



STAFF REPORT

Meeting Date: June 15, 2005

TO: LAFCO Commissioners
FROM: Everett Millais, Executive Officer
SUBJECT: Comment Letter to Board of Supervisors - Ventura County Focused General Plan Update Policy Amendment

RECOMMENDATION:

Authorize the Chair to sign a letter to the Board of Supervisors expressing concerns about a proposed amendment to the County General Plan that will make exceptions to the Guidelines for Orderly Development.

DISCUSSION:

In response to direction from the Board of Supervisors, County Planning staff is in the process of preparing a focused update to the County General Plan to fulfill a number of objectives. One of these objectives is to accommodate the establishment and expansion of community sewer systems as alternatives to individual septic systems in rural areas with poor groundwater quality or adverse geological conditions for the purpose of protecting groundwater resources. The areas that are currently experiencing groundwater quality problems include El Rio, Nyeland Acres, Saticoy, Santa Rosa Valley, the Las Posas Valley in the vicinity of the Fox Canyon recharge area, and certain areas of the Santa Monica Mountains, among others.

In unincorporated areas designated as Agricultural, Open Space or Rural by the County General Plan, the Guidelines for Orderly Development (attached) define developments that require the establishment of new community sewer systems or the significant expansion of existing community sewer systems as "urban uses", and therefore restrict

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EXECUTIVE OFFICER: Everett Millais	LAFCO ANALYST: Kim Uhlich	OFFICE MANAGER/CLERK: Debbie Schubert	LEGAL COUNSEL: Leroy Smith

the development of these uses. The *Guidelines for Orderly Development (Guidelines)* define urban development as follows:

“Development shall be considered urban if it meets any of the following criteria:

- It would require the establishment of new community sewer systems or the significant expansion of existing community sewer systems;
- It would result in the creation of residential lots less than two (2) acres in area; or
- It would result in the establishment of commercial or industrial uses which are neither agriculturally-related nor related to the production of mineral resources.”

As currently worded, the *Guidelines* do not provide for any exceptions to the definition of urban development. In an attempt to more easily accommodate the development of community sewage systems and uses that depend on these systems, the Board of Supervisors will consider a proposal to amend the County General Plan Policy 3.1.2-11 to read as follows:

“Discretionary development shall be consistent with the *Guidelines for Orderly Development*. The following are exceptions to this policy:

New or expansion of existing community sewage treatment facilities that are necessary to protect groundwater quality, and uses that require said facilities, are not regarded as urban development.”

While the need to accommodate community sewage treatment facilities to protect groundwater quality throughout the County is increasingly necessary, the proposed General Plan Policy amendment raises two concerns:

1. The *Guidelines* were adopted by each of the ten cities in the County, the County and by LAFCO. They are an important policy document that has had a substantial impact on how the County has developed over the last 35 years. The County’s proposed action is basically a unilateral, indirect amendment to the *Guidelines* without seeking concurrence about amending the *Guidelines* themselves. If all parties to the *Guidelines* were to take this approach, the *Guidelines* would essentially become meaningless. Rather than seek to carve out exceptions in the County General Plan, it would be better to seek the concurrence of all parties to amend and update the *Guidelines*.
2. The last phrase of the proposed County General Plan policy amendment lacks definition and could be so broadly interpreted as to defeat the intent of the *Guidelines*. As worded, the proposed amendment would exempt all uses that require community sewage treatment facilities to protect groundwater quality. It can easily be argued that community sewage treatment facilities always protect

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groundwater quality. Using this argument would accommodate the subdivision of Agricultural, Open Space and Rural designated lands beyond what is now allowed by the County and allow new, urban uses in currently undeveloped areas that are now constrained by the lack of community sewage facilities.

According to the County's Focused General Plan Update EIR, the reason for including the reference to land uses dependant on community sewer systems in the proposed policy amendment is because the cost of providing new/expanded systems is thought to be economically viable only if it can be subsidized through new development. For example, this policy might allow developers to offer privately funded community sewer systems designed to serve a small area of existing development in a poor groundwater quality area in exchange for receiving approval to build new units that could also be served by the same treatment facility.

In order to share these concerns with the County Board of Supervisors it is recommended that the Commission authorize the Chair to sign the attached letter to the Board in response to the proposed policy amendment. The letter asks the Board to defer consideration of an amendment to General Plan Policy 3.1.2-11 until an attempt is made to solicit input and reach consensus from the cities and LAFCO about possibly reinterpreting or amending the *Guidelines* to allow for development of community sewer systems without substantially changing the definition of "urban development". If the Board opts not to defer action on amending the General Plan policy, or if no consensus about amending the *Guidelines* can be reached, the letter asks the Board to revise the policy to delete the phrase "and uses that require said facilities".

June 15, 2005

Ventura County Board of Supervisors
c/o Bruce Smith, Ventura County RMA, Planning Division
Hall of Administration
800 S. Victoria Avenue
Ventura, CA 93009

RE: General Plan Update: Community Sewage Treatment Facilities

Dear Members of the Board of Supervisors:

Thank you for keeping LAFCO staff informed throughout the latest Focused General Plan Update process. We appreciate the opportunity to review the proposed policy amendments.

While a majority of the proposed General Plan amendments do not appear to affect LAFCO's purview, we would like to comment on the proposed amendment to General Plan Policy 3.1.2-11, which would exempt community sewer systems and other unspecified land uses that require such systems from being defined as "urban development" under the County of Ventura *Guidelines for Orderly Development*. According to the Final Subsequent EIR, the Board will consider amending General Plan Policy 3.1.2-11 to read as follows:

Discretionary development shall be consistent with the *Guidelines for Orderly Development*. The following are exceptions to this policy:
New or expansion of existing community sewage treatment facilities that are necessary to protect groundwater quality, and uses that require said facilities, are not regarded as urban development.

For your reference, the *Guidelines for Orderly Development (Guidelines)* define urban development as follows:

Development shall be considered urban if it meets any of the following criteria:

- It would require the establishment of new community sewer systems or the significant expansion of existing community sewer systems;
- It would result in the creation of residential lots less than two (2) acres in area; or
- It would result in the establishment of commercial or industrial uses which are neither agriculturally-related nor related to the production of mineral resources.

From a policy perspective, we agree that development of alternative sewage treatment options in rural areas with poor groundwater quality should be addressed on a countywide level. As such, it may be prudent to interpret (or possibly even to amend) the *Guidelines* to exempt new/expanded community sewage treatment facilities in rural areas. However, we believe that the wording of proposed General Plan Policy 3.1.2-11 goes too far in its blanket exemption of unspecified land uses from the definition of “urban development” in the *Guidelines*. Moreover, the proposed policy language does not specify whether the exemption would be restricted only in areas with existing groundwater quality problems or if it would be applied on a countywide basis. Thus, as currently written, we believe that the overly broad wording of the proposed amendment to General Plan Policy 3.1.2-11 could lead to a number of land use changes that could result in urbanization of land currently designated Agricultural, Open Space and Rural throughout Ventura County.

From a procedural perspective, we are concerned that adopting a General Plan policy to exempt various unspecified and potentially urban land uses from the *Guidelines* would constitute a de facto, unilateral amendment to the *Guidelines* themselves. As currently worded, the *Guidelines* do not currently provide for any exceptions to the definition of urban development. Amending the General Plan in the manner proposed without adopting a corresponding amendment to the *Guidelines* will also create an inherent inconsistency between the County’s General Plan and the *Guidelines*.

The *Guidelines for Orderly Development* were adopted by the County, LAFCO and the ten cities. These *Guidelines* are the foundation upon which Ventura County’s special and unique balance of urban and rural spaces is built. Any policy change that provides for unilateral exemptions to the *Guidelines* should involve the active and direct participation from all parties. Thus, it is requested that the Board defer consideration of an amendment to General Plan Policy 3.1.2-11 until an attempt is made to solicit input and reach consensus from the cities and LAFCO on whether community sewage treatment facilities can be accommodated within the context of the *Guidelines for Orderly Development* as they now exist. If not, there should be an attempt to reach a consensus about amending the *Guidelines* to accommodate such facilities without substantially changing the definition of “urban development”. We understand that such a process will require the time and cooperation by all the stakeholders, but we believe it is the best way to preserve the integrity of *the Guidelines*.

If the Board opts not to defer action on amending General Plan Policy 3.1.2-11 to allow for formal discussions with the cities and LAFCO about possibly reinterpreting or amending the *Guidelines*, or if no consensus about amending the *Guidelines* can be reached, we recommend that the proposed amendment to General Plan Policy 3.1.2-11 be revised to delete the phrase “and uses that require said facilities”.

Thank you for the opportunity to comment on this matter. The LAFCO staff will be available to assist in working with the County staff and cities to resolve the concerns expressed.

Sincerely,

F.W. Richardson, Chair

c: City of Camarillo
City of Fillmore
City of Moorpark
City of Ojai
City of Oxnard
City of Port Hueneme
City of San Buenaventura
City of Santa Paula
City of Simi Valley
City of Thousand Oaks