the city to deal with the homes and operators on a case-by-case basis, bearing in mind that some homes are providing excellent service, while others are having problems.

"We shouldn't throw out the baby with the bathwater," she said.

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# *Planning Commission*

## Agenda Item

August 17, 2009

**TO:** Chair Steiner and  
Members of the Planning Commission

**THRU:** David De Berry  
City Attorney

**FROM:** Gary Sheatz  
Assistant City Attorney

### **SUBJECT**

**PUBLIC HEARING:** Ordinance No. 07-09 -- An Ordinance of the City Council of the City of Orange Amending Title 17 of the Orange Municipal Code Relating to Sober Living Facilities.

### **SUMMARY**

Neither the City nor the State regulates sober living facilities. The City has received numerous complaints regarding sober living facilities and currently has no way to track either the number of such facilities in the City or the number of tenants located in such facilities. Ordinance 07-09 would require sober living facilities to obtain a permit, comply with specified regulations and maintain the limit of six tenants and a house manager for a total of seven.

### **RECOMMENDED ACTION**

Adopt Planning Commission Resolution No. 29-09 entitled:

**A RESOLUTION OF THE PLANNING COMMISSION OF  
THE CITY OF ORANGE, RECOMMENDING THAT THE  
CITY COUNCIL OF THE CITY OF ORANGE ADOPT  
ORDINANCE NO. 07-09 AMENDING TITLE 17 OF THE  
ORANGE MUNICIPAL CODE RELATING TO SOBER  
LIVING FACILITIES**

### **PUBLIC NOTICE**

Since the Ordinance proposed is of City-wide significance, in accordance with the noticing requirements, a notice was published in the Orange City News newspaper on August 6, 2009, and no individual site was posed. However, individual notifications were sent to 22 existing sober living facilities within the City.

## **AUTHORIZATION/GUIDELINES**

The City is authorized to regulate land use through its general police powers (Article XI, Section 7 of the California Constitution). In general the regulations may not discriminate or have the effect of discriminating against the disabled in the provision of housing. The City is required to provide relief to the disabled from the strict application if such relief is reasonably necessary to afford the disabled an opportunity to use and enjoy a dwelling. Recovering drug and alcohol addicts are considered disabled if they are not current users.

## **ENVIRONMENTAL REVIEW**

The proposed ordinance amendment is not subject to the provisions of the California Environmental Quality Act (CEQA) because it does not meet the definition of a "project," pursuant to Public Resources Code Section 21065. The proposed ordinance merely establishes requirements for sober living facilities to obtain a permit, comply with specified regulations, and maintain the limit of six tenants and a house manager for a total of seven.

## **DISCUSSION AND BACKGROUND**

### Issue 1: Legal Landscape.

Pursuant to state law<sup>1</sup> the City is required to treat various state-license residential care facilities serving six or fewer disabled tenants ("Group Homes") as a family use or a residential unit. The City is essentially precluded from regulating Group Homes differently than it regulates any other family use. This requirement is found in Orange Municipal Code ("OMC") §17.14.050 which provides that a home for the elderly, or mentally or physically disabled that is serving six or fewer persons are a permitted use provided the use complies with applicable provisions of the State Health and Safety Code. The Health and Safety Code in turn provides that homes serving recovering drug and alcohol addicts that do not provide treatment ("sober living facilities") do not require a state license. The City has interpreted §17.14.050 to allow a sober living facility to locate in a residential zone as long as they are serving six or fewer disabled tenants (a recovering addict, who is not currently using drugs or alcohol is considered disabled) and are in compliance with the Health and Safety Code, i.e., are not providing treatment. Without this interpretation, sober living facilities would not be a permitted use in a single-family residential use because they would constitute a boarding house, which pursuant to OMC §17.04.021 is defined as a dwelling with three or more tenants under separate rental agreements and is an unpermitted use.

Because they do not provide treatment, sober living facilities are not regulated by the state. Thus, there is no state-preemption which would preclude the City from regulating sober living facilities and nothing that requires the City to treat such uses as a family use. However, state and federal laws do require the City to make reasonable accommodations in its zoning laws when such accommodation is reasonably necessary to afford the disabled the opportunity to use and enjoy a dwelling. As noted in the foregoing paragraph, recovering addicts, who are often residents in sober living facilities, are considered disabled. Based on the makeup and needs of the typical sober living

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<sup>1</sup> Health & Safety Code §§1267.8, 1566.3, 1569.85, and 11834; Welfare & Institutions Code §§5115 and 5116

facility as explained below, it is the opinion of the City Attorney's Office that the City must make available some form of accommodation for sober living facilities.

#### Issue 2: What are Sober Living Facilities?

A sober living facility typically houses individuals who are recovering from an alcohol or drug addiction. A fact sheet general describing a sober living facility by the California Department of Alcohol and Drug Programs is attached as Attachment 3 – Administrative Record page 1. During their stay, tenants of sober living facilities are required to be enrolled in some type of drug rehabilitation program such as the 12-Step Recovery, Alcoholics Anonymous, Narcotics Anonymous, etc., which typically lasts 90 days. Tenancy in a sober living facility is transient. As noted in City Council Resolution 10361, a study of Oxford Houses, a nationwide sober living network, found that the average stay of a tenant is 256 days and a 2005 UCLA study found that 65-70% of all persons who enter drug treatment programs do not finish. Many sober living facilities advertise weekly rentals. Sober living facilities are typically run by an entity or person who does not reside in the residence.

The tenants of a sober living facility may arrive there in a number of ways. They could self check-in. They could be there as a condition of probation, with or without a reference by the County Probation Department. They may be there in lieu of incarceration. They may be there pending a court hearing or trial. Some may be on parole and have parole officers. It is believed that the passage of Proposition 36, the Substance Abuse and Crime Prevention Act (the "Act"), by California voters in 2000 has significantly increased demand for space in sober living facilities. The Act mandated that specified first and second time non-violent drug offenders receive treatment in lieu of incarceration. The purpose behind the legislation was twofold: to decrease the cost of imprisoning non-violent drug offenders and to increase the likelihood that these drug offenders won't repeat their crimes. Studies indicate that the legislation has worked on both counts.

The tenants typically share chores, but do not share costs and are not responsible for any significant maintenance costs. In most cases it appears that tenants are responsible for their own food. The City has run across sober living facilities with up to four refrigerators, coin-operated laundry, coin-operated pay phones, etc. Rents are generally set by a person or entity that does not reside in the facility. The better run sober living facilities have house rules, curfews and a no tolerance policy for any drug or alcohol use. The rules are not set by the tenants. The tenants apparently have little to no say as to who resides at the facility or even who is to be their roommate. Sober living facilities can get on a referral list from the County provided they abide by specified County regulations. However, there does not appear to be any significant on-going inspection efforts by the County to ensure the sober living facilities on the list are actually abiding by the regulations, other than perhaps reports from parole officers who visit tenants at the facilities. For example, there are two facilities operated by Step Up Recovery in the City that claim to be on the County's referral list that upon inspection by the City had numerous building code violations. At one such facility on Maplewood tenants were residing in a building which had been permitted as a storage room (Attachment 3 – Administrative Record page 4).

The cost for residing in a sober living facility varies greatly. Prices shown on the Sober Living Network's website showed what appear to be per tenant monthly rental fees from a low of \$400 at a sober living facility in Anaheim to a high of \$2,500 for one in Capistrano Beach. Of the five homes shown in Orange, the monthly rents ranged from \$650 to \$1,500. Attachment 3 – Administrative

Record page 15 is a sampling of rental rates for single family homes in Orange that was prepared by Mark Winters of the City's Real Property Division. Nationwide, most recovering addicts are fully employed and some sober living facilities require that their tenants be employed or at least be actively seeking employment (Attachment 3 – Administrative Record page 17).

### Issue 3: Potential Impacts from Sober Living Facilities

The possible impacts from these uses are set forth in detail in the ordinance, but in large part are the same as impacts from other uses wherein large numbers of individual adult tenants reside in a single-family home. The impacts of large numbers of unrelated adult tenants residing in a single-family home have been well chronicled in prior staff reports that accompanied the adoption of the boarding house ordinance and the City's recent processing of a sober living facility's request to house 12 tenants on 235 S. Craig Street. These staff reports and the accompanying administrative records have been reviewed previously by the Planning Commission and are incorporated herein. The documents are on file with the City Clerk. Attachment 3 – Administrative Record page 18 is a May 30, 2006, article from *The Register* about residents planning to leave Orange due to overcrowding in a residential neighborhood.

Sober living facilities create additional impacts beyond the normal overcrowding situation which may be somewhat unique to these facilities. Based on complaints from neighbors it appears that such uses create an inordinate amount of second-hand smoke. This has been a common complaint both here in Orange and in Newport Beach. As noted, transiency may also be more pronounced in a sober living facility than it is with other types of boarding house uses. The likelihood that a sober living facility is housing a convicted criminal, especially if it accepts referrals from the County, is increased. It has also been the City's experience that sober living facilities often have numerous building code violations and unpermitted additions and often ignore the City's six-tenant limit. City staff has spent an inordinate amount of time inspecting these properties just to get them to come into compliance with the building and zoning codes and some take the position that state and federal laws preclude the City from regulating them at all.

### Issue 4: The Proposed Regulations

The regulations would continue to permit sober living facilities serving six or fewer tenants to locate in a single-family residential zone. However, all sober living facilities would be required to obtain a permit for such a use, which permit would be issued by the Community Development Director provided that the sober living facility complied with the regulations. To a significant degree the regulations mirror the County's sober living facility requirements for referrals (Attachment 3 – Administrative Record page 21), although they are not nearly as complex. They are also by and large consistent with the rules of regulations of the Sober Living Network, a coalition of sober living facilities and Sober Living By The Sea (Attachment 3 – Administrative Record page 79), which operates numerous sober living facilities and alcohol and drug treatment facilities in Newport Beach. Thus, compliance with the regulations should not present any significant hardship, as the regulations are in line with those that would be expected from a professionally operated sober living facility.

The unique features of the permit are the requirement that no more than seven tenants reside in the sober living facility, one of whom must be a house manager. It precludes sole use of an accessory second unit for a sober living facility. It prohibits sober living facilities from locating within 300

feet of each other or some other Group Home. It limits occupancy to two to a bedroom. It limits the number of drug registrants and/or parolee or probationers to two. It requires garage and driveway spaces to be available and used for parking of vehicles and limits each tenant to one vehicle, which must be operable and be used as a primary form of transportation. The sober living facility must serve only persons who are considered disabled under state and federal law and must provide the City with information concerning how such an evaluation is made. The sober living permit is non-transferable.

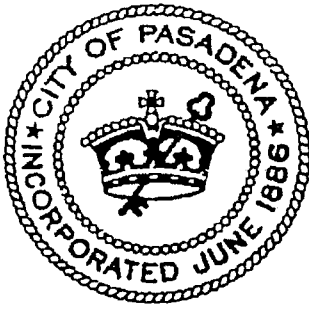
Existing sober living facilities would have six months to obtain a permit. If they are currently within 300 feet of a Group Home, they will be grandfathered in. If a sober living facility opens in compliance with the 300-foot rule and goes out of compliance because a Group Home moves within 300 feet, the sober living facility will be permitted to continue.

#### Issue 5: Alternatives

In lieu of this the City could require every sober living facility to obtain a discretionary conditional use permit. However, this would result in at least 22 requests for conditional use permits from existing operators, resulting in a major investment of staff time, planning commission time and city council time. In addition, it has been the City's experience that a properly run sober living facility serving six or fewer tenants does not create significant impacts. Most, although not all, of the complaints the City has received in the past are from sober living facilities that have exceeded the limit of six. If a sober living facility sought to have more than seven tenants, that request would have to go to at least the Planning Commission under much the same process as variance. The City Attorney's Office is of the opinion that permitting sober living facilities to obtain a permit without having to go through a discretionary hearing is more in line with state and federal disability laws and the cases interpreting those laws. Requiring every sober living facility to go through discretionary hearings creates unnecessary legal exposure for the City. If the process proposed by Ordinance No. 07-09 proves not to be effective in reducing sober living facility impacts, then it can be revisited.

The City could also continue to treat sober living facilities as it does currently. However, this has not worked well as sober living facilities tend to go into residential neighborhoods without notification to the City and often exceed the numerical limit. There is some tendency for such facilities to locate close together and this type of clustering could destroy the single-family character of a neighborhood. With a permit requirement, the City can take the position that the mere absence of a permit is sufficient to show that the sober living facility is operating illegally and has some basic requirements for ensuring that a sober living facility is being operated in a manner that is considerate to its neighbors and also enhances the chances of recovery for its tenants.

The proposed regulations were mailed to the Sober Living Network, a coalition of sober living facilities in San Diego, Orange, Riverside, Ventura and Los Angeles counties back in January of this year for comment. Just before a March deadline for comment, the City Attorney's Office received a call from the Sober Living Network asking for more time to review, which was granted. However, as of the date of this report, the Sober Living Network has not provided any comments. The regulations were also sent to the 22 known sober living facilities in Orange. Only Cornerstone responded. In a meeting with the City Attorney, three representatives of Cornerstone were largely supportive of the regulations and believed they were consistent with the operation of a legitimate facility. Cornerstone did express a concern about the distance requirement because they currently



# Agenda Report

TO: CITY COUNCIL

Date: July 31, 2006

FROM: CITY ATTORNEY

SUBJECT: REGULATION OF GROUP HOMES IN RESIDENTIAL DISTRICTS

## RECOMMENDATION

It is recommended that the City Council direct the City Attorney to prepare an ordinance amending the Pasadena Municipal Code to regulate group homes in residential districts to the extent allowed by law.

## BACKGROUND

Recently the City has received complaints regarding the incompatibility and impacts of various kinds of group homes in residential zones. These are homes in which persons rent individual rooms for residential purposes. These homes can take the form of boarding houses, sober living facilities, residential care facilities, board and care homes and similar uses. Although certain group type homes are licensed and regulated by the State, others are not licensed and we believe that they may be regulated through local legislation by amending provisions in the Pasadena Municipal Code regarding boarding homes.

## MUNICIPAL CODE PROVISIONS

Pasadena Municipal Code ("PMC") Section 17.80.020 defines a "boarding house" as follows:

"A dwelling unit or part of a dwelling unit in which, for compensation, three but no more than five rooms are provided for lodging. Meals may be provided; however, no more than one kitchen is allowed. Residents in a boarding house are not a family or single housing unit."



Pursuant to PMC Section 17.22.030, boarding houses are not allowed in RS-1 through RS-6; RM-12; and RM-16 zoning districts. Boarding houses are permitted in RM-32 and RM-48 zoning districts. There has been some question whether various types of group homes (such as sober living facilities or homes for the disabled) can fall within the definition of a "boarding house" in local codes.

The Attorney General has opined that:

"A city may prohibit, limit or regulate the operation of a boarding house or rooming house business in a single family home located in a low density residential ( R-1) zone, where boarding house is defined as a residence or dwelling, other than a hotel, wherein three or more rooms, with or without individual or group cooking facilities are rented to individuals under separate rental agreements or lease, either written or oral, whether or not an owner, agent, or rental manager is in residence in order to preserve the residential character of the neighborhood." 86 Ops.Cal. Atty. Gen. 30 (2003)

The definition of a "boarding house" in the Attorney General's Opinion referenced above is more detailed than the City's definition and it applies to three or more rooms for rent under separate rental agreements in an R-1 zone. That A.G. Opinion also points out that local laws would have to be consistent with state laws prohibiting certain group homes from being considered "boarding houses"(i.e., various provisions of the State Health and Safety Code). However, those statutes relate to facilities "licensed" by the State and we believe it is therefore possible for the City to regulate the unlicensed facilities.

By establishing provisions in our Code consistent with the Attorney General's Opinion, the City will be able to encompass and regulate *unlicensed* group home type facilities, boarding houses, and other residential properties in which individual rooms are rented without consideration as to who the renters are, to preserve the residential character of neighborhoods. In providing such regulations, the City should also consider providing a mechanism for consideration of those who are protected under relevant federal laws regarding those with disabilities. An ordinance also would have to be consistent with state law prohibiting certain group homes from being treated differently from single family residential uses. However, these state laws relate to facilities "licensed" by the State of California, and it may be possible to regulate the unlicensed facilities.

CALIFORNIA LAW

There are at least two California statutory programs which regulate and license group living facilities. The first is the California Community Care Facilities Act, California Health and Safety Code Section 1500 et seq. The facilities regulated thereunder are licensed by the State and are not intended to be regulated through this proposed amendment, as such regulation is preempted by the State. This Act, however, specifically excludes "recovery houses or other similar facilities providing group living arrangements for persons recovering from alcoholism or drug addiction where the facility provides no care or supervision". [Health and Safety Code Section 1505(I).]

Clearly state-licensed group homes of six or fewer residents would not be impacted by a law restricting boarding houses in residential zones. State law is quite explicit in exempting such facilities from local definitions of "boarding houses" or "rooming houses," and in prohibiting municipalities from imposing various kinds of zoning clearances. The following language is typical of such statutes:

**Ca. Health and Safety Section 11834.23**

...

For the purpose of all local ordinances, an alcoholism or drug abuse recovery or treatment facility which serves *six or fewer persons* shall not be included within the definition of a boarding house, rooming house, ...or other similar term which implies that the alcoholism or drug abuse recovery or treatment home is a business run for profit or differs in any other way from a family dwelling.

...

No conditional use permit, zoning variance, or other zoning clearance shall be required of an alcoholism or drug abuse recovery or treatment facility which serves *six or fewer persons* which is not required of a family dwelling of the same type in the same zone.

Whereas, a licensed group home serving six or fewer residents could not be considered a "boarding house" or "rooming house," no state provisions exempt **unlicensed** group homes from Pasadena's zoning requirements.

The second statutory framework is the California Department of Corrections Alcohol and Drug Programs. This program provides for group living homes for alcohol and drug abuse recovery or treatment facilities. Such licensed facilities that provide "24 hour residential services" and have 6 or fewer persons must be treated under zoning laws as a single family residence. (Health and Safety Code Section 11834.23.) In order to provide "24 hour residential services," these facilities must include certain counseling services.

See Health and Safety Code Sections 11834.02(a), 11834.26, and 11834.30.

The proposed ordinance amendment does not seek to regulate such *licensed* facilities (as they would be exempt from local regulation) but only those which are not licensed. Accordingly, the proposed ordinance amendment would not be in conflict with State law.

#### GROUP HOMES WITH MORE THAN SIX RESIDENTS

Large group homes and alcoholism and drug abuse recovery or treatment facilities serving more than six (6) persons are not preempted by state law. Consequently, the City can enact regulations pertaining to these group homes.

#### FEDERAL LAWS

The federal Fair Housing Act (42 USC Section 3601 et seq) ("FHA") prohibits a local government from enacting zoning legislation that excludes or otherwise discriminates against protected persons. Under the Act it is unlawful to utilize land use policies or actions that treat groups of persons with handicaps less favorably than groups of non-disabled persons. The U. S. Supreme Court has held that alcoholism and drug addiction are disabilities for purposes of the FHA. See *City of Edmunds v Oxford House* (1995) 514 U.S. 725. Similarly, the Americans with Disabilities Act prohibits governmental entities from implementing or enforcing housing policies in a discriminatory manner against persons with disabilities.

Although it is acknowledged that certain types of group homes may rent rooms to persons who are deemed disabled, the proposed amendment does not regulate or control who is renting the rooms but rather it is the renting of rooms in homes located in single family residential districts that is being regulated, across the board. Such regulation would apply to *all* who rent rooms without regard as to *who* is renting the room and there is no differential treatment based on a person's status. Therefore, there is no intent to discriminate against individuals based on their disability. The FHA does require that a public entity make "reasonable accommodation" in land use and zoning policies and procedures where such accommodation may be necessary to afford persons with handicaps an equal opportunity to use and enjoy housing. Accordingly, such procedures should be established.

#### OTHER CONCERNS

The California Supreme Court has ruled that a local government may not limit the number of unrelated persons that want to live together. See *City of Santa Barbara v Adamson*



# *Planning Commission*

## *Agenda Item*

July 6, 2009

**TO:** Chair Steiner and  
Members of the Planning Commission

**THRU:** David De Berry  
City Attorney

**FROM:** Gary Sheatz  
Assistant City Attorney

### **SUBJECT**

**PUBLIC HEARING:** Ordinance No. 06-09—An Ordinance of the City Council of the City of Orange Amending Title 17 of the Orange Municipal Code to Add Provisions for Reasonable Accommodations for Disabled Persons in the Provision of Housing.

### **SUMMARY**

State and federal law require the City to make a reasonable accommodation in its rules, regulations and policies when such an accommodation is reasonable necessary to afford the disabled the opportunity to use and enjoy a dwelling. Ordinance No. 06-09 would set up a specific process for a disabled person to seek such an accommodation.

### **RECOMMENDED ACTION**

Adopt Planning Commission Resolution No. 30-09 entitled:

**A RESOLUTION OF THE PLANNING COMMISSION OF  
THE CITY OF ORANGE, RECOMMENDING THAT THE  
CITY COUNCIL OF THE CITY OF ORANGE ADOPT  
ORDINANCE NO. 06-09 ADDING PROVISIONS FOR  
REASONABLE ACCOMMODATIONS FOR DISABLED  
PERSONS IN THE PROVISION OF HOUSING**

### **AUTHORIZATION/GUIDELINES**

The State Fair Employment and Housing Act and the federal Fair Housing Act require the City to have a process wherein persons with disabilities can request relief from the strict application of the

City's rules and regulations to accommodate their disability. Orange Municipal Code (OMC) Section 17.10.020 authorizes the Planning Commission to review and make a recommendation to the City Council on any proposed changes to the Zoning Code.

## **PUBLIC NOTICE**

Since the Ordinance proposed is of City-wide significance, individual notices were not mailed. In accordance with the noticing requirements, a notice was published in the Orange City News newspaper on June 4, 2009.

## **ENVIRONMENTAL REVIEW**

The proposed ordinance amendment is not subject to the provisions of the California Environmental Quality Act (CEQA) because it does not meet the definition of a "project," pursuant to Public Resources Code Section 21065. The proposed ordinance merely establishes procedures for the City and an applicant to follow when considering an application for a reasonable accommodation from the zoning code. If a reasonable accommodation is granted, then additional entitlements may be required and the appropriate environmental analysis will be conducted at that time.

## **PROJECT BACKGROUND**

The requirement to provide reasonable accommodation to the disabled in the provision of housing has been in existence for years pursuant to the state Fair Employment and Housing Act and the federal Fair Housing Act. The City has handled such requests in a variety of ways. The Traffic Commission has approved requests for handicapped parking spaces on public streets in front of residential homes upon the appropriate showing. The Planning Director, in consultation with the City Attorney, has permitted minor variations from City regulations in residential units when reasonably necessary to accommodate the disabled. The Variance procedure was recently used by a sober living facility which sought to house 12 disabled tenants in a single-family residence. However, none of these procedures calls out the standards to be used in deciding upon a request for reasonable accommodation. A specific procedure is needed to clearly call out both the procedure to be used and the standards to be applied in reviewing requests for reasonable accommodation in the provision of housing.

## **PROJECT DESCRIPTION**

In an effort to comply with State and Federal law, staff drafted Ordinance 06-09 to set down a process for the Community Development Director or his or her designee to consider and make a determination on most requests for reasonable accommodation. The ordinance specifies:

- Individuals authorized to make such a request.
- Applicable fee.
- Information required from the applicant.

- Findings the Director must make when making a determination.
- Factors the Community Development Director may use when considering the request.

However, if a request rose to the level of Variance or a Conditional Use Permit, the request would follow the applicable procedure and be determined initially by the Planning Commission. However, the standards for making a decision on the request would be those that apply to requests for reasonable accommodation listed in Ordinance 06-09 and not those that apply to Variances or Conditional Use Permits. Decisions made by the Community Development Director could be appealed to the Planning Commission in accordance with the appeal procedures found in Orange Municipal Code Section 17.08.050.

## ANALYSIS/STATEMENT OF THE ISSUES

### Issue 1: Reasonable Accommodation Defined

A reasonable accommodation is defined as relief from the strict application of the City's zoning and land use regulations, policies and practices when such an accommodation is found to be reasonably necessary to provide an individual with a disability an equal opportunity to use and enjoy a dwelling. An accommodation is not reasonable if: (1) it will fundamentally alter the City's zoning scheme or program; (2) the benefits provided by the accommodation are outweighed by the costs and administrative burden; or (3) it would create a direct threat to the health and safety of other individuals or physical damage to the property of others. A disabled individual is defined as someone with a physical or mental impairment which substantially limits one or more of such person's major life activities. While this definition could include drug and alcohol addicts, it would not include such addicts who are currently illegally using drugs or alcohol.

### Issue 2: Reasonable Accommodation Requests

Requests for reasonable accommodation are few in number and most involve only minor variations from the City's rules and regulations and do not impact neighboring properties to a significant degree. The person making the request has the initial burden of showing that the accommodation will benefit a disabled person and that it is reasonably necessary for such person to use and enjoy a dwelling. This threshold burden is relatively low in most cases. An example of a reasonable accommodation already built into the Orange Municipal Code is that a disabled person is able to park a recreational vehicle within the otherwise mandatory 20-foot setback from the sidewalk if the vehicle is his or her primary form of transportation.

### Issue 3: Proposed Reasonable Accommodation Procedure

Ordinance 06-09 specifies the Community Development Director or his or her designee as authorized to make the determination on most requests for reasonable accommodation and sets forth the process and requirements including:

- *Individuals authorized to make such a request.*

Any person with a disability, their authorized written representative, or a developer or provider of housing for individuals with a disability may submit a request for a reasonable accommodation. A reasonable accommodation may be approved only for the benefit of one or more individuals with a disability.

- *Applicable fee.*

An application must be accompanied by the applicable processing fee (the equivalent to the Administrative Adjustment fee as cited on the most recent City Council fee resolution shall apply).

- *Information required from the applicant.*

As with other applications, the applicant is required to provide specific information or documentation. The applicant for a request for reasonable accommodation must provide, but not necessarily be limited to, the following information:

1. Documentation that the applicant is: (i) an individual with a disability; (ii) applying on behalf of one or more individuals with a disability; or (iii) a developer or provider of housing for one or more individuals with a disability.
2. The specific exception or modification to the zoning code section, policy or practice that is being requested.
3. An explanation that the accommodation requested is necessary to provide one or more individuals with a disability an equal opportunity to use and enjoy the dwelling.
4. Any other information that the Director reasonably concludes is necessary to determine whether the findings required by this Chapter can be made.

- *Findings the Director must make when making a determination.*

The applicant will be notified of the Director's decision, whether to approve, conditionally approve, modify or deny a request, through a written determination. The written decision shall be based on the following findings, all of which are required for approval:

1. The accommodation is requested by or on the behalf of one or more individuals with a disability.
2. The accommodation is necessary to provide one or more individuals with a disability an equal opportunity to use and enjoy a dwelling.
3. The accommodation will not impose an undue financial or administrative burden on the City.
4. The accommodation will not result in a fundamental alteration in the nature of the City's zoning scheme.
5. The accommodation will not result in a direct threat to the health and safety of other individuals or physical damage to the property of others.

- *Factors the Community Development Director may use when considering the request.*

In order to make a determination, the Ordinance provides several factors for the Director to consider. The Ordinance lists the following:

1. Whether the reasonable accommodation is being provided primarily to benefit individuals who are disabled.
2. Whether the requested reasonable accommodation will lead to an equal opportunity for a disabled individual to use and enjoy a dwelling.
3. Whether financial considerations make the requested accommodation reasonably necessary in light of the relevant market and market participants.
4. Whether the requested accommodation would fundamentally alter the character of the neighborhood.
5. Whether the accommodation would result in a substantial increase in traffic or insufficient parking.
6. Whether granting the requested accommodation would substantially undermine any express purpose of either the City's General Plan or an applicable Specific Plan.
7. Whether the requested accommodation would create an institutionalized environment due to the number of tenants being proposed and/or the number or distance between facilities that are similar in nature or operation.
8. Whether it would significantly deprive any neighboring property owners of the use and enjoyment of their own properties.

#### **ADVISORY BOARD RECOMMENDATION**

**Staff Review Committee:**

The Staff Review Committee did not review the proposal.

**Design Review Committee:**

The Design Review Committee did not review the proposal.

#### **ATTACHMENTS/EXHIBITS**

Attachments to Report:

1. Planning Commission Resolution
2. Draft City Council Ordinance 06-09





# *Planning Commission*

## Agenda Item

January 5, 2009

**TO:** Chair Steiner and  
Members of the Planning Commission

**FROM:** David De Berry  
City Attorney

### **SUBJECT**

**PUBLIC HEARING:** Variance No. 2195-08 -- Step-Up Recovery, located at 235 S. Craig Street.

### **SUMMARY**

The applicant requests a Variance from Orange Municipal Code §17.14.030's Numerical Limit on the Use of a Single-Family Home for a Group Home for the Disabled. Orange Municipal Code ("OMC") §17.04.021 defines a Boarding House as a dwelling wherein three or more rooms are rented under three or more separate written or oral rental agreements. Boarding houses are not permitted in single-family zones. Notwithstanding this prohibition, OMC §§17.14.030 and 17.14.050 permit homes for the disabled serving six or fewer to be located in single-family zones provided the use complies with the California Health and Safety Code. A house manager is not counted toward the six. The Applicant operates a sober living facility in a single-family residence at 235 South Craig Street (the "Property"). The Applicant represents that the residents of the sober living facility are recovering drug and alcohol addicts and are disabled as defined by state and federal law. The Applicant is requesting a variance from OMC §§17.14.030 and 17.14.050 to permit up to 12 recovering addicts to reside at the Property.

### **RECOMMENDED ACTION**

Direct Staff to Draft a Resolution Consistent with the Planning Commission's Findings.

### **AUTHORIZATION/GUIDELINES**

Orange Municipal Code (OMC) §17.08.020B.2.a.ii authorizes the Planning Commission to review and take action on Variance No. 2195-08. Under state law (Fair Employment and Housing Act, Government Code §12955) and federal law (Federal Fair Housing Amendments Act of 1988, 42 USC §§3601-3631), the City is required to make a reasonable accommodation from its generally applicable regulations when necessary to afford disabled persons an equal opportunity to use and enjoy a dwelling. The person seeking the variance bears the burden of showing entitlement to the reasonable accommodation, which is further discussed below. The City Attorney advises that under

these facts, a variance is the most appropriate procedure for a person to seek a reasonable accommodation.

## PUBLIC NOTICE

On December 23, 2008, the City sent a Public Hearing Notice to a total of 95 property owners/tenants within a 300-foot radius of the project site, and persons specifically requesting notice. The project site was also posted in 2 locations with the notification on that same date.

## ENVIRONMENTAL REVIEW

**Categorical Exemption:** The Applicant asserts that its use of the Property fits the definition of a single-family use. While staff is of the opinion that it does not, if the Planning Commission agrees with the Applicant and finds that the use of the Property is a single-family use, the proposed project would be categorically exempt from the provisions of the California Environmental Quality Act (CEQA) per State CEQA Guidelines 15301 (Class 1 – Existing Facilities) because the project would be considered a negligible increase in an existing facility and there is no public review required.

If the Planning Commission finds it is not a single-family use, and desires to further consider the Variance request, then staff is of the opinion that at a minimum, a Negative Declaration would have to be prepared. While the Applicant insists that all necessary information to make a determination on the Variance has been provided, staff is of the opinion that the Applicant has not provided sufficient information to date to properly evaluate the environmental impacts. Thus, if the Planning Commission determines that the Applicant has made at least a preliminary showing of being entitled to reasonable accommodation, it recommends that the Planning Commission direct the Applicant to provide staff with the information necessary for the environmental review.

Should the Planning Commission deny the Variance request, per State CEQA Guidelines 15270 (Projects Which are Disapproved), a CEQA analysis is not required.

## PROJECT BACKGROUND

<i>Applicant:</i>	Step-Up Recovery, Inc.
<i>Property Owner:</i>	Daniel and Debi Commerford (50%) and Lucy Parker (50%)
<i>Property Location:</i>	235 S. Craig Street
<i>Existing General Plan Land Use Element designation:</i>	LDR – Low Density Residential
<i>Existing Zoning Classification:</i>	R-1-7
<i>Old Towne:</i>	N/A
<i>Redevelopment Project Area:</i>	N/A
<i>Specific Plan/PC:</i>	N/A

<i>Site Size:</i>	~7,000 sq ft
<i>Circulation:</i>	The site takes access off of Craig Street.
<i>Existing conditions:</i>	5-bedroom home operating as a sober living facility with beds for up to 12 tenants, plus one bed for a house manager for a total of 13.
<i>Surrounding land uses and Zoning:</i>	Single Family Residential
<i>Previous Applications/Entitlements:</i>	N/A

## PROJECT DESCRIPTION

The Property is a single-family residence located on a cul-de-sac. The current owners, Daniel and Debi Commerford (50%) and Lucy Parker (50%) purchased the home in 2002 for \$519,000. See attached Administrative Record ("AR"), at pg. 6.<sup>1</sup> The family room in the home was remodeled in late 2006/early 2007 by the current owners, to make it a five-bedroom home of 2,741 square feet. Based on conversations with the neighbors it appears that the home was used initially for women who were recovering from addiction. According to one neighbor the residents were quiet, there was not a parking issue and fewer adults resided at the home. At AR 60, is a memo from Assistant City Attorney Wayne Winthers summarizing the conversations with neighbors. The Applicant represents that it is currently being used as a sober living facility for men and houses up to 12 unrelated recovering addicts and a house manager. The tenants are on a week-to-week rental and charged from \$175-\$190 per week. AR 61. The house manager is in one bedroom, AR 59. The 12 tenants are housed in the other four bedrooms. Since the operation is not licensed by the state, by state law no drug or alcohol addiction treatment can be provided on the Property. The Applicant represents that the tenants are required to be enrolled in a recovery program, such as the 12-Step program, which typically runs approximately 90 days. It is believed the recovery program is off-site.

The City is treating, as the Applicant's complete application, the following documents: the packet included at AR 1-8 (Letter of Justification, Case Processing Worksheet, Landowner's Affidavit, vicinity map); 13-15 (Letter from Applicant's Attorney, Steven Polin); 19-21 (Mr. Polin letter); 30-36 (Mr. Polin letter); and 43-50 (Mr. Polin Letter, Land Use Project Application). Included in the Administrative Record is correspondence from the City Attorney's Office submitted in response to Mr. Polin's letters, some of which request additional information the City Attorney believed was necessary to make a decision on the variance request. Those letters are attached at AR 9-12, 16-18, and 38-40. Notwithstanding requests for additional information, the Applicant has stated it has supplied all the necessary information for such a determination. As such, the City Attorney has advised that the application be deemed complete and processed accordingly.

### *Development Standards*

<sup>1</sup> The documents have been numbered sequentially in order to make it easier to reference them.

	<b>Required</b>	<b>Proposed</b>	<b>Code Section</b>
<i>Building Height</i>	N/A – The applicant is not proposing any changes to the building	N/A – The applicant is not proposing any changes to the building.	N/A – The applicant is not proposing any changes to the building.
<i>Distance between structures</i>	N/A	N/A	N/A
<i>Fence height</i>	N/A	N/A	N/A
<i>Floor Area Ratio (FAR)</i>	N/A	N/A	N/A
<i>Landscaping (non-residential)</i>	N/A	N/A	N/A
<i>Loading area (non-residential)</i>	N/A	N/A	N/A
<i>Lot size (residential)</i>	N/A	N/A	N/A
<i>Lot frontage</i>	N/A	N/A	N/A
<i>Lot depth</i>	N/A	N/A	N/A
<i>Open space, common (residential)</i>	N/A	N/A	N/A
<i>Open space, private (residential)</i>	N/A	N/A	N/A
<i>Open space, useable (residential)</i>	N/A	N/A	N/A
<i>Parking (non-residential)</i>	N/A	N/A	N/A
<i>Parking (residential)</i>	N/A	N/A	N/A
<i>Parking, guest (residential)</i>	N/A	N/A	N/A
<i>Setback, Front</i>	N/A	N/A	N/A
<i>Setback, Rear</i>	N/A	N/A	N/A
<i>Setback, Side</i>	N/A	N/A	N/A
<i>Setback, Side</i>	N/A	N/A	N/A

## APPLICATION(S) REQUESTED/ REQUIRED FINDINGS

**Variance:** The applicant is requesting a Variance from Section 17.14.030's Numerical Limit on the Use of a Single-Family Home for a Group Home for the Disabled. The findings for the variance are driven by state and federal housing laws, rather than general state law governing a variance.

### *Findings for Issuance of this Variance:*

1. That the tenants are disabled and entitled to an accommodation. Under state and federal law individuals with a drug or alcohol addiction are considered disabled as long as they are not currently illegally using a drug which is unlawful under the Controlled Substances Act or alcohol.
2. That additional accommodation, above the six allowed under the OMC, is reasonably necessary to afford the disabled tenants the ability to use and enjoy this dwelling. 42 United States Code 3604(f)(3)(B).

### *Evidentiary Burden*

The person seeking the reasonable accommodation has the burden of making a showing on both findings, i.e., that the tenants are disabled and are qualified individuals under state and federal housing laws and that the accommodation is reasonably necessary. This analysis is discussed in more detail in Issue 4 "Development Standards" below.

## ANALYSIS/STATEMENT OF THE ISSUES

### Issue 1: Chronology

After receiving complaints from neighbors for excessive numbers of tenants, transient tenants, noise, loud vulgar language and excessive cars associated with the Property, the Property was inspected by City Code Enforcement Officer Michelle Echeverria on February 22, 2008. On this date the City learned for the first time that the Property was being used as a sober living facility. A James Cartwright, who identified himself as an assistant manager, informed Ms. Echeverria that 15 men were living in the home, each paying a weekly rent of \$160 per person. Ms. Echeverria found several Building and Housing Code violations. The den/family room had been remodeled into a bedroom. She found a total of 18 beds, including 9 beds in the remodeled den/family room. There was a pay phone, a coin-operated washer and dryer and four refrigerators. Ms. Echeverria's report and accompanying photos are attached at AR 51-59.

Since that time, the Building and Housing Code violations have been corrected by the Applicant and the Applicant has stated that the number of beds has been reduced from 18 to 12, not including the house manager. The City has filed a misdemeanor prosecution against the Applicant for violating Orange Municipal Code provisions relating to boarding houses and group homes for the disabled, but has agreed to suspend that prosecution until a decision is made on its variance request.

The Applicant has filed a complaint against the City alleging disability discrimination. The Department of Justice is investigating the complaint.

Issue 2: The City's Zoning Scheme for Group Homes for the Disabled.

Orange Municipal Code §17.14.050 provides that homes for the mentally and physically disabled with six or fewer persons are a permitted use provided the use complies with applicable provisions of the California Health and Safety Code. The OMC essentially tracks state law which requires the City to treat, as a single-family use, specified state-licensed group homes for the disabled that are serving six or fewer tenants. Per state law, a state-licensed group home may also have a house manager residing at the home, who does not count toward the six. The genesis of this law, as stated in the California Lanterman Act, is "that mentally and physically handicapped persons are entitled to live in normal residential surroundings and should not be excluded therefrom because of their disability, [and] in order to achieve [this purpose] it is necessary to establish a statewide policy that the use of property for the care of six or fewer mentally disordered or otherwise handicapped persons is a residential use of such property for the purposes of zoning." The purpose in part was to free the disabled from living in large institutions, such as state hospitals, and place them in normal residential surroundings and to the extent possible, raise their quality of life to a standard that a non-disabled person might enjoy.

The Applicant is not a state-licensed group home and thus, not entitled to the state zoning exemption. However, the City has interpreted OMC §17.14.050 to apply to unlicensed sober living facilities. As long as an unlicensed sober living facility is in compliance with the Health and Safety Code, i.e., housing disabled tenants and not providing any treatment, the City will treat it as a single-family use provided it is serving six or fewer tenants. Without this zoning exemption, a sober living facility housing more than two individual tenants would otherwise be considered a boarding house, not permitted in a single-family zone since it would violate the boarding house ordinance and any sober living facility seeking to have three or more tenants would have to apply for a variance. In essence, the City's zoning scheme grants preferential treatment to the disabled over the non-disabled in the provision of housing as a recognition that some level of preferential treatment may be necessary to afford the disabled, in this case recovering addicts, an opportunity to live in a single-family neighborhood.

Issue 3: The Applicant's Reasons for Additional Accommodation.

A. The Applicant contends that the tenants are a "family" under the Orange Municipal Code.

The OMC defines a single-family dwelling unit as a place in which the occupants "are living and functioning together as a single housekeeping unit, meaning that they have established ties and familiarity with each other, jointly use common areas, interact with each other, share meals, household activities, expenses and responsibilities, membership in the single housekeeping unit is fairly stable as opposed to transient, and members have some control over who becomes a member of the single housekeeping unit." (OMC §17.04.023). The OMC definition for "family" is similar: "One or more persons related by blood or legal status or persons not so related who are functioning as a family or single-housekeeping unit, meaning that they have established ties and familiarity with

each other, jointly use common areas, interact with each other, share meals, household activities, expenses and responsibilities, membership in the family is fairly stable as opposed to transient and members have some control over who becomes a member of the family.” (OMC §17.04.025)

In staff’s opinion, the Property does not operate as a single housekeeping unit. The tenants have no established ties or familiarity with each other, other than those ties and familiarity which results from their co-habitation, which appears to be relatively brief—about 90 days. The Applicant notes that the tenants are “unrelated”. AR 1. According to the Applicant, each tenant is responsible for his own food. Also, see note written on white board inside the Property which states, “If it [sic] not yours don’t eat or drink it”. AR 55. There is no sharing of expenses, although there may be some sharing of household chores. The facility has a coin-operated laundry and upon the last inspection, a coin-operated phone. AR 55, 57. Membership in the household is extremely transient. The Applicant’s web-site advertises a 90-day program. AR 65. A July 2005 UCLA study reviewing the impact of the California Substance Abuse and Crime Prevention Act of 2000, which mandates treatment over incarceration for specified first and second time drug offenders, stated that as much as 65%-70% of persons who enter drug treatment programs overall do not finish, although it is unknown what the completion rate is for tenants of the Property. As noted, the occupants pay rents on a weekly basis, which in and of itself makes the occupants “transients” as defined by Chapter 5.16 of the Orange Municipal Code and would otherwise obligate the occupants to pay the City’s Uniform Transient Occupancy Tax<sup>2</sup>. It is also evidence that some tenants stay less than a month. AR 61, 65. One of the complaints from neighbors has been the transient nature of the tenants and that they do not know who lives and doesn’t live at the house and thus, has a reason to be in the neighborhood. Other than what the City has been able to uncover on its own, the Applicant has not provided any information on the average length of stay of its tenants. The tenants also have no control over who becomes a member of the household. Other than Applicant’s representation that the tenants provide support for each other in their recovery program, which is likely, as group support is an accepted part of the recovery program, overall the Property operation is more similar to that of a boarding house than a single housekeeping unit.

B. Second, the Applicant contends that 12 tenants are necessary for the supportive group environment that is conducive to recovery.

The City does not disagree that group support is an important element of a successful recovery program. This statement is supported by Dr. Michael Gales, a chemical dependency expert the City retained to review regulations it is currently drafting for sober living facilities. Group support is universally recognized as beneficial to many types of disabilities. The question is whether 12 tenants are necessary for the supportive group environment as claimed by the Applicant. There is evidence that suggests it is not and that it actually may be detrimental.

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<sup>2</sup> Chapter 5.16 governs the payment of the Uniform Transient Occupancy Tax that must be paid by transients of hotels, lodging houses, motels, etc. “Transient” is defined by §5.16.020 as “any person who exercises occupancy or is entitled to occupancy by reason of concession, permit, right of access, license or other agreement for a period of thirty (30) consecutive calendar days or less...Any such person shall be deemed a transient until the period of thirty (30) days has expired...”

State-licensed group homes for the disabled, including state-licensed group homes that treat individuals recovering from drug and alcohol addiction, have successfully existed in California for decades and limit their occupancy to six. There are 18 such licensed homes currently in Orange. AR 127. In setting a limit of six for state-licensed group homes, including those homes providing treatment for drug and alcohol addictions, it must be assumed that the stakeholders involved in the legislation, (groups representing the disabled, medical professionals serving the disabled, the state departments responsible for licensing and regulation and the state legislature itself) considered what size of a household that would be the most conducive to recovery and balanced that with an effort to preserve the single-family characteristics of neighborhoods. As noted above, the state zoning exemption was designed to allow the disabled to dwell in normal residential surroundings and free them from the institutional style of living which was prevalent at the time the Lanterman Act was adopted.

Dr. Michael Gales stated that in his opinion that "any overcrowding of a residential home, including multiple people in the same bedroom, would definitely undermine the recovery of individuals in that facility. It is difficult to see how jamming large numbers of recovering alcohol and drug addicts into small quarters contributes to the development of self respect. Further, such crowding easily leads to unhealthy competition for space, expressions of aggression, and even cynicism if the overcrowding is perceived as due to a profit motive on the part of ownership." AR 66. Dr. Gales states in a letter to the City of Costa Mesa, "In reference to your question as to whether or not a drug/alcohol rehabilitation program can be operated with as few as six resident clients or patients, I would say this is true beyond any question. I would set the minimum number for a community oriented residential recovery program at three." AR 81. Dr. Gales' credentials are listed at AR 80.

The Applicant states that it "is necessary for therapeutic reasons that there be two persons per bedroom..." AR, 45. However, as noted in that same letter, one bedroom has four tenants in it and another has three tenants in it. AR 44. It should also be noted that when purchased by the current owners, Daniel and Debbie Commerford and Lucy Parker, the home had four bedrooms. AR 6. The family room was converted to a fifth bedroom, which currently houses four tenants. Thus, the "need" for at least four of the tenants was created by the Applicant's remodel. If there had been no remodel, the Applicant could have housed two in each of three bedrooms and had a house manager in the fourth bedroom and been in compliance with the OMC.

C. Third, the Applicant states that 12 tenants are necessary for it to recover its expenses.

The Applicant contends that 12 tenants are necessary to recover what is claimed to be \$5,630 in monthly expenses. AR 45. The expenses include "payments to its landlord." AR 45.

Other than the August 21<sup>st</sup> letter at AR 43-47, the City has received no documentary evidence of the expenses from the Applicant, but has obtained documentation on its own which may aid the Planning Commission in analyzing the claimed expenses. Initially, the landlord and operators of the home appear to be one in the same, although admittedly it is sometimes difficult to tell and the Applicant has not been of assistance in clearing this up. Although the operator of the home is apparently an entity called "Step-Up Recovery, Inc.", the individuals behind this corporate entity appear to be Daniel and Debi Commerford, the owners, which if true, would be the landlords and



unilaterally deciding how much to pay themselves. At AR 84 is a table showing the amount of a monthly mortgage on a loan of \$467,100 (the Applicant's apparent mortgage according to the deed of trust on the Property, which is included at AR 86). At a rate of 6%, the monthly mortgage would be \$2,800. At 7%, the mortgage would be \$3,107. As noted, the Applicant does not provide any treatment and the tenants are responsible for their own food. Property taxes are shown as \$5,968 annually or \$497 monthly. The average monthly water bill, plus paramedic subscription for the Property, is about \$100 per month. AR 128-129. Thus, assuming the higher mortgage of \$3,107, the estimated monthly expenses that the City could verify are \$3,705, about \$2,000 less than expenses claimed by the Applicant. It would be anticipated that the Applicant also incurs expenses for gas, electricity, and maintenance, but the City has received no documentation of such expenses or documentation of any extraordinary expenses associated with the operation of the Property. It is also unknown whether the house manager receives any payment.

The Applicant contends that monthly revenue for the home is approximately \$4,100 (AR 45), which if true, would mean that stated expenses exceed stated revenue by about \$1,500. However, the monthly revenue stated by the Applicant is not supported by Applicant's own website and other statements made by the Applicant.

On its website the Applicant advertises a weekly rental fee of between \$175 and \$190, along with a \$50 move-in fee. AR 61. For purposes of this first calculation the City will assume that there are 12 tenants, each tenant stays three months (most recovery programs are 12 weeks), pays on average, \$182.50 per week, and a \$50 move-in fee. The amount received per month from each tenant would be calculated as follows:  $[(182.50 \text{ per week} \times 52 \text{ weeks}) \div 12 \text{ months}] + (50 \text{ move in fee} \div 3 \text{ months}) = \$807.50 \text{ per month, per tenant}$ . With 12 tenants, the Applicant's monthly revenue would be \$9,690. With 10 tenants the monthly revenue would be \$8,075. With 8 tenants, \$6,460. With six tenants, \$4,845. There is also some information that the Applicant is receiving some type of grant funding or other financial assistance from a group called "SPIN". AR 63. However, requests from the City for information of outside financial assistance have garnered no response from the Applicant. It could be anticipated that at least some of the monthly expenses for utilities claimed by the Applicant would decline if the number of tenants were reduced.

The Applicant has provided no information that its tenants could not afford a higher rent, which is also a factor in determining whether the additional accommodation is reasonably necessary. According to the National Institute of Drug Abuse, nearly "75 percent of all adult illicit drug users are employed..." AR 140. No documentation has been submitted from the Applicant that the amount of rent being charged is based on its tenants' ability to pay. Based on previous neighbor complaints of nine cars being associated with the Applicant's facility, it appears that many of them have cars. It is certainly possible that some of the tenants are unemployed. According to Laurel Schwartz, a County probation officer, some persons who are referred to sober living facilities are homeless, others may be transitioning from a more intense residential rehabilitation. AR 141. According to its own web site, at two different Step Up Recovery facilities in Costa Mesa, the rent being charged is \$880 per month. AR 61. At another Step Up Recovery facility in Orange, the rent being charged was \$200 per week or \$867 per month, plus the move-in fee, for or a total of \$883 per month. AR 65 (since this web information was posted, rents have gone up, at least at the subject Property). At the rental rate of \$883 per month, the total monthly revenue for six tenants

would be \$5,298. For seven tenants it would be \$6,181, which is more than the Applicant's claimed monthly expenses and as noted below, well above the market rental rates.

The Applicant has not provided any information that its expenses are extraordinary in relationship to any other investor who may purchase a home and rent it. Market rents for similar rental homes not serving the disabled are relevant in determining whether an accommodation is necessary. City staff did a search on two websites advertising homes for rent in Orange, requesting listings of homes with at least 4 bedrooms and two baths at less than \$4,000 per month. Attached at AR 125, are the two listings from Rentals.com which responded to this inquiry, advertising two homes larger than the Property at monthly rates of, respectively, \$3,100 and \$3,095. Also attached at AR 126 is a listing from the Orange Rentals web site, advertising one home, which is again larger than the Property, at a monthly rate of \$3,700. There were other listings advertising lower rents, but the homes while having at least four bedrooms, were smaller than the Property.

D. Fourth, the Applicant contends that the size of the household is not unlike 17.1% of the other households in the City.

The Applicant states, "The City cannot complain about the composition of the household of 235 S. Craig as being too large when according to the City's own preliminary draft Housing Element report approximately 17.1% of the households in the City of Orange were defined as 'large households'". The Housing Element report defines 'large household' as having five or more persons living in the same household. AR 46

The apparent contention is that since 17.1% of the households in the City are households of five or more, then the use of the Property, which is home to 13, is similar to how 17.1% of the households are utilized in the City. However, this contention appears to be premised on the assumption that no distinction exists between a household of 5 and one of 13. The Applicant's statement also does not account for the fact that the Property is housing 13 adults, all of whom may have cars and who do not function as a single housekeeping unit, while most of the 17.1% of households with 5 or more in Orange are likely families, many with children who do not drive and who do function as a single housekeeping unit.

If the argument is going to be that the use of the Property is not unlike other uses of single-family homes in Orange, the more relevant inquiry would be how many homes in the City house 13 adults who could potentially all drive and whose tenancy is transient. The answer is likely none. This conclusion is bolstered by year 2000 information from the U.S. Census Bureau. According to the Census Bureau, in Orange County there were a total of 267,370 non-family households. Of this, only 636 (two tenths of a percent) were homes of seven or more. AR 112. The number of non-family households housing 12-13 would be statistically even less significant and makes it likely that no such occupancies exist in a single-family home in Orange. Even if family households are included, the Census Bureau indicates that only 6.9% (45,735 of 667,917) of the homes house seven or more. AR 112. Of total households, only 4.9% house seven or more (46,371 of 935,287). AR 112. Given this, it is likely that well below one percent of the homes in the City house 12 residents and if there are such homes, there is also a strong likelihood that the residents are not transient, the households consist of persons acting as a family and many of them are children who do not drive.

In addition, if there was a household of 12-13 individual tenants in a single-family home in Orange, the use would be illegal under the boarding house ordinance in any event.

The Applicant has stated that it receives court referrals. This means that it may be housing several adult males who have been convicted of crimes and who are on probation and are subject to unannounced visits and searches by probation officers. According to Laurel Schwartz, a probation officer in the Collaborative Courts section with the County, persons who are typically referred to sober living facilities are individuals who have been convicted of a crime, which may be a drug offense, burglary, auto theft or some other crime. These individuals are there because the probation department, sometimes in conjunction with the County Health Department, has determined that exposure to drugs or alcohol is playing a role in that person's commission of the crime and could benefit from residing in a sober living facility and entry into a recovery program. Some may have been otherwise homeless and some may be transitioning from a more intense residential rehabilitation program. See City Attorney's summary of conversation at AR 141. Housing multiple numbers of probationers or parolees is not a typical family use.

#### Issue 4: Development Standards

As noted, group homes, including unlicensed sober living facilities, serving six or fewer disabled individuals are allowed as a matter of right in the zone (R-1-7) in which the Property is located, notwithstanding the fact they are otherwise a boarding house use. A house manager(s) is permitted in addition to the six. In contrast, due to the City's zoning code definition of "boarding house" no more than two non-disabled persons could live together under similar circumstances. Thus, the zoning code allows, as a matter of right, potentially more than three times the number of rental agreements in the R-1-7 zone for disabled persons than it does for the non-disabled.

In accordance with state and federal law, the City is required to provide an accommodation even above the OMC's current built-in reasonable accommodation when such accommodation is reasonably necessary to afford the disabled an opportunity to use and enjoy a dwelling in a manner enjoyed by the non-disabled. The Applicant has the burden of making a showing of entitlement to the reasonable accommodation. The showing essentially has two prongs.

The first prong is to make a showing that the person requesting the accommodation is disabled within the meaning of the Americans With Disabilities Act ("ADA"). For a drug or alcohol addict to be disabled under the ADA, the addiction must substantially limit one or more major life activities. Persons who are currently using illegal drugs or alcohol or were convicted for illegal manufacture or distribution of a controlled substance are not considered disabled by virtue of that status. The National Institute of Drug Abuse defines the essence of drug addiction as an "uncontrollable, compulsive drug seeking and use, even in the face of negative health and social consequences." Alcoholism is defined in much the same way. The only evidence that Applicant's tenants are addicts entitled to protection under the ADA is Applicant's statement that they are and Applicant's statement that it receives court referrals.

While the City believes that at least some of the tenants at the Property are likely disabled as defined by state and federal law, there is at least some evidence to suggest that not all the tenants

may in fact be disabled. As noted, the Applicant has stated that it receives referrals from the County. Thus, many of the tenants are ordered into treatment as a condition of probation or in lieu of incarceration. The Applicant has acknowledged that some tenants have probation officers. While the probation department makes a determination that residence in a sober living facility may be helpful to the person, it does not diagnose the person as being an addict. AR 140. Deputy District Attorney Wendy Brough indicated that to her knowledge, no medical diagnosis of whether a person was a drug addict or not is done before drug individuals are referred to sober living facilities. She acknowledged that just because someone committed a drug offense, doesn't necessarily mean they are addicts, although she thought most were. She stated that most of the individuals deny they are drug addicts, but that denial is a trademark of addicts. See City Attorney summary of conversation at AR 141. Thus, while it is clear that the court-referred tenants lives are somehow impacted by drugs, it is unclear whether they are in fact addicts. Despite requests for additional documentation supporting the claim that all the tenants are disabled, none has been forthcoming.

The second prong of the reasonable accommodation test is whether or not the requested accommodation is reasonably necessary and whether the accommodation would create a fundamental alteration in the City's zoning scheme in single-family neighborhoods. Reasonableness is determined on a case-by-case analysis. Attached at AR 130-139 is a paper from the United State Department of Justice on "Group Homes, Local Land Use and The Fair Housing Act." At AR 133-134, there is a discussion on what might constitute a reasonable accommodation under the Fair Housing Act and even a discussion with similarities to the issue before you. In that discussion, the paper notes that a group home of four adults with mental retardation, a use otherwise not allowed, would very likely be able to show that it should be granted an exception because its impacts would be no greater than an "ordinary family", while in contrast, a 50-bed nursing home would likely not be an appropriate use in a single-family neighborhood "for obvious reasons having nothing to do with the disabilities of its residents." The Applicant's request for 13 adult tenants, obviously falls somewhere in between these two examples.

The Planning Commission has essentially three options, which can be summarized as follows:

- Find that the Applicant has made a showing that its tenants are disabled, that the requested additional accommodation (or some other more limited accommodation of fewer tenants) is reasonable necessary, and that the use is a single-family use. Under this finding no further environmental analysis is required.
- Find that the Applicant has made a showing that its tenants are disabled, that although the use is not a single-family use, some additional accommodation is reasonably necessary and direct the Applicant to provide the documentation necessary for staff to perform the CEQA analysis. Staff suggests that if this is the Planning Commission's direction that a time frame be given and if the documentation is not provided within that time frame, that the Application be deemed denied. With the documentation, staff could perform an appropriate environmental review and perhaps suggest some conditions to mitigate against potential negative impacts to the neighborhood, if any are found.

- Find that the Applicant has not made the requisite showing and state the reasons therefore.

Staff will return with a resolution consistent with the Planning Commission's findings and bring it back for consideration.

### **ADVISORY BOARD RECOMMENDATION**

#### **Staff Review Committee:**

The Staff Review Committee did not review the project.

#### **Design Review Committee:**

The Design Review Committee did not review the project.

### **ATTACHMENTS/EXHIBITS**

#### Attachments to Report:

1. Administrative Record containing, among other things, a vicinity map, application and project description and other documents relevant to the Planning Commissions determination.

For information about local Coalition and Chapter meetings, click this link:

Meeting Information

## Housing Rights vs. City of Los Angeles Proposed Rezoning Ordinance

Homeowners are in danger of being denied the use of their properties in long standing traditional ways, and people who share housing costs in duplexes or single family residences in low density residential zones are in danger of being banned from living there. Those who could be affected by this proposed ordinance are students, seniors, friends and roommates, persons with disabilities—anyone renting homes together with more than one lease agreement. The Los Angeles Planning Commission will consider this proposal again on November 4, 2010. Please check this page for location and time information as we receive it.

Details of the proposed zoning changes are outlined in the September 2010 Planning Department staff report, Case Number CPC-2009-800-CA and Council File Number 07-34-27. ([Link to staff report](#)) Following is a breakdown of the City's proposal in three sections:

- Proposed changes and how they would negatively affect renters and rental properties
- Why this proposed ordinance should be defeated
- What you can do about it

### Letter of Opposition

Read our letter of opposition sent to the Planning Commission [here](#).

### PROPOSED CHANGES AND HOW THEY WOULD NEGATIVELY AFFECT RENTERS AND RENTAL PROPERTIES IN LOW DENSITY RESIDENTIAL ZONES

#### Proposed Changes

Currently there is no restriction on the number of leases or rental agreements for single family residences and duplexes in the City of Los Angeles, but that could rapidly change. This ordinance would reclassify as a boarding house any rental property in single family homes or duplexes in low density residential areas (R1, R2 and RD) with more than one leasing arrangement and ban them from those zones. The City proposes to do this by redefining "family," "single housekeeping unit," "boarding house," and "correctional or penal institution."

"Family" would be redefined as: "One or more persons living together in a dwelling unit with common access to, and common use of all living, kitchen, and eating areas within the dwelling unit, *as a single housekeeping unit.*" (emphasis ours. See [Planning Department Appendix A](#) p. A-2)

"Single housekeeping unit" would be redefined as: "One household where all the members have common access to and common use of all living, kitchen, and eating areas within the dwelling unit, and household activities and responsibilities such as meals, chores, expenses and maintenance of the premises are shared or carried out according to a household plan or other customary method. *If all or part of the dwelling unit is rented, the lessees must jointly occupy the unit under a single lease, either written or oral, whether for monetary or non-monetary consideration.*" (emphasis ours. See [Planning Department Appendix A](#) p. A-2)

"Boarding house" would be redefined as: "A one-family dwelling where lodging is provided to individual with or without meals, for monetary or non-monetary consideration under two or more separate agreements or leases, either written or oral, or a dwelling with five or fewer guest rooms of suites of rooms . . ." (See [Planning Department Appendix A](#) pp. A-1, A-5)

"Correctional or Penal Institution" would be defined as: "Any building including a prison, jail, or halfway house used for the housing or provision of services to persons under sentence from a federal, state or county court, or otherwise under the supervision of the State of California Department of Corrections or successor agency." (See Planning Department Appendix A p. A-1. *The Planning Department notes in its narrative that any residence meeting this new definition of "Correctional or penal institution" would need to apply for and be granted a Conditional Use Permit in order to operate.*)

Just which homes would be impacted is not made clear. Does the City's definition mean that any home in which a parolee lives, whether as a renter or not, would be reclassified, and therefore need a CUP?

Broadening the scope of this ordinance to include all low density residential homes with shared lease agreements in the City is merely a pretext for the original intent to restrict sober living and other housing for persons with disabilities. Plus, the majority of public dialogue supporting this ordinance continues to focus primarily on sober living homes.

#### WHY THIS PROPOSED ORDINANCE SHOULD BE DEFEATED

- This proposed ordinance sweeps with too broad a brush and with no justification for doing so. The City has provided no supporting evidence that homes with more than one lease are a greater threat to community health and safety than homes that don't have such rental agreements. This proposal also assumes the reverse, that homes in which financial burdens of housing are not shared under separate agreements pose no threat to communities, an equally unsound premise.
- The City of Los Angeles already has nuisance abatement laws and enforcement procedures. If homes with more than one lease are truly nuisances then why haven't they been held accountable through these provisions? Why take such drastic measures without first fully using the tools the City has to deal with these problems?
- By redefining family, this ordinance ignores the case of *City of Santa Barbara v. Adamson* in which the California Supreme Court ruled, based on privacy laws, that local governments cannot define family differently for non-related persons than related persons. Furthermore, the City is apparently declaring war on its residents who choose to live together through shared rental agreements or who cannot afford to live any other way..
- The City seeks to redefine family not on the functionality of how people relate to each other in the privacy of their households, but solely on how they pay for their housing. This puts an undue burden on those who cannot afford to live alone, particularly in these harsh economic times in which people are being forced to share housing who never have before.
- The City has not specified how the potentially thousands of residences this ordinance will impact will be identified. Since it has provided no methodology, nor described how one will be developed to identify these homes, how can the City ensure that enforcement will be applied uniformly and not focused primarily on sober living?
- The ordinance is discriminatory against housing for persons with disabilities. The more than two and a half year history of this developing ordinance clearly demonstrates its discriminatory intent to restrict group homes for persons with disabilities, eventually narrowing its focus specifically to sober living. (For an explanation of legal protections for housing for persons with disabilities (see Fair Housing FAQ and 3 Legal Protections.) In the trail of public documentation it is clear that the basis for wanting this restriction is based on neighbors' complaints about sober living. However, the City has offered no justification based on objective evidence that sober living homes overall are more of a threat to community health and safety than any other type of home. In fact, in a January 28, 2010, City Planning Staff Report, explanations were given why the City could not legally restrict sober living homes. (see Jan. 28 2010 staff report, p. 10) Following is an excerpt from that report:
- The more than two and a half year history of this developing ordinance clearly demonstrates its discriminatory intent to restrict group homes for persons with disabilities, specifically focusing on sober living. (For an explanation of legal protections for housing for persons with disabilities see Fair Housing FAQ and 3 Legal Protections.) In the documented trail of public discussion this intent is apparent. However, the City has offered no justification based on objective evidence that sober living homes overall are more of a threat to community health and safety than any other type of home. Furthermore, a January 28, 2010, City Planning Staff Report explains why the City could not legally restrict sober living homes. (See Jan. 28 2010 staff report, p. 10) Following is an excerpt from that report:

*"Staff considered alternative amendments to this definition as a way to regulate sober living homes as unlicensed group residential uses, and found that every alternative definition was fatally flawed. Every alternative considered was illegal, unenforceable, or discriminatory. In particular, some were too broad in their impact, such that several individuals living as roommates would be prohibited. Other definitions, such as ones that require investigation of who uses what rooms or facilities in the household, are unenforceable."*

Even though the City has focused its current version of this ordinance on all low density residential homes with shared lease agreements in the City, it is a pretext for the original intent to restrict where sober living and other group housing for persons with disabilities can be located. Furthermore, the majority of public dialogue on this subject continues to focus on sober living homes, not all homes with shared lease agreements.

## INFORMATION

For more information on this document or issue, please contact:

Jeff Christensen, Network Project Director ( [email link](#), phone (310) 924-7155), or  
Deborah Parker: ( [email link](#), phone (858) 538-7623), or  
visit the Network website at [www.soberhousing.net](http://www.soberhousing.net).

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The Sober Living Network  
P.O. Box 5235  
Santa Monica, CA 90409  
(310) 396-5270  
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*Published: December 2009, ed. 0*

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- A decompression utility such as the following, both of which can be downloaded for free:
- 7-Zip (<http://www.7-zip.org>) (for Windows users).
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- Macintosh OS X comes with TextEdit, an RTF-compatible word processor; non-OS X users need Word 5.0 or greater, WordPerfect 2.1 or greater, or another RTF-compatible word processor.



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## Legislation Related to the Siting of Residential Care Homes (1997-2008)

YEAR	STATUS	BILL	DESCRIPTION
1997	Chapter 96	SCR 27 (Kopp)	Establishes a task force comprised of local government and social service representatives to address community concerns resulting from an increase of residential care and treatment facilities and make recommendations.
1997	Chapter 561	AB 323 (Baca)	Creates pilot in San Bernardino County to encourage group homes to work with neighborhood residents to resolve issues and reduce complaints. CDSS expanded pilot to Shasta County (SCR 27 Task Force recommendation).
1997	Died in Assembly	AB 631 (Morrow)	Requires that person released on probation participate in a licensed facility if required to go through alcohol and drug abuse rehabilitation program (SCR 27 Task Force recommendation).
1997	Died in Assembly	AB 756 (Kuykendall)	Extends the overconcentration requirement to 1000 feet.
1997	Died in Assembly	AB 1288 (Wood)	Requires prior local government approval for group homes housing residents convicted of a serious or violent felony or a residential burglary.
1997	Amended out in Senate	SB 139 (Kopp)	Extends the 300-foot overconcentration requirement to alcohol and drug facilities.
1998	Chapter 898	AB 1068 (Campbell)	Requires criminal background check for previously exempt social rehabilitation facilities; extends background check for intermediate care facilities/ developmentally disabled to direct care staff and others.

YEAR	STATUS	BILL	DESCRIPTION
1998	Chapter 311	SB 933 Group Home Reform Bill (Thompson)	Provides a comprehensive series of group home reforms including several changes to improve management and staff training, and accountability and oversight requirements. Examples: requires that group homes first be issued a temporary provisional license that can be suspended if the facility is not in compliance; clarifies that group home have specific community representatives (like neighbors) on existing boards of directors or advisory board; requires a "Good Neighbor" handbook; and expedites the fingerprint process. (SCR 27 Task Force recommendations were included.)
1998	Vetoed [Fiscal issues]	SB 1540 (Karnette)	Requires a plan for establishing and maintaining a statewide computerized data base for all community care facilities and alcoholism and drug abuse treatment and recovery facilities; and a plan for identifying and regulating existing unlicensed residential programs. (SCR 27 Task Force recommendation).
1998	Died in Senate	SB 1971 (Watson)	Requires that an assessment be developed of the residential needs of persons who live in licensed residential facilities and persons who live in other living arrangements in which services are provided. Requires that a statewide database be established and maintained. (SCR 27 Task Force recommendations)
1999	Amended out in Assembly	AB 373 (Baugh/Pacheco)	[Original language extends separation requirement from 300 to 1,000 feet.]
1999	Never heard in Assembly	AB 533 (Nakano)	Clarifies that facility operator cannot claim "six or fewer" status if operating two or more facilities located within 1,000 feet of each other.
1999	Died in Assembly	AB 997 (Campbell)	Prohibits additional licenses to providers who have not operated their facilities well in existing communities; adds language that strengthens role of group home community advisory body.
1999	Died in Assembly	AB 1025 (Havice)	Adds language that strengthens role of group home community advisory body (SCR 27 Task Force recommendation).
1999	Died in Senate	SB 268 (Rainey)	Requires that residential facilities for the elderly be counted for purposes of the 300-foot separation requirement.
1999	Vetoed [Fiscal issues]	SB 986 (Karnette)	Requires sober living facilities that offer services and programs to be state licensed (SCR 27 Task Force recommendation).
1999	Died in Assembly	SB 987 (Karnette,)	Requires that the Department of Alcohol and Drug Programs license and regulate alcohol and drug facilities (SCR 27 Task Force recommendation and follow-up to SB 1540).

YEAR	STATUS	BILL	DESCRIPTION
2000	Died in Senate	AB 2641 (Calderon)	Permits a city or county to submit information to the Director of the Department of Social Services regarding the proposed location of residential care facilities with six or fewer residents, and allows the Director to suggest the applicant find an alternate location for the facility.
2002	Vetoed [Fiscal & workload issues]	AB 2175 (Daucher)	Requires Governor's Office of Planning and Research to develop and adopt guidelines for addressing human services matters (including assessment of residents in care facilities) within the local government's general plan to improve quality of life for targeted members and community (SCR 27 Task Force recommendation).
2004	Died in Assembly	AB 2548 (Horton)	Requires public notice and a public forum when a new residential care or drug and alcohol residential facility is proposed in a city or county.
2004	Chapter 120	SB 383 (Oller)	Makes technical changes to specify that the local planning agency receive notice prior to approval of any application for a new residential care facility.
2006	Died in Assembly	AB 1408 (Horton)	Revises the definition of overconcentration" from 300 feet or less for another residential care facility to 1,000 feet or less for new facilities. (Legislation similar to AB 373/1999.)
2006	Vetoed	AB 1795 (Bermudez)	Requires that the state or county licensing authority notify a city or county planning agency of an application for a new residential care facility by certified mail.
2006	Chapter 746	AB 2184 (Bogh)	Provides that the state statute governing zoning and conditional use permits for residential care facilities for six or fewer persons shall not be interpreted to prohibit a local public entity from enforcing a local ordinance.
2006	Died in Assembly	AB 3005 (Emmerson)	Permits a city or county to submit information to the Director of the Department of Social Services regarding the proposed location of residential care facilities with six or fewer residents, and allows the Director to suggest the applicant find an alternate location for the facility. (Legislation similar to the introduced version of AB 2641/2000.)
2006	Died in Assembly	AB 3007 (Emmerson)	Prohibits the Department of Alcohol Drug Programs from licensing a facility if another facility was located within 300 feet.

YEAR	STATUS	BILL	DESCRIPTION
2006	Died on File in Assembly	SB 1322 (Cedillo)	Requires cities and counties include in the housing element of their general plan an analysis of the need for emergency shelters and accommodate the need for shelters on sites that are zoned to allow their use; also requires local governments to designate zones where special needs facilities and transitional housing are a permitted use.
2008	Died in Assembly	AB 411 (Emmerson)	Permits a city or county to submit information to the Director of the Department of Social Services regarding the proposed location of residential care facilities with six or fewer residents, and allows the Director to suggest the applicant find an alternate location for the facility. (Legislation same as AB 3005/2006.)
2008	Died in Senate	AB 724 (Karnette)	Defines a sober living home as a residential property which is operated as a cooperative living arrangement to provide an alcohol and drug free environment for persons recovering from alcoholism or drug abuse, or both, who seek a living environment in which to remain clean and sober, and which meets other specified requirements.
2008	Died in Assembly	AB 1875 (Huff)	Revises the definition of "overconcentration" from 300 feet or less for another residential care facility to 1,000 feet or less for new facilities, and requires that the state or county licensing authority notify a city or county planning agency of an application for a new residential care facility by certified mail. (Legislation same as AB 1408/2006 and AB 1795/2006.)
2008	Never heard in Assembly	AB 2978 (Soto)	Includes residential care facilities for the chronically ill and residential care facilities for the elderly in the definition of residential care facilities for purposes of determining overconcentration.
2008	Died in Senate	SB 530 (Dutton)	Prohibits the Department of Alcohol and Drug Programs from licensing a treatment facility if another facility was located within 300 feet. (Legislation same as AB 3007/2006.)
2008	Died in Senate	SB 709 (Dutton)	Permits a city or county to submit information to the Director of the Department of Social Services regarding the proposed location of residential care facilities with six or fewer residents, and allows the Director to suggest the applicant find an alternate location for the facility. (Legislation same as AB 3005/2006.)
2008	Died in Senate	SB 915 (Hollingsworth)	Authorizes a city, county, or city and county, to adopt a local ordinance to zone as an adult oriented business, any community care facility that houses a parolee for whom registration as a sex offender is required.

YEAR	STATUS	BILL	DESCRIPTION
2008	Vetoed	SB 992 (Wiggins)	Requires the Department of Alcohol and Drug Programs to license "adult recovery maintenance facilities," which provide a more structured environment for recovery from substance abuse than a sober living home.
2008	Died in Senate	SB 1000 (Harmon)	Requires applicants seeking a license for a recovery or treatment facility from the Department of Alcohol and Drug Programs to certify that the facility is consistent with local zoning ordinances and requires the Department to verify the certification.

The California Research Bureau (CRB) provides non-partisan policy analysis and research information to the Legislature, the Governor, and other state elected officials. This Table, now updated, originally appeared as Appendix D in the CRB report, *Residential Care Facilities in the Neighborhood: Federal, State, and Local Requirements*, 2002, by L. Foster. This report, and other CRB reports, is available online at <http://www.library.ca.gov/crb/CRBSearch.aspx>.

For questions, please contact Lisa Foster, Senior Policy Analyst, at (916) 653-6372 or [lfoster@library.ca.gov](mailto:lfoster@library.ca.gov).

# Browns Valley Irrigation District

Post Office Box 6, Browns Valley, CA 95918

Business Office:

530/743-5703

FAX:

530/743-0445

Water Operations Office:

530/742-6044

October 25, 2010

Dan Cucchi, Project Planner  
915 8th St., Suite #123  
Marysville, CA 95901

Re: Comment Letter – Draft Yuba County 2030 General Plan Update (part 2)

Dear Mr. Cucchi:

Browns Valley Irrigation District (BVID) has re-reviewed the draft Yuba County 2030 General Plan Update (Update) that was released to the Yuba County Supervisors on August 10, 2010. We provided you with a comment letter on September 13, 2010, a copy of which is enclosed. Our additional comments can be summarized as follows:

- **Pages - Community Development 3 & 20**

The draft plan calls the community located to the west of Collins Lake the "*Collins Lake Community*". Collins Lake is the name of a lake, not a community and is not a land based name. The name honors the man that invested many hours promoting the construction of Virginia Ranch Dam, and has nothing to do with the area around the Lake. As the owner of Merle Collins Reservoir, we feel that it is inappropriate to use this name for this community. As the offer of a suggestion, the area is currently known as the Willow Glen area and might better to be named the "*Willow Glen Community*".

8-1

- **Page - Public Health 19, Water Quality Policy HS3.3**

*"The county will regulate new developments, as necessary, and collaborate with irrigation districts to address Regional Water Quality Control Board requirements intended to protect agricultural use and sustain the agricultural economy."*

The Regional Water Quality Control Board is a State agency and does not need any additional involvement (and complication) from the County and as such the General Plan does not need to suggest any involvement in that arena. This Policy needs to be deleted.

8-2

- **Page - Natural Resources 30, Voluntary Restoration on Agricultural Lands Action NR5.4**

*"The County will coordinate with other service providers and the Yuba Conservation District to seek funding for projects in existing agricultural areas including: planting native vegetation around the edges of farms, around structures and along roads and driveways; and maintaining or improving irrigation and drainage canals to provide enhanced habitat value."*

8-3



BVID has two problems with this action; 1) The planting of "native vegetation" around structures poses a potential fire hazard for District owned structures (not to mention privately owned buildings and homes), and 2) irrigation and drainage canals serve a very specific function in the delivery of water for beneficial use. To encourage (or even allow) vegetation to impede the flow of water is considered poor water distribution management. Also, large quantities of water can be lost to vegetation growing along the canal banks which also leads to reduction in the amount of water that can be put to beneficial use. This Action needs to be deleted.

- **Page - Natural Resources 46, Groundwater Policy NR12.1**

*"The county will manage land use change in a way that prevents overdraft of groundwater supplies, protects overlying groundwater rights and ensures that the combined use of surface and groundwater resources provides for current and future water demand."*

The State Water Code and the State Water Resources Control Board controls (manages) groundwater and its use on overlying ground. This is another case where the State does not need any additional involvement (and complication) from the County and as such the General Plan does not need to suggest any involvement in this arena. This Policy needs to be deleted.

For the reasons described above, Browns Valley Irrigation District believes that the Draft Yuba County 2030 General Plan Update should; Change the name of the ~~Collins Lake~~ Community to the Willow Glen Community, Delete Policy HS3.3 and NR12.1 and delete Action NR5.4.

Please feel free to contact me with any questions or concerns.

Sincerely,



Walter Cotter  
General Manager

Cc: Board of Directors

# *Browns Valley Irrigation District*

Post Office Box 6, Browns Valley, CA 95918

*Business Office:*

530/743-5703

*FAX:*

530/743-0445

*Water Operations Office:*

530/742-6044

September 13, 2010

Dan Cucchi, Project Planner  
915 8th St., Suite #123  
Marysville, CA 95901

Re: Comment Letter – Draft Yuba County 2030 General Plan Update

Dear Mr. Cucchi:

Browns Valley Irrigation District (BVID) has reviewed the draft Yuba County 2030 General Plan Update (Update) that was released to the Yuba County Supervisors on August 10, 2010. Our comments can be summarized as follows:

- The updating of the County's General Plan has been a long overdue, but a sorely needed project. When one considers that the 1996 General Plan was supposed to be updated in 2001 and is nine years late, it is hard to understand that the public review period is less than 35 days long. This document will shape Yuba County for the next 20 years (or more) and deserves at least a public comment period that is comparable to the time frame for an Environmental Impact Report. The current time frame does not allow those that will be affected by this Plan to fully review and understand it. The Update draft will take time to vet out all of the various sources of data that were pulled into this document to insure that the data is valid and current. Time will be required to verify with the various agencies within the County that the data concerning those agencies included in the Update is correct. 8-5
- There have not yet been the open forums that are desperately needed to allow the residents of the County to ask those questions that will help them to better understand the Update and how it will affect them in the future. These open forums need to be held at strategic sites throughout the County to encourage attendance by as many residents as possible. 8-6
- In the Natural Resources section you state that one of the goals (NR12) is to "Reduce water consumption and ensure reliable water supply in normal years and in times of drought". This is a good goal for urban water users as it is in alignment with the Governor's plan to reduce urban water consumption by 20% by 2020. However, The Governor's goal is for urban water use only and does not apply to the use of agricultural (irrigation) water. Yuba County is in the process of expanding its surface irrigation water delivery system and will actually increase its use of irrigation water over the next several years. Goal NR12 needs to specify that it is an **urban** water use goal. That said, a good goal for the use of irrigation water is to 8-7

"insure the efficient use of agricultural water". Browns Valley Irrigation District has been and remains a leader in both water conservation and water use efficiency for agricultural water deliveries. 8-7

- The Open Space Diagram on page 5 of the Natural Resources section depicts Collins Lake as part of the Open Space area (those lands owned by the California Department of Fish and Game and others). While Collins Lake is owned by BVID (a public agency), it and the adjoining campground are not unlimited access areas. Access to the Lake and the campground is restricted by the concessionaire, both through fees and other limitations. Therefore, this area should be designated as "Public Recreation". However, since there does not appear to be such a designation, it is then appropriate to use the "Private Recreation" designation instead. 8-8
- On page 2 of the General Plan Implementation section you note that amendments to the General Plan will require "The approval of 4 out of the 5 members of the Board of Supervisors..." From what I have been able to research, Government Code section 65354 provides that the planning commission may recommend a general plan or any update or amendment to a general plan to the board of supervisors by a majority vote of the commission and Section 65356 provides that the board of supervisors may approve a general plan or any update or amendment to a general plan by majority vote. I can find no requirement for a super-majority vote to amend the General Plan. This needs to be corrected to require a simple majority vote for both the Planning Commission and the Board of Supervisors to approve and/or amend the General Plan. 8-9

For the reasons described above, Browns Valley Irrigation District believes that the Draft Yuba County 2030 General Plan Update should have the existing public comment period extended for at least another 90 days with several open forums, needs to be edited to more clearly show the current land and natural resource use conditions in the foothills, to better state the County's water use goals so as not to confuse urban and agricultural water uses and remove the super-majority requirement to amend the General Plan.

Please feel free to contact me with any questions or concerns.

Sincerely,



Walter Cotter  
General Manager

Cc: Board of Directors

October 19, 2010

Yuba County Planning Commission  
c/o Yuba County Planning Dept  
915 8<sup>th</sup> Street, Suite 123  
Marysville, CA 95901

cc: Dan Cucchi, Planning Staff  
cc: Wendy Hartman, Planning Director  
cc: Kevin Mallen, Community Services Director

RE: Comments to 2030 draft General Plan

Enclosed you will find a summary of comments to the draft General Plan. This is only a small fraction of the issues.

The organizational structure is very difficult to follow, major County agencies such as LAFCO aren't even referenced, there is yet no EIR available and there are numerous conceptual diagrams of urban development for a county that is largely rural.

There are so many issues, inconsistencies, overreach and inapplicable content woven throughout the plan, that it is very difficult to see how this plan, as written, can effectively and satisfactorily serve the planning needs of Yuba County for the next 20 years.

Regards,



Charles Sharp  
Property Owner, Yuba County



9-1

## Yuba County 2030 General Plan

A summary of issues and comments raised by the draft General Plan  
10/19/2010

### General Plan Text

**Policy HS3.12** The County will prohibit construction of septic systems in areas with high groundwater recharge potential and will collaborate with trustee agencies and property owners to remove existing septic systems in such areas and either relocate or redesign systems to avoid impacts to groundwater.

**Vision Element pg 6** Reexamine feasibility of continued subdivision into five acre parcels within the foothill community boundaries based on water availability, adequate soil for waste disposal, and other environmental or physical constraints.

**Policy NR6.1** New developments involving the movement, scraping, or leveling of soil in areas of moderate or high potential for prehistoric resources shall conduct archeological background research, site analysis, and surveying to inform site design and avoid impacts to prehistoric sites (see Exhibit Natural Resources 6).

### Comment

Required replacement of septic systems. (cost \$30,000+).

*The Natural Resources Groundwater Recharge Areas map (NR-48), shows large areas of the foothills as having a moderate infiltration rate. This policy could require the redesign and relocation of any number of existing septic systems even though they may be functioning adequately and within their expected lifespan. Policy HS3.12 should not be applicable unless a septic system is demonstrably not performing or if it is determined that the system is adversely affecting groundwater supplies.*

*The Yuba County GIS parcel database needs to include information on the recharge potential of each parcel.*

*Landowners should be able to determine, with certainty, if their property is in an area with high groundwater recharge potential and what impact this policy would have on existing septic systems.*

*This language sets the stage for an across the board downzoning of all currently zoned A/RR5 parcels, based on "other environmental or physical constraints" and could effectively freeze any future subdivision within the rural communities.*

*Freezing future subdivision would not allow future buildout projections to be realized. This also presents a contradiction, projecting a build out that cannot happen if this Vision statement is followed to its logical conclusion.*

*This is an overreach. The map is flawed. The white areas, indicating areas of low sensitivity, are white because there is no data available. There may indeed be more areas that would be classified as high or moderate (red or yellow), and therefore subject to this policy, if the data were available.*

*Applying this policy would present a basic inequality by making one standard applicable for those owners in high or moderate areas, and a different standard for owners not in these areas.*

*Current state law requires that if any prehistoric resource is discovered during the construction phase of a project, that all construction shall stop until the site can be examined and a qualified determination is made as to how to proceed.*

*Policy NR6.3 also covers this possibility. The state standard and Policy NR6.3 is entirely adequate to protect any such prehistoric resources.*

*The Yuba County GIS parcel database needs to include*

9-2

9-3

9-4

9-4

**Implementation** The approval of 4 out of the 5 members of the Board of Supervisors with the following findings is required for any General Plan Amendment:

information on the prehistoric resource classification of each parcel.

Raises bar to super majority for General Plan Amendments.

*The staff has explained that the general plan has a great deal of flexibility, and will be able to accommodate most projects. Therefore, if there is any proposal that needs a general plan amendment, then the bar should be higher.*

*A general plan cannot possible anticipate every planning scenario that might arise over a 20 year timeframe, therefore the flexibility of general plan amendments must be allowed for. Raising the vote for a general plan amendment to 4 out of 5 is an undesirable overreach and it should only be a simple majority - 3 out of 5.*

9-5

*The flexibility that is referred to is very troublesome, as it creates a great deal of uncertainty. The general plan should be as definitive as possible, so that it functions as a plan, setting guidelines in order that projects can have more certainty, not less.*

**Policy NR12.1** The County will manage land use change in a way that prevents overdraft of groundwater supplies, protects overlying groundwater rights, and ensures that the combined use of surface and groundwater resources provides for current and future water demand.

This policy may prevent the drilling of wells.

*This has broad implications in regards to drilling a well for domestic water supplies. In particular, the soil hydrology of the fractured rock geology of the foothills is poorly understood and little data exists on the overall availability of ground water supplies. Policy NR12.1 opens up the possibility of prohibiting the drilling of any domestic use wells, since, because there is a such a scarcity of data, it could be determined that any well may negatively impact groundwater resources and thus needs to be restricted.*

9-6

**Action NR7.13** The County will also consider the feasibility of using fees or actions required to meet County greenhouse gas efficiency policies on a fair-share basis to fund energy efficiency improvements and renewable energy systems in existing developed buildings and the public realm.

Referrers to existing developed buildings

*The term "existing developed buildings" could mean retrofitting homes with efficiency improvements. Are private homes and buildings going to be subject to an energy audit to determine a "GHG" efficiency factor?*

9-7

**HS-34** The County may choose to adopt a different GHG reduction target for countywide emissions (existing and new growth) compared to its threshold for new development. As a part of the GHG Reduction Plan, the County may choose to revise its GHG threshold for new land use projects to be consistent with state and regional regulations and plans, such as those adopted to implement The California Global Warming Solutions Act of 2006 (AB 32) and California's Sustainable Communities and Climate Protection Act (SB 375).

Implications of AB-32 are unclear. It is also unclear how the passage of Proposition 23 would affect AB-32.

9-8

**Vision-5** Reexamine existing plans in the foothills that provide for urban or suburban levels of density that may no longer be preferred for the County and should be re-evaluated in light of infrastructure feasibility, interests of the community, etc.

What does reexamine mean?

*There is no indication of what existing plans this statement is referring to. How are the "interests of the community" to be determined.*

9-9

**Policy CD9.11** Rural Centers should be located along existing or planned future transit routes

*This places an unnecessary restriction on rural center locations to be along transit routes. From a planning point of view, it may be desirable to place a rural center at an intersection along a main road. However, from a community development view point, there may be other sites that might be better suited. It would be undesirable to preclude this possibility if this map leads to zoning these areas, and these areas only, as rural centers. The general plan should not restrict this option.*

**Action NR5.1** Environmental Review and Mitigation

The County will maintain information on biological resources, including data gathered for this General Plan and the NCCP/HCP, and will use this information to determine whether projects could have potentially significant impacts on biological resources, and whether project level biological assessments would be required prior to project approval.

*The requirement for a biological survey must be made on an objective determination of why such a survey is needed and sufficient documentation must be provided by the lead agency to justify the necessity of such a survey.*

*The Yuba County GIS parcel database needs to include information on the biological resources for each parcel, so that a property can determine if their property is in such an area.*

**Action NR5.3** Wetlands and Riparian Buffers

Through review of proposed private and public projects near wetlands and riparian areas, the County will require buffering to protect these important habitats. Setbacks are expected to range from 33 to 150 feet in width. Where stream courses are contained within levees, as in the case of the Bear, Feather, and Yuba rivers, required setbacks shall be measured from the outside toe of the levee. Where levees are not present, the buffer shall be measured from the edge of the active floodway.

*The general plan needs to provide descriptions of riparian areas and maps of sufficient detail that any property owner may determine if any water body or stream on their property shall require setbacks and exactly what the setback requirements or other restricted activities will be.*

**Policy NR5.12** New developments that could affect wildlife movement corridors shall conduct a biological assessment and avoid placing any temporary or permanent barriers within such corridors, if they are determined to exist on site.

Migratory Deer Range Map is out of date.

*The Migratory Deer Range map was last edited in 1979, over 30 years ago. Development patterns that have ensued over the last three decades may have altered the number and paths of migratory deer. New field surveys, done by the Department of Fish and Game, are needed to determine to what extent the migratory patterns of the Mooretown and Downieville deer herds might have been altered from the last map edition in order to determine the current applicability of Policy NR5.14.*

**Policy NR5.14** Within the designated winter and critical winter range of the Mooretown and Downieville deer herds, the County will strongly discourage any development that could substantially adversely affect these species. Where Rural Community Boundary Areas occur within the winter and critical range for these species, new developments shall dedicate permanent open space and provide minimum lot sizes designed to avoid substantial adverse impacts to these species. The County will communicate with the California Department of Fish & Game regarding open space dedication and lot sizes needed to avoid impacts to deer herds.

9-10

9-11

9-12

9-13

**Cucchi, Daniel**

---

**From:** Greg Forest [REDACTED]  
**Sent:** Tuesday, November 02, 2010 8:55 AM  
**To:** Cucchi, Daniel  
**Cc:** Mallen, Kevin; Hartman, Wendy  
**Subject:** General Plan Comment

Dan:

The floodplains depicted on Exhibit "Public Health and Safety 1 - Floodplains" do not match the FEMA Flood Insurance Rate Maps available on the Community Development and Services Agency website (which I assume to be more reliable). Also, it is confusing having both the 100-year and 500-year floodplains on the same exhibit (the 500-year floodplains look smaller!). I suggest using two exhibits: one with the 100-year floodplains (and areas protected by levees) matching the FEMA FIRMs and a separate exhibit showing the 500-year floodplains.

Thank you.

Greg Forest  
Hefner, Stark & Marois, LLP  
[REDACTED]



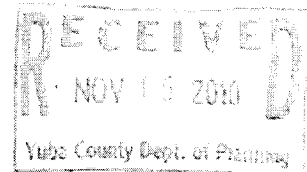
From: Nick Spaulding

November 15, 2010

██████████  
Oregon House, CA 95963

To: Yuba County Planning Commission & Bd. of Supervisors  
**Subject: General Plan Draft (Issues & Concerns)**

Dear Commissioners & Supervisors:



**Primary Concerns:**

**1.) Diminished Role of Planning Commission in Update Process:**

A review of the Commission's Meeting "Minutes" of 3/28/2007, and 4/18, 2007 reveals two important facts:

- a) The Planning Commission has "month to month" experience dealing directly with local businesses, land use issues, and all areas governed by General Plan goals and policies.
- b) Both meetings refer to a General Plan Workshop.

Concern: No record of this early Workshop is available in the Update Library, and in a wider review, looking for of any actual Commission role in shaping input and output from Staff & Consultants.....it appears that "it was decided" very early (2007?) that a Gen. Plan Advisory Committee would instead be the key participant with Staff & Consultants and The Commission would only "review" summary notes of the proceedings between Staff/Consultants & the GPUAC and simply "forward them on" at the recommendations of Staff & Consultants.

11-1

This appears to be a serious disservice to the County stakeholders, to have marginalized the stewardship of the Commission just at the moment of most critical need, that is.....a once in 20 years review and rewriting of the General Plan, codifying the exact issues the Commission works with monthly, as its primary responsibility.

Fortunately, The Planning Commission is now coming forward to review, study directly, and make specific recommendations to the Board of Supervisors. Commissioners can offer much more than a simple "yes or no vote" on Staff's various resolutions. Even if permission was granted to marginalize The Commission's input....it does not follow that it was a good idea.....The experience of The Commission is more to the heart of the Plan Update than the valuable, but less focused input of the GPUAC.

**2.) Questionable Unilateral Actions by Staff & Consultants:**

Staff has often announced successful outreach through a series of workshops:

17 with Bd. of Supervisors, 13 with local communities, etc....Covering all the important issues relating to a sustainable and vibrant community.

Concern:

In the Staff Report to The Planning Commission on Sept 22, 2010, there is a section on the "substantial differences" between the 1996 Plan and the Draft 2030 Plan. None of these major changes shown below were ever specifically mentioned, discussed, or even reviewed by Staff with stakeholders at any of the workshops. When professionals consider the implications of these changes, most agree, thorough discussion was lacking.

- a) Requiring a 4 of 5 Super Majority vote to make any changes to the General Plan.
- b) Compressing 16 land use designations into 6 "mixed use" Placetypes designations.
- c) Compressing 6 of the 7 mandatory elements into 3 "mixed elements" that moves Air Quality into a "harder to amend" category.
- d) Establishment of the Valley Growth Boundary.
- e) Establishment of Collins Lake as a Rural Community, separating it from Dobbins/Oregon House, and thereby violating The Board's wish to leave Rural Community Boundaries unchanged.

11-2

Planning Commission and Board of Supervisors.

Erik Johnson

Oregon House, CA.

I have several concerns regarding the Draft General Plan.

First is the questionable reference to dealing with the Mooretown deer herd located at Policy NR 5.13 in the DGPY stating:

"New developments shall be located and designed to avoid any adverse impact to critical habitat and foraging areas, migratory routes, and wildlife travel corridors for migratory deer herds, as identified by the California Department of Fish and Game."

And to contrast a similar section of the 1996 General Plan at 22-OSCO subline 95-OSCP:

"Critical habitat and foraging areas, migratory routes and wildlife travel corridors identified by the State Department of Fish and Game shall be protected to the extent practical in an effort to sustain local and migratory deer herd populations."

My question is how did we arrive at this quantum leap (change) in policy?

Secondly, Fish and Game is purchasing property for habitat from the Yuba Narrows Ranch for over \$3 million. Shouldn't they buy land instead of controlling General Plans, that devalue taxpayers real estate?

Thirdly, there are no provisions that would notify the public of any changes to the plan that impact zoning.

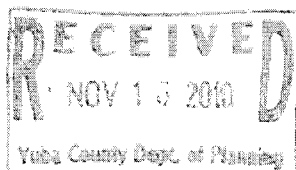
The 1996 General Plan was passed without notification to individual property owners. Those living out of the county never learned of the changes until they came to the Planning Department to get a permit.

Fourthly, in a letter from Fish and Game dated September 20, 2010 to Dan Cucchi from Jeff Drongesen on p.5 and 6 starting at Policy NR 5.14 reference, Mr. Drongesen states that Land Use Policies 16 and 17 (16-21LUP) of the '96 Plan are better designed than the new plan and the new plan "may cause confusion and acrimony over the types of development allowed."

Even Fish and Game may not have had meaningful dialog with staff based on a reading of the above mentioned letter.

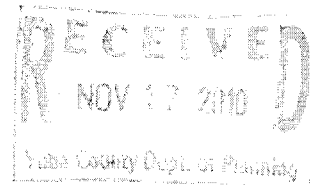
### Recommendations

- 1- Leadership from Commissioners and Supervisors can require meaningful dialogue between staff and stakeholders. A reading of letters of concern from stakeholders shows true dialogue would still be effective and cost effective.
- 2- Commissioners and Supervisors requests for more time to study the actual policies of the Plan itself would be to the benefit of all stakeholders.
- 3- The input of staff and consultants to the General Plan Draft needs to be weighed against the input resulting from true dialogue from stakeholders



Respectfully,

Erik Johnson



### General Plan Issues & Weaknesses

1. **Future growth seems overly vigorous with an unbalanced housing element**
  - General Plan provides for up to 100,000 additional residents at build-out, with expected population growth to reach 137,000 in 2030 (Department of Finance). With the current population at 73,380 (January 2010 Census), this allows for a maximum addition of approximately 63,620 additional residents. The General Plan has nearly twice the expected growth!
  - The housing unit increase does not fit the current or near future projections of what the county expects. We have had a loss of nearly 1000 jobs in the past few years and an increase in housing. With past economic trends not looking good, how can we expect that things are going to suddenly swing back into full gear? Where's the data to support this?
  - Doesn't match growth areas shown SACOG MTP Community Types Map, which shows a slightly smaller growth footprint
  - Projected population numbers don't reflect current economic/social trends
  - Plan should focus more on reinvestment and infill in existing developed areas, where Prime Farmland won't be impacted.13-1
2. **Unbalanced General Plan that's Environmentally Skewed**
  - The GP has had no economic input, which has created an unbalanced plan that doesn't not address the current or future economic status of the county. This is vital information that is needed to determine where the county is and where we need to be. We need a well-balanced plan if we want it to succeed.13-2
3. **Public Health & Safety Element**
  - General Plan is REQUIRED by government code to include specific solutions to how impacts of development on public services and facilities will be funded.
  - General Plan must also address past, current and on-going economic impacts on the current Sub-prime Mortgage Crisis and the corresponding State Fiscal Crisis and it's resulting effects on local agencies ability to provide public services and facilities for future development.
  - General Plan should emphasize that the County will condition future development on availability of public services and facilities.
  - This section DOES NOT address emergency medical, rescues, traffic accidents, and hazardous materials spills.
  - Need policies to address fire-related improvements in foothills.
  - Multi-Hazard Mitigation Plan action items should be included in the General Plan now and not added later as this document will play a crucial role in public health and safety.
  - Action HS9.1 - A more detailed policy should be added to address emergency access and evacuation routes, especially pertaining to the foothill areas. There should be more mention of direction (having a clear in and out), road capacity information should be added as well as the expected level of service for roads.13-313-413-513-613-713-813-9
4. **Vision Element, page 6 – "Reexamine feasibility of continued subdivision into five acre parcels within the foothill community boundaries...."**
  - Language doesn't allow for future subdivision and may even freeze future growth with limitations.
  - Many foothill residents invested in property in the foothills with the intent of subdividing it in the future and this statement severely limits their ability to do so.13-10
5. **Approval of 4/5 members of Board of Supervisors (Implementation Section)**
  - This super majority reduces the flexibility of the general plan and doesn't allow for future changes in the world. There is no way to predict Yuba County will be like in 20 years, so having flexibility is important in keeping the General Plan current with latest trends and issues. The GP must be a constantly evolving document, not a static one.13-11

- According to the Chain of Command, the Board of Supervisors is the governing body that sets policy, so this policy could be revised per their direction. 13-11

#### 6. **Premature EIR and General Plan Adoption**

- There hasn't been nearly enough public input and the General Plan Update isn't even completed. There are still tons of issues and comments that need to be addressed before the General Plan can be finalized. 13-12
- Wording in Resolution for Planning Commission to recommend 'adoption' of General Plan is premature and alternate language needs to be used to allow for additional input from public on both the GP and EIR.

#### 7. **Existing Infrastructure will not Support Future Development**

- According to public comments, Yuba County residents and Emergency Services are concerned about the ability of the current infrastructure to support the proposed development. They believe the infrastructure needs to come BEFORE development.
- Roads, sewer, water, schools and emergency services are at capacity or nearly at capacity to support existing demand.
- Should be policies to support the improvements and development of infrastructure prior to development. A lack of policy to address this potential problem will force new residents to travel further to find services. 13-13
- A lack of improvements proposed for SR65 and SR70 would create further traffic issues and increase emergency response time.
  - ♦ Fehr & Peers April 2009 report stated a substantial increase in trips made would require roadway improvements beyond what's suggested. Fehr & Peers also recommended widening SR65 and SR70 to six lanes and all County Roads 4-6 lanes.
  - ♦ Caltrans September 2010 comments also had recommendation that the capacity of the Yuba River Bridge be increased by adding auxiliary lanes NB from N. Beale Road to right turn at 3<sup>rd</sup> St. and SB from 1<sup>st</sup> St loop ramp to N. Beale off-ramp SB. These improvements could greatly reduce bottlenecks but they are not currently proposed in the GP.

#### 8. **Goal NR1 – Recreational Area needs more policies on recreational facilities**

- Public input, especially from youth, show a lack of gathering places (community or civic centers), lack of community programs for all ages and a lack of public recreational facilities. A lack of stuff to do in Yuba County not only hurts the local community, but it keeps visitors from wanting to come here and spend money. 13-14
- Important to address the need for additional recreational opportunities/programs in the General Plan, not just Parks Master Plan.
- According to the Parks Master Plan, "no government agency is providing organized sports, classes or other recreation programming" within Yuba County. The closest place to find them is in Yuba City.

#### 9. **Lack of Protection of Prime Farmland**

- The Farmland Goals seem way too narrow considering that agriculture occupies 75% of the land and is a billion-dollar industry for Yuba County. 13-15
- Ag is part of economy and history and supports the rural landscape people have come to enjoy.
- Policies NR3.5-3.7 do not adequately address the need for agricultural buffers against urban growth. A 200-300ft buffer would allow farming practices to occur without impediment. 13-16
- Yolo County is very similar to Yuba County in terms of agriculture and their General Plan has policies that support, sustain, reinvent and diversify the agricultural economy. Some important policies/actions that the Yuba County GP could include:
  - Farmland Conservation Mitigation Program requiring 1:1 mitigation
  - Policy to work w/ LAFCO
  - Policy to remove incompatible uses/facilities
  - Whole Education and Awareness goal set to promote agriculture and ag recreation.
  - Promote the use of the Williamson Act for ag preservation
  - Creation of an Agricultural District Program designed to promote agricultural endeavors while helping to relax regulatory standards. With the agricultural business constantly changing, we have to evolve with it and diversify to find new ways to increase our agricultural base with higher value crops. 13-17

#### **10. Greening of Yuba County & Policy HS3.15 – Mandatory Rainwater Collection**

- Rainwater collection does not allow the ground water to recharge and forces extra costs onto the developer/homeowner (\$1500-\$3000/home).
- Reducing surface runoff can be achieved through Low Impact Development design strategies such as native landscaping and pervious paving for driveways and parking lots can help decrease runoff and increase infiltration. Bio-swales can also help control surface runoff while providing for infiltration and filtering of runoff.
- There is a strong feeling in the rural communities that the “greening” of Yuba County will strongly impact them financially, trying to meet requirements. I believe a more ‘focused’ greening of Yuba County is needed, to address the more urban areas, which generally have increased development runoff, higher albedo, increased light pollution and higher water use for things like streetscapes and parks.

#### **11. Air Quality & AB32**

- Developers aren’t familiar with “greening” techniques and applications and may shy away from Yuba County if we become too strict. We need to make sure we aren’t discouraging developers by trying to find a happy medium.
- AB32 is still really new and lots of questions are being raised about how/if this new requirement will be achieved. Some developers may just stay away from it entirely b/c it becomes extra work for them to try and figure this stuff out.

#### **12. The Building Industry Association had concerns about the ability of new developers to meet Policy HS5.2 and HS5.4 on GHG Emission requirements.**

- Isn’t enough data available to fully address this issue and make it easier for developers to complete the requirement, which they call, “virtually impossible for any new project.”
- Lack of information on current per-capita VMT or County GHG emission rates.
- Lack of transit services to support this effort
- The North State BIA is very concerned about the intent to set GHG emission levels and worry it could completely stop development altogether.

#### **13. Concern about Land-Use classification of the Magnolia Ranch and Woodbury Specific Plans and lack of inclusion of the Wheatland Area for future development.**

- Both the Magnolia Ranch and Woodbury Specific Plans are designated in the Land Use Diagram (CD2) as Natural Resources when they are clearly Valley Neighborhood designations according to their respective plans.
- A lack of proper land-use designation feels like the map was purposefully made to look as if future development would not be located in these areas designated as Natural Resources. These specific plans are in the process of being approval by the County and are expected to be part of the Valley Neighborhood according to their project scope.
- Also, the exclusion of the Wheatland area for development does not match the SACOG MTP Community Types Map, which shows Wheatland as having some growth where as the General Plan shows none. This isn’t realistic to suggest that Wheatland won’t be growing.

DOAC1

DOBBINS/OREGON HOUSE ACTION COMMITTEE  
OREGON HOUSE CA 95962

PO BOX 703

PHONE (530) 692-0110  
October 18, 2010

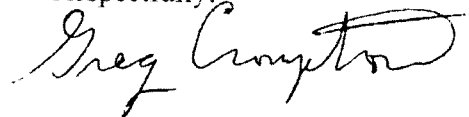
Mr. Dan Cucchi, Project Planner  
Community Development and Services Agency  
915 Eighth St. Ste. 123  
Marysville, CA 95901

Dear Mr. Cucchi:

Attached is an updated list of comments regarding issues addressed at several meetings of our Community Planning Subcommittee. We had sent an earlier version of this list on October 18th which is included here as pages 1 through 5 of the attached list. We sincerely hope these comments will be helpful with the County's efforts in updating our General Plan. Our group has a primary objective of finding ways to meet requirements of law, for which County Government must ensure compliance, while protecting private property rights and ensuring that communities such as ours develop in ways that both protect the environment and meet the needs and desires of its citizens.

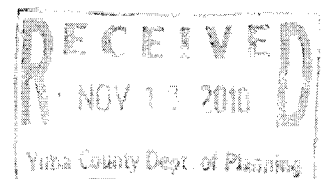
Thank you for considering our comments.

Respectfully:



Greg Crompton, Chairman  
Dobbins/Oregon House  
Action Committee

cc: Mr. Kevin Mallen, Director Community Development and Services Agency  
Yuba County Planning Commissioners  
Yuba County Board of Supervisors



**Draft General Plan**  
**Review Comments**

<b><u>Page</u></b>	<b><u>Comment</u></b>	
Vision 1	Lake Frances Reservoir was not constructed in the 1960's, nor was it constructed to improve flood safety. Also, it is not Lake Francis (spelling).	14-1
Vision 3	The picture looks to be of an event in the logging show conducted at the now discontinued Mountain Fair. It should be captioned to explain it.	14-2
Vision 4	Under "Economic Independence": Why limit home business opportunities to those utilizing "advances in electronic technology"? Any "cottage industry" that does not materially modify the appearance of a parcel zoned and developed for residential and/or agricultural/rural residential use, nor more than minimally impact vehicular traffic should be a permitted use on any parcel developed for residential use and accordingly occupied. Examples of such home business activities are creation of art work, sales of products or services via internet or telephone, creation of "craft" items for sale, and information and record keeping services.	14-3
Vision 5	Under "Preservation of Rural Lifestyle": Add to the "Preserve foothill Community boundaries" paragraph an item called "conifer woodlands, especially those suitable for timber production." (or just include conifer woodlands without limiting it to oak woodlands).	14-4
Vision 6	Under "Protect prime agricultural lands", include timber production lands, as this is an economically important economic asset in rural communities in the Yuba County foothill and mountain communities.	14-5
Purpose & Content 3	Caption the picture.	14-6
Context 1	Under "Settlement": Add Dobbins-Oregon House and Camptonville.	14-7
Context 2	Under "Local Economy": In referring to use of agricultural land, include timber as a crop and evaluate the notion of including pasture land (or is pasture land covered by referring to "field crops"?)	14-8
Context 2	Under "Land Cover": There are two problems with the paragraph. The reference to "above roughly 2,800 feet" seems above where the described forestation occurs, which may actually be somewhat lower (2,500 feet). Further the sentence referring to "Montane hardwood - conifer" etc. and "in the western half of Yuba County" is quite confusing. Most of this arises in the way the wording "at middle and lower elevations in the western half of Yuba County" attaches to the vegetation referenced in the sentence.	14-9
Context 2	Under "waterways": This should refer to Yuba County being <u>partially</u> within the Sacramento River Basin.	14-10
Process 2	The "Coding Key" on the lower right of the map is too small and complex. It will render the map confusing and useless to many average citizens.	14-11

**Draft General Plan**  
**Review Comments**

<b><u>Page</u></b>	<b><u>Comment</u></b>	
Process 5	Under "Safety": Verification that compliance with the "Pre-Hazard Mitigation Plan" in the Safety Element has been achieved will require in depth review and perhaps a longer review period than that which has currently been publicized by County Staff. Ditto with regard to reference to overflight zones and the Joint Land Use Study (JLUS).	14-13
Process 6	The diagram is too small.	14-13
Process 7	The map legend (lower right) is too small and will render the map confusing to many citizens.	14-14
Community Dev. 1	Caption the picture.	14-15
Community Dev. 8	Under "Rural Community" on Community Development Table 1: Include cottage industry with "Allowable Uses".	14-16
Community Dev. 9	Map colors for Valley Neighborhood and Rural Community are so similar that it is difficult to differentiate on the map.	14-17
Community Dev. 12	Definition for the designation du/ac was not found. Context seems to infer something like dwelling units per acre.	14-18
Community Dev. 18	The color Coded Captioning below the graphic is upside down.	14-19
Community Dev. 43	Caption the pictures.	14-20
Community Dev. 44	Policy CD12.3: The wording is confusing, particularly "The County will stormwater master plans..."	14-21
Community Dev. 45	Policy CD12.5, specify in the wording that this refers to water. Further, for a single family rural residence, this may not be practical.	14-22
Community Dev. 46	Policy CD13.5, for paragraph associated with second "bullet", the inclusion of the parenthetical word (exporting) is confusing.	14-23
Community Dev. 48	Action CD14.2, the inclusion of the parenthetical word (exporting) is confusing.	14-24
Community Dev. 49	Policy CD15.1, reword to say "related to special species habitats, floodplains- -"	14-25
Community Dev. 49	Policy 15.5 Specify or include gray water (possibly specifying that this be done using some sort of approved methodology and/or, if applicable, defining allowable sources or applications).	14-26
Community Dev. 49	Policies CD15.6 and 15.7 Define "Low Impact Development" either by footnote or reference	14-27



**Draft General Plan**  
**Review Comments**

<b><u>Page</u></b>	<b><u>Comment</u></b>
Community Dev. 49	Policy CD15.11 Include conveniently located recycling collection facilities in rural areas to serve in lieu of collections at individual residences. 14-32
Community Dev. 50	Under Action CD15.2, 2nd paragraph line 3. "during impact fee revision" vice "as impact fees are revised" 14-29
Community Dev.52	Under "• Physical" include safety related to major impacts. 14-30
Community Dev. 52	Under "• Economic" We question the relevance of associating physical circulation and ideas. Also, why limit involved personnel to employees? 14-31
Community Dev. 52&53	Under "Relationship to other Sections and Elements", the introductory paragraph cites a close relationship to public health and safety. In the subsequent bulleted paragraphs it refers only to access to civic facilities including fire stations and public facilities. It seems that emergency access by fire suppression, emergency medical and law enforcement resources, and safe emergency evacuation routes should be cited as part of an important relationship to "other Sections and Elements" if not directly addressed in the Circulation Section of the Community Development element. 14-32
Community Dev. 53&54	Labeling, and references to, "Table Community Development 5" should be changed to "Community Development Table 5" 14-33
Community Dev. 53	The last phrase in the 1st paragraph under "Vehicular Circulation Diagrams and Roadway Standards" stating "a document which provides more detailed guidance." is confusing. It would seem to be the type of reference frequently used if it were referring to another document. Since it appears in the General Plan it can be erroneously interpreted to indicate that some other document is involved. Literally it can be interpreted to mean, as punctuated, that the General Plan provides more detailed information than the General Plan. 14-34
Community Dev. 54	Footnote 11 refers to an area in the document 14 pages beyond the footnote. It should refer to the page number rather than just "below" to enhance understanding. 14-35
Community Dev. 55	Under "Freeways and Highways", first paragraph, reference to trucks should probably characterize them as personal pick up, or similar trucks and, commercial trucks. 14-36
Community Dev. 56	Reference to Exhibits and Tables would seem better worded as "Community Development Exhibit X" and "Community Development Table Y". This comment applies in many areas in the document. 14-37
Community Dev. 57	Labeling for Waldo Rd., Long Ravine Rd. and Spenceville Rd. (south of Beale) is missing. 14-38

**Draft General Plan**  
**Review Comments**

<b><u>Page</u></b>	<b><u>Comment</u></b>	
Community Dev. 58	Depiction of Indiana School and Indiana Ranch Roads may be better removed and replaced by Frenchtown-Dobbins Road from Marysville Rd. to Frenchtown Rd. This reflects the route most people use between Dobbins and Brownsville.	14-40
Community Dev. 60&61	The narrative on Pg. 60 seems to exclude the "Bicycle Route" references in the Table on Pg. 61. There seems to be some significant bicycle traffic in the foothills probably more for health and exercise related goals than transportation, but this is a worthy activity for our people and the County should encourage it.	14-40
Community Dev. 61&63	This may be the wrong area in the plan for this suggestion, but there is an excellent trail from Vista Point near the Bullards Bar Dam to Highway 49 used frequently by "Mountain Bikers." This should be referenced and County Policy should include some sort of encouragement and/or publicity as there is potential for enhanced tourism and associated economic activity.	14-41
Community Dev. 66	Descriptions of "Levels of Service" are appropriately very subjective. However, it might help if criteria such as a typical expected percentage of the posted speed limit that traffic will move during maximum peak hour volumes be determined and included.	14-42
Community Dev. 70	Policy CD16.6 Meaning is unclear. Does this mean construct and dedicate new roads within the development or construct and dedicate improvements to General Plan Roads?	14-43
Community Dev. 70	Policy CD16.3 This may miss a point with respect to rural roads in the Dobbins/Oregon House area. By definitions given the level of service will probably be better than D at peak hours for most development likely to occur in the area. But physical road conditions may be less than safe, and routes may be inadequate for traffic during emergency conditions.	14-44
Community Dev. 70	Policy CD16.11 Wording might better be "The County will analyze transportation impacts and identify or specify any required mitigation measures in----"	14-45
Community Dev. 72	General Comment with respect to measures intended to reduce Vehicle Miles Travelled (VMT). Recent reviews of a new all electric automobile included many superlative comments about the vehicle. Unfortunately, however, a foothill resident would probably not be able to make a round trip to town without a recharge. Should the GP document County encouragement of pay per KWH recharge stations in parking lots?	14-46
Community Dev. 79	Policy CD20.1 Are multiple points of access likely to contribute to stop and start traffic on the collector and/or arterial roads involved? Is this likely to create more points where accidents could occur?	14-47

**Draft General Plan**  
**Review Comments**

<b><u>Page</u></b>	<b><u>Comment</u></b>
Community Dev. 80	Goal CD.21 and associated policies. See general comment regarding reduction of VMT. It seems that Government has a tendency to try to force behavior on citizens that they don't want. Actually Government should work toward mitigating the undesirable consequences of activities desired by citizens. Examples include requiring commercial centers within compacted residential areas. People will still travel miles to the "Big Box" Store or the Walmart etc. because the prices are lower or the selections are greater. Reducing the size of parking lots will be more likely to cause hostility among citizens than to achieve intended purposes. 14-48
Public Health& 4	Policy HS1.3: Replace words "do not" with "will not" 14-49
Public Health& 6	For Exhibit Public Health and Safety 2, change titling to read "Public Health and Safety Exhibit 2: Inundation Areas for Catastrophic Dam Failures Inside Yuba County" 14-50
Public Health& 7	For Exhibit Public Health and Safety 3: Change titling to read "Public Health and Safety Exhibit 3: Inundation Areas for Catastrophic Dam Failures Outside Yuba County". Also, color coding is confusing with respect to inundation area related to Lake Almanor and the location of Lake Oroville. Adding color coding for water to Lake Oroville and some text explaining Almanor's relation to Oroville may help. What is shown is probably the effect on Oroville's water level and additional spillway flow. 14-51
Public Health& 13	Policy HS2.1: This policy omits a requirement to demonstrate compliance with a requirement for an evacuation route (or routes) that permit(s) safe egress for evacuees with simultaneous ingress of fire suppression resources during circumstances of worst predicted wild fire behavior. Additionally, the road characteristics such as number of lanes and the ability to dissipate the traffic (something similar to level of service) should be included. 14-52
Public Health& 13	Policy HS2.2: This policy also omits reference to safe evacuation as identified above with respect to Policy HS2.1. 14-53
Public Health& 14	Policy HS2.9: Add language to this policy stating that use of public trails and unimproved roads for evacuation during a wild fire must be as an augmentation to evacuations over mandated routes and, must be managed during the process of evacuating to preclude use by vehicles that are ill suited to traversing such routes and may end up stuck and blocking further traffic. 14-54
Public Health& 14	Policy HS2.10: Wording in this policy, ("during a wild fire") can be interpreted to refer to any wild fire, without considering worst predicted wild fire behavior. Where limited access roads are proposed for emergency access and evacuation routes they must be utilized as augmentation to otherwise mandated routes unless they qualify physically to be used as a mandated route. 14-55

**Draft General Plan**  
**Review Comments**

<b><u>Page</u></b>	<b><u>Comment</u></b>
Public Health& 14	Policy HS2.12: Recommend replacing the word "pervious" with "accessible." 14-53
Public Health&16	Last line in text on page stating "Exhibit Public Health and Safety 6)", could not find said exhibit in printed copy. Also, as recommended in comment referenced from the Community Dev. Page 56, this would be better titled as "Public Health and Safety Exhibit 6". 14-57
Public Health&20	Policy HS3.12 implies that, or at least would allow, the County to require a homeowner to cease using an existing septic system and, upgrade or replace it. Wording associated with this policy should state: "In cases where an existing septic system has not failed, is serving a residence and has previously been approved with a permit issued, payment of cost involved with compliance with this policy will be sought and acquired by the County. County will protect homeowners from all hardship that compliance with this policy can cause." This comment is made based on an apparent potential for compliance with this policy to cause a resident with an existing septic system to be forced out of his/her home due to inability to afford said compliance. 14-58
Public Health&24	In the first paragraph, third sentence, refer to the Air Installation Compatible Use Zone (AICUZ) Study and the Joint Land Use Study (JLUS) in the sequence they were completed. 14-59
Public Health&24	Caption the picture. 14-60
Public Health&27	Define "mitigate noise impacts" in terms of a minimum acceptable attenuation of the 65db level to a specific decibel level. 14-61
Public Health&30	Under "Approaches to GHG Reduction Standards", 2nd paragraph, some wording is confusing. The first sentence refers to an approach to Green House Gas (GHG) emissions as a "percentage reduction for community-wide emissions or government operations." The relationship to a percentage of GHG for "government operations" is unclear. Further, replacement of the words "a roughly" with "an approximate" (two instances) in the second sentence would read a little better. 14-62
Public Health&30	Footnote 15: In the last sentence replace "locations and projects" with "locations as for projects" to clarify meaning. 14-63
Public Health&31	Second Paragraph: Sentence starting with "1990, as noted" reword to "As Noted, 1990". Further, interpretation of the last sentence in the paragraph appears that it is intended to illustrate conceptually a per capita relationship to GHG. It seems that to do this you would need to divide the projected population and employment numbers by the 1990 values. This would produce a percentage by which efficiency per capita would need to improve. The sentence, as stated, would produce a meaningless number. 14-64

**Draft General Plan**  
**Review Comments**

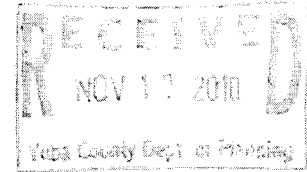
<b><u>Page</u></b>	<b><u>Comment</u></b>
Public Health&32	The last paragraph appears to be based on assumptions that are at best theory. It seems appropriate to characterize the information it provides as "worst case assumed consequences" of anticipated climate change. Further, the first sentence seems to inappropriately mix apples and oranges - or (theoretical) cause and (assumed) effects. Suggest reword first sentence to read: "In addition to attempting to mitigate the magnitude of climate change through green house gas emissions efficiency, local governments must address adapting to the consequences of climate change." 14-65
Public Health&41	Policy HS8.6: Provide definitions for "NPDES" and W.D.I.D. 14-66
Public Health&43	Policy HS9.3: Reference to Highway 49 in the "lower half" of the County is in error. This runs from the Sierra County Line to the Nevada County Line in the north-east area of the County. The road from the Rackerby area to the Plumas County Line North of Strawberry Valley is believed to be La Porte vice La Porte-Quincy Road. 14-67
Public Health&43	Action HS9.1: This action emphasizes mitigation related to flooding for emergency routes. Seemingly there should be similar regard for both emergency access and egress during wildfires with respect to emergency preparation including roadside clearing, and orientation such that there is always egress away from the flame front of wind driven wildfires. 14-68
Public Health&45	Exhibit Public Health and Safety 12: La Porte and Frenchtown Roads are not labeled. Frenchtown Road is specified as a primary evacuation route in Policy HS9.3 but is not color coded as such in the Exhibit. Also, a reminder of the titling comment in reference to page Community Development Page 56 which would title this as "Public Health and Safety Exhibit 12." 14-69
Public Health & 47	<p>It seems that the narrative on this page goes beyond that which might be useful to most people who would be involved in interpreting this General Plan. As information that could help understanding the goals and policies related to noise, explanations of sound levels might be better if limited to stating that they are "quantified on a logarithmic scale called decibels (db) that is expressed in terms of how they are perceived by the human ear (dba)." To further enhance understanding of sound level measurements, specify the levels that are generally accepted as barely perceptible, as annoying or loud, and as injurious or painful. Then describe conceptually how peaks or impulses of sound or noise, and the conditions under which they occur, impact or modify the manner in which sound levels, over increments of time, are perceived by people. 14-70</p> <p>The definition of Community Noise Equivalent Level (CNEL) included in this Draft General Plan is useful. Reference should also be made in narrative form to the concepts involved in charting noise levels in tables and graphs to depict equivalent levels over increments of time where intermittent peak levels are present (such as aircraft passing over and recurring impulses of sound) and the relevance of issues, such as the time of day and ambient noise, to the perceptions of sound.</p>

**Draft General Plan**  
**Review Comments**

<b><u>Page</u></b>	<b><u>Comment</u></b>	
Public Health & 49	Table Public Health & Safety 1: Change titling to "'Public Health & Safety Table 1: Noise Exposure Acceptability Levels from Transportation Sources for Noise Sensitive Land Uses".	14-71
Public Health & 50	Tables 2 & 3: Lay person understanding might be enhanced if designations " $L_{eq}$ and $L_{max}$ " were replaced by "Equivalent" and "Max" or "Maximum" since levels are quantified in dba anyway.	14-72
Public Health & 51	Policy HS10.14: Exemptions should probably be limited to levels below that which could cause hearing damage or pain.	14-73
Public Health & 51	Action HS10.1: Although the Beale Joint Land Use Study (JLUS) is referenced in Policy HS10.11 along with an affected airport's Comprehensive Land Use Plan (CLUP) it is omitted from this action regarding Airport Land Use Planning.	14-74
Public Health & 53	Policy HS11.1: Discouraging restaurants that do not provide health food choices implies that it's acceptable for Government to interfere with the free choices of its citizens. In the opinions of many, "Big Brotherism" is outside the purview of Government.	14-75
Public Health & 53	Policy HS11.4: Define "Environmental Justice".	14-76

From: Alyssa Lindman

Marysville, CA 95901



November 18, 2010

To: Planning Department, Board of Supervisors and Planning Commission Staff  
Yuba County General Plan Update  
915 8<sup>th</sup> Street, Suite 123  
Marysville, CA 95901

Subject: Draft Yuba County General Plan 2030 (5 pages total)

Yuba County Supervisors, Commissioners & Staff:

My name is Alyssa Lindman and I live in the Edgewater Community. I have a background in studying landscape architecture and have worked on a wide variety of projects, including park master plans, bike trails, restoration and even city/county planning documents. I am also a LEED Accredited Professional so I am familiar with "greening techniques". From an environmental standpoint, the General Plan has a lot of really appealing 'green' goals and policies. However, as I began to pour through all the public letters and documents trying to get the big picture, I found there was a lot of issues/concerns being brought up. I began to get a sense that community input was not being valued or incorporated into the General Plan Update. These citizens and stakeholders are key players here and to know that their input isn't being properly acknowledged concerns me. I prepared a list (included at the end of my letter) of some of the most important issues that have been brought up by stakeholders, agencies and residents. I presented this list to the Planning Commissioners last night at their meeting. The list of concerns show just how severely unbalanced the General Plan is. It's lacking not only important input from citizens but economic input to balance the strongly environmental theme. We are at a critical crossroads here. If the General Plan is adopted as is, it would be lacking valuable community input that SHOULD have played a pivotal role in shaping Yuba County. I realize there has been community workshops and people had a chance to comment, but from my experience with workshops, they are **always** organized in a way that does not allow out of the box thinking. The public is guided through the process and it IS NOT an open public forum where issues can be brought up at will and discussed amongst everyone. The

15-1

15-2

15-2

letters that have been pouring in over the past few weeks are FULL of really important issues and staff says there are no resources to properly address them so they can be included in the General Plan Update process. I keep hearing these statements that we had our chance and now there's no more time or money. Yet, if the General Plan and EIR are approved without this input, it could put more strain on an already burdened county and possibly lead to feelings of anger, resentment and distrust towards county government. We SHOULD be creating a healthy relationship of two-way communication with thoughtful and constructive discussions. Again, I am asking for a true dialogue to begin. I would like a feedback loop where citizens can directly discuss concerns with staff and know that their suggestions are being incorporated. We know the letters have been received but what we really want to see is a measurable action. We want to see the impact of these letters in the General Plan and EIR. As it stands, how can this possibly be a "document that best represents the vision of the residents of Yuba County" when there are concerns that haven't been addressed and key players that have not been involved in the planning process?

Thank you for your time,

*Alyssa Lindman*  
Alyssa Lindman

### **General Plan Issues & Weaknesses: A Summary of Public Comments**

#### **1. Future growth seems overly vigorous with an unbalanced housing element**

- General Plan provides for up to 100,000 additional residents at build-out, with expected population growth to reach 137,000 in 2030 (Department of Finance). With the current population at 73,380 (January 2010 Census), this allows for a maximum addition of approximately 63,620 additional residents. The General Plan has nearly twice the expected growth!
- The housing unit increase does not fit the current or near future projections of what the county expects. We have had a loss of nearly 1000 jobs in the past few years and an increase in housing. With past economic trends not looking good, how can we expect that things are going to suddenly swing back into full gear? Where's the data to support this?
- Doesn't match growth areas shown SACOG MTP Community Types Map, which shows a slightly smaller growth footprint
- Projected population numbers don't reflect current economic/social trends
- Plan should focus more on reinvestment and infill in existing developed areas, where Prime Farmland won't be impacted.



**2. Unbalanced General Plan that's Environmentally Skewed**

- The GP has had no economic input, which has created an unbalanced plan that doesn't not address the current or future economic status of the county. This is vital information that is needed to determine where the county is and where we need to be. We need a well-balanced plan if we want it to succeed.

**3. Public Health & Safety Element**

- General Plan is REQUIRED by government code to include specific solutions to how impacts of development on public services and facilities will be funded.
- General Plan must also address past, current and on-going economic impacts on the current Sub-prime Mortgage Crisis and the corresponding State Fiscal Crisis and it's resulting effects on local agencies ability to provide public services and facilities for future development.
- General Plan should emphasize that the County will condition future development on availability of public services and facilities.
- This section DOES NOT address emergency medical, rescues, traffic accidents, and hazardous materials spills.
- Need policies to address fire-related improvements in foothills.
- Multi-Hazard Mitigation Plan action items should be included in the General Plan now and not added later as this document will play a crucial role in public health and safety.
- Action HS9.1 - A more detailed policy should be added to address emergency access and evacuation routes, especially pertaining to the foothill areas. There should be more mention of direction (having a clear in and out), road capacity information should be added as well as the expected level of service for roads.

**4. Vision Element, page 6 – "Reexamine feasibility of continued subdivision into five acre parcels within the foothill community boundaries...."**

- Language doesn't allow for future subdivision and may even freeze future growth with limitations.
- Many foothill residents invested in property in the foothills with the intent of subdividing it in the future and this statement severely limits their ability to do so.

**5. Approval of 4/5 members of Board of Supervisors (Implementation Section)**

- This super majority reduces the flexibility of the general plan and doesn't allow for future changes in the world. There is no way to predict Yuba County will be like in 20 years, so having flexibility is important in keeping the General Plan current with latest trends and issues. The GP must be a constantly evolving document, not a static one.
- According to the Chain of Command, the Board of Supervisors is the governing body that sets policy, so this policy could be revised per their direction.

**6. Premature EIR and General Plan Adoption**

- There hasn't been nearly enough public input and the General Plan Update isn't even completed. There are still tons of issues and comments that need to be addressed before the General Plan can be finalized.
- Wording in Resolution for Planning Commission to recommend 'adoption' of General Plan is premature and alternate language needs to be used to allow for additional input from public on both the GP and EIR.

**7. Existing Infrastructure will not Support Future Development**

- According to public comments, Yuba County residents and Emergency Services are concerned about the ability of the current infrastructure to support the proposed development. They believe the infrastructure needs to come BEFORE development.

- Roads, sewer, water, schools and emergency services are at capacity or nearly at capacity to support existing demand.
- Should be policies to support the improvements and development of infrastructure prior to development. A lack of policy to address this potential problem will force new residents to travel further to find services.
- A lack of improvements proposed for SR65 and SR70 would create further traffic issues and increase emergency response time.
  - ♦ Fehr & Peers April 2009 report stated a substantial increase in trips made would require roadway improvements beyond what's suggested. Fehr & Peers also recommended widening SR65 and SR70 to six lanes and all County Roads 4-6 lanes.
  - ♦ Caltrans September 2010 comments also had recommendation that the capacity of the Yuba River Bridge be increased by adding auxiliary lanes NB from N. Beale Road to right turn at 3<sup>rd</sup> St. and SB from 1<sup>st</sup> St loop ramp to N. Beale off-ramp SB. These improvements could greatly reduce bottlenecks but they are not currently proposed in the GP.

#### **8. Goal NR1 – Recreational Area needs more policies on recreational facilities**

- Public input, especially from youth, show a lack of gathering places (community or civic centers), lack of community programs for all ages and a lack of public recreational facilities. A lack of stuff to do in Yuba County not only hurts the local community, but it keeps visitors from wanting to come here and spend money.
- Important to address the need for additional recreational opportunities/programs in the General Plan, not just Parks Master Plan.
- According to the Parks Master Plan, "no government agency is providing organized sports, classes or other recreation programming" within Yuba County. The closest place to find them is in Yuba City.

#### **9. Lack of Protection of Prime Farmland**

- The Farmland Goals seem way too narrow considering that agriculture occupies 75% of the land and is a billion-dollar industry for Yuba County.
- Ag is part of economy and history and supports the rural landscape people have come to enjoy.
- Policies NR3.5-3.7 do not adequately address the need for agricultural buffers against urban growth. A 200-300ft buffer would allow farming practices to occur without impediment.
- Yolo County is very similar to Yuba County in terms of agriculture and their General Plan has policies that support, sustain, reinvent and diversify the agricultural economy. Some important policies/actions that the Yuba County GP could include:
  - Farmland Conservation Mitigation Program requiring 1:1 mitigation
  - Policy to work w/ LAFCO
  - Policy to remove incompatible uses/facilities
  - Whole Education and Awareness goal set to promote agriculture and ag recreation.
  - Promote the use of the Williamson Act for ag preservation
  - Creation of an Agricultural District Program designed to promote agricultural endeavors while helping to relax regulatory standards. With the agricultural business constantly changing, we have to evolve with it and diversify to find new ways to increase our agricultural base with higher value crops.

#### **10. Greening of Yuba County & Policy HS3.15 – Mandatory Rainwater Collection**

- Rainwater collection does not allow the ground water to recharge and forces extra costs onto the developer/homeowner (\$1500-\$3000/home).

- Reducing surface runoff can be achieved through Low Impact Development design strategies such as native landscaping and pervious paving for driveways and parking lots can help decrease runoff and increase infiltration. Bio-swales can also help control surface runoff while providing for infiltration and filtering of runoff.
- There is a strong feeling in the rural communities that the “greening” of Yuba County will strongly impact them financially, trying to meet requirements. I believe a more “focused” greening of Yuba County is needed, to address the more urban areas, which generally have increased development runoff, higher albedo, increased light pollution and higher water use for things like streetscapes and parks.

#### **11. Air Quality & AB32**

- Developers aren’t familiar with “greening” techniques and applications and may shy away from Yuba County if we become too strict. We need to make sure we aren’t discouraging developers by trying to find a happy medium.
- AB32 is still really new and lots of questions are being raised about how/if this new requirement will be achieved. Some developers may just stay away from it entirely b/c it becomes extra work for them to try and figure this stuff out.

#### **12. The Building Industry Association had concerns about the ability of new developers to meet Policy HS5.2 and HS5.4 on GHG Emission requirements.**

- Isn’t enough data available to fully address this issue and make it easier for developers to complete the requirement, which they call, “virtually impossible for any new project.”
- Lack of information on current per-capita VMT or County GHG emission rates.
- Lack of transit services to support this effort
- The North State BIA is very concerned about the intent to set GHG emission levels and worry it could completely stop development altogether.

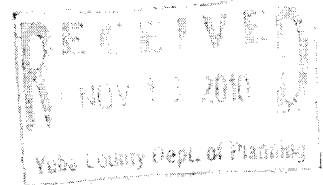
#### **13. Concern about Land-Use classification of the Magnolia Ranch and Woodbury Specific Plans and lack of inclusion of the Wheatland Area for future development.**

- Both the Magnolia Ranch and Woodbury Specific Plans are designated in the Land Use Diagram (CD2) as Natural Resources when they are clearly Valley Neighborhood designations according to their respective plans.
- A lack of proper land-use designation feels like the map was purposefully made to look as if future development would not be located in these areas designated as Natural Resources. These specific plans are in the process of being approval by the County and are expected to be part of the Valley Neighborhood according to their project scope.
- Also, the exclusion of the Wheatland area for development does not match the SACOG MTP Community Types Map, which shows Wheatland as having some growth where as the General Plan shows none. This isn’t realistic to suggest that Wheatland won’t be growing.

Nick Spaulding  
Oregon House, CA 95962

Nov. 19, 2010

Board of Supervisors  
Planning Commissioners  
Planning Staff  
Yuba County Draft General Plan



**Concerns and Request for Board & Commissioner Review:**

Staff is giving County power and authority over to Fish & Game. The land use authority and responsibility rests with the elected County Supervisors, not an unelected State trustee agency. SACOG and the State Constitution recognize the County as lead agency and land use authority.

① **1996 General Plan Policy 16-LUP** clearly shows the County Policy on Open Space and Lot Size in the Foothill Ag. designation recognizing deer herd movement and protection, and giving guidelines for allowable development. (ATTACHED) 1

② However, in the Draft **General Plan 2010: Natural Resources** page 27 (ATTACHED) 2  
Policy NR5.14 (last sentence) the new wording the County defers its authority:

***".....The County will communicate with the California Department of Fish & Game regarding open space and lot sizes needed to avoid impacts to deer herds."***

16-1

This new wording takes out the specific policy language of 1996 and injects vagueness and uncertainty into the deer herd/development impact issue.

③ Even Fish & Game noted the 1996 Plan wording is more clear and practical:  
Fish & Game Comment Letter (attached) to County on Draft GP 2010:  
Letter dated Sept. 20, 2010, pages 5 to 6 refers to 1996 Plan wording:  
"Policy NR5.14:

***Land Use Policies 16 and 17 (16 & 17 LUP) provide greater specificity than the corresponding policy .....which does not include direction regarding the amount of open space to be conserved. This policy may increase confusion and acrimony over the types of development allowed....."***

④ Attorney William Abbott's letter (attached) to the County in 1996 clearly states the County's statutory position regarding Fish & Game in the 1996 General Plan process:

***"As the decision-maker, the Board of Supervisors is required by CEQA to balance the benefits of a proposed project against the unavoidable environmental risks. If the benefits of the proposed project outweigh the unavoidable adverse environmental effects, the adverse environmental effects may be considered "acceptable."***

***(CEQA Guidelines 15093(a))***

Your consideration of this and many other issues is requested.

Thank you  
Nick Spaulding



16-LUP

In the Foothill Agriculture designation, clustered development may occur at a density of one unit per five acres, provided that permanent open space is provided as follows:

- 50% for parcels or projects up to 40 acres in size
- 60% for parcels or projects greater than 40 acres up to 160 acres
- 70% for parcels or projects greater than 160 acres

17-LUP

All open space must be permanently set aside for one or more of the following purposes:

- Agriculture, including livestock grazing
- Timber management
- Wildlife habitat
- Other natural resource based uses

18-LUP

If the open space parcel can be further divided based on the zoning it must be:

- Rezoned to preclude further divisions, or
- Deeded to a public agency or non-profit entity (land trust), or
- Encumbered by a conservation easement for agriculture, wildlife habitat, open space, timber management, or a combination, or



- Policy NR5.7 New private developments adjacent to riparian areas shall provide a buffer designed and maintained to preserve existing wildlife habitat; provide habitat conditions favorable to native local wildlife; restrict activities that may adversely affect wildlife habitat quality; and restore degraded habitat, where feasible.*
- Policy NR5.8 New developments shall be designed to avoid the loss of jurisdictional wetlands. If loss is unavoidable, the County will require applicants to mitigate the loss on a "no net loss" basis through a combination of avoidance, minimization, restoration, and/or constructed wetlands, in accordance with federal and state law.*
- Policy NR5.9 The County will encourage measures on agricultural lands that conserve or restore habitat.*
- Policy NR5.10 The County will support the use of mitigation fees from the Yuba-Sutter Natural Community Conservation/Habitat Conservation Plan to fund preservation and restoration elements of the County's open space strategy.*
- Policy NR5.11 Any new developments adjacent to the Spenceville Wildlife Refuge, Marysville Wildlife Area, Feather River Wildlife Area, Daugherty Hill Wildlife Area, or Starbend Fishing Access shall be buffered from wildlife areas or otherwise designed to avoid adverse direct and indirect effects on wildlife. Buffers related to firearm use, if necessary, should occur within the public wildlife area.*
- Policy NR5.12 New developments that could affect wildlife movement corridors shall conduct a biological assessment and avoid placing any temporary or permanent barriers within such corridors, if they are determined to exist on-site.*
- Policy NR5.13 New developments shall be located and designed to avoid any adverse impact to critical habitat and foraging areas, migratory routes, and wildlife travel corridors for migratory deer herds, as identified by the California Department of Fish & Game.*
- Policy NR5.14 Within the designated winter and critical winter range of the Mooretown and Downieville deer herds, the County will strongly discourage any development that could substantially adversely affect these species. Where Rural Community Boundary Areas occur within the winter and critical range for these species, new developments shall dedicate permanent open space and provide minimum lot sizes designed to avoid substantial adverse impacts to these species. The County will communicate with the California Department of Fish & Game regarding open space dedication and lot sizes needed to avoid impacts to deer herds.*
- Policy NR5.15 Roads, water lines, sewer lines, drainage facilities, and other public facilities constructed to serve unincorporated County development shall be located and designed to avoid substantial impacts to stream courses, associated riparian areas, and wetlands, to the greatest extent feasible.*

**Action NR5.1****Environmental Review and Mitigation**

The County will maintain information on biological resources, including data gathered for this General Plan and the NCCP/HCP, and will use this information to determine whether projects could have potentially significant impacts on biological resources, and whether project-level biological assessments would be required prior to project approval. Private and public projects will be required to comply with provisions of the California Environmental Quality Act (CEQA), including documentation and mitigation of potentially significant impacts. The

Growth-Inducing Effects: The DEIR should evaluate any growth-inducing effects, and the implications of those effects for biological resources that would be produced by full buildout. An example is the new highways described in the Community Development Element, such as the Goldfields Parkway, the Plumas Arboga Extension, and the Wheatland Bypass.

Goal NR 5: *"Protect and restore habitat for special status-species that have the potential to occur in Yuba County"* is an important goal, and is consistent with Yuba County's responsibilities as a CEQA lead agency. However, NR 5 does not reflect the importance of non-listed fish and wildlife resources to the Yuba County economy, or the fact that the in-progress HCP/NCCP involves an approach that seeks to protect ecosystem function and biodiversity. The DFG recommends either broadening the goal, or adding additional goals to include non-listed wildlife species as well as habitat connectivity and biological diversity. For example, The DFG's wildlife management mandate, and Yuba County's recreational vision both support maintenance of habitat connectivity for Columbian black-tailed deer (*Odocoileus hemionus columbianus*). This species is not described as a "special-status" species in the Biological Background report, nor would habitat protection and restoration alone be adequate for their continued viability – a broader approach is necessary.

Policy NR5.4: Please add the California Department of Fish and Game to the list of cooperating agencies.

Policy NR5.10: Under the Natural Communities Conservation Planning Act, pursuant to Fish and Game Code Sections 2800-2835, the Yuba-Sutter NCCP will implement mitigation and conservation strategies designed to sustain and restore covered species and their habitat. Policy NR5.10 indicates that mitigation fees from the plan would fund the County's open space strategy. The DFG could authorize use of mitigation funding in such a way only if the open space strategy were consistent with conservation plan requirements of Fish and Game Code Section 2820. The General Plan and the DEIR should more clearly describe the County's open space strategy and how it relates to the protection of habitat, natural communities and species diversity through the HCP/NCCP. The County may want to adopt a policy that endorses of the use of such tools as landowner incentives, conservation easements and mitigation banking for the purposes of achieving the conservation objectives of the HCP/NCCP.

Policy NR5.11: We recommend that this setback policy be broadened to encompass new developments adjacent to both existing and future State Wildlife Areas. We also recommend that setbacks be a minimum of 150 yards, to avoid adverse effects of development on wildlife habitat, and also to avoid potential for any inadvertent violations of Fish and Game Code Section 3004 on the part of hunters within State Wildlife Areas. We are concerned that residential construction and eventual occupancy within 150 yards is a risk that is remedied only through reducing the amount of valuable public land available for public use in the State Wildlife Areas.

Policy NR 5.14: The current Yuba County General Plan includes a map of Deer Winter Range and Critical Deer Winter Range, and a set of land use objectives, policies and implementation measures (16-21 LUP) designed to reduce the impact of development to deer herds within the "foothill agricultural" lands. Land Use Policies 16 and 17 (16- and

COUNT  
P. 6

September 20, 2010

17-LUP) provide greater specificity than the corresponding policy in the Draft General Plan, Natural Resources Policy 5.14 (NR5.14), which does not include direction regarding the amount of open space to be conserved. This general policy may increase confusion and acrimony over the types of development allowed, and may cause a significant impact on deer and other wildlife resources. The DEIR should assess the impacts of Policy NR5.14 against both the conditions envisioned in the existing set of Land Use policies in the current General Plan as well as today's existing physical conditions.

The Department requests written notification of proposed actions and pending decisions regarding this project, pursuant to Public Resources Code Sections 21092 and 21092.2. Written notifications should be directed to this office.

If the Department can be of further assistance, please contact me at (916) 358-2919, or Julie Newman, Staff Environmental Scientist, at (530) 283-6866.

Sincerely,



Jeff Drongesen  
Acting Environmental Program Manager

cc: Kelley Barker  
Stuart Itoga  
Sandi Jacks  
Henry Lomeli  
Tracy McReynolds  
Dale Whitmore  
Department of Fish and Game





State of California-The Natural Resources Agency

DEPARTMENT OF FISH AND GAME

North Central Region  
1701 Nimbus Road, Suite A  
Rancho Cordova, CA 95670  
(916) 358-2900  
<http://www.dfg.ca.gov>

ARNOLD SCHWARZENEGGER, Governor

John McCamman, Director



September 20, 2010

Dan Cucchi  
Project Planner, Yuba County General Plan Update  
County of Yuba  
Planning Department  
915 8<sup>th</sup> Street, Suite 123  
Marysville, CA 95901  
[dcucchi@co.yuba.ca.us](mailto:dcucchi@co.yuba.ca.us)

Subject: Draft Yuba County General Plan 2030 and Notice of Preparation (NOP) for the  
Yuba County General Plan Update Draft Environmental Impact Report (DEIR)

Dear Mr. Cucchi:

The California Department of Fish and Game (DFG) has reviewed the above-referenced Yuba County Draft General Plan 2030 (Plan) and the NOP for the Yuba County General Plan Update DEIR. The Plan represents the proposed project which will be evaluated in the DEIR. The Plan was not available at the time the NOP was issued, but a planning document, "Yuba County General Plan Update Vision, Goals, and Strategies," was available which outlined project objectives in terms of vision, goals and strategies related to quality of life, economic independence, "sustainable and vibrant" valley communities, rural lifestyle preservation and resource protection, and presented a buildout estimate of between 80,000 and 100,000 additional people living in unincorporated areas of the county (e.g. excluding the incorporated Cities of Marysville and Wheatland), with an additional 47,000-67,000 jobs. At the time this letter was finalized, the Draft General Plan had become available, articulating objectives, policies and actions to guide future growth. The Plan includes a Community Development Element that includes a Land Use Diagram for the county depicting the location of a set of land uses, and describes land use designations and associated allowable building densities and use descriptions, as well as land use goals, policies and actions. The Plan also includes a Natural Resources Element which includes an Open Space Diagram and Natural Resource goals, policies and actions.

This letter provides our DEIR scoping comments and recommendations in response to Yuba County's NOP as well as providing our response to Yuba County's request for comments on the Draft General Plan 2030. These comments do not necessarily reflect a complete set of comments on the Yuba County General Plan 2030, and The DFG may provide additional comments as additional documents become available.

The DFG jurisdiction pertains to the Yuba County General Plan update process in several ways. The DFG is a trustee agency with responsibility under the California Environmental Quality Act (CEQA) for commenting on projects that could affect fish and wildlife resources. As described in Section 1802 of the California Fish and Game Code,

*Conserving California's Wildlife Since 1870*

Members of the Board of Supervisors  
April 19, 1996  
Page 2

nearly twenty years of experience as a land use attorney, and in that context advising numerous public agencies and property owners on land use and environmental matters, I believe that adhering to the draft policy and environmental inclusion demanding full mitigation represents an adverse policy choice for the County.

The County does not have to yield its authority to the CDFG by accepting their overly restrictive measures. The County would be better served to make a Finding of Overriding Considerations and conclude that the impacts to the migratory deer herds remain significantly impacted. First, this notice preserves the County's jurisdiction over the land use because the full mitigation requirement is released. Second, the finding of overriding considerations can be well substantiated given the County's goals for open space, agriculture and affordable housing. To this end, the NYCPG and other interested parties are prepared to provide assistance.

As the decision-maker, the Board of Supervisors is required by CEQA to balance the benefits of a proposed project against the unavoidable environmental risks. If the benefits of the proposed project outweigh the unavoidable adverse environmental effects, the adverse environmental effects may be considered "acceptable." (CEQA Guidelines § 15093(a).) In this regard, the Board can recognize the importance of preserving the County's planning flexibility by not adhering to mitigation proposals that would automatically preclude a broader array of land use proposals and defeat goals of the General Plan.

In sum, CEQA has recognized the importance of providing lead agencies with the full range of powers to control land use decisions within its own borders in spite of CEQA's concerns with protection of the environment. To that end, the County need not unquestionably defer to CDFG's position requiring a rigid 80% open space requirement which by default will result in uncreative (and resource wasting) land divisions. Hopefully, the Board of Supervisors will recognize and seize the opportunity to avoid the unnecessary transfer of major elements of land use control to the State of California.

Should the Board of Supervisors have further interest in this issue, I am available to respond to any questions you may have.

Sincerely,



William W. Abbott

WWA:yb

cc: Jim Manning

North Yuba Community Planning Group

WILLIAM ABBOTT  
& ASSOCIATES  
ATTORNEYS AT LAW

Letter 16

William W. Abbott

Diane G. Kadenman

April 19, 1996

Chairperson Mimi Mathews and  
Members of the Board of Supervisors  
Yuba County  
215 Fifth Street  
Marysville, CA 95901

Re: Yuba County Draft General Plan and Draft Environmental Impact Report

Dear Chairperson Mathews and Members of the Board:

A This firm serves as counsel to the North Yuba Community Planning Group ("NYCPG"), whose members are interested in the California Department of Fish and Game's ("CDFG") recommendations pertaining to land use policies in the proposed General Plan Update. Concerned about the planning practicality and economic feasibility of many of the proposed mitigation requirements submitted by CDFG and incorporated by the County's General Plan consultant, the NYCPG is sending this correspondence to highlight another option available to the County. As drafted, the Plan and EIR require that 80% of lands outside of the recognized community boundaries be set aside for permanent open space. In reliance upon this policy, the accompanying EIR concludes that impacts to the deer herds are mitigated to a level of insignificance.

This draft policy does not serve the County's interests. First, this proposed policy ignores the reality of a property owner's minimal expectations. There is no reasonable expectation that any property owner, much less a majority, will set aside 80% of his/her landholdings and enter into a restrictive vegetation management agreement with the State. Realistically, landowners will default to the only other available option of subdividing into 20 and 40 acre parcels. This form of "parcelization" of the land over time conflicts with the County's goals for open space, agriculture, and affordable housing. *Second, a conclusion assuming full environmental impact mitigation has the effect of compelling the County, when reviewing later entitlement applications both large and small, to either fully mitigate as specified by CDFG or require preparation of an EIR. Such a result is unduly punitive, results in a subtle de facto transfer of control over land use decisions from the County to CDFG and increases the risk of litigation challenging land use decisions.* Based upon my

**Gon, Tony**

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**From:** Charles Sharp [REDACTED]  
**Sent:** Friday, November 19, 2010 3:25 PM  
**To:** Mallen, Kevin; Hartman, Wendy; Cucchi, Daniel; Gon, Tony  
**Subject:** 2030 General Plan Update Comment

November 19, 2010

Open Letter to the Yuba County Planning Commission

Re: 2030 General Plan Update

Dear Planning Commissioners:

From the beginning, this plan has been carefully scripted and crafted in such a way as to exclude meaningful public discourse in the process.

A General Plan has been described as the County's Constitution. Yet, this revision of the constitution has been done in secret, behind closed doors, by an outside consultant that has no real understanding of what Yuba County is all about, and whose main interest is pushing an aggressive green agenda, and governmental overreach.

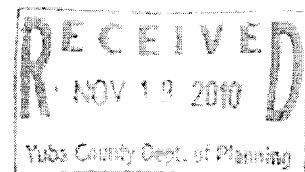
People may agree or disagree on issues, but at least they should have the opportunity to express their concerns, not to just get recorded but to also have *responses* to their questions.

Your interest in what the citizens of Yuba County are concerned about, the little stakeholders, as most of us are, including yourselves, is welcomed, needed, and timely.

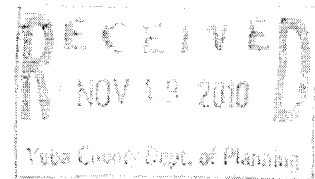
Thank you.

Charles Sharp  
Yuba County property owner

cc: Kevin Mallen, Community Services Director  
cc: Wendy Hartman, Planning Director  
cc: Dan Cucchi, Project Director  
cc: Tony Gon, Development Specialist



November 19, 2010



To: Yuba County Planning Commission  
cc: Dan Cucchi, GPU Project Manager; Wendy Hartman, Planning Director; Kevin Mallen, Director Yuba County Community Development & Services Agency

Re: 2030 General Plan Update

Dear Planning Commissioners:

Comment to the Planning Commission on the 2030 General Plan Update

The Update should be rewritten without the participation of EDAW/AECOM.

18-1

The GHG eight pages should be simplified to 2 pages and any action should be determined when specific requirements and costs are established.

18-2

No bicycle lanes, no development designs, and no financial commitments.

18-3

The Safety element needs to further address wildfire and evacuation. In Oregon House there is only one way of escape for 150 people. The F&G areas are the worst fire hazard and the F&G needs to be required to cooperate for fire evacuation.

18-4

Yuba County spent \$110,000 on studying evacuation roads. If that money was spent on roads we would have the fire escapes and equipment roads.

Vote against any prevailing wage requirements; in the Foothills our wage rate is \$10 per hour.

18-5

The Water issue is not adequately addressed, although it is the potential and primary asset of Yuba County. Surface waters are not captured from winter runoff and go out the Bay. This product may be more valuable than Gold.

18-6

Surface water should be retained for agriculture, wildlife, recharge and fire control. Support more Dams in Yuba County to provide for hydro-electric, cities, agriculture and wildlife.

Can the County require septic systems to be upgraded for citizens who can barely get by financially?

18-7

Can the County take away 5 acre lots in the existing Community Boundary?

18-8

The Oak Tree requirements: ask Dan Cucchi what his college degree has to do with this. Cal-Fire and the County are in direct opposition with regard to Oak Tree requirements.

18-9

Why is there any concern of a Community Plan or Plans throughout the foothills? Local residents should have the voice for their Community as long as the basic goals do not conflict with the overall 2030 General Plan Update.

18-10

The Community wants no General Plan Amendment requirements in the Community Boundary during the future Update period. Does the Planning Commission realize that a General Plan Amendment will make any future development financially unfeasible. The Board of Supervisors can vote no on any project anyway.

18-11

Community Boundary Expansion: See, Subcommittee recommendation to Dobbins, Oregon House, Collins Volunteer DOACT Committee: See attached.

18-12

## **COMMUNITY BOUNDARY SUBCOMMITTEE**

The subcommittee recommends that the current Oregon House, Dobbins, Collins Lake Community Boundary be expanded.

***SEE: Map***

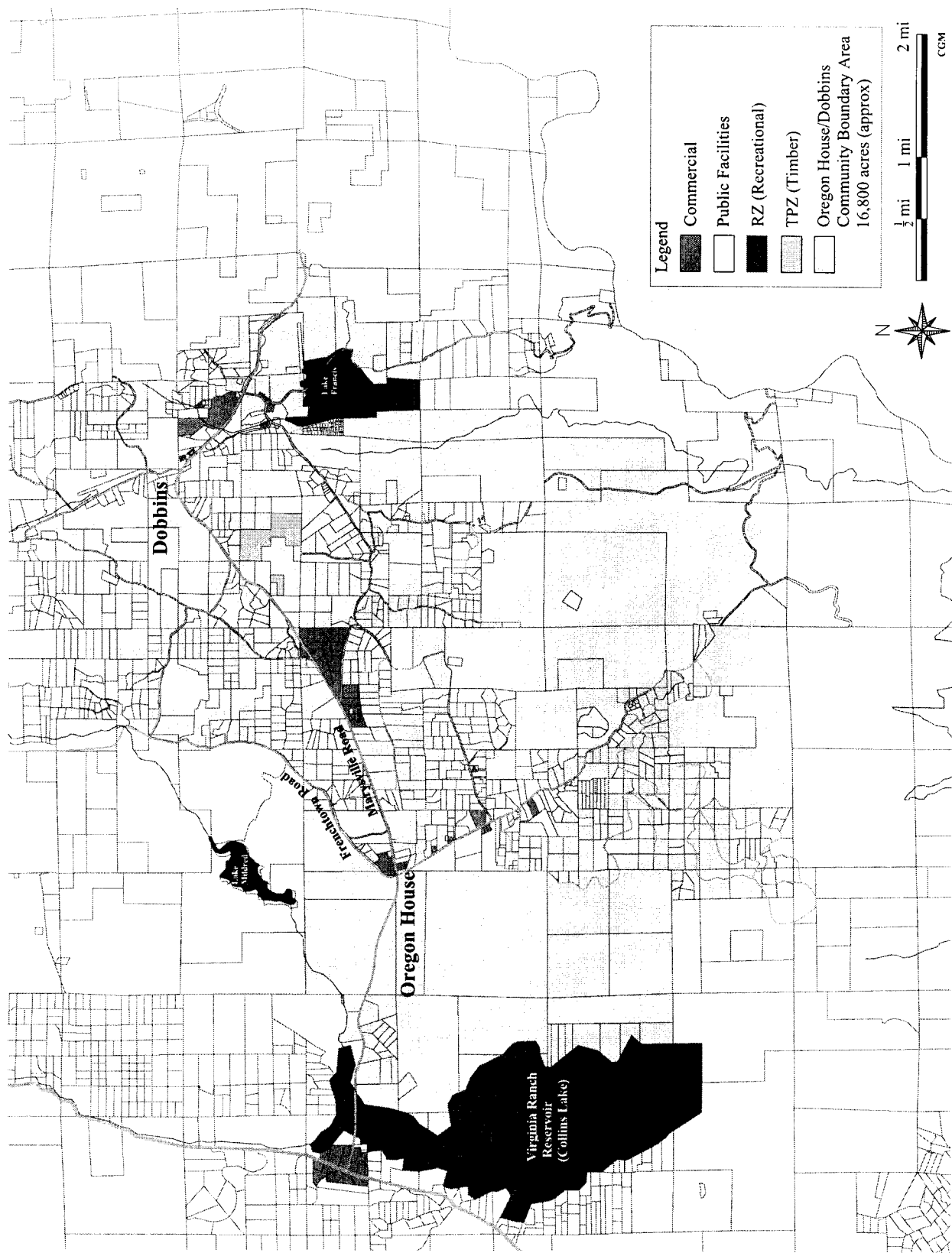
### ***Conditions for Approval***

1. A Community Advisory Council shall be established to communicate the community's support or denial of any project proposed in the Community Boundary to the Community Development & Services Agency and the Board of Supervisors.
2. Any new development shall meet the requirements of Cal-Fire for a fire-Resilient Community.
3. There shall be established fire ingress and egress for evacuation and equipment prior to any development in the new Community Boundary.
4. Any development in the expanded Boundary area shall provide for Deer Corridors to allow for potential Deer Migration.
5. The objective is to have the majority of the property owners and citizens have the major voice and control of the Community and to preserve the rural lifestyle.
6. An Easement and Transfer of Development Rights Subcommittee shall be established to support the potentials of conservation, protection of wildlife, and agriculture throughout the Community.
7. Any deletions or additions to for the expansion of the Community Boundary shall be submitted to the Community Boundary Subcommittee and forwarded to the volunteers for their recommendation to the Community.
8. Within the Community Boundary the buildout shall be consistent with the buildout projected by the General Plan 2030 Update.

Thomas W. Eres, land use attorney, has recommended that the Community Plan should establish a Community Boundary as large as potentially possible as the citizens and property owners will then virtually control their own destiny.

Cal-Fire has formally recommended that cooperation with the large property owners outside the current boundary is necessary in order to establish a fire resilient community.

Glenn Nader, Chairman of the Fire Safe Council states that the Fire Safe Council supports a fire resilient community and the need to provide additional fire evacuation.

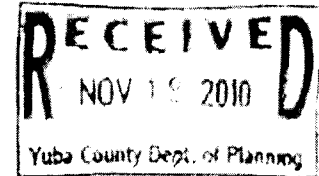




**Gon, Tony**

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**From:** Janet Marchant [REDACTED]  
**Sent:** Friday, November 19, 2010 4:57 PM  
**To:** Cucchi, Daniel  
**Cc:** Gon, Tony  
**Subject:** letter to Plananing Commission on GPU2030



November 19, 2010

To: Yuba County Planning Commission  
cc: Dan Cucchi, GPU Project Manager; Wendy Hartman, Planning Director; Kevin Mallen, Director Yuba County Community Development & Services Agency

Re: 2030 General Plan Update

Dear Planning Commissioners:

Thank you for extending the public comment period on The GPU Draft at your 9/22/10 meeting. While there are many specific concerns with the Draft—many of which other residents have written to you about and which concerns I share—this letter will address more general and pervading problems.

### **GPU Draft Does Not Meet Yuba County's Needs**

#### **1. Basic Political Problem**

Some whole sections of the Draft, as well as many specific Goals, Policies and Actions, do not represent the reality of Yuba County and fail to address its real needs, based on the County's demographics, and its economic and fiscal problems. Many policies in the Draft would actually dangerously worsen the economic situation, creating insurmountable regulatory barriers for prospective businesses and employers.

*Most important, the Draft completely flies in the face of the majority of residents' fundamental values and political preferences. The clear majority of Yuba citizens do not wish to see passed into law a document expressing an agenda of left-wing liberal ideology, imported from outside sources through the mediating role of EDAW/AECOM consultants.*

If the Draft is adopted into law—without the revisions requested by the public—a political and ideological agenda originating in non-elected sources outside the County, will become ensconced and legitimized, representing another step in government's incremental encroachment on private property rights and reduction of our individual freedoms.

#### **2. Bureaucratic Overreach: Not Wanted & Not Affordable**

A few examples of the Government/bureaucratic overreach in the unrevised Draft include: trying to dictate our travel "choices" (bikes and buses are not realistic choices for a rural and aging population), telling us how to build buildings, where to put parking lots, what aesthetics and design structures must have (see "Placetypes" Community Development p. 15), and many other similar "creative" concepts.

What would be the impact of such bureaucratic micro-management? It would drive away prospective employers and potential productive tax-paying projects, and it would require more government employees to administer.

The impact would be reduced income and increased expenses—not a formula to resolve the County’s \$6 million deficit. Local Government already accounts for 18.8% of all County employees (with another 2.7% each for federal and state employees).

19-2

### 3. Public Input & Revision Process

The ’96 GP Update started with authentic public input from local area meetings; planners also responded to suggestions in writing. The current Update was created top-down, and the many assertions about “substantial” public input are squarely disputed. The planning staff and consultants went through the motions only. Please see the “Ground Rules” limiting debate at the public workshops by clicking on the following link on the County’s GPU website, the last slide of the Power Point presentation:

[http://www.yubavision2030.org/GPU%20-%20DOCUMENTS/Public-Student-TII-Wrkshp%20Docs/Town\\_Hall\\_Draft\\_GPU\\_PPT\\_DC\\_9-8-10.pdf](http://www.yubavision2030.org/GPU%20-%20DOCUMENTS/Public-Student-TII-Wrkshp%20Docs/Town_Hall_Draft_GPU_PPT_DC_9-8-10.pdf).

19-

The public now requests to work with local government (CDD, Planning Commission and BOS), not with consultants, in the current review/revision process. It seems that AECOM’s current contract (or one of them) is due to expire in December. It might be a good time to give them a break, and let the planning staff work out the revisions

### 4. How Do Citizens Propose to Fix the Plan?

The Draft may be fixable—by eliminating certain sections, shortening others, and working on specific revisions. On page 4 of “Purpose & Contents” in the Draft, a table shows the seven mandated elements of a General Plan and the Optional Elements. It seems that some of the material in the Optional Elements should be re-considered as to their relevance for our county. For some of the Optional material, why not simply state that “the Plan conforms with all relevant State and Federal legislation and with all legal requirements” ?

19-4

A pressing question from the concerned public is: How are the planners going to respond to—and incorporate—the concerns submitted in our many letters? We know that submissions are scanned and posted on the County website, and also delivered in a packet to you, the Commissioners. However, what we really want to know is what CHANGES will be made to the GPU based on public input?

19-

In the 9/22/10 Staff Report to the Planning Commission, staff referred to the public comment letters and also provided “summaries of the key topics addressed in the letters” (six topics summaries), but **made no mention of how this input might be utilized.**

The public now wants to know the process and timeline of **getting answers to our submissions** and **confirmation about what changes will be implemented.** The public should be able to review a list of agreed-upon changes, prior to the “final” Plan moving to adoption. Such revisions could be posted on the County’s website at no cost.

19-

### 5. Where Did This Plan Come From?

How much was “whole cloth” from similar plans that EDAW/AECOM provided to other client Counties (with different place names and local data slotted in by the computer)? AECOM said this kind of plan “worked nicely” in other areas (although other localities in California are also experiencing push-back on their plans). Kevin Mallen acknowledged that our County may be too “conservative” for some parts of the Plan.

19-

What sections—and specific wording—were including to mollify non-elected but powerful organizations such as the Sierra Club, Nature Conservancy, and agencies such as Fish & Game, as well as “progressive” authorities in Sacramento? Do such organizations really need to be catered to (beyond fulfilling actual legislation)? The values and agenda promoted by such sections disrespect our County’s majority conservative values.

What sections—and specific wording—were included with the goal of attracting federal funding? How much funding might thereby become available and for which specific types of projects (even if such funding will be forthcoming from the new Congress)? Do the voters of Yuba County want or need such projects? If not, let's eliminate such sections -- as they threaten private property rights. Planning staff have told us not to worry about the wording in the text sections before the actual, numbered policies --but this gives the public no protection against such wording being used to enable future legislation, or litigation, that may restrict property rights or citizens' freedoms.

19-

The current Draft is a political, ideological and theoretical document reflecting the agenda of non-elected bureaucrats, NGOs, Federal and State agencies, and ultimately non-American sources. What is needed instead is a simple, short, honest, non-political, and practical (realistic) document that truly reflects our County.

19-

Thank you,

Janet Marchant, Dobbins

RECEIVED

761 P3 746

Community Development  
Services Agency

Report of the Sub-Committee on Water and Air

Our sub-committee was assigned to conduct research and recommendations for our community on water and air based on the County's General Plan. There appears to be a great deal of overlap in these two areas. We concluded that the County should recognize three distinct categories: Public Works, Commercial development, and Private Property. We concentrated on two: commercial and private property. We looked at Air Quality first as it relates to these areas.

Gross polluters are normally manufacturing, trucking, air transport, railways, port users - generally the industrial shipping areas. The County is not in a position to create and enforce rules that exceed state and Federal regulations. However, since at least fifty per cent of the air pollution in the upper Sacramento Valley area ( Yuba County) comes via the natural air currents originating in the industrial Bay Area, County would be well advised to begin a dialogue with these communities to assist in providing funds and policies to rectify the problem. The Plan addresses these areas via GHG and VMT.

The Plan relies heavily on the concept of GHG and VMT. We feel these two items are based on claims not accepted as scientific fact by our community. It is basically a pollution problem, such as those that existed in the Northeast and Central U.S. in the 1950's and '60's. At that point in time, unregulated industrial pollution was so rampant that rivers literally caught on fire and whole forests were being decimated by the affects of "acid rain."

20-1

The plan also attacks a fundamental Right held by the people and guaranteed by the US Constitution. The First Amendment states the people have a Right to "...peacefully assemble..." and the Preamble of The Declaration of Independence provides for the "...Pursuit of Happiness...". Because of these guarantees, we feel the County would do well to assess the problem through the mode of travel and not the frequency. Historically, Mankind walked, used the horse, took a bicycle, used the locomotive, entered the automobile age, and took to the air. Modern trends appear to favor alternatives to the gasoline/diesel engines with their dependence on petroleum and the attendant pollution problems. Presently, industry is tending towards modern, renewable transport and vehicle fuels. Four notable producers, among others, the GM Volt, Nissan Leaf, Toyota Prius, and the Tesla vehicle, are in the formative stages of becoming fully developed electric vehicles. Presently, the two major drawbacks for these vehicles are range and time of recharge. These should be overcome within the next several years. County should abandon the attempt to curtail movement and begin laying the groundwork which will direct the population toward, and enable, abundant clean fuel and simpler travel, and provide a wider, acceptable tax base. We suggest requiring that all new development provide stanchions with electrical outlets (110/220 - 120/240 -480 V - 20 amp) as a means to persuade people to choose electric fuel. If these stanchions were available in all parking areas, the consumers could park, plug-in, pay (as would be done in a gas station) recharge while they shop, and increase their range for shopping and commuting. The homeowner and renter would have these plug-ins available for overnight recharge. Retrofitting electric charging stations county-wide, mandating them in new development and increasing the class structure at Yuba Community College, for the repair, maintenance and development of these vehicles, would go a long way in promoting, and introducing into the County, new industry, such as was done by Toyota in the Fremont area.

American's love their Freedom and would aggressively resist any attempt to curtail their Right to travel about at will.

We recommend that a small economic team be assembled and directed to approach a manufacturer (such as Nissan or Toyota) with an offer of substantial perks to relocate and build a plant designed to build all or some of the systems necessary to assemble the vehicle units. Attracting and developing existing, local, small manufacture, foundry and machine shop works would provide the basis for this task. The industrial corridor in the Plan provides for this development. Assembling entire vehicles would not be necessary: vehicles are composed of several systems requiring multiple units to be created and assembled, then shipped to a central point for assembly. These could include armatures and housing for electric motors, batteries, bezels for instruments, instruments, brake calipers and rotors, axels and housing, door handles and locks: the list goes on. Additionally, converting the Ostram Road railroad spur to a shipping spur, and extending the local airport's runway to 12,000 feet to accommodate heavy aircraft, through Federal loans and grants, would provide the shipping points necessary to support the sub-contract works.

Another area that affects both air and water is waste management. The committee feels the County is not getting involved enough in this vital area. It is a source of good government and higher tax revenues. As was pointed-out in a recent A.D. article ( Local October 20, 2010 "Recycler..."), the County could increase revenues because this area of social concern is going from, "throwing trash over your shoulder and pretending it doesn't exist," to NIMBY (Not In My Back Yard). We feel County should go even further and use the Ostram Landfill as a transfer point, take 500 acres of the now defunct Spring Valley Project, via eminent domain, and build a state of the art reclamation center using bonds, and private and public (Fed/State) grant monies. This land is well away from the County waterways and has never flooded. To further improve air quality and cut down on the overhead, Recology, in partnership with County, could convert their fleets (County and Recology) to methane fuel, recycle the methane, inherent in sludge recycling, and increase the capacity to bring in additional waste (We recommend a study be undertaken to learn the lessons of the many successful recycling plants on the densely populated East Coast where beneficial reclamation ideas are being successfully implemented) . With that in place, the citizens of Yuba County could enjoy a substantial reduction in waste removal cost: a yearly token removal fee of \$12 is recommended. This would also enable the customers of Y.C. to begin a system for separating items into bins for easier recycling. This is justified in that the people of Yuba County have taken on the burden of outside waste and should be justly compensated in lieu of direct payment. The County should also insist on a partnership with Recology. If life is going to give us a waste-lemon, we should make waste lemonade and profit in increased tax revenues and lower costs to the residents of Yuba County.

Another area where we felt some concern was the use of the term "county forest." It goes without saying that trees and plants contribute to cleaner air in the O to CO2 exchange. We would like a sharp delineation between private timber rights (owning trees and shrubs) and public parks and public areas where trees are held in trust by the County. Privately owned trees have several benefits, among them shade, land stabilization, air cleansing, beautification and fuel. In line with this, California Law recognizes the citizen's right to three types of fire. Among them is the "warming fire." Most, if not all, people in the foothills community heat with wood or

wood as an adjunct for winter heating. The Plan should recognize this feature of rural living and insure it does not become a casualty of bureaucratic abuse. Due to the low population density and technological advances in wood heating devices, no conflict with clean air policies should arise.

Water is the other area of concern for our committee. Presently there are three major foothill water districts (special districts): North Yuba Water District, Brown's Valley Irrigation District, and the Yuba County Water Agency. Of particular concern for us was the elimination, from the Plan maps, of the planned New York Flat Reservoir. In the 1960's, when New Bullard's Bar was being proposed, YCWA did not have sufficient water rights to fill the completed dam. The Yuba County Water District (now NYWD) agreed to cede enough water to fill New Bullards in exchange for the Agency's commitment to build New York Flat Res. "when funds become available..." In 2015, when the bonds are retired for New Bullards, the funds will be available. We feel a new 40K acre foot reservoir, with potential hydro-electric capability, recreational facilities, and job creation, not to mention tax revenues, would greatly enhance the foothills. [The original Water District charter states in part: "...Water for irrigation shall be drawn from Oreleve Creek, Dry Creek, and overflow from the New York Flat Reservoir..."] There are also plans to drill through Oregon Hill to New Bullards Bar to install a pipeline and siphon and provide water for irrigation to the Dobbins/Oregon House area.

Our committee would like to take the development of water in the foothills one leap further and create a federation of the watershed counties, designed on the model of SACOG. This group would create a "water bank" in the watershed comprised of dams, reservoirs, siphons, pipelines, and natural water courses. The goal would be to channel, through a central control point, the 50 to 120 inches of rainfall annually in the watershed, into holding areas for measured releases during the dry season. The beneficial uses would include, but not be limited to: flood control by reducing and slowing the flows into the valley during periods of heavy rainfall; create new recreational areas; increase tax revenues, create new jobs; provide more water availability for farms; provide water to Southern California (after all, they are Californians, too.); increase and improve wildlife habitat. If this were done in conjunction with dredging of the major rivers that flow into the Delta area, it would reduce the pressure on the levee system. Several years ago, an aggregate company offered to dredge the Yuba River for free, if it could keep what it removed. This benefit to the community, the fish, and the water way was turned down by the Board without sufficient reason or explanation. This issue should be re-explored. During these hard economic times, it may seem foolish to invest in large scale operations such as these. However, we're sure a majority of the funding could be met through obligations undertaken by the larger counties in Southern California, who have already committed to assisting in the matter so long as they are assured of a continued flow of water. Please keep in mind that during this country's most devastating economic disaster, the Great Depression, funds were provided to build the Hoover Dam and the Tennessee Valley Authority, both still productive to this day.

Another issue is the ground water in the foothills. Ground water is a complex subject as it includes such issues as geology, water condition, legal rights, ground recharge, rainfall, and established legal precedence. The responsibility for well oversight seems to have been preempted by the state water board. They work in conjunction with established water districts and agencies. There is quite a bit of information that should be reviewed publicly prior to any additions to the General Plan; the plan is subject to review and update in these matters. We refer you

to Geotracker Factsheet April 2010, and Sacramento's Groundwater Bulletin 118 updated 1/20/06. We would also like to draw your attention to the paper titled, "Stone Quarries and Beyond ( update 11/07/2009, pg. 2 of 9) "This county offers exceptional advantages to the home seeker and settler (second paragraph)." We feel that "exceptional advantages" is an implied promise that the county will not intrude on the property rights of the citizen, which includes, but is not limited to water, minerals, and timber rights. 20-7

Along with the General Plan for Yuba County, which the county counsel has termed the Board's "Constitution" (EIR workshop, Nov. 09, 2010), we feel there should be a Yuba Citizen's "Bill of Rights" in the Plan, guaranteeing our "unalienable rights" and limiting the County's intrusion upon those Rights. 20-8

Along with our mandate of air and water, the sub-committee drew-up a "wish list" of items we would like to see implemented. We would like to submit them, without prejudice:

- An extension campus of Yuba College based on the economics of rural lifestyle. 20-9
- A high school campus 20-10
- A permanent EMT/ambulance facility 20-11
- Simple definitions for : cottage industry, boutique farming, farmers market, and related terms. 20-12
- Vacate or reduce fees/licenses at recreational facilities for residents 20-13
- Negotiate a lifetime fishing license for elders (65 yrs plus) 20-14
- Create an office of business development, concentrating on the motion picture industry to take advantage of the spectacular Yuba Foothills backdrop and natural scenery. 20-15
- Standardization of fees for private property owners who maintain, repair, or improve their property, not to exceed \$50.00 per job, and required only on major upgrades such as septic, electrical, foundation, or complete roof deck. 20-16
- A firm year, month, and day when the Plan will be reviewed. 20-17



David Soares Chairman DOH New Planning Committee

## **HALLWOOD IRRIGATION COMPANY**

**P.O. Box 1349  
Marysville, CA 95901**

**Phone: (530) 755-1244**

**December 8, 2010**

**Dan Cucchi, Project Planner  
915 8<sup>th</sup> Street, Suite #123  
Marysville, CA 95901**

### **Re: Comment Letter – Draft Yuba County 2030 General Plan Update**

Dear Mr. Cucchi:

Hallwood Irrigation Company has reviewed the draft Yuba County 2030 General Plan Update that was released to the Yuba County Supervisors on August 10, 2010. We have also reviewed Browns Valley Irrigation District's comment letters dated September 13, 2010 and October 25, 2010. Hallwood Irrigation Company has some of the same concerns as our neighboring Irrigation District Browns Valley and agree with their summarized comments. We have provided you a copy of there comment letter dated October 25th for reference.

21-1

- **Page – Public Health 19, Water Quality Policy HS3.**
- **Page – Natural Resources, Voluntary Restoration on Agricultural Lands Action NR5.4**
- **Page - Natural Resources 46, Groundwater Policy Nr12.1**

The above items should be deleted from the Draft Yuba County 2030 General Plan Update.

If you have any questions please feel to contact me.

Best regards,



Michael D. Filice / Vice President  
Hallwood Board of Directors

Steve Springer  
Michael D. Filice  
Jill Cenedella  
Bernie Zaboski  
Greg Lathrop

**RECEIVED**

DEC 09 2010



# Browns Valley Irrigation District

Post Office Box 6, Browns Valley, CA 95918

**Business Office:**

530/743-5703

**FAX:**

530/743-0445

**Water Operations Office:**

530/742-6044

October 25, 2010

Dan Cucchi, Project Planner  
915 8th St., Suite #123  
Marysville, CA 95901

Re: Comment Letter – Draft Yuba County 2030 General Plan Update (part 2)

Dear Mr. Cucchi:

Browns Valley Irrigation District (BVID) has re-reviewed the draft Yuba County 2030 General Plan Update (Update) that was released to the Yuba County Supervisors on August 10, 2010. We provided you with a comment letter on September 13, 2010, a copy of which is enclosed. Our additional comments can be summarized as follows:

- **Pages - Community Development 3 & 20**  
The draft plan calls the community located to the west of Collins Lake the "*Collins Lake Community*". Collins Lake is the name of a lake, not a community and is not a land based name. The name honors the man that invested many hours promoting the construction of Virginia Ranch Dam, and has nothing to do with the area around the Lake. As the owner of Merle Collins Reservoir, we feel that it is inappropriate to use this name for this community. As the offer of a suggestion, the area is currently known as the Willow Glen area and might better to be named the "*Willow Glen Community*".
- **Page - Public Health 19, Water Quality Policy HS3.3**  
*"The county will regulate new developments, as necessary, and collaborate with irrigation districts to address Regional Water Quality Control Board requirements intended to protect agricultural use and sustain the agricultural economy."*  
The Regional Water Quality Control Board is a State agency and does not need any additional involvement (and complication) from the County and as such the General Plan does not need to suggest any involvement in that arena. This Policy needs to be deleted.
- **Page - Natural Resources 30, Voluntary Restoration on Agricultural Lands Action NR5.4**  
*"The County will coordinate with other service providers and the Yuba Conservation District to seek funding for projects in existing agricultural areas including: planting native vegetation around the edges of farms, around structures and along roads and driveways; and maintaining or improving irrigation and drainage canals to provide enhanced habitat value."*

BVID has two problems with this action; 1) The planting of "native vegetation" around structures poses a potential fire hazard for District owned structures (not to mention privately owned buildings and homes), and 2) irrigation and drainage canals serve a very specific function in the delivery of water for beneficial use. To encourage (or even allow) vegetation to impede the flow of water is considered poor water distribution management. Also, large quantities of water can be lost to vegetation growing along the canal banks which also leads to reduction in the amount of water that can be put to beneficial use. This Action needs to be deleted.

- **Page - Natural Resources 46, Groundwater Policy NR12.1**

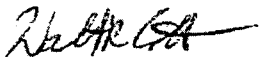
*"The county will manage land use change in a way that prevents overdraft of groundwater supplies, protects overlying groundwater rights and ensures that the combined use of surface and groundwater resources provides for current and future water demand."*

The State Water Code and the State Water Resources Control Board controls (manages) groundwater and its use on overlying ground. This is another case where the State does not need any additional involvement (and complication) from the County and as such the General Plan does not need to suggest any involvement in this arena. This Policy needs to be deleted.

For the reasons described above, Browns Valley Irrigation District believes that the Draft Yuba County 2030 General Plan Update should; Change the name of the ~~Collins Lake~~ Community to the Willow Glen Community, Delete Policy HS3.3 and NR12.1 and delete Action NR5.4.

Please feel free to contact me with any questions or concerns.

Sincerely,



Walter Cotter  
General Manager

Cc: Board of Directors

Sept 4, 2010

MR. DAN CUCCI:

SEVERAL WEEKS AGO A PAMPHLET HIGHLIGHTING MEANS BY WHICH YUBA COUNTY WILL WORK TO ACHIEVE GOALS SPELLED OUT IN THE "YUBA COUNTY 2030 GENERAL PLAN" WAS RECEIVED AND AFTER SKIMMING THROUGH IT I HEREWITH WILL FORWARD A FEW COMMENTS AS FOLLOWS:

AS FOR THE PAMPHLET, I WAS PERSONALLY DISAPPOINTED IN IT.

22-1

1. THE 3 DATUM DISTRIBUTION MAPS ARE INCOMPLETE AS FAR AS CONVEYING DATA IS CONCERNED. FOR EXAMPLE, MAP (Pg 5) IN THE LEGEND IS NOT IDENTIFIED AS TO WHAT IT IS SHOWING. IT COULD AS EASILY BE CALLED "LAND USE DESIGNATION" AS IS MAP ON PAGE 3. MAP (Pg 7) IN THE LEGEND IS ALSO NOT IDENTIFIED AS TO WHAT IT IS SHOWING. COULD IT BE SHOWING PROBABLY OF FIRE HAZARD REQUIRING LARGE COUNTY RESOURCES BECAUSE OF REMOTENESS FROM FIRE FIGHTING STATION AREAS IN POPULATED AREAS?

22-2

2. THE STATED VISIONS & GOALS ARE NOTHING MORE THAN SELF-SERVING, MAKE-WORK, WINDOW DRESSING, PIE-IN-THE-SKY STATEMENTS THAT I'VE SEEN IN THE GENERAL PLANS OF THE MANY COUNTIES THAT I'VE LIVED IN. DO YOU GUYS HONESTLY GET PAID TO WRITE THIS STUFF OVER & OVER AGAIN? WHY NOT JUST MAKE IT A "FORM LETTER" AND FILL IN THE BLANKS AS NEEDED! MUST THESE GENERAL PLANS BE A REINVENTION OF THE WHEEL? — IDEAL LIVING CONDITIONS FOR ALL PEOPLES HAVE REMAINED THE SAME FOR EONS, ONLY NATURES & MANS TECHNOLOGICAL EXPRESSIONS ARE CHANGING.

RECEIVED

SEP - 8 2010

Community Development  
Services Agency

WHEN NON-INDIAN SETTLEMENT BEGAN IN LANDS LATER KNOWN AS YUBA COUNTY THE AREA NOW CALLED MARYSVILLE WAS A LOGICAL SETTLE SITE BECAUSE OF LEVEL <sup>FERTILE</sup> LAND & WATER FOR TRANSPORTATION & IRRIGATION AND THE, THEN, <sup>GEOLOGIC</sup> CHANGE BOUNDARY THAT ALTERED TRANSPORTATION METHODOLOGY, I.E. LEVEL LAND & NAVIGABLE RIVER TO FOOT HILLS AND SWIFT WATERS. THEN, AS MARYSVILLE MATURED AND ENCLOSED ITSELF WITH LEVEE'S TO PROTECT ITSELF FROM SEASONAL FLOODING THE TOWN'S GROWTH WAS RETARDED. IN RESPONSE TO LACK OF ROOM TO EXPAND IN MARYSVILLE, DEVELOPMENT SPILLED ACROSS THE RIVER INTO WHAT WE CALL YUBA CITY BECAUSE OF THE CHEAPER EMPTY SPACES AFFORDED.

EVENTUALLY, YUBA CITY BECAME LARGER IN POPULATION THAN MARYSVILLE WHICH BROUGHT IN ADDITIONAL MARKET FORCES, I.E. LARGE COMPANIES ONLY WANT TO LOCATE WHERE THE CONSUMING POPULATION IS LOCATED AND <sup>IN WHICH</sup> ~~THAT~~ THAT POPULATION IS EXPECTED TO GROW. OBVIOUSLY, THIS SPELLS THE DEMISE OF MARYSVILLE.

SO MARYSVILLE HAS NOW CRAWLED INTO A PROTECTIVE SHELL BY CALLING ITSELF A HISTORICAL TOWN. BUT THE CONSEQUENCES OF NO EXPANSION LAND, STAGNATE POPULATION GROWTH, IN-ABILITY TO ATTRACT LARGE BUSINESS AND OTHER FACTORS TO NUMEROUS TO NAME, MARYSVILLE IS DOOMING ITSELF TO BECOMING A TOWN WITH A BUNCH OF ABANDONED EMPTY BUILDING WHICH OUTSIDERS CAN COME TO VISIT LIKE A MUSEUM ILLUSTRATING THE BIRTH & DEATH OF A TOWN UNABLE TO CHANGE IN RESPONSE TO NATURE'S & MAN'S TECHNOLOGICAL DYNAMICS. AND THE REST OF YUBA COUNTY WILL FOLLOW MARYSVILLE'S LEAD IF THEIR LEADERS DON'T CHANGE. YUBA CITY WILL INCREASINGLY ~~SIPH~~ SYPHON OFF YUBA COUNTY'S SALES TAX REVENUES UNTIL EVENTUALLY YUBA COUNTY GOES BANKRUPT AND IS <sup>ABSORBED</sup> ~~ABSORBED~~ BY SUTTER COUNTY.

YUBA  
THINGS <sup>YUBA</sup> COUNTY CAN DO TO STOP & REVERSE ITS DEATHBED.

1. JUST LIKE VIRGINIA'S ORIGINAL JAMESTOWN (BUILT ON SWAMP LAND) WAS RELOCATED TO HIGHER DRY LAND - MARYSVILLE SHOULD ALSO UNDERGO THE SAME FATE.

2) COUNTY PLANNERS SHOULD SELECT A CENTRAL <sup>COUNTY</sup> LOCATION, HAVING DESIRABLE ECONOMIC/RESOURCE/LOGICAL/ETC CRITERIA TO FOSTER

22-3

THE DEVELOPMENT OF A "NEW MARYSVILLE" ABOVE THE EXTENSIVE FLOOD ZONES OF THE VALLEY FLOOR. EXPENSIVE FLOOD INSURANCE WILL MAKE YUBA CITY LESS DESIRABLE IN THE FUTURE. I THINK THE "RURAL COMMUNITY" CORRIDOR OF LOMA RICA/BROWNS VALLEY IS A LIKELY CANDIDATE.

AS BUILDINGS BECOME OBSOLETE OR ABANDONED, FOR ONE REASON OR ANOTHER, THEY SHOULD BE <sup>REPLACED</sup> ~~REBUILT~~ IN AN UP-TO-DATE STRUCTURE DESIGN INTO THE "NEW MARYSVILLE" THAT HAS BEEN DESIGNED/LAID-OUT USING THE LATEST PLANNING OBJECTIVES. THUS IN A PERIOD OF ABOUT 50 YEARS A COMPLETE TRANSITION CAN BE MADE,

22-4

2. THE VERY RESTRICTIVE RURAL BUILDING-EXPANSION CODE NEEDS TO BE CURTAILED FOR THE "NEW MARYSVILLE" CITY BOUNDARY TO ENCOURAGE DEVELOPMENT AS LAYED OUT IN THE NEW PLAN.

NOTE: RESTRICTIVE BUILDING CODE IN RURAL AREAS WILL BE A BAD THING FOR THE COUNTY IF ITS MAJOR TOWNS ARE NOT VIABLE ENTITIES. HOWEVER, STRONG GROWTH OF A MAJOR TOWN WILL ENABLE AND MEET NEEDS OF INDIVIDUALS UPRISING THE AMBIANCE OF THE SIMPLE OLD TIMES IN <sup>RURAL</sup> YUBA CO.

22-5

3. THE FLOOD PLAIN OF THE VALLEY FLOOR SHOULD BE RESTORED TO A COMBINATION OF FARM LAND AND WILD LIFE HABITAT. THE FARMS OF THE MAN-MADE ISLANDS OF THE BAY AREA RIO VISTA-BETHEL ISLAND COMES TO MIND AS AN EXAMPLE OF LAND ~~USE~~ <sup>USE</sup> THAT REDUCES ECONOMIC IMPACT OF FLOODING.

22-6

4. PHASE OUT FIRE BURNING OF AGRICULTURAL WASTES AND SO CALLED FIRE-TRAINING-TRAINING-<sup>EXERCISES</sup> ~~EXERCISES~~. MULCH, COMPOST AND RETURN THE RESULTANT PRODUCT TO THE SOIL.

22-7

5. SINCE THE PROCESSING AND COLLECTION OF THE COUNTIES NATURAL RESOURCES ARE NOT LABOR INTENSIVE, THE MAIN EFFORT ~~SHOULD~~ <sup>SHOULD</sup> BE TO

22-7

ATTRACT BUSINESS THAT EMPLOYS SIGNIFICANT NUMBERS OF PEOPLE. AN EXAMPLE MIGHT BE AN INSURANCE PROCESSING OPERATION OR A MAJOR COMPANY'S PAYMENT PROCESSING GROUP ETC. TO INCITE THIS TO HAPPEN THE COUNTY SHOULD NEGOTIATE WITH NO TAXES FOR BUSINESS FOR MAYBE FIRST 5 YRS AND A REDUCED RATE THEREAFTER. SHOULD THE BUSINESS DOWN SIZE TO LESS THAN (MAYBE) 75% OF ORIGINAL WORKFORCE IT WOULD BE SUBJECT TO FULL TAXES.

22-8

6. AT THE NATIONAL LEVEL THE AREA'S REPRESENTATIVE SHOULD AGGRESSIVELY PURSUE THE ELIMINATION OF FARM SUBSIDIES TO LARGE CORPORATE FARMS, ON THINGS LIKE PAYMENT FOR NOT GROWING OR FOR REMOVING ACREAGE FROM PRODUCTION. THAT MONEY ORIGINALLY AIMED FOR GROWERS THEN COULD BE USED FOR THE PURPOSE OF SUPPLEMENTING THE WAGES <sup>OF</sup> FARM WORKERS SO THAT THEIR WAGES MORE REFLECT THE EARNING POWER OF URBAN WORKERS — THIS SHOULD BE BENEFICIAL TO YUBA COUNTY'S EMPLOYMENT BASE.

22-9

7. GIANT LOG ~~AND~~ AND GRAVEL TRUCKS SHOULD NEVER BE ROUTED THROUGH MAJOR CITIES, SUCH ACTION CAUSES UNDOE HAZARDS & WASTED TIME FOR THE PUBLIC — GET A BYPASS FOR MARYSVILLE COMPLETED! MY OPINION ON THIS IS AS STRONG AS I FEEL, THAT I FEEL THAT, THE STATE REPRESENTATIVES THAT CANNOT PASS A BALANCED BUDGET SHOULD BE TERMINATED FOR FAILURE TO DO THEIR JOBS AND FURTHERMORE BANNED FROM HOLDING ANY OTHER PUBLIC OFFICE.

I COULD GO ON AND ON BUT MUST CLOSE LEAST  
I CROSS THE BRIDGE TO RANTING ODDBALL.

County Resident,  
Richard Burns

### Transit Service

Public transportation in Yuba County includes public bus service, park-and-ride facilities, and vanpools. Public transportation in Yuba County is operated by Yuba-Sutter Transit, which provides fixed-routes and demand-responsive services to County residents through local, commuter, and rural bus routes.

Yuba-Sutter Transit operates <sup>four</sup> ~~six~~ local fixed-routes within Yuba County. These routes operate between 6:30 AM and 6:30 PM weekdays and from 8:30 AM to 5:50 PM on Saturdays. Busses operate on 30- to 60-minute headways with timed transfers at Yuba College, the North Beale Road Transit Center, and the Yuba County Government Center in Marysville.

Yuba-Sutter Transit also offers two weekday commuter bus routes, the Sacramento Commuter Express and the Sacramento Midday Express, operating between Marysville and Sacramento. The Sacramento Commuter Express provides ~~two~~ morning and ~~two~~ evening routes with stops in Marysville and Linda. The Sacramento Midday Express offers late morning, noon and early afternoon service each weekday. <sup>Olivehurst</sup>

Existing Park-and-Ride lots in the County include:

- Yuba County Government Center (Marysville)
- ~~North Beale Transit Center~~
- Powerline Road and McGowan Parkway (Olivehurst)
- Feather River Boulevard and SR 70 (Plumas Lake)

A combination of advance reservation and scheduled services are offered from selected rural cities and communities to Marysville, where transfers can be made to other services. Yuba-Sutter Transit operates the Foothills Route and the Wheatland Route within Yuba County, with a combined average of 12 daily riders during the 13 operating weekdays in March 2007. The Foothills Route offers two round-trips every Tuesday, Wednesday and Thursday from Challenge, Brownsville and Dobbins to Marysville and most points in between. The Wheatland Route offers <sup>two</sup> ~~one~~ round-trip each Tuesday <sup>1/2 Thursday</sup> from Wheatland to Linda and Marysville.

### Transit Diagram

In addition to existing transit service, development under the 2030 General Plan would support new and enhanced routes. Exhibit Community Development-16 shows existing routes, along with areas that could potentially support new or expanded transit routes.

While Yuba-Sutter Transit would be charged with establishing and maintaining transit routes, as noted in the policies and actions, the County intends to coordinate with transit providers to encourage greater use of public transit during the buildout of the 2030 General Plan.

Technical Corrections  
Submitted by Keith Martin, Yuba-Sutter Transit  
9/1/10

**Cucchi, Daniel**

---

**From:** Keith Martin [keith\_martin@sbcglobal.net]  
**Sent:** Wednesday, September 01, 2010 11:54 AM  
**To:** Cucchi, Daniel  
**Cc:** Dave Vaughn  
**Subject:** Draft Yuba Co. G.P. Update

Dan,

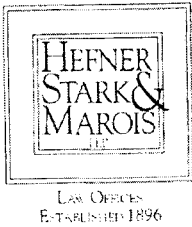
As we just discussed by telephone, on behalf of the Regional Waste Management Authority, I would recommend that you add a policy to the General Plan for mandatory collection of municipal solid waste (residential and commercial) in all urban areas of Yuba County. Mandatory collection is now required by ordinance in Yuba County for existing urban areas, but a policy in the general plan would indicate the intension to extend this ordinance to cover all future areas of the county that develop at urban densities.

23-3

Thank you for your consideration. Please give me a call if you have any questions.

Keith Martin  
Administrator  
Regional Waste Management Authority  
530-634-6890





GREGORY A. FOREST  
EMAIL: GFOREST@HSMILAW.COM

2150 RIVER PLAZA DRIVE  
SUITE 450  
SACRAMENTO, CA  
95833-4136  
TEL (916) 925-6620  
FAX (916) 925-1127

September 15, 2010

Via email

Yuba County Planning Department  
Dan Cucchi, Project Planner  
915 8th Street, Suite 123  
Marysville, CA 95901

**Re: Yuba County Draft 2030 General Plan Update ("Draft GPU")  
Planning Commission Hearing on September 22, 2010**

Dear Dan:

As you know, our firm represents CEM Investments, the proponent of the Magnolia Ranch Specific Plan ("Magnolia Ranch") in Yuba County. This letter conveys our comments on the Draft GPU that was released on August 10, 2010. In my letter to you dated July 16 on the NOP for the Draft GPU EIR, I stated that the Draft GPU should recognize Magnolia Ranch as a project that is planned to be undertaken upon approval of the GPU, pending necessary CEQA review. The "Planning Reserve" designation is appropriate for lands within the Valley Growth Boundary that are not planned for development in the forthcoming General Plan. However, Magnolia Ranch and the adjacent employment uses should be planned for development in the General Plan Update, in order to assist Yuba County's realization of its economic development strategy. Revising the Draft GPU to change the designation of land east of Highway 65 and south of Ostrom Road from Planning Reserve to an employment-related designation (such as "Employment Village") that would accommodate the Magnolia Ranch Specific Plan would address our concerns related to the inclusion of Magnolia Ranch in the Draft GPU.

24-1

Economic Development

In 2009 Yuba County adopted a new Economic Development Strategy, which focused on "promoting a balance between residential, commercial, and industrial development". The Draft GPU does a good job identifying economic development principles related to the County's Economic Development Strategy: "attracting local industries that export products and services"; "accommodat[ing] existing and emerging industry clusters that are attracted to natural local advantages"; and "creat[ing] new local advantages that will spur a long-term expansion of local employment opportunities." (Draft GPU p. CP-40). Goal CD10 is consistent with the County's Economic Development Strategy. The theme of Economic Development should be emphasized throughout the GPU.

24-2

As noted in the 2009 Economic Development Strategy, the County enjoys several economic advantages – abundant water supply, a pleasant climate, affordable land, plentiful resources, an available workforce, a large Enterprise Zone and Beale AFB – the County needs to leverage these local advantages in order to compete against other counties in the region for emerging industries. However, the Strategy also indicated that the lack of available and properly zoned land with available services and infrastructure is a major impediment to the realization of this Strategy.

The GPU should recognize the Highway 65 corridor as the area in the County with the greatest potential for attracting local export industries, emerging industry clusters, and new local employment opportunities in heavy industry, manufacturing, light industrial and business park development. Other parts of the County are not suitable for attracting large-scale industrial development because of various limitations: overflight restrictions, prime agricultural soil, flood risk, fire risk, and sensitive habitat, among others. Conversely, the area east of Highway 65 has none of these limitations, and enjoys abundant water supply, heavy rail infrastructure, and available land in proximity to the autonomous technology hub at Beale AFB. However, without appropriate zoning, urban services and infrastructure, the potential for this area to attract budding industrial development will not be realized.

The Draft GPU's focus on the County's Economic Development Strategy could be improved by including an inventory of the sites in the County with the potential to accommodate export-producing industry. While there are many acres available for commercial and retail development, such as the Sports and Entertainment Zone, there are far fewer sites with the potential to attract manufacturing and clean tech industries of the 21st Century. The Draft EIR for the Draft GPU should evaluate the appropriateness of focusing growth in the area east of Highway 65 as compared to other, less appropriate sites. The County should undertake this analysis with a realistic view of the potential for existing developed areas to absorb new large-scale redevelopment. Again, while there are many sites with the potential for commercial development in the County, far fewer sites are large enough and situated appropriately for development of emerging "green" technology industries like biofuels production that demand large parcels of land located away from population centers. We think the absence of such sites justifies the extension of services and infrastructure into the Highway 65 corridor. Failing to make development of these sites a priority might keep the County from realizing its Economic Development Strategy over the next twenty years.

#### Housing Development

Table Community Development 3 provides a projection for housing development in the unincorporated area of the County based on approved zoning. This Table estimates enough zoned land to roughly double the number of units in the County (compare to Table Community Development 4). This is a good thing. For planning purposes, providing for a doubling of the

County's housing stock would promote important economic benefits to the County by ensuring a steady stream of new residents and thriving communities. Having plentiful land for new housing allows for robust economic activity in the housing market. It is well known that restricting the supply of land for housing increases the price of housing production and reduces the supply of new homes.

The 1993 Sacramento County General Plan provided for a doubling of the housing stock. While this may have appeared to be an over-supply when the plan was approved, in the years of rapid growth that followed, the inventory actually proved insufficient to accommodate all of the requests for new housing projects, and the plan had to be amended to accommodate more housing. A similar growth pattern has occurred in South Placer County, where initial planning estimates have been outpaced by vigorous housing production. 24-3

In light of these recent examples of rapid growth in the region, the amount of land zoned for residential development does not exceed the amount that is needed to allow for flexibility in the marketplace. It should be recognized that Table CD-3 only indicates the amount of land that has been planned for residential housing production. Actual housing production will be less, as the inventory on Table CD-3 does not account for the various limitations that prevent housing from actually being constructed (such as landowner resistance, unavailability of infrastructure, lack of services, and technical challenges).

There are several reasons to doubt that actual housing production over the next twenty years will resemble the estimates provided for certain regions of the County in Table CD-3. Due to limited infrastructure and available services, it is highly unlikely that housing production in the foothills will exceed a small fraction of the 5,190-6,900 units estimated. For the same reasons, it is unlikely that development in the Linda area is going to include development of new multi-family residential development at the scale estimated in Table CD-3 (which estimates 2500-3400 new multi-family units). Overall, the Draft GPU estimates that approximately 16% of new residential units will be apartments and condominiums. In Linda, the Draft GPU estimates that over 40% of new residential development will be multi-family units.

While the County should include a reasonable amount of multi-family development in its growth projections, Yuba County remains predominately a rural County with communities that resemble small towns (not small cities). It is wrong to compare Yuba County to more urbanized counties with extensive transit networks and higher density patterns of development. To illustrate this comparison, the Draft GPU should state the current percentage of multi-family units in valley communities. This is a low percentage compared to more urban counties. This Draft GPU should not assume that the development of multi-family units will depart dramatically from the existing mix unless such an assumption can be supported with expert opinion or other substantial evidence. 24-3


Dan Cucchi  
September 15, 2010  
Page 4

Finally, as stated earlier in this letter, the County is not likely to attract large scale employment in developed areas like Linda and Olivehurst, as these areas are more likely to attract smaller retail and commercial development. We therefore question whether non-residential development will provide the estimated 30,000-40,000 new jobs in these communities. Unless adequate sites can be identified, this allocation should be adjusted and the estimate of non-residential development shifted to the Highway 65 corridor and increased to reflect the number of new jobs that could be developed there (likely over 30,000 new jobs).

We look forward to the County's processing of the General Plan Update. Please let me know if you have any questions or need any additional information.

Very truly yours,

HEFNER, STARK & MAROIS, LLP

By   
Gregory A. Forest

GAF  
Enclosure  
cc: CEM Investments  
K:\CEM Investments\Magnolia Ranch (7186-0001)\lr GPU Sept 2010.doc



# CALIFORNIA RURAL LEGAL ASSISTANCE, Inc.

## Marysville Office

511 D Street  
P.O. Box 2600  
Marysville, CA 95901  
(530) 742-5191  
(530) 742-0421 (fax)  
[www.crla.org](http://www.crla.org)

Dylan Saake  
*Directing Attorney*

Preet Kaur  
*Staff Attorney*

Sonia Garibay  
*Community Worker*

Julie Hall  
*Administrative Legal  
Secretary*

Regina Wallis  
*Receptionist*

Central Office  
631 Howard St., #300  
San Francisco, CA 94105  
Telephone 415.777.2752  
Fax 415.543.2752  
[www.crla.org](http://www.crla.org)

José R. Padilla  
*Executive Director*

Luis C. Jaramillo  
*Deputy Director*

Ralph Santiago Abascal  
*General Counsel*  
(1934-1997)

William G. Hoerger  
Ilene Jacobs  
Cynthia Rice  
*Directors of Litigation,  
Advocacy  
& Training*

## Regional Offices

Coachella  
Delano  
El Centro  
Fresno  
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Marysville  
Modesto  
Monterey  
Oceanside  
Oxnard  
Paso Robles  
Salinas  
San Luis Obispo  
Santa Barbara  
Santa Cruz  
Santa Maria  
Santa Rosa  
Stockton  
Watsonville



SENT VIA U.S. MAIL and email to [dcucchi@co.yuba.ca.us](mailto:dcucchi@co.yuba.ca.us)

September 13, 2010

Dan Cucchi  
Project Director  
2030 General Plan Update  
Yuba County Planning Department  
915 8th Street, Suite 123  
Marysville, CA 95901

Re: Comments on Yuba County 2030 General Plan Update

Dear Mr. Cucchi:

These comments are submitted in response to the Planning Department's request for public comments on the Draft 2030 General Plan update. California Rural Legal Assistance, Inc. (CRLA), is a non-profit law firm representing low-income individuals in Yuba, Sutter and Colusa Counties.

We commend the Planning Department for their efforts in drafting the 2030 General Plan Update, and developing a document that will serve the Yuba County community for years to come. The renewed focus on finding the appropriate Jobs-Housing balance is particularly promising and planning for neighborhoods that support mixed uses and prevent sprawl is an integral part of the policies and goals will make for a better Yuba County. The County must consider the wages earned and the corresponding housing that will be affordable to workers in these jobs if it is to achieve the desired result of a more balanced job to housing ratio and any Jobs-Housing analysis that does not apply these factors will leave the County with an incomplete picture and an unachievable goal. These factors should be spelled out more directly in the General Plan, and made part of the consideration when determining what types of uses belong in a mixed use development and how to achieve housing development that is affordable to all economic segments of the community as required by State Housing Element Law. Smart growth is an important concept and should ensure the development of housing that serves the needs of all Yuba County residents, including the lowest income.

We also commend the County for supporting development patterns that minimize the adverse effects of incompatible land uses. The County also must consider pesticides, the risk of pesticide drift, and the corresponding public health and safety concerns that such drift can present to residents residing in areas where pesticides are used nearby when reviewing buffers and incompatible land uses. We understand that Public Health and Safety Policy

25-1

25-2

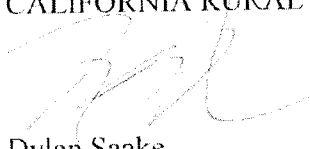
7.4 begins to set out this policy, but the policy should be incorporated into the Community Development and Housing Elements as well, and announced in more concrete and clear terms.

A glaring absence from the 2030 General Plan draft is any discussion on addressing current housing conditions in the County. It is well known that there are many housing units in the unincorporated areas of the County badly in need of rehabilitation and that there is considerable need for decent, affordable housing for low income and farmworker households. Substandard housing conditions have a direct impact on Public Health and Safety, should be considered in policies underlying Community Development, and have long term environmental impacts. Policies that promote the rehabilitation of housing will conserve resources, promote the infill development the County desires, and promote the health of families residing in these substandard dwellings as well as general public health and safety. The need for affordable, accessible and well planned infrastructure is a key component to meeting both housing and health needs in Yuba County. The General Plan should address these issues directly if Yuba County hopes to resolve them in the upcoming decades, and their inclusion would enhance the policies already included in the 2030 General Plan draft. The County also should specifically address the rehabilitation concerns surrounding Mobile Home Parks, given the number of parks are falling into disrepair, and the need for mobilehome parks as a source of affordable homeownership. The impact on Community Development and the Health and Safety of the residents residing within these parks is a key future concern.

The concerns raised above are on behalf of our clients and for the benefit of other lower income residents in the area. We commend the County's desire to preserve agricultural lands and thus agricultural jobs and believe that addressing the needs of farmworkers for a living wage and good housing is an important part of the County's rural lifestyle. The environmental concerns raised throughout the draft General Plan are important considerations for Yuba County's future, and show commitment not only to Yuba County but a much larger community. Please keep us apprised of future development related to the General Plan Update.

Sincerely,

CALIFORNIA RURAL LEGAL ASSISTANCE, INC.

  
Dylan Saake  
Attorney at Law

cc: Ilene J. Jacobs, CRLA Director of Litigation, Training and Advocacy



# Wheatland Fire Authority

P.O. Box 119

4514 Dairy Road

Wheatland, California 95692

Telephone (530) 633-0861

Fax (530) 633-8215

[www.wheatlandfireauthority.com](http://www.wheatlandfireauthority.com)

September 11, 2010

Mr. Dan Cucchi, Project Planner  
Yuba County Planning Department  
915 8<sup>th</sup> Street, Suite 123  
Marysville, CA 95901

**Re: Yuba County General Plan Update: Draft 2030 General Plan**

Dear Mr. Cucchi,

On behalf of the Wheatland Fire Authority (serving both the Plumas Brophy Fire Protection District and the City of Wheatland), thank you for the opportunity for us to comment on the Yuba County General Plan Update: Draft 2030 General Plan.

- *Process – 2030 General Plan Update (page 4):* The Spheres of Influence are mentioned that include the Wheatland Fire Authority areas. Discussion of SOIs which can or will affect the Wheatland Fire Authority must include the Wheatland Fire Authority at all levels.

26-1

In addition, the Wheatland Fire Authority provided comments during the Southeast Yuba County Municipal Service Review and those issues were never fully resolved to the satisfaction of the Plumas Brophy Fire Protection District and the Wheatland Fire Authority.

- *Process – 2030 General Plan Update (Exhibit 2):* The Sustainable Yuba County map depicted areas within the Wheatland Fire Authority identified as New or Expanded Employment, Sports and Entertainment Zone, and Area of Mutual Concern. Discussion of these areas must include the Wheatland Fire Authority at all levels. The potential significant impacts to the Wheatland Fire Authority must be discussed, mitigation measures agreed upon, and the mitigation measures must be implemented.

26-2

- *Public Health and Safety:* The Public Health and Safety was well discussed, except it should address the provision for the necessary and appropriate public safety from emergencies, other than just fire and flood, which are the result of development and new construction such as Emergency Medical, rescues, traffic accidents, and hazardous materials spills on roadways and railways. Those provisions should ensure that adequate funding is available for operation and maintenance of public safety, similar to that noted on page 13 (Policy HS2.3). Fires may account for approximately 5-15% of the non-law enforcement emergencies; that leaves a large number of emergencies not mentioned. These emergencies may not be addressed in Local Hazard Mitigation Plans, but they certainly affect an agency's ability to serve its community when the demands for service increase due to development and construction.

26-3

**Yuba County General Plan Update: Draft 2030 General Plan**

Thank you for including the Wheatland Fire Authority's comments as you prepare the **Yuba County 2030 General Plan Update**. Please do not hesitate to contact me should you have any questions regarding the items in this letter.

Sincerely,

***Peter Bryan***

Peter Bryan  
Interim Fire Chief  
[chief@wheatlandfireauthority.com](mailto:chief@wheatlandfireauthority.com)



## Cucchi, Daniel

---

**From:** Charles Sharp [REDACTED]  
**Sent:** Sunday, September 12, 2010 10:13 PM  
**To:** Cucchi, Daniel; Mallen, Kevin; Hartman, Wendy  
**Subject:** 2030 General Plan Comments

9/12/2010

Yuba County Community Development Dept.  
Dan Cucchi  
Keven Mallen  
Wendy Hartman

Re: 2030 General Plan Update

### 1) Reexamine Feasibility

On page 5 of the Vision element under Preservation of Rural Lifestyle it says:

*To achieve this goal, we will:*

*Reexamine existing plans in the foothills that provide for urban or suburban levels of density that may no longer be preferred for the County and should be re-evaluated in light of infrastructure feasibility, interests of the community, etc.*

I assume that this reexamining will occur during the zoning update phase.

27-1

- What are the "existing plans" that will be reexamined?
- How are the "interests of the community" going to be determined?
- Are you going to ask the residents involved what the "interests of the community" are, or is this determination going to be made only by staff.
- What is the process for determining the "interests of the community".

The next paragraph says:

*Preserve foothill community boundaries that will continue to enhance and allow for open space, grazing lands, deer herds and oak woodlands which define the rural character of the foothills and the County as a whole.*

- Does this mean that a Community Plan that proposes to change the current boundary, therefore not preserving the foothill community boundary, will be inconsistent with the General Plan?

Then it goes on to say:

27-2

*Reexamine feasibility of continued subdivision into five acre parcels within the foothill community boundaries based on water availability, adequate soil for waste disposal, and other environmental or physical constraints.*

- Does this mean that five acre subdivisions will no longer be allowed. What will be the minimum parcel size? 10 ac, 20 ac?
- Will this be on a case by case basis, depending on site location, proposed parcel subdivision map and other environmental constraints?
- Or will this be on a area wide basis?
- If so, are the affected residents in the community boundary going to be included in this reexamination or is this determination going to be made by the County?
- What kind of public input will be provided for?
- Is there any description or guidelines of what "other environment or physical constraints" might cover or mean?

## 2) Seek funding vs waiving fees

In the General Plan Committee draft letter titled:

*Yuba County General Plan 2030  
Policy Recommendations - Fire Hazards  
Yuba Watershed Protection and Fire Safe Council  
General Plan Committee  
Draft from April 8, 2009 meeting*

In the Building Construction section is says:

*1. Promote and develop policies that have incentive programs for existing home - i.e. waving fees to replace an existing shake roof.*

In the draft General Plan Public Health and Safety element page 14 under Action HS2.2 Reduce Fire Risk it says:

*"The County will seek funding to provide incentives for property owners to retrofit existing structures in high or very high fire risk areas to reduce combustibility."*

It seems like "waiving fees" has turned into the problematic "seek funding".

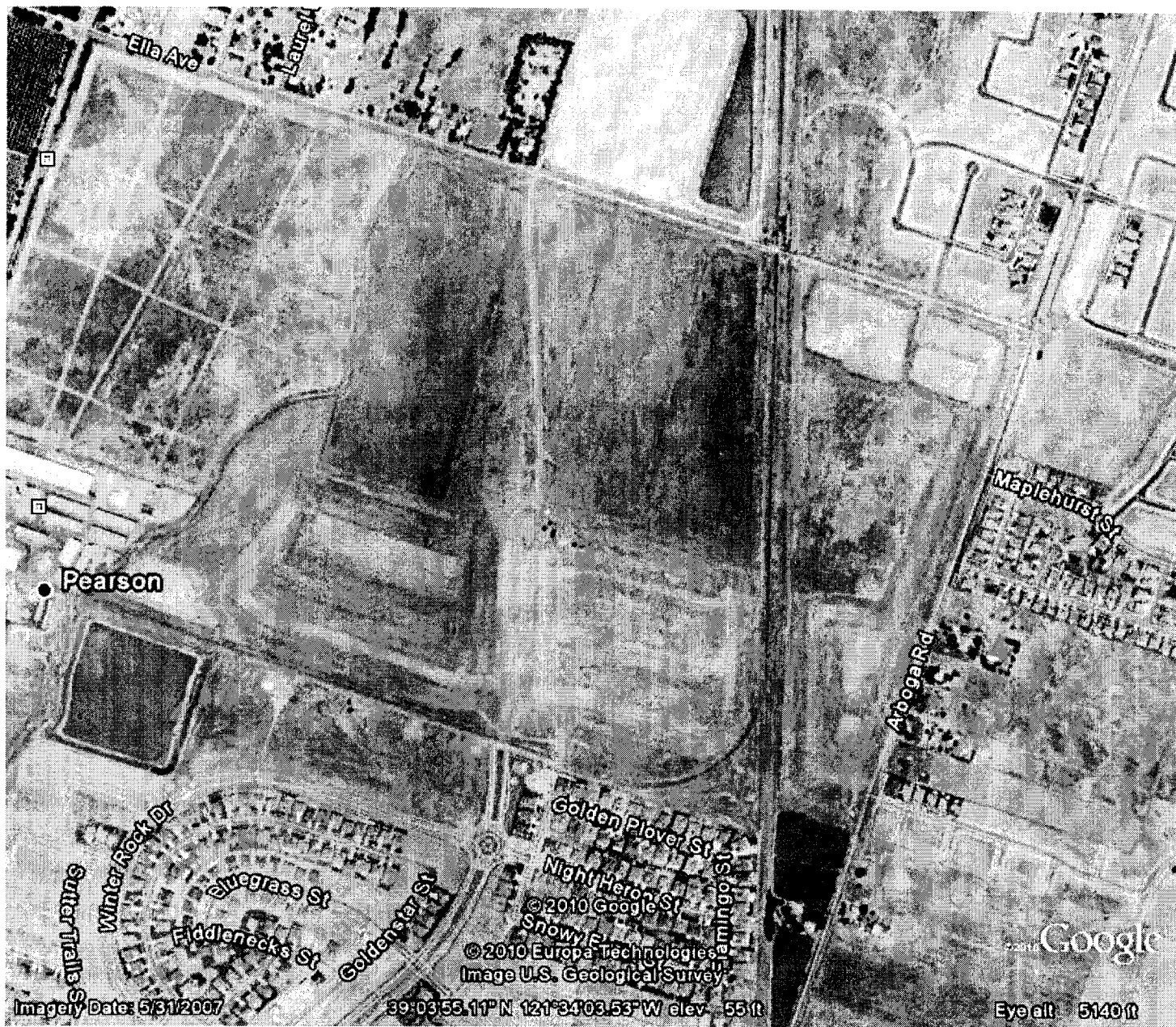
The County has little control over when or even if such funding will actually become available, but it has total control over waiving fees to replace existing shake roofs as the Fire Safe Council recommends.

- Why doesn't the General Plan reflect this recommendation by the Yuba Watershed Protection and Fire Safe Council?

## 3) No EIR available for reference

I would like to point out that all comments for the General Plan comment package to the Planning Commission are due now, yet there is no EIR document available for reference and as a guideline as what the environment impacts the General Plan might have. It is therefore extremely difficult to know what other draft General Plan comments regarding environmental issues might be appropriate at this stage.

Regards,  
Charles Sharp  
Yuba County property owner



Pearson

Maplehurst St

Aboga Rd

Golden Plover St

Night Heron St

Snowy P St

Hammingo St

Goldenstar St

Bluegrass St

Fiddlenecks St

Winter Rock Dr

Butter Trails St

© 2010 Google  
© 2010 Europa Technologies  
Image U.S. Geological Survey

Google

Imagery Date: 5/31/2007

39°03'55.11" N 121°34'03.53" W elev. 55 ft

Eye alt: 5140 ft

# **YUBA COUNTY LOCAL AGENCY FORMATION COMMISSION**

JOHN BENOIT, EXECUTIVE OFFICER

526 C STREET  
MARYSVILLE, CA 95901

Phone (530)749-5467  
Fax (530)740-4836  
URL [www.yubalafco.org](http://www.yubalafco.org)



September 8, 2010

County of Yuba  
Community Development Department  
915 8<sup>th</sup> Street, Suite 123  
Marysville, CA 95901

RE: Yuba County General Plan Update

Attn: Dan Cucchi

Dear Mr. Cucchi,

LAFCO did not receive a copy of the County's General Plan availability announcement until August 26th, 2010 and consequently did not attend the three workshops held in August and will not be able to meet the deadline for written comments by September 13, 2010. Unfortunately, I was unable to place an item on the September 3<sup>rd</sup> 2010 LAFCO agenda to hold a discussion. However, it is the Commission's intention to have the full LAFCO Commission provide comments on the draft General Plan at its next regular meeting, which is scheduled for November 3<sup>rd</sup>, 2010. It is staff's intention to provide comments to you immediately following that meeting.

In order for LAFCO to receive items from the Community Development Department in a timely manner, please change LAFCO's address in your departmental records. LAFCO is no longer located at 825 9<sup>th</sup> Street and are now located at **526 C Street, Marysville CA 95901.**

Very Truly Yours,

A handwritten signature in cursive script that reads "John Benoit". The signature is written in dark ink and is positioned above the printed name and title.

John Benoit  
Executive Officer

28-1

## Cucchi, Daniel

---

**From:** Glenn Nader [ganader@ucdavis.edu]  
**Sent:** Friday, September 10, 2010 1:10 PM  
**To:** Cucchi, Daniel  
**Cc:** 'Curt Williges'; 'Griffis, Sean'; 'cpdod-omsem'  
**Subject:** Yuba County General plan fire section  
**Attachments:** Cova Evac Article 2.pdf; Cova Evac Article 3.pdf; Evacuation or Staying During the Fire 10 6 09.doc; Yuba County CWPP Final Draft.doc

Dan,

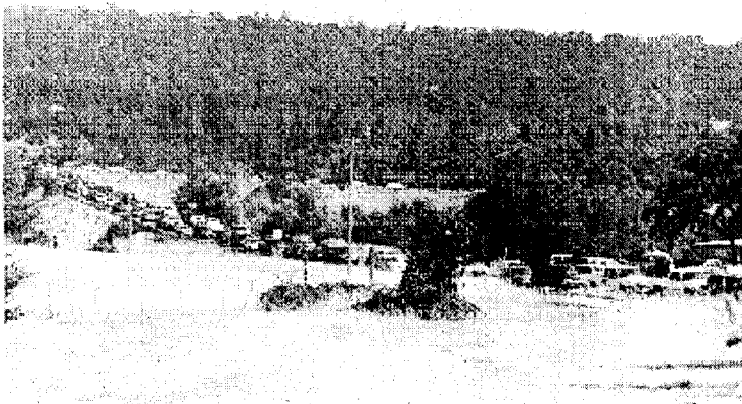
At the last Yuba Watershed Protection & Fire Safe Council meeting we discussed the Fire Risk section of the Draft General Plan. We thank you for addressing many of the items that we requested be reviewed in the document. I was directed to provide further comments.

I have attached the Yuba County CWPP developed by the Fire committee during the Yuba County DMA 2000 process. It could assist you in looking at further planning measures that can protect residents against wildfire.

I note that the present draft restricts roads on slope of 25 or more. The CWPP uses 20% as the upper slope limit (see C3e on page 14). The emergency responder access is also addressed on this page and the proper planning for the turn radius of the engines is discussed.

Access for fire fighters into and residents out of a community during a fire is an extreme problem in the foothills. The Ure mountain community has brought this issue up during many disaster planning meetings asking Yuba County to address the issue. They realize that a north wind driven fire could trap residents with no way out. This is not the only area with one access in the foothills. The County should consider planning measures that direct that any new proposed development have a circulation plan that assists the adjacent existing residents that had the development permitted with only one access. There is a benefit to all, as this will allow fire fighters to focus on the fire instead of the trapped residents. Some communities have developed Public Assembly Points within communities or developments. This provides a lower risk fire area for residents to assemble for evacuation directions that can lessen the impedence to fire fighters getting in. I have also attached two Cova studies that discuss fire planning. One article discussed the incorporation of the concept of the circulation requirements and the fire behavior modeling that can be used to model the street requirements to safely evacuate the residents during a fire. Also the cumulative impact of further development on the present major evacuation routes (Marysville Road, Hwy 20, Hwy 49) capacity to safely evacuate all the residents during a major fire storm always needs to be evaluated.

I have added a picture taken during a Butte County fire evacuation. This is a graphic example of limited access to get all the residents out during an evacuation.



I suggest that you consider reviewing Yuba County Fire Code, as it can provide more direction for the general plan.

If you have any questions or would like me to come over and discuss this in person, just let me know.

Glenn

Glenn Nader  
Livestock & Natural Resources Advisor  
University of California  
Cooperative Extension  
142-A Garden Hwy  
Yuba City Ca. 95991  
Phone 530.822.7515  
Fax 530.673.5368

## Cucchi, Daniel

---

**From:** Charles Sharp [REDACTED]  
**Sent:** Wednesday, September 08, 2010 4:10 PM  
**To:** Cucchi, Daniel; Mallen, Kevin; Hartman, Wendy  
**Cc:** Perkins, Kevin  
**Subject:** Comments to 2030 draft General Plan

9/8/2010

Yuba County Community Development Dept.  
Dan Cucchi  
Keven Mallen  
Wendy Hartman

Re: 2030 General Plan Update

### Item 1: Prehistoric Resources

30-1

In the Natural Resources element, the Prehistoric Resource Sensitivity map identifies various areas as a low, moderate and high for sensitivity to prehistoric resources. As I understand it, this map was created by an analysis of existing entries from the Cultural and Historical Resource Inventory Database.

The map is flawed, in that the white areas, indicating areas of low sensitivity, are only that way because there is no data available. There may indeed be more areas that might be yellow or red, if there was data available for the area.

Policy NR6.1 New developments involving the movement, scraping, or leveling of soil in areas of moderate or high potential for prehistoric resources shall conduct archeological background research, site analysis, and surveying to inform site design and avoid impacts to prehistoric sites (see Exhibit Natural Resources-6).

It would be an unnecessary financial burden and basic inequality if there were a policy as above, requiring field surveys for areas in moderate and high zones, when there might be equal and similar prehistoric resources in white areas not requiring such surveys.

Current state law requires that if any prehistoric resource is discovered during a construction phase of a project, that all construction shall stop until the site can be examined and a qualified determination is made as to how to proceed. Policy NR6.3 also covers this possibility. The state standard and Policy NR6.3 should be entirely adequate to protect any such prehistoric resources.

Perhaps there is some kind of liability issue for this policy.

- What is the reasoning for Policy NR6.1?

30-1

### Item 2: 4/5 Supervisor vote for General Plan Amendments

A General Plan is exactly that, general. It cannot possibly cover all planning scenarios that might happen over the course of its 10 year lifetime. On the Community Development page 20 it says "With changes in the rate, density, intensity, and location of land use change, the County anticipates that periodic amendments to the

30-2

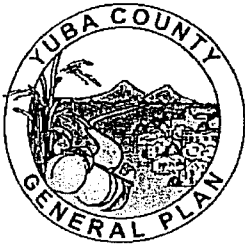


General Plan may become necessary prior to subsequent comprehensive General Plan updates."

To raise the bar by placing a 4/5 vote on a General Plan Amendment for a General Plan that only requires 3/5 vote to pass is very much an overreach.

- What was the decision making process leading up to this policy?
- Who proposed this policy?
- Why was it proposed?

Regards,  
Charles Sharp  
Yuba County property owner



## Yuba County Draft 2030 General Plan

Community Development  
Public Health & Safety  
Natural Resources

### We Need Your Input!

Please check all that apply. I am a: ☒ County resident ☒ Property Owner ☐ Developer/Representative ☐ Other

1. Did we miss any important topics? If so, please let us know what those are, and how we should address these topics. I BELIEVE SOME OF US WILL NOT OR DOES NOT FIT INTO YOUR PLAN. I WOULD LIKE TO SEE YOU HAVE AN EXIT STRATEGY OR SOMETHING OR WAY TO BUY US OUT FOR THE BEST OF ALL PARTIES INVOLVED

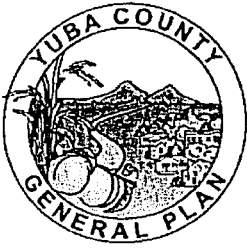
31-1

2. A General Plan is an exercise in balancing between competing objectives. A General Plan should also strike the right balance between flexibility and precision. Flexibility is necessary for a plan with a 20-year timeline, over the course of which conditions will change. Precise direction is needed on the most fundamental topics to achieve the desired results. Did we create the right balance? If not, how should we revise the General Plan in order to do so? IN MY OPINION WHAT I SAW IS TOO GENERAL TO MAKE A SPECIFIC COMMENT

31-2

3. Did we not place enough emphasis on a certain topic, or did we fail to provide sufficient guidance on any particular topic? If so, please tell us what that topic is, and how we can better address this topic to provide the County with the direction necessary. I THINK MORE TIME SHOULD HAVE BEEN SPENT GOING INTO GREATER DETAIL

4. Other input.



## Yuba County Draft 2030 General Plan

### Community Development Public Health & Safety Natural Resources

#### We Need Your Input!

Please check all that apply. I am a: ☒ County resident ☒ Property Owner ☐ Developer/Representative ☐ Other

1. Did we miss any important topics? If so, please let us know what those are, and how we should address these topics. ON THE OPEN SPACE MAP YOU HAVE "PUBLIC OPEN SPACE" & "PRIVATE RECREATION" BUT NO "PUBLIC RECREATION". THIS SHOULD BE ADDED TO ACCURATELY DESCRIBE THE INTENDED USE OF SOME PUBLIC LANDS THAT ARE SPECIFICALLY INTENDED FOR RECREATION PURPOSES (I.E. SYCAMORE RANCH, COLLINS LAKE, BULLARDS BAR, ETC.)

31-3

2. A General Plan is an exercise in balancing between competing objectives. A General Plan should also strike the right balance between flexibility and precision. Flexibility is necessary for a plan with a 20-year timeline, over the course of which conditions will change. Precise direction is needed on the most fundamental topics to achieve the desired results. Did we create the right balance? If not, how should we revise the General Plan in order to do so? \_\_\_\_\_

3. Did we not place enough emphasis on a certain topic, or did we fail to provide sufficient guidance on any particular topic? If so, please tell us what that topic is, and how we can better address this topic to provide the County with the direction necessary. \_\_\_\_\_

4. Other input. PLEASE FEEL FREE TO CONTACT ME PERSONALLY IF YOU HAVE QUESTIONS.

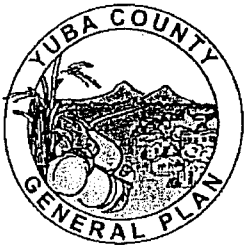
LINCOLN YOUNG, GENERAL MANAGER

COLLINS LAKE RECREATION AREA

Lincoln@collinslake.com

530-692-1600 (W)

PO BOX 300, OREGON HOUSE, CA 95962



## Yuba County Draft 2030 General Plan

### Community Development Public Health & Safety Natural Resources

## We Need Your Input!

Please check all that apply. I am a: ☐ County resident ☐ Property Owner ☐ Developer/Representative ☐ Other

1. Did we miss any important topics? If so, please let us know what those are, and how we should address these topics. \_\_\_\_\_

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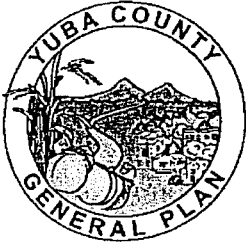
3. Did we not place enough emphasis on a certain topic, or did we fail to provide sufficient guidance on any particular topic? If so, please tell us what that topic is, and how we can better address this topic to provide the County with the direction necessary. \_\_\_\_\_

4. Other input. I SEE SOME COPIES OF THE "DRAFT GENERAL PLAN"  
IN FULL FORM WITH A FEW AUDIENCE MEMBERS. IS THIS  
SOMETHING I CAN GET ALSO (EITHER PDF OR PAPER)?

LINCOLN YOUNG

lincoln@collinslake.com

530-692-1600 (WORK)



## Yuba County Draft 2030 General Plan

### Community Development Public Health & Safety Natural Resources

#### We Need Your Input!

Please check all that apply. I am a: ☐ County resident ☐ Property Owner ☐ Developer/Representative ☐ Other

1. Did we miss any important topics? If so, please let us know what those are, and how we should address these topics.

No HAMMONTON RD. showing by Yuba River

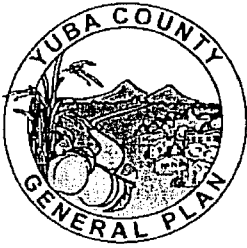
Also: Restoring old Hammonton Town?

31-5

2. A General Plan is an exercise in balancing between competing objectives. A General Plan should also strike the right balance between flexibility and precision. Flexibility is necessary for a plan with a 20-year timeline, over the course of which conditions will change. Precise direction is needed on the most fundamental topics to achieve the desired results. Did we create the right balance? If not, how should we revise the General Plan in order to do so?

3. Did we not place enough emphasis on a certain topic, or did we fail to provide sufficient guidance on any particular topic? If so, please tell us what that topic is, and how we can better address this topic to provide the County with the direction necessary.

4. Other input.



**Yuba County  
Draft 2030 General Plan**

**Community Development  
Public Health & Safety  
Natural Resources**

**We Need Your Input!**

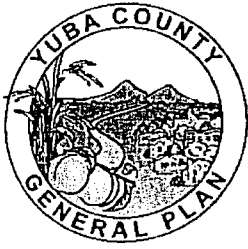
Please check all that apply. I am a: ☒ County resident ☐ Property Owner ☐ Developer/Representative ☐ Other

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3. Did we not place enough emphasis on a certain topic, or did we fail to provide sufficient guidance on any particular topic? If so, please tell us what that topic is, and how we can better address this topic to provide the County with the direction necessary. \_\_\_\_\_

4. Other input. WE WANT MORE TIME FOR PUBLIC MEETINGS  
INPUT. IT IS UNFAIR FOR PEOPLE TO COME TO MEETINGS  
AND NOT HAVE A SAY. HOW CAN YOU HOLD A  
PUBLIC MEETING AND HAVE NO PUBLIC INPUT!



**Yuba County  
Draft 2030 General Plan**

**Community Development  
Public Health & Safety  
Natural Resources**

**We Need Your Input!**

**Please check all that apply.** I am a: ☒ County resident ☐ Property Owner ☐ Developer/Representative ☐ Other

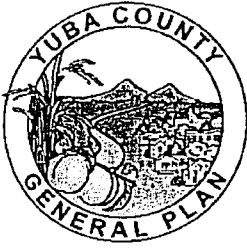
1. Did we miss any important topics? If so, please let us know what those are, and how we should address these topics. YES! The communication between us and the Company Broadcasting what's to happen. ITS NOT A "PUBLIC FORUM"

2. A General Plan is an exercise in balancing between competing objectives. A General Plan should also strike the right balance between flexibility and precision. Flexibility is necessary for a plan with a 20-year timeline, over the course of which conditions will change. Precise direction is needed on the most fundamental topics to achieve the desired results. Did we create the right balance? If not, how should we revise the General Plan in order to do so? No, Listen to us, Your Talking but your not listening.

3. Did we not place enough emphasis on a certain topic, or did we fail to provide sufficient guidance on any particular topic? If so, please tell us what that topic is, and how we can better address this topic to provide the County with the direction necessary. Lack of understanding for what is being presented to the community

4. Other input. For the last few years we have listened to the Government tell us how our community is going to be. We must have an extension so that WE can tell them what we want our community to look like in the future.

THIS TIME THEY CAN LISTEN



## Yuba County Draft 2030 General Plan

### Community Development Public Health & Safety Natural Resources

#### We Need Your Input!

Please check all that apply. I am a: ☒ County resident ☐ Property Owner ☐ Developer/Representative ☐ Other

1. Did we miss any important topics? If so, please let us know what those are, and how we should address these topics. \_\_\_\_\_

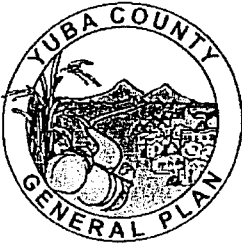
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3. Did we not place enough emphasis on a certain topic, or did we fail to provide sufficient guidance on any particular topic? If so, please tell us what that topic is, and how we can better address this topic to provide the County with the direction necessary. \_\_\_\_\_

4. Other input. \_\_\_\_\_

We would like to have the  
process slowed down giving  
public more time to give  
comment





## Yuba County Draft 2030 General Plan

### Community Development Public Health & Safety Natural Resources

## We Need Your Input!

Please check all that apply. I am a: ☐ County resident ☒ Property Owner ☐ Developer/Representative ☐ Other

1. Did we miss any important topics? If so, please let us know what those are, and how we should address these topics.

How can the Housing element be approved before and without the guidelines provided by EIR being available? This undermines the whole CEQA process.

32-4

2. A General Plan is an exercise in balancing between competing objectives. A General Plan should also strike the right balance between flexibility and precision. Flexibility is necessary for a plan with a 20-year timeline, over the course of which conditions will change. Precise direction is needed on the most fundamental topics to achieve the desired results. Did we create the right balance? If not, how should we revise the General Plan in order to do so?

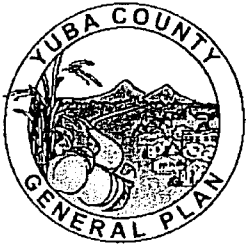
3. Did we not place enough emphasis on a certain topic, or did we fail to provide sufficient guidance on any particular topic? If so, please tell us what that topic is, and how we can better address this topic to provide the County with the direction necessary.

4. Other input. Want time to review General Plan with EIR available and provide comments to General Plan.

32-5

Want open Town Hall meetings open to public input and discourse forum.

32-6



**Yuba County  
Draft 2030 General Plan**

**Community Development  
Public Health & Safety  
Natural Resources**

**We Need Your Input!**

Please check all that apply. I am a: ☒ County resident ☒ Property Owner ☐ Developer/Representative ☒ Other

1. Did we miss any important topics? If so, please let us know what those are, and how we should address these topics. \_\_\_\_\_

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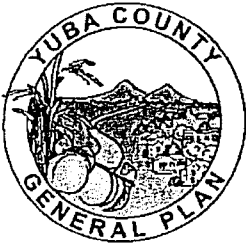
should we revise the General Plan in order to do so? The provision of 3 supervisors  
data to approve and 4 votes to change should be  
revised.

32-7

3. Did we not place enough emphasis on a certain topic, or did we fail to provide sufficient guidance on any particular topic? If so, please tell us what that topic is, and how we can better address this topic to provide the County with the direction necessary. \_\_\_\_\_

4. Other input. There has been too little input from County residents  
& the process is being rushed to conclusion. There  
has been inadequate time for public review of the  
complete document. The supervisors cannot have  
read and digested all of the portions of this plan.  
This presentation is too much "glitz" and  
not a true business advertisement.

32-8



## Yuba County Draft 2030 General Plan

### Community Development Public Health & Safety Natural Resources

#### We Need Your Input!

Please check all that apply. I am a: ☒ County resident ☒ Property Owner ☐ Developer/Representative ☐ Other

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3. Did we not place enough emphasis on a certain topic, or did we fail to provide sufficient guidance on any particular topic? If so, please tell us what that topic is, and how we can better address this topic to provide the County with the direction necessary. \_\_\_\_\_

4. Other input. I want more time for the public  
to have a say in this plan.



# *Sierra Nevada Group*

## **Mother Lode Chapter**

**P.O. Box 1042 Nevada City, California 95959**

**September 10, 2010**

**Dan Cucchi  
Yuba County Community Development Department  
915 8<sup>th</sup> Street, Suite 123  
Marysville, CA 95901**

**Dear Mr. Cucchi:**

**Thank you for the opportunity to comment on the Notice of Preparation for the Yuba County General Plan Update. The Sierra Nevada Group appreciates the time and sensitivity that has been shown in this process. While we have not been active in the several meetings and workshops, we do have an interest on behalf of our members residing in Yuba County and want to see the most comprehensive, sustainable and beneficial plan developed for the county.**

**We are particularly concerned about the treatment of the sensitive open space area near the Spenceville Recreation and Wildlife Preserve, largely south of Hammonton-Smartsville Road. Much of this area was formerly in the Yuba Highlands Specific Plan area. We generally agree that the Update's Alternative A. However, a large portion of this area has been designated for Agricultural Deintensification with 20 acre minimums. We are concerned that these parcel sizes may not be commercially feasible for grazing and this should be studied as a potential impact and analyzed in the DEIR. Perhaps clustering and use of common open space could be established as land use criteria and used as mitigation. This will allow the preservation of usable grazing and wildlife protection.**

**Since this land is already in large parcels, leaving large parcel land use designations will ensure the Spenceville Recreation and Wildlife Preserve protection from potential impacts, such as visual, traffic, water supply, biological disturbance.**

33-1

Further, we note that the existing zoning densities for Smartsville Community Area in relation to the Sierra Lakes Specific Plan permits a population of 1800. We would like to suggest that again Agricultural Deintensification should be implemented for this area to avoid potential impacts.

Sincerely,

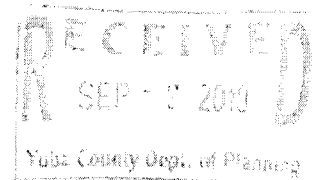
Barbara Rivenes  
Conservation Chair



## TEICHERT AGGREGATES

Established 1887

Corporate Office  
3500 American River Drive  
Sacramento, CA 95864-5805  
P.O. Box 15000  
Sacramento, CA 95851-1002  
(916) 484-3011 • FAX (916) 484-6506



September 7, 2010

Wendy Hartman, Planning Director Yuba County  
915 8<sup>th</sup> Street, Suite 123  
Marysville, CA 95901

J. Matthew Gerken  
AECOM  
2020 L Street, Suite 400  
Sacramento, CA 95811

Re: Draft Yuba County 2030 General Plan – Mineral Resources

Dear Ms. Hartman & Mr. Gerken:

Teichert Aggregates appreciates the opportunity to provide comments pursuant to Goal NR8, Policy NR8.4, Policy NR8.6 and Action NR8.1 discussed in the Mineral Resources section of the Draft 2030 General Plan. The “Yuba Gold Fields” located north of Beale AFB are an exceptional asset which provides construction aggregate to the region.

The Yuba River’s geological strata combined with historic gold mining activities yield the largest aggregate reserves in northern California. The River’s historic meandering has also constituted an excellent source of construction aggregate. Ancient river pathways have typically been zoned rural residential/agricultural.

Teichert’s Marysville excavation north of Hammonton-Smartville Road represents the mining of an ancient tributary. In 1994/1995 Teichert petitioned and received a rezone from RR/A to M2. This former agricultural property will be reclaimed to a lake, given its proximity to groundwater and the mining depth. County Supervisors have recognized that the trade of a small amount of agricultural land for mining represented a trading of assets that yielded a net economic gain to the County. Accordingly, they have not required mitigation for the rezone.

Regarding Action NR8.1: Planning and Regulating Land Use in Mineral Resource Areas, the last sentence states:

*“The County will consider modifications to its codes to allow mining operations on agricultural land if this is part of an ongoing agricultural operation and provided the land is returned to equivalent agricultural value.”*

34-1

As our Marysville operation exemplifies, deeply mined land cannot be returned to agricultural production. The constraint requiring that mined farm land revert to agricultural use severely limits the ability to retrieve mineral resources and hinders

reclamation of the highest value for the area. We respectfully request that this barrier to effective mining and reclamation be reconsidered.

Regarding Policy NR8.6:

*"In addition to mitigating impacts, projects that extract non-renewable mineral resources within the County shall provide activities or facilities that have public benefits or a fee to provide public benefits at a level commensurate with the resources that are extracted."*

We respectfully request that this policy be re-evaluated, for the following reasons:

- Yuba County has already implemented a resource depletion fee that is applicable to the Aggregate Industry (approved by the voters).
- This additional public fee and/or benefit represents a tax that would place an additional economic hardship on the aggregate industry.
- Mitigation is already required for non-vested mining operations. Through the EIR process operators must mitigate any significant impacts for which a nexus determination is made.
- New mining sites will lose economic viability in competing with existing producers who are not obligated by Policy NR8.6.

Regarding Policy NR8.4:

*"The County will support alternative methods for transporting aggregate, consistent with this General Plan."*

We are very supportive of this policy. It should be noted that implementing alternative methods of transportation will very likely require rezoning portions of properties, in a collaborative effort between the Industry and the County. This section could be strengthened by explicit mention of how the County can help facilitate the policy.

Again, thank you for the opportunity to comment. If you have any questions, please feel free to call (916)484-3319.

Sincerely,



Lillie O'Keeffe Noble  
Project Manager

cc: Yuba County Board of Supervisors  
Michael Smith, Teichert  
Paul Mercurio, Teichert  
John Taylor, Taylor and Wiley

Greg Crompton  
PO Box 315  
Dobbins, CA 95935  
September 8, 2010

Mr. Dan Cucchi, Project Planner  
915 Eighth St. Ste. 123  
Marysville, CA 95901

Dear Mr. Cucchi:

Comments contained in this letter are in response to Policies and Actions documented under Goal HS2 in the Public Health and Safety Element in the Draft Yuba County 2030 General Plan. Attached are two documents originated by the Dobbins/Oregon House Action Committee (DOACT) provided here to illustrate public concern over a need for safe evacuation routes. As I read the Policies and Actions documented in support of Goal HS2, the emphasis on safe evacuation routes is scant and ambiguous, even implying that unimproved roads are adequate as evacuation routes. There is significant emphasis on access which may be felt as the same as egress. In fact, there are likely to be circumstances where adequate access for fire suppression resources will not simultaneously support safe evacuation.

35-1

In our area the worst predicted conditions for wildfire exist during north wind events. Policy HS2.9 refers to "Public trails and unimproved roads" being maintained to include provision for evacuation and moving of equipment. Policy HS2.10 follows immediately stating that "new developments - - - cannot propose limited access roads unless such access limitations do not adversely affect fire response and suppression." I see this as an implication that one lane dirt roads are ok for evacuation as long as fire suppression resources can get in. None of these policies or actions refer to providing evacuation routes in a direction that leads away from an advancing fire during the predicted worst case fire conditions. Nor are there references to road capacities or level of service (in the Circulation Element level of service D is stated as required in rural areas, only if feasible, in Policy CD16.3). In addition, although multiple access routes are cited as requirements, nothing says they must head in directions such that at least one will lead away from the advance of fire under worst case conditions.

35-2

I bring to your attention the fire in an urbanized area near Auburn last year. Had there been only one way out there would likely have been many fatalities. I can think of three areas in our community that only have one way out. These are accessed via Rice's Crossing Road, Road 270 and Neptune Lane respectively. A developer's clever lawyer may be able to twist the General Plan's wording I refer to in this letter such that no safe evacuation for a development is provided. The attachment to this letter from DOACT's Board for providing guidance to the Community Plan Group has examples of how they perceived safe evacuation routes should be provided.

Respectfully:

  
Greg Crompton

Attachments  
cc Kevin Mallen





DOBBINS/OREGON HOUSE ACTION COMMITTEE  
OREGON HOUSE CA 95962

PO BOX 703

PHONE (530) 692-0110

April 27, 2009

Mr. Kevin Mallen, Director  
Community Development and Services Agency  
915 8<sup>th</sup> Street Suite 123  
Marysville, CA 95901

Dear Mr. Mallen:

We have been informed that a letter and/or a petition has been received by the County, purporting to represent a majority of the residents of Dobbins and Oregon House, favoring expansion of Community Boundaries to include properties south of Marysville Road in the Oregon House area. As we understand it this would involve an area generally south of Dixon Hill, and include parcels located on the Fellowship of Friends and Richards Ranch properties. We have been told that a petition was circulated and that its circulators induced people to sign it by indicating that the extension of the community boundary will allow for development that will help reduce fire danger in the area. None of the attendees at our April meeting had seen or been asked to sign such a petition. We are admittedly responding to hearsay.

35-3

Our understanding of development allowed inside community boundaries is that where a Planned Unit Development is involved, that provides for a certain percentage of the land included to be dedicated to open space, it qualifies for a doubling of allowed density rates. This means that property inside the community boundary can be developed at a rate of one unit per two and one half ( $2\frac{1}{2}$ ) acres of land instead of one unit per 5 acres. Such higher density development would run counter to both the Dobbins/Oregon House Community Action Plan and the recommendations resulting from the Sacramento Area Council of Governments' (SACOG) Blueprint Project. Also, as circumstances currently exist, densified development inside the newly expanded community boundary would have access and egress only from/to the north, and provided primarily via Rices Crossing Road. This leads us to our primary concern related to the proposed expansion of the community boundary. It is actually more likely to lead to a higher level of fire danger in the affected area.

Major fires in our area occur during wind events where the fires are driven in a southerly direction. An evacuation of the area within, and adjacent to, that included within the proposed community boundary would have to run toward the north on Rices Crossing Road. People would be heading toward the fire that is most likely to require the evacuation. Suppression units heading into the area to deal with spot fires caused by such a north wind driven fire will be more seriously impacted by increased numbers of panicked residents trying to get out. We do not favor providing conditions that invite non conformance with our Community Action Plan and SACOG's Blueprint Project. But notwithstanding those factors, significant additional development in the affected area should not be allowed, nor even conditions that invite it, until adequate ingress and egress from/to the south, connecting with State Highway 20, exists. This requirement must be met to mitigate the serious danger from wildfire that current residents face, and future residents will face.

cc: Yuba County Board of Supervisors

Sincerely:

Greg Crompton, Chairman  
Dobbins/Oregon House  
Action Committee

## INFORMATION TO COMMUNITY PLAN COMMITTEE

The DOACT Board of Directors brings to your attention the fact that approximately one year ago, at a regular DOACT meeting, attendees voted to oppose moving the Oregon House Community Boundary. They also voted to circulate a petition opposing the boundary move. Letters were sent to the County documenting the opposition vote and the petition was also sent. There were two primary reasons behind this. One is that a Planned Unit Development (PUD) within the community boundary could have a density of twice the five acre minimum otherwise allowed. The second is that a potential for subjecting residents in the expansion area to greater peril exists due to lack of safe egress away from a north wind driven fire. If expansion of the Community Boundary to the south in Oregon House is adopted in your plan, the DOACT Board requests that you also include requirements for safe access and egress during worst case predicted wildfire behavior. In addition, the Board requests that the plan include measures that preclude application of zoning provisions in which the underlying 5 acres per single family unit can be exceeded.

For DOACT to recommend adoption of the plan you develop it must be so voted at a regular or special meeting convened to act on that. If, in your plan, you allow for moving the community boundary while making no provision to ensure adequate fire safety in terms of access and egress, and you further "open the door" for greater density than the underlying one single family unit per five acres, the DOACT Board will not recommend approval to attendees at a meeting convened to elicit endorsement of the plan. This does not mean that DOACT cannot endorse the plan. Whatever attendees approve regarding an issue at a meeting convened to address that issue will be what is forwarded to cognizant authority.

Below are examples of the objectives and policies that the DOACT Board will require in the land use and safety elements of the plan, if it includes expanding the Community Boundary, before a recommendation will be made to attendees to endorse it. You are cautioned, however, that other issues could arise. But at this juncture the significant concerns are retaining the underlying 5 acre minimum lot size (or corresponding development densities) for residential and agricultural uses and ensuring safe evacuation corridors for residents.

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Safety Element Objective n: Provide all new development with sufficient ingress/egress through road system design that will allow safe evacuation during a wildfire with emphasis on probable worst case scenarios. It should incorporate the worst predicted area wildfire behavior and the traffic flow requirements during an evacuation necessary to ensure (simultaneously) evacuee safety and suppression resource access.

Safety Element Policy n1: All new development shall be provided at least two routes for access and egress. At least one of the routes shall allow egress in a direction such that traffic flow leads away from the flame front at the head of a wildfire that behaves in accordance with the worst predicted wildfire behavior. At least one additional access and egress route shall allow egress in a direction that approximates 180 degrees away from that specified above.

Safety Element Policy n2: At least two of the routes provided in conformance with the traffic flow direction requirements for access and egress as specified in Safety Element Policy n1 shall conform to the requirements for collector roads as defined in the Yuba County General Plan.

Land Use Objective n: Preserve the rural nature and quality of life within the community boundary.

Land Use Policy n1: For areas within the Dobbins/Oregon House community boundaries the minimum parcel size in areas suitable for agriculture and residential development shall be 5 acres.

Land Use Policy n2: Planned Unit (or Clustered) Development in areas suitable and zoned for residential development shall be allowed within the Dobbins/Oregon House Community Boundaries in accordance with the provisions for such development specified in the Yuba County General Plan. Overall density of the combined areas of open space and developed lots shall not exceed one single family unit per 5 acres.

Land Use Policy n3: Application of zoning provisions for Planned Unit Developments in specified zones that permit densities in excess of the underlying zone densities shall not be permitted within the Dobbins/Oregon House Community Boundaries.

Land Use Objective x: Provide for safe access and egress to developed areas during emergency conditions.

Land Use Policy x1: Occupation of development on parcels that are created after the adoption of this Community Plan that are within the Dobbins/Oregon House Community Boundaries shall not be permitted until full compliance with Safety Element Policies n1 and n2 has been achieved.

Land Use Policy x2: Occupation of Planned Unit Developments within the Dobbins/Oregon House Community Boundaries where permit applications are submitted after the adoption of this Community Plan shall not be permitted until full compliance with Safety Element Policies n1 and n2 has been achieved.

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The below is recent information received from the County in a "Notice of Preparation, Yuba County General Plan Update, Draft Program Environmental Impact Report". Notice that it appears to cite preservation of existing foothill community boundaries as a goal.

### ***Preservation of Rural Lifestyle***

To achieve this goal, we will:

- ▶ Reexamine existing plans in the foothills that provide for urban or suburban levels of density that may no longer be preferred for the County and should be re-evaluated in light of infrastructure feasibility, interests of the community, etc.
- ▶ Preserve foothill community boundaries that will continue to enhance and allow for open space, grazing lands, deer herds and oak woodlands which define the rural character of the foothills and the County as a whole.
- ▶ Reexamine feasibility of continued subdivision into five acre parcels within the foothill community boundaries based on water availability, adequate soil for waste disposal, and other environmental or physical constraints.
- ▶ Ensure that existing residences and resources are protected in the process of evaluating future subdivisions.

# *Linda Fire Protection District*

1286 Scales Avenue ☆ Marysville, California 95901

Telephone: (530) 743-1553

Chief

Directors

Richard Webb

September 13, 2010

Jim Brannon

Robert Shinn

Glen Weldon

Dan Cucchi, Project Planner  
County of Yuba, Planning Department  
915 8<sup>th</sup> Street, Suite 123  
Marysville, CA 95901

Re: Comment on the Draft Yuba County General Plan

Dear Mr. Cucchi:

The Linda Fire Protection District (the "District") and its legal counsel, the Law Offices of William Ross, have reviewed the Draft Yuba County 2030 General Plan (the "General Plan") and jointly offer the following comments to ensure compliance with Government Code § 65300 *et seq.*<sup>1</sup> The County should coordinate the comment periods for the Draft Environmental Impact Report ("Draft EIR") for the General Plan Update with the proposed revisions to the General Plan to expedite the analysis of both documents and avoid a duplication of effort.

The District encompasses approximately 52 square miles and serves the communities of Linda, West Linda, Arboga, and Plumas Lake. It is bounded to the north by the confluence of the Feather and Yuba Rivers and to the south by the Bear River. The District territory is exclusively unincorporated. Accordingly, the General Plan controls development within the District,<sup>2</sup> and should ensure that development bears its fair share of the impacts on the required services and facilities of the District.

## I. General Plan Requirements.

The General Plan must include elements governing Land Use, Circulation, Housing, Conservation, Open Space, Noise, and Safety. These elements may be called by different names, but must substantially comply with the requirements of § 65302. The level of detail of the discussion of each mandatory element should reflect local conditions and circumstances.<sup>3</sup> The General Plan must also be internally consistent, meaning that combined, the elements must form an integrated and compatible statement of policies for the County to adopt.<sup>4</sup> Internal consistency requires that the General Plan make viable proposals for dealing with problems that are projected to arise, including addressing funding mechanisms to adequately address the impacts of projected growth.<sup>5</sup>

<sup>1</sup> All unidentified section references are to the Government Code.

<sup>2</sup> See *DeVita v. County of Napa* (1994) 9 Cal.4th 763, 773.

<sup>3</sup> *Save Stanislaus Area Farm Economy v. Board of Supervisors* (1993) 13 Cal.App.4th 141, 145 n. 2.

<sup>4</sup> Section 65300.5.

<sup>5</sup> See *Concerned Citizens of Calaveras County v. Board of Supervisors* (1985) 166 Cal.App.3d 90, 103.

In order to meet the substantial compliance requirements of § 65302, the General Plan must include specific solutions to how the impacts of development on public services and facilities will be funded. Moreover, to meet the internal consistency requirement of § 65300.5, the General Plan must: 1) address the past, current and on-going economic impacts of the current Sub-prime Mortgage Crisis and the corresponding State fiscal crisis and its resulting effects on local agencies' ability to provide public services and facilities for future development, including the County and the District; and 2) emphasize that the County will condition future development on the availability of public services and facilities.<sup>6</sup>

Accordingly, the Health and Safety Element, Infrastructure, Facilities, and Services Element, and Transportation Element should each address the economic impacts of the Sub-prime Mortgage crisis and should also condition future growth on the provision of public services and facilities to be internally consistent with the Multi-Jurisdictional, Multi Hazard Mitigation Plan<sup>7</sup> and the 2008-2013 Housing Element<sup>8</sup> as is more specifically developed, *infra*.

36-1

I. Specific Revisions to the Health and Safety and Transportation Elements.

The Health and Safety and Transportation Elements must identify the specific impacts of development on public services and facilities and propose specific solutions. Moreover, development must pay its proportional cost of the operational and capital impacts on public services and facilities.

36-2

The Health and Safety Element discusses wildland and urban fire risk and references Fire Hazard Severity Zones maps produced by the California Department of Forestry and Fire Protection. The maps do not include fire risk severity ratings for areas of Local Responsibility Areas that exist outside of the State Responsibility Area. Identification of the appropriate fire risk classification for these areas should be included in the Health and Safety Element to ensure appropriate fire safety regulations are incorporated into building and development plans.

36-3

The Health and Safety Element includes discussions of flood hazards and seismic hazards and incorporates maps of such hazards into the discussion.<sup>9</sup> However, to better identify particular impacts on public services and facilities, the Health and Safety Element should also include a discussion of how the County will continue to fund and update its infrastructure, in particular its infrastructure of levees, in light of the ongoing fiscal crisis and the development contemplated by the General Plan.

36-4

The Transportation Element must also discuss how development will pay its proportional share of the operational and capital impacts on public services and facilities. In addition to the

36-5

<sup>6</sup> Such interpretations are consistent with the recommendation of County planning staff. *E.g.* October 13, 2009 Staff Report re: General Plan Update Land Use Alternatives. The opinion of County planning staff is entitled to great weight with respect to the interpretation of County planning documents.

<sup>7</sup> The Multi Hazard Mitigation Plan, and the District Annex (Annex K) are incorporated by reference into the Health and Safety Element, Health and Safety Element, p. 2.

<sup>8</sup> The County Adopted the Housing Element on December 15, 2009. The State Department of Housing and Community Development found that the Housing Element substantially complies with the requirements of §§ 65580-65589.8 on March 30, 2010, making the Housing Element presumptively valid. § 65589.3.

<sup>9</sup> *E.g.* Health and Safety Element, pp. 3-9, 38-43.

traffic mitigation fees discussed in the Transportation Element,<sup>10</sup> a practical application of accommodating increased traffic, while still providing adequate emergency services, is to require that development pay its fair share for the installation and ongoing maintenance of an Opticom automatic traffic signal control system at all signaled intersections. Such a requirement helps to ensure that emergency vehicles, including District vehicles will be able to respond to calls as quickly as possible, even as the County experiences increases in development and density.

## II. Impact of the Sub-Prime Mortgage Crisis and State Fiscal Crisis.

The Sub-prime Mortgage Crisis has resulted in significant numbers of foreclosures throughout the State and a corresponding drop in property values. The reduction in property values has resulted in a reduction in property tax revenues for State and local agencies, including the County and the District. California's cities, counties and special districts suffered a combined loss of \$2 billion in property tax revenue to the State in 2009. In July of 2009, Governor Arnold Schwarzenegger *again* declared a State fiscal emergency and, with support from two-thirds of the Legislature, suspended Proposition 1A ("Prop 1A") permitting the State to borrow up to eight percent of property taxes that otherwise would have gone to local government, including the County, the District, and other affected local agencies which provide public services and facilities. In March 2010, the Legislature enacted a package of payment deferrals, largely impacting State, local government, and school operations, to avoid cash shortfalls projected through June 2011.

For the rest of the General Plan to be consistent with the presumptively valid Housing Element, the General Plan must include a description of the State, County, and District economic condition in light of the suspension of Prop 1A to determine whether the County, District and other local agencies will be able to provide adequate public services and facilities to meet the development contemplated by the General Plan. The Housing Element provides that much of the funding for the County's affordable housing activities is expected to come from State programs.<sup>11</sup> In light of the ongoing fiscal crisis, the General Plan should identify the status of funding for the public improvements that currently serve the County and the District to create a meaningful starting point for the assessment of the impacts future development will have on the County finances, and the finances of affected local agencies, including the District.

## III. Conditioning Development on the Availability of Public Services and Facilities.

The County should emphasize that the development contemplated by the General Plan will be conditioned on the funding of adequate public services and facilities to meet the internal consistency requirement of § 65300.5 and address the need to provide solutions to the potential impacts caused by proposed developments. It is further noted that this is the recommendation made by County staff in the planning process.<sup>12</sup>

The General Plan projects population growth within the County of 25 percent by 2030,<sup>13</sup> proposes a build out of up to 100,000 residential units in unincorporated areas,<sup>14</sup> and includes 22

<sup>10</sup> Community Development Element, p. 75.

<sup>11</sup> Housing Element, pp. 90-92.

<sup>12</sup> E.g. October 13, 2009 Staff Report, *supra*, n. 6.

<sup>13</sup> Housing Element, p. 39, Table H-3, Population Projections.

proposed roadway projects.<sup>15</sup> Such growth will place significant additional demands on public services and facilities, including fire protection services and facilities. The General Plan also acknowledges that the County approved an additional 3,800 units in the Plumas Lake Specific Plan area during the preparation of the General Plan.<sup>16</sup>

36-7

Recent experience demonstrates that the development contemplated by the General Plan will impact the District's ability to continue to provide fire protection services and facilities and emergency response services, including responding to traffic accidents and flood events. From 1990-2008, the County increased its housing stock by approximately 5,950 units.<sup>17</sup> As the County grew, the District experienced a corresponding increase in calls. From 2000-2006 the District responded to over 2000 calls each year, with the number of calls increasing annually to over 2,700 calls in 2006. In response to recent development, the District constructed Station No. 3, has purchased property to replace Station No. 2, in two to five years, and plans to construct an additional station in 2013 if necessary to keep up with forecast growth. However, the District ability to maintain the current level of service will depend on its ability to keep up with the pace of development.<sup>18</sup>

In addition to contemplating large increases in the County housing stock, the General Plan includes five currently planned road construction projects and 17 proposed road construction projects. As traffic increases in the County, so will the number of calls to the District. The majority of the 7.59 average calls per day to which the District responded in 2006 were traffic accidents on highways 65 and 70.<sup>19</sup>

The County and other local agencies must continue to develop infrastructure to mitigate flood hazards,<sup>20</sup> and must coordinate with the emergency response plan of the District. Planned development of the County flood control infrastructure is not only necessary to accommodate the County history of flooding, but also to comply with § 65302(g), governing the Health and Safety Element. As amended, effective January 1, 2009, § 65302(g) requires that the General Plan include extensive information about flood risks and the County efforts to mitigate flooding. To ensure that the Health and Safety Element substantially complies with the § 65302(g) requirements, the County must address how it will continue to fund its flood mitigation efforts.

36-8

The County needs to further address the General Plan's theme of "holding down public and private costs associated with infrastructure and services provision and passing along cost savings to future developers, businesses, and residents"<sup>21</sup> and considering "lifecycle costs, long-term operation, and maintenance costs in addition to initial construction costs."<sup>22</sup> Specifically, the District believes that the County should emphasize that developers must "pay their fair share"<sup>23</sup> to ensure that these

<sup>14</sup> Community Development Element p. 19.

<sup>15</sup> Community Development Element, pp. 55-56.

<sup>16</sup> Community Development Element, p. 4.

<sup>17</sup> Housing Element, p. 51.

<sup>18</sup> Annex K, p. 54.

<sup>19</sup> Annex K, p. 37.

<sup>20</sup> Annex K, p. 62.

<sup>21</sup> Community Development Element, p. 3.

<sup>22</sup> Vision, p. 5.

<sup>23</sup> Health and Safety Element, p. 13.

goals, when implemented, result in the efficient provision of public services and facilities, including fire protection services, as intended, and do not result in a situation in which the County approves future development without providing funding for adequate public services and facilities, due to concerns about reducing the costs of the public services and facilities that the new development requires.

Accordingly, the County should emphasize the General Plan goals of conditioning new development on the County (and neighboring local agencies) ability to provide public services,<sup>24</sup> and should emphasize those General Plan goals and policies relating to the need to adequately fund public services and facilities, including coordinating with special districts<sup>25</sup> and participating in tax-sharing agreements.<sup>26</sup>

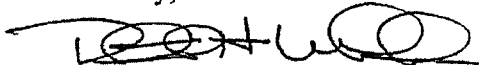
#### IV. Conclusion.

In light of the ongoing fiscal crisis, the General Plan should include a discussions of 1) specific County policies to ensure funding for the impacts of new development on public services and facilities County, 2) the impacts of the state fiscal crisis, and 3) emphasize that new development will be conditioned on the provision of public services to ensure compliance and provide meaningful guidelines for future growth to substantially comply with § 65300.5.

The District requests timely notice of further revisions to the Draft General Plan and Draft EIR consistent with the provisions of §§ 65009-65010. Notice should be sent to both the Fire Chief and District Counsel via email, at [rich.webb@lindafire.org](mailto:rich.webb@lindafire.org) and [wross@lawross.com](mailto:wross@lawross.com), respectively. Consistent with § 65352, the District reserves the right to comment further upon the General Plan Update.

If you have any questions, please contact me at (530) 743-1553.

Sincerely,



Rich Webb, Fire Chief  
Linda Fire Protection District

RW:ms

cc: William D. Ross, District Counsel  
[wross@lawross.com](mailto:wross@lawross.com)

---

<sup>24</sup> Community Development Element, p. 45, Policy CD12.6 ("The County will condition new developments and collaborate with local fire districts to locate stations so that first fire response can be provided within 6 minutes in 95 percent of more of cases within the Valley Growth Boundary").

<sup>25</sup> Housing Element, pp. 105-106; Community Development Element, p. 47, Policy CD 14.3 ("The County will coordinate with special districts...to provide efficient local and regional infrastructure and public facilities").

<sup>26</sup> Community Development Element, p. 47, Policy CD 14.4 ("The County will participate in tax-sharing agreements with relevant agencies, consistent with General Plan goals and policies").





## *Marysville Joint Unified School District*

1919 B Street Marysville, CA 95901

(530) 741-6000 • FAX (530) 742-0573

September 13, 2010

RECEIVED

SEP 13 2010

Community Development &  
Services Agency

Dan Cucchi, Project Planner  
Yuba County Planning Department  
915 – 8<sup>th</sup> Street, Suite 123  
Marysville, CA 95901

**Subject: Yuba County Draft General Plan; Comments from the Marysville Joint Unified School District**

Dear Dan:

On behalf of the Marysville Joint Unified School District, we would like to submit comments on the Draft General Plan for Yuba County. Since we are most concerned with the elements that impact schools, we will provide comments on those elements of the Draft General Plan and provide some additional proposed language for the plan. In this letter we also wish to characterize the unique needs of the District, and discuss State and District standards and requirements for school facilities.

### Overview of Marysville Joint USD

The Marysville Joint Unified School District is a growing school district serving the communities of Marysville, Linda, Loma Rica, Olivehurst, Challenge, Brownsville, and Arboga in Yuba County, California. The District operates twenty-four schools, serving students in grades kindergarten through twelve with additional programs for pre-school and adults.

Enrollment in grades K-12 for the 2009-10 school year was 10,073. Many schools are operating close to maximum capacity and rely on temporary classrooms to accommodate students. Several projects are being designed to provide additional space.

### Residential Housing and Enrollment Growth

Historically, the District has experienced rapid growth in enrollment over the last nine years. For the last five years, there has been an average new residential construction rate in the District of approximately 438 units per year totaling 2,189 homes. The rate of new housing has been much less for the last two years.

#### Five-Year projections:

Projecting the average rate forward and adjusting for economic slowing, we would expect that approximately 2,000 units of residential housing will be built within District boundaries over the next five years. Future enrollment projections indicate that school enrollments for 2015-16 school year will be 11,734, an increase of 1,661 students.

#### Ten-Year projections:

The District also tracks residential units that (1) have been approved and ready for construction, (2) approved tentative tract maps, and (3) projects that are being considered but not formally approved. The following is a summary of these categories, based on 2008 data: (numbers are approximate.)

- 4,700 Units Ready For Construction
- 4,800 Units Approved Tentative Maps
- 8,400 Proposed Projects

In evaluating the need for new school projects the District uses an average student generation factor (updated every two years) of .560 K-12 students per housing unit. This can be further broken down as follows:

- 0.319 students for K-6
- 0.075 students for 7-8
- 0.166 students for 9-12

Using student generation factors, new dwelling units projected from approved projects, tentative tract maps and projects under consideration would generate approximately 9,700 students. This would require the site acquisition and construction of up to fourteen new schools over the next ten years.

#### District Facility Needs

The most pressing facility needs of the District are summarized below:

- Alicia Intermediate School Site: Accommodate the replacement of the Alicia Intermediate School, as a result of health and safety issues at the site.
- New Intermediate School Site in East Linda Area: We plan to develop a new school site in the East Linda to accommodate the Alicia students and enrollment growth in the East Linda Area. This site on Hammonton Smartville Road is currently in eminent domain.
- New Middle and High School Sites in Arboga/Plumas Lake Area: We plan to develop 75 acres of District-owned property in the Arboga/Plumas Lake area to accommodate enrollment growth in the area.

- New High School Site in Loma Rica Area: Look for a suitable site in the Loma Rica area to accommodate enrollment growth in the area, initially operating as a grades 7-12 school.
- New/Rehabilitated Elementary and Intermediate Schools in Loma Rica Area: The construction or replacement of elementary and intermediate schools may be needed in the Loma Rica Area to address enrollment growth and/or health and safety issues.
- Improvement/Rehabilitation/Additions – All Sites: The District is planning to make improvements, rehabilitations, and/or additions at all school sites in the district.
- Enrollment Growth and Future Schools: Studies of projected enrollment growth from new development in the South area alone indicate that the District will need at least 14 future school sites over the next ten years.

### State and District Standards for School Facilities

In planning for School sites and facilities, the following state standards and guidelines should be considered:

#### 1. School Acreage Needs; CDE Guidelines and District Policy:

The California Department of Education (CDE) recommends certain minimum school site sizes based on grade levels and student enrollment. District policy has established an optimal school site size based on these factors, as listed below.

12.0-15.0 acres for an elementary school of 500-600 students  
 25.0 acres for an intermediate school of 800-1,000 students  
 50.0 acres. For a high school of up to 1,500-1,800 students

#### 2. Safety Issues and CDE Approval:

In most cases, CDE will review and approve the future site, so it is important that proposed sites be evaluated in terms of CDE standards, which are found in California Code of Regulations, Title 5, Sections 14001 to 14036. The Title 5 Standards cover a wide range of safety issues, including proximity of the site to earthquake faults, major power lines, gas pipelines, railroads, and other hazards. CDE also considers the importance of providing utility and public works infrastructure to be in place prior construction of new school facilities.

#### 3. Toxic Issues and DTSC Approval:

It is important to evaluate proposed school sites for toxic issues, such as pesticides and naturally occurring asbestos, prior to school site selection. These evaluations should be based on requirements established by the State Department of Toxic Substances Control, which will make the final determination regarding the safety of the site.

CDE considers all these factors in evaluating the size and location of new school sites.

### Comments on the Draft General Plan

The District is most concerned with the proposed policies in the plan that will directly impact schools. Most of these policies are found in the Community Development Element, especially in the section on Infrastructure, Facilities and Services. Please be assured that the District generally supports several important policies in the Yuba County Draft General Plan, as noted below.

Page	Policy #	Subject	Text
45	CD12.10	Impact Fees	<i>The County will ensure that new development projects provide impact fees, land dedication, school construction, or other measures acceptable to local school districts.</i>
47	CD14.5	Pedestrian and Bicycle Access	<i>The County will coordinate its land use planning with local school districts to ensure adequate educational facilities with safe and convenient pedestrian and bicycle access to and from surrounding neighborhoods.</i>
47	CD14.6	Joint-Use Facilities	<i>The County will support joint-use facilities, shared maintenance, and projects with other local service agencies and districts that are coordinated to provide enhanced public levels of service and/or long-term cost savings.</i>
47	CD14.7	Joint-Use Parks and Libraries	<i>The County will support and encourage joint-use parks for school and community use, joint-use parks for recreational and drainage conveyance and detention, for school and community use, and other appropriate joint-use facilities.</i>
49	CD15.8	Joint-Use Parks	<i>The County will encourage the joint-use of parks for school and public use, as well as stormwater detention, as appropriate.</i>
49	CD15.9	Safe Access	<i>The County will require that new developments include safe and convenient access to nearby schools and work with the local school districts to ensure safe access.</i>

37-1

### Additional Proposed Language

The District wishes to provide some additional proposed language for the Draft General Plan, as noted below.

#### 1. Planning for School Sites/Facilities Policies:

- a. The County will work cooperatively with school districts in monitoring housing, population, and school enrollment trends, and in planning for future school facility needs, and shall assist school districts in locating appropriate sites for new schools
- b. The County will ensure that utility and public infrastructure be in place prior to the construction of new school facilities.
- c. The County will ensure adequate road and frontage improvements, necessary hook-ups to all utilities, and adequate area for bus turnouts.
- d. The County will designate future school sites free of toxic contamination.
- e. The County will amend existing Specific Plans to reflect current State and District standards and requirements for school site location, site size, and infrastructure needs.

37-2

2. Joint-Use of Facilities and Sites: The County will encourage the use of schools as community centers to provide a range of services.

37-3


3. Facility Needs/Funding and Timelines

- a. The County will work to ensure that the provision of adequate school facilities is a community priority.
- b. The County will work closely with school districts together to secure adequate funding for new school facilities and, where legally feasible, the County will provide a mechanism which, along with state and local sources, requires development projects to satisfy an individual school district's financing program based on their impactation.
- c. The County will coordinate with residential developers and school districts to ensure that needed school facilities are available for use in a timely manner. The County will, to the extent possible, require that new school facilities are constructed and operating prior to the occupation of the residences which the schools are intended to serve.
- d. The County will support full mitigation for school construction.

37-4

We thank you for your consideration of these comments. Please contact me at (530) 749-6115 if you have any questions.

Sincerely,



Mark Allgire

Assistant Superintendent, Business Services

1 of 9

September 13, 2010

Board of Supervisors  
915 8th Street Suite 109  
Marysville, CA 95901

Enclosed are copies of our neighborhood petition letter and accompanying documentation.

This little corner neighborhood of Vega and Emerald is between Regent Way and the Richard's ranch in Oregon House, CA. This neighborhood was zoned 5 acres in the 90s and was changed to A/RR40 in the last County Plan in the late 1990s.

There are 14 property owners and the total acreage is 160 acres. The largest parcel is 20 acres and there are 3 parcels that are 5 acres. All but one property owner has signed the petition; Ray Gomez who owns 20 acres has concerns that this could be connected to development of the Richard's property. All the rest of us see no connection and enthusiastically support the petition.

Dan Cucchi told us that the county did not have money to "clean up" all of the irregularities resulting from the last county plan approval in the 90s and quite frankly, we got the impression that we may not live long enough before Planning will have the money to change us back to 5 acres. Many of the property owners are in their late 50s and 60s.

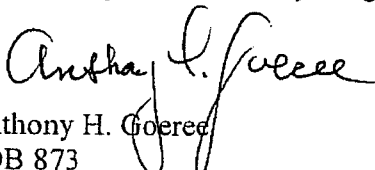
38-1

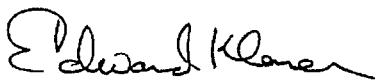
One example is Bill Rayford, who owned 20 acres that he said was his retirement investment since he could have divided his property in the 90s into 5 acre parcels. He never lived long enough, he died in 2008.

We appeal directly to the Board of Supervisors to rectify the situation that has prevented us from using our land as we had intended. The County Plan currently stipulates that the approval of 4 supervisors is needed for this neighborhood to be annexed into the Dobbins-Oregon House Community Boundary and be re-zoned to A/RR5.

Since we were zoned for 5 acres, there should not be any valid objections to right this injustice.

For the Vega-Emerald Way Neighborhood

  
Anthony H. Goeree  
POB 873  
12312 Emerald Way  
530-692-2426

  
Edward Klaner  
POB 676  
9416 Vega  
530-692-2512

279

To: Yuba County Board of Supervisors  
Attention: Hal Stocker

From: Vega - Emerald Way Neighborhood

Cc: Yuba Country Planning Dept.  
Attention: Dan Cucchi

We, the property owners in the Vega - Emerald Way neighborhood of Oregon House, CA petition the Yuba County Board of supervisors to include our neighborhood into the Dobbins-Oregon House Community Boundary (DOHC boundary) and reclassify the zoning of our parcels to A/RR5 when the Board adopts the 2030 General Plan.

The current zoning of these properties is designated as A/RR40 by the zoning ordinance in the current General Plan. However, this has caused a legal non-conforming situation. There are three 5 acre parcels, seven 10 acre parcels, one 15 acre parcel and three 20 acre parcels.

Prior to the adoption of the current General Plan, all of these parcels were zoned as A/RR5. Many of the owners built 2<sup>nd</sup> structures and/or sighted 2<sup>nd</sup> structures with the understanding that their parcels could be split in the future. As a result, many of these owners have lost economic value in their property and their plans have been disrupted.

The 14 properties defined by this unique neighborhood are bounded on the West by Regent Way, the South and East by the Richards Ranch and on the North by the DOHC Boundary. A parcel map identifying the neighborhood by parcel numbers is attached.

We have talked to representatives of the Planning Department concerning this situation. They acknowledge our legal non-conforming status but prefer to rectify the situation at a county-wide level. We understand the administrative reasons for their position. We have been informed that there will be no county-wide remedy to the legal non-conforming properties in the 2030 General Plan due to a lack of county funds.

The Board of Supervisors is our only recourse for this petition. We urge you to consider our petition now on its own individual merits when the 2030 General Plan is adopted.

Thank you for considering our petition and we ask for your support.

All of the property owners in this neighborhood have consented to support this proposal by their signatures below. The parcel numbers are identified with the names and addresses of their owners on the 2<sup>nd</sup> page.

Edward & Janet Klaner 8/27/10  
Edward & Janet Klaner

Melinda Rayford 8/27/10  
Melinda Rayford

Signature attached  
Stephen & Susan Huber

Colette Chevallier 8/28/10  
Colette Chevallier

Michael & Sheila Rolter 8/27/10  
Michael & Sheila Rolter

Laura O'Brien 8/27/10  
Laura O'Brien

Richard Knapp 8/26/10  
Richard Knapp

Anthony & Patricia Goeree 8/24/10  
Anthony & Patricia Goeree

Signature attached  
Timothy Quartly-Watson

Richard & Regina Rayford 8/21/10  
Richard & Regina Rayford

Collin & Catherine Lambert  
Collin & Catherine Lambert

Signature attached  
John & Ellen Trezevant

Joseph & Lavonne Gomes 8/24/10  
Joseph & Lavonne Gomes

Raymond & Reyna Gomez

3 of 9

To: Yuba County Board of supervisors  
Attention: Hal Stoker

From: Vega - Emerald Way Neighborhood

Cc: Yuba County Planning Dept.  
Attention: Dan Cucchi

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\_\_\_\_\_  
Melinda Rayford

Signature attached  
Stephen & Susan Huber

\_\_\_\_\_  
Colette Chevallier

\_\_\_\_\_  
Michael & Sheila Rolfer

\_\_\_\_\_  
Laura O'Brien

\_\_\_\_\_  
Richard Knapp

\_\_\_\_\_  
Anthony & Patricia Goeree

Signature attached  
Timothy Quartly-Watson

\_\_\_\_\_  
Richard & Regina Rayford)

\_\_\_\_\_  
Collin & Catherine Lambert

Signature attached  
John & Ellen Trezevant

\_\_\_\_\_  
Joseph & Lavonne Gomes

\_\_\_\_\_  
Raymond & Reyna Gomez

*Don Teegant* August 31, 2010



9/29

To: Yuba County Board of Supervisors  
Attention: Hal Stocker

From: Vega - Emerald Way Neighborhood

Cc: Yuba County Planning Dept  
Attention: Dan Cuello

We, the property owners in the Vega - Emerald Way neighborhood of Oregon House, CA petition the Yuba County Board of supervisors to include our neighborhood into the Dobbins-Oregon House Community Boundary (DOHC boundary) and reclassify the zoning of our parcels to A/RR5 when the Board adopts the 2030 General Plan.

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Melinda Rayford

Signature attached  
Stephen & Susan Huber

Colette Chevalier

Michael & Sherla Reller

Laura O'Brien

Richard Knapp

Anthony & Patricia George

Signature attached  
Timothy Quarty-Watson

Richard & Regina Rayford

Colin & Catherine Lambert

Signature attached  
John & Ellen Trezevant

Joseph & Lavonne Gomes

Raymond & Reyna Gomez

5 g 9

To: Yuba County Board of Supervisors  
Attention: Hal Stocker

From: Vega - Emerald Way Neighborhood

Cc: Yuba Country Planning Dept.  
Attention: Dan Cucchi

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Stephen & Susan Huber 8/27/10

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Colette Chevallier

\_\_\_\_\_  
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Laura O'Brien

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Richard Knapp

\_\_\_\_\_  
Anthony & Patricia Goeree

Signature attached  
Timothy Quartly-Watson

\_\_\_\_\_  
Richard & Regina Rayford)

\_\_\_\_\_  
Collin & Catherine Lambert

Signature attached  
John & Ellen Trezevant

\_\_\_\_\_  
Joseph & Lavonne Gomes

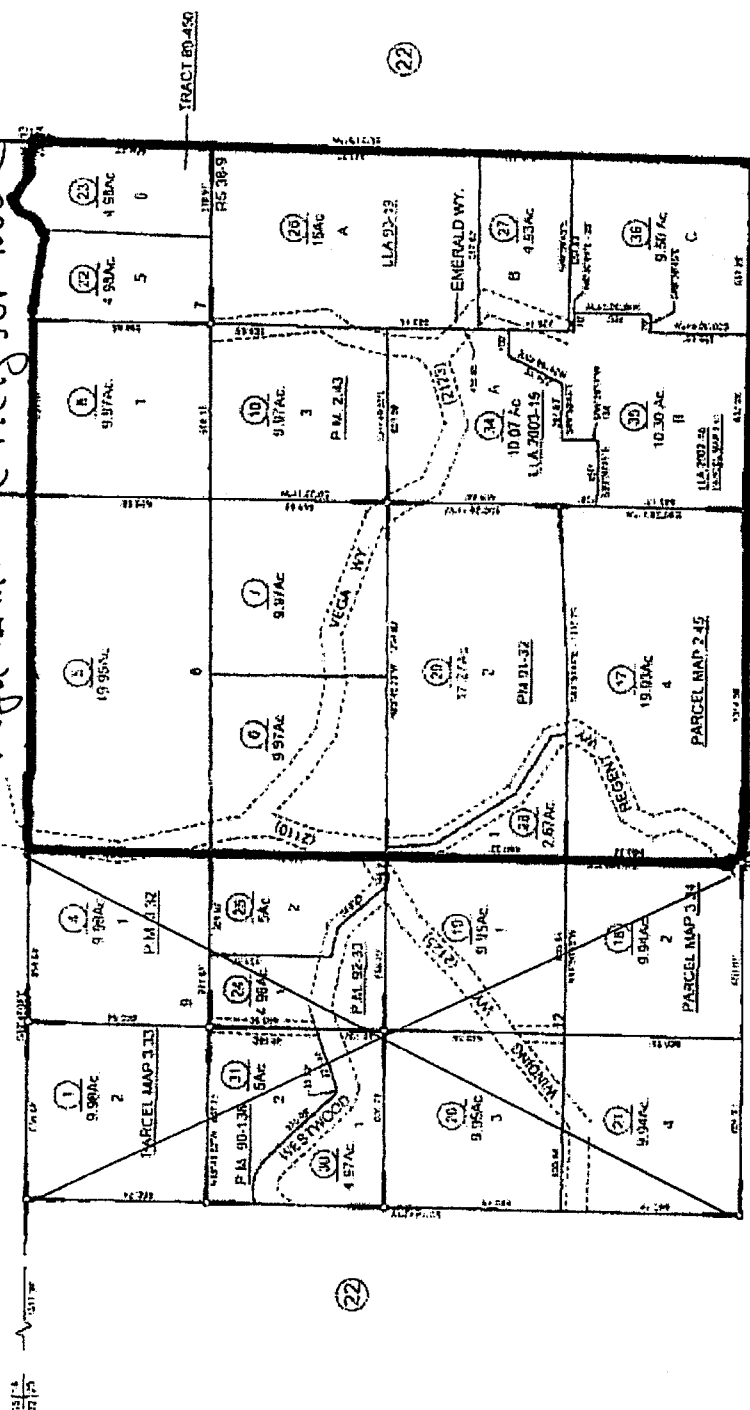
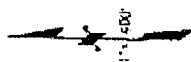
\_\_\_\_\_  
Raymond & Reyna Gomez

6 g 9

## Vega - Emerald Way Neighborhood Property Owners

Name	Parcel #	Address
Edward & Janet Klaner	48-250-026	POB 676 Oregon House, CA 95962 (9416 Vega)
Melinda Rayford	48-250-007	1901 Dayton Rd. #117 Chico, CA 95928 (9323 Vega)
Stephen & Susan Huber	048-250-006	42963 Parkwood St. Fremont, CA 94536 (12311 Regent)
Colette Chevallier	048-250-023	Box 547, Oregon House, CA 95962 (12400 Shetland Lane)
Michael & Sheila Rolfer	048-250-022	POB 828, Oregon House, CA 95962 (12398 Shetland lane)
Laura O'Brien	48-250-027	POB 684 Oregon House, CA 95962 (12337 Emerald)
Richard Knapp	48-250-036	POB 861 Oregon House, CA 95962 ( 12313 Emerald)
Anthony & Patricia Goeree	48-250-035	POB 873 Oregon House, CA 95962 (12312 Emerald)
Timothy Quartly-Watson	48-250-037	POB 936 Oregon House, CA 95962 (9415 Vega)
Collin & Catherine Lambert	48-250-008	POB 8, Oregon House, CA 95962 (9435 Vega)
John & Ellen Trezevant	48-250-038	Sint Annarei 10 B-1, 8000 Brugge, Belgium (9364 Vega)
Richard & Regina Rayford	48-250-005	4740 Appian Way, #2, El Sobrante, CA 94803 (12351 Regent)
Joseph & Lavonne Gomes	48-250-029	POB 548 Oregon House CA 95962 (12265 Regent )
Raymond & Reyna Gomez	48-250-017	(12225 Regent)

24 Vega-Emerald Neighborhood



R.S. - Bk. 15, Pg. 45 (P.M. 3.34, Resub. L-12, R.S. - Bk. 10, Pg. 24)  
 R.R.S. - Bk. 15, Pg. 44 (P.M. 3.33, Resub. L-9, R.S. - Bk. 10, Pg. 24)  
 R.S. - Bk. 15, Pg. 43 (P.M. 3.32, Resub. L-9, R.S. - Bk. 10, Pg. 24)  
 R.S. - Bk. 14, Pg. 19 (P.M. 2.45, Resub. Lots 9 & 11, R.S. - Bk. 10, Pg. 24)  
 R.S. - Bk. 14, Pg. 18 (P.M. 2.43, Resub. L-7, R.S. - Bk. 10, Pg. 24)(L.A. 93-19)  
 R.S. - Bk. 14, Pg. 17 (P.M. 2.41, Resub. L-10, R.S. - Bk. 10, Pg. 24)(L.A. 02-16)  
 R.S. - Bk. 14, Pg. 15 (P.M. 2.42, Resub. L-12, R.S. - Bk. 10, Pg. 24)  
 R.S. - Bk. 10, Pg. 24

R.S. - Bk. 63, Pg. 27 (Parcel Map 90-138)  
R.S. - Bk. 63, Pg. 2 (Parcel Map 91-32)  
R.S. - Bk. 62, Pg. 32 (Parcel Map 92-33)  
R.S. - Bk. 60, Pgs. 7 & 8 (Tract 69-450)  
R.S. - Bk. 38, Pg. 9

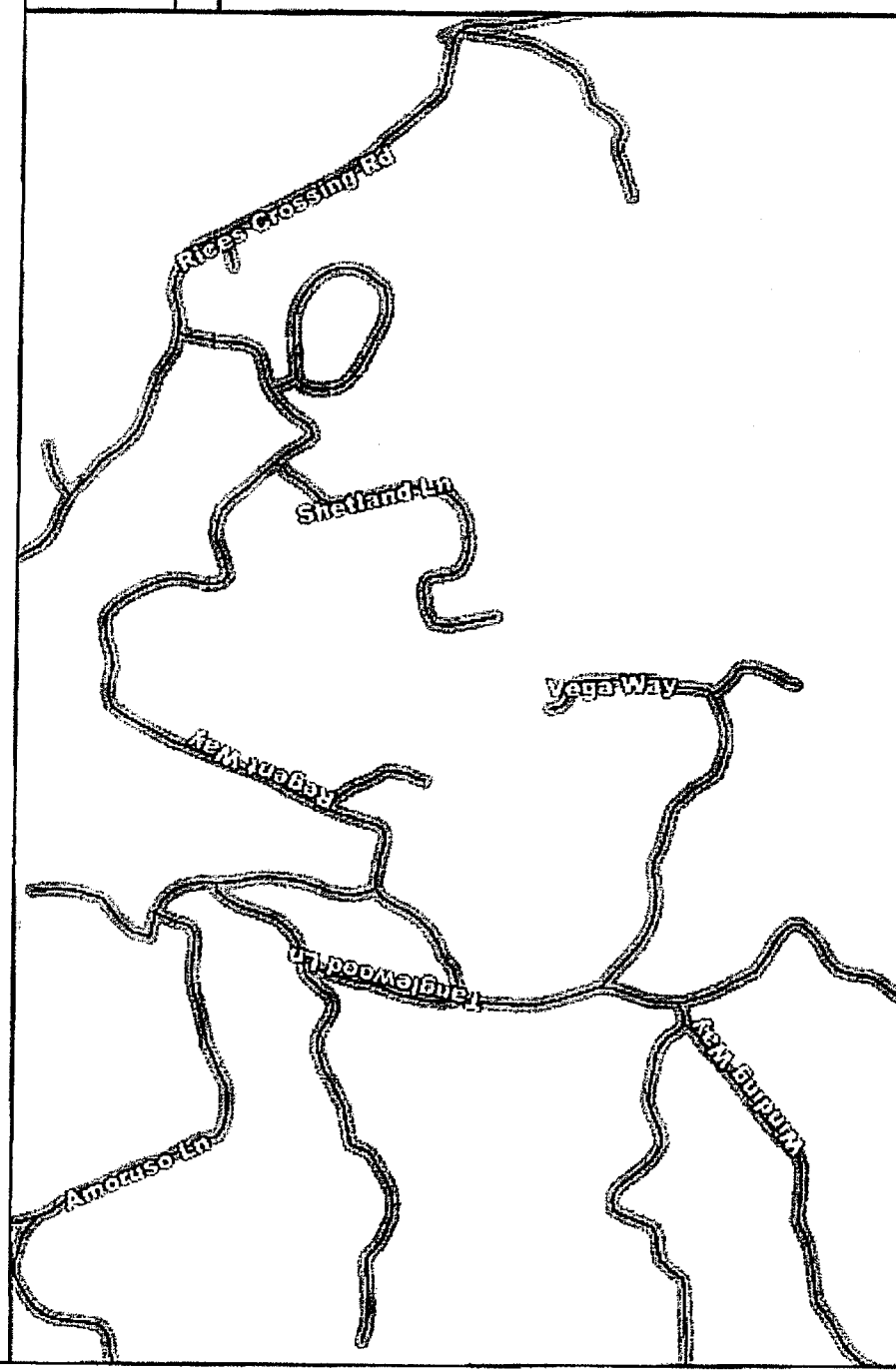
NOTE: Associate's Block Numbers Shown in Ellipse  
Associate's Paid Number Shown in Circle

Assessor's Map Bk.48, Pg.25  
County of Yuba, Calif.  
Year-3/81

NOTE: This map was prepared by MEMPHIS and MEMPHIS only, and is intended to provide a general overview of the area. It is not intended to be used for navigation or other purposes. The map is not intended to be used for navigation or other purposes. The map is not intended to be used for navigation or other purposes.

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# Vega - Emerald Neighborhood

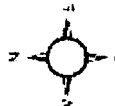


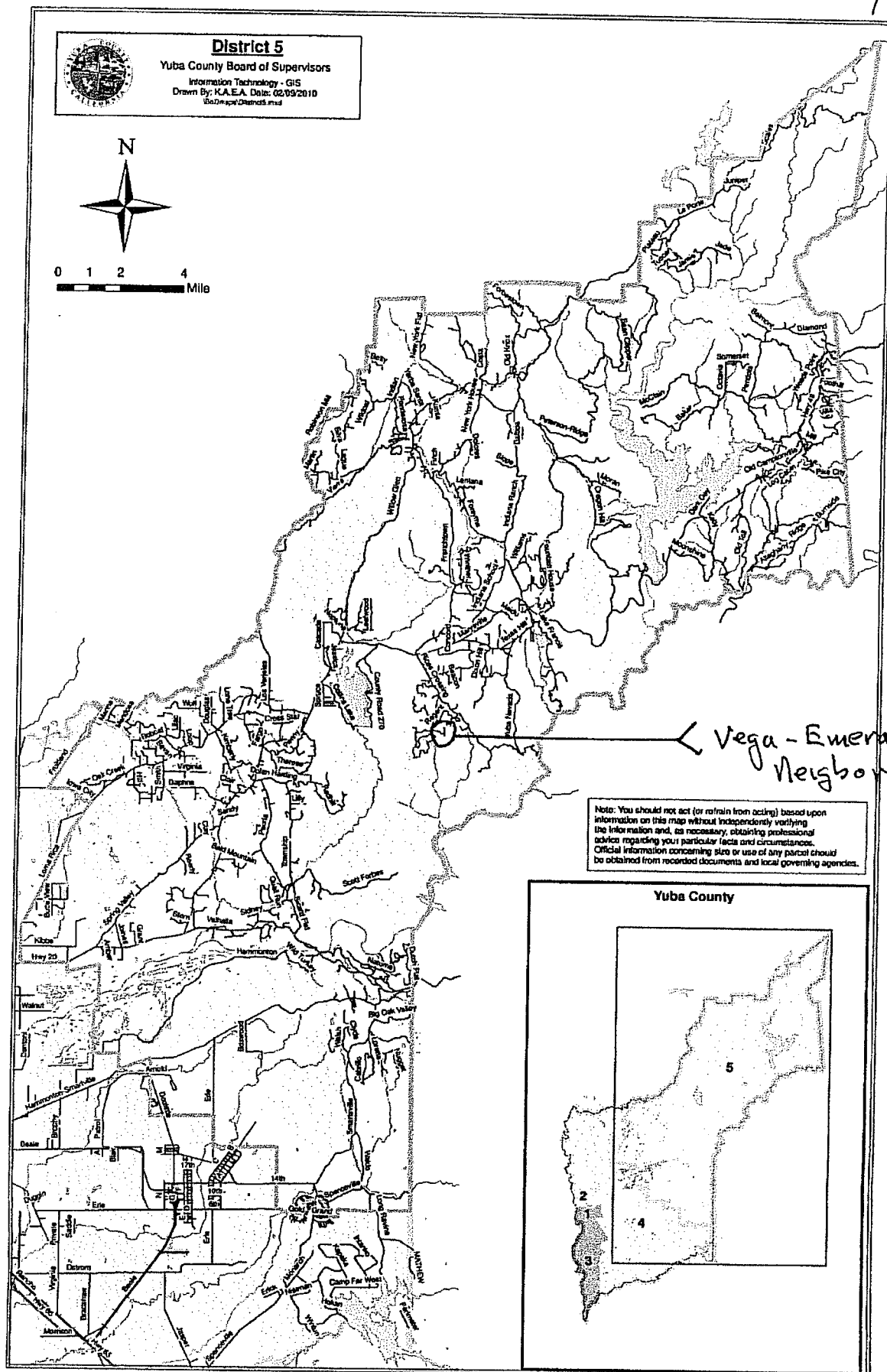
Legend

This is to be used for demonstration purposes only

Information on this site is not intended to constitute advice nor is it to be used as a substitute for specific advice from a licensed professional. You should not act (or refrain from acting) based upon information in this site without independently verifying the information and, as necessary, obtaining professional advice regarding your particular facts and circumstances.

Printed: 5/9/2010 3:08:06 PM





# *Browns Valley Irrigation District*

Post Office Box 6, Browns Valley, CA 95918

*Business Office:*

530/743-5703

*FAX:*

530/743-0445

*Water Operations Office:*

530/742-6044

September 13, 2010

Dan Cucchi, Project Planner  
915 8th St., Suite #123  
Marysville, CA 95901

Re: Comment Letter – Draft Yuba County 2030 General Plan Update

Dear Mr. Cucchi:

Browns Valley Irrigation District (BVID) has reviewed the draft Yuba County 2030 General Plan Update (Update) that was released to the Yuba County Supervisors on August 10, 2010. Our comments can be summarized as follows:

- The updating of the County's General Plan has been a long overdue, but a sorely needed project. When one considers that the 1996 General Plan was supposed to be updated in 2001 and is nine years late, it is hard to understand that the public review period is less than 35 days long. This document will shape Yuba County for the next 20 years (or more) and deserves at least a public comment period that is comparable to the time frame for an Environmental Impact Report. The current time frame does not allow those that will be affected by this Plan to fully review and understand it. The Update draft will take time to vet out all of the various sources of data that were pulled into this document to insure that the data is valid and current. Time will be required to verify with the various agencies within the County that the data concerning those agencies included in the Update is correct. 39-1
- There have not yet been the open forums that are desperately needed to allow the residents of the County to ask those questions that will help them to better understand the Update and how it will affect them in the future. These open forums need to be held at strategic sites throughout the County to encourage attendance by as many residents as possible. 39-2
- In the Natural Resources section you state that one of the goals (NR12) is to "Reduce water consumption and ensure reliable water supply in normal years and in times of drought". This is a good goal for urban water users as it is in alignment with the Governor's plan to reduce urban water consumption by 20% by 2020. However, The Governor's goal is for urban water use only and does not apply to the use of agricultural (irrigation) water. Yuba County is in the process of expanding its surface irrigation water delivery system and will actually increase its use of irrigation water over the next several years. Goal NR12 needs to specify that it is an **urban** water use goal. That said, a good goal for the use of irrigation water is to 39-3

"insure the efficient use of agricultural water". Browns Valley Irrigation District has been and remains a leader in both water conservation and water use efficiency for agricultural water deliveries.

- The Open Space Diagram on page 5 of the Natural Resources section depicts Collins Lake as part of the Open Space area (those lands owned by the California Department of Fish and Game and others). While Collins Lake is owned by BVID (a public agency), it and the adjoining campground are not unlimited access areas. Access to the Lake and the campground is restricted by the concessionaire, both through fees and other limitations. Therefore, this area should be designated as "Public Recreation". However, since there does not appear to be such a designation, it is then appropriate to use the "Private Recreation" designation instead.
- On page 2 of the General Plan Implementation section you note that amendments to the General Plan will require "The approval of 4 out of the 5 members of the Board of Supervisors..." From what I have been able to research, Government Code section 65354 provides that the planning commission may recommend a general plan or any update or amendment to a general plan to the board of supervisors by a majority vote of the commission and Section 65356 provides that the board of supervisors may approve a general plan or any update or amendment to a general plan by majority vote. I can find no requirement for a super-majority vote to amend the General Plan. This needs to be corrected to require a simple majority vote for both the Planning Commission and the Board of Supervisors to approve and/or amend the General Plan.

For the reasons described above, Browns Valley Irrigation District believes that the Draft Yuba County 2030 General Plan Update should have the existing public comment period extended for at least another 90 days with several open forums, needs to be edited to more clearly show the current land and natural resource use conditions in the foothills, to better state the County's water use goals so as not to confuse urban and agricultural water uses and remove the super-majority requirement to amend the General Plan.

Please feel free to contact me with any questions or concerns.

Sincerely,



Walter Cotter  
General Manager

Cc: Board of Directors



**DEPARTMENT OF TRANSPORTATION**

DISTRICT 3

703 B STREET

P. O. BOX 911

MARYSVILLE, CA 95901-0911

PHONE (530) 741-4025

FAX (530) 741-4825

TTY (530) 741-4509

*Flex your power!  
Be energy efficient!*

September 13, 2010

032010YUB0011

Yuba County General Plan Update

Draft 2030 General Plan

Mr. Dan Cucchi

Yuba County

915 8<sup>th</sup> Street

Marysville, CA 95901

Dear Mr. Cucchi,

We appreciate the opportunity to review and comment on Yuba County's Draft 2030 General Plan. In addition to this comment letter, we provided comments at the Notice of Preparation (NOP) stage for the Circulation element to ensure that the State Highway System (SHS) that serves your community is preserved and protected. Caltrans has the following comments for the Draft General Plan:

We are pleased that the County is taking a proactive approach to the General Plan update by incorporating Travel Demand Management policies and programs to effectively manage the circulation network. In addition, Transit Planning is one of the notable initiatives to serve the different transportation needs of the residents of Yuba County.

Specific Comments for the Circulation Element

- Pg. 55 Freeways and Highways – this section states that “State Routes (SR) 70, 65, 20, and 49 are regional routes that serve the local population, as well as through trips.” This section should include a statement of the purpose and intent of State Routes – *to serve regional and interregional travel.*
- Pg. 55 Freeways and Highways – this section identifies a bypass of SR 20 through Marysville called the “Feather River Expressway.” In the Previous Planned Improvements section, the last entry is a “Marysville Expressway” –this facility would provide a bypass around downtown Marysville, linking SR 70 to SR 20.

40-1

40-2

- Are these two references (Feather River Expressway and Marysville Expressway) referring to the same roadway facility? If so, why are they identified differently? If not, what is the bypass of SR 20 through Marysville referring to?
- Pg. 56 Table Community Development-6 (Recommended County Roadway Improvements) -
  - Wheatland Bypass - SR65 – lists the segment is from SR 65 at the Placer County line to SR 65 at South Beale Road. A small portion of the SR 65 Wheatland Bypass is in Placer County.
  - 5<sup>th</sup> Street (Twin Cities Memorial Bridge) – is identified as being expanded from 2 to 4-lanes; in SACOG's 2035 Metropolitan Transportation Plan (MTP) it is planned to be expanded to 6-lanes.
  - The SR 70 Yuba River Bridge is not identified for expansion in neither the General Plan nor the SACOG blueprint. Currently, the North Beale Road on ramp NB, and the 1<sup>st</sup> Street loop on ramp SB, carry a very large volume of traffic in the PM peak hours. The North Beale Road on ramp is a visible source of reoccurring congestion. With the additional improvements in capacity across the Feather River it would seem prudent to increase capacity across the Yuba River; the result is more congestion on the streets of Marysville. Operational improvements such as auxiliary lanes NB from North Beale Road to the NB right-turn lane at 3<sup>rd</sup> Street, and SB from the 1<sup>st</sup> Street loop ramp to the North Beale Road off ramp SB, would improve mobility and reduce merging bottlenecks.
- Pg. 60 Bicycle and Pedestrian Network – the existing bicycle lanes on Simpson Lane appear to be inadequate at the intersection of Babbington Road. The left-turn lane to Babbington takes the width required for a valid bicycle lane.
- Pg. 63 Exhibit Community Development-15 (Bicycle and Pedestrian Circulation Diagram) – this diagram shows exiting bicycle lanes on Hammonton-Smartsville between Simpson and North Beale Road and Simpson Lane; however, left-turn channelization will make shoulder widths inadequate at several locations in order for this to be true.

- Pg. 69 Table Community Development-10 and 11 (Peak-Hour and Daily – Level of Service Traffic Volume Thresholds) – Table 11 is clearly identified as a Daily level of service (therefore using ADT volumes), but LOS C, D, and E columns are still headed by “Peak Hour Volume.” Traffic volume is only a very coarse level of service indicator for most of the facility types in these tables. Other indicators are average travel speeds, percent time spent following, delay per vehicle, etc. 40-5
- Pg. 70 Policy CD16.6 – states new developments shall analyze and provide fair-share funding of roadway improvements necessary to provide an appropriate Level of Service...” This statement should include fair-share funding for improvements to the State Highway System (SHS). 40-6
- Pg. 70 Policy CD16.7 – the County should protect adequate right-of-way for new and expanded SHS transportation facilities. This should be reflected in a policy statement. 40-7
- Pg. 71 Action CD16.2 Traffic Impact Fees – states the County will revise its Countywide Traffic Mitigation Fee Program based on a nexus study. The fee program update should include projects on the SHS, and future SHS needs to ensure an equitable contribution for impacts from development projects. 40-8
- Pg. 74 Regional Transportation Planning - As part of the circulation network, improvements to the SHS and the operation of the SHS are a shared responsibility between Yuba County and Caltrans. This should be reflected in a policy statement. 40-9

If you have questions or need additional information, please contact Sukhi Johal, at (530) 740-4843 or [sukhi\\_johal@dot.ca.gov](mailto:sukhi_johal@dot.ca.gov).

Sincerely,



**LILIBETH GREEN**

Chief, Office of Transportation Planning – North

# DOBBINS/OREGON HOUSE FIRE PROTECTION DISTRICT

P.O. BOX 164

Oregon House, CA 95962

Tax I.D. #26-3695179

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DEC 27 2010

Community Development &  
Services Agency

**Fire Chief**  
Mike Butler  
530-692-2495

**Board of Directors**

Lloyd Appleby,  
Chair  
530-692-0631

Pete Hammontrie,  
Vice Chair  
530-692-0245

Michael Hathorly  
Michael Lee  
John Norris  
Board Members

Lani Pessoa  
Secretary

Pam Cook  
Bookkeeper

**Auxiliary Officers**

Maureen Gillock,  
President  
530-692-0521

Janice Hammontrie  
Vice President

Iva Norris  
Secretary

Mary Stone  
Treasurer

**Auxiliary Address**

P.O. Box 432  
Dobbins, CA 95932

Dan Cucchi, Project Planner  
915 8<sup>th</sup> St., Suite #123  
Marysville, Ca. 95901

December 19, 2010

Dear Mr. Cucchi,

In reviewing the purposed Yuba County General Plan, the DOHFPD directors noted that the majority of the district is still rated as a moderate fire hazard area. Discussion at a past community meeting addressed this error and recommended a change of rating to high/very high. As of this date, no change has occurred.as per your website.

According to the California Department of Forestry, about 80 percent of the DOHFPD is classified as "Very High Fire Hazard Severity" with the remaining 20 percent "High Fire Hazard Severity". This has been documented in our Multihazard Mitigation Pan as recently as 11/2007.

Also, historically our district has been impacted by some of the most dangerous fires in our county, including but not limited to:

Bullards Fire	Aug.2010
Yuba Fire	Aug. 2009
Marysville Rd. Fire	Aug. 2006
Pendola Fire	Oct. 1999
Williams Fire	Sept. 1997

We respectfully request that the General Plan be corrected to accurately reflect the status of our district in the foothills.

Sincerely,



Michael Lee, Director DOHFPD

Cc: Hal Stocker

41-1

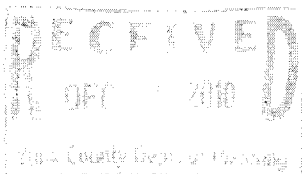
Concern #1: Policies related to evacuation from areas threatened by catastrophic wildfire do not specify consideration of worst case predicted wildfire behavior. A minimum requirement in high fire danger areas should include a road in which travel can occur in a direction generally leading away from the head of a wildfire that has the characteristics of the "worst case predicted wildfire" while simultaneously providing access for fire suppression resources. A second access/egress route should be provided that approximates egress in a direction of 180 degrees from that specified above. Further, the characteristics of the required access/egress roads, such as number of lanes and the ability to accommodate traffic, in consideration of the population in the affected area should be addressed. Where reference to public trails and unimproved roads is cited for use in evacuations, unless this occurs as a last ditch effort, there should be provision for avoiding such use by vehicles likely to get stuck and trap others trying to get out. Public health and safety policies HS2.1, 2.2, 2.9 and 2.10 (PH&S pages 13 & 14) inadequately address these concerns. In addition, Policies HS9.3 & HS9.4, and Action HS9.1 (PH&S page 43) also fail to address the "worst case predicted wildfire" issue, seemingly weighted toward emergency access and egress related to flooding. 42-1

Concern #2: What amounts to a change in environmentally based policy related to wastewater disposal can, in essence, subject homeowners to an ex post facto enforcement of new policies. In the case of policy HS3.12 such enforcement related to septic systems can result in extreme financial hardship on existing residents up to the possibility of making some of them homeless. Where an existing septic system was legally brought into existence, is functioning as would normally be expected based on its design and construction and is not provably contributing to groundwater contamination in a manner that is not otherwise attributable to system failure, enforcement of a policy such as HS3.12 should be considered a preventative measure based on an unproven possibility. As such, government should proceed in a manner that places no financial burden, or otherwise inflicts hardship, on the affected homeowner. The below comment is suggested as a method of mitigation related to such ex post facto enforcements. 42-2

Public Health& Safety Page 20 Policy HS3.12 implies that, or at least would allow, the County to require a homeowner to cease using an existing septic system and, upgrade or replace it. Wording associated with this policy should state: "In cases where an existing septic system has not failed, is serving a residence and has previously been approved with a permit issued, payment of cost involved with compliance with this policy will be sought and acquired by the County. County will protect homeowners from all hardship that compliance with this policy can cause."

Concern #3: Under "Travel Demand Management", Community Development Page 72, last paragraph, there is an apparent objective to cause citizens to behave in a manner that they do not desire. While it may be laudable to adopt policies that encourage travel by means other than personal vehicle, there is too much "Big Brother" in deliberately planning to make such travel inconvenient. In a country where so many have sacrificed so much in defense of freedom, it seems more appropriate to seek mitigation of the undesirable consequences (if there really are any) of such things as the many "Vehicle Miles Traveled" than to intentionally interject inconvenience into the problem. Further, discouraging travel by vehicle may be inviting another problem in that it may be easier for criminals to victimize people who are walking or riding bicycles than it is for those protected by their vehicle (in today's society, that's a very real concern). 42-3

Concern #4: Under "Economic Independence" on Vision page 4, any home business that does not have more than "minimal impacts on residential areas" should be promoted. Home business should not be limited to those "which utilize advances in electronic technology". Further, those businesses that do not employ any activity other than that which is normally associated with the use of residential property should be allowed under exactly the same circumstances as it would if not conducted as a business except where taxing authority and/or consumer protection are involved. 42-4



*Submitted by  
Greg Croxston*

# **YUBA COUNTY LOCAL AGENCY FORMATION COMMISSION**

JOHN BENOIT, EXECUTIVE OFFICER

526 C STREET  
MARYSVILLE, CA 95901

Phone (530)749-5467  
Fax (530)740-4836  
URL [www.yubalafco.org](http://www.yubalafco.org)



December 10, 2010

RECEIVED  
DEC 10 2010  
Community Development & Planning  
Services Agency

County of Yuba Planning Commission  
Community Development Department  
915 8<sup>th</sup> Street, Suite 123  
Marysville, CA 95901

RE: LAFCO Comments and Suggestions with respect to the Draft 2030 General Plan

Dear Members of the Planning Commission,

The Yuba County Local Agency Formation Commission conducted a workshop on November 3, 2010 regarding the Draft 2030 General Plan and wishes to offer the following comments and suggestions for consideration by the Planning Commission and the Board of Supervisors. Thank you for the opportunity to comment.

1. The Yuba County General Plan contains several policies expressed in the terms "should", "will" and rather than "shall" and such phrases as "will encourage", "will support", "will discourage", "will ensure", "should place", "should provide", "should be", "should, in general", rather than "shall". The Planning Commission and Board need to be aware of the potentially non-mandatory effect of this language and the unintended consequences that may result from ambiguity resulting from the use of such phrases rather than clearer, more direct expressions of the County's land use policy. 43-1
2. Although it is not yet available for public review, we understand that the General Plan and EIR are intended to be self-mitigating to the extent possible (*i.e.*, that the policies of the General Plan will mitigate the environmental consequences of the land development and public works projects authorized by that plan). Use of the non-mandatory language identified in our first point above, however, may result in these "mitigation measures" being legally inadequate under CEQA – the County cannot find a policy to actually mitigate the likely effects of adopting and implementing the general plan if it cannot ensure that the policy will actually be enforced. An example is in Policy NR4.6, which begins "The County will encourage conservation easement programs ...." 43-2
3. We note the following statement in the Vision and Goals portion of the General Plan update: "Encourage the ability for future incorporation and/or annexation of unincorporated areas by establishing realistic and manageable growth boundaries". LAFCO suggests this Goal include language to the effect that no development (excepting Natural Resource development) shall occur outside the "Valley Growth Boundary", except as otherwise required by law. In addition, the Planning Commission and Board should consider adding a new policy regarding City Spheres of 43-3

Influence as follows

- a. *"Within a Sphere of Influence of a City, urban development projects shall first be referred to that City for possible annexation; therefore, within a Sphere of Influence of a City, applicants for land use permits or entitlements for urban uses shall be encouraged to apply to the City and discouraged from applying to the County."*

4. LAFCO concludes there should be a policy regarding annexation to a City being preferable to the formation of new or expansion of existing county service areas or special districts. As providers of multiple services and possessed of general police and revenue powers, cities are better able to efficiently provide a range of services and coordinate land use policy with demand for those services than are county services areas, which rely on the County's limited ability to provide municipal services and require the support of special districts.

5. LAFCO recommends a policy be added to protect the Spheres of Influence of Cities stating: *"Other than Natural Resources uses, the land uses authorized by the County in the sphere of influence of a city shall be no more intense than the land uses allowed by the City's general plan and the conditions, capital improvement requirements and standards of development for such uses shall be equal to or more restrictive than the conditions, capital improvement requirements and standards of the city for that use."*

LAFCO applauds the General Plan's proposal to discourage urban growth outside the Valley Growth Boundary and believes that policy would be effective if it required a 4/5<sup>th</sup> vote of the Board of Supervisors to amend the General Plan to allow urban development in those areas. We recognize that this 4/5 vote requirement could itself be amended by a majority vote of the Board, but the need to do so should helpfully remind future Boards of Supervisors of this Board's commitment to maintain agriculture and open space resources in our communities.

6. A policy should be added to the General Plan for the area outside a City's Sphere of Influence yet within a City's Area of Concern to read as follows: *"Applicants for discretionary land use permits or entitlements in the County shall be referred to the city for review and comment within Spheres of Influence and within areas of concern or interest as established by LAFCO."*

- a. We appreciate Policy HS3-13 regarding development intensities which require provision of public water and sewer services. However, LAFCO also recommends a policy be added to the General Plan as follows: *"Urban development shall not be authorized outside the Valley Growth Boundary unless within the sphere of influence of a city."*

7. Policy CD1.2 (and policy CD13.5) We appreciate the proposed policies to require a supermajority of the Board of Supervisors to expand the Valley Growth Boundary but have a concern regarding this same requirement to remove land from the planning reserve designation.

However, of particular concern to LAFCO is the supermajority requirement to remove land from the Planning Reserve for development of employment uses to accomplish the County's Economic Development Strategy. Under these policies a supermajority vote of the Board would be required to approve development in the area northwest of South Beale Road and east of Highway 65 near Olivehurst. We believe the General Plan should address the intention of the Olivehurst Public Utility District to serve this area with water, sewer and recreational services. This area has soils of marginal quality and relatively few environmental constraints to development as compared to other areas west of Highway 65 which are in the Valley Growth Boundary and are designated for "Employment" (much of which was zoned for commercial uses by Measure R). This is

particularly troublesome since much of the territory within the Planning Reserve south of Ostrom Road would better be identified to provide means to accommodate job-generating, light industrial development to improve the County's jobs-housing balance than other locations inside the Valley Growth Boundary. Designating this area as a "Planning Reserve" appears to be inconsistent with the Board's October 26, 2010 action to support a Grant Application to expand OPUD's wastewater and water infrastructure improvements in Rancho Road.

43-7

To support economic development goals and to preserve agricultural lands, LAFCO suggests the General Plan be amended to eliminate the supermajority requirement to amend General Plan land use designations and zoning of the "Planning Reserve" areas.

8. Policy CD1.3 We question the wisdom of not assigning General Plan land use designations to the Planning Reserve areas and, as noted in our point 7 above, recommend a simple majority rather than a supermajority of the Board to amend the General Plan in those areas (policy CD 13.5). Failing to provide any guidance to land owners as to the County's land use vision for their land, even temporarily, may encourage unrealistic expectations and foster counter-productive proposals or discourage investment entirely in these lands. It also may violate the minimum requirements of the California Planning Law requiring a general plan to establish standards for population density and building intensity. (See *Twain Harte Homeowners' Assoc v. County of Tuolumne* 138. Cal.App.3d 664)
9. Action CD1.1 Counties are required to update housing elements every eight years and LAFCO's are required, as necessary, to update Spheres of Influence every five years. Regional Transportation Plans prepared by SACOG are required to consider Spheres of Influence. It may be helpful to amend this Action to make explicit that the Valley Growth Boundary will be reviewed with each housing element update and not less frequently than every 8 years and will consider changes that have occurred since the last review of the Boundary in spheres of influence of cities and special districts which provide services necessary to support development.
10. Policy CD2.2 In what manner will the County support specific plans? At a minimum, LAFCO recommends a policy confirming the County's support for the adopted goals and policies of the Plumas Lake, Olivehurst Avenue, and Linda Specific Plans.
11. Policy CD2.3 How does the County propose to support reinvestment in Linda and Olivehurst, as this policy promises? Is the County contemplating a new redevelopment agency?
12. Policy CD3.3 LAFCO applauds the County's commitment to protecting agriculture and agricultural land. We respectfully suggest the General Plan could more effectively do so by establishing a specific time goal to promptly adopt criteria to identify the location, extent and design of required agricultural buffers as stated in Action Items NR3.1 and NR3.2. We suggest that an ordinance or other mechanism be adopted to ensure intended implementation of adaptive agricultural buffers and that these requirements be enforceable and not mere "guidelines". LAFCO would like to assist the County in the establishment of buffer criteria to be implemented by the County and respectfully requests notice of those proposals and an opportunity to comment on them.
13. Policy CD3.4 We are pleased to see the County will be employing performance-based standards and these standards will be included in the Zoning and Development Codes as stated in Action CD3.1 on Page 26.

43-8

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14. Policy CD3.8 regarding fee title acquisition, conservation easements, acquisition of leaseback rights, management agreements, transfers of development rights, etc. with respect to Beale AFB. As stated in our point 12 above and as elaborated in point 22 below), LAFCO would like to participate in efforts to protect farmland. In addition, we would recommend policies similar to Action Items NR3.1 and NR3.2 be added to the Agricultural policies in the Natural Resources element of the plan to address land use conflicts with continued operation of Beale AFB. 43-14
15. Action CD 10.2 Thank you for providing documentation regarding the Housing and Job balance in the chart on page CD 21. As you are aware, the Housing/Jobs Balance is one of the criteria LAFCO must consider in its review of proposal and we make good use of this information in our service to Yuba County and the local governments within it. 43-15

16. Infrastructure, Facilities and Services

It does not appear the Municipal Service Review, which was prepared by LAFCO was considered in the development of the General Plan. The Policies do not appear to relate to the determinations included in the MSR. For example, Policy CD 12.1 states "new developments will be required to demonstrate the availability of adequate water supply and infrastructure ...." There appears to be neither a General Plan policy under which the County would rely in part upon MSR findings and content with respect to the service capabilities of local government water utilities nor a policy supporting infrastructure development through assistance to public service providers. However under Goal CD 14 (to provide coordinated public service and infrastructure planning) the General Plan states policies to support and encourage "Coordinated Public Services and Regional services." Given that this goal largely overlaps with LAFCO's responsibilities, we encourage the County to make use of the MSR and the data it provides so we can avoid duplication of effort and inconsistent policy making as between the County and LAFCO. 43-16

The 2030 General Plan needs to comprehensively plan the extension of services into areas within the Valley Growth Boundary planned for development to ensure that LAFCO and local agencies can rely on the General Plan EIR to update spheres of influence in accordance with the 2008 Municipal Services Review. Otherwise, proposals to implement the General Plan's development vision will be bogged down by additional CEQA review that could be accomplished efficiently and quickly by the General Plan EIR.

17. Goal CD14 LAFCO recommend a policy with respect to coordinated public service and infrastructure planning be added to require coordination with LAFCO and its municipal service review process and to encourage county planning and public works staff to provide input to LAFCO's development of Spheres of Influence so that LAFCO's planning work may be of greater value to the County. 43-17
18. Policy CD15.5 State water conservation laws require the County to incorporate such water conservation measures as requiring the installation of meters and implementation of Best Management Practices by new development. It may be helpful for the General Plan to acknowledge these requirements so County, land owners, and developers will not overlook them. 43-18
19. Policy HS2.1 (and other places in the plan) The California Department of Forestry and Fire Protection is now called CALFIRE. 43-19
20. Policy HS3.13 LAFCO recommends the County consider a policy under the water quality section to require detachment from irrigation districts or agricultural water purveyors of land to be 43-20

developed at urban densities to be served by a domestic water system. Alternatively, consideration of a policy relating to the use of irrigation water for beneficial uses such as the use of irrigation water for landscaping and parks and other urban uses not requiring water treated to urban standards. This issue has arisen in projects reviewed by LAFCO recently and can benefit from County policy development.

21. Policy NR3.1 How will the County's zoning and development standards protect agricultural resources? If the County is serious about protecting such lands from premature development, the General Plan needs to include a policy explicitly plainly protecting agricultural lands from the impacts of development of adjacent lands such as the use of buffers, barriers or conservation easements. The agricultural acknowledgement statement required by Policy NR3.2 is insufficient protection of agricultural land in our view. See our comments under point 12 above and in point 22 below
22. LAFCO staff would like to participate with the County in the timely development of agricultural conservation measures. The following are some items for the Planning Commission and the Board to consider in evaluating development proposals for sites adjacent to, or resulting in the conversion of, prime agricultural lands:
  - a. Require a 200 to 500-foot buffer (on lands within the development project or adjacent right-of-way) from the boundary of an adjacent agricultural use. Alternatively, if the developer does not want to place a buffer on the development parcel, then the developer should be required to purchase an easement from the adjoining farmer to compensate the farmer for the limitations being imposed on his activities as a result of the development of the adjoining property.
  - b. Require a combination of a lesser buffer, fencing and tree planting along the boundary to mitigate impacts of noise, dust, trespass, and pesticide/herbicide overspray. {Such a proposal should be supported as adequate to mitigate impacts by the Farm Bureau, County Agricultural Commissioner or other recognized authority}.
  - c. Where impacts are significant under the Land Evaluation and Site Assessment (LESA) model developed by the California Department of Conservation, require agricultural land mitigation agreements through the purchase of agricultural easements, with an acre to acre conversion ratio, over lands having equal agricultural value and risk of conversion as the lands proposed to be converted from agricultural to urban uses.
  - d. Please note as urbanization occurs such buffers can become problematic should subsequent urbanization occur on the "other" side of the buffer area. Rather than this buffer concept it may be more appropriate to suggest a policy that could read "The county General Plan should identify a specific "Agricultural and Open Space Reservation" north of the Marysville urbanized area, for example, which would be an area intended to off-set any loss of agricultural lands due to urbanization." General Plan policies requiring use of such easements to mitigate impacts on agriculture has been expressly approved by the Court of Appeal in the recent case of Building Industry Association v County of Stanislaus (--- Cal.Rptr.3d ----, 2010 WL 4814682, 10 Cal. Daily Op. Serv. 14,834, Cal.App. 5 Dist., November 29, 2010).
23. Community Area boundaries may not necessarily be the same boundaries as LAFCO's Spheres of Influence, and do not necessarily need to be. For example, LAFCO's Spheres of Influence may contain watershed areas where development is not contemplated. Among the purpose of Spheres

of Influence is to allow both the affected local government and LAFCO to provide input with respect to development proposals within a sphere and to protect watershed areas, while development is not contemplated. Of concern is that size of the Community Development Areas does not relate to the ability of a service district to provide service in the foreseeable future. In coordination with service providers, LAFCO review of development proposals in these areas will be necessary to ensure Community Growth Boundaries and district service areas are consistent. Water and wastewater service boundaries in particular should not be outside community growth boundaries. Other services, such as Fire and EMS service boundaries should be allowed to be outside Community Growth Boundaries and in fact cover the entire county, where feasible.

43-23

On behalf of the Local Agency Formation Commission we thank you for the opportunity to provide these comments. If we can provide further advice or assistance on any of these points, please do not hesitate to contact LAFCO Executive Officer John Benoit.

Sincerely,



Mary Jane Griego, Chair  
Yuba LAFCO

cc: Board of Supervisors  
City of Wheatland  
City of Marysville  
John Benoit, LAFCO Executive Officer

## **LIST OF CONCERNS on General Plan: DOACT 1/26/11**

### **A. GENERAL CONCERNS**

**Implementation- p. 1:** “Some General Plan Amendments will be accomplished through adoption of Specific Plans or Community Plans (also known as Rural Community Plans).”

**Comment:** We request confirmation of planning staff verbal statements that no GP Amendment will be required to adopt a Rural Community Plan, so long as it does not conflict with the General Plan.

**Implementation –p. 2:** “The approval of 4 out of the 5 members of the Board of Supervisors with the following findings is required for any General Plan Amendment...”

- The 4 findings (summarized): that the proposed amendment is in the public interest; compatible with the General Plan; potential effects not detrimental to public health, safety, or welfare; in accordance with the California Government Code and California Environmental Quality Act.

**Comment:** This raises the bar for amendments to a super majority vote.

The staff has explained that the general plan has a great deal of flexibility, and will be able to accommodate most projects. Therefore, their reasoning is that if there is any proposal that needs a general plan amendment, that the bar should be higher. The 4 out of 5 concept is a staff initiated proposal.

A general plan cannot possibly anticipate every planning scenario that might arise over a 20 year timeframe; therefore some flexibility of Amendments must be allowed for. However, raising the vote to 4 out of 5 is an undesirable overreach.

#### **“Flexibility” and “Enabling Wording” throughout the Plan:**

The flexibility that is referred to throughout the Plan is very troublesome, as it creates a great deal of uncertainty. The general plan should be as definitive as possible, so that it functions as a plan, setting guidelines in order that projects can have more certainty, not less. “Flexibility” gives default decision-making to staff, and takes control from BoS.

“Enabling Wording” throughout the General Plan supports a great degree of flexibility, but in some cases also inserts unnecessary ambiguity. Concerns include uncertainty occurring with some property owners regarding what uses will be applicable to, or allowed, on their properties in the future. An example can be seen related to Goal CD7 on Community Development Page 31, “Mixed Use Corridors.” Some corridors are identified by name with an additional reference to “other appropriate corridors” (Policy CD7-1). Under this goal there is no definition of what constitutes a “mixed use corridor.” Further, mixed use attached to a given corridor may (objectively) only apply to a portion of the roadway identified with the corridor. As currently worded, planning staff is “enabled” to subjectively define a roadway as a “mixed use corridor” with a resulting potential to place existing property owners under unexpected conditions. To best serve the people, a comprehensive analysis of the Draft General Plan should be conducted for the purpose of resolving all unnecessary ambiguity.

## **B. SPECIFIC CONCERNS**

### **Vision Section**

Home Businesses **Vision-4: Economic Independence:** “Promote appropriate home business opportunities which utilize advances in electronic technology and have minimal impacts on residential areas.”

**Comment:** Home businesses should not be limited to those "which utilize advances in electronic technology". Further, those businesses that do not employ any activity other than that which is normally associated with the use of residential property should be allowed under exactly the same circumstances as it would if not conducted as a business. The only exceptions might be where taxing authority and/or consumer protections are involved.

Implied Down-zoning **Vision- 5:** “Reexamine existing plans in the foothills that provide for urban or suburban levels of density that may no longer be preferred by the County and should be re-evaluated in light of infrastructure feasibility, interests of the community, etc.” [and]

**Vision-6** “Reexamine feasibility of continued subdivision into five acre parcels within the foothill community boundaries based on water availability, adequate soil for waste disposal, and other environmental or physical constraints.”

**Comment:** The language on these 2 pages sets the stage for an across-the-board down-zoning of all currently zoned A/RR5 parcels, based on "other environmental or physical constraints" and could effectively freeze any future lot splits within the rural communities.

Freezing future subdivision would not allow future build-out projections to be realized. This also presents a contradiction, projecting a build-out that cannot happen if this Vision statement is followed to its logical conclusion

### **Community Development Section**

Location of Rural Centers **Policy CD9.11** “Rural Centers should be located along existing or planned future transit routes.”

**Comment:** This places an unnecessary restriction on rural center locations to be along transit routes. From a planning point of view, it may be desirable to place a rural center at an intersection along a main road. However, from a community development viewpoint, there may be other sites that might be better suited. It would be undesirable to preclude this possibility if this map leads to zoning these areas—and these areas only—as rural centers. The general plan should not restrict this option.

### **Placetypes, Aesthetics CD p. 15.**

Restrictive and expensive policies on the aesthetics of private property, for example, as in the Placetypes section, limited parking areas, expensive and questionably useful bike trails, how to build buildings, infill, etc.

**Comment:** Local citizens are less concerned with the aesthetics of this issue as they are with the functionality and convenience of the services provided. The costs related to planning and implementing this concept far exceed the value of any benefit to be realized by our local citizens.

#### Travel Demand Management/Vehicle Miles Traveled **Goal CD17**

Under "Travel Demand Management," **CD p. 72** last paragraph, there is an apparent objective to cause citizens to behave in a manner that they do not desire. It is implied in the paragraph that Vehicle Miles Traveled (VMT) should be discouraged by intentionally interjecting inconvenience through limitations on parking lots and roadway expansions. **Goal CD17** through **CD21** and their supporting policies (CD pp 73-80) emphasize discouraging VMT through policies that introduce inconvenience while seeking to encourage modes of travel that may be viewed by citizens as undesired, inconvenient and/or impractical. Our people believe that if there is a valid need to mitigate some undesirable effects of travel by private vehicles, Government should adopt policies that encourage the use of low or non polluting vehicles. Further, discouraging travel by vehicle may be inviting another problem in that it may be easier for criminals to victimize people who are walking or riding bicycles than it is for those protected by their vehicle (in today's society, a very real concern).

#### **Public Health & Safety Section**

##### **Fire Safety HS – pp 10-15**

Policies related to evacuation from areas threatened by catastrophic wildfire do not specify consideration of worst case predicted wildfire behavior. A minimum requirement in high fire danger areas should include ingress and egress to/from inhabited areas such that safe evacuation can be achieved simultaneously with access by fire suppression resources during the occurrence of such a fire in accordance with Public Resources Code 4290. To achieve this end a road leading away from what would be the head of the "worst case predicted wildfire" must be required. A second ingress/egress route must be required that provides egress in a direction approximating 180 degrees from that specified above. Further, the characteristics of the required ingress/egress roads, such as number of lanes, surface stability and the ability to accommodate traffic, in consideration of the population in the affected area, should be addressed. Such requirements will not be applicable for new development or parcel splits involving less than 4 units. Where reference to public trails and unimproved roads is cited for use in evacuations, unless this occurs as a last ditch effort, there should be provision for avoiding such use by vehicles likely to get stuck and trap others. **Public Health and Safety policies HS2.1, 2.2, 2.9 and 2.10** (pp 13-14) inadequately address these concerns. In addition, Policies **HS9.3 & HS9.4** and **Action HS9.1** (p. 43) also fail to address the "worst case predicted wildfire" issue, seemingly weighted toward emergency ingress and egress related to flooding. Also the text on Public Health and Safety page 10 should include Oregon House and the map on page 11 needs correction to properly indicate all areas of very high fire danger.

Septic Systems Policy HS3.12: “The County will prohibit construction of septic systems in areas with high groundwater recharge potential and will collaborate with trustee agencies and property owners to remove existing septic systems in such areas and either relocate or redesign systems to avoid impacts to groundwater.”

**Comment:** In effect, this enables County staff to require a homeowner to cease using an existing septic system and upgrade or replace it. In essence this could subject homeowners to an ex post facto enforcement. Due to ambiguity in the policy's wording, and possible extremes in interpretation, enforcement can result in serious financial hardship on affected residents up to the possibility of making some of them homeless. To avoid such an inappropriate consequence, wording associated with this policy should state in effect: "In cases where an existing septic system has not failed, is serving a residence and has previously been approved with a permit issued, payment of costs incurred in complying with this policy will be sought and acquired by the County. County will protect homeowners from all hardship that compliance with this policy can cause."

The Natural Resources Groundwater Recharge Areas map (NR-48), currently shows large areas of the foothills as having a moderate infiltration rate. This policy could require the redesign and relocation of any number of existing septic systems even though they may be functioning adequately and within their expected lifespan. Policy HS3.12 should not be applicable unless a septic system is demonstrably not performing or if it is determined that the system is adversely affecting groundwater supplies.

The Yuba County GIS parcel database needs to include information on the recharge potential of each parcel.

Landowners should be able to determine, with certainty, if their property is in an area with high groundwater recharge potential and what impact this policy would have on existing septic systems.

### **Natural Resources Section**

#### **Biological Resources, including Deer (NR pp. 23-30)**

Biological Survey Requirements Action NR5.1 “The County will maintain information on biological resources, including data gathered for this General Plan and the NCCP/HCP, and will use this information to determine whether projects could have potentially significant impacts on biological resources, and whether project level biological assessments would be required prior to project approval.”

**Comment:**

The requirement for a biological survey must be made on an objective determination of why such a survey is needed and sufficient documentation must be provided by the lead agency to justify the necessity of such a survey.

The Yuba County GIS parcel database needs to include information on the biological resources for each parcel, so that a property owner can determine if their property is in such an area.

Wetlands & Riparian Buffers Action NR5.3 “Through review of proposed private and public projects near wetlands and riparian areas, the County will require buffering to protect these important habitats. Setbacks are expected to range from 33 to 150 feet in width. Where stream courses are contained within levees, as in the case of the Bear, Feather, and Yuba Rivers, required setbacks shall be measured from the outside toe of the levee. Where levees are not present, the buffer shall be measured from the edge of the active floodway.”

**Comment:**

The general plan needs to provide descriptions of riparian areas and maps of sufficient detail that any property owner may determine if any water body or stream on their property shall require setbacks and exactly what the setback requirements or other restricted activities will be.

**Policy NR5.12** “New developments that could affect wildlife movement corridors shall conduct a biological assessment and avoid placing any temporary or permanent barriers within such corridors, if they are determined to exist on site.”

**Comment:** This places a high financial burden on property owners, so it should be specified how the need for a survey is determined.

**Policy NR5.14** “Within the designated winter and critical winter range of the Mooretown and Downieville deer herds, the County will strongly discourage any development that could substantially adversely affect these species. Where Rural Community Boundary Areas occur within the winter and critical range for these species, new developments shall dedicate permanent open space and provide minimum lot sizes designed to avoid substantial adverse impacts to these species. The County will communicate with the California Department of Fish & Game regarding open space dedication and lot sizes needed to avoid impacts to deer herds.”

**Comment:**

The Migratory Deer Range Map is out of date; it was last edited in 1979, over 30 years ago. Development patterns that have ensued over the last three decades may have altered the number and paths of migratory deer. New field surveys, done by the Department of Fish and Game, are needed to determine to what extent the migratory patterns of the Mooretown and Downieville deer herds might have been altered from the last map edition in order to determine the current applicability of Policy NR5.14. Additionally the impact of global warming on the possible change to the deer habitat and migratory paths is not addressed.

Other Issues in Natural Resources Section:

Archeological survey requirement: Policy NR6.1 “New developments involving the movement, scraping, or leveling of soil in areas of moderate or high potential for prehistoric resources shall conduct archeological background research, site analysis, and surveying to inform site design and avoid impacts to prehistoric sites (see Exhibit NR6).”

**Comment:** This is an overreach because the map is flawed: the white areas, indicating areas of low sensitivity, are white only because there is no data available. There may indeed be more areas that would be classified as high or moderate (red or yellow), and



therefore subject to this policy, if the data were available. Thus, applying this policy would present an arbitrary inequality on property owners.

Current state law already protects archeological resources, so we request that the General Plan confine itself to saying "State Law will be followed in all its provisions for protection of archeological resources related to new development."

**Policy NR6.3** also covers this possibility. The state standard and Policy NR6.3 are entirely adequate to protect any such prehistoric resources.

Green House Gas policies **Action NR7.13** "The County will also consider the feasibility of using fees or actions required to meet County greenhouse gas efficiency policies on a fair-share basis to fund energy efficiency improvements and renewable energy systems in existing developed buildings and the public realm."

**Comment:** The term "existing developed buildings" could mean retrofitting homes with efficiency improvements. Are private homes and buildings going to be subject to an energy audit to determine a "GHG" efficiency factor?

Request for New York Flat Dam/Reservoir **NR Page 9 Exhibit NR2 map.** The current General Plan shows a future New York Flat Reservoir. This is omitted from this General Plan Update.

**Comment:**

A valid contractual agreement exists for the creation of this reservoir. The effectiveness of reservoirs in contributing to flood control, as water sources used for suppression of wildland fires and as water storage for domestic and agricultural uses are sufficient reasons to retain creation of this reservoir as a planned future project.

Oak Woodland and Tree Preservation **Goal NR10 (and Policies)** Yuba County should not adopt disincentives to achieving fire safety around homes.

**Comment:**

**Goal NR10** and its supporting policies and action (Natural Resources page 41) may conflict with fire safety and other safety requirements. Fire safety requires that brush, or understory, be removed out to a minimum of 100 feet from residences and other structures. **Policy NR10.1** implies that brush ("existing native vegetation") be retained to the extent feasible (with emphasis on trees) when placing buildings on parcels. In the areas from 30 to 100 feet out, State law requires trees be thinned such their foliage canopies do not touch for fire safety reasons. For 30 feet and below State law refers to "Specimen" trees, only, as being allowed. Where fire safety requirements are applied to conditions on slopes, necessary clearances can be much greater than 100 feet. To procure homeowner's insurance, clearances required by an insurance company can be as high as one quarter mile, a clearance option allowed by State law. In addition to fire safety concerns, insect infestations, such as bark beetle in pine trees, will require removal of infected trees to help protect uninfected trees. Also, for aesthetic reasons on their properties, or to eliminate trees likely to fall under high wind conditions, homeowners may choose to thin trees and remove brush beyond that required for fire safety.

**Action NR10.1** states that County will determine the significance of impacts related to tree removal. This implies that County can require homeowners to obtain a permit to cut

down trees even when this is done to comply with State clearance requirements. County permits seldom come without costs and inconveniences. Homeowners, and future homeowners, must be allowed to clear vegetation to comply with fire safety requirements, and also, when other safety issues and desired aesthetics are involved. A requirement to get a permit and pay a fee to achieve fire safety or to save another tree from infestation is likely to do more harm than good. It can contribute to breeding disrespect for the law, and/or inhibit incentive to make properties fire safe or more aesthetically pleasing. Such clearing should not be regulated in the manner set forth or "enabled" under Goal NR10!

Surface/Ground Water Policy NR12.1 "The County will manage land use change in a way that prevents overdraft of groundwater supplies, protects overlying groundwater rights, and ensures that the combined use of surface and groundwater resources provides for current and future water demand."

**Comment:**

This policy may prevent the drilling of wells and has broad implications in regards to drilling a well for domestic water supplies. In particular, the soil hydrology of the fractured rock geology of the foothills is poorly understood and little data exists on the overall availability of ground water supplies. Policy NR12.1 opens up the possibility of prohibiting the drilling of any domestic use wells, since, because there is a such a scarcity of data, it could be determined that any well may negatively impact groundwater resources and thus needs to be restricted.

\*\*\*\*\*

**DEIR issues:**

Inconsistencies of the Plan and the EIR: e.g. EIR says the County cannot meet the State's standards; inaccurate language in the EIR states that the Foothills are not in danger from wildfires

There is a need for an extended public comment period on the 600-plus page EIR.

**Other:**

We citizens have been "put on notice" (see Purpose-1) that this Plan is going to change our way of life. This is troubling.

# **Attachment 5**

## **Comments Received on Draft EIR**

**CENTRAL VALLEY FLOOD PROTECTION BOARD**

3310 El Camino Ave., Rm. 151

SACRAMENTO, CA 95821

(916) 574-0609 FAX: (916) 574-0682

PERMITS: (916) 574-0685 FAX: (916) 574-0682



December 21, 2010

Mr. Dan Cucchi

Yuba County Planning Department

915 Eighth Street, Suite 123

Marysville, California 95901

RECEIVED

DEC 22 2010

Community Development &  
Services Agency

Dear Mr. Cucchi:

Subject: 2030 Yuba County General Plan Update  
SCH Number: 2010062054  
Document Type: Draft EIR

Staff for the Central Valley Flood Protection Board has reviewed the subject document and provides the following comments:

The proposed project is located within the jurisdiction of the Central Valley Flood Protection Board (formerly known as The Reclamation Board). The Board is required to enforce standards for the construction, maintenance, and protection of adopted flood control plans that will protect public lands from floods. The jurisdiction of the Board includes the Central Valley, including all tributaries and distributaries of the Sacramento River and the San Joaquin River, and designated floodways (Title 23 California Code of Regulations (CCR), Section 2).

A Board permit is required prior to starting the work within the Board's jurisdiction for the following:

- The placement, construction, reconstruction, removal, or abandonment of any landscaping, culvert, bridge, conduit, fence, projection, fill, embankment, building, structure, obstruction, encroachment, excavation, the planting, or removal of vegetation, and any repair or maintenance that involves cutting into the levee (CCR Section 6);
- Existing structures that predate permitting or where it is necessary to establish the conditions normally imposed by permitting. The circumstances include those where responsibility for the encroachment has not been clearly established or ownership and use have been revised (CCR Section 6);
- Vegetation plantings that will require the submission of detailed design drawings; identification of vegetation type; plant and tree names (i.e. common name and scientific name); total number of each type of plant and tree; planting spacing and irrigation method that will be within the project area; a complete vegetative management plan for maintenance to prevent the interference with flood control, levee maintenance, inspection and flood fight procedures (Title 23, California Code of Regulations CCR Section 131).

December 21, 2010

Mr. Dan Cucchi

Page 2 of 2

The permit application and Title 23 CCR can be found on the Central Valley Flood Protection Board's website at <http://www.cvfcb.ca.gov/>. Contact your local, federal and state agencies, as other permits may apply.

Should you have any further questions, please contact me by phone at (916) 574-0651, or via email at [jherota@water.ca.gov](mailto:jherota@water.ca.gov).

Sincerely,



James Herota  
Staff Environmental Scientist  
Floodway Projects Improvement Branch

cc: Governor's Office of Planning and Research  
State Clearinghouse  
1400 Tenth Street, Room 121  
Sacramento, California 95814

## Cucchi, Daniel

---

**From:** Dan Radulescu [DRadulescu@waterboards.ca.gov]  
**Sent:** Wednesday, December 15, 2010 12:48 PM  
**To:** Cucchi, Daniel  
**Subject:** County of Yuba General Plan Update Programmatic EIR SCH#2010062054

Hello Mr Cucchi:

Please see our comments to the County of Yuba General Plan Update Programmatic EIR SCH#2010062054

1. Our comments refer mainly to the Biological Resources, Hydrology and Water Quality components. We believe that, in addition to avoidance exercised first, minimization second, if adequate compensatory mitigation measures are not implemented, the project may have the potential to result in significant impacts to aquatic and aquatic dependent resources. Recent studies from U.S. Geological Survey have demonstrated that immediate and significant impacts can result at very low level of changes of imperviousness in watersheds due to urbanization. <http://pubs.usgs.gov/ds/423/>
2. We support serious consideration of the Environmentally Superior Alternative as the preferred alternative as the County contemplates a balanced growth scenario.
3. Please note that in Biological Resources component it is concluded that the implementation of General Plan activities may lead to significant unmitigated cumulative impacts to natural resources, such as wetlands, vernal pools, riparian vegetation, etc. Based on the beneficial uses protected through the Basin Plan adopted by the Central Valley Regional Water Board, the significant cumulative impacts may lead to degradation of the water quality of the region's water resources and further impairments to the species depending on those water resources. We believe that serious consideration should be given to approaches that will reduce the impacts to less than significant levels through the techniques outlined in CEQA Guidelines Section 15370.
4. In regard to the N.O.P. of the proposed EIR , we would like to recommend the County that, in conjunction with avoidance and minimization analysis, as outlined in CEQA Guidelines Section 15370, to incorporate Low Impact Development (LID), Smart Growth standards in the County's Code, if not already adopted, in order to mitigate some of the impacts related to urbanization and provide sustainable approaches for the (re)development of the County areas while preserving the natural resources. The LID Code should include incentives to allow flexible approaches for implementation. The proposed General Plan update is within the regulated area covered by the Phase II Small Municipal Separate Storm Sewer System (MS4) Permit, NPDES No. CAS000004, Water Quality Order No. 2003-0005-DWQ, (Order) which is regulated by the Regional Water Board. An integral and enforceable part of the Order includes the Storm Water Management Program (SWMP). One of the six programmatic control measures in the SWMP includes the Planning and New Development Program. The Order states that the Permittees must require long-term post-construction best management practices (BMPs) that protect water quality and control runoff flow ideally to the pre-development levels to be incorporated into development and significant redevelopment projects. LID strategies are specifically required, as well as the County addressing LID designs early in the entitlement phase of a project.

LID is a sustainable practice that benefits water supply and contributes to water quality protection. The goal of LID is to mimic a sites predevelopment hydrology by using design techniques that infiltrate, filter, store, evaporate, and detain runoff close to the source of rainfall. LID provides opportunities to preserve natural resources, such as wetlands, riparian areas and corridors, etc., avoid and minimize impacts starting at the source and at initial phases of planning and design of a project. It also provides opportunities for mitigation close to the source avoiding expensive, end-of-pipe, treatment controls.

Hydromodification strategies should include controls to manage the increases in the magnitude, volume and duration of runoff from development projects in order to protect receiving waters from increased potential for erosion and other adverse impacts, ideally to the pre-development levels.

On 20 January, 2005, Resolution 2005-0006 was adopted by the State Water Resources Control Board. The

resolution adopted the concept of sustainability as a core value for all California Water Boards activities and programs, and directed California Water Boards staff to consider sustainability in all future policies, guidelines, and regulatory actions, including the review of applicable CEQA documents.

Please also note that the new Construction Storm Water General Permit, recently issued by the State Water Board, Order 2009-0009-DWQ, also require the implementation of post-construction controls.  
[http://www.waterboards.ca.gov/water\\_issues/programs/stormwater/constpermits.shtml](http://www.waterboards.ca.gov/water_issues/programs/stormwater/constpermits.shtml)

Further consideration should be given to the new CalGreen Code, CCR Title 24, Part 11, which require storm water controls for small size sites, and encourages the local agencies to adopt LID requirements in their building codes.

For further details please check

[http://www.opr.ca.gov/ceqa/pdfs/Technical\\_Advisory\\_LID.pdf](http://www.opr.ca.gov/ceqa/pdfs/Technical_Advisory_LID.pdf)

[http://www.epa.gov/smartgrowth/about\\_sg.htm](http://www.epa.gov/smartgrowth/about_sg.htm)

[http://www.waterboards.ca.gov/water\\_issues/programs/low\\_impact\\_development/index.shtml](http://www.waterboards.ca.gov/water_issues/programs/low_impact_development/index.shtml)

[http://www.epa.gov/smartgrowth/water\\_scorecard.htm](http://www.epa.gov/smartgrowth/water_scorecard.htm)

Thank you for the opportunity to present comments,



Water Boards

**Dan Radulescu, EJD, P.E., CPSWQ**

Lead, MS4 Permitting & Water Quality Certification Unit  
Central Valley Regional Water Quality Control Board | CalEPA  
11020 Sun Center Drive, Suite 200  
Rancho Cordova, CA 95670-6114

Ph:(916) 464-4736

F:(916) 464-4775

[dradulescu@waterboards.ca.gov](mailto:dradulescu@waterboards.ca.gov)

Find us on the web at <http://www.waterboards.ca.gov/centralvalley/>

**DEPARTMENT OF TRANSPORTATION**

DISTRICT 3

703 B STREET

MARYSVILLE, CA 95901-0911

PHONE (530) 741-4025

FAX (530) 741-4825

TTY (530) 741-4509

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January 20, 2011

032010YUB0013

Yuba County General Plan DEIR

SCH# 2010062054

Mr. Dan Cucchi  
Yuba County  
915 8<sup>th</sup> Street  
Marysville, CA 95901

Dear Mr. Cucchi,

We appreciate the opportunity to review and comment on Yuba County's 2030 General Plan Draft Environmental Impact Report (DEIR). In addition to this comment letter, we provided comments at the Notice of Preparation (NOP) and Draft General Plan 2030 stage for the Circulation element. The majority of the comments we made on the Draft General Plan 2030 were not incorporated into this document. Caltrans has the following comments for the DEIR:

Specific Comments for the Circulation Element:

In our previous comment letter for the Draft General Plan (GP), the following comments are not addressed in the DEIR:

- Page 4.13-3 State Highways – this section states the State Routes (SR) 70, 65, 20, and 49 are regional routes that serve the local populations, as well as through trip. This section should include a statement of the purpose and intent of State Routes – to serve regional and interregional travel.
- Page 4.13.27, Table 4.13-3, 5<sup>th</sup> Street (Twin Cities Memorial Bridge) – identifies the expansion of the bridge from 2 to 4 lanes; this is not consistent with SACOG's 2035 Metropolitan Transportation Plan (MTP), which its planned to be expanded to 6-lanes.
- Pg. 4.13-48 Policy CD16.2 Traffic Impact Fees – states the County will revise its Countrywide Traffic Mitigation Fee Program based on a nexus study. The fee program update should include projects on the State Highway System (SHS), and future SHS needs to ensure an equitable contribution for impacts from development projects.



Mr. Dan Cucchi  
January 20, 2011  
Page 2 of 2

- Pg. 4.13-48 Policy CD16.10 – states the County will not use traffic Level of Services (LOS) policies to analyze and mitigate CEQA impacts of new development, but instead will use its LOS policies to assess fair-share funding of transportation facilities necessary to serve new projects. This statement should include fair-share funding for improvements to the SHS.
- The County should protect adequate right-of-way for new and expanded SHS transportation facilities. This should be reflected in a policy statement.
- As part of the circulation network, improvements to the SHS and the operation of the SHS are a shared responsibility between Yuba County and Caltrans. This should be reflected in a policy statement.

In addition to the comments above, we have the following comments for the DEIR:

- State Route 70 has recently undergone a conversion from 2-lane highway to freeway between the SR 65/70 interchange and the intersection of Feather River Blvd./SR 70 near the Bear River. Bicycle access is prohibited between these locations, as Feather River Blvd is an alternative route.
- The Third River Bridge is listed in the DEIR; however, it is not included in the SACOG's MTP as a project that will be constructed within the General Plan's 20-year planning horizon. Additionally, the traffic model developed for DEIR cannot assume the "Third Bridge" as a planned improvement. Furthermore, the Erle Road interchange is inadequate to handle the project volumes of traffic that would exit the freeway to access the Third Bridge. These issues leads to the conclusion that the Yuba County General Plan DEIR traffic analysis and traffic model must be revised to reflect what the traffic impacts of the proposed general plan would be without the new bridge.

Please provide our office with the final Circulation Element and Final Environmental Impact Report. If you have questions or need additional information, please contact Sukhi Johal, at (530) 740-4843 or [sukhi\\_johal@dot.ca.gov](mailto:sukhi_johal@dot.ca.gov).

Sincerely,



**MIKE BARTLETT**

Chief, Office of Transportation Planning – North

**DEPARTMENT OF TRANSPORTATION**

DIVISION OF AERONAUTICS – M.S.#40

1120 N STREET

P. O. BOX 942874

SACRAMENTO, CA 94274-0001

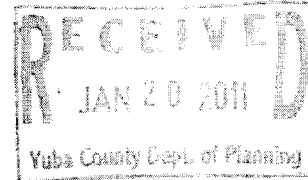
PHONE (916) 654-4959

FAX (916) 653-9531

TTY 711

*Flex your power!  
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January 19, 2011



Mr. Dan Cucchi  
Yuba County  
915 8<sup>th</sup> Street, Suite 123  
Marysville, CA 95901

Dear Mr. Cucchi:

Re: Draft Environmental Impact Report for the Yuba County 2030 General Plan;  
SCH# 2010062054

The California Department of Transportation, Division of Aeronautics (Division), reviewed the above-referenced document with respect to airport-related noise and safety impacts and regional aviation land use planning issues pursuant to the California Environmental Quality Act (CEQA). The Division has technical expertise in the areas of airport operations safety and airport land use compatibility. We are a funding agency for airport projects and we have permit authority for public-use and special-use airports and heliports. The following comments are offered for your consideration.

The proposal is for an update to Yuba County's 1996 General Plan. The updated document will be known as the Yuba County 2030 General Plan.

In accordance with California Public Utilities Code (PUC) Section 21676 *et seq.*, prior to the amendment of a general plan or specific plan, or the adoption or approval of a zoning ordinance or building regulation within the planning boundary established by the airport land use commission (ALUC), the local agency shall first refer the proposed action to the ALUC.

General plans and elements must clearly demonstrate intent to adhere to ALUC policies to ensure compliance with airport land use compatibility criteria. Direct conflicts between mapped land use designations in a general plan and the ALUC criteria must be eliminated. A general plan needs to include (at the very least) policies committing the county to adopt compatibility criteria essential to ensuring that such conflicts will be avoided. The criteria do not necessarily need to be spelled out in the general plan. There are a number of ways for a city or county to address the airport consistency issue, including:

- Incorporating airport compatibility policies into the update.
- Adopting an airport-combining zoning ordinance.
- Adopting an "Airport Element" into the general plan.
- Adopting the airport compatibility plan as a "stand alone" document or as a specific plan.

Mr. Dan Cucchi  
January 19, 2011  
Page 2

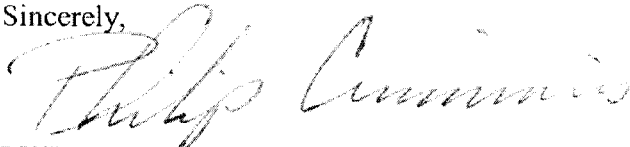
The general plan must acknowledge that until ALUC compatibility criteria are incorporated into the general plan, proposals within the airport influence area must be submitted to the ALUC for review. These provisions must be included in the general plan at a minimum for it to be considered consistent with the airport compatibility land use plan.

The proposal should also be coordinated with staff at Beale Air Force Base, Yuba County Airport, and Brownsville Aeropines Airport to ensure its compatibility with future as well as existing airport operations.

These comments reflect the areas of concern to the Division with respect to airport-related noise, safety, and regional land use planning issues. We advise you to contact our District 3 office in Marysville concerning surface transportation issues.

Thank you for the opportunity to review and comment on this proposal. If you have any questions, please call me at (916) 654-6223, or by email at philip\_crimmins@dot.ca.gov.

Sincerely,

A handwritten signature in cursive script, reading "Philip Crimmins".

PHILIP CRIMMINS  
Aviation Environmental Specialist

c: State Clearinghouse, SACOG (Yuba County ALUC), Yuba County Airport

## NATIVE AMERICAN HERITAGE COMMISSION

915 CAPITOL MALL, ROOM 364  
SACRAMENTO, CA 95814  
(916) 653-4082  
(916) 657-5390 - Fax



December 22, 2010

RECEIVED

DEC 27 2010

Community Development  
Services Agency

Dan Cucchi, Project Planner  
Yuba County  
915 8<sup>th</sup> Street, Suite 123  
Marysville, CA 95901

RE: SCH# 2010062054 Yuba County 2030 General Plan; Yuba County.

Dear Mr. Cucchi:

The Native American Heritage Commission (NAHC) has reviewed the Notice of Completion (NOC) referenced above. The California Environmental Quality Act (CEQA) states that any project that causes a substantial adverse change in the significance of an historical resource, which includes archeological resources, is a significant effect requiring the preparation of an EIR (CEQA Guidelines 15064(b)). To comply with this provision the lead agency is required to assess whether the project will have an adverse impact on historical resources within the area of project effect (APE), and if so to mitigate that effect. To adequately assess and mitigate project-related impacts to archaeological resources, the NAHC recommends the following actions:

- ✓ Contact the appropriate regional archaeological Information Center for a record search. The record search will determine:
  - If a part or all of the area of project effect (APE) has been previously surveyed for cultural resources.
  - If any known cultural resources have already been recorded on or adjacent to the APE.
  - If the probability is low, moderate, or high that cultural resources are located in the APE.
  - If a survey is required to determine whether previously unrecorded cultural resources are present.
- ✓ If an archaeological inventory survey is required, the final stage is the preparation of a professional report detailing the findings and recommendations of the records search and field survey.
  - The final report containing site forms, site significance, and mitigation measures should be submitted immediately to the planning department. All information regarding site locations, Native American human remains, and associated funerary objects should be in a separate confidential addendum, and not be made available for public disclosure.
  - The final written report should be submitted within 3 months after work has been completed to the appropriate regional archaeological Information Center.
- ✓ Contact the Native American Heritage Commission for:
  - A Sacred Lands File Check. USGS 7.5 minute quadrangle name, township, range and section required.
  - A list of appropriate Native American contacts for consultation concerning the project site and to assist in the mitigation measures. Native American Contacts List attached.
- ✓ Lack of surface evidence of archeological resources does not preclude their subsurface existence.
  - Lead agencies should include in their mitigation plan provisions for the identification and evaluation of accidentally discovered archeological resources, per California Environmental Quality Act (CEQA) §15064.5(f). In areas of identified archaeological sensitivity, a certified archaeologist and a culturally affiliated Native American, with knowledge in cultural resources, should monitor all ground-disturbing activities.
  - Lead agencies should include in their mitigation plan provisions for the disposition of recovered artifacts, in consultation with culturally affiliated Native Americans.
  - Lead agencies should include provisions for discovery of Native American human remains in their mitigation plan. Health and Safety Code §7050.5, CEQA §15064.5(e), and Public Resources Code §5097.98 mandates the process to be followed in the event of an accidental discovery of any human remains in a location other than a dedicated cemetery.

Sincerely,

Katy Sanchez  
Program Analyst  
(916) 653-4040

cc: State Clearinghouse

## Native American Contact List

Yuba County  
December 22, 2010

Maidu Nation  
Clara LeCompte  
P.O Box 204  
Susanville , CA 96130

Maidu

Enterprise Rancheria of Maidu Indians  
Art Angle, Vice Chairperson  
3690 Olive Hwy  
Oroville , CA 95966  
eranch@cncnet.com  
(530) 532-9214  
(530) 532-1768 FAX

Butte Tribal Council  
Ren Reynolds  
1693 Mt. Ida Road  
Oroville , CA 95966

Maidu

Enterprise Rancheria of Maidu Indians  
Glenda Nelson, Chairperson  
3690 Olive Hwy  
Oroville , CA 95966  
eranch@cncnet.com  
(530) 532-9214  
(530) 532-1768 FAX

(530) 589-1571

United Auburn Indian Community of the Auburn Rancheria  
David Keyser, Chairperson  
10720 Indian Hill Road  
Auburn , CA 95603  
530-883-2390  
530-883-2380 - Fax

Maidu  
Miwok

United Auburn Indian Community of the Auburn Rancheria  
Marcos Guerrero, Tribal Preservation Committee  
10720 Indian Hill Road  
Auburn , CA 95603  
mguerrero@auburnrancheria.com  
530-883-2364  
530-883-2320 - Fax

Strawberry Valley Rancheria  
Cathy Bishop, Chairperson  
PO Box 667  
Marysville , CA 95901  
catfrmsac2@yahoo.com  
916-501-2482

Maidu  
Miwok

United Auburn Indian Community of the Auburn Rancheria  
Gregory S. Baker, Tribal Administrator  
10720 Indian Hill Road  
Auburn , CA 95603  
gbaker@auburnrancheria.  
530-883-2390  
530-883-2380 - Fax

This list is current only as of the date of this document.

Distribution of this list does not relieve any person of statutory responsibility as defined in Section 7050.5 of the Health and Safety Code, Section 5097.94 of the Public Resources Code and Section 5097.98 of the Public Resources Code.

This list is only applicable for contacting local Native Americans with regard to cultural resources for the proposed SCH# 2010062054 Yuba County 2030 General Plan; Yuba County.