

Excerpts from Board Report
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DATE: DECEMBER 3, 2002

TO: BOARD OF SUPERVISORS

FROM: PAT BECK, PRINCIPAL PLANNER

SUBJECT: GROWTH MANAGEMENT ORDINANCE (Title 26) IMPLEMENTATION FOR 2002, STATUS REPORT ON POSSIBLE CHANGES IN GROWTH MANAGEMENT SYSTEM MODIFICATION AND CONSIDERATION OF AMENDMENT TO TITLE 26 TO ALLOW EXTENSION OF COMMUNITY GROWTH RATES FOR THE NIPOMO MESA AREA AND COMMUNITY OF CAMBRIA

RECOMMENDATION

Consider the following:

- Growth Management Ordinance Annual Review and establishment of the allowable growth rates for 2003
- Status report on administrative modifications for 2003 and direct that ordinance revisions be prepared for Board consideration in Spring, 2003, and
- Adoption of amendments to Title 26 to extend the 2.3% growth rate for the Nipomo Mesa area for 2003, extend the 1% growth rate for the community of Cambria for 2003 and provide for the 1% rate to be deferred until the current water emergency is resolved.

BACKGROUND

This report will serve to address the following:

4. Growth Management Ordinance (Title 26) Annual Review for 2002, as required by Section 26.01.070b, and establishment of the allowable growth rates for 2003 at 2.3%.

5. Status Report and recommendation on changes to the Growth Management system to shift from an allocation process (that allows a period of 120 days to submit a complete building permit application) to a system that commits a position under the Growth Management ordinance at the actual time of submittal of a complete building permit application. In addition, further review of proposed amendments to provide an exemption for individual farm support quarters.

6. Adoption of amendments to Title 26 to: 1) continue the 2.3% growth rate for the Nipomo Mesa area for 2003 and 2) to continue the 1% growth rate for the community of Cambria and allow for deferral of these allocations until the current moratorium is lifted.

Each of these is discussed in detail below:

A. Growth Management Ordinance (Title 26) Annual Report and establishment of the annual growth rate at 2.3%

Allocations based on the 2002 Resource Management System (RMS) Annual Report.

Your Board considered the draft 2002 RMS annual report in the first portion of this hearing today. On a countywide basis there appears to be adequate resources to support new growth and development such that there is not a necessity to reduce the allowed growth rate below the 2.3% maximum allowed by the growth management ordinance. However, there are two notable exceptions due to continued concern about the adequacy of water resources; the Nipomo Mesa area and the community of Cambria.

1. Countywide Allocations.

As previously noted, there appear to be adequate resources to enable the countywide growth rate to be established at the maximum of 2.3% allowed by the ordinance, except for the Nipomo Mesa area and the community of Cambria (see the following sections of this report). Determining the allowed number of units each year countywide is based on the number of existing residential units as determined by the State Department of Finance (DOF). The DOF estimates there were 42,122 housing units in the unincorporated areas of the county as of January, 2002. A 2.3% increase would result in a 2003 maximum annual allocation of **969 new residential units** in the unincorporated areas of the county. The allocations for the Nipomo Mesa area and Cambria would be deducted from the countywide total, as discussed in the following sections of this report.

As you know, the Maximum Annual Allocation for calendar year 2002 was reached well before the end of the calendar year. As allocation requests continued to come in, they were placed on a waiting list on a first-come-first-served basis. As of November 15, 2002, approximately 785 Requests for Allocation were already on file, for a total of 1,085 potential new dwelling units. That means that when the total available units for 2003 are assigned, any requests still on the list will have to wait until 2004 in order to receive an allocation, by each category. Even though the national and state economy have weakened this past year, we are still receiving requests for allocation and expect that allocation request will continue to be filed to add to the waiting list. However, this is a substantial decrease from last year at this time when there were over 1,000 requests for allocation pending. (See also the discussion under section B concerning proposed changes in the growth management allocation

system and the change from a calendar year to the fiscal year basis.)

2. Allocations in the Nipomo Mesa area.

In recent years, the South County Planning area has been one of the most rapidly growing areas of the county. At the same time, concerns have been raised about the adequacy of the water resources to continue to meet the needs of that growth. In response to those concerns, your Board took action in 2000 to restrict growth in the Nipomo Mesa area to 2.3% while the water resource issues are further evaluated. You also directed staff to prepare a Resource Capacity Study of water resources based on the State Department of Water Resources (DWR) evaluation of the groundwater basin, including further evaluation of areas of possible pumping depressions in the groundwater table, as well as to work with the major water providers in the area to more fully document the status of the water resources.

The RMS Annual Report for 2002 has not proposed any changes to the RMS 2001 report, but rather notes that this will be revised in Spring 2003 when a more detailed review of the final version of the DWR report can be completed. The Department of Public Works has proposed a formal process for allowing public comment on the final DWR report to help to identify the issues that may need further review and clarification. Through this process, all interested parties will be able to submit information to be considered as the county evaluates what the report means relative to the County Water Master Plan, the Resource Management Report and ultimately the Growth Management Ordinance.

This may lead to the preparation of the county's Resource Capacity Study which could be brought for your Board's direction and a determination of Severity Level under the RMS. Therefore, at this time, there is no new information suggesting that you should consider taking a different approach to the allowable growth rate in the Nipomo Mesa area. A **cautious approach** still appears to be warranted until the DWR information can be fully evaluated, the resource capacity study prepared (if determined appropriate) and your Board evaluates that report. Staff recommends that your Board retain the current 2.3% allowable growth rate in the Nipomo Mesa Area until the DWR final report can be evaluated.

Staff estimates that there are 5,890 dwelling units within the Nipomo Mesa area as of January 1, 2002. For the designated area shown in Figure 1 (as adopted in the GMO), a maximum annual allocation of 2.3% will result in **135 new residences** being allowed in 2003 for the Nipomo Mesa area. The ordinance in attached Exhibit A will implement the 2.3% growth rate if adopted by your Board. Note: This area excludes the area of the Woodlands Specific Plan, which has a separate allocation established to allow for project build-out over a 15 year period. This project is under consideration by the Board through appeal of the Planning Commission recommendation on the project.

3. Cambria allocations.

On December 7, 1999, your Board approved the 1999 Annual RMS Summary Report which found that a Level III resource severity may exist for both groundwater resources and the water delivery system in Cambria. You directed staff to work with the Cambria Community Services District (CCSD) to prepare a resource capacity study on both water supply and delivery. Until that study can be completed and considered by your Board, your Board has adopted a 1% growth rate for the community of Cambria for 2001, and 2002, based on the identified concerns about the adequacy of the local water supply.

On October 25, 2001, the CCSD Board of Directors voted to release 36 Intent to Serve letters for 2001. For those applicants who have submitted applications for allocations for 2001, they can proceed under the 2001 allocation at 1%. However, it should be noted that the Coastal Commission has begun to appeal the Notice of Final Action for those projects that did not have approved Coastal Development permits prior to May 21, 2002. We currently have 5 residential projects on appeal with an additional 14 projects under county review that may lead to an appeal if approved.

The CCSD Board of Directors also acted on November 15, 2001, to declare the existence of a water shortage emergency. The CCSD Board also acted to suspend the issuance of any new Intent to Serve letters after November 15, 2001, until such time as a sufficient water supply is available to serve current and future demands. However, they have indicated that they intend to honor all Intent to Serve letters already issued through November 15, 2001.

In light of the action taken by the CCSD to declare a water emergency, your Board was aware that the 1% allocations for 2002 may go unused as well as additional years until such time as the CCSD determines that a long-term solution to the water emergency has been found and the district can again issue Intent to Serve letters. Your Board directed that staff prepare revisions to the ordinance that would allow the allocations for Cambria to be deferred.

There are 3,845 residential units as of January 1, 2002, based on the 2000 U.S. census and Building Division reports for 2000 and 2001. A 1% increase for 2003, would allow an additional **38 units**. If your Board adopts the proposed ordinance changes, the allocations for 2002 and 2003 would be deferred. The deferral is somewhat different for the community of Cambria where the existing Cambria water list was frozen in 1990 following the adoption of the county Growth Management ordinance and the annual allocations for Cambria have been tied to the Intent to Serve letters issued by the CCSD from the community's existing water list. At this time, the District will not be determining those persons on the water list who wish to proceed to receive allocations, particularly since they are unable to estimate the time frame for when the district will lift the current water emergency. Instead, the CCSD manager requested if your Board allows the allocations to be deferred that the individual property not be required to be identified and that formal allocations not be required to be filed until the water emergency is lifted. At that time, the county would advise the district of the total allocations that had been deferred during this period. The CCSD could then

determine those on the community's water list who wish to receive an Intent to Serve letter and the property owner can then file for a county allocation, (within the 125 dwelling unit hookups allowed under the Coastal Commission requirements as permit conditions for the CCSD.)

It should be noted that some property owners who are on the existing community water list have filed for a county growth ordinance allocation for 2002 and have requested that staff select their allocation before December 31, 2002. This would not be in keeping with the long-standing administrative practice of selecting allocations only where the Intent to Serve has been issued by the CCSD. In addition, there is the long-standing issue of property owners who are only on the County Growth Management allocation list (since the Cambria water list is closed) who have asked the county and the CCSD to resolve the issues to allow those on the county's list to proceed.

In preparing this report, staff met with the CCSD Board concerning the proposed 1% annual growth rate for 2003 and the possible deferral of the 2002 and future annual allocations until the water emergency is lifted. The Board raised substantial concern that the county Growth Management Ordinance should **not** allow for the 1% growth rate for 2003 (recommended that it be placed at 0% until the water emergency is lifted) and that they did not support the deferral of the 2002 or future allocations. They expressed concern that the county's Growth Management ordinance should recognize and respect the decision that they have made as the service provider that there are critical shortages and that allowing for a 1% growth allocation will be misleading. Further, they identified that they are actively pursuing additional water resources and means of resolving other service limitations and that when the limitations are lifted that the Board could establish a growth rate based upon the available resources, including consideration of the period that growth was not able to occur due to limitations. Staff anticipates their action will be reflected in a letter that will be provided under separate cover.

Staff's recommendation reflects your Board's earlier direction that we establish the growth rate for the community of Cambria at 1% (as you adopted for 2002) which would allow an additional 38 allocations for 2003 and that you take testimony and make a decision on the attached ordinance that would allow these allocations to be deferred until the water emergency is resolved. There are approximately 680 people on the CCSD waiting lists. If these are allocated at the current rate of 1% annually, it would take approximately 18 years until this list is exhausted. In addition, there are 333 single family and 48 multi-family allocation requests within the CCSD service area that have been submitted to the department since the adoption of the GMO which recognized (and closed) the existing CCSD water list for purposes of the growth management. There is concern expressed by some property owners, that the ordinances of the county and the CCSD need to establish a clear procedure for moving from the CCSD waiting list to the growth management allocation lists of the county. This situation of vagueness has left a significant number of property owners in an undefined position between the CCSD and the County. Your Board directed

staff to work with the CCSD staff to find ways to resolve these issues and the staffs of the agency are meeting on a regular basis to address these concerns.