



**SAN BENITO COUNTY
AGENDA ITEM
TRANSMITTAL FORM**

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Vice Chair

Peter Hernandez
District No. 3
Chair

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Bea Gonzales
District No. 5

Item Number: 1.2

MEETING DATE: 09/27/2022

DEPARTMENT: RESOURCE MANAGEMENT AGENCY

AGENDA ITEM PREPARER: Joel Ellinwood

DEPT HEAD/DIRECTOR: Abraham Prado

SUBJECT:

RESOURCE MANAGEMENT AGENCY - A. PRADO, ASSISTANT DIRECTOR - PLANNING AND BUILDING

Consider adoption of an interim urgency ordinance to prohibit interested party general plan amendment or specific plan, applications for new residential development from being processed or approved in the New Community Study Areas of the County while the General Plan Amendment process initiated by Resolution No. 2022-103 adopted on September 13, 2022 is under consideration. (4/5 vote required)

SBC FILE NUMBER: 790

ORDINANCE NO.: 1047

AGENDA SECTION:

REGULAR AGENDA

BACKGROUND/SUMMARY:

On September 13, 2022, the Board of Supervisors adopted Resolution No. 2022-103 to initiate a general plan amendment to eliminate or modify the four New Community Study Areas contained in the 2035 San Benito County General Plan and directed that an urgency ordinance be prepared by staff for possible adoption by the Board of Supervisors at its next meeting on September 27, 2022 to prohibit or restrict residential development in the New Community Study Areas of the County while the General Plan Amendment process is under way.

Procedural Issues: Government Code section 65858 authorizes the Board of Supervisors to adopt as an urgency measure an interim zoning ordinance prohibiting uses that may conflict with a contemplated general plan amendment proposal that is being considered within a reasonable time without following the normal procedure of referral to the Planning Commission

for public hearings and a recommendation to the Board of Supervisors, and subsequent noticed public hearing.. A four-fifths vote is required.

The statute mandates a two-step process. An initial interim ordinance is limited to an effective period of 45 days. The ordinance may then be extended by another four-fifths vote after a noticed public hearing is conducted within the initial 45-day period.

The length of the permissible extension is determined by whether or not a 10-day notice of public hearing was published before the adoption of the initial 45-day interim ordinance. In this circumstance, the publication deadline for a notice in time for a hearing on September 27 had already passed when on September 13 the Board of Supervisors directed staff to bring back an urgency ordinance for the next meeting. The extension ordinance, if approved at a subsequent meeting, is therefore limited to 10 months and 15 days (a total of one year). Staff believes that it can process the proposed general plan amendment within that time frame.

If the Board of Supervisors wants to establish a longer effective period of up to two years, the item should be continued to the October 25 meeting to allow for timely publication of a public hearing notice prior to adoption of the initial interim ordinance.

In order to consider the extension ordinance at the next regular meeting of the Board of Supervisors on October 11, 2022, staff will submit a public hearing notice for that date by the publication deadline of September 23. The publication can be cancelled, or the public hearing deleted from the agenda for October 11 if the Board of Supervisors does not adopt the initial interim ordinance on September 27. Otherwise the extension ordinance could not be considered until the October 25, 2022 meeting. If the Board of Supervisors prefers that the extension ordinance instead be heard on October 25, staff can publish an amended public hearing notice for that date by the publication deadline of no later than October 7, 2022.

Summary of Draft Interim Ordinance: The draft interim ordinance prohibits interested party initiated general plan amendment and specific plan applications for new residential development from being processed or approved in any of the four New Community Study Areas (NCSAs) while the proposed General Plan Amendment initiated by Resolution No. 2022-103 is being considered. The ordinance includes required findings that there is a current and immediate threat to the public health, safety, or welfare, and that the approval of additional subdivisions, use permits, variances, building permits, or any other applicable entitlement for use which is required in order to comply with a zoning ordinance would result in that threat to public health, safety, or welfare. The ordinance also includes findings that adoption of the ordinance is exempt from CEQA.

The current General Plan land use and zoning designations of lands within the New Community Study Areas is Agricultural (Agriculture, Rangeland or Rural) - with the exception of the San Juan Oaks Specific Plan and Industrial land use and zoning within the Union NCSA. The minimum parcel size under current land use designations and zoning that allows a single residential unit in the NCSAs is 5 to 40 acres. Development of any new planned residential or mixed use communities within those areas necessitates processing and approval of a General Plan Amendment, Specific Plan, with environmental review through the California Environmental Quality Act (CEQA).

In spite of the NCSA provisions in the 2035 General Plan having been established, no new community residential development proposals have been submitted (other than Rancho San

Benito, which was withdrawn), or are pending in the seven years since the plan was adopted in 2015. However, in order to forestall potential proposals for residential development within the NCSAs while the proposed General Plan Amendment to remove the NCSAs from the General Plan is being considered, the draft urgency interim ordinance is attached.

RESOLUTION OR ORDINANCE NEEDED FOR THIS ITEM:

Yes

CONTRACT NEEDED FOR THIS ITEM:

N/A

CONTRACT AND RFP HISTORY:

N/A

LAST CONTRACT AMOUNT OR N/A:

N/A

STATE IF THIS IS A NEW CONTRACT/ HOW MANY PAST AMENDED CONTRACTS/ OR N/A:

N/A

STRATEGIC PLAN GOALS: 1. Operational Development & Excellence

No

STRATEGIC PLAN GOALS: 2. Planning And Sustainable Growth

Yes

STRATEGIC PLAN GOALS: 3. Technology

No

STRATEGIC PLAN GOALS: 4. Community Engagement

Yes

STRATEGIC PLAN GOALS: 5. Health & Safe Community

Yes

BUDGETED:

N/A

BUDGET ADJUSTMENT NEEDED:

N/A

SOURCE OF FUNDING:

General Fund

UNFUNDED MANDATE:

N/A

SBC BUDGET LINE ITEM NUMBER:

N/A

CURRENT FY COST:

N/A

STAFF RECOMMENDATION:

Staff recommends that the Board of Supervisors:

1. Adopt the urgency interim ordinance pursuant to Government Code section 65858 to prohibit new residential subdivision development in the New Community Study Areas of the County while the General Plan Amendment process is under way, effective for 45 days.
2. Set a public hearing date for October 11, 2022, or alternatively October 27, 2022, to consider adoption of an extension of the interim ordinance to be effective for a period of up to an additional 10 months and 15 days.

BOARD ACTION RESULTS:

Adopted the interim urgency ordinance and set a public hearing for October 11, 2022 per staff recommendation. (5/0 vote)

ATTACHMENTS:

[Gov Code 65858](#)

[New Community Study Area excerpt of 2035 General Plan pp. 73-81](#)

[New Community Study Area Map](#)

[Urgency Interim Ordinance suspending residential development in NCSAs](#)