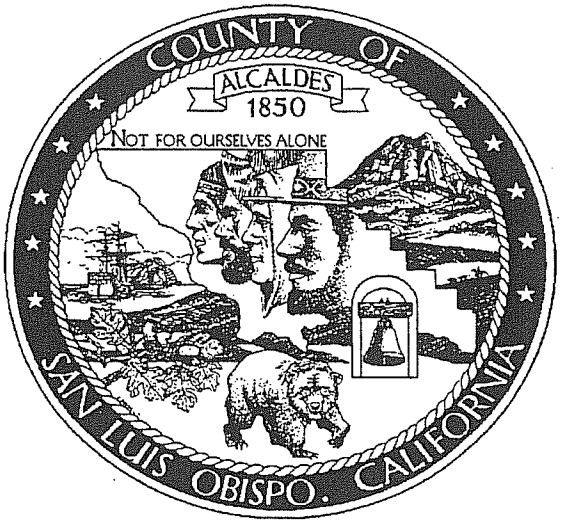


Addendum to 2000-2001 Grand Jury Final Report

2001-2002 Grand Jury
San Luis Obispo County

December 2001

County Government Center
San Luis Obispo, California 93408
(805) 781-5818
www.slocourts.net

FOREWORD

This Addendum is a compilation of the responses to the Final Report of the 2000-2001 San Luis Obispo County Grand Jury. It is published by the 2001-2002 San Luis Obispo County Grand Jury at the request of the 2000-2001 Grand Jury.

The County Grand Jury normally submits its Final Report to the printer in May for publication before it adjourns at the end of June. While agencies are required to respond to the Grand Jury recommendations, many responses are received too late to be included in the final report.

> *(Penal Code # 933C states that: Within 90 days of submission of a report on the operations of a public agency ... the governing body shall respond. Within 60 days ... every elective county officer or agency head ... shall respond.)*

Some reports and responses for the 2000-2001 Grand Jury Final Report have been previously published. For completeness, all responses are included in this Addendum. All required responses were submitted by the respective agencies.

Don R. Blythe
Foreman
San Luis Obispo County Grand Jury 2001-2002

List of Required Responses
for the
San Luis Obispo County Grand Jury 2000-2001
Final Report

The Final Report of the San Luis Obispo County Grand Jury of 2000-2001 consisted of eleven reports. Nine of these reports required responses; the other two were informational reports, not requiring responses.

The required responses for two of these reports were delivered by the subject agencies in time to be included with the year end Final Report. Nevertheless, all required responses are included here for completeness.

The Informational Reports not requiring responses are:

Juvenile Justice Court, and

County Employee Exit Interview Process.

Table of Contents

Foreword i
List of Required Responses ii
Table of Contents iii

City of El Paso de Robles - Orchard Bungalow Assessment District
Response - City of El Paso de Robles 1

Land Use and the California Environmental Quality Act in San Luis Obispo County
Response - San Luis Obispo County Board of Supervisors 7
Attachment - Community Advisory Council Handbook 73

Transfer of Development Credit Program - San Luis Obispo County
Response - San Luis Obispo County Board of Supervisors 155

Child Protective Services
Response - San Luis Obispo County Board of Supervisors 187
Response - San Luis Obispo County Department of Social Services 207
Response - San Luis Obispo Office of County Counsel 215

California Men's Colony Inmate Package Management
California Men's Colony Educational, Vocational, and Pre-Release Programs
Response - California Men's Colony 223
Response - California State Department of Corrections 231

El Paso de Robles Youth Correctional Facility of California Youth Authority
Response - El Paso de Robles Youth Correctional Facility 235

County Jail Facility
Response - San Luis Obispo County Board of Supervisors 239

County Superior Court Holding Facility
Response - San Luis Obispo County Board of Supervisors 251
Response - San Luis Obispo County Sheriff's Department 255

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City of El Paso de Robles Orchard Bungalow Assessment District

Response - City of El Paso de Robles

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CHAMBERS OF
Hon. E. Jeffrey Burke
JUDGE OF THE SUPERIOR COURT
COUNTY GOVERNMENT CENTER
SAN LUIS OBISPO, CALIFORNIA 93408

April 12, 2001

RECEIVED
CITY MANAGER

APR 16 2001

CITY OF PASO ROBLES

Mr. James L. App
City Manager
City of El Paso de Robles
1000 Spring Street
Paso Robles, California 93446

Re: Orchard Bungalow Assessment District

Dear Mr. App:

The foreperson of the Grand Jury advised me that it has not received the City of Paso Robles' response to the Grand Jury Final Report in regard to the Orchard Bungalow Assessment District. The City is obligated to submit its comments within 90 days. (Penal Code §933, subd.(c).)

Please submit the City's response at your earliest convenience.

Very truly yours,

E. Jeffrey Burke
Presiding Judge of the Superior Court

cld

received
4-25-01

CITY OF EL PASO DE ROBLES

"The Pass of the Oaks"

April 18, 2001

Helen J. Summerfield, Foreman
2000-2001 San Luis Obispo County Grand Jury
County Government Center
San Luis Obispo, CA 93408

via registered mail

RE: Orchard Bungalow Assessment District

Dear Foreman Summerfield:

In response to Judge Burke's inquiry re Orchard Bungalow Assessment District, please accept the following copies of the original response submitted to your office on March 21, 2001.

I trust the enclosed information documents are in compliance with our obligation to respond to the Grand Jury Final Report. If you have any further questions or information, please contact our offices at 237-3888.

Sincerely,

James L. App
City Manager

Enclosure

cc: Judge E. Jeffrey Burke, San Luis Obispo Superior Court

McDONOUGH, HOLLAND & ALLEN
A PROFESSIONAL CORPORATION
ATTORNEYS

555 CAPITOL MALL, 9TH FLOOR
SACRAMENTO, CALIFORNIA 95814-4692
TELEPHONE: (916) 444-3900
FACSIMILE: (916) 444-8334
INTERNET: www.mhalaw.com

[illegible], JR.
[illegible] SPOTTISWOOD
[illegible] C. POOLE
[illegible] W. SHEA
[illegible] L. BRANDT
[illegible] D BROWN
[illegible] WEST
[illegible] K. COLLINS
[illegible] R. SHATTY
[illegible] T. FOGARTY
[illegible] WEST
[illegible] NELL
[illegible] O'CONNOR
[illegible] JONES
[illegible] T. MANNING
[illegible] R. BUDDICK
[illegible]
[illegible] P ROSICKE
[illegible] ZDORNIC
[illegible] ET
[illegible] A. CAHILL
[illegible] A. STEINER
[illegible] MCKITRICK

EDWARD J. QUINN, JR.
MARK CORTON
ROBERT B. RUBIN
MORGAN T. JONES
PATRICIA D. ELLIOTT
WILLIAM C. WILSON, JR.
LUIS F. YANG
CATHY DEUSEL SALONGA
JACK D. BROWN
THOMAS L. HILL
NANCY R. LEE
MARY E. OLDEN
RICHELLE MARGHETTA ADKISON
STEPHEN L. COFF
MICHAEL K. MANIBO
GLENN W. PETERSON
DAVID L. KROTINE
TIMOTHY P. HAYES
TODD R. BAILEY
MARCIA L. MUGGELBERGER
NANCY T. TEMPLETON
DAVID S. MACCHIAVELLI
KENT W. SILVESTER

DANIEL Y. MARTINEZ
STEVEN A. LAMON
PAUL C. ANDERSON
L. STUART LIST
JEREMY B. PALLATONE
STACEY N. SWESTON
ANDREA R. CAMPBELL
TYSON M. SHOWER
ERIC N. ROBINSON
SETH MEPHAM
JAMES CLARKE
LAURA J. FOWLER
GERALD A. GARCIA
CLARISSA R. ROBINSON
CAROL E. VICTOR
KAREN WHITE MURPHY
DANIEL V.B. SIEDLER
CAITLIN E. ROSS
JARA DU BOIS
ETHAN WELSH
RODNEY R. ROY
THOMAS J. MOCHERCLA
STEPHEN K. LERNER

JEREMY S. KAGHAN
KEVIN D. SIEGEL
NANCY A. PARK

OF COUNSEL
V. BARLOW GOFF
RICHARD W. NICHOLS
ANN TAYLOR SCHWING
ZACHARY SMITH
CLEMENT J. BOUCHERY, JR.
LINDA R. BECK
RICHARD C. RYMNSIC
JOHN D. BRIGGS
CHRISTINE R. HALL

RETIRED
ALFRED E. HOLLAND
BRUCE F. ALLEN

MARTIN MCDONOUGH
(1913-1967)

iyang@mhalaw.com
Direct Fax Line 916) 444-3826

March 21, 2001

Helen J. Summerfield, Foreman
2000-2001 San Luis Obispo County Grand Jury
County Government Center
San Luis Obispo, CA 93408

Re: Paso Robles – Orchard Bungalow Assessment District

Dear Foreman Summerfield:

I am writing to provide the Grand Jury with follow-up information regarding the actions taken by the Paso Robles City Council on the streets generally located within and adjacent to the Orchard Bungalow Assessment District since July 18, 2000. The City appreciates the Grand Jury's assessment that the Council has been acting diligently to resolve the issues surrounding the status of these streets.

In late July and early September, the City sent letters and proposed petitions to the property owners asking if they would be willing to create a new assessment district to pay for improving the streets within the District to a modified City street standard. This action was not supported by a majority of the property owners in the area.

In November 2000, in accordance with the Council's previous decision, the City refunded the remaining amount of the District's surplus funds to the appropriate property owners. Over the next few months, there were a number of meetings between Mayor Frank Mecham and Councilman Gary Nemeth with area residents to try to resolve the issue.

At its February 6, 2001 meeting, the City Council directed staff to initiate steps to implement the following:

1. to have the streets that were located within the boundaries of the Assessment District and paved with Assessment District funds to be accepted into the City street system for maintenance by the City;

2. to abandon one right-of-way (a portion of Vista Grande) located within the Assessment District but never paved because it is not required for access to any parcel.

3. to contact those property owners adjacent to certain privately paved streets that are located outside the Assessment District but are contiguous to the Assessment District streets to see if those property owners would dedicate the necessary rights-of-way to make those private streets public. These streets link the Assessment District streets with other public streets.

4. to contact property owners along portions of Ivy Lane and Trigo Lane which are unpaved and provide the council with options regarding those streets.

On March 6, 2001, staff requested the City Council to allocate funds for the necessary research, surveying, engineering and legal work to properly describe the streets to be accepted by the City since the Assessment District records are not entirely clear. For example, the Assessment District streets are paved to a width of 24 feet, but there is evidence that a 40-foot-wide utility easement was dedicated. There are certain private improvements that the residents have placed in the utility easement, such as landscaping, driveways and architectural features. The issues are even more complicated with respect to the private streets described in paragraph 3 above. Staff currently estimates that it may take three months for the consultants to do the initial research; six months to resolve the issues regarding the status of the streets within the Assessment District boundaries that are to be accepted by the City; and an additional six months to resolve the issues regarding the remaining streets.

The City Council appropriated the requested $110,000 for this work, although staff cautioned that this amount may be inadequate.

I hope this information is helpful to you. Please feel free to call me, at the above telephone number, or Joe Deakin, the City's Public Works Director, at (805) 237-3860, if you have any questions. Again, the City appreciates the Grand Jury's findings and recommendations in this matter.

Very truly yours,

Iris P. Yang
City Attorney
City of El Paso de Robles

IPY:jjh
cc: Jim App, City Manager
Joe Deakin, Public Works Director
Judge E. Jeffrey Burke, San Luis Obispo Superior Court

6

Land Use and the California Environmental Quality Act in San Luis Obispo County

Response - San Luis Obispo County Board of Supervisors

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County of San Luis Obispo

COUNTY GOVERNMENT CENTER, RM. 370 • SAN LUIS OBISPO, CALIFORNIA 93408 • (805) 781-5011

DAVID EDGE
COUNTY ADMINISTRATOR

TO: BOARD OF SUPERVISORS

FROM: DAVID EDGE, COUNTY ADMINISTRATIVE ~~OFFICE~~R

DATE: JULY 24, 2001

SUBJECT: RESPONSE TO THE GRAND JURY REPORT REGARDING LAND USE AND CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA) IN SAN LUIS OBISPO COUNTY

Recommendation:

That the Board approve the attached response prepared by the Planning and Building Department and direct that it be forwarded to the Presiding Judge of the Superior Court as the Board's Official response to the Grand Jury Report on Land Use and CEQA in San Luis Obispo County.

Discussion:

On April 27, 2001, the Grand Jury issued a report on Land Use and CEQA in San Luis Obispo County, identifying several recommended changes. The Planning and Building Department prepared an extensive response to this Grand Jury Report, which was transmitted to you on June 26th. Given the multitude and complexity of the issues identified by the Grand Jury and addressed in the Planning and Building Department's response we felt it appropriate to schedule Board consideration of this response to the Grand Jury as a Business item on the agenda to allow adequate time for Board discussion.

The Administrative office has reviewed the response prepared by the Planning and Building Department and concludes that the response has sufficiently addressed all of the Grand Jury findings. We agree with the Department that the County's policies and procedures often go far beyond the requirements of either CEQA law or the CEQA guidelines and often exceed the requirements of state planning law.

Financial Considerations:

None

Results:
To meet legal requirements for responding to a Grand Jury report and to clarify how the County's environmental and planning policies and practices comply with state law.

SAN LUIS OBISPO COUNTY
DEPARTMENT OF PLANNING AND BUILDING

VICTOR HOLANDA, AICP
DIRECTOR

BRYCE TINGLE, AICP
ASSISTANT DIRECTOR

ELLEN CARROLL
ENVIRONMENTAL COORDINATOR

FORREST WERMUTH
CHIEF BUILDING OFFICIAL

TO: DAVID EDGE, COUNTY ADMINISTRATOR

FROM: VICTOR HOLANDA, DIRECTOR, PLANNING AND BUILDING

VIA: BRYCE TINGLE, ASSISTANT DIRECTOR, PLANNING AND BUILDING

SUBJECT: RESPONSE TO GRAND JURY'S *FINAL REPORT - LAND USE AND THE CALIFORNIA ENVIRONMENTAL QUALITY ACT IN SAN LUIS OBISPO COUNTY, APRIL 27, 2001.*

DATE: JUNE 11, 2001

RECOMMENDATIONS

1. It is recommended that this report serve as the Department of Planning and Building's response to the Grand Jury's ***FINAL REPORT - LAND USE AND THE CALIFORNIA ENVIRONMENTAL QUALITY ACT IN SAN LUIS OBISPO COUNTY, APRIL 27, 2001.***

2. It is the Planning and Building Department's recommendation that you forward this response to the Honorable E. Jeffrey Burke, Judge of the Superior Court, after which it should be placed on the agenda of the Board of Supervisors for their response.

DISCUSSION

On April 27, 2001, the Grand Jury issued a ***Final Report - Land Use and the California Environmental Quality Act in San Luis Obispo County.*** This response addresses the body of the Grand Jury's report, the findings and the recommendations pertaining to the Planning and Building Department. In the introduction to its report, the Grand Jury indicates that "it has been alleged to the Grand Jury that the county is not adequately complying with CEQA requirements..." and that "...the State CEQA Guidelines are not being honored."

Staff has carefully reviewed and analyzed the Grand Jury's report. While we acknowledge

there are several important findings and recommendations, we strongly disagree that the "...county is not complying with CEQA...", or that the "...CEQA Guidelines are not being honored." Instead, it appears that there may be legitimate differences of opinion by the Grand Jury and the public as to how they prefer the environmental and planning processes be practiced in San Luis Obispo County. As we indicate in our responses, the County's policies and procedures often go far beyond the requirements of either the CEQA law or the CEQA Guidelines, as well as often exceed the requirements of state planning law. Judgements on the adequacy of the County's programs will need to be made by the Court and the Board of Supervisors when they review the staff responses to the Jury's report.

The Grand Jury's report is extensive and lengthy. For our response, staff has prepared the summary table found in Exhibit #1 that provides a "short form" version of our responses to the Findings and Recommendations in the Jury's report. A fully detailed response is found in Exhibit #2, including, where appropriate, our comments about timelines, staffing and budget implications for the Jury's findings and recommendations.

OTHER AGENCY INVOLVEMENT/IMPACT

Not applicable at this time.

FINANCIAL CONSIDERATIONS

Costs for preparing this response are included in the current department budget.

RESULTS

This response will meet the legal requirements for responding to a Grand Jury report with findings and recommendations.

Attachments: Exhibit #1 - Summary table of staff responses to Jury Findings and Recommendations

Exhibit #2 - Detailed staff responses to Jury Findings and Recommendations.

[bt] c:\myfiles\D.Edge memo on GJ report on CEQA & plang.wpd

Exhibit 1

Summary Table of Staff Response to Grand Jury Findings and Recommendations

Response to FINDINGS in April 27, 2001 Grand Jury Report

No.	Findings	Response (Agree, Disagree or Partially Disagree)	Summary of Discussion
a.	CEQA: public does not understand or feel included in the process	Partially Disagree	County's noticing policy far exceeds legal requirements
b.	Opportunities for pro-active public education	Agree	Taking advantage of opportunities requires adequate staff resources
c.	Timing of project approval process not compatible with advisory council review process	Agree	Project timing is dictated by Permit Streamlining Act
d.	No uniform statement of role and responsibilities of advisory councils	Partially Disagree	Community Advisory Committees have the latitude to determine their own roles and procedures
e.	Neg dec listing hard to understand	Partially Disagree	Format to be reviewed
f.	Neg dec appeal process is unnecessarily cumbersome	Partially Disagree	Other options available to the public are described
g.	Public responsibility for self-education	Agree	None
h.	CEQA, annual report would be a stewardship statement to the public	Agree	None
i.	Area plans can facilitate ID and mitigation of cumulative impacts; plans need updating	Agree	The Area Plan update process is described, including obstacles to timeliness
j.	Continuing planning process not included in Framework for Planning	Partially Disagree	The Area Plan update process is further described
k.	Substantive annual reports on general plan are not prepared	Agree	The current process is described
l.	RMS process is separate from cumulative impact analysis	Agree	None
m.	Weakness of RMS: Board of Supervisors does not certify levels of severity	Partially Disagree	The current process is described

Response to FINDINGS, continued

No.	Findings	Response (Agree, Disagree, or Partially Disagree)	Summary of Discussion
n.	Water Resource Capacity Study for Nipomo Mesa needs to be completed	Agree	Confirmation of the Grand Jury's intent
o.	Capital budget to expand resource capacity is inadequate and incomplete	Partially Disagree	The difference between the County capital budget and budgets of service providers is explained
p.	Inappropriate CEQA exemption for annual RMS/T26 growth rate decision	Disagree	Board of Supervisors decision legally adequate
q.	Project tracking system needs updating	Agree	New system is currently being implemented
r.	Amendments to T26 inappropriately limited to South County Planning Area	Disagree	Board of Supervisors makes final determination on T26 amendments
s.	El Pomar update offers opportunity for better CEQA and cumulative effects analysis	Agree	The updated El Pomar Area Plan will be integrated with the EIR to make it more readily usable by the public
t.	Role and responsibilities of advisory councils	Duplicates finding d	None
u.	RFP for South County EIR mixes general plan and growth management amendments	Agree	None
v.	Planning Department should prepare the project description for EIR PS-704	Partially Disagree	The project description is best prepared by the applicant
w.	Neg Dec substantiation is not easily accessible to the general public	Disagree	Information sources available to the public are explained
x.	Mitigation measures must be specific, in order to be effective	Agree	None
y.	Mitigation measures not always effective or reasonable	Partially Disagree	Mitigation measures are tailored to fit each project. Mitigation monitoring could be improved
z.	Mitigation measures need better monitoring	Agree	None

No.	Findings	Response (Agree, Disagree, or Partially Disagree)	Summary of Discussion
aa.	Environmental staff needs more field experience with mitigation measures	Agree	None
bb	Woodlands appeal of EIR scope	Partially Disagree	The Board of Supervisors has authority to set scope of work
cc	CEQA: adequate funding required	Agree	None
dd	Vision 20/20	Partially Disagree	The focus of Vision 20/20 is on issues rather than process
ee	Strategic plan is an excellent management tool	Agree	Strategic Plan is updated periodically to coordinate and monitor annual budget and work program

Response to RECOMMENDATIONS in April 27, 2001 Grand Jury Report

No.	Recommendation	Response (Implemented, Not Yet Implemented, Requires Further Analysis, Will Not Be Implemented)	Action(s) Required to Implement	Time frame	Cost: low, med or high
1A. 1	Web site with agendas and minutes of BoS, PC and SRB	Not yet implemented	Additional staff Resolution of technical issues	1 year	Med
1A .2	Web site with staff reports for BoS, PC and SRB items	Requires further analysis	Additional staff Resolution of technical issues	6-24 months	Med
1A. 3	Web site with project descriptions and reasons for CEQA -exempt projects	Not yet implemented	Expand staff reports; post weekly list of new exemptions	2 years	Low
1A. 4	Web site with other information suggested by advisory councils and the public	Requires further analysis	Consultation with advisory councils	Not determined	?
1A. 5	Web site with access to the project tracking system; system should be updated	Requires further analysis	Resolution of technical issues	2-3 years	Med
1B. 1	Define uniform rules and responsibilities for advisory councils	Implemented	None	o	o
1B. 2	Adequate staff support for advisory councils	Implemented	None	o	o
1B. 3	Annual performance evaluation of staff liaison by advisory committees	Implemented	None	o	o
1B. 4	Land use and CEQA training for advisory councils	Implemented	None	o	Med
1B. 5	Earliest possible notice of projects within the councils' area of interest	Implemented	None	o	o
1B. 6	Public meetings to receive public comment on scope of EIRs	Requires further analysis	Revise agenda for meetings with advisory councils	02/03 budget	Low
2.1	Identify adequate funding sources to support planning and environmental work	Requires further analysis	Evaluate funding options	1 year	Low

No.	Recommendation	Response (Implemented, Not Yet Implemented, Required, Further Analysis, Will Not Be Implemented)	Action(s) Required to Implement	Time frame	Cost: low, med or high
2.2	Assure that fees recover all costs of needed to support planning and environmental work	Implemented	Evaluate costs and propose additional fees	o	o
2.3	Establish dedicated account for fees supporting planning and environmental work	Implemented	State law requires tracking of fees and costs	o	o
2.4	Full staffing for Planning Department to assure that plans are current and environmental process is fully supported	Requires further analysis	Evaluate funding options	1 year	Low
2.5	Add staff to allow adequate enforcement of mitigation requirements	Not yet implemented	Additional staffing Increase in permit fees	2 years	High
3.1	Public airing of environmental issues before issuing neg dec or mitigated neg dec	Not yet implemented	Training for advisory committees	1 year	Low
3.2	Expand and clarify neg dec checklist	Not yet implemented	Revise checklist; initiate staff training program	02/03 budget	Med
3.3	30-day public notice of neg decs	Not yet implemented	Revise noticing procedure Additional staffing	1 year	Med
3.4	Write County procedure to implement recommendations 3.1 thru 3.3	Not yet implemented	Prepare CEQA policy and procedure manual	2 years	Med
4.1	Amendments to T26 should consider a wide range of county-wide alternatives. Scope to be developed with CAC and public input	Not yet implemented	Make public aware of process; Solicit comment from CAC and public	1 year	Med
4.2	Comprehensive analysis for eight plan amendments in South County	Not yet implemented	Ensure that EIR is understandable to public	1 year	Med

Response to RECOMMENDATIONS, continued

No.	Recommendation	Response (Implemented/Not Yet Implemented/Requires Further Analysis/Will Not Be Implemented)	Action(s) Required to Implement	Time frame	Cost: low, med or high
4.3	Work plan for water resource capacity study for Nipomo Mesa	Not yet implemented	Initiate Resource Capacity Study	June, 2001	Low
5.1	Single annual report to combine general plan, CEQA and capital budget with RMS	Not yet implemented	Prepare draft format for review by public and advisory councils	02/03 budget	Med
5.2	Amend RMS process to include annual decision on levels of severity	Will not be implemented	Not warranted; not reasonable; Grand Jury concerns can be addressed in other ways	6 months	Low
5.3	Vision 20/20: Include Appendix M, peer review, implementation time table, inform Grand Jury of results	Requires further analysis	Create staff team to prepare a comprehensive response	1 year	Low

Exhibit 2

Detailed Staff Responses to Grand Jury Findings and Recommendations

PART I - RESPONSES TO FINDINGS

Grand Jury Finding a: The public perception of CEQA as it is applied in San Luis Obispo County is that it is difficult to discover what is being done and the public does not feel included in the process. The staff of the County Planning Department feels that they are following the letter of the law on noticing and public participation.

Department Response:

Partially Disagree.

Discussion:

With respect to the CEQA legal requirements for noticing and public participation, the County goes far and above what is necessary to comply with the law. For example, an early courtesy notice, posted in the Planning Department, published on Board of Supervisors' agenda and posted on the County website is more than what is legally required. Direct mailing notice to land owners within 300 feet of the project site is not required by CEQA. Holding a public hearing, with an opportunity for anyone to comment on the CEQA document, is not required. These measures far exceed the minimum legal requirements for noticing and public participation in the CEQA process. In addition, any person interested in the CEQA process is encouraged to contact the Environmental Division to review the project file and meet with staff to discuss the project and the CEQA process. However, it is acknowledged that the public in general may not be aware of the various notices and opportunities to become involved in the CEQA process.

Grand Jury Finding b: A number of options exist to be proactive in the education and involvement of the advisory councils and the public. Good stewardship requires a good public understanding of the process.

Department Response:

Agree.

Discussion:

There are many ways and options to provide education and involvement of the advisory councils and the public. The more informed the public and representatives of the public

interests through the advisory councils, the more their comments on policies, plans, and projects will be able to address all the factors that need to be considered in the final action of the decision makers. As noted in the response to Finding a above, the Department substantially exceeds the minimum requirements for providing public notice and opportunities for participation. However, the ability of the department to respond is subject to other competing interests and demands for services.

Grand Jury Finding c: The advisory councils find that the time frame for responding to a project proposal is not compatible with the way the councils work and that at times they feel as if they are being left out of the loop.

Department Response:

Partially agree.

Discussion:

The Department has heard this concern expressed in our discussions with some of the advisory councils. The Department continues to look for ways to provide information to the advisory councils as early in the process as possible so that they can aid the County in addressing the community's concerns.

However, projects can and do change as they go through the process, often in response to comments from interested agencies and service providers, neighbors and advisory groups. In addition, the actions taken by the decision makers on policies, plans, and projects can often change throughout the hearing process. Hearings are conducted by the Planning Commission, Minor Use Permit Hearing Officer, or the Subdivision Review Board with the right of appeal, and therefore, with final action by the Board of Supervisors and the California Coastal Commission for areas in the coastal zone.

It is difficult and sometimes even impossible to provide opportunities for comments at each stage in the process; particularly given that the advisory councils generally only meet once each month. The Board of Supervisors has adopted a policy requiring that major ordinances and plans have a 60-day review period for the advisory councils prior to the Planning Commission hearing and again before the Board of Supervisors takes final action. This is designed to keep the advisory councils informed and foster education and opportunities for comments on these major issues.

On individual projects, as opposed to plans and ordinances, the Department is subject to the limitations of the Permit Streamlining Act and other restrictions that dictate the

time frame for processing applications. Thus, it is a shared responsibility to keep the advisory councils informed concerning projects of major interest and providing timely processing of those projects.

A staff member of the Planning and Building Department is assigned as a liaison to each advisory council. The advisory council liaison can serve as a means of keeping the councils informed about ongoing projects. The advisory councils can also access information about projects that have been placed on the hearing agenda for each review authority (on the Department's website). A community advisory council representative can participate at the public hearing and thus become informed about the actions taken. This can then be shared with the full advisory council at the next meeting. If a representative cannot attend the hearing, the final decision on the project is reflected on the website following the meeting.

Grand Jury Finding d: The Board of Supervisors has not developed a uniform statement of roles and responsibilities for the advisory councils.

Department Response:

Partially disagree.

Discussion:

The Board of Supervisors adopted a policy in 1996 that formally established criteria for Board-Recognized Community Advisory Councils (Attachment A, Resolution No. 96-485). The resolution states that the Board of Supervisors:

- Values the input of community advisory councils.
- Wants to make sure that advising bodies addressing the Board of Supervisors on current and future planning matters in the unincorporated areas actually represent the communities for which they speak.
- Wishes to establish a consistent set of guidelines to assist in the formation of future community advisory councils.

The resolution also establishes criteria that a community advisory council must meet to be recognized by the Board of Supervisors. This is discussed in detail in Recommendation 1B below.

Each community advisory council (CAC) is unique in its make up, its interests and its

way of conducting business and the Department responds to the differing interests. It has been our experience that each advisory council wants to define how they participate in the county government experience. To date, The Board of Supervisors appears to be satisfied that their respective advisory councils are meeting the basic criteria set by the Board resolution.

Grand Jury Finding e: The summary listing of negative declarations that are appended to the Board of Supervisors' agendas appear to be written for planning technicians and not for public understanding.

Department Response:

Partially Disagree.

Discussion:

Because of space limitations, courtesy notices of negative declarations and other environment announcements included with weekly distribution of the Board of Supervisors agendas are intended to be brief, early notices of environmental actions. The notices state the project name, location, and a summary project description. Contact phone numbers and project reference numbers are included. Interested persons are encouraged to inquire about any project that draws their interest. Staff will review the format of the courtesy notice and revise it as necessary to ensure clarity and readability for the general public.

Grand Jury Finding f: There is a feeling that negative declarations are published to see if anyone will complain and that the process of appealing is unnecessarily cumbersome.

Department Response:

Partially Disagree.

Discussion:

It is important to understand that the notice for a negative declaration is published in order to provide the public and other agencies an opportunity to review and comment on the results of the initial study. The negative declaration attached to staff reports and included in the public hearing notice is a proposed environmental finding that is not final until a decision has been made on the project. It is appropriate to provide comments on proposed environmental documents up to and including at the public hearing.

Published after early consultation with advisory councils and resources agencies, and after completion of the initial study and agreement from the applicant on proposed environmental mitigation measures, the notice of a proposed negative declaration is intended to solicit comments on any issues or impacts that were not adequately covered in the initial study. In cases where public comments identify new issues, or areas where more review is needed, the initial study process will continue until those topics are fully addressed.

With respect to the appeal process, the County has provided two easily accessible routes by which dissatisfaction with an environmental determination may be expressed, in addition to those already contained in state law. First, any person may elect to file a "request for review" of an environmental determination. This action will require that the public hearing on the project contain an extra focus on the environmental issues of concern. To file a request for review, the appellant need only fill out a single-page form (attachments are optional) and pay a minimal fee. Second, any person who disagrees with the initial hearing body's decision on a project may appeal that decision to the Board of Supervisors. This action requires filling out a simple one-page form (alternatives are optional) stating the reasons for the appeal, and the payment of an appeal fee covering the basic costs of holding the additional hearing before the Board of Supervisors (currently $474). Appellants are encouraged to discuss their issues with staff and applicant to seek resolutions prior to the public hearing, although these discussions are not mandatory. Appellants are also encouraged to attend the hearing in order to represent their concerns before the Board. The appeal process is discussed in a public information handout available in the Planning and Building Department.

Grand Jury Finding g: The general public has a responsibility to use the sources that do exist as described in the body of this report, to become informed on matters within the County relating to CEQA and land use planning.

Department Response:

Agree.

Grand Jury Finding h: An annual CEQA report would be a stewardship statement to the public.

Department Response:

Agree.

Discussion:

The Department agrees that such a report would provide valuable information and should be prepared. The Department will evaluate implementing such a report as part of the annual report on the General Plan (See response to Finding k).

Grand Jury Finding i: General plans and area plans can facilitate the identification and mitigation of the cumulative impacts of development; however, they are in need of updating.

Department Response:

Agree.

Discussion:

The environmental review performed as part of the preparation of new or updated general plan elements and area plans addresses the potential cumulative impacts of proposals and identifies appropriate mitigation. For instance, an Environmental Impact Report (EIR) prepared for an area plan update must address the cumulative and other impacts represented by the potential build-out created by the proposed land use categories and allowable densities and mitigations for those impacts must be incorporated into the adopted area plan. Another example is that cumulative impacts from increased traffic resulting from a build-out scenario must be addressed and mitigated to a point where a significant impact will not result. Similar analysis of other cumulative impacts to services, resources, and fiscal impacts are conducted. This process allows the potential cumulative impacts represented by a new or updated plan to be publicly identified, examined and mitigated. In some cases, impacts cannot be mitigated to a level of insignificance and overriding findings have been adopted.

Most of the countywide general plan elements and urbanized area plans have been updated recently. However, we agree there are other area plans in need of updating. The County has a program in process to update the 15 area plans. Four have been completed, six are in progress and five have yet to be started.

Community advisory councils also play an important and pivotal role in the timely preparation of area plan updates. The speed at which an area plan update proceeds is affected by the level and timing of community involvement and participation by other agencies. More accountability on staying within programmed schedules from all participants would facilitate a more timely update process.

This topic is discussed further in the response to Finding j.

Grand Jury Finding j: Provisions for a continuing planning process are not included in the Framework for Planning.

Department Response:

Disagree partially.

Discussion:

In Chapter 8, Section B, Framework for Planning provides that the Land Use Element should be updated periodically so that area plans can be comprehensively revised to include new information or conditions that affect land use policy and to review the effectiveness of policies in implementing plan goals. Updating of the area plans is envisioned in Framework as an on-going planning process, but the original vision of "updating" has changed substantially.

When originally conceived, "updating" generally meant to revise population data and study resource changes, building activity and other relevant trend changes. It would have been possible to prepare this type of update without the time and expense of preparing a full Environmental Impact Report (EIR) since significant changes to the plan may not have been needed. The budget for this type of update was thought to be a relatively minor factor and time for completion would have taken about one year.

However, this type of update has not occurred. Instead, community leaders, residents and decision makers have asked for review and revisions involving major land use and circulation issues requiring substantial rewriting of the area plan and preparation of an EIR. This extensive reexamination of all issues, previous visions, goals and assumptions in the community has added significant difficulty, time and cost to the process and has essentially hindered the original intent for a timely and systematic "periodic update" of the General Plan.

It is worth noting that the processing of individual general plan amendments also provides a forum for ongoing area plan review. Since 1980, a large number of amendments to area plans have been processed and these provide individual opportunities for review of data and issues in the area plans that relate to the requests. General plan amendments are brought forward at the request of property owners, County staff, other agencies and decision makers and their review includes input from community advisory councils.

While the Framework provisions for updating the area plans and the review of individual general plan amendments do constitute a form of continuing planning process, it is acknowledged that this approach does not fully achieve the purpose envisioned by the Grand Jury for a "...rigorous effort to keep the plans in a current and valid state..." on a comprehensive and timely basis. Increased funding and staffing for updates, strict adherence to programmed schedules by all participants in the process and development of an ongoing methodology for timely evaluation of the status and effectiveness of plans would help address that concern.

Grand Jury Finding k: Substantive annual reports to the public on the general plans are not prepared.

Department Response:

Agree.

Discussion:

There are provisions in Chapter 8, Section B, of Framework for Planning for performing an annual review of the Land Use Element and other elements of the General Plan. This annual review is to check the status of needed programs and policies and promote an ongoing process of implementation. Framework indicates that this review should provide the following to the Planning Commission and Board of Supervisors:

1. A progress report on the scheduled implementation of general plan programs,

2. Proposals for scheduling continuing and new implementation programs in the Capital Improvement Program and the County budget, and

3. Proposals to initiate amendments to the general plan and/or Land Use Ordinance if information presented demonstrates needs for policy changes.

An annual report on the status of the General Plan to the Governor's Office of Planning and Research is prepared by the Department of Planning and Building in the form of responses to that agency's "Local Government Planning Survey." That completed survey is placed on the consent agendas of the County Planning Commission and Board of Supervisors for their information and to provide notice to the public of the survey responses. However, it is acknowledged that a more substantive annual report as envisioned by Framework and the Grand Jury has not been prepared, primarily due to staff workload, competing priorities and costs. The Department agrees that such a report should be prepared and a methodology for a substantive annual review will be

developed so that it can be performed for Fiscal Year 2001-2002.

Grand Jury Finding l: The Resource Management System (RMS) is a separate process from cumulative impacts analysis.

Department Response:

Agree.

Grand Jury Finding m: There is a fundamental weakness in the RMS process because the Board of Supervisors does not certify the level of severity.

Department Response:

Partially disagree.

Discussion:

The RMS includes the requirement for certification of levels of severity by the Board of Supervisors as a condition for implementing RMS "actions." This is because of the desirability of holding public hearings to ensure that the public has an opportunity to comment on the appropriateness of proposed actions. The process for certifying levels of severity is focused on a "Resource Capacity Study," which provides a detailed analysis of a resource issue. Thus, the RMS process includes essential components which it cannot do without: 1) gathering and making available to the public the best available information about the resource issue; 2) public hearings before the Planning Commission and Board of Supervisors to provide advance notice of and the opportunity for the public to comment on proposed actions that might affect them; and 3) a final decision made by elected officials accountable to the electorate.

If the Grand Jury is concerned that more levels of severity are not certified by the Board of Supervisors, that would not be because of a deficiency in the process, but because the process is not being used in the manner envisioned by the Grand Jury. In practice, staff has not emphasized the need for certification of levels of severity in the case of resource issues that are being adequately addressed or are beyond the influence of the Board. For example, needed road improvements for county-maintained roads with recommended level of severity 2 or 3 have been identified and are awaiting the collection of road improvement fees before they can be scheduled for implementation. Regarding schools, the County is preempted by the state from denying a request for a

general plan amendment because of school overcrowding. In cases such as these, it has not seemed useful to conduct resource capacity studies and public hearings when actions that could be taken would be essentially the same as those already identified.

Grand Jury Finding n: A water resource capacity study, resulting from the RMS process, needs to be completed.

Department Response:

Agree.

Discussion:

It is unclear which capacity study is being referenced. The Board has ordered preparation of a resource capacity study of water supply and demand on the Nipomo Mesa, which is the subject of Department of Water Resources (DWR) study expected to be completed soon, as well as a resource capacity study of water resources in Cambria to be based upon the 1998 USGS study and studies conducted by the Cambria CSD. These studies are currently in process, with completion anticipated within the next few months.

Grand Jury Finding o: A capital budget to fund resource capacity expansion to sustain growth and development is inadequate and incomplete.

Department Response:

Partially disagree.

Discussion:

The County has a capital budget that is prepared annually by County Administration and General Services. However, the County capital budget does not address the funding of resource capacity expansions. Expansion of resource capacity is addressed in the capital budgets of the various service providers, such as community services districts, private water companies, school districts, sanitary districts, etc. Capital improvements for these service providers are generally funded by service connection fees. The County is a resource service provider for only a handful of small systems - water systems for Santa Margarita and a portion of Cayucos and sewage treatment for the SLO Country Club area, for example.

The Government Code requires that, "...any special district or school district..shall submit...a list of the proposed public works recommended... for the ensuing fiscal year." The County is then to prepare a coordinated program of proposed public works for the coming year. The program is submitted to the Planning and Building Department for review and report as to consistency with the adopted General Plan. However, this coordinated approach to the capital improvement program has not been implemented in San Luis Obispo County. If this annual review of the capital improvement program were implemented, it would enable the County to work more closely with local service providers to find resource capacity expansions that can support the growth and development envisioned by the adopted General Plan.

If the Board agrees with this coordinated approach to the capital improvement program, the Planning and Building Department will work with other County departments and outside agencies to implement it. This information could be included in an expanded Annual Resource Summary Report. This possibility is discussed further in the response to Grand Jury Recommendation 5.1.

Grand Jury Finding p: The RMS/Growth Management System and growth rate setting discretionary decision is made with the use of an inappropriate CEQA general rule exemption.

Department Response:

Disagree.

Discussion:

The Growth Management Ordinance, when originally adopted, was subject to environmental review, with the result being a negative declaration. The negative declaration was based on the general concept that the growth management ordinance is, in effect, mitigation for uncontrolled growth. That is, with the ordinance in place, growth can be monitored and controlled so that significant cumulative resource and public service impacts do not occur. This is consistent with the original intent of the ordinance.

A General Rule Exemption is appropriate when "It can be seen with certainty that there is no possibility that [the] project may have a significant effect on the environment". The action by the Board of Supervisors to set a yearly growth rate must be considered in the context of the overall effect of the ordinance. From this perspective, the setting of an annual growth rate can only act to limit growth to a level below what would, absent the ordinance, otherwise occur. From the same perspective, in years when the actual

growth rate falls below the limit, the ordinance has no real effect. The ordinance only has an effect on environmental resources when it acts to limit growth; that is, by itself, the ordinance can only act to reduce environmental impacts by limiting growth. It cannot act to cause growth, or result in environmental impacts. In the context of the growth management ordinance the yearly action to set the growth rate has no potential for a significant effect.

Grand Jury Finding q: The County's project tracking system is antiquated and in need of updating.

Department Response:

Agree.

Discussion:

The Department is currently in the process of developing and implementing an entirely new updated tracking system, shifting from a mainframe-based to a PC-based system. However, this work does not include "development of a new database" as suggested on page 12 of the report. Rather, the new tracking system will utilize existing data sources and provide improved access to and use of the data.

Grand Jury Finding r: General amendments to the Growth Management Ordinance, Title 26 of the County Code are inappropriately limited to the South County Planning Area.

Department Response:

Disagree.

Discussion:

A wide-range of possible amendments were thoroughly discussed by the Board of Supervisors on August 8, 2000. At the conclusion of discussion, the Board directed staff on which amendments should be processed and also directed that an EIR be prepared to address possible impacts. The scope of work for that EIR is being coordinated with other EIRs being prepared in the South County area.

Grand Jury Finding s: The El Pomar-Estrella Area Plan update offers an opportunity to establish a general plan based approach to CEQA and cumulative effects analysis.

Department Response:

Agree.

Discussion:

An integrated program-level EIR is being prepared as part of the El Pomar-Estrella Area Plan update. This will provide identification and examination of the cumulative and other impacts represented by proposals in the plan update and development of mitigations to be incorporated into the plan to address the impacts.

Grand Jury Finding t: The Board of Supervisors has not developed a uniform statement of roles and responsibilities for the advisory councils.

Department Response:

This finding is a duplicate of Finding d. Please see that response.

Grand Jury Finding u: RFP PS-704 for an EIR for the South County mixes general plan amendments and growth management amendments.

Department Response:

Agree. Also see response to Finding v.

Grand Jury Finding v: RFP PS-704 requires the selected consultant to prepare the project description. This is inappropriate; this should be a fundamental function of the Planning and Building Department.

Department Response:

Partially Disagree.

Discussion:

The consultant preparing the environmental impact report is not responsible for formulating the project description. The project description initially comes from the applicant and is based upon objectives the applicant has for accomplishing some type of project. Often the project description is complex and includes different types of

needed permit approvals. The consultant's task is to prepare the project description section of the EIR based on the applicant's information. County staff will carefully review the project description section to ensure accuracy and overall completeness.

RFP PS-704 requires that the consultant demonstrate his comprehension of the project description to the point that a meaningful impact analysis can occur. This is extremely important because the County does not want consultants to spend time and money analyzing impacts of a project that has not been accurately described in the project description. For more information regarding project description, cumulative impacts and piecemealing, please see the discussion under Grand Jury Recommendation 4.1 and 4.2.

Grand Jury Finding w: The substantiation for negative declaration determinations are not easily accessible for the general public.

Department Response:

Partially disagree.

Discussion:

Any person interested in exploring the background of a proposed negative declaration is encouraged to contact County staff and inquire about any issues of concern, Staff is empowered to meet with members of the public to discuss projects, fax or mail information to members of the public, and/or make the full project file available for review. Individual staff members have been known to personally deliver project information to members of the public who cannot conveniently arrange to come to the government center or who desire more written information than can be quickly and efficiently mailed or faxed. Numerous copies of technical reports, basic CEQA information, and public participation information have and continue to be distributed through these methods. Project information could also be made more readily available if the County website is updated to accommodate this.

Grand Jury Finding x: A mitigation monitoring and reporting program's effectiveness depends in large part upon the quality of the mitigation measures themselves. Measures need to be specific - what is required to be done, when it is to be done, and who is responsible for ensuring its completion.

Department Response:

Agree.

Grand Jury Finding y: Mitigation measures sometimes fail to address the actual environmental impact of projects and are not always effective or reasonable.

Department Response:

Partially Disagree.

Discussion:

Mitigation measures are written to address the identified potentially significant impacts of a project. Using a set of "stock" mitigation measures as a guide, staff works to fit each measure to the particular project and situation. However, effectiveness can be diminished by the lack of a comprehensive mitigation monitoring program, as noted elsewhere in the report.

Grand Jury Finding z: County follow-up could be enhanced to assure that all the required mitigation measures have been undertaken and completed.

Department Response:

Agree. See detailed response to Recommendation 2.5.

Grand Jury Finding aa: The environmental staff lacks available time to gain first-hand field experience regarding mitigation measures. This can result in inadequate environmental protection.

Department Response:

Agree. See detailed response to Recommendation 2.5

Grand Jury Finding bb: The Board of Supervisors granting of the Woodlands appeal of the scope of work discounts the efforts of the county staff to be responsive to CEQA in its broadest sense.

Department Response:

Partially Disagree.

Discussion:

All final decisions on environmental determinations lie with the Board of Supervisors. The Board, after consideration of information from the public and staff, including the environmental coordinator and county counsel, adopts an environmental determination that reflects their collective judgement, based upon the facts and circumstances relative to the project under consideration.

In the case of the Woodlands project, the applicant appealed the staff's proposed scope of work for the supplemental EIR. In general, staff proposed a supplemental EIR scope of work that included consideration of traffic and air quality impacts of the Specific Plan build-out and cumulative impacts as a result of the future elementary school. However, consideration of traffic and air quality impacts and cumulative impacts of the future elementary school were not part of the applicant's suggested scope of work. At the conclusion of the appeal hearing, the Board chose to accept the scope of work submitted by the applicant as the basis for the required supplemental EIR on the Woodlands project. The public will have an opportunity to review and comment on its adequacy before the Board takes final action on the amendment to Title 26.

Grand Jury Finding cc: Adequate funding is required to accomplish CEQA and general plan objectives. The basis of fees, including general and administrative fees is an important aspect.

Department Response:

Agree. Also see responses to Recommendations 2.1 through 2.5.

Grand Jury Finding dd: The Planning and Building Department has formed a task force called "Vision 20/20" whose job it is to implement improvements in the planning process.

Department Response:

Partially disagree.

Discussion:

Vision 20/20 is the Planning Department's internal effort to ensure that the department work program is focused on the issues that have the greatest potential to achieve the department's mission to "make a difference in the quality of life in SLO County." Vision

20/20 is not specifically targeted at improvements in the planning process alone. This initiative involves the identification of significant issues that will be facing the County currently and in the immediate future, such as housing affordability and its relationship to sustainable economic growth, and working with the cities and other agencies to find regional solutions. Process improvements could result from actions taken to achieve objectives related to these larger issues. Through the Department's Strategic Plan and annual budget, we can identify, prioritize and program work on all types of improvements needed in the planning process, not just those addressing regional issues identified by the Vision 20/20 effort.

Grand Jury Finding ee: The Planning and Building Department's strategic plan is an excellent management tool that ties objectives with the budget and provides a systematic follow-up to assure objectives are achieved.

Department Response:

Agree.

Discussion:

The Department's Strategic Plan is updated periodically to coordinate with the annual budget; establish goals, objectives, and performance measures for programmed work; and monitor progress made on that work. As noted above in the response to Finding dd, the Strategic Plan and the annual budget are used to identify, prioritize and program all types of work needed to achieve countywide and departmental objectives.

PART II - RESPONSES TO RECOMMENDATIONS:

Grand Jury Recommendations 1.A.a and 1.A.b: The county should enhance communications with the public and advisory councils by creating and maintaining a San Luis Obispo County *website,* which will contain:

- Agendas for and minutes of meetings of the Board of Supervisors, Planning Commission, and Subdivision Review Board.
- The staff reports that support resolutions and recommendations to the bodies discussed above at the time the reports are provided to those bodies in advance of their meetings.

Department Response:

These recommendations have been partially implemented as discussed below. For the remaining aspects, the recommendation will be implemented in the future depending upon resources and the resolution of technological capabilities.

Discussion:

Background: Providing information to the public is always a priority in the Planning Department. However, presenting information in a manner that is useful and understandable always takes time and may result in budget issues.

The "short" agendas (the topical listing, without staff reports and other data) for all review authorities are available on the Department's website. The Board of Supervisors' agenda includes a one-page summary of the nature of the agenda item in the form of an agenda transmittal form. The decisions of the Planning Commission and the Subdivision Review Board are also posted on their respective agendas following their actions on the agenda.

Issues: The Planning Department is evaluating how to provide additional agenda materials (perhaps a one-page transmittal summary similar to Board items) on the Department's website. In the future, it may be possible to include the full agenda packets and minutes of the various hearing bodies via the website.

The implementation of a County website is the responsibility of the Information Services Division. There are a number of issues that must be resolved before any department will be able to provide documents that include text, graphics, and materials submitted

by outside entities for inclusion in agenda packets.

Conclusions/Recommendations: Within existing limitations, the Department continues to explore ways to provide additional information concerning hearing bodies in order to assist the community advisory councils and all other interested parties in keeping informed concerning policies, plans, and projects.

Budget and Staffing Implications: The Department has assigned additional resources to expand and enhance its website, including budgeting an additional Data Automation Specialist (DAS) and the creation of a Website Enhancement Committee. The recommendations of the Grand Jury report will be provided to the committee for consideration of suggested enhancements.

Development and implementation of a Countywide website is the responsibility of the Information Services Division, subject to the availability of staff and resources. In the meantime, the Planning and Building Department will continue efforts to upgrade the website as resources allow.

Grand Jury Recommendation 1.A.c: The county should enhance communication with the public and advisory councils by creating and maintaining a San Luis Obispo County website, which would contain a description of each project that is granted a CEQA exemption with the reasons for the exemption

Department Response:

Further evaluation is required, however, such information may be available in the future when the Countywide website is implemented.

Discussion:

Background: Exemptions from review under the California Environmental Quality Act (CEQA) can take the form of "ministerial," "statutory," "general rule," or "categorical."

General Rule Exemptions (GRE) stem from a provision in CEQA that applies the law to only those projects that have the potential for a significant effect on the environment. Where it can be seen with certainty that a project, otherwise subject to CEQA, could not have a significant environmental effect, then CEQA does not apply and issuance of a General Rule Exemption is appropriate.

Categorical Exemptions (CE) consist of a list of project types which, by their nature, typically do not result in significant environmental impacts. If a project "fits" into a

category and there are no unusual environmental circumstances associated with the project, then the project is categorically exempt from CEQA. Exempt projects are also exempt from any public noticing requirements contained in CEQA, although the project may require public noticing under planning law and the environmental determination to grant a categorical exemption is included in that public notice.

Issues: Current procedures, although in full compliance with CEQA, do not provide a method for notifying the public that a project has been found exempt from CEQA. Staff reports will typically contain a statement that the project is exempt, but in order to reduce paperwork and focus on project issues, no detail as to the type of exemption or reasons for it is given.

Conclusions/Recommendations: The most efficient method to provide more information about CEQA-exempt projects is through the department website, subject to the limitations of the current system and the ability of all residents of the county to access the Internet. Once these issues have been addressed, information regarding the full range of potential CEQA exemptions could be posted on the department's website. A weekly listing of new exemptions could then be maintained, with appropriate reference to the applicable exemption status for each project. In the interim, a policy to expand the information on a project's exemption status could be adopted. This policy would specify that staff reports contain a brief paragraph explaining the project exemption status, including the reasoning that supports the exemption finding.

Budget and Staffing Implications: Providing information to the public is always a priority in the Planning Department. Presenting information in a manner that is useful and understandable always takes time and results in budget issues. We estimate that providing additional information for CEQA-exempt projects would take at least one additional hour of staff time per project. This increased cost could, in turn, lead to a future increase in application fees so that the general taxpayer does not absorb the costs of services to development applicants.

Grand Jury Recommendation 1.A.d: The county should enhance communication with the public and advisory councils by creating and maintaining a San Luis Obispo County website, which would contain other information developed in consultation with the advisory councils and the public.

Department Recommendation:

This recommendation requires additional analysis, particularly since it is not clear what "other information" will be developed in consultation with the advisory councils and the public at this time.

Discussion:

Background: The Department has maintained a website for approximately five years that includes general information, meeting agendas, downloadable forms, and building and construction information.

Issues: The Department has recently formed a Website Enhancement Committee to identify and prepare additional materials to be posted on the website. However, we must recognize the limitations of the department's current Internet service provider SLONET. Some of these issues include an adequate level of customer support, the high cost of website capacity/space, and SLONET's technological limitations on new web page building techniques and software capabilities. We are currently searching for a new Internet service provider to meet our department's needs. The costs and staff implications of this additional service will also need to be evaluated.

Conclusions/Recommendations: Development of a list of what types of information should be provided on the website could be coordinated with the advisory councils and other interested members of the public so that the materials are targeted at the areas of interest to the users of the system. Following discussions on the wants and needs of the advisory councils and general users, the Department can develop a "wish list" of potential website projects and establish a schedule for implementation.

Budget and Staffing Implications: Providing information to the public is always a priority in the Planning Department. However, presenting information in a manner that is useful and understandable takes time and has cost implications. As we do not know the specifics of the "other information" to be developed, we cannot estimate the budget and staffing implications for the item. The implementation of this recommendation will be addressed through the annual budget review to determine the resources available to provide this enhanced level of service.

Grand Jury Recommendation 1.A.e: The county should enhance communication with the public and advisory councils by creating and maintaining a San Luis Obispo County website which would contain access to the county's project tracking system. As part of this effort, the project tracking system should be fully developed and updated. The information needs of the local communities should be sought out and included in the system. A geographic information system (GIS) technology should be employed.

Department Recommendation:

This recommendation requires further analysis.

Discussion:

Background: The Department is developing a new PC-based tracking system that will have far greater capability and will also have an Internet accessible module. The program includes three basic components for the web:

1. Status - the website allows a user to check status of any project in the system. Projects may be located by address, assessor parcel number, or by name of applicant. Status of the project will be available from point of submittal, through inspections, and final sign-off.

2. Application - the County will be able to define certain types of permits that may be applied for through the website. This may be appropriate for smaller projects such as water heater permits or other "easy" projects such as zoning clearances for home occupation licenses, etc. Contractors and owners would benefit from not having to make the trip to the Department to get the permit started.

3. Comments - the website will be able to accept citizen feedback. Users will be able to make comments on specific land parcels or on current or proposed land use projects/subdivisions.

Issues: There are several things which must happen before this component of the tracking system can be implemented. First, and most importantly, our County as an agency, must resolve firewall issues to enable establishment of a full-on website. Currently our website is hosted on SLONET and we are unable to provide many features that our customers would find helpful.

Conclusions/Recommendation: The new tracking system is currently in the development stage. We anticipate having the building and code enforcement permits up and running in the fall and the planning-type permits, such as land use permits and subdivisions, operable by the end of the year. Once the permits are being processed through the new tracking system and the County has a bonafide website, providing electronic access to the public for projects will be feasible. We are hoping that the Information Services Division will be able to resolve the numerous technological issues within the next year.

Budget and Staffing Implications: The Department has committed approximately $350,000 toward implementation of the new tracking system, including the website components to allow enhanced access to information. In addition, the implementation has required allocation of three full-time positions for a one-year period to create the transfer of the existing data records into the new system, troubleshoot the creation of the system, and guide its implementation. This is a significant commitment of staff

resources to provide improved access to information.

Grand Jury Recommendation 1.B: The county should enhance communication with the public and advisory councils by improving communications with and the effectiveness of area councils by defining uniform roles and responsibilities.

Department Response:

This recommendation has been implemented.

Discussion:

Background: The Board of Supervisors adopted a policy in 1996 that formally established criteria for Board-Recognized Community Advisory Councils" (Attachment A, Resolution No. 96-485). The resolution states that the Board of Supervisors:

- Values the input of community advisory councils.
- Wants to make sure that advising bodies addressing the Board of Supervisors on current and future planning matters in the unincorporated areas actually represent the communities for which they speak.
- Wishes to establish a consistent set of guidelines to assist in the formation of future community advisory councils.

The resolution also states that in order for a community advisory council to be recognized by the Board of Supervisors, it must meet five criteria:

1. A community advisory council must be based in and represent a defined community within an established Urban or Village Reserve Line, which can include representatives from outlying or surrounding unincorporated areas associated with the community.
2. Community advisory council membership should reflect a broad cross-section of the community.
3. Advisory council meetings should occur regularly and be publicly noticed in a timely manner, and be open to all members of the public.
4. Advisory council bylaws should be established and maintained which direct the organization and protocol of the council. These should include

a statement of purpose, the rules of order, frequency of meetings and method of appointment of subcommittees, and appointment or election of members.

5. Recommendations made by the Community Advisory Council and forwarded to the Board of Supervisors or Planning Commission should be arrived at by a majority vote of a quorum of the membership, with as much public input as is feasible.

There are currently eleven community advisory councils in San Luis Obispo County. These councils represent the following communities and the geographical areas surrounding them:

- Avila Valley
- Cayucos
- Edna Area
- Los Osos
- Nipomo Area
- North Coast Area
- Oceano
- San Miguel
- Santa Margarita Area
- Shandon
- Templeton

Issues: The Department does not create nor define the role of each CAC; rather, we try to respond to differing interests. Each community advisory council is unique in its make up, its interests and its way of conducting business. Some councils are large and some are small. Some use subcommittees to address particular areas of interest. Some are elected and some are appointed. For example, Santa Margarita and Cayucos council representatives are elected to represent various district precincts of the community. In other communities, council members are elected to represent particular groups or organizations.

Some councils wish to see any and all projects that are proposed in their area of interest. Others just wish to review and comment on larger development projects and plans. Due to the differences in each of the eleven councils, the Department has found that it is very important to become familiar with the operation of each council.

Community advisory councils play a unique role in the land use planning process. They serve as the eyes and ears of the community. They help highlight issues that are emerging in the community. They provide an opportunity for members of the local community to have their voices heard. This is a serious responsibility because it requires an open ear to hear from all segments of the community. All perspectives must be considered when the community makes recommendations about the future of the community.

But saying all this, the community advisory councils are, as the name implies, advisory. They do not make the final decisions on plans or projects. This can often be very

frustrating to the citizens who take their time to sit on a community advisory council and who may feel that the ultimate decision made by the review authority did not carry out the recommendation from the community.

It has been our experience that each advisory council wants to define how they participate in the county government experience. If they are meeting the basic criteria set by the Board resolution, that may be sufficient in achieving uniform roles and responsibilities. However, the Board of Supervisors may decide that they wish to have further clarification of the roles and responsibilities and the Department will, of course, respond to Board direction.

Conclusions/Recommendation: The Board of Supervisors recently revisited the issue of the role of advisory councils. The Board formed an ad hoc committee to look at alternative ways of defining the roles of the councils. This report was considered by the Board on November 21, 2000, and the Board took action to: 1) Leave the advisory councils as they are; 2) enhance departmental service levels to the advisory councils; and 3) encourage the Administrative Office to notify all departments to seek the involvement of advisory councils.

In addition, the Planning and Building Department identified a series of things that it would undertake to respond to issues raised by the ad hoc committee, including the following:

- The need for ongoing training for the community/advisory groups in planning matters so that they understand the requirements of local, state and federal plans and regulations;
- Clarification of County staff's role as liaison to the advisory councils;
- Clarification of the timing of when advisory councils review and comment on projects (before acceptance, during project review, prior to hearing body, need for multiple review of significant projects as the project and community recommendation may change through the planning process);
- Greater consideration of the positions taken by the advisory councils by the department staff and decision makers;
- Improved information on matters before the advisory councils at various stages to help in making informed decisions; and

- Feedback on the final decisions taken on projects by the Hearing Officer, Subdivision Review Board, Planning Commission and Board of Supervisors.

Each of these is being addressed by the Department.

Budget and Staff Implications: It is not possible to estimate the budget and staffing implications unless the Department knows what changes in roles and responsibilities might be adopted by the Board of Supervisors. These would then be evaluated as a part of the Department's budget review.

Grand Jury Recommendation 1.B.b: The county should enhance communication with the public and advisory councils by improving communications with and the effectiveness of area councils by assigning dedicated staff to adequately support the councils' activities.

Department Response:

This recommendation has been implemented.

Discussion:

Background: The Planning Department has had assigned community liaisons for approximately five years. These staff members are assigned to attend the advisory meetings as needed (for the majority, this is every month) and to be available as the primary contact with the advisory council. While the staff liaison may not know the specific information that is requested at the meeting and may need to do further research, they are responsible for identifying who can provide the information requested and requesting further consultation with the council if necessary. It should also be noted that staff has no role in setting the agendas for the advisory councils; that is the responsibility of the chairperson.

Issues: The staffing implications of this has grown from an initial assignments of 5-10 hours per month for each advisory council to a much greater commitment depending upon the desires of each individual community advisory council (CAC). The total staff hours provided during Fiscal Year 2000/2001 has been equivalent to at least one staff year. While this is time that provides critical information for the community, it has reduced staff time available for other work assignments, including case processing and long-range planning.

Conclusions/Recommendations: Without further information, it is not possible to

determine what staff resources would be needed to "adequately support the councils' activity." Limited staff availability must be evaluated against competing demands for staff time. The Board can determine that additional staff resources should be assigned to CACs and provide the additional funding for this staff through the budget process. It should also be noted some other county departments (e.g. Public Works) are also assigning staff resources to advisory councils to address areas of interest.

Budget and staffing implications: It is not possible to estimate the budget and staffing implications unless the Department knows what additional responsibilities would be assumed. These would then be evaluated as a part of the Department's budget review. Limited staff availability must be evaluated against competing demands for staff time.

Grand Jury Recommendation 1.B.c: The county should enhance communication with the public and advisory councils by improving communications and the effectiveness of area councils by asking advisory council to provide a performance evaluation for the annual performance review of the staff member assigned as their primary point of contact.

Department Response:

The recommendation has been implemented.

Discussion:

Background: The Department currently distributes "How are we doing?" forms to the CACs to help in assessing the service that the community liaison is providing.

Conclusion/Recommendations: The Director has initiated a quarterly meeting with the chairpersons of the advisory councils to receive feedback and suggestions on how the Department can better serve their "wants and needs." Using this, plus the feedback from the survey forms, the Department will be getting a "report card" on its performance through the current liaison participation. This must be evaluated against the budget resources of the Department and where desires exceed the available resources, the Board of Supervisors can consider the staffing commitments to serve the advisory councils.

Budget and Staffing Implications: The cost of conducting performance surveys does not materially affect the Department's budget. However, expanded service levels may require future budget adjustments.

Grand Jury Recommendation 1.B.d: The county should enhance communication with the public and advisory councils by improving communications and the effectiveness of area councils by providing training to the advisory councils so that they can better understand and appreciate land use planning and CEQA.

Department Response:

This recommendation has been implemented.

Discussion:

Background: A training program was completed on April 28, 2001, for approximately 60 members of the various advisory councils. A copy of the training program and manual is attached for review. A copy was submitted for the Clerk's records and is available for review at the Planning Department and the Clerk's office. Additional copies have been provided to CAC members who were unable to attend, including a CD of presentation materials used during the meeting. The Department is also looking at posting these materials on the Department's website so that anyone can review the materials.

Conclusions/Recommendations: This will be an ongoing annual training program (assuming that staffing resources are budgeted). The Department is also putting together smaller quarterly training topics that could be presented directly at the advisory council meetings. These will be developed with feedback from the advisory council chairpersons.

Budget and Staffing Implications: Providing training to the advisory councils will be an ongoing responsibility. This has staff costs for development of the materials and presentation at the training programs. In addition, there are costs associated with the printing of the materials. The Department will reflect these costs in the annual budget.

Grand Jury Recommendation 1.B.e: The county should enhance communication with the public and advisory councils by improving communications and the effectiveness of area councils by providing the earliest possible notice of projects that are being proposed in the councils' area of interest.

Department Response:

This recommendation has been implemented.

Discussion:

Background: Currently, the Department sends project referrals to the advisory councils within the first two weeks of submittal (in most cases). This referral includes information concerning the project, application materials, location maps and the proposed project maps (example included in Attachment B). In addition, the Department refers interested parties who may have had a pre-application meeting with staff for a potential project (prior to a formal application being submitted) to the advisory councils to make the community aware of the possible project even prior to application and to provide early input to the project applicant. However, we cannot require that applicants take advantage of this early referral.

Issues: Sometimes this early project referral can be a part of an advisory council's concern that projects change over time and they are not aware of the final project that has been approved and may be surprised when the construction of the project occurs.

Conclusions/Recommendations: A partnership is necessary; the Department needs to make an effort to keep advisory councils informed and councils need to commit resources to stay involved in the hearing process and provide direct feedback from the community on those policies, plans and projects of interest. Through the assigned staff liaison we can provide information on projects, but the CACs should also be tracking projects that have been set for hearing and decide whether to have a council representative attend/participate in the public hearing and provide feedback to the community on the action of the decision makers.

Budget and Staffing Implications: It is not possible to estimate the budget and staffing implications unless the Department knows what additional needs for early and continuing responsibilities would be proposed. These would then be evaluated as a part of the Department's budget review. There are limited resources and staff availability must be evaluated against competing demands for staff time.

Grand Jury Recommendation 1.B.f: The county should enhance communication with the public and advisory councils by improving communications and the effectiveness of area councils by utilizing public EIR scoping meetings to invite public participation as a part of the notice of preparation required by Section 15082 of the State CEQA Guidelines.

Department Response:

The Department will consider this in the FY 2002-03 budget request.

Discussion:

Background: CEQA provides for the opportunity to hold public scoping meetings as part of the process to develop the scope of environmental impact reports. The process is optional. An agency may choose to not hold such meetings and may choose to not include issues and topics suggested at scoping meetings in the EIR.

Issues: In the past, public scoping meetings for most projects have not been well attended. It was usual for agency representatives to outnumber members of the public by a wide margin. Given the costs and staff time necessary to prepare for and coordinate these meetings, the Department has reduced the number of public scoping meetings, focusing on projects that are high in public interest. However, the community advisory councils may provide a new forum for such meetings. EIR scoping for many projects could be included as an agenda item for the affected advisory council. Of course, larger projects would still need a separate scoping meeting in order to avoid usurping the advisory council's entire meeting.

Conclusions/Recommendations: The Department could identify projects that could benefit from a more compact public scoping process conducted in conjunction with advisory council meetings.

Budget and Staffing Implications: Project staff assigned to EIR projects will typically attend one or more advisory council meetings in the course of the project. Reorganizing one of the earlier meetings in the format of an EIR scoping meeting could be an efficient way to gain early public involvement in a project with the addition of 8-16 hours per project.

Grand Jury Recommendation 2.1: The county should expand and develop dedicated funding sources to provide additional planning and environmental staff and related resources by identifying adequate funding sources for planning and environmental work to provide the necessary budget to accomplish the recommendations contained herein.

Department Response:

This recommendation requires further analysis.

Discussion:

We agree that a dedicated funding source for long-range planning and environmental staff is a necessary component to adequately update the General Plan. However, statutory limitations on how local jurisdictions may raise money for governmental

activities creates an obstacle for providing funding for staffing additional (comprehensive) planning and special studies. For instance, a general plan update may be funded by charging all property owners in the subject area a certain amount for planning studies payable through their tax bills; however, this method would require a vote of approval by two-thirds of those within the affected area (per AB 218), and would undoubtedly face a difficult time at the polls. Funds could also come by means of a surcharge on building development activities within the study area, by which a person applying for a building permit would pay an additional "planning fee." However, some may see this as placing an unfair burden on new development only and result in increased housing costs. We will also review and analyze the approach used by Marin County (Referenced in the Grand Jury's Report) to see if we can use it here to provide funding for planning activities related to environmental review, such as cumulative impact analysis and general plan work. If none of these funding options are realistically achievable, then the costs associated with long range planning and development of programs will continue to have to be covered from the general fund.

Scope and Parameters of Further Analysis or Study: All possible funding options need to be explored before a final recommendation can be made. This analysis will be carried out and the objectives of the Department's Strategic Plan will be updated accordingly so that recommendations can be made as a part of the Department's proposed budget for FY 2002/03.

Grand Jury Recommendation 2.2: The county should expand and develop dedicated funding sources to provide additional planning and environmental staff and related resources by assuring that all fees recover all costs, including general and administrative costs.

Department Response:

This recommendation has been implemented. Future modifications to the fee schedule through the annual review of fees can address a portion of the issue being raised.

Discussion:

The County has a process wherein fees collected for services are reviewed on an annual basis. The Board of Supervisors has a policy covering recovery of costs associated with permit processing. This includes the recovery of administrative costs. The methodology used by the Department is reviewed by the County Auditor-Controller to ensure that the fees are in accordance with legal requirements.

Because some of the costs associated with the review of permits relates to meeting the

interests of neighbors and other community interests, the Department recovers approximately 75 percent of the full cost of services for planning projects. The remaining costs are covered with the County General Fund. This policy can be reevaluated to determine if a greater or lesser portion of the cost should be borne by the applicant for projects.

The Department may also be able to propose recovery of follow-up costs of maintaining computerized records and mapped information concerning project, similar to the cost recovery for copying/microfisching records. This could be researched and a recommendation presented to the Board for review.

Grand Jury Recommendation 2.3: The county should expand and develop dedicated funding sources to provide additional planning and environmental staff and related resources by establishing a dedicated account to assure that the fees collected are utilized for planning and environmental work only.

Department Response:

The recommendation has been implemented.

Discussion:

State law requires that fees be collected only for the cost associated with the processing of the application. Thus, we are required to track the costs and use these in preparing the recommendation for appropriate fees. The cost for providing planning and environmental work associated with permits is billed against these revenues. However, the costs associated with long-range planning and development of programs are covered from general funds.

Recommendation 2.4: The county should expand and develop dedicated funding sources to provide additional planning and environmental staff and related resources by fully staffing the Planning Department to assure all plans are up to date and environmental processes are fully supported.

Department Response:

This recommendation requires further analysis.

Discussion:

The Department will propose staffing needs as part of the budget planning process for

FY2002/03. See the discussion in Recommendation 2.1 above.

Scope and Parameters of Further Analysis or Study: Possible funding options need to be explored before additional staffing recommendations can be made. This analysis will be carried out and recommendations made as a part of the Department's proposed FY2002/03 budget.

Grand Jury Recommendation 2.5: The county should expand and develop dedicated funding sources to provide additional planning and environmental staff and related resources by adding sufficient staff to allow adequate understanding and enforcement of mitigation requirements.

Department Response:

This recommendation has not yet been implemented, but could be implemented in the future, within two years.

Discussion:

Background: San Luis Obispo County approves approximately 180 environmental documents each year that include mitigation measures to reduce or offset environmental impacts. The California Environmental Quality Act (CEQA) requires the adoption and implementation of a mitigation monitoring and reporting program when projects are approved with mitigation measures. Currently, of these approximate 180 projects, effective mitigation monitoring is conducted on approximately 20%. This effort is focused on the larger sized projects and typically utilizes consultants under county contracts, with the costs being borne by the individual applicants. Although spread among several environmental specialists, the staff time involved equates to approximately one third of a full-time position. However, this leaves 80% of the projects without any form of mitigation monitoring.

Issues: The Department of Planning and Building has made several process changes in an effort to address this issue. A concerted effort to generate the needed staff time through new efficiencies in the process has been fully implemented. The Department uses "standard" mitigation measures whenever possible, writes all mitigation measures in language adequate for adoption as conditions of approval, and cross trains all staff in the planning and environmental sections to increase staff efficiency and effectiveness. However, there has been an increase in the number and complexity of projects that both complete the review process and proceeds to construction. This has required a focusing of efforts on timely initial processing in order to comply with state-mandated time frames. Therefore, the Department has not been able to assign staff to developing

and implementing an adequate mitigation monitoring program. As a result, the County's current mitigation monitoring and reporting program is minimal.

Conclusions/Recommendations: The need for mitigation monitoring positions in the Planning Department stems from:

- Legal requirements as contained in CEQA;
- A desire to provide more cost-effective service to the public by developing mitigation approaches that ensure the greatest degree of success with the least overall cost; and
- The need to document accountability to other agencies and the public with respect to the implementation and effectiveness of environmental mitigation measures.

An effective mitigation monitoring program is also needed to accomplish the following goals of the Department of Planning and Building:

- Conserve natural resources to promote a healthy environment.
- Maintain high quality standards in the application of environmental laws in San Luis Obispo County (Strategic Plan).
- Improve internal and external customer service (Strategic Plan).
- Provide a balanced approach that considers environmental issues in design and development of projects (Strategic Plan).

Budget and Staffing Implications: A minimum mitigation monitoring and reporting program would consist of two environmental resource specialists and an administrative clerk. The environmental resource specialists would be assigned to the geographic planning teams and would be responsible for ensuring compliance with Section 21081.6 of the California Public Resources Code (i.e., CEQA), Mitigation Monitoring and Reporting. This would be accomplished primarily by confirming proper implementation of required mitigation measures before, during, and after project construction. The environmental resource specialists would consult with applicants, staff and other agencies to continuously monitor mitigation effectiveness in order to develop better and more consistent mitigation approaches. The administrative clerk would function as an assistant to the environmental resource specialists, tracking projects for inspections, coordinating, field monitoring, and data entry. A new mitigation monitoring fee would need to be instituted in order to partially offset the increased costs associated with the

program. On larger projects, real-time billing could be instituted so that the applicant bears the full cost of the mitigation monitoring.

Grand Jury Recommendation 3.1: The county mitigation processes and procedures should be strengthened to provide for an extensive public airing of environmental issues prior to the issuance of a negative declaration, or mitigated negative declaration, that is consistent with the intent of CEQA and which is uniform for all projects.

Department Response:

This recommendation has not yet been implemented, but will be implemented through the ongoing training program for advisory councils.

Discussion:

Background: In the current process, new projects subject to environmental review are referred to the appropriate advisory council for review and comment as soon as an application is received by the Planning Department. An advisory council's early comments are considered throughout the planning and environmental evaluations of the project. CEQA provides that public notice and an opportunity for review and comment by the public and other agencies occur after the initial study is completed and a proposed negative declaration has been prepared. Since the statutory review period for a proposed negative declaration is only 20 or in some cases 30 days, it is often difficult for an advisory council to review and comment fully on the environmental document within the legal public review time frame.

Issues: In some cases, early review by an advisory council is limited by a lack of project-specific information regarding potential environmental effects, that is, technical reports addressing specific environmental issue areas are often not complete at the time an application is made to the County and the initial referral to the advisory council is made. In other cases, especially once a proposed negative declaration has been issued, advisory council agendas and meeting times often do not provide an opportunity for the council to review the project and make timely comments. However, the County is under strict legal time frames to make critical decisions on proposed projects. State law provides 30 days after initial project submittal to notify an applicant of any additional information needs. The decision to prepare an EIR or negative declaration is then to be made within 30 days after project acceptance for processing. Final decisions on most projects must be made within six months, including a full appeal process. Therefore, the opportunity to add additional public review times to projects in any format is extremely limited.

Conclusions/Recommendations: Additional information about the opportunities to provide comments on projects needs to be distributed to advisory councils and the public. Staff has recently learned that some advisory councils were not aware that the initial project referral from the Planning Department included an opportunity to comment on environmental issues, including the scope of the initial study. Further, it should be emphasized that the negative declaration attached to staff reports and included in the public hearing notice is a *proposed* environmental finding that is not final until a decision has been made on the project. It is appropriate to provide comments on proposed environmental documents up to and including at the public hearing.

Budget and Staffing Implications: Additional training and information for advisory councils is already included in the Department's Strategic Plan and implementation is already underway. We expect implementation of this recommendation will only have minimal budget and staffing implications.

Grand Jury Recommendation 3.2: The county mitigation processes and procedures should be strengthened to require that staff expand the negative declaration checklist used in reviewing projects potentially subject to CEQA by attaching, and placing in a publicly-available project file (possibly on a website), a detailed statement in plain language, of the reasons staff conclude that (a) the project will not, with reasonable certainty, adversely impact the environment in any significant way and (b) that the cumulative effect of the project, together with like projects, will not, with reasonable certainty, adversely impact the environment in any significant way.

Department Response:

The Department will consider this in FY 2002-03 budget request.

Discussion:

Background: CEQA provides that in the absence of a fair argument that a project could have a significant effect on the environment, the appropriate environmental document is a negative declaration or mitigated negative declaration. A summary of the information used to reach these conclusions is compiled in the project's initial study and made a part of the project's staff report.

Issues: Documenting conclusions in plain language as well as explaining the magnitude of potential impacts along with the "how" and "why" of proposed mitigation measures are key concepts in the adequate and successful implementation of CEQA. Also, careful attention to cumulative impacts is required.

Conclusions/Recommendations: The Department is already working to incorporate changes to the initial study checklist into the County's CEQA process. Along with a renewed emphasis on staff training, this effort should result in more comprehensive documentation of the initial studies prepared for development projects.

Budget and Staffing Implications: Implementation of this recommendation will require 4-8 hours of staff time per initial study.

Grand Jury Recommendation 3.3: The County mitigation processes and procedures should be strengthened to require that staff clearly identify projects recommended for approval on the basis of negative declarations on all agendas as such and provide full and adequate notice of such projects and of the proposed negative declaration treatment to all interested parties, including (but not necessarily limited to) area advisory councils and newspapers of general circulation, not less than 30 days in advance of any consideration by a County agency.

Department Response:

The department will consider these additional staffing needs for the fiscal year 2002/2003 budget.

Discussion:

Background: The minimum public notice specified in state law for negative declarations and mitigated negative declarations includes a 20- or 30-day public review period (30 days for projects that require state agency review; 20 days for all others), publishing the notice of the proposed negative declaration in a newspaper of general circulation in the area where the project is proposed, and mailing the notice to any state agency with jurisdiction over the projects, as well as to any person or group who has previously requested the notice for a particular project. County processes currently comply with these requirements.

In addition, early notice of a proposed negative declarations is posted in the Planning and Building Department and is listed on the weekly Board of Supervisors' agenda (which is posted on the County's website). This "courtesy" notice, which is mandated by the County's local CEQA Guidelines, is given well in advance of the notice specified in state law. Additional notice is given by combining the notice of a proposed negative declaration with the public hearing notice mandated by planning law. Through this process, notice of a proposed negative declaration is mailed to all landowners within 300 feet of any project site. As a matter of policy, these notices are also mailed to appropriate advisory councils.

Issues: At present, the County's methods and processes for noticing proposed negative declarations far exceed the requirements of state law. However, there are opportunities to include additional "flags" in the process so that interested persons can more easily participate in the process. Inclusions of projected hearing dates and staff contacts in the courtesy notice may make that early notice more useful. Inclusion of the environmental document type in the agenda listings for the Subdivision Review Board, Minor Use Permit, and Planning Commission Hearings could also provide useful information, especially to the degree that these agendas are posted on the Department's website.

Conclusions/Recommendations: The ability of the public to participate in the CEQA process, although tightly defined and limited by state law, is emphasized as a key component of the County's environmental review process. Noticing procedures should be reviewed in order to identify any additional cost-effective measures that could be taken to enhance public participation.

Budget and Staffing Implications: Additional staff time to implement these changes to the notice process identified above would amount to 1-5 hours per project. Given the number of projects involved, this would incrementally increase staffing needs. A bigger issue is the question of how well the Department is able to meet current requirements with existing staffing. Although basically the same, noticing requirements do vary on a project-by-project basis. The one staff person best able to identify the "special" noticing requirements of any project is the assigned staff project manager. Given the range of special requirements that may apply, the ability of administrative staff or automated systems to assist in this effort is limited, leaving the task to the project manager.

Grand Jury Recommendation 3.4: The county mitigation processes and procedures should be strengthened. A county procedure should be written to implement these requirements.

Department Response:

This recommendation has not yet been implemented, but could be implemented in the future, within two years.

Discussion:

Background: The County CEQA Guidelines specify general requirements, along with those in state law, but do not describe the process in detail with reference to internal procedures.

Issues: None.

Conclusions/Recommendations: A policies and procedures manual describing the internal processes used by the Department to implement CEQA should be prepared.

Budget and Staffing Implications: Staff hours equivalent to a half staff year would have to be dedicated to this task.

Grand Jury Recommendation 4.1 and 4.2: The county should reevaluate recent land use project/CEQA processing decisions in the broad context of public stewardship responsibilities, especially in view of developing an enhanced understanding of cumulative effects by:

- Assuring that the EIR supporting the possible amendments to the Growth Management Ordinance is not piecemealed, rather it should consider a wide range of alternatives that apply countywide. The scope should be developed in cooperation with the local communities and the effort conducted with extensive public participation. Consideration should be given to amending RFP PS-704 to be responsive to the discussion on page 14 of this report (Grand Jury Report).
- Conducting a comprehensive planning and environmental analysis for the eight general plan amendments proposed in the South County Planning Area. Details are given beginning on page 15 of this report (Grand Jury Report).

Department Response:

These recommendations have not yet been implemented, but could be implemented in the future, with a time frame for implementation.

Discussion:

Background: Although this recommendation references "the broad context of public stewardship," it specifically focuses on processing decisions that were made in regard to the Growth Management Ordinance. It is the opinion of the Grand Jury that the work scope of the EIR being prepared to address the Growth Management Ordinance should address a wide range of alternatives that apply countywide and should include extensive public participation. Also as a part of this recommendation, reference is made to pages 15 and 16 of the Grand Jury Report which includes a discussion of "piecemealing" in conjunction with review of the Growth Management Ordinance and eight proposed general plan amendments in the South County Planning Area.

RFP PS-704 is the Request For Proposal that was prepared by Planning and Building Department staff for the purpose of soliciting proposals from consulting firms to prepare the EIR for proposed amendments to the County's Growth Management Ordinance. As part of the project description, the RFP includes reference to the eight proposed general plan amendments recently authorized for processing by the Board of Supervisors.

Issues: For purposes of impact assessment, lead agencies should define projects broadly to ensure a complete analysis of impacts resulting from all reasonably foreseeable projects that will likely change the scope and/or nature of the initial project or its environmental effects. Staff is in the process of soliciting proposals from consultants for the EIR to be prepared on the proposed changes to the Growth Management Ordinance. In order to avoid piecemealing and address cumulative impacts (as defined in the Background Section above), staff is proposing to include as part of the analysis:

- The Board of Supervisors' initiated amendments to the Growth Management Ordinance (please see list under Background Section above);
- The eight proposed South County General Plan Amendments; and
- The 180 "pipeline projects."

There is reference in the Grand Jury Report, page 16, to the project description for the EIR as provided in the RFP: "As the project description is currently written it is going to be very difficult to determine what alternatives should be considered and studied." The report goes on to cite a case considered by the County of Inyo, and based on this case, concludes that the EIR will be too confusing if proposed general plan amendments are studied along with amendments to the Growth Management Ordinance. Further, it is stated that this approach will result in incessant shifts among different project descriptions drawing a red herring across the path of public input.

By including the above bulleted components as part of an overall analysis, the stated objectives of the Grand Jury will be met by avoiding piecemealing and allowing development of an enhanced understanding of cumulative effects. However, the issues covered in this EIR are complex. It will be a challenge to ensure that the EIR is legally adequate as well as clear and understandable.

Conclusions/Recommendations: The preparation of this EIR is a major project which will take approximately one year to complete and require a significant number of staff hours to complete. Staff will work towards ensuring that opportunities for public input are included and that the EIR is comprehensive, clearly written and legally defensible. The

Department expects to cover staff costs within the existing budget; however, consultant costs for EIR preparation will need to be allocated by the Board of Supervisors.

Grand Jury Recommendation 4.3: The county should reevaluate recent land use project/CEQA processing decisions in the broad context of public stewardship responsibilities, especially in view of developing an enhanced understanding of cumulative effects by developing a work plan to direct the water resource capacity study and preparatory work to enable the study [*sic*] should be completed in advance of the DWR report, see page 11 of this report (Grand Jury Report).

Department Response:

This recommendation has not yet been implemented. The Grand Jury suggests that it is not necessary to wait until the Department of Water Resources completes its study of Water Resources of the Arroyo Grande - Nipomo Mesa Area before the Planning Department initiates a resource capacity study for the Nipomo Mesa. We agree with the Grand Jury. Before the end of June 2001, the Planning Department will initiate the data gathering portion of the resource capacity study by requesting the service providers provide the necessary historical information about water production and service connections. The remained of the resource capacity study will then be completed upon receipt of the final Department of Water Resources report.

Recommendation 5.1: The county should evaluate policy decision making by directing staff to prepare a single annual report that contains information about the general plan, CEQA actions, and the capital budget. This composite report should be combined with the RMS annual report.

Department Response:

This recommendation requires further analysis.

Discussion:

We agree that a comprehensive annual report summarizing how development activity, changes in status of resources and identified cumulative environmental impacts relate to policies in the General Plan would be a useful planning tool and could lead to more informed capital improvement budget decisions, infrastructure improvements, and land use decisions.

Scope and Parameters of Further Analysis or Study: Exactly what the needed

information is and how it is reported – by community, planning area, or countywide – would need to be determined. In addition, what CEQA and RMS data would be reported and how it would be used would also need to be developed prior to a final recommended approach to a new substantive annual report. An expanded RMS annual report or a composite report could include information about land use changes occurring during the preceding years. Changes in land use categories could be reported by planning area, as well as countywide. The report could include changes of acreage for all land use categories. It could also include projected changes in buildout as a result of changes in land use designation, expressed as number of dwelling units and population. It is envisioned that this information would be reported by planning area and community, rather on a project-by-project basis. Thus, whenever a change in land use is approved, the acreage, dwelling unit and buildout totals would be adjusted for the affected community and planning area. The report could also include information about the capital improvement program, as previously described in the staff comments to the Grand Jury's Finding o. The Department will develop this new approach and a work program for accomplishing it as a proposal for the Board of Supervisors to consider during FY 2001/2002.

Grand Jury Recommendation 5.2: The county should evaluate policy decision making by amending the RMS process to include an annual policy decision on the level of severity.

Department Response:

Requires further analysis. Implications of the Grand Jury's recommendation are discussed. Alternative recommendations are suggested.

Discussion:

The recommendation is interpreted to mean that the Board of Supervisors should certify all or most recommended levels of severity at the time the Annual Resource Summary Report and Growth Management Ordinance are considered by the Board. If LOS certification were to take place at this time, recommended actions would go into effect upon certification.

Implementing this recommendation would involve changes to the current RMS process. The effect of these changes causes us to question the validity of this approach. The two central concerns are that the role of the Planning Commission in the certification process would be jeopardized and that logistical difficulties would make the recommendation unworkable. Also, there may be other ways to address the concerns of the Grand Jury that do not have such undesirable impacts.

Planning Commission involvement in the process of certifying levels of severity:

As currently structured, certification of a level of severity is accomplished through a process that includes the following steps:

A. The Board of Supervisors directs staff to prepare a Resource Capacity Study;

B. The Planning Commission holds a public hearing on the RCS;

C. The Board of Supervisors holds a public hearing on the RCS;

D. The LOS is certified and actions directed by the Board are implemented.

The Planning Commission public hearing is considered an essential part of the certification process. The Resource Management System is part of the Land Use Element of the County General Plan. The primary function of the Planning Commission is to advise the Board of Supervisors on land use matters. However, if the process were revised so that the Board certified all levels of severity at an annual public hearing, the Planning Commission would be eliminated from the process at this point in time.

A key issue is the time frame for gathering resource information from service providers and preparing the Annual Report for public distribution. Water production and sewage treatment plant data is typically reported on a "water year" basis, which is the year ending June 30. This standard has been adopted for the Annual Resource Summary Report. Thus, information in the Annual Report is current as of the year ending June 30. Work on the RMS Annual Report begins the first week in July when requests for the current year's data are mailed to service providers. Allowing 45 days for requests to go out and for the receipt of information from service providers, and another 45 days for preparation and distribution, the report could be made available to the public on about the first of October, except for the school information which is generally not available until October. With school data, the report could be made available in mid-October. A public hearing could be scheduled 30 days later, in mid-November. This would give the public time to review the report and prepare for a public hearing. Also, during this review period, the report could be included on the agenda of each of the community advisory councils. The Board of Supervisors would then consider the RMS Annual Report when setting the allowable growth rate for the ensuing calendar year.

Logistical difficulty of certifying several levels of severity at a single public hearing:

Historically, public hearings dealing with resource capacity studies have been quite lengthy. Because of the potential economic and environmental impacts that would

follow from certification and subsequent actions the Board could implement, there tends to be a great deal of public comment on both sides of the issue. Attempting to certify several levels of severity at a single public hearing could be extremely difficult to accomplish.

Alternative Recommendations:

a. Expand time period for public review prior to the public hearing on the Annual Resource Summary Report / Growth Management Ordinance.

The annual public hearing of the Growth Management Ordinance provides the Board of Supervisors with a means of responding quickly to resource issues that can be addressed by establishment of a localized growth limitation. The Board's recent actions regarding Cambria and the Nipomo Mesa are examples. However, the short time between public availability of the Annual Resource Summary Report / Growth Management Ordinance staff report and the subsequent Board of Supervisors public hearing has been criticized on the grounds that it gives the public insufficient time to review the report and prepare for the public hearing. This is a valid criticism. The Planning Department can adjust the production schedule for this report so that it becomes available to the public in October, at least 30 days before the hearing in November. Also, the scope of the Annual Report can be expanded so that it includes more information about land use changes, environmental determinations and capital improvements, as discussed in the response to Recommendation 5.1 above. Provision of a more comprehensive report with more time for public review should enhance the ability of the public to communicate their opinions about resource matters to the Board of Supervisors at the annual public hearing, enabling the Board to take definitive action where there is a clear showing of public support.

b. Place greater emphasis on the use of the "advisory memorandum."

The RMS process includes provision for an "advisory memorandum" by which the Board of Supervisors is notified of a potential resource issue. The advisory memo includes relevant information available to the Planning Department, but does not include the more detailed information and analysis contained in a Resource Capacity Study. Upon consideration of an advisory memorandum, the Board may implement a menu of "interim" actions prior to the completion of a Resource Capacity Study. These actions would include those listed in Framework for Planning designed to slow the rate at which a resource is being consumed.

The Annual Resource Summary Report is considered to be the same as an "advisory memo". It contains the resource data submitted by the various service providers, but

not the detailed analysis found in a Resource Capacity Study. The annual report has recently been used to advise the Board about water supply issues in Cambria and the Nipomo Mesa. In these cases, the Annual Report included some preliminary analysis based on draft water studies for the respective areas. In response, the Board enacted growth limits in both areas, using the mechanism of the annual review of the Growth Management Ordinance. Use of the Annual Resource Summary Report as an advisory memorandum could be given greater emphasis through the inclusion of the full range of options available to the Board as interim conservation measures, rather than only those options that can be implemented via Title 26. The interim measures would remain in effect until the completion of a Resource Capacity Study, the Planning Commission public hearing and certification of the Level of Severity by the Board of Supervisors. This is currently within the Board's purview, and no modification of Framework for Planning would be required for its implementation.

c. Make the implementation of "interim" conservation measures mandatory.

As a variation on the placement of greater emphasis on use of the advisory memorandum, the implementation of resource conservation measures or growth management measures could be made mandatory, rather than optional, as is currently the case. Mandatory measures at each level of severity could be specified in Framework. Following adoption of the interim measures, the resource issue would follow the same process - Resource Capacity Study, Planning Commission and Board certification of the Level of Severity. At the time of certification, the Board would determine whether to leave the interim measures in place, revise them or eliminate them. This approach would require an amendment to Framework for Planning.

Budget and Staffing Implications: Staff can implement any of these alternative with existing resources.

Recommendation 5.3: The county should evaluate policy decision making by directing the Vision 20/20 Task Force to:

- Refine and adopt the agenda included in Appendix M,
- Use a peer review group in the process,
- Develop a time table for its implementation, and
- Advise the Grand Jury of the results.

Department Response:

The Department generally agrees with this recommendation, but implementing it requires further analysis of program funding, staff resources and schedules for completing the specific recommended activities listed in Appendix M. The department

will begin this process of analysis and implementation programming during FY 2001/2002 through our Strategic Plan effort and development of future budget proposals as available staffing resources allow. See responses to Findings dd and ee above.

Discussion:

As noted in our earlier response to Finding dd, the Vision 20/20 is an internal department effort to identify and begin to respond to issues affecting the County in the next two decades. The Grand Jury feels that effort should become a much larger and formalized effort and should address a number of specific issues.

There are 12 bullet items in Appendix M. For ease of reference, they are summarized and numbered 1 thru 12 in the discussion that follows. The scope and parameters of further analysis or study for some of the items is identified below. However, many of these items appear to be restatements of some of the findings and recommendations. Where that is the case, the reader is referred to the discussion for the corresponding finding or recommendation.

M.1. Methodology for keeping plans current and valid; annual certification of the General Plan and area plans.

This will require developing a qualitative approach for timely evaluation of the effectiveness and status of plans. Increased funding and staffing needs for updates will need to be identified and allocated and a protocol for participant adherence to programmed schedules will need to be developed. Also see the response to Finding j, above.

M.2. Methodology for identifying and evaluating cumulative impacts annually, in cooperation with local communities.

This will require developing a qualitative approach for effectively monitoring cumulative impacts annually with timely involvement of the affected communities. Staffing and funding needs for this new approach will need to be identified and allocated and a protocol for participant adherence to programmed schedules will need to be developed. Also see the responses to Finding k and Recommendation 5.1, above.

M.3. Methodology to integrate the RMS into the proposed continuing planning process and annual reports.

This will require developing a qualitative approach for more effectively integrating the RMS into the plan update and annual report processes. Staffing and funding needs for this new approach may need to be identified and allocated. Also see the responses to Findings **j and k** and Recommendation **5.1**, above.

M.4. Method for Board of Supervisors and county government to encourage CACs and others to monitor projects for environmental impacts and communicate their concerns to the Board of Supervisors and county agencies.

See the responses to Findings **b, c, e, f** and **g**, above.

M.5. Schedule for updating the General Plan and area plans.

This will require developing an approach for prioritizing plans for updating and a protocol for ensuring participant adherence to programmed schedules. Funding and staffing needs for updates will also need to be identified and allocated. Also see the response to Findings **i and j**, above.

M.6. Requirement and format for capital budget for resource capacity expansions and plan implementation.

The table included as Attachment C indicates a format for the capital budget information. This table would be included in the expanded annual report, referred to in Recommendation **5.1**, above.

M.7. Requirement for an annual report on the General Plan that would include identification of data elements and data collection methodology; coordination with CACs and the public; the proposed capital budget; environmental determination report; and plan implementation.

See the responses to Finding **k** and Recommendation **5.1**, above.

M.8. Countywide policy on public scoping of environmental studies.

See the response to Recommendation **1.B.6**, above.

M.9. Countywide policy to address the 300-foot notification rule.

The Department has a legal requirement to provide notice within a 300-foot radius of the boundary of the property (and in the coastal zone for occupants who are not owners of the property within 100 feet). The Board has directed for some projects that we use a

wider boundary. Where staff believes that the 300 feet will provide clearly limited notice to perhaps a single property, they will often include a broader area. In addition, if there is substantial interest in the community, staff will provide for wider notice to include up to 1000 feet or even larger. It should be noted that there are substantial costs associated with providing this notice (postage, printing, staff time) that must be considered in establishing a policy on additional notice. In the vast majority of projects, the Department does not receive inquiries concerning the project and there will be no one who participates in the public hearing or comments on the environmental review of the project. Any change in the policy should be addressed through review by the Board of Supervisors.

M.10. Periodic public educational forums.

The Department has recently provided an educational forum to individuals who participate on community advisory councils. The Department has also provided periodic educational forums to both developers and the environmental community. These outreach or educational forums include detailed discussion of the County's permit processing and environmental review procedures.

At this time, the Department does not have a program of regularly scheduled educational forums. While developing a program that would provide annual outreach with regard to the County's environmental review process would be beneficial, there could be significant costs associated with this type of periodic program. This option will be considered when preparing the budget proposal for FY 2002/03.

M.11. Training/career development program for environmental enforcement staff.

See the discussion for Grand Jury Recommendation 2.5.

M.12. Environmental mitigation monitoring.

See the responses to Findings x and z, above.

Attachment A

of Exhibit 2

IN THE BOARD OF SUPERVISORS
COUNTY OF SAN LUIS OBISPO, STATE OF CALIFORNIA

RECEIVED
SEP 29 2000
BOARD OF SUPERVISORS
COUNTY OF SAN LUIS OBISPO

Tues day December 10, 19 96

PRESENT: Supervisors Harry L. Ovitt, Evelyn Delany, Ruth E. Brackett, David Blakely, and Chairperson Laurence L. Laurent

ABSENT: None

RESOLUTION NO. 96-485

RESOLUTION ESTABLISHING CRITERIA FOR BOARD-RECOGNIZED COMMUNITY ADVISORY COUNCILS

The following resolution is hereby offered and read:

WHEREAS, the Board of Supervisors values the input of community advisory councils; and

WHEREAS, the Board of Supervisors wants to make sure that advising bodies addressing the Board of Supervisors on current and future planning matters in the unincorporated areas actually represent the communities for which they speak; and

WHEREAS, the Board of Supervisors wishes to establish a consistent set of guidelines to assist in the formation of future community advisory councils.

NOW, THEREFORE BE IT RESOLVED, that in order for a community advisory council to be recognized by the San Luis Obispo County Board of Supervisors as being a representative body, it must meet the following criteria:

1. A community advisory council must be based in and represent a defined community within an established Urban or Village Reserve Line, which can include representatives from outlying or surrounding unincorporated areas associated with the community.

2. Community advisory council membership should reflect a broad cross-section of the community.

3. Advisory council meetings should occur regularly and be publicly noticed in a timely manner, and open to all members of the public.

4. Advisory council bylaws will be established and maintained which direct the organization and protocol of the council. These should include a statement of purpose, rules of order, frequency of meetings and method of appointment of subcommittees, and appointment or election of council members.

5. Recommendations made by the advisory council and forwarded to the Board of Supervisors or Planning Commission should be arrived at by a majority vote of a quorum of the membership, with as much public input as is feasible.

Upon motion of Supervisor Delany, seconded by Supervisor Blakely, and on the following roll call vote, to wit:

AYES: Supervisors Delany, Blakely, Chairperson Laurent

NOES: Supervisors Ovitt, Brackett

ABSENT: None

The foregoing resolution is hereby adopted.

Chairman, Board of Supervisors

ATTEST:

JULIE L. RODEWALD
Clerk of the Board of Supervisors
BY: Deputy Clerk

APPROVED AS TO FORM
AND LEGAL EFFECT

JAMES B. LINDHOLM, JR.
COUNTY COUNSEL
SAN LUIS OBISPO COUNTY
By
Deputy County Counsel
Date 12/2/96

STATE OF CALIFORNIA)
COUNTY OF SAN LUIS OBISPO) ss

I, JULIE L. RODEWALD, County Clerk of the above entitled County, and ex-officio Clerk of the Board of Supervisors, do hereby certify the foregoing to be a full, true and correct copy of an order made by said Board of Supervisors, and now remaining of record in my office.

Witness, my hand and seal of said Board of Supervisors this 20 day of Dec 19 96.

JULIE L. RODEWALD
County Clerk and ex-officio Clerk
of the Board of Supervisors
By
Deputy Clerk

Attachment C
of Exhibit 2

Attachment C: Suggested format for consolidated report of resource data and capital improvement projects

Water Supply

Community	Capacity	Current Year Production	Production per DU	Production per Capita	Population at LOS I	Population at LOS II	Population at LOS III	Population at Buildout	LOS R/C	Project	Cost Est	Responsible Agency	Status

Roads

Road Segment	Capacity Peak Hr Volume @ LOS D	Current Year Pk Hr Volume	Year for which LOS D is projected	LOS I Year	LOS II Year	LOS III Year	LOS this Year	Project	Cost Est	Responsible Agency	Status
Avila Beach Drive	1260	627									
Corbett Cyn Rd	713	332									
Halcyon Rd 492	846	348									

Sewage Treatment

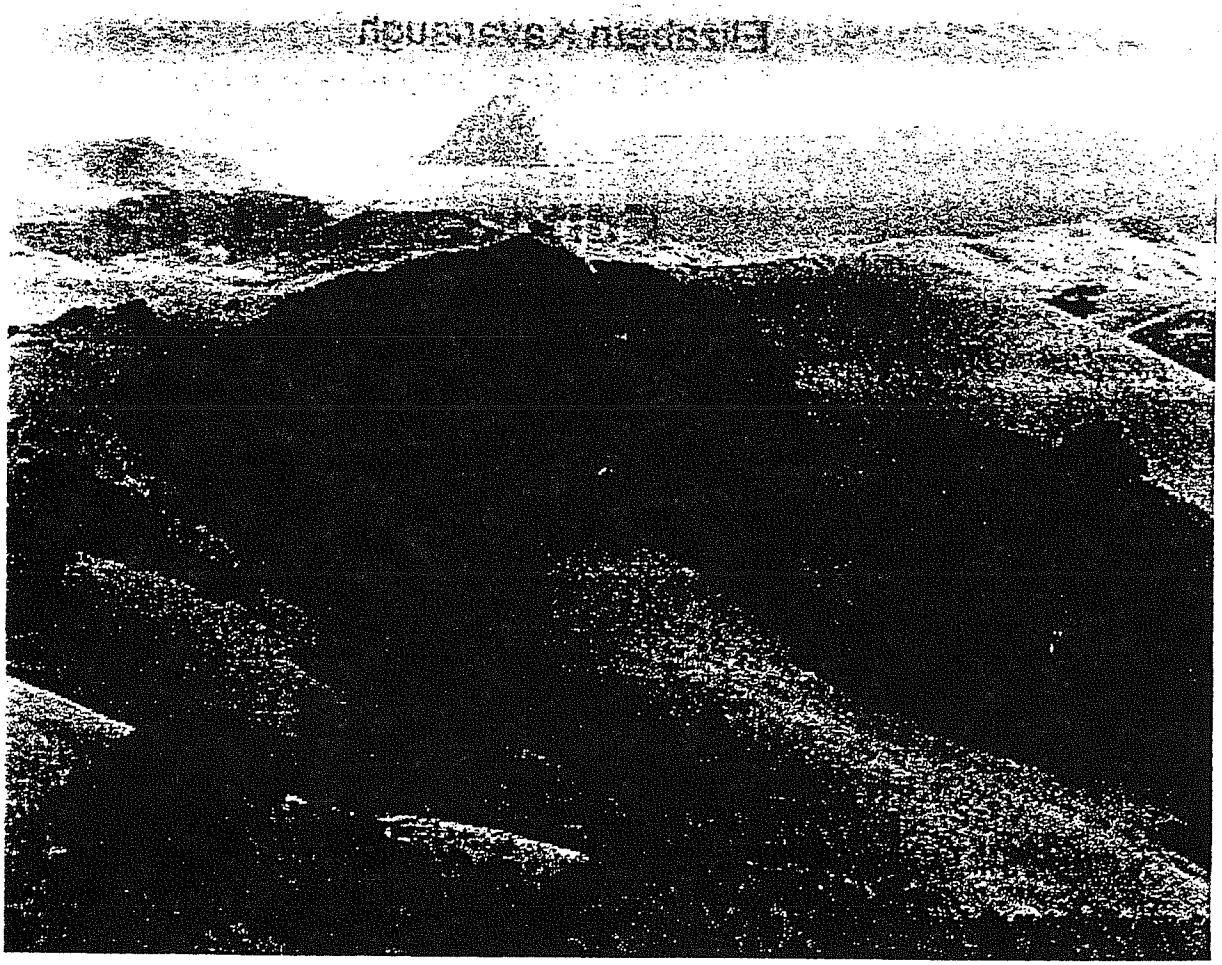
Treatment Plant	Capacity	Current Year Flow (ADWF)	Flow per DU	Flow per Capita	Population at LOS I	Population at LOS II	Population at LOS III	Population at Buildout	LOS R/C	Project	Cost Est	Responsible Agency	Status

Attachment
to
Department of Planning and Building
Response

Community Advisory Council Handbook
& Training Program

The San Luis Obispo County Department of Planning and Building submitted a copy of the training program and manual prepared for Community Advisory Council members. This attachment was in response to Grand Jury Recommendation 1.B.d. (See page 47.)

COMMUNITY ADVISORY COUNCIL TRAINING PROGRAM



April, 2001

Welcome Message

On behalf of the Board of Supervisors and the staff of the Planning and Building Department, I am delighted to welcome you to the first annual Community Advisory Council (CAC) training session. The purpose of today's program is to acquaint you with the regulations, policies, and procedures that, we believe, will make your job as a member of a CAC rewarding, pleasant, and a productive activity. In the course of the program, you will also be introduced to the staff associated with permitting process, who will tell you something about their specific responsibilities. In this way, we aim to give you an overall view of the Planning and Building Department operations and procedures. All this is very important, of course, but the most important part of the program comes at the end, when the Chairpersons of each CAC are invited to participate in an open question- and-answer session. In the Planning and Building Department, we have no silent employees. We ask that you join the team *and* remain an individual who speaks his or her mind. I'm confident that you will find today's program informative, thought-provoking, and worthwhile.

Vic Holanda, AICP
Director, Planning and Building Department

Production Credits

Pat Beck
Shawna Scott
Kami Griffin
Elizabeth Kavanaugh

Editors

Warren Hoag
Mike Wulkan
Ellen Carroll

Photographs

John Kelly

COMMUNITY ADVISORY COMMITTEE HANDBOOK & TRAINING PROGRAM

COMMUNITY ADVISORY COMMITTEE HANDBOOK

Welcome to the Community Advisory Council
What is the Community Advisory Council
The Role and Activities of the Council
The Council's Relationship with Staff and Elected Officials
Community Advisory Council Procedure and Conduct
Parliamentary Procedure
San Luis Obispo County Trivia

COMMUNITY ADVISORY COMMITTEE TRAINING PROGRAM

Welcome from Planning Director

The Basis for Planning - Why Plan

Introduction
What is Planning?
The General Plan
- Required Elements of a General Plan
- Amending and Updating the General Plan
- Consideration for Approval/ Denial of Amendment Request

Local Coastal Plans
Implementation of the General Plan
- Specific Plans
- Zoning Ordinances
- Subdivision Ordinances

California Environmental Quality Act
- Purpose of CEQA

County's Planning Program - What Is It and How Does It Work?

Required and Optional Elements of the General Plan
The County's Unique System
- The Land Use Element/An Example At Work

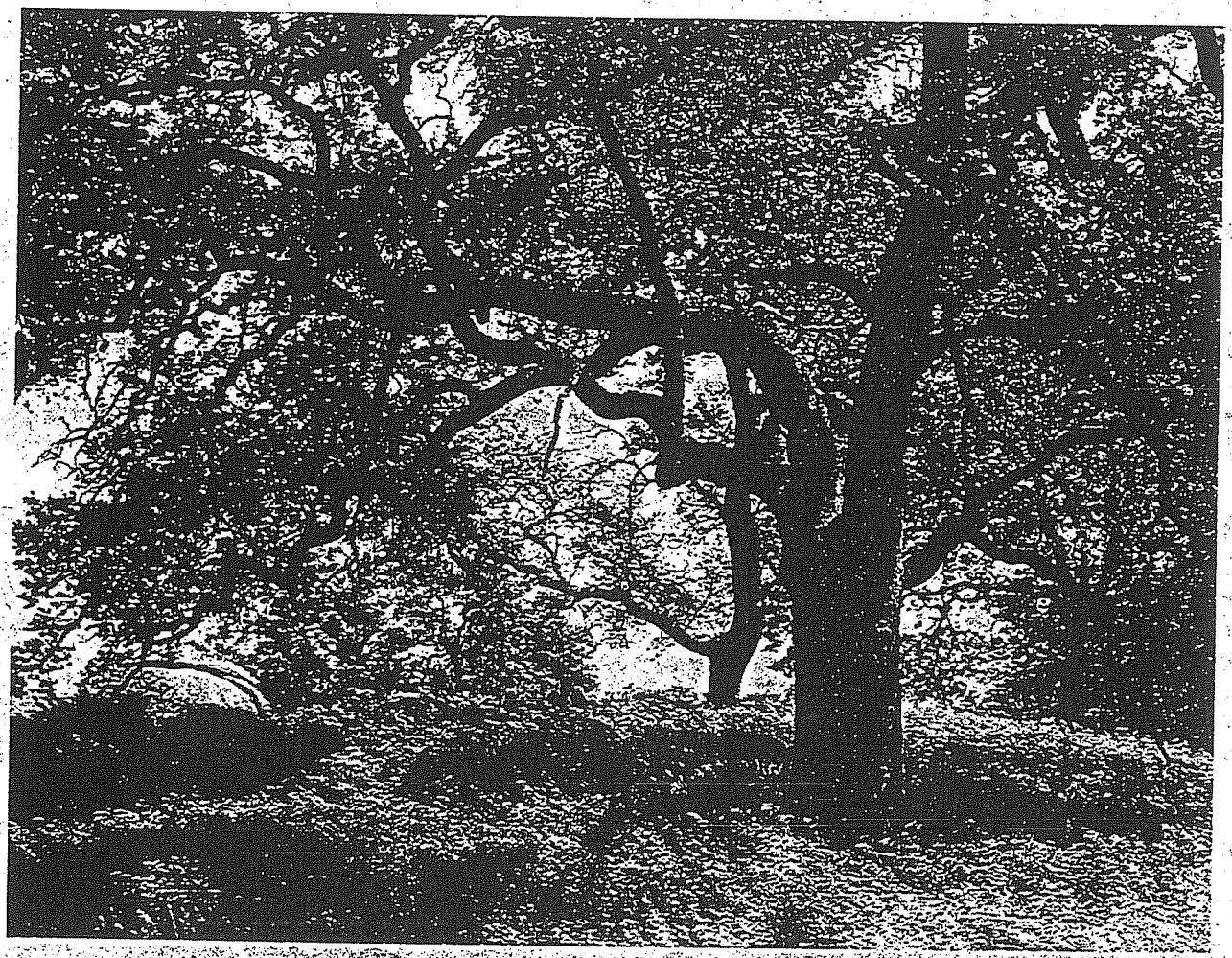
Implementing the Plans
Three Types of Development Applications
- Land Use permits
- Subdivisions
- Building and Grading Permits

Community Advisory Councils & Participation In the Planning Process

What is Considered in the Decision on a project?
Referrals from the County
How Much Time do you have to review?
How Are Comments from the Community Advisory Council Used?
Findings - The Basis for the Decisions
What Can be Required in a project?

Permit Types and Commonly-Used Definitions

THE BASIS FOR PLANNING



WHY PLAN?

This is the first version of the San Luis Obispo County Community Advisory Council Handbook & Training Manual developed for the April 28, 2001 workshop. This document will be revised to reflect questions/comments received at this workshop and updated as new information is available. If you have suggestions or comments that would help make this document better, please contact Pat Beck at 781-5981 or fax comments to 781-1242.

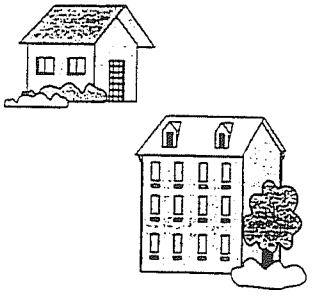
Introduction

One of the duties assigned to Community Advisory Councils is the responsibility to review general plans and development projects that are proposed in their community. Therefore, it is very important that the members both know and understand planning and land use policy and law. This section explains the definition and purpose of planning, and some important aspects of planning.

What is Planning?

Planning can be defined as the process by which public agencies, mostly cities and counties, determine the intensity and distribution of various land uses in a community. Good planning should be both reactive and pro-active.

- Planning can be done on a urban, suburban, rural, or regional scale.



- Planning also involves a political and public decision-making process.
- Plans and policy documents are designed to guide future development towards a specified goal.

Why Plan?

The legal basis for all planning regulations is the power of the local government to protect the public health, safety, and welfare of its residents. Planning is important for:

- identifying community issues
- predicting future demand for services
- establishing goals and policies for directing and managing growth
- regulating land use in a manner that encourages and supports orderly development and beneficial use of land
- minimizing adverse effects on the public
- protecting and enhancing significant natural, historic, archeological, and scenic resources

The Authority for Planning in California



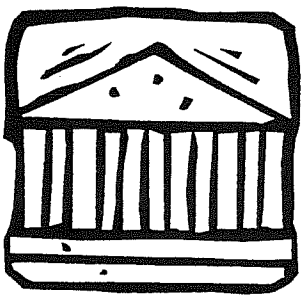
The "Planning, Zoning, and Development Laws" (Govt. Code Sections 65000 et. seq.) lays out the legal basis for the state's interest in planning.

The county must have a legislative body and a planning agency. The Legislative body for San Luis Obispo County is the Board of Supervisors. The Board of Supervisors is responsible for the planning and provision of services related to public needs and the requirements of state and federal laws. There are five elected Board of Supervisors, and each Supervisor is elected for a four-year term. Two of the Supervisors' terms are staggered so that all Supervisors are not standing for election at the same time. As the elected representative of the people of San Luis Obispo County, the Board of Supervisors establishes overall county priorities and sets policy. The Board then appoints members of the community to sit on the Planning Commission and establishes the duties that are assigned to the department staff.

Some Important Aspects of Planning

Local government decisions can be divided into three categories: legislative, quasi-judicial and ministerial. The first two types of action are discretionary decisions.

Legislative Actions

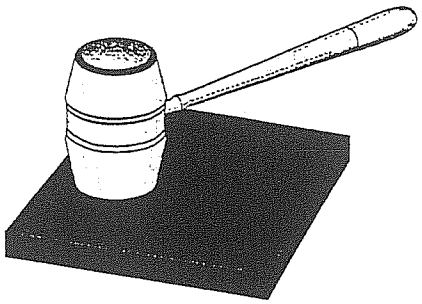


Legislative actions establish rules, policies, or standards of general applicability and are political in nature. They tend to declare a public purpose and make provision for the ways and means of its implementation. Legislative acts are subject to the California Environmental Quality Act (CEQA) and become binding only after they have been approved by the Board of Supervisors. These types of acts are also subject to citizen initiative and referendum, which means that they can be voted on as measures placed on a ballot.

Some examples of legislative acts include:

- the adoption or amendment of a general plan or a specific plan
- zoning or rezoning decisions
- incorporation or annexation decisions
- adoption of rules or regulations by a regulatory body

Quasi-judicial Actions

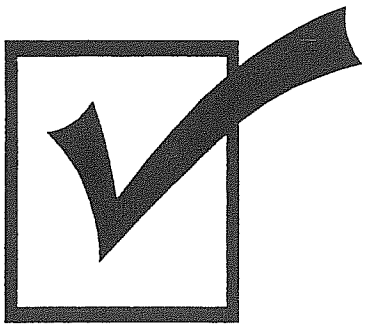


Quasi-judicial (discretionary) acts are decisions that apply legislative policy to individual development projects. Quasi-judicial actions merely interpret rather than set policies and involve some discretion on the part of the local government. The Hearing Officer's or Planning Commission's decision on quasi-judicial actions are legally binding. The decision, however, can be appealed to the Board of Supervisors. Quasi-judicial acts are also subject to review under CEQA.

Some examples of quasi-judicial acts are:

- approving a variance from zoning ordinances
- approval of tentative subdivision maps and parcel maps
- most types of land use permits, planned developed permits, and coastal development permits

Ministerial Actions



Ministerial acts are actions on which the local government has no discretion, if the project meets specific standards. These types of decisions are usually made by the planning staff. An example of a ministerial act is the issuance of a permit when certain conditions are met. For instance, the approval of a Minor Use Permit to permit a residence is a quasi-judicial act. The issuance of the building permit for that residence (a ministerial act) is mandatory if all specified conditions have been met.

Some examples of ministerial actions include:

- approval of a final subdivision map that substantially conforms to the tentative map
- issuance of a building permit for a development that is consistent with the zoning and applicable building codes
- implementation by a local agency or administrator of non-discretionary (non-quasi-judicial) duties imposed by ordinance or statute

The General Plan

California Planning Law requires the adoption of a comprehensive plan:

Each planning agency shall prepare and the legislative body of each county and city shall adopt a comprehensive, long-term general plan for the physical development of the county or city, and any land outside its boundaries which in the planning agency's judgement bears relation to its planning." - (Government Code Section 65300)



A comprehensive plan is a Master Plan or General Plan which represents the community's view of its future. It is a constitution for development consisting of goals and policies upon which hearing bodies will base all their land use and planning decisions. The adoption of a general plan is subject to CEQA.

> "Living or static, the comprehensive plan is supposed to be the supreme document guiding the future physical development of a community – the set of policies from which all decisions flow." (Fulton, 1999)

State law requires that every general plan must contain the following components or "elements":

- **Land Use**
- **Circulation**
- **Housing**
- **Conservation**
- **Open Space**
- **Noise**
- **Safety**

"The general plan may include any other elements or address any other subjects which, in the judgement of the legislative body, relate to the physical development of the county or city." - (Government Code, Section 65303)

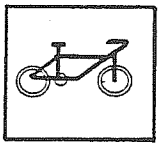
Some examples of optional elements include:

- **Air Quality**
- **Recreation**
- **Design**
- **Economic Development**
- **Energy**
- **Historic Preservation**
- **Infastructure**
- **Redevelopment**

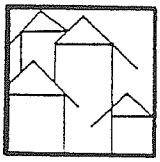
Required Elements of a General Plan



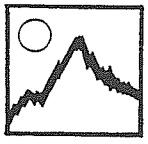
The Land Use Element designates the general location and intensity of housing, business, industry, open space, education, public buildings and grounds, waste disposal facilities, and other land uses.



The Circulation Element identifies the general location and extent of existing and proposed major roads, transportation routes, terminals, and public utilities and facilities. It must be correlated with the land use element.



The Housing Element is a comprehensive assessment of current and projected housing needs for all economic segments of the community and region. It sets forth local housing policies and programs to implement those policies.



The Conservation Element addresses the conservation, development, and use of natural resources including water, forest, soils, rivers, and mineral deposits.



The Open Space Element details plans and measures for preserving open space for natural resources, outdoor recreation, public health and safety, and the identification of agricultural land.



The Noise Element identifies and appraises noise problems within the community and forms the basis for distributing new noise-sensitive land uses.



The Safety Element establishes policies and programs to protect the community from risks associated with seismic, geologic, flood, and wildfire hazards.

Environmental Impacts

The environmental impacts (i.e. traffic, biological resources, archaeological resources, water, visual) of the proposed change will be carefully reviewed. Significant impacts will need to be mitigated through revisions or standards.

Local Coastal Plans

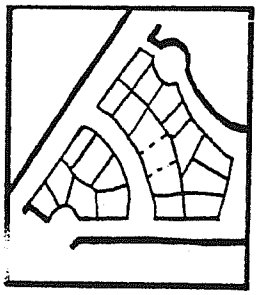
California Coastal Act (California Public Resources Code Section 30000 et. seq.)

The California Coastal Act (CCA) was adopted in 1976. This code was established as a result of a citizen's initiative, Proposition 20, that was approved by the voters of California in 1972. This Act created a unique partnership between the State (acting through the California Coastal Commission) and local government to manage the conservation and development of coastal resources through a comprehensive planning and regulatory system



The Coastal Commission has the authority to regulate land use in the Coastal Zone. The California Coastal Commission has 12 voting members and 4 non-voting members. Six of the voting members are "public members," and six are local elected officials who come from specific coastal districts. All voting members are appointed either by the Governor, Senate Rules Committee, or the Speaker of the Assembly; each appoints four commissioners, two public members and two elected officials. Each Commissioner may appoint an alternate to serve in his or her absence. The Secretaries of the Resources Agency, the Business and Transportation Agency, the Trade & Commerce Agency and the Chair of the State Lands Commission serve as non-voting members and may appoint a designee to serve in their place. George Luna, a local City Councilman from Atascadero, currently serves on the Commission as an alternate for the South Coast Representative. Coastal Commission staff that focus on San Luis Obispo issues work out of their Santa Cruz office.

Subdivision Ordinances



The "Subdivision Map Act" (Government Code Sections 66410 et. seq) is the California State law that governs the division of land. A land division or subdivision is defined by the State Subdivision Map Act as:

"...the division, by any subdivider, of any unit or units of improved or unimproved land, or any portion thereof, shown on the latest equalized county assessment roll as a unit or contiguous units, for the purpose of sale, lease or financing, whether immediate or future."

Proposals to divide property need to be filed with either a "tentative parcel map" or a "tentative tract map." Generally, a parcel map is required when the division creates fewer than five parcels. A tract map is required when five or more parcels will be created. Parcel maps and tract maps require CEQA review.

In general, land cannot be subdivided in California without local government approval. Dividing land for sale, lease or financing is regulated by local ordinances based on the state Subdivision Map Act. The local general plan and the zoning, subdivision, and other ordinances govern the design of the subdivision, the size of its lots, and the types of improvements that will be required as conditions of approval.

Lots within the subdivision cannot be sold and are not legal divisions of land until a final map has been recorded. The subdivider has at least two years (and with extensions, usually more) in which to comply with the improvement requirements, gain final administrative approval, and record the final map.

Tentative Maps - The tentative map must show how the property will be split up and the exact location of the lot lines. The local government will look at the design of the subdivision to ensure that it meets the requirements of the general plan and the subdivision ordinance. An environmental impact analysis must be done and an advertised public hearing held before a tentative map is considered for approval. If approved, the map will be subject to conditions that the subdivider must meet within a specific time period. At this stage, while conditions remain to be met, no lots have been officially approved.

Final Maps - When all of the conditions set for the approved tentative map have been satisfied, and compliance certified by county officials, the Board of Supervisors must approve a final map. Unlike a tentative map, which can be denied if it does not meet city or county standards, the final map must be approved (with some exceptions) if it substantially complies with the previously approved tentative map. The subdivider may now record the map at the County Recorder's office.

Other Land Divisions - There are also a number of other related applications. These include "lot line adjustments," "public lots," "certificates of compliance," and "voluntary mergers."

Lot Line Adjustment - A lot line adjustment is a modification of the boundary between two or more adjacent parcels. Land from one parcel is added to an adjacent parcel with no additional parcels created. For example, if you and a neighbor want to move a lot line that interferes with a barn or fence, a lot line adjustment is used.

Public Lot - A public lot is a request by a public agency to waive the requirement for filing a parcel map. It is used when land is conveyed to or from a governmental agency, public entity or public utility.

Certificate of Compliance - A certificate of compliance is a determination by the county that your parcel is a legally created parcel which complied with provisions of the Subdivision Map Act and county ordinances in effect when it was created. If the county determines that the parcel was not created legally, a conditional certificate of compliance will be issued. The certificate requires compliance with conditions that would apply to the land division if it was completed legally.

Voluntary Merger - A voluntary merger is used to combine two or more contiguous parcels under common ownership into a single parcel. All owners of record for the property need to agree to and sign the voluntary merger. For example, a voluntary merger is used when your house straddles a lot line, and you own both lots.

Findings That Must Be Made for Subdivisions

The deciding body must make the following findings when approving a tentative map or parcel map (Government Code Section 66474):

- The proposed map is consistent with the general plan and specific plans.
- The site is physically suited to the proposed type and density of development.
- The design of the subdivision or type of improvements is unlikely to cause serious public health problems.
- The design of the subdivision or the proposed improvements will not cause either substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat.
- Adequate conditions have been applied to the approval (or the project has been redesigned) to mitigate the environmental effects identified in the environmental analysis done for the project.
- All dedications and impact fees are reasonably related to the impacts resulting from the subdivision.
- If a mitigated negative declaration or EIR have been adopted or certified for the project, the mitigation measures identified therein have been made conditions of approval or otherwise required as part of the approval.

CEQA defines a project as a discretionary proposal (or any part of a proposal) which might result in physical changes to the environment. Some examples of projects are applications to change adopted plans, road development projects, use permit requests, and subdivisions of property.

Public projects are initiated by a state or local agency. A private project is initiated by an individual, company, landowner, developer, or other entity which needs public agency approval before completing a project. Public and private projects are treated the same way by CEQA. (San Luis Obispo County, 1995)

Environmental Determinations

The three most common Environmental Determinations under CEQA are:

- Categorical Exemptions
- Negative Declarations
- Environmental Impact Reports

Categorical Exemptions

CEQA permits the exemption, from environmental review requirements, of certain types of projects which are not expected to damage the environment. The State Secretary of Resources reviews candidate classes and lists them as exempt when appropriate.

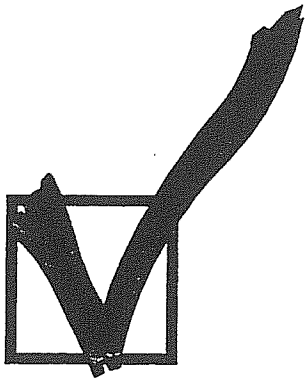
Some examples of Categorical Exemptions, are: (1) repair, remodel or minor additions to existing facilities; (2) construction of a single-family residence; and (3) gardening, landscaping, or minor grading for a driveway or sidewalk. General Rule Exemptions are sometimes applied to proposals which are not expected to harm the environment.

Even if a proposal is listed as exempt, it will be subject to environmental review if the agency determines that special circumstances exist which could result in environmental damage. For example, a parcel might be in the floodplain, have special habitat, a historic building, or other characteristics which would trigger the need for environmental review. A project proposed on that parcel is not likely to qualify for an exemption.



98

The Initial Study



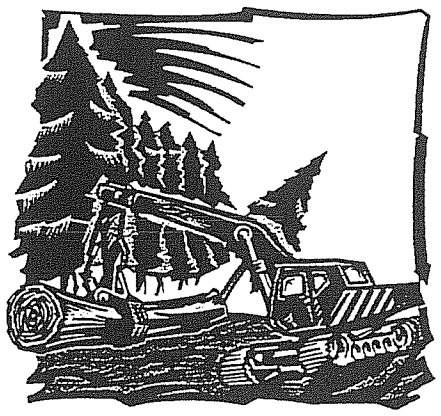
An Initial Study is an analysis of a project intended to: (1) provide information; (2) enable an agency to identify methods for changing a project with the intent of eliminating or reducing (mitigating) substantial environmental damage; (3) assist in the preparation of EIRs by identifying the environmental damages upon which an EIR should focus; (4) identify possible appropriate mitigation measures; and (5) ensure that all potential areas of environmental damage are identified. Initial Study preparers will generally complete an Initial Study Checklist as part of the Initial Study process. The Initial Study Checklist includes categories of physical damage, such as air quality and noise impacts, and provides a summary of potential for environmental impacts of the project.

Negative Declaration

The term "Negative Declaration" is sometimes misunderstood. A Negative Declaration is simply a statement that a project will not create significant environmental harm, or that environmental damage has been mitigated to a less-than-significant level. A Negative Declaration (ND) is issued after an Initial Study has been prepared showing that there will be no significant environmental impacts as a result of the project.

Environmental Impact Report (EIR)

When an Initial Study indicates that a project has the potential to significantly damage the environment, CEQA requires that an EIR be prepared. An EIR is an informational document to be used by the public and by decision-makers when making choices about projects. In an EIR, significant environmental damages (also called effects or impacts) are identified; methods (mitigation measures) for reducing or avoiding damage are identified; and project alternatives are developed which seek to reduce or avoid adverse environmental effects.



Significant and Cumulative Impacts

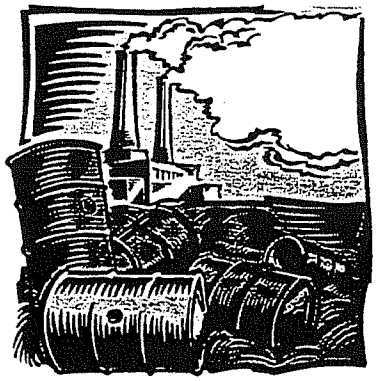
The term "significant impact" means substantial adverse damage to the physical environment. An initial study is prepared to assess a project's potential for causing environmental damage. The initial study will use the CEQA guidelines which contain a list of the types of projects which generally cause environmental damage. Examples of projects on the state's list are any which: substantially pollute water supply; use prime farmland for non-agricultural purposes; or cause substantial flooding, erosion or siltation.



The CEQA analysis relies upon independent judgement to decide whether a project may have the potential to cause substantial environmental harm. The CEQA process also evaluates local circumstances during the initial study process.

Sometimes, significant impacts are identified which can be eliminated or significantly reduced using various strategies. In these cases, impact reduction strategies (mitigation measures) will be recommended.

If significant impacts are expected, an Environmental Impact Report (EIR) will be required. During that process, damage will be assessed and quantified so that scientifically based findings of significant impact can be accurately reported.



Cumulative impacts represent the sum of many smaller impacts from many different project proposals. For example, a project site might be located in an area which has poor drainage. An agency may know that every time it approves a construction project site, runoff will increase downstream flood potential to some degree. The project's impacts become significant when added to those caused by many others in the project area. Examples of cumulative impacts include air and water pollution, traffic problems, and farmland loss.

Mitigation Measures



A mitigation measure is a strategy taken to reduce or eliminate a project's expected environmental damage; e.g., "No heritage oak trees may be removed." Sometimes, mitigation measures are designed to repair, restore or rehabilitate a damaged area; e.g., "All illegal fill will be removed from the floodplain and natural vegetation restored." Others may provide compensation for losses by providing substitute resources or environments; e.g., "Trees will be planted off-site to replace those removed during construction."

Mitigation Monitoring

To make sure that mitigation plans are effective, CEQA requires that agencies verify completion of mitigation measures. Agencies prepare and adopt mitigation monitoring plans which ensure that agency staff checks to make sure that mitigation measures are done correctly. When all mitigation requirements have been completed, and it can be assured that the mitigation will be successful, the mitigation monitoring plan will also be concluded. (San Luis Obispo County, 1995)



Public Notice and Review

Public hearings are not specifically required under CEQA. San Luis Obispo County has adopted procedures which require a public hearing for Final EIRs. In addition, County hearing bodies accept testimony on the environmental review, as well as the project itself, when project hearings take place.

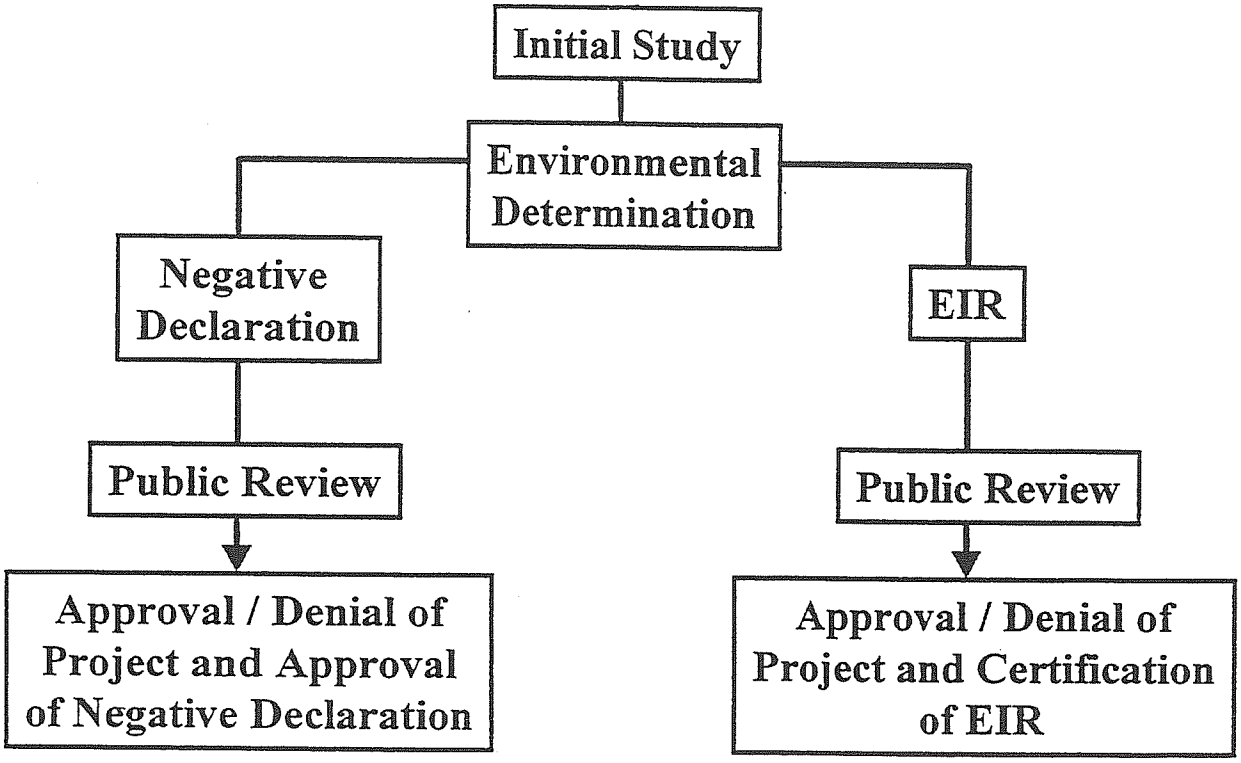


Public notice and review are CEQA requirements. The public review period for Negative Declarations is 20 to 30 days depending upon the project. The review period for an EIR ranges from 30 to 90 days, again, depending upon project characteristics. Public review is considered one of the most important parts of the CEQA process. Anyone can and is encouraged to comment upon the adequacy of environmental reviews.

CEQA PROCEDURAL REQUIREMENTS TO MEET OBJECTIVES

CEQA OBJECTIVES	CEQA PROCEDURES
Disclose environmental impacts	Initial Studies Negative Declarations Environmental Impact Reports
Identify and prevent environmental damage	Mitigation measures Alternatives Mitigation monitoring
Disclose agency decision making	Findings Statements of overriding consideration
Enhance public participation	Scoping Public notice requirement Response to comments Legal Enforcement procedures Citizen access to the courts
Foster intergovernmental coordination	Early consultation Scoping meetings Notices of preparation State Clearinghouse review

Summary of County's Environmental Review Process



LISTED ANIMAL SPECIES
SAN LUIS OBISPO COUNTY

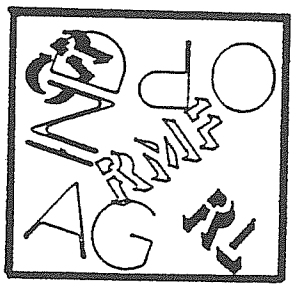
WILDLIFE GROUP	COMMON NAME	SCIENTIFIC NAME	FEDERAL STATUS	STATE STATUS
Amphibians	Arroyo southwestern toad	*Bufo microscaphus californicus*	Endangered	Special Concern
	California red-legged frog	*Rana aurora draytonii*	Threatened	Special Concern
	California tiger salamander	*Ambystoma californiense*	Endangered	Special Concern
Birds	American peregrine falcon	*Falco peregrinus anatum*	None	Endangered
	Bald eagle	*Haliaeetus leucocephalus*	Threatened	Endangered
	Brown pelican	*Pelecanus occidentalis*	Endangered	Endangered
	California clapper rail	*Rallus longirostris obsoletus*	Endangered	Endangered
	California black rail	*Laterallus jamaicensis*	None	Threatened
	California condor	*Gymnogyps californianus*	Endangered	Endangered
	California least tern	*Sterna antillarum browni*	Endangered	Endangered
	Least Bell's vireo	*Vireo bellii pusillus*	Endangered	Endangered
	Southwestern willow flycatcher	*Empidonax traillii extimus*	Endangered	Endangered
	Swainson's hawk	*Buteo swainsoni*	None	Threatened
	Western snowy plover	*Charadrius alexandrinus nivosus*	Threatened	Special Concern
Fish	Southern steelhead	*Onchorynchus mykiss*	Threatened	Special Concern
	Tidewater goby	*Eucyclogobius newberryi*	Endangered	Special Concern
Invertebrates	Longhorn fairy shrimp	*Brachinecta longiantenna*	Endangered	None
	Vernal pool fairy shrimp	*Brachinecta lynchi*	Threatened	None
	Morro shoulderband snail	*Helminthoglypta walkeriana*	Endangered	None
Mammals	San Joaquin antelope squirrel	*Ammospermophilus nelsoni*	None	Threatened
	Giant kangaroo rat	*Dipodomys ingens*	Endangered	Endangered
	Morro Bay kangaroo rat	*Dipodomys heermannii morroensis*	Endangered	Endangered
	San Joaquin kit fox	*Vulpes macrotis mutica*	Endangered	Threatened
	Southern sea otter	*Enhydra lutris nereis*	Threatened	None
	California gray whale	*Eschrichtius robustus*	Endangered	None
Reptiles (List does not include Sea turtles)	Blunt nosed leopard lizard	*Gambelia sulis*	Endangered	Endangered
	Southwestern pond turtle	*Clemmys marmorata pallida*	None	Special Concern

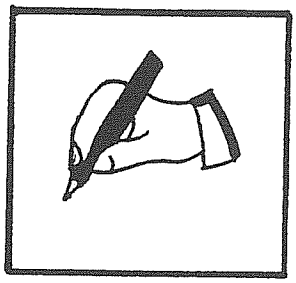
LISTED PLANT SPECIES
SAN LUIS OBISPO COUNTY

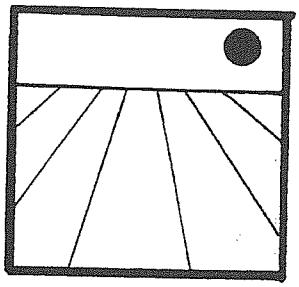
COMMON NAME	SCIENTIFIC NAME	FEDERAL STATUS	STATE STATUS
California jewelflower	*Caluanthus californicus*	Endangered	Endangered
California seablite	*Suaeda californica*	Endangered	None
Camatta canyon amole	*Chlorogalum purpureum* var. *reductum*	Threatened	Rare
Chorro Creek bog thistle	*Cirsium fontinale* var. *obispoense*	Endangered	Endangered
Gambel's watercress	*Rorippa gambellii*	Endangered	Threatened
Hoover's wooly-star	*Eriastrum hooveri*	Threatened	None
Indian Knob mountainbalm	*Eriodictyon altissimum*	Endangered	Endangered
La Graciosa thistle	*Cirsium loncholepis*	Endangered	Threatened
Surf thistle	*Cirsium rhothophilum*	None	Threatened
Marsh sandwort	*Arenaria paludicola*	Endangered	Endangered
Hearst's manzanita	*Arctostaphylos hookeri* ssp. *hearstiorum*	None	Endangered
Morro manzanita	*Arctostaphylos morroensis*	Threatened	None
Nipomo Mesa lupine	*Lupinus nipomoensis*	Endangered	Endangered
Pismo clarkia	*Clarkia speciosa* ssp. *immaculata*	Endangered	Rare
Purple amole	*Chlorogalum purpureum*	Threatened	None
Salt marsh bird's beak	*Cordylanthus maritimus* ssp. *maritimus*	Endangered	Endangered
San Joaquin wooly-threads	*Lembertia congdonii*	Endangered	None
Dwarf goldenstar	*Bloomeria humilis*	None	Rare
Hearst's ceanothus	*Ceanothus hearstiorum*	None	Rare
Maritime ceanothus	*Ceanothus maritimus*	None	Rare
Beach spectacle pod	*Dithyrea maritima*	None	Rare
Dudley's lousewort	*Pedicularis dudleyi*	None	Threatened
Adobe sanicle	*Sanicula maritima*	None	Rare
Cuesta Pass checkerbloom	*Sidalcea hickmanii* ssp. *anomala*	None	Rare

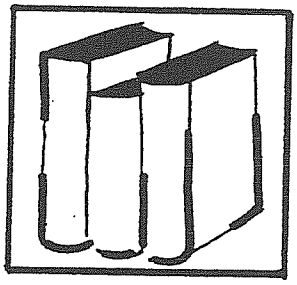
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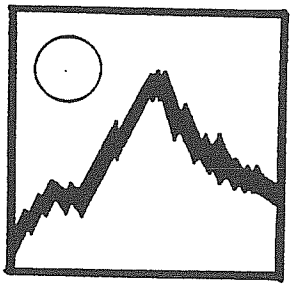
THE COUNTY'S PLANNING PROGRAM

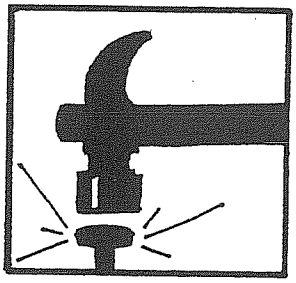








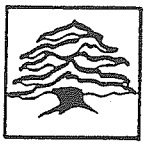




WHAT IS IT AND HOW DOES IT WORK?

This is the first version of the San Luis Obispo County Community Advisory Council Handbook & Training Manual developed for the April 28, 2001 workshop. This document will be revised to reflect questions/comments received at this workshop and updated as new information is available. If you have suggestions or comments that would help make this document better, please contact Pat Beck at 781-5981 or fax comments to 781-1242.

The County's General Plan - What Is It and How Does It Work?



The San Luis Obispo County General Plan is the foundation upon which all land use decisions in the unincorporated area of the county are based. Its main purposes are to illustrate the public policy for future land use for both public and private lands, and to provide the County Board of Supervisors, Planning Commission, Subdivision Review Board and Zoning Administrator with specific direction for future decisions affecting land use and development.

Each of the seven incorporated cities within San Luis Obispo County also has a general plan that covers land within its jurisdiction. The county's general plan does not affect land within the seven incorporated cities.

There are seven required general plan "elements":

- **Land Use**
- **Circulation**
- **Housing**
- **Conservation**
- **Open Space**
- **Noise**
- **Safety**

In addition to the required elements, a city or county may adopt optional elements. The county has adopted seven optional elements:

- **Recreation**
- **Esthetic**
- **Energy**
- **Historic**
- **Offshore Energy**
- **Economic**
- **Agriculture**

Because all elements of the general plan have equal legal status, the general plan must resolve potential conflicts between or among the elements through clear language and consistent policy. (This is called "internal consistency").

A portion of the county is within the ***coastal zone***, which is a specific area designated by the 1976 California Coastal Act. The Land Use Element/Local Coastal Plan applies to the portions of the county within the coastal zone. The Land Use Element applies to areas outside of the coastal zone - the inland portions of the county.

REQUIRED & OPTIONAL ELEMENTS



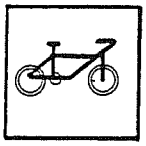
Land Use Element (Inland & Coastal)

The Land Use Element (LUE) has the broadest scope of the seven required elements. It designates the general distribution and intensity of uses of land for housing, commercial, industry, open space, education, public facilities, and other categories of both public and private uses. Because the LUE is so extensive, it is sometimes mistaken for the entire general plan. More information about the Land Use Element is provided in the next section entitled "The County's Unique System".



Agriculture & Open Space Element

The Agriculture and Open Space Element not only establishes strategies for protecting and preserving open space resources, but also provides strategies for maintaining productive agriculture in the county. It identifies lands which are appropriate for preservation as open space. It contains policies and measures for: preserving areas of open space, protection of natural resources, managed production of resources, outdoor recreation, public health and safety, and identification of agricultural land.



Transportation Plan

The Transportation Plan acts as the required Circulation Element. As each Area Plan is updated, this Plan is being replaced with a Circulation Element within each Area Plan.

The Transportation Plan identifies the general location of existing and proposed roads and provides definitions of road types (i.e., arterial, collector, local). Maps accompanying the area plans show the location of roads, their classification and any proposed extensions or realignments.

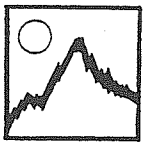
The plan also sets policy for bikeways, transit, and other transportation modes including harbors, pipelines, and utility lines.



Recreation Plan

The Recreation Plan is an optional element of the general plan designed to preserve and protect the county's existing and proposed recreation resources.

This element is currently under revision to become the Parks & Recreation Element. Once adopted, this element will combine, update and replace the existing Recreation Element, Parks & Recreation Master Plan and the Trails Plan.



Environment Plan

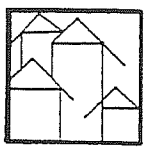
The Environment Plan contains three elements; Conservation, Historic and Esthetic. The only required element is the Conservation Element. The Conservation Element addresses the conservation, development, and use of natural resources including water, forests, soils, rivers and minerals.

The goal of the Historic Element is the preservation of sites, buildings, and areas that are of historical significance in the county. The Esthetic Element deals with esthetic conservation by addressing primarily with noise, odor and visual pollution. It supplements the Noise Element and also provides a basis for regulations that help prevent visual deterioration of scenic areas.



Noise Element

The Noise Element identifies and evaluates major sources of noise within the county. It defines measures to be used by new development to reduce noise to a level that is not damaging or disruptive. The Noise Element has two parts; the Policy Document and the Acoustical Design Manual.



Housing Element

The Housing Element is an assessment of housing needs for **all** segments of the community and **all** economic groups. It provides an evaluation of the county's housing problems, including an analysis of the housing supply and the availability of affordable housing. The Housing Element also describes existing and proposed housing programs, funding sources, agencies and groups capable of implementing the programs and the estimated number of households expected to benefit from each program annually.



Safety

The Safety Element establishes policies and programs to protect the community from risks associated with fires, flood, geologic hazards, earthquakes, and other natural disasters. In order to reduce loss of life, injuries, and damage to property, the Safety Element requires safety to be considered in the planning and development process.



Economic Element

The Economic Element was adopted to establish a commitment to economic vitality, to set priorities for types and locations of desirable economic development and to identify strategies for retaining existing businesses and attracting new ones that provide employment for county residents. The Economic Element's main goal is to recognize the importance of economic activity in enabling the residents to find employment and pursue the lifestyles they value.



Energy Element

The Energy Element was developed to enhance public awareness of energy efficiency and conservation. It is an educational document with policies which are implemented through discretionary approvals of development projects.



Energy Element (Offshore)

The Energy Element (Offshore) was developed to enhance public awareness and participation in decisions regarding offshore oil and gas activities and related onshore facilities. It is an educational document that provides a summary of county policy and direction regarding development of off-shore petroleum resources.

The County's Unique System



The county has adopted a unique "single-map" system for regulating development. This single map serves as both the general plan and zoning for each property located within the county.

Understanding the county's land use regulations is important to anyone who is considering a development project, large or small, anywhere in the unincorporated areas of the county. So it is also important that Community Advisory Councils understand this process as well. Land use regulations provide guidelines and standards for many important aspects of community development including:

- how and where communities grow:
- how a particular property can be used;
- the permit procedures and regulations that must be followed to develop property.



The Land Use Element (LUE)

The LUE describes where different land uses can be established. All land is included in one of 13 land use categories (zoning) each of which allows various uses. The 13 land use categories are:

✦Agriculture (AG)
✦Rural Lands (RL)
✦Open Space (OS)
✦Recreation (REC)
✦Residential Rural (RR)
✦Residential Suburban (RS)
✦Residential Single Family (RSF)
✦Residential Multi-Family (RMF)
✦Public Facilities (PF)
✦Commercial Retail (CR)
✦Commercial Service (CS)
✦Office & Professional (OP)
✦Industrial (IND)

These are also "combining designations" or overlay categories that identify areas of special concerns that require additional consideration when development is planned including:

✣Airport Review (AR)
✣Flood Hazard (FH)
✣Geologic Study (GS)
✣Transfer of Development Credit (TDC)
✣Energy/Extractive Area (EX)
✣Historic Site (H)
✣Sensitive Resource Area (SRA)

There are three parts to the LUE.....

Official Maps
Framework for Planning
Area Plans

that are used to determine the type and scope of development. The fourth - **Coastal Plan Policies** - is an additional set of polities only used for development within the Coastal Zone.

The **Official Maps** illustrate the *official and exact location* of land use categories and combining designation. They act as the county's zoning maps.

The **Framework for Planning**

- ✔defines planning goals
- ✔provides an overview of land use policies
- ✔sets guidelines for general plan amendments
- ✔contains "Table O" (a listing of the uses allowed within each category
- ✔establishes a Resource Management System for evaluating resources annually.

The **Area Plans** are 15 separate reports, divided by geographic area, that contain policies, programs, land use regulations and maps. Within each area plan are development standards, called planning area standards, that set special requirements reflecting unique development considerations for a particular site or community.

The 15 Area Plans are:

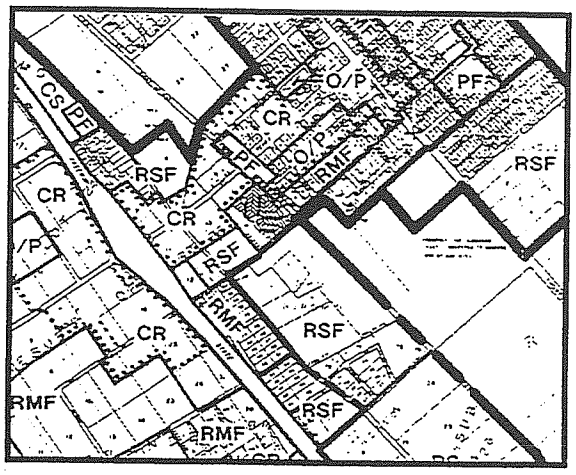
★Adelaida	★Los Padres	★San Luis Bay (coastal)
★El Pomar-Estrella	★Nacimiento	★San Luis Obispo
★Estero	★North Coast	★Shandon-Carrizo
★Huasna-Lopez	★Salinas River	★South County (inland)
★Las Pilitas	★San Luis Bay (inland)	★South County (coastal)

Through its text and maps, the LUE establishes the pattern for land use and sets out clear standards for development.

An Example At Work

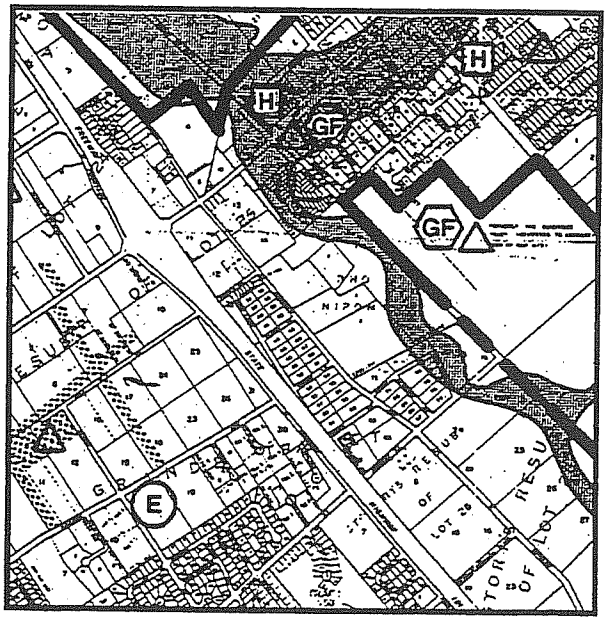
Let's see how this system of plans would apply to the development of a particular piece of property. If you own a particular piece of property, you would determine the Assessor's Parcel Number and locate the property.

✔ **STEP 1: Study the Official Maps.**



Land Use Categories

This is where you find which land use category applies to your property. This shows a portion of the community of Nipomo along the 101 freeway corridor. It shows a variety of land use designations such as Commercial Retail (CR), Residential Multi-Family, (RMF) and Residential Single Family (RSF).



Combining Designations

This map shows the Combining Designations for this same area. It includes areas of Flood Hazard (FH), several Historic sites (H), two locations for Government Facilites (GF), and 2 triangle symbols for parks and an E for a elementary school.

These designations reflect the direction provided by the general plan.

✔ STEP 2: Read Table "O".

Table "O" lists the different land uses allowed in each of the 13 land use categories. On the chart, a blank space means the use is not allowed. An "A" indicates it is allowed use, unless otherwise not allowed by a planning area standard. Chapter 3 in the Land Use Ordinance would determine the permit level for "A" uses. An "S" means that the use is allowable subject to special standards and/or processing requirements that are established in Chapter 8 of the Land Use Ordinance. If the property is located in the coastal zone, there is also a symbol "P" which is applied to identify the Principal Permitted uses within each use group.

A small portion of Table O is shown below to help illustrate this step.

	AG	RL	REC	RR	RS	RSF	RMF	O&P	CR	CS	IND	PF	OS
RETAIL TRADE													
Auto, Mobilehome & Vehicle Dealers & Supplies									S-10	S-7	S-7		
Building Materials & Hardware									S-10	S-10	A		
Eating & Drinking Places	S-10		S-10	S-10	S-10		S-10	A	A	A	S-1		
Food & Beverage Retail Sales			S-10	S-10	S-10	S-10	S-10	S-10	A	A	S-2		
Fuel & Ice Dealers										S-5	S-5		
Furniture, Home Furnishings & Equipment									A	A			
General Merchandise Stores									A	A			
Mail Order & Vending									A	A	A		
Outdoor Retail Sales	S-7	S-7	S-7	S-7				S-7	S-7	S-7	S-7	S-7	
Roadside Stands	S-3	S-3	S-3	S-3	S-3								

Immediately following Table O in the Framework for Planning document, is a list of land use definitions which identify in detail what types of uses are covered by the more general use categories on the chart.

✔ STEP 3: Read the Planning Area Standards.

You will need to know if there are any special standards that apply to your parcel because of its specific location. There may be special requirements that apply to new development in certain communities or other areas of the county. These standards are found in either Chapter 7 or 8 of the applicable Area Plan.

These standards are often tied to "Figures" to show you precisely where the standard applies. They can include special setbacks, permit requirements, improvements that will be required when a site is developed, density limitations, and limitations on the types of uses that can be established. This last type of standard is called a "limitation on use" and is very important as it can limit certain land uses in areas where they would otherwise be allowed by Table "O".

The following are a few examples of **Planning Area Standards.**

Limitation on Use.
Uses identified by Table O, Part I of the Land Use Element as "A" or "S" uses are limited to: eating and drinking places; service stations; offices; and hotels, motels.

Visitor-Serving Priority Area.
Applications for visitor-serving uses are encouraged around the Tefft Street/Highway 101 interchange within the area shown in Figure 7-44, particularly eating and drinking places, food and beverage sales, service stations, financial services, hotels and motels, personal services and transit stations.

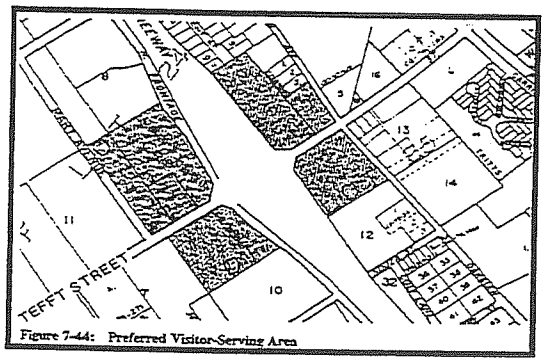


Figure 7-44: Preferred Visitor-Serving Area

Minimum Parcel Size.
The minimum parcel size for new land divisions is to be 10 acres in the Residential Rural land use category, unless a larger minimum parcel size would otherwise be required by section 22.04.026 of the Land Use Ordinance.

El Camino Real Setback.
A 50-foot setback is required from the El Camino Real right-of-way for residential, residential accessory and agricultural accessory development on properties adjacent to El Camino Real.

Oak Habitat Preservation.
Site plans shall designate the existing oak forest habitat for open space preservation, where limited recreational and open space uses may be allowed.

Implementing the Plans



In San Luis Obispo County, all required elements of the general plan have been adopted. These elements are implemented through a variety of ordinances that are adopted as part of the county code. As development is proposed for a particular property, these laws and policies must be followed.



Land Use Ordinance (LUO) - The Land Use Ordinance (LUO) and the Coastal Zone Land Use Ordinance (CZLUO) provide the principal method for implementation of the general plan by setting requirements for how particular land uses may be designed and developed. They also provide a legal basis for how the policies of the Land Use Element are implemented and enforced.

The LUO lists the standards (requirements) and the permit procedures for land development, including features of site design such as minimum parcel size, required width of yards (setbacks), allowed building heights, number and design off-street parking spaces, and standards for grading, drainage, curb and gutter improvements and tree removal. In addition, for Special Uses (S) designated on Table "O" there are requirements established in the LUO in Chapter 8.



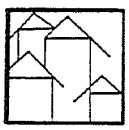
Real Property Division Ordinance (Title 21) - The general plan is also implemented through the Real Property Division Ordinance. The Real Property Division Ordinance contains the technical regulations and procedures for land divisions, lot line adjustments and certificates of compliance.



Building and Construction Ordinance (Title 19) - The Building and Construction Ordinance, in conjunction with the Uniform Building Code, Plumbing Code, Mechanical Code, etc., contains the technical code requirements for building construction.



Growth Management Ordinance (Title 26) - The Growth Management Ordinance sets an annual rate of growth to ensure that growth does not outpace the available resources. It applies to new residential development.



Address and Road Name Ordinance (Title 20)- The Address and Road Name Ordinance implements the general plan and state law by specifying requirements and standards for naming of roads, addressing of properties and installation of road signs. This ordinance was developed to aid public safety officials in locating properties during times of emergency.

Three Basic Types of Development Applications

There are three basic types of development applications that the Department of Planning and Building Department processes for project:

- Land Use Permits
- Subdivisions
- Building and Grading Permits

Each of these is described below.

Land Use Permits

There are certain uses of land or types of businesses that may have an impact on their community. These uses are carefully reviewed through the land use permit process. Land use permits authorize a use and set conditions for how it can be established and operated. There are four types of land use permits:

Plot Plan approval, required for simple development projects, is given by the Planning Director through the planning department staff. (This is a "ministerial" action (if the proposed project meets all the ordinance requirements then it must be approved) that does not require environmental review or a public hearing).

Site Plan approval, required to review more project details, such as landscaping or signage, is given by the Planning Director through the department staff. (This is a ministerial action and may require environmental review but does not require a public hearing).

Minor Use Permit approval, required for projects that may have the potential to cause neighborhood concerns, is given by the Hearing Officer (a senior staff member designated by the Planning Director). These are subject to CEQA review.

Development Plan approval, required for larger projects or other land uses that may have the potential to affect the neighborhood or community, is granted by the Planning Commission. These are subject to CEQA review.

In addition, there are others types of approvals that are associated with land use including:

Variance, a request by an applicant who wants relief from specific standards that can only be waived or modified through finding the property is so different from all other property in the community that prevents reasonable development.

Waivers and Adjustments are used to waive or modify ordinance standards as provided in the ordinances based on specified criteria.

These are also subject to CEQA review.

What Is Considered in Approving or Denying a Land Use Application?

The project will be carefully reviewed to determine how the proposal relates to the specific site, and how it may affect its neighborhood and the community. To put it another way, the decision-makers want to be sure that the development fits with the surrounding area and supports adopted community goals. The following concerns are likely to be considered before any decision is made on a project.

A. **General Plan Consistency** A proposed project must be found to be consistent with all the goals, objectives, policies and standards that are set forth in the adopted general plan.

B. **Area Plan & Land Use Ordinance Standards** The foremost considerations are whether the project is an allowed use and whether it meets the standards set forth in the applicable Planning Area Standards and the Land Use Ordinance. It must maintain the health and safety of the community and be compatible with the existing uses in the area. The site must also be able to accommodate the proposed use.

C. **Relationship to Community Goals** A proposed project that furthers community planning goals is more likely to be approved than one that hinders them. Most communities have goals that encourage certain land uses or densities within the community. Projects should have the community's support and further those goals, such as avoiding "leapfrog" growth and achieving the community's desired mixture and type of land uses.

D. **Relationship to Surrounding Land Uses** New uses on a site are evaluated to determine whether they are consistent with existing uses on surrounding properties.

E. **Environmental Impacts** Proposed projects are evaluated to determine whether they would adversely affect the environment. Proposed projects should be designed to avoid or minimize environmental impacts.

F. **Land Capability and Service Availability** Whether the land can support the types of development proposed will be evaluated. Topography, sensitive environmental resources, service availability, and access will all be considered.

WHAT ARE THE STEPS IN THE PROCESS MINOR USE PERMIT/DEVELOPMENT PLAN

Pre-application - a meeting with staff planner and other departments to initially review the development of property

File application - Submittal of the application materials that are required or identified as needed. During the first 10 days, a copy of the project is referred to the Advisory Council (if they have requested that type of project for review)

Completeness Determination - Within 30 days of submittal, staff completes the initial review of the project. The site is viewed and a letter sent to the applicant requesting additional information if needed.

Application Accepted - Once the application is complete, a letter formally accepting the application is sent. This action starts the timeclock for processing.

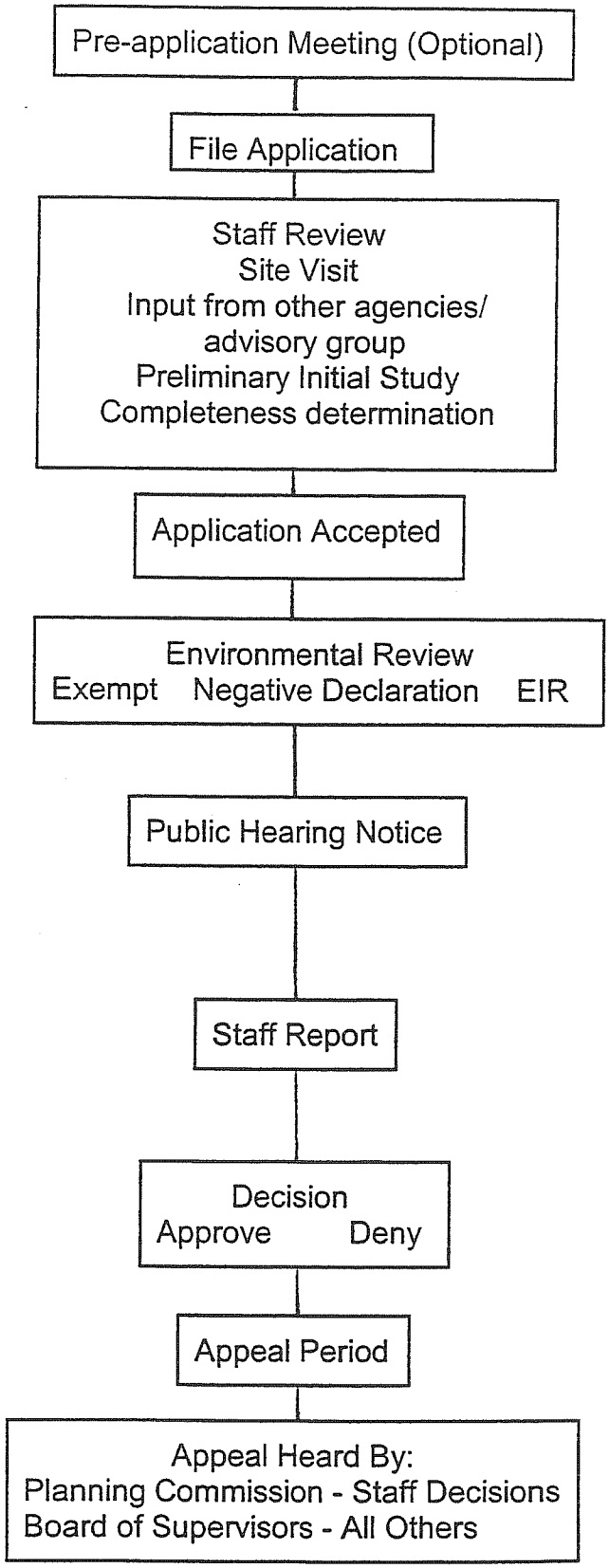
Environmental Review - The application will be subject to an environmental review to determine if significant environmental impacts could result from the proposed project.

Noticing - This step provides a notice to the newspaper and to properties within a minimum of 300 feet from the boundaries of the project. This notice must be a minimum of 10-30 days depending upon the type of environmental review.

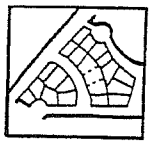
Staff Report to Decision-Maker - A report is prepared that documents all the policies, facts, and recommendations from other agencies and the advisory groups that led to the staff recommendation on the project. This will include the environmental determination, findings for the decision, and the conditions of approval.

Decision - The hearing body (Staff, Hearing Officer or Planning Commission) considers all the information that is provided at the hearing including the staff report, information the applicant provides, comments from the community advisory group and individual community members.

Appeal - Decisions on land use and associated permits may be appealed. A new public hearing will be held.



Land divisions (subdivsions)



A subdivision is defined as:

> "The division, by any subdivider, of any unit or units of improved or unimproved land, or any portion thereof, shown on the latest equalized county assessment role as a unit or as contiguous units, for the purpose of sale, lease, or financing, whether immediate or future." (Govt. Code 66424)

Parcel Maps

Parcel maps are generally four (4) or fewer parcels that are being created by the proposed project. However, there are some instances where more than four parcels may be created as provided by Section 66426 of the Subdivision Map Act. When a parcel map is submitted, the county is more limited than with a tract map. The county may only impose requirements for the dedication of rights-of way, easements, and construction of reasonable offsite and onsite improvements for the parcels that are being created.

In some instances, the project may also include a request to create a condominium, planned development or cluster which establishes additional requirements. Both applications are reviewed in a single hearing before the Subdivision Review Board who will act to approve, approve with conditions, or deny the applications. The decision of the SRB is appealable to the Board of Supervisors. A parcel map is generally approved for a two-year period and may request up to a total of five additional years to record the map that creates the parcels.

Tract Maps

Tract Maps are required for divisions of land that create five or more parcels. A "tentative" map is submitted to the county for review. With a tract map, the county may impose a broad range of requirements, as long as they meet the "nexus" requirement. This is a determination as to what extent and in what amount a dedication or fee can be imposed.

As with parcel maps, the project may also include a request to create a condominium, planned development or cluster which establishes additional requirements. Both applications are reviewed in a single hearing before the Planning Commission who will act to approve, approve with conditions, or deny the applications. The decision of the Planning Commission is appealable to the Board of Supervisors. A tentative map is generally approved for a two-year period and may request up to a total of five additional years to complete the project.

All tentative maps can only be subject to requirements that were in effect at the time a tentative map is accepted for processing by the county. If new requirements are adopted after a tentative map is accepted, the county cannot impose those new requirements.

What Is Considered in Approving or Denying a Land Division Application?

The project will be carefully reviewed to determine how the proposal relates to the specific site, and how it may affect its neighborhood and the community. As with development projects, the decision-makers want to be sure that the new parcels fit with the surrounding area and support adopted community goals. The following concerns are likely to be considered before any decision is made on a project.

A. **General Plan Consistency** A proposed land division must be found to be consistent with all the goals, objectives, policies and standards that are set forth in the adopted county general plan.

B. **Area Plan & Land Use Ordinance Standards** Planning Area Standards can include special requirements and/or set a minimum parcel size different from that allowed by the Land Use Ordinance. When there is a difference, the planning area standards override the Land Use Ordinance.

C. **Minimum Parcel Size** If a minimum parcel size was not set through Planning Area Standards, Chapter 4, Sections 22.04.024 through 22.04.033, of the Land Use Ordinance apply. Minimum parcel sizes are based on a number of factors including, the use of the site, the soil classification, the distance from a community, the existing services, and/or the fire hazard. Minimum parcel size is determined by applying the tests for the applicable land use category to the site features. The minimum size is the largest area obtained from any of the tests. The proposed parcels must be no smaller than this minimum parcel size.

D. **Relationship to Community Goals** Most communities have goals that encourage certain densities within the community. Projects should have the community's support and further those goals.

E. **Land Capability and Service Availability** Whether the land can support the types of development proposed will be evaluated. Topography, sensitive environmental resources, service availability, and access will all be considered.

F. **Environmental Impacts** Proposed applications are evaluated to determine whether they would adversely affect the environment. Proposed land divisions and adjustments should be designed to avoid or minimize environmental impacts.

G. **Factors to be Considered** Chapter 3 of the Real Property Division Ordinance contains the criteria applied to land divisions, including standards on parcel design, landscaping, access and circulation design, flood hazard and drainage, water supply and sewage disposal, and utilities. Proposed land divisions must be consistent with the criteria.

H. **Parkland dedication** Chapter 9 of the Real Property Division Ordinance contains the provisions for parkland dedication/in-lieu fee (Quimby Ordinance). Most land divisions are subject to these requirements.

There are other actions that related to the creation of new parcels of land:

Lot Line Adjustment - A lot line adjustment is a modification of the boundary between two or more adjacent parcels. Land from one parcel is added to an adjacent parcel with no additional parcels created. These projects can range from a simple "fence line" adjustment where you and a neighbor want to move a lot line that interferes with a barn or fence. A lot line adjustment may also be a major resubdivision of underlying parcel into a very different pattern that may have impacts that will need to be addressed. However, these parcels exist legally, therefore there are limitations on the requirements that can be placed on the proposed project since the impacts must be weighed against the impacts that could already occur if the parcels developed in the existing pattern. Lot line adjustments are considered by the Subdivision Review Board and may be appealed to the Board of Supervisors.

Public Lot - A public lot is a request by a public agency to waive the requirement for filing a parcel map. It is used when land is conveyed to or from a governmental agency, public entity or public utility. There items are acted upon by planning staff and then placed on the Planning Commission consent agenda to provide public notice that a determination has been made.

Certificate of Compliance - A certificate of compliance is a determination by the county that a parcel is a legally created parcel which complied with provisions of the Subdivision Map Act and county ordinances that were in effect when it was created. This is a ministerial action and the county must approve the certificate of compliance if it meets the requirements.

If the county determines that the parcel was not created legally, a conditional certificate of compliance must be issued. However, the property owner will be required to comply with conditions that would apply to the land division if it was completed legally. These applications are heard by the Subdivision Review Board they determine the conditions that are placed on the project. Their action may be appealed to the Board of Supervisors.

Voluntary Merger - A voluntary merger is used to combine two or more contiguous parcels under common ownership into a single parcel. All owners of record for the property need to agree to and sign the voluntary merger. For example, a voluntary merger is used when your house straddles a lot line, and you own both lots.

WHAT ARE THE STEPS IN THE PROCESS SUBDIVISIONS

Pre-application - a meeting with a staff planner and other departments to initially review the decision of the property

File application - Submittal of the application materials that are required or identified as needed. During the first 10 days, a copy of the project is referred to the Advisory Council (if they have requested that type of project for review)

Completeness Determination - Within 30 days of submittal, staff completes the initial review of the application. The site will be viewed and additional information may be requested.

Application Accepted - Once the application is complete, a letter accepting the application is sent. This starts the timeclock for processing.

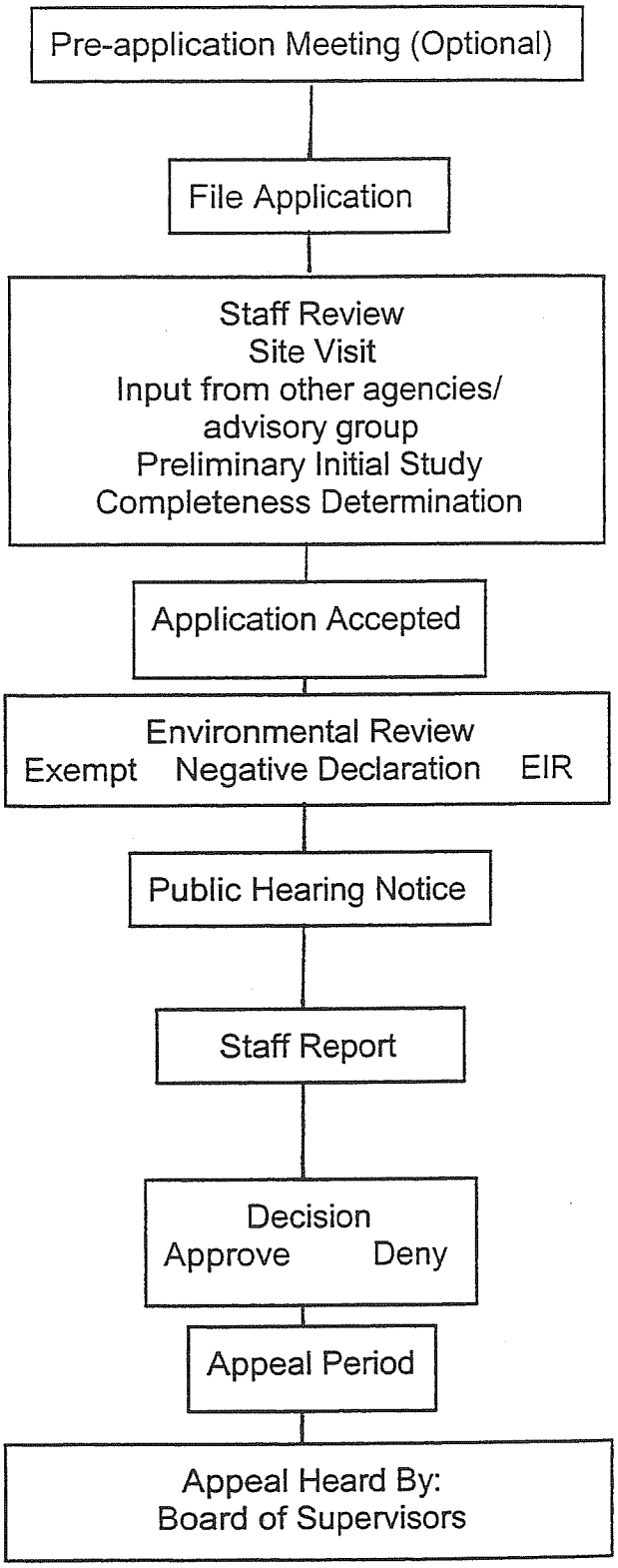
Environmental Review - The application will be subject to an environmental review to determine if significant environmental impacts could result from the proposed project.

Noticing - This step provides a public hearing notice to the newspaper and to properties within a minimum of 300 feet from the boundaries of the project. This notice must be sent out a minimum of 10-30 days before a hearing is held on the projects, depending upon the type of environmental review.

Staff Report to Decision-Maker - A report is prepared that documents all the policies, facts, and recommendations from other agencies and the advisory groups that led to the staff recommendation on the project. This will include the findings for the decision, and the conditions of approval.

Decision - The hearing body (Planning Commission or Subdivision Review Board) considers all the information that is provided at the hearing including the staff report, information the applicant provides and comments from the community advisory group and individual members of the public.

Appeal - Decisions on land divisions may be appealed. An appeal is completed by holding a new public hearing on the issues raised in the appeal.



How Long Will the Process Take?

Processing times vary depending upon the type of permit, the location and condition of the site, and the complexity and environmental impacts associated with the project.

In most cases, from the time an application is submitted, a land use permit that requires a public hearing (Minor Use Permit, Development Plan, or Variance) takes three to six months to process. A Plot Plan is generally approved within a week or simultaneously with the construction permit. A Site Plan takes about two to four months. A Tract Map takes from six to nine months to process. A Parcel Map or Lot Line Adjustment may raise less issues and could be processed in two to four months.

How Do the Advisory Councils Participate?

There are several points at which the Advisory Council can participate in the process, including

- Pre-application - The Planning Department refers applicants who come in for a pre-application to the Community Advisory Councils for the area. This is often a way to get early community input, even before a project has completed its design and can most easily be changed based on comments from the community. This is a voluntary process and may not occur on all projects.

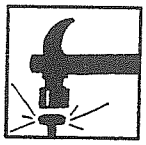
- Application Submittal - During the first review of the application, the department sends a project referral to the Community Advisory Council for the area. This is a good time to try to work with the applicant to see if they can modify the project to meet the concerns of the group. During this review, you can also let our department know if you want to receive further information on the project such as the hearing notice, staff report or other information.

- Environmental Review - The environmental review looks at potential impacts that could occur from the project. The Advisory Council can submit comments or information that you want the department to consider during this stage. You can also identify if you want to receive the environmental documents (such as the Negative Declaration or Environmental Impact Report) for the project. You can submit comments on these documents or appeal the determination that has been made.

- Public Hearing - At or before the hearing of the decision-makers, the Advisory Council can submit additional letters on the project. If these are received prior to the staff report being completed, they will be included in the staff report. In addition, the Advisory Council can attend and participate in the public hearing.

- Appeal - If the Advisory Council does not agree with the decision, they can appeal it to the Board of Supervisors.

BUILDING AND GRADING PERMITS



A Building Permit is needed for almost any project that involves building or altering a structure or its plumbing, mechanical or electrical systems. Additionally any project that includes grading, where soils will be removed and/or filled in, usually requires a permit.

If the project required a Site Plan, Minor Use Permit, Development Plan, or Variance, it would already have been submitted for these reviews as discussed earlier. When the building or grading plans are submitted, they must be checked to make sure that the requirements placed on the land use permit or subdivision through the review and hearings are being followed. This may require special plans for a number of things such as landscaping and grading and drainage.

In most cases, each aspect of the plan is reviewed to make sure the conditions have been met prior to issuance of the construction permit. Sometimes conditions need to be checked at the time that the project is ready for occupancy to verify that improvements such as parking lot striping and landscaping are properly in place. For simple projects this is not a major part of the review; however, for larger, more complex projects this can be a time-consuming and detailed process. Projects that have on-going mitigation may also be inspected from time to time after the project is built and occupied.

In most instances, a project that only requires a Plot Plan would go through a shorter review. This review makes sure that all the planning requirements have been met, but largely concentrates on the construction and grading plans meeting the building codes.

How much will a building permit cost?

This will depend upon the type of project that is proposed and where it is located. There are basic permit fees that are based upon the size of the proposed project. In addition, the department collects fees for other departments that review the application (engineering, CDF, etc), fees that the county has established to offset the cost of providing public facilities, and verifies that school fees have been paid before a permit is issued. The department can provide an estimate of fees for someone who is considering a project.

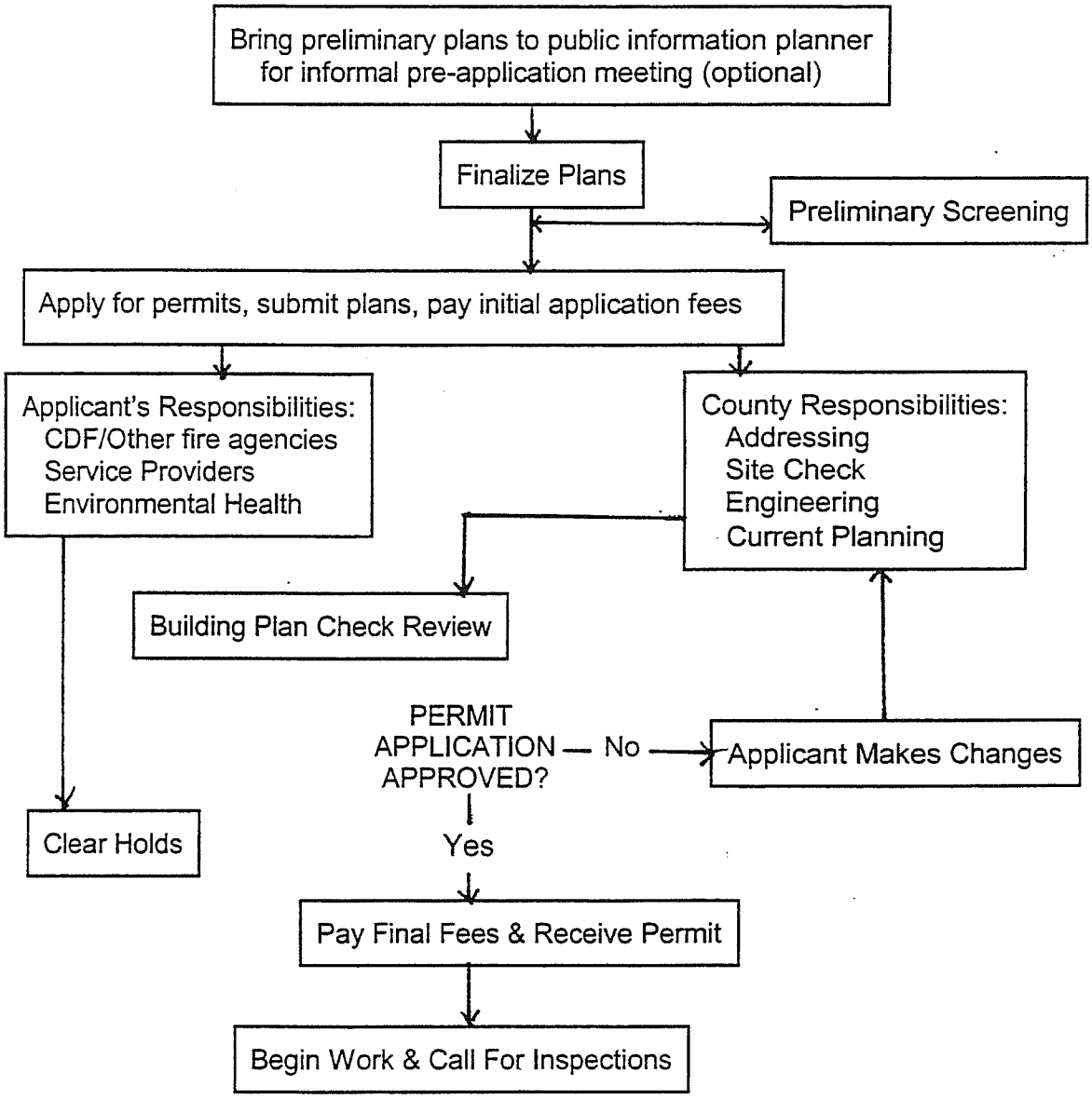
How long does the process take?

This will depend upon the complexity of the project and how complete the plans are when submitted. The average time for processing residential and commercial plans will range from 5-8 weeks.

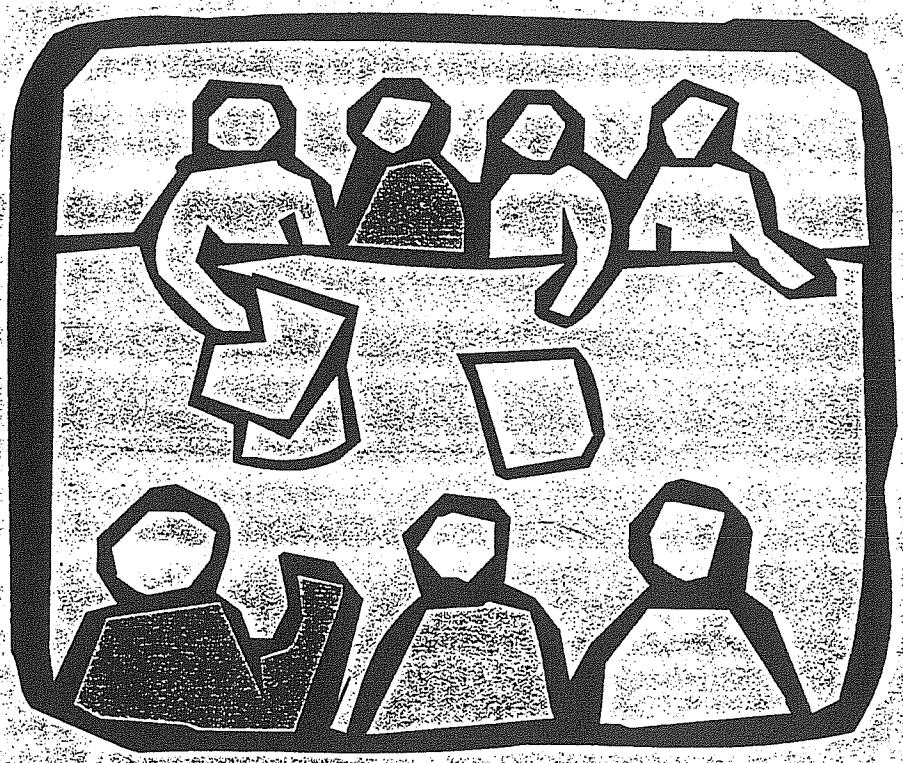
How does the Advisory Council participate?

In most instances, a building permit is not an application that the Advisory Council will review since this stage is ministerial (if the applicant meets legal requirement, we must issue a permit) and there is no referral or consultation process with the Advisory Council. If a hearing has previously been required because the project required a land use permit or a subdivision and the Council has participated, you may want to request that your liaison provides status checks on the progress on the building permits. In addition, construction plans are available for public scrutiny.

What are the steps in the building and grading permit process?



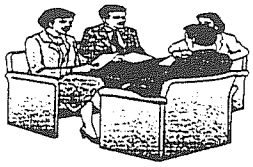
COMMUNITY ADVISORY COUNCILS



PARTICIPATION IN THE PLANNING PROCESS

This is the first version of the San Luis Obispo County Community Advisory Council Handbook & Training Manual developed for the April 28, 2001 workshop. This document will be revised to reflect questions/comments received at this workshop and updated as new information is available. If you have suggestions or comments that would help make this document better, please contact Pat Beck at 781-5981 or fax comments to 781-1242.

Community Advisory Councils & Participation in the Planning Process



Community Advisory Councils play a unique role in the land use planning process. They serve as the eyes and ears of the community. They help highlight issues that are emerging in the community. They provide an opportunity for members of the local community to have their voice heard. This is a serious responsibility because it requires an open ear to hear from all segments of the community. All perspectives must be considered when the community makes recommendations about the future of the community.

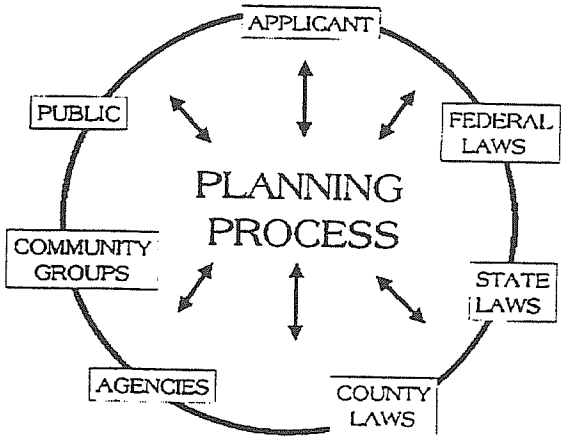
But saying all this, the Community Advisory Councils are as the name implies, **advisory.** They do not make the final decisions on plans or projects. This can often be very frustrating to the citizens who take their time to sit on a Community Advisory Council and who may feel that the decision made on a general plan or specific project did not carry out the recommendation from the community.

How are decisions really made?

Decisions about planning for the future are made by several different bodies including the :

- ✓ Board of Supervisors
- ✓ Subdivision Review Board
- ✓ Planning Commission
- ✓ Minor Use Permit Hearing Officer

When a Board, Commission, or Hearing Officer make a decision they hear from a variety of agencies on a wide variety of subjects and they hear the recommendation of the Community Advisory Council. The chart illustrates the complexity of this task. To be successful, all the parts have to be working together to accomplish the task of planning, and it is a never-ending circle.



WHAT IS CONSIDERED IN THE DECISION ON A PROJECT?

Planning Department Staff Report

Environmental Determination

Comments from Legal Counsel

Comments from Applicant

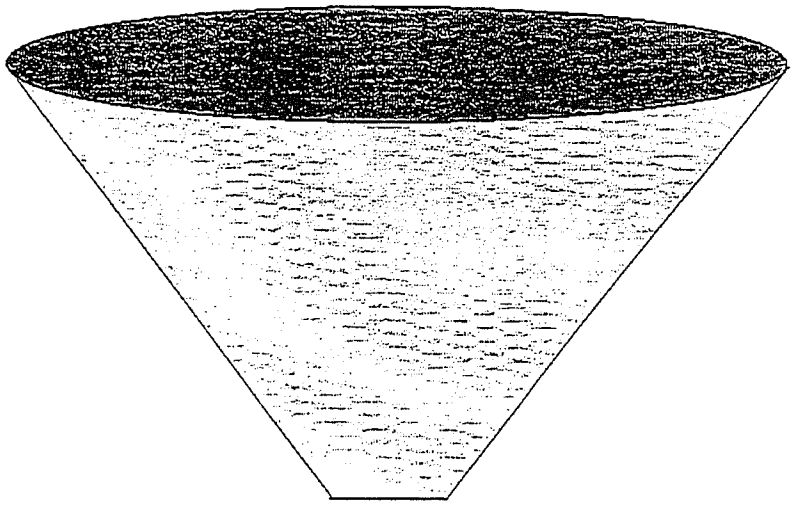
Comments from Community
Advisory Council

Comments from Organizations

Comments from regional/county agencies/cities

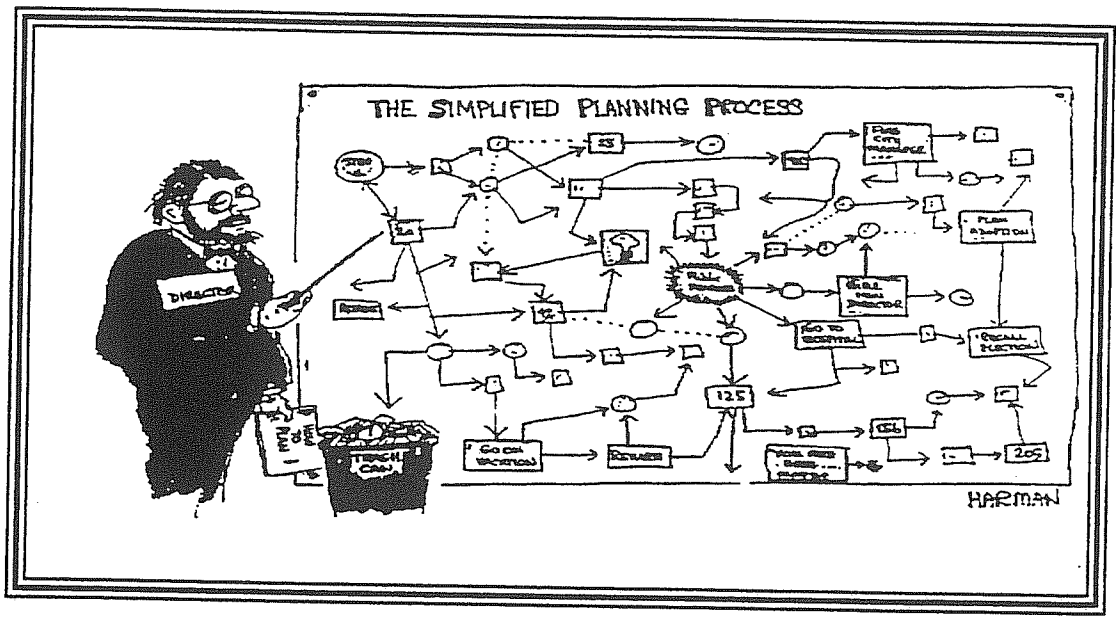
Comments from state/federal agencies

Comments from Service Providers



Actions
taken by
Decision-Makers to Approve,
Approve with Conditions or Deny a Plan or Project

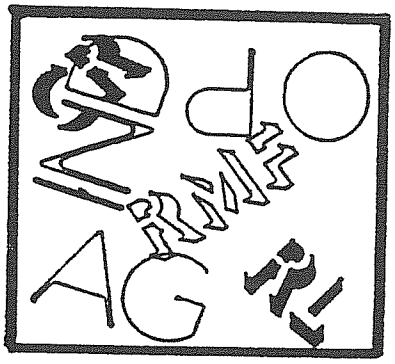
Sometimes this process can seem pretty confusing or overwhelming but perhaps a simple flow chart would help to explain the process.



If this has not made everything clear, let's consider other ways of explaining how to participate in the planning process.

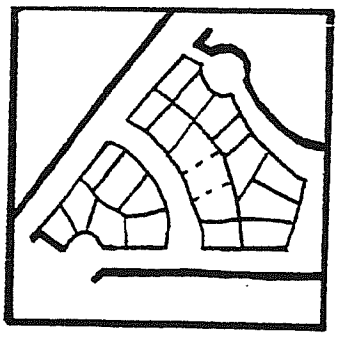
Referrals from County Planning and Building Department

Comments from the Community Advisory Council's are one of the most important documents that the Planning and Building staff review. Comments are requested from Community Advisory Councils through the **referral process**. Community Advisory Councils are kept informed about plans and projects that are under review through two types of referrals:



General Plans/Specific Plans, plan amendments and Ordinances.

For community-wide general plans, specific plans and ordinances, the Board of Supervisors require a 60 day review period before the public hearing at the Planning Commission and again between the time of the Planning Commission hearing and the



Subdivision and Development Projects

For a proposed development (such as a subdivision or shopping center project), the department refers the project to a community advisory council, most often during the earliest stage of review of the application. However, the timeline for review will vary based upon the type of project and environmental review.

Purpose of the Referral

The purpose of referrals is to get feedback from other agencies, departments, service providers and advisory councils about a particular plan or project. For general plan projects and ordinance items, the referral will provide a copy of the general plan, general plan amendment application or ordinance section that is under review. For specific development projects, the referral packets are made up and mailed out by the planning, generally mailed out within the first 10-14 days after the project is received along with any supporting materials.

For the agencies and service providers (such as water companies), we request that they provide us information within 14 days. They can inform the planning department that additional information is needed in order to complete review of the project or make comments that the planner will incorporate into the staff report.

We know that Community Advisory Councils need more time for their review. In order to provide as much time as possible for community review, we send a special referral form to Community Advisory Councils. The assigned planner may identify specific issues or questions that the Community Advisory Council might want to focus upon. In addition we ask the Community Advisory Councils to identify the following:

- ☐ Do you wish to receive notice of the hearing for the project?
- ☐ Do you wish to receive a copy of the staff report when the project goes to public hearing?
- ☐ Do you wish to receive a copy of the final action taken on the project?

This is meant to provide additional information to the Community Advisory Council for those projects that it wishes to comment on.

You should also indicate on the referral form that you have no comments on the project, that comments are attached in a separate memo or letter, or that comments will be submitted at a later date. **It is important that this form is returned to the department** as the decision-makers want to know that the project has been reviewed in the community and what the comments were as they looked at a project. It is important that you return this, even if the comment is just to say "no comment".

Referral for subdivisions and development projects will include copies of the following:

- Referral cover sheet
- Application materials
- Site Plan (8 ½ "x 11") that shows the project layout
- Architectural elevations and floor plans (reductions) or subdivision map
- Land use category map
- Other items that may be appropriate.

A sample of a typical project referral is attached at the end of this report.



How to Review a Plan or Project

What happens when the Community Advisory Council receives a referral? Each Community Advisory Council needs to evaluate the significance of the issues and design a system that works best to get community input. On major issues such as development of a community plan, specific plan and sometimes ordinances, the Community Advisory Council, in conjunction with the Planning Department may want to hold one or more community workshops. In addition to these meetings, the Community Advisory Council may want to take a formal position that would be sent to the decision-makers as a recommendation.

There are several ways that a Community Advisory Council may consider specific development proposals. Community Advisory Councils are encouraged to establish procedures for the review of projects. The following are the common examples.

1. Minor Projects - Some projects may be so small that they do not require review by the entire Community Advisory Council. This project referral form should be returned to the department by the Chair or by a sub-committee indicating that there is "No Comment" on the project.

2. Subcommittees - Some Community Advisory Councils have formed a land use subcommittee to review all projects and develop recommendations on what should be considered by the entire Council. These subcommittees may determine that some projects raise no issues and require no comment.. The subcommittee may recommend that other projects be reviewed by the full Council.

3. Community Advisory Council Review - Some communities will place all projects on the agenda and take action on each project. In each case, the action of the Community Advisory Council should be reflected on the referral form or in a letter or memo that describe the action of the Council.

To ensure that everyone in the community is aware of when a plan or project is being considered, the Community Advisory Council agenda should list the plans or projects that will be discussed. It is also important to let the applicant for a project know that their application is being reviewed. They will want an opportunity to tell the community about their project and to listen to the comments of the community. In addition, you will want to hear from any person from the community who wants to comment on the project before the Council makes a decision on the project. By providing an opportunity for comment, the applicant and department staff can consider possible changes to the project.

Your comments can be presented to the decision-makers in various forms, such as:

- **General Comments and Concerns** - These types of comments are aimed at identifying things that the community likes or dislikes about the project or plan, things they would like to see changed, conditions that they want to see required for the project if it is approved. Since the project may go through some changes based on the environmental review of the project and staff review, the comments from the Community Advisory Council can be a great help to the department staff and the applicant in looking for things that could be changed in the project to make it acceptable to the concerns of the community.

- **Specific formal recommendation** to approve or deny a project and the conditions you would like to see on the project to address your concerns from above. You may want to take this type of action later in the process when any changes recommended earlier in the process have been made to the project. **It is particularly important that the decision-makers understand what the basis was for the Council to come to this recommendation so you may want to include what the vote was on the project and what the Council used as reasons for coming to a particular conclusion.**

To assist the Community Advisory Councils, the department provides a referral recommendation form that will help the advisory council pull together their comments. These are sent to the decision-makers who review the projects that come before you.

In addition, some Community Advisory Councils provide a way for each member of the audience to share any comments they may have about a project. For example, the Nipomo Community Advisory Council and the Edna Area Group provide a stack of these forms and ask the community members to send in any comments that they wish to make on these forms. This is good way for everyone from the community, not just Community Advisory Council members, to participate in the process. Your Council may want to include a similar process in your meetings.

What is Considered in the Decision on a Project?

When reviewing a proposed project, a number of key factors must be considered including:

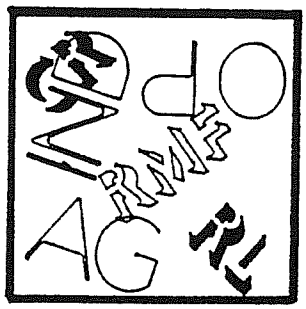
- ✓ Consistency with the General Plan and/or Specific Plan for the area
- ✓ Requirements of county ordinances
- ✓ State and federal status, case law and the constitution
- ✓ Subdivision Map Act and local rules for dividing property
- ✓ Available resources to serve the project
- ✓ Environmental Impacts of the project
- ✓ Surrounding development within the area
- ✓ Public Comments that have been received from all sources, **including the comments received from the community Advisory Council.**

These are all factors that the Community Advisory Council should consider when reviewing a project as well. When providing comments, you may want to tie your comments to these factors that must be considered so that the decision-makers clearly understand how you have addressed these issues. This is why the training program is being developed so that the Council will have more information on the issues that decision-makers use in making decisions.

Types of Council Decisions

The Community Advisory Council will see a wide variety of projects that you may wish to comment upon. These include:

- **General Plans/Specific Plans**

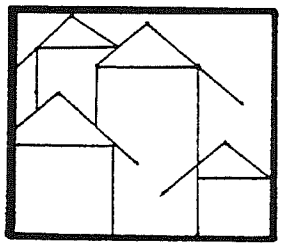


These are the long-range plans that will guide the development of the community and surrounding rural areas. They will set the goals and "vision" of the community input in the development of the plans. These are the plans that will used to review projects that will be submitted to the county.

- **General Plan Amendments**

These are requests to change the long-range plan for the community and may be proposed by the county, the community, or individual property owners. When the Community Advisory Council reviews these types of projects, it must make sure that the change will help to achieve the goals and "visions" that are found in the long-range plan and that they will avoid making piecemeal changes for one particular property that will change the direction of the plan for the entire community.

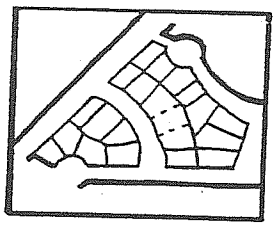
- **Proposals for Land Use Permits**



These are several type of applications that can be submitted to the department for permits to use a particular property. These are called land use permits and the types that may referred to the Community Advisory Council may include Site Plans, Minor Use Permits, and Development Plans. (For more information on each types of permit see section 2 - The County's Planning Program).

In reviewing these projects, the Community Advisory Council will want to look at whether the project is helping to achieve the goals and "vision" as set out in the general plan. The council will want to identify if they feel the project will be an asset to the community and whether it will fit in the character of the community. There are different areas that have been set aside for different types of development by the general plan and this will determine what types of uses and standards may apply to a property. The council can also comment if you believe there will be impacts that will result if the projects is approved. These may include service impacts, such as water, schools, or traffic, or impacts to the environment, such as air impacts, loss of vegetation or animals, etc.

➢ **Subdivisions of Property**



These are applications that propose to increase the number of parcels or lots that exist on a property. This can range from a relatively simple two-way division of the property to a very large multi-lot project or planned development. Each will have different impacts depending upon the location of the project.

Similar to the Use Permits, the Community Advisory Council will want to look at whether the subdivision is helping to achieve the goals and "vision" as set out in the general plan. The council may want to identify if they feel the project will be an asset to the community and whether it will fit in to the surrounding community character. It is important that you recognize that there are different areas that have been set aside for different size parcels and that projects will come in all shapes and sizes. The council can also identify if they believe there will be impacts that will result if the projects is approved. These may include service impacts, such as water, schools, or traffic, or impacts to the environment, such as air impacts, loss of vegetation or animals, etc.

➢ **Variance**

A variance is a request to grant an exemption from strict compliance with the regulations on the property. A variance may only be granted in specific cases where regulations would deprive property of the uses enjoyed by similarly zoned lands. A variance may not be granted to permit a use that would not otherwise be allowed in that zone, such as an industrial building in a residential single family zone. When the council is considering a variance, it should understand the specific requirement that the applicant is asking to be exempted from. For example, in the Coastal Zone, if an applicant is building on existing lots where the slopes are more than 30%, they will be required to apply for a variance. If there are no locations on the property where the slopes are less than 30%, there may be no choice but to grant a variance if development is to be permitted. If the variance is denied and no development is allowed on the property, this may considered a "taking" under state and federal law, which could require financial compensation to the landowner. However, if the property contains an area that has slopes that are less than 30% that could accommodate reasonable development, there may be no basis for granting the variance.

➢ **Lot Line Adjustments**

These are projects that are often mistaken as divisions of property. A lot line adjustment proposes to take existing lots of record and to rearrange them into a new pattern. This can range from simple "fence-line" adjustment between neighbors where perhaps a fence or portion or a building has been incorrectly located over the property line. Other times, this can result in a complete new pattern of lots that will cluster or

locate parcels into new areas of the site. There is no increase in the total number of lots on the property. When reviewing these projects, the council may want to look at how the project will fit with the "vision" of the plan. However, these projects are not subject to the same standards as subdivisions of property and the decision-makers have greater restrictions on what types of conditions and improvements can be required with the project.

How much time do you have to review a project?

There are timelines that are established by state law for completion of the review of projects. This is often called the "Permit Streamlining Act". These rules change from time to time but set standards that the planning department must meet in reviewing projects. These do not pertain to the development of general plans, specific plans, or general plan amendments.



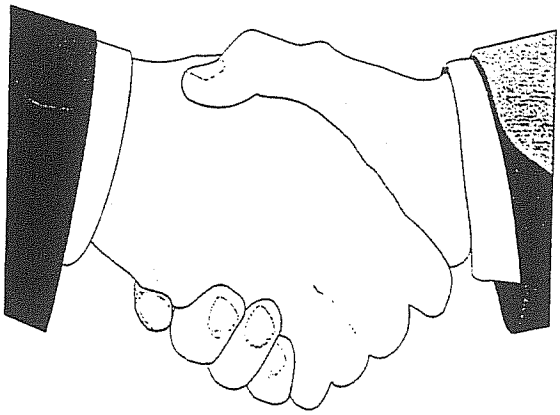
The "Permit Streamlining Act" (Govt. Code Sections 65920-65963.1) applies only to discretionary projects which are adjudicative/quasi-judicial in nature such as subdivision approvals, use permits, and variances. Under this law, the clock starts ticking when the county finds that a development application has submitted all the information needed to process the application and the application is found to be "complete" for purposes of processing.

The county has 30 days to determine whether the application is complete, and if not, to give the applicant a detailed explanation of what else is needed. When the additional information is provided, the department has an additional 30-days to review the materials and determine if all of it has been submitted and if not, the project will remain on Information Hold. **If your advisory group is reviewing a project and identifies information that is needed during this 30-day period, you will want to contact the project planner so that the staff may consider requesting this for the project.**

Once the application is deemed complete, a whole new set of deadlines is triggered. The county must act on a project within six months if the application requires a negative declaration under CEQA, and within one year if the application requires an Environmental Impact Report. If the county misses the deadlines, the applicant can require the county to hold a public hearing on the project and take action on the application, or the development may be deemed approved under the Permit Streamlining Act.

It is important that the Community Advisory Council understand that their comments and review must be provided in a timely fashion so that the department can meet the requirements of state laws.

The Role of the Community Liaison



A Community Liaison has been assigned by the department to each of the Community Advisory Councils. This staff person is a resource available to help the Council understand planning matters. However, the community liaison has limits on the amount of time available. This will vary from depending upon other assignments that the liaison must complete within the department and the plans and projects being reviewed by the Council. They will attend most community advisory meetings, and land use subcommittees meetings when invited.

The liaison is responsible for keeping the community informed about projects that may be happening in the community. In some instances, it may be someone who is assigned to particular projects, while in others the liaison may be from other divisions of the department but they will have information on projects that have been referred to the Council. They may not know all the answers on all projects and will need to "get back" to the Community Advisory Council with information that is requested, or with information on the status of various projects. They can keep you up to date on the actions that decision-makers take on projects of interest. They can also serve as a conduit to get information to other county department, when the council is interested in things they are responsible for.

In addition to the Community Liaison, there are staff persons who are assigned to individual projects or plans who can help to provide information to the Community Advisory Council.

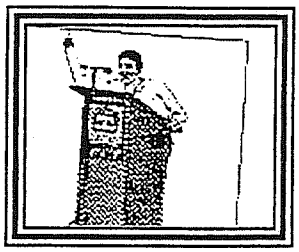
You can reach the department staff and liaison through their e-mail access at

Name (first initial plus last name) @co.slo.ca.us

Here is an example for George Washington:

Gwashington@co.slo.ca.us

How are Comments from the Community Advisory Council used?



We receive comments from the Community Advisory Councils in many ways. This includes comments from the CAC meeting that the Community Liaison brings back to the staff person. This helps the staff know what occurs at your meeting. In addition, we may get telephone calls from the Chair or land use subcommittee representative concerning projects. Finally, we receive formal referral forms or letters that provide a record of the action of the Council.

Each of the recommendations of the Community Advisory Council is given serious consideration by the department staff. We review the comments to see if there are changes that could be made to the project that would make the project better in the eyes of the community as represented by the Council. When the Community Advisory Council recommends that a project be denied, this is reviewed with the supervisor and possibly management of the department as this indicates the community does not believe this project is appropriate for the community. This is taken very seriously and weighed in the preparation of the staff recommendation of the report.

Denial of a project. In some instances, a Community Advisory Council may wish to see a project denied. When making such a recommendation it is even more important to identify why you are recommending this action and what "Findings" you want the county decision-maker to consider when making a decision on the project. However, in some instances the general plan policies and ordinance requirements may support further consideration of the project. If that is the case, the staff will try to address each of the reasons or concerns that may have led the Council to come to its recommendation. That is why it is so important that the comments from the Council include the basis for its recommendation.

The staff report for the project will indicate the recommendation from the Community Advisory Council. In addition, a copy of the **referral response** will be attached in the staff report provided to the decision-makers wherever it is provided. If this is a project where the community had major concerns, the council may want to have the Chair or a designated representative attend the hearing to represent and discuss the council position. They should be available to answer any questions that may arise about their recommendation and will also hear all the other comments that the decision-makers receive on the plan or project. This would help them to understand how the decision-makers may have come to their conclusions and how it related to the recommendations of the Council.

The decision-makers give very serious consideration to the comments from the community. They must weigh this against the all the rest of the information that is provided during the hearing in coming to a final decision on the plan or project. Where possible, they will try to support the comments received from the Community Advisory Council but they are not legally required to follow the CAC's recommendation.

Findings - The Basis for the Decisions

The decisions of the Board of Supervisors, Planning Commission, Subdivision Review Board, and Hearing Officer must be based on a rational decision-making process. They must each adopt written "findings" explaining the factual reasons for the decision and the conditions placed on the project (if it is approved). A finding is a formal and written determination or conclusion based on the evidence presented and prepared by a hearing body in support of its decision.

The courts have established that findings are:

> "Legally relevant subconclusions which expose the agency's mode of analysis of facts, regulations, and bridge policies, and bridge the analytical gap between raw data and ultimate decisions."

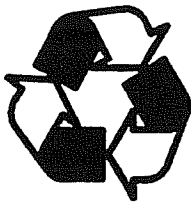
In other words, findings are the legal footprints that decision-makers leave to explain how they progressed from the facts through policies to the decision. There must be evidence in the record to support the findings. A requirement to produce findings of fact is often found in due process rules of state legislation and in California it applies to most discretionary permits. If a decision is challenged in court, the findings will be used to trace the reasoning of the decision-maker and to determine whether its action was legally justified.

Simple Findings *- are used for non-controversial projects and for projects that are meeting all the requirements, and not asking for variances, exceptions or waiver of special standards.*

Complex Findings *- are used for controversial projects, projects that are likely to appealed or to be under legal challenge where the basis for the particulars of the decisions will be necessary for the appeal body or the courts to understand how they came to the conclusions, where there are special circumstances and finding are required by the plans/ordinances, and where there are major environmental issues.*

What can be required in a project?

When reviewing a project, the department and decision-makers must consider the specifics of the projects when deciding what types of requirements for improvements (or exactions) can be made on the project. There are two tests that must be met when imposing certain types of requirements on a project.



Nexus - is the term applied to the requirement that the county must establish that there is a clear relationship between the dedication or fee that is required as a condition of the approval and the purpose or impact that it is serving. If the courts find that there is no such nexus, the decision to include the condition could be considered a "taking" of the property. For example, if there is a problem that is identified with traffic impacts but the county instead required that a neighborhood park be required as a condition of the project, there may not be a clear "nexus" between the condition and the impact.

Rough Proportionality - is the term applied to the requirements that the county establish that there is a roughly proportional basis for the amount for the exactions set for the property and the extent of the impacts that the project will bring. Again, if the courts find that there is no such "rough proportionality", the decision could be considered a "taking" of the property. For example, if a road is already impacted in the present condition and the new project will add only a small increase, the county could not require the new project to build the entire new road, but only that portion that is based upon its impacts.

During the review of the project, the planning staff will consider both of these tests when recommending conditions that are placed on the project. This should be considered when the Community Advisory Council is making its decisions as well.

Other legal considerations - In addition to these two specific legal issues that must be addressed in the review of projects, there are sometimes other legal considerations that will arise and must be considered by staff and the decision-makers. Often these are identified during the public hearing on the projects in response to comments from the project applicant or other interested parties. This can influence the course of the decision that is made on a project as staff must ensure that legal concerns are addressed and do not call into question the decision of the hearing body.

What happens when the decision makers come to a different conclusion than the Community Advisory Council?

After considering all of the information provided during the public hearing, the decision maker will take an action. Sometimes, this will not be a decision that agrees with the recommendation of the Community Advisory Council. It is important that the Council remember that their role is to act as an **advisor** to the decision-maker and that they understand they are not given the final action on the plan or project.

One of the ways to understand why the decision makers have come to a different decision is to ask for feedback from the decision makers directly. You may want to invite the decision maker to your meeting to hear why they made the decision. Also, the findings and minutes of the meetings will provide information for the Council to better understand the conclusions the decision-makers come to on a plan or project.

There is also a formal appeal process on permits. This will mean that the matter will be heard by the Board of Supervisors which considers all the information that the original hearing body did and any additional information that is provided to the Board based on the issues of the appeal. An appeal can be filed by an applicant or an interested individual or group. In some instances, the appeal must be accompanied by an appeal fee as established by the Board of Supervisors. The Board can act to approve or deny the appeal and may include additional conditions on the project to address the concerns raised in the appeal.

In most instances, the decision of the Board of Supervisors will be final. However, for some projects located in the coastal zone, an appeal may also be filed to the California Coastal Commission.

What if the project changes after approval?

Communication between the Community Advisory Council members, the community liaison, and the staff planner assigned to the project is very important. If the project is revised after initial referrals have been mailed out, a re-referral may be appropriate when the community has identified concerns regarding the project or when project would be so different from the original projects that staff may want the Council to take another look.

Revisions can be proposed at many stages in the review and development of the project. It can occur in the early stages of review in response to comments from the community, staff, neighbors, or other agencies. It can also change in response to environmental review and needed mitigation for possible impacts,

Revisions can also occur during public hearings on projects. Revisions may result from conditions that are placed on the projects to change the design, lessen impacts that

were identified in the review of the projects or to make the project "fit" into the community in response to comments from the Community Advisory Council. Finally, the decision-makers can require changes during the public hearing in order to be able to support approval of the projects. If these changes occur, the community liaison or assigned staff planner can help the community stay informed when the community has identified concerns regarding the project, or the revised project would be so different from the original projects that the Council may want or need to review it again.

Revisions can also be proposed following the approval of the projects. These are often "fine-tunings" that occur when the final conditions are being included in the projects and final engineering is completed. Many of these are reviewed and found to be in conformance with the original project that was approved. However, in some instances, these revisions will be so substantial or the things that are proposed to be changed were clearly of such concern to the community or neighbors that the department will require the project "go back" through the public hearing process through a reconsideration of the project. Often this will focus on the changes, rather than the entire project, as the original approval is still valid and can proceed.

When will the project begin or be completed?

A frequently asked question is "when is the project going to be built?" or "when will the project be completed? This will depend upon the timing of the developer of the project unless specific conditions have been established that set out when the development must occur. The approval of a Land Use Permit is generally good for an initial two year period in most instances. Up to three one-year time extensions may be granted if additional time is needed to complete the project and nothing has changed that would affect the project and prevent it from going forward, such as a moratorium based on limited resources. For subdivisions of property, there is an initial approval period of two years, followed by up to five one-year time extensions unless the project has a different established phasing schedule and records in phases.

In general, these extensions of time are not referred to the Community Advisory Council for comment; however, many of them are found on the consent agenda of the decision-making body.

Once building permits have been issued for the project and construction has moved beyond the foundation, the timelines are generally as established under the Uniform Building Code, unless a schedule was set under the conditions of approval.

PROJECT REFERRAL TO COMMUNITY ADVISORY GROUPS

Date: 12/15/00
Project Name/ File # D000202P - Arcamonte

Attached is a project that has been submitted to the Department of Planning and Building for review. This package includes a copy of the application form and the applicable maps/drawings that show or describe the project. Your advisory group may decide to comment on this project. If you would like further information concerning this project, you may want to discuss this with the project planner or the Planning Department liaison for your advisory group.

In addition, you may want to contact the applicant and/or agent for the project to request a presentation to your organization, or simply to answer questions concerning the project. The telephone number and address for the applicant/agent contact are provided on the application materials attached.

Comments from Project Planner: Martha Neder
Snail report, archaeology report, and biologists report completed - no snail, arch or vegetation issues

Please check below if you wish staff to complete the following:

- ☐ Do you wish to receive notice of the hearing for the project?
- ☐ Do you wish to receive a copy of the staff report when the project goes to public hearing?
- ☐ Do you wish to receive a copy of the final action taken on the project?

Comments from the Advisory Group:

- ☐ No comments on project.
- ☐ Comments attached in separate memo/letter.
- ☐ Comments will be submitted at a later date.

SAN LUIS OBISPO COUNTY

DEPARTMENT OF PLANNING AND BUILDING

VICTOR HOLANDA, AICP
DIRECTOR

BRYCE TINGLE, AICP
ASSISTANT DIRECTOR

ELLEN CARROLL
ENVIRONMENTAL COORDINATOR

FORREST WERMUTH
CHIEF BUILDING OFFICIAL

THIS IS A NEW PROJECT REFERRAL

DATE: 12/15/00

TO: Los Osos Advisory Council

FROM: Coastal Team

Arcamonte / D000202P
Project Name and Number

Development Review Section (Phone 781-5183) ( )

PROJECT DESCRIPTION: Construct 2,832 # single family home with 738 # garage.

Return this letter with your comments attached no later than: 12/29/00

PART 1 IS THE ATTACHED INFORMATION ADEQUATE FOR YOU TO DO YOUR REVIEW?

_____ YES (Please go on to Part II)

_____ NO (Call me ASAP to discuss what else you need. We have only 30 days in which we must accept the project as complete or request additional information.)

PART II ARE THERE SIGNIFICANT CONCERNS, PROBLEMS OR IMPACTS IN YOUR AREA OF REVIEW?

_____ NO (Please go on to Part III)

_____ YES (Please describe impacts, along with recommended mitigation measures to reduce the impacts to less-than-significant levels, and attach to this letter)

PART III **INDICATE YOUR RECOMMENDATION FOR FINAL ACTION. Please attach any conditions of approval you recommend to be incorporated into the project's approval, or state reasons for recommending denial.**
IF YOU HAVE "NO COMMENT", PLEASE INDICATE OR CALL

Date Name Phone

COUNTY GOVERNMENT CENTER • SAN LUIS OBISPO • CALIFORNIA 93408 • (805)781-5600 • 1-800-834-4636
EMAIL: ipcopling@slonet.org • FAX: (805)781-1242 • WEBSITE: http://www.slonet.org/vv/ipcopling

GENERAL PERMIT APPLICATION

San Luis Obispo County Department of Planning and Building File Nos. D000202P

PLICATION TYPE CHECK ALL THAT APPLY

- ☐ Construction Permit
- ☐ Emergency Permit
- ☐ Zoning Clearance
- ☐ Road Naming/Addressing
- ☐ Tree Removal
- ☐ Plot Plan
- ☐ Site Plan
- ☒ Minor Use Permit
- ☐ Development Plan
- ☐ Variance
- ☐ Surface Mining/Reclamation Plan
- ☐ Voluntary Merger
- ☐ Public Lot
- ☐ Certificate of Compliance
- ☐ Lot Line Adjustment
- ☐ Parcel Map
- ☐ Tract Map
- ☐ Reversion to Acreage
- ☐ Sending Site
- ☐ Receiving Site
- ☐ Preliminary Determination
- ☐ Condominium (new or conversion)
- ☐ Road Abandonment
- ☐ Curb, Gutter & Sidewalk Waiver
- ☐ General Plan Amend
- ☐ Amendment w/Updat
- ☐ Specific Plan
- ☐ Ordinance Amendme
- ☐ Ag Preserve
- ☐ Other

APPLICANT INFORMATION

CHECK BOX FOR CONTACT PERSON

☐ Landowner Name EUGENE ARCAMONTE — Daytime Phone: (805) 528-4079

Mailing Address 290 LILAC DR., LOS OSOS, CA — Zip: 93402

☐ Applicant Name HOPPE INVESTMENTS, LLC — Daytime Phone: (805) 528-2549

Mailing Address P.O. BOX 6254, LOS OSOS, CA — Zip: 93412

☒ Agent JEFF EDWARDS — Daytime Phone: (805) 528-1567

Mailing Address P.O. BOX 6070, LOS OSOS, CA — Zip: 93412

PROPERTY INFORMATION

Total Size of Site: 12,969 ☒ — Assessor Parcel Number(s): 074-323-002

Legal Description: —

Address of the project (if known): 2448 BAYVIEW HEIGHTS DRIVE, LOS OSOS

Directions to the site – describe first with name of road providing primary access to the site, then nearest roads, landmarks, etc.: SOUTH OF LOS OSOS VLY. RD. ON BAYVIEW HTS. DR., LOS OSOS

Describe current uses, existing structures, and other improvements and vegetation on the property: VACANT LOT

Describe the proposed project (inc. sq. ft. of all buildings): SINGLE-FAMILY HOUSE OF 2832 ☒ PLUS 738 ☒ GARAGE, ACCESS DRIVEWAY AND SEPTIC SYSTEM

LEGAL DECLARATION

I, the owner of record of this property, consent to the named agent/applicant to act in my behalf in connection with this matter. I have completed this form accurately and declare that all statement here are true. I do hereby grant official representatives of the county authorization to inspect the subject property.

Property owner signature AGENT — Date 12/11/00

OFFICE USE ONLY

Date Received: 12/11/00 By: KMcCord Receipt No.: — Use Group?: —

Planning Area: 2A EST — Community Code: — [ ] "A" Use [ ] "S" Use

Land Use Category: RSF — Combining Designation: LCP/AS

Coastal Zone: [X] In [ ] Out Enforcement Case: [ ] Yes [X] No File #: — Addressing: —

Comments: — Planner: — Date: —

LAND USE PERMIT APPLICATIO

San Luis Obispo County Department of Planning and Building File No. _____

Type of project: ☐ Commercial ☐ Industrial ☒ Residential ☐ Recreational ☐ Other

Describe any modifications/adjustments from ordinance needed and the reason for the request (if applicable): NO MODS. PROPERTY LIES WITHIN COASTAL COMMISSION APPEAL AREA.

Describe existing and future access to the proposed project site (i.e. dirt roads, locked gates, etc): ACCESS FROM PUBLIC ROAD (ie. - BAYVIEW HEIGHTS DR.) IN LOS OSOS

Surrounding parcel ownership: Do you own adjacent property? ☐ Yes ☒ No
If yes, what is the acreage of all property you own that surrounds the project site? _____

Surrounding land use: What are the uses of the land surrounding your property (when applicable, please specify all agricultural uses):

North: SFR South: SFR
East: SFR West: SFR / PUBLIC FACILITY

For all projects answer the following:

What is the square footage and percentage of the total site (approximately) will be used for the following: OPEN AREA 3,600 sq. ft / 2%

Buildings: 2700 sq. feet 21 % Landscaping: 2000 sq. feet 16 %
Paving: 2000 sq. feet 16 % Other (specify) LEACH FIELD 2400 ø 19%
Total area of all paving and structures: APPROX. 6000 ø Total area of grading or removal of ground cover: APPROX. 8000 ø
Number of parking spaces proposed: 3 Height of tallest structure: 24'
Number of trees to be removed: ø Setbacks: Front 25' Right 12' Left 15' Back 75'

Proposed water source: ☐ On-site well ☐ Shared well ☐ Other _____
☒ Community System - List the agency or company responsible for provision: CAL CITIES WATER CO.
Do you have a valid will-serve letter? ☐ Yes If yes, please submit copy ☐ No

Proposed sewage disposal: ☒ Individual on-site system ☐ Other _____
☐ Community System - List the agency or company responsible for sewage disposal: _____
Do you have a valid will-serve letter? ☐ Yes If yes, please submit copy ☒ No

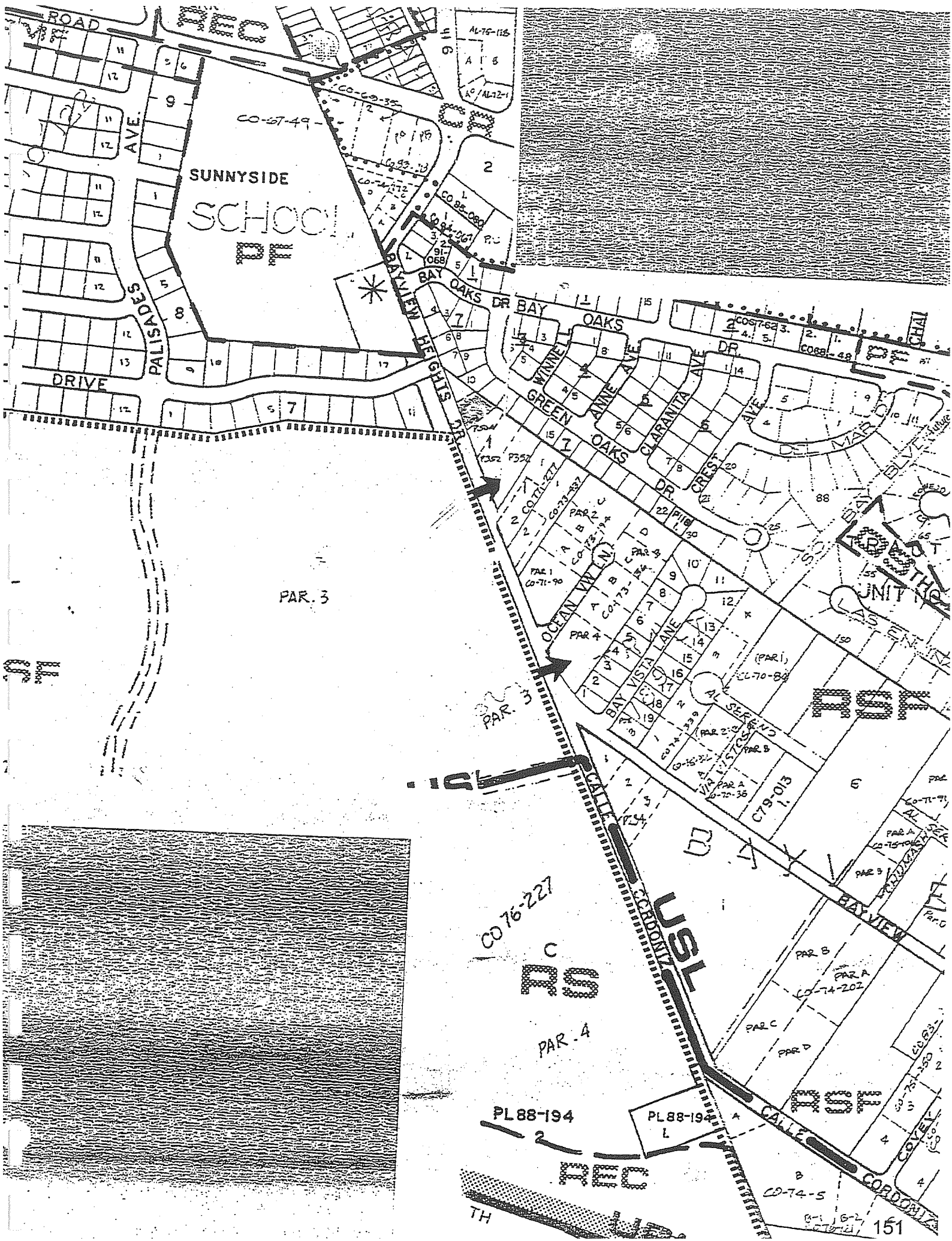
Fire Agency: - List the agency responsible for fire protection: SO. BAY FIRE

For commercial/industrial projects answer the following:

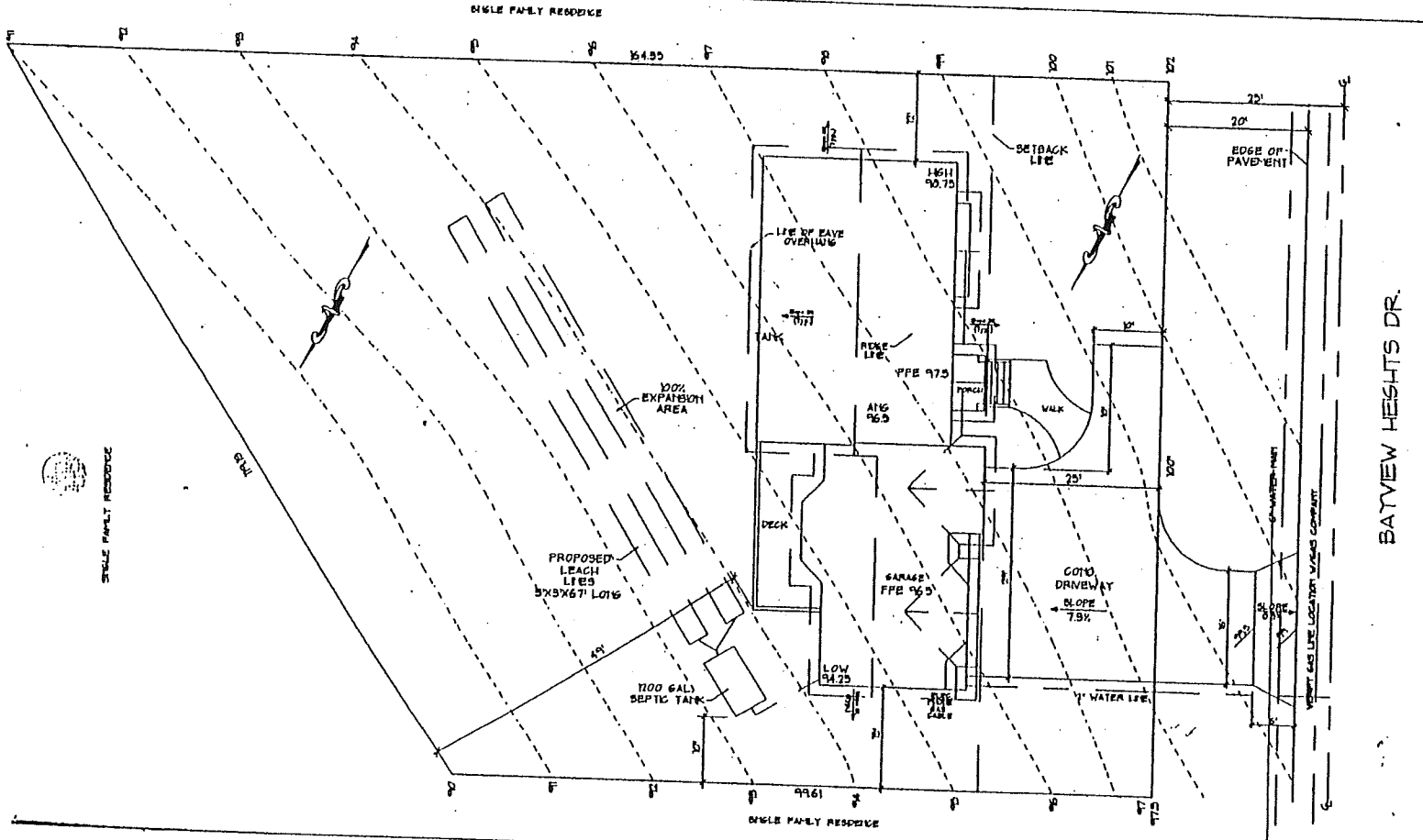
Total outdoor use area: _____
Total floor area of all structures including upper stories: _____

For residential projects, answer the following:

Number of residential units: 1 Number of bedrooms per unit: 4
Total floor area of all structures including upper stories, but not garages and carports: 2,832 ø
Total of area of site minus building footprint and parking spaces: APPROX. 6,000 ø


SUNNYSIDE
SCHOOL
PALISADES DRIVE
BAYVIEW HEIGHTS DR
BAY OAKS DR
WINNELL AVE
GREEN OAKS DR
ANNE AVE
CLARANITA AVE
CREST DR
DEL MAR BLVD
OCEAN VIEW LN
BAY VISTA LANE
CALLE CORDONIZ
BAYVIEW
PAR. 3
PAR. 4
CO-67-49
CO 76-227
PL88-194
C79-013
CO-74-202
CO-74-5
USL
RS
RM-F
RM-2
RM-3
151

Note: It is the owners responsibility to verify lot lines. Lot corners shall be staked and setbacks marked by a licensed professional.



SITE PLAN 1/8"=1'0"

Project Data

Square Footage

First Floor 1107 Sq. Ft.
Second Floor + 1725 Sq. Ft.
Total 2832 Sq. Ft.

Garage 738 Sq. Ft.
Deck 190 Sq. Ft.
Porch 40 Sq. Ft.

Lot Coverage

Lot Area
13,195 Sq. Ft.
Footprint
1885 Sq. Ft.
1885 ÷ 13,195 = 14.3%

Building Height Data

Low 94.25 High 98.75
A.N.G. $\frac{94.25+98.75}{2}$ = 96.5
Max. Height
A.N.G. 96.5 + 28' = 124.5
Actual Height
A.N.G. 96.5 + 24' = 120.5
FFE 96.5 + 24' = 120.5

Driveway Slope

$\frac{99.6 - 96.5\ (100)}{41'}$ = 7.5%

Drainage

Rain gutters
w/ downspouts
to dry well

Zoning

R-1

Note:
1. No type M copper shall be used within a building & only lead-free solder.
2. Provide schematic of hot & cold water systems to the field inspector for approval prior to installation. Include pipe sizing calculations verifying design.

2448 Bayview Heights Dr.
Los Osos, Ca 93402
APN 74-323-003

SITE LOCATION

Revisions

Dana Belmonte
RESIDENTIAL DESIGN
2231-C Bayview Heights Drive

Owner: Contractor:
Hoppe Construction
P.O. Box 6254
Los Osos, Ca. 93402

Site Location:
2448 Bayview Heights Dr.
Los Osos, Ca. 93402
APN 74-323-002

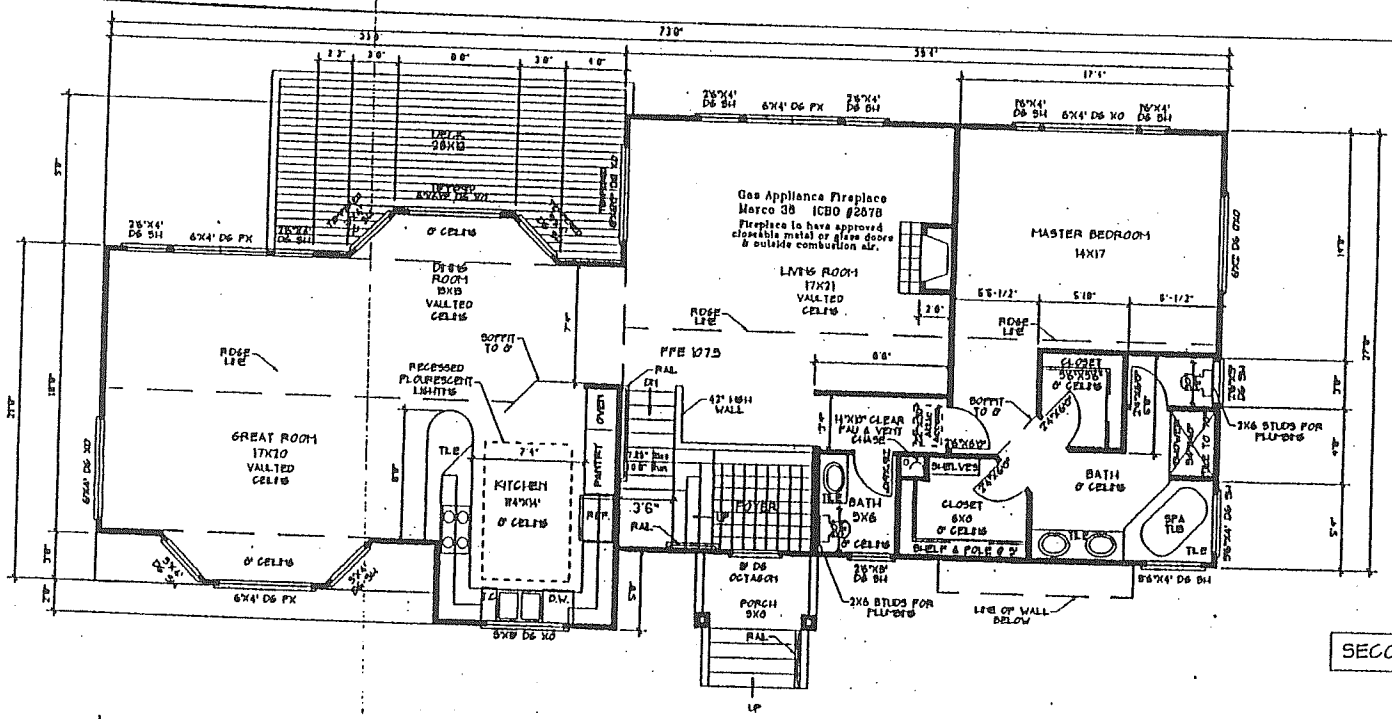
Site Plan

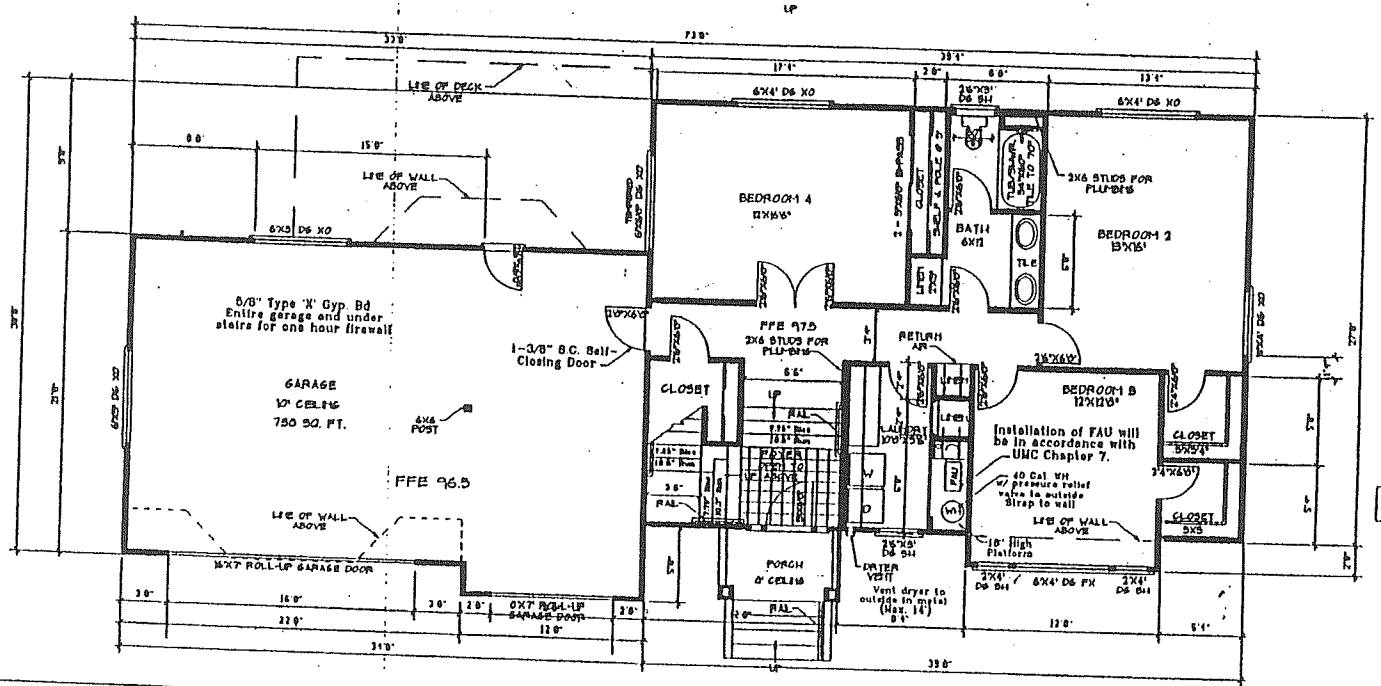
Dana Belmonte
12-01-00
1/8"=1'0"
0040

152

Note:

These plans and the ideas and designs incorporated within are instruments of service prepared for the construction of the work shown hereon, are the property of Dana Belmonte, and shall not be used in whole or in part for any other project without written authority of Dana Belmonte.





Square Footage	
First Floor	1107 Sq. Ft.
Second Floor	1725 Sq. Ft.
Total	2832 Sq. Ft.
Garage	738 Sq. Ft.
Deck	100 Sq. Ft.
Porch	40 Sq. Ft.

153

Dana Belmonte
RESIDENTIAL DESIGN

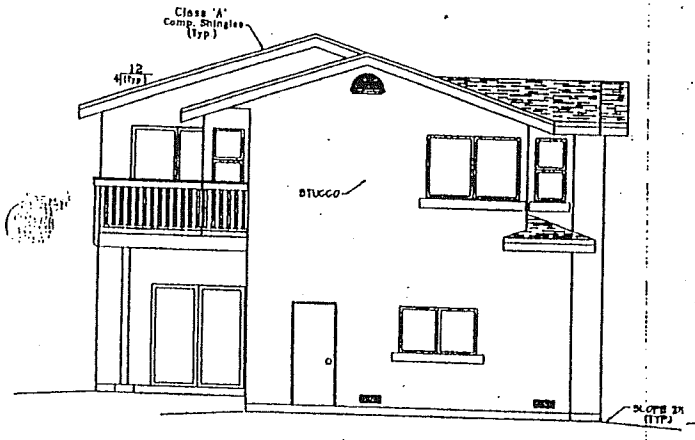
2448 BATVIEW HEIGHTS DR.
LOS OSOS, CA.

Floor Plan

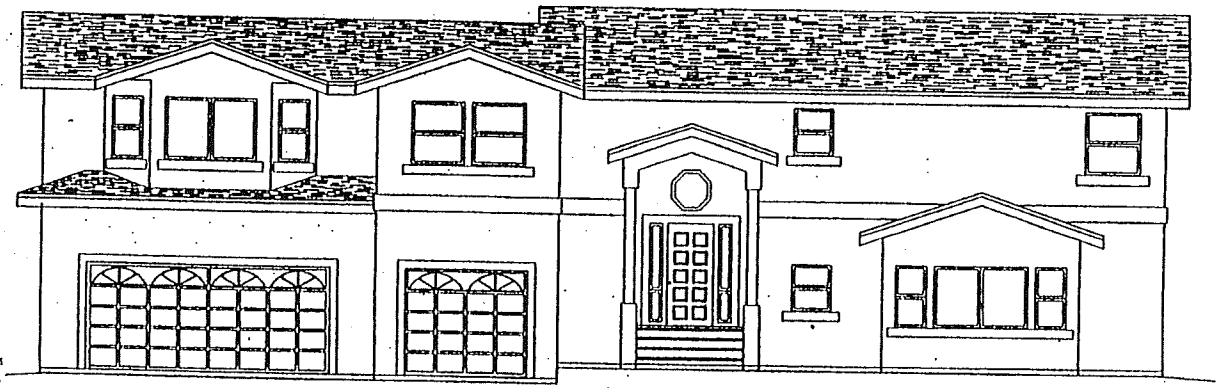
Dana Belmonte
12-01-00
1/4"=1'0"
0045
2

Note:
These plans and the ideas and designs incorporated within are instruments of service prepared for the construction of the work shown hereon, are the property of Dana Belmonte, and shall not be used in whole or in part for any other project without written authority of Dana Belmonte

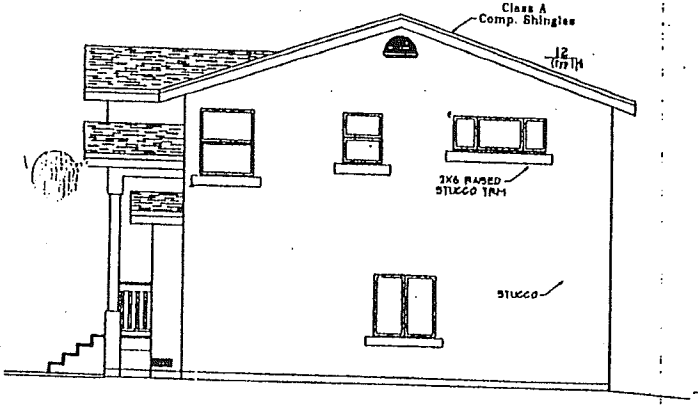
Building Height Data	
Low 94.25	High 98.75
A.N.G. $\frac{94.25+98.75}{2}$	= 96.5
Max. Height A.N.G. 96.5 + 28'	= 124.5
Actual Height A.N.G. 96.5 + 24'	= 120.5
FFE 96.5 + 24'	= 120.5



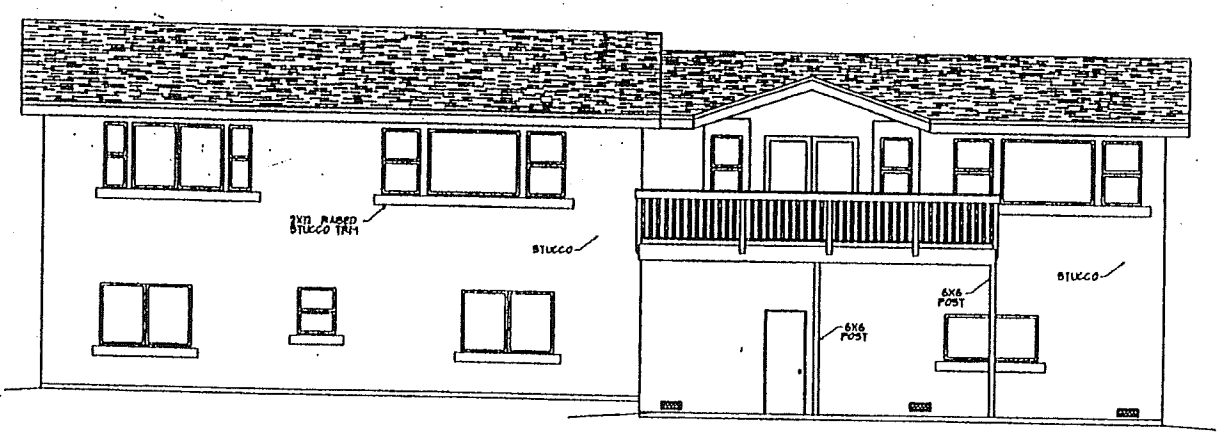
NORTH ELEVATION



WEST ELEVATION



SOUTH ELEVATION



EAST ELEVATION

Revisions

Dana Belmonte
RESIDENTIAL DESIGN
2231-C Bayview Heights Drive

2448 BAYVIEW HEIGHTS DR.
LOS OSOS, CA.

Elevations

Dana Belmonte
12-01-00
1/4"=1'0"
0045

154 W

Transfer of Development Credit Program in San Luis Obispo County

Response - San Luis Obispo County Board of Supervisors

SAN LUIS OBISPO COUNTY
DEPARTMENT OF PLANNING AND BUILDING

VICTOR HOLANDA, AICP
DIRECTOR

BRYCE TINGLE, AICP
ASSISTANT DIRECTOR

ELLEN CARROLL
ENVIRONMENTAL COORDINATOR

FORREST WERMUTH
CHIEF BUILDING OFFICIAL

DATE: APRIL 17, 2001

TO: DAVID EDGE, COUNTY ADMINISTRATIVE OFFICER

FROM: BRYCE TINGLE, ASSISTANCE DIRECTOR, PLANNING AND BUILDING
KAMI GRIFFIN, SUPERVISING PLANNER

VIA: VICTOR HOLANDA, DIRECTOR, PLANNING AND BUILDING

SUBJECT: RESPONSE TO GRAND JURY REPORT ON THE COUNTYWIDE TRANSFER OF DEVELOPMENT CREDIT (TDC) PROGRAM

RECOMMENDATION

1. It is recommended that this report serve as the Department of Planning and Building's response to the Grand Jury Report on the Countywide Transfer of Development Credit (TDC) Program.

2. It is the Planning and Building Department's recommendation that the Board of Supervisors schedule this response to the Grand Jury at the same time as the discussion of the Transfer of Development Credit Issue Paper scheduled for May 15, 2001, and provide staff with direction on any amendments to the program based on that review, that the countywide program continue to apply until such time as communities or special focus areas come forward with their own community based programs, as the Nipomo Area Advisory Council voted to do on March 9, 2001.

DISCUSSION

On March 2, 2001, the Grand Jury issued a report on the Countywide Transfer of Development Credit Program. This response addresses the body of the report, the findings and the recommendations pertaining to the Planning and Building Department. The Grand Jury concluded that The TDC ordinance should be amended to (1) provide for community-based programs only, tailored to local needs, that (2) each of the five Geographical Regions should be given the option of developing a community-based TDC program, adopting the countywide program or electing not to have a program and that (3) the program should be stayed with no further amendments except to complete those actions referenced in (1) and (2).

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In response to the grand Jury's recommendations, the Department of Planning and Building recommends that (1) the county continue to encourage communities to create their own program (where the community is interested in having a program different from the countywide program) and that the countywide program apply until such time as a community decides to come forward with a new program and a specifically defined area where that new program will apply, and (2) because the allegations and issues raised by the Grand Jury are not substantiated by any compelling evidence or testimony, the Department recommends that the Board of Supervisors proceed with the review of the Issue Paper scheduled for May 15, 2001, and then provide staff with direction on any amendments to the program based on that review and that no "stay" of the ordinance occur.

The Department's complete response is included in the attached report. It is shown in italics following the specific applicable portions of the Grand Jury Report that are shown in text boxes.

OTHER AGENCY INVOLVEMENT/IMPACT

Not Applicable

FINANCIAL CONSIDERATIONS

Costs for preparing this response are included in the current department budget.

RESULTS

This response will meet the legal requirements for responding to a Grand Jury report with findings and recommendations.

Response by the Department of Planning and Building
to the Grand Jury Report of March 2, 2001
on the Countywide Transfer of Development Credit (TDC) Program

Response to the Body of the Report

Voluntary Program

Page 2 - Left hand column:

> The voluntary aspects of the program are that the owner of the sending site offers his or her property for the program, and the owner of the receiving site offers his or her project for the program. However, through our investigation, we found that the community that is home to the receiving site, with its impacts of increased density, views the results of a TDC project as being involuntary, If the receiving site is acceptable to the Planning Commission, the resulting increased density is imposed on the community.

Staff Response:

The countywide program is a voluntary program. The purpose and intent statements in both the General Plan and ordinance state that this program is ***voluntary, incentive-based, and market-driven.*** *Potential sending and receiving sites that participate in the program do so voluntarily. As with any discretionary project, sending and receiving sites are subject to staff review, an environmental determination, and a public hearing where interested parties can speak in support of, or in opposition to, a project. Projects must have findings that support the decision of the Review Authority. Thus, any project, even a project that is not a receiving site, is or could be, "imposed" on a community if the community did not support the project but the project is approved.*

Community-based

Page 2 - Right hand column:

> The Nipomo Community Advisory Council abandoned its efforts to develop a community-based program after a subcommittee worked on its development for nearly a year. When the public found the concepts too difficult to understand, their Supervisor recommended opting out of the TDC Program completely. However, it is only recently that the Board of Supervisors appears to be willing to consider Nipomo's desire to be exempted from the TDC Program.

Staff Response:

On March 9, 2001, the Chair of the Nipomo Community Advisory Council (NCAC) notified county staff that the NCAC approved a community-based TDC program that would help the community address preservation of open space land and the potential impacts of a number of general plan amendment applications that are requesting significant increases in density. The community is working with their Supervisor to incorporate this program into the county code and, if the program is approved by the Board, it would replace the countywide program in the South County Planning Area. Other communities can also develop their own programs to address their specific needs.

A Complex Program

Page 2 - Right hand column:

> The TDC Program in San Luis Obispo County has been termed by an expert as "difficult to understand and complex". Some participants are represented by lawyers or other experts and receive significant assistance from County staff in the development of the applications.

Staff Response:

The county's program is no more or less complex than the hundreds of programs that exist throughout California and the United States. The local countywide program was developed to specifically address San Luis Obispo County. The concept of using an appraisal as the basis for assigning credits, for example, grew out of this county's unique situation relative to property values. There are a number of other examples of how the ordinance reflects local needs.

Using professionals to assist applicants through the land use approval system is a common practice. In addition, staff spends the majority of their time facilitating applicants through the county's process for all application types, not just applications associated with TDCs. Using professionals and staff assistance does not mean that the program is necessarily complex and difficult to understand.

We believe what the Grand Jury was attempting to convey is that the principles of any TDC Program are difficult to understand, that it may be difficult for the average citizen to understand the results of the program and how it could affect them.

Consistent with the Land Use Element general goals, the principle behind the county's TDC program is to relocate development from environmentally sensitive land, land with agricultural capability or antiquated subdivisions, to more suitable areas. The program does this through moving development potential to a location that can better support that development. As with any discretionary approval process, a sending or receiving site is required to be evaluated against the General Plan and the applicable provisions of the Land Use Ordinance. The TDC Review

Committee (for sending sites) and the Planning Commission or Subdivision Review Board (for receiving sites) have the discretion to approve, conditionally approve, or deny any request for sending or receiving site status, just as they have discretion to approve, conditionally approve, or deny any other project that comes before them for a decision. The average citizen has the right to participate in the process and the Review Authority will take all public testimony into consideration when making decisions on project.

The actual steps in the process are outlined in Appendix A.

Tax Implications

Page 3 - Left hand column:

The Assessor's office has no role in the approval process of sending or receiving sites. Therefore no calculation of the fiscal impact of reassessment is made as part of the TDC approval process.

Staff Response:

The Assessor's Office does not have an involvement in any land use decision. Therefore, no calculation is ever made of the fiscal impacts of reassessment, either up or down, from any project's approval or denial. If the Assessor's Office were to get involved with those decisions, a project might be approved by the decision-makers based on its potential to increase the property tax rolls, rather than whether it meets the goals of the General Plan and how it fits into a community.

Page 3 - Left hand column:

The ramifications of the tax reduction that accrue to the sending site were not considered during the development of the TDC program.

Staff Response:

A staff member from the Assessor's Office was invited to and attended most of the TDC Technical Advisory Committee meetings (see Appendix B for a list of the appointed members of the Technical Advisory Committee) and was an active participant in the development of the program.

The ramifications of potential property tax reductions based on a property entering into a conservation easement were specifically addressed during the development of the TDC program. In the report entitled "Lessons, Issues and Recommendations for a TDC Program in San Luis Obispo County - December, 1995," there is a section that discusses the Assessor's Office concerns raised during their participation with the Technical Advisory Committee in developing the

ordinance. The report states that there was concern on the part of the Assessor's Office about making sure the restrictions on the sending site are permanent and to make sure that is a way of tracking where the credits went so the reduced value at the sending site can be recaptured through taxation of increased density at the receiving site.

The program ultimately addressed these concerns through tracking of individual registration numbers given to credits and by using well-recognized and established conservation easements. The standard conservation easement is an easement that runs in perpetuity.

Page 3 - Left hand column:

> The Assessor's participation for a sending site may begin when a conservation easement has been recorded and the credits created. If the sending site owner requests a reassessment, the Assessor will review the conservation easement to determine if the easement will continue into perpetuity, without escape clauses under which the owner could request the Board of Supervisors to release the property from the easement after the credits have been sold.

Staff Response:

The report "Lessons, Issues and Recommendations for a TDC Program in San Luis Obispo County - December, 1995," also clarified that property tax reductions would not automatically be issued, but rather would have to be at the request of the property owner. If a property owner applies to the Assessor for a reassessment based on the conservation easement, that request is evaluated on a case by case basis. The Assessor evaluates the uses left on a property and makes a reassessment determination.

It was also pointed out in that same report that the program should not create additional costs for the Assessor's Office since the program would be structured to use all existing processes of recording maps, easements and reassessment.

Conservation easements are typically held by a valid non-profit conservation organization, not the county. Therefore, the Board of Supervisors would not be able to "release the property from the easement" as the Board of Supervisors does not have a control over that easement. Conservation organizations are the desired holders of easements as they are set up to be stable, long term organizations, and the conservation easements are required by law to specify back-up organizations if the conservancy is unable to hold the easement in the future. Oversight of the enforcement of these easements by the non-profit is provided by the State Attorney General. Therefore, the concept of the property owner being allowed to develop the property after selling their credits is not factual. In addition, the property would be covered with a Transfer of Development Credit - Sending (TDCS) combining designation, thus notifying future property owners and county staff that the property is an approved sending site.

Page 3- Left hand column:

> Another option available to a sending site is to transfer (donate) credits to an organization that is a valid tax-exempt charity under Internal Review Code section 501(c)(3), thereby creating a potentially significant income tax reduction.

Staff Response:

The county does not get involved in an individual's income taxes and this statement in the report of the Grand Jury appears to have no significance relative to the countywide TDC program. It is true that a property owner may choose to donate the credits to a valid non-profit organization and that this action may entitle the property owner to a reduction in their income taxes. It would appear that the Grand Jury is asserting that the county ought to get involved in an individual property owner's income tax affairs.

California Environmental Quality Act (CEQA)

Page 3 - Right hand column:

> Sending sites create the opportunity for increased density at receiving sites beyond the provisions of the General Plan. The CEQA review resulting in a General Rule Exemption or Categorical Exemption does not provide an evaluation of the cumulative impacts on the planning area affected. Rather, the evaluation of the increased density is postponed until a receiving site is reviewed - usually one site at a time. Our investigation indicates it is very difficult to evaluate the cumulative impacts on the environment in this manner. More over, to date, all receiving sites have been approved with a negative declaration. The public perception is that this is a very cursory CEQA review.

Staff Response:

The county's General Plan specifically addresses allowing increased density associated with the TDC program, just as it does for increased density associated with an affordable housing project. For sending sites, CEQA requires that a project's foreseeable impacts be reviewed. An agency is not required to predict the unforeseeable. At the time of sending site application, the potential impacts are unknown and not foreseeable for any number of reasons. There are a number of options available to a sending site landowner, including never entering into the conservation easement and therefore never creating credits. Approving sending sites does not appear to create pressure for receiving site creation as evidenced by the approved sending sites in the north county. There are four approved sending sites in the north county, two of which have been approved since 1998. The receiving sites approved in the north county include two sites where TDCs were mandated by the General Plan (imposed prior to the adoption of the TDC program) and a parcel east of Templeton

that requested to be divided in half through the use of TDCs (which was supported by the local area advisory group). There has not been a rush to become a receiving site. Therefore, it becomes speculative at the time of sending site application to try and determine potential effects of where or how the credits could potentially be used.

Receiving sites are subject to a complete and thorough review under the provisions of CEQA. A negative declaration is issued only after the project is reviewed in detail and a determination is made that all the potential impacts can and will be mitigated to a point of insignificance. This review is not cursory. If the potential impact cannot be mitigated to a point of insignificance so that a Negative Declaration can be issued, an Environmental Impact Report would need to be prepared in accordance with CEQA before the receiving site can be approved.

General Plan

Page 4 - Left hand column

While the ordinance enabling the TDC Program is part of the General Plan, the effect of the program is to bypass the long-range considerations of the General Plan.

Available resources - water, schools, roads, etc. - are carefully considered in the overall density of development provided by the Plan. Amendments to the Plans are considered in an equally rigorous manner.

Staff Response:

Any project that is subject to a discretionary approval is given a "rigorous" review. The availability of water, schools, roads, etc., are always evaluated for any project, whether the project is a receiving site or is proposed without a density bonus.

Therefore, the long-range considerations, as set forth in the General Plan, are reviewed for all projects. The TDC Program and projects proposed under the program are not processed any different and therefore do not have the effect of bypassing the long range considerations of the General Plan.

Page 4 - Left hand column:

The public perception is that the TDC Program weakens the credibility and the protections afforded by the General Plan. The public looks at the General Plan as being specific; the TDC Program brings in an element of uncertainty.

We were told the TDC Program "flies in the face" of the General Plan and that receiving sites don't mesh with the General Plan.

Staff Response:

Though the Grand Jury was told that the program "flies in the face of the General Plan" and that the receiving sites don't mesh with the General Plan, the General Plan, in fact, supports the TDC program through its adopted goals and policies.

The General Plan in the county contains general goals. The TDC program advances and promotes many of these general goals (see Appendix C). In addition, many Area Plans also contain vision statements and specific goals. For instance, the South County Area Plan includes a Vision statement that was developed by the community, as well as restating the Land Use Element general goals. The plan also states that a Transfer of Development Credits program could be used as an effective planning tool in achieving the goals and policies of the South County Area Plan.

The Agriculture and Open Space Element of the General Plan also recognizes the use of the TDC program. There are two policies in the Agriculture and Open Space Element specifically addressing the TDC program. The policies are to continue to use the voluntary TDC program adopted by the Board of Supervisors to help protect both agricultural and open space resources by guiding development to more suitable areas.

Sending Sites

Page 4 - Left hand column:

> The TDC Review Committee reviews sending site applications. To date, all TDC sending sites have been approved using exemptions under CEQA. No sending site applications have been denied. Moreover, the Board of Supervisors denied an appeal of one decision by a 3-2 vote, notwithstanding the community opposition.

Staff Response:

Sending site applications are heard by the TDC Review Committee in a noticed public hearing process. Sending sites are not approved by CEQA exemptions. The sending sites were approved through the process set forth in the Land Use Ordinance which includes the preparation of an environmental determination. To date, all sending site applications have been determined to be exempt from the provisions of CEQA. This determination is made after a thorough review of the application to determine if the application is subject to the provisions of CEQA or is exempt using the general rule exemption or is exempt using a specific category of exemption.

The Board of Supervisors did deny an appeal and uphold a decision of the TDC Review Committee after considering all the evidence provided in an advertised public hearing. The Board of Supervisors has the final authority to make that decision so this statement in the report of the Grand Jury appears to have no significance relative to the countywide TDC program.

Page 4 - Right hand column:

The policy statement of the general agricultural criteria has been used in making some sending site decisions. Some concerns about application of these criteria include:

- The definition for "prime, unique or other productive soil" is so broad that virtually all land in the County would satisfy the definition
- The definition for "microclimate" is so broad that the climate in most of the state meets the criteria.
- The provision that states "this makes it possible for a family who would otherwise have to sell the land to retain the land and continue active agriculture" does not appear to be a controlling provision and accordingly any agriculture whatsoever qualifies, regardless of the nature or circumstances of the ownership.

Staff Response:

The Land Use Ordinance sets out the criteria used in determining if a property is eligible for sending site status. If a property meets either the specific or general criteria set forth in the TDC ordinance, the property would then be eligible to have base credits assigned.

The TDC Review Committee can determine the site to be eligible for sending site status based on the general criteria. There is discretion in this determination, as the general criteria require the TDC Review Committee to first find that designation as a sending site would satisfy the policy statement of the applicable general criteria and any or all of the general criteria listed. This is different from a site that would qualify for sending site status using the "specific criteria". These criteria do not require a judgement call by the TDC Review Committee as they are objective in nature.

Page 4 - Right hand column:

There is a significant multiplying effect; many more sending site credits are generated than the underlying zoning would produce.

Currently, sending site credits are calculated on the basis of a development value formula, which has a multiplying effect that yields a credit value far in excess of the underlying legal lots for single-family residences. Furthermore, the residual land uses remaining, after separation of the site credits, are extensive.

Staff Response:

The issue of the numbers of credits generated being larger than the allowed density on the site has been raised a number of times. Increasing development rights on the sending site is a typical incentive for encouraging owners to participate in TDC programs. For instance, the City of Oxnard has a program that grants a 6 to 1 transfer ratio, however, the city has found that even that incentive is not great enough to encourage the use of their program because of how desirable the sending sites are for development. In Montgomery County, Maryland, the sending sites are "zoned" for one unit per 25 acres. If a landowner sends credits away from the sending site, he can do so at 1 unit per 5 acres. In other words, the permitted density of sending site properties increases five fold when development credit are used to allow development on receiving sites, rather than on the sending site.

Using value as a means of determining numbers of credits on sending sites "levels the playing field" for all potential sending sites. This is needed because various parts of the county have properties of differing values and properties that have, or don't have, underlying legal lots. Determining the number of credits for sending sites received an in-depth review from the Technical Advisory Committee during the development of the TDC ordinance. ***The committee determined that it was essential that a participating land owner receive back the value of what it is they are giving up.***

Towards that end, the Technical Advisory Committee considered two ways of assigning credits using exchange rates. The first was called a "variable exchange rate" and the second was called a "fixed exchange rate". The essential difference between these two approaches is whether the lots that would be allowed to be created under the General Plan should be used as the basis for assigning credits, or whether this decision should be based on the actual dollar value of the development potential being given up in perpetuity.

The demonstration projects that the TDC Technical Advisory Committee reviewed, as well as a review of existing programs nationwide, determined that a developer would be willing to pay between $7,000 and $25,000 for a credit (if that credit meant one additional lot). For example, if a parcel of land was 40 acres in size and was zoned for one home per 40 acres, then the owner has only one credit to sell. If the development value of the lot was $80,000, and a developer was willing to pay approximately $20,000 per credit, then an exchange rate of 4:1 would need to be assigned in order to make the credit feasible to sell (since it would be difficult, if not impossible to sell an $80,000 credit).

Another example would be a property 20 acres in size and zoned for one house per 20 acres. Again, the owner would only have one credit to sell, however, in this case the development value of the lot is $60,000. If a developer is willing to pay approximately $20,000 per credit, then an exchange rate of 3:1 would need to be assigned in order to make the credit feasible to sell.

Because property values vary greatly, the committee could not determine a way to adopt a single variable exchange rate of either 6:1, 4:1 or 3:1.

The fixed rate approach uses 1:1 as the ratio and divides the value of the development that is to be retired, by what it is estimated a developer would pay for a credit. The current ordinance uses $20,000.

Using the same examples as above, the property whose development value is $80,000 would qualify for 4 credits. The property with a development value of $60,000 would qualify for 3 credits. This is a much more simple approach than a variable exchange rate and makes all potential participants in the program equal under the program.

The residual land uses remaining on the site after any property owner enters into a conservation easement are determined on a case-by-case basis, with the minimum uses that are prohibited set forth in the ordinance. For instance, on a sending site recently approved in the north county, the TDC Review Committee further restricted the remaining uses on the site by limiting the overall development square footage to 10,000 square feet on three pads, including any covered outdoor storage areas. In addition, since this site received bonus credits based on natural resources, the uses remaining on the site were very limited.

Page 4 - Right hand column:

> Additionally, after the TDC Review Committee determines that a property qualifies as a sending site and the "base credits" are determined, the site may qualify for bonus credits. Bonus credits are available to land that qualified as an agricultural or natural resource sending site. The bonus credits are provided through the Program to serve as an incentive to the property owner to encourage participation in the Program. As a result bonus credits up to 50% of the base credits could be transferred to a receiving site. This results in greater density than if credits were not transferred.

Staff Response:

Bonus credits are issued to the sending site and become part of the credits available to a landowner to sell. A bonus related to the sending site is not given to the receiving site. Bonus credits are given out in 10% increments, up to a maximum of 50%, where 10% may be granted for each bonus criteria that is met. To date, no sending site has qualified for the maximum 50% bonus.

Page 5 - Left hand column:

> Antiquated subdivisions qualify as sending sites if the property is transferred in fee to a public agency or a non-profit organization or if a comprehensive conservation easement is recorded on the land. Antiquated subdivisions do not qualify for bonus credits.

Staff Response:

The Grand Jury incorrectly states that antiquated subdivisions qualify as sending sites if the property is transferred in fee to a public agency or non-profit agency, or if a comprehensive conservation easement is recorded on the land. An antiquated subdivisions may qualify as a sending site whether or not the land is transferred to a public agency or non-profit. A property owner may keep the underlying land ownership and still be designated a sending site. In addition, the conservation easement would be no different from the easement that is entered into for a property that qualified as a sending site under the natural resource criteria.

Laetitia (Piccho Vineyards)

Page 5 - Right hand column:

> When the application was reconsidered in September 2000, at the TDC Review Committee hearing, only 41.5 credits were approved while the larger number of remaining credits was held in abeyance so that staff and the applicant could obtain more information. From our review of the files and the staff report we believe this is a piecemeal approach since there is no explanation of the need for this action. We were looking for documentation of a public explanation for this approach.
>
> It is important to note that the CEQA Guidelines provide: "the lead agency must consider the whole of an action, not simply its constituent parts, in determining whether it will have the significant environmental effect.

Staff Response:

The staff report prepared for the September 15, 2000 public hearing clearly stated that the remaining portion of the application was held in abeyance to allow staff and the applicant time to continue to develop additional information and resolve issues and recommended that 41.5 credits be issued on a 554 acre portion of the site. The remaining 943 acre portion of the application was heard on March 23, 2001 and 160.5 credits were issued over that portion.

It would appear that the reasons for hearing the project in phases was clearly stated in the staff report. In addition, it is important to note that the General Rule Exemption was granted over the <u>entire</u> property and therefore the whole of the action, not simply its constituent parts, was reviewed in determining whether it would have a significant environmental effect.

Clearwater Nursery

Page 5 - Right hand column:

> The General Plan 5-acre zoning of the 39.16 acres would provide for 7 residential lots with the potential for 1 primary and 1 secondary residence on each. However, because of the valuation formula, the site was granted a total of 26 credits.
>
> On February 15, 2000, the Board of Supervisors conducted a hearing and denied the appeal by a vote of 3/2.

Staff Response:

This sending site was approved using the "Assessed Method", a method that was in the originally adopted ordinance, but has since been deleted from the ordinance and is no longer available to new sending site applications. A complete discussion of the way sending site credits are granted on projects is included in earlier sections of this response. The decision of the TDC Review Committee was upheld by the Board on appeal as the Board has the final authority to make that decision, so this statement in the report of the Grand Jury appears to have no significance relative to the countywide TDC program.

Receiving Sites

Page 6 - Left hand column:

> The Planning Commission reviews receiving site applications. To date all applications received have been approved.

Staff Response:

This statement is incorrect. There was a project in the South County Area Plan proposed as a receiving site that ultimately was approved without using TDCs due to neighborhood concerns (Widmark Tract Map - Tentative Tract No. 1820). The remaining four projects that have been requested as receiving sites have been approved. Two of these projects were required by the General Plan to use TDCs to achieve the density they would have otherwise been allowed under the zoning on the property as part of general plan amendments approved that rezoned the sites for higher density.

Page 6 - Left hand column:

> As of December 2000, all receiving sites have been approved by CEQA Negative Declarations. This means that the Planning Commission determined that there are no significant adverse environmental effects that cannot be mitigated. The cumulative effects on density and related environmental impacts are evaluated through a checklist with no supporting documentation.

Staff Response:

Receiving sites are not approved by CEQA Negative Declarations. The receiving sites were approved through the tentative map process which includes the preparation of an environmental determination. An initial study is prepared for every project that is determined to be a project that is subject is CEQA and that is not otherwise exempt from the provisions of CEQA. This initial study includes a description of the project, potential environmental impacts and mitigation measures for any significant effects. When describing potential environmental effects in an Initial Study, state law allows the use of a checklist, so long as the entries are briefly explained to indicate that evidence exists to support the entries. The brief explanation may be provided through either a narrative, or a reference to another information source. An Initial Study relies on expert opinion supported by facts, technical studies or other substantial evidence. This includes a review of cumulative effects. In the case of the approved receiving sites, the Initial Studies completed for the projects met the requirements of state law, and included more information than the "checklist". Technical studies, responses from local, state and federal agencies, as well as developer statements agreeing to specific project features were all a part of the Initial Studies prepared for the receiving sites. After preparation of the Initial Studies for the receiving sites, it was determined, in the light of the whole record, that there was no substantial evidence that the project(s) may have a significant environmental effect and proposed Negative Declarations were issued and approved through the public hearing process.

Templeton Project

Page 6 - Right hand column:

> Subsequently, it was denied by the Subdivision Review Board (SRB) on the basis that the site lacked the resources for the requested density.

Staff Response:

The SRB denied this application not based upon a concern that the site itself did not have adequate resources, but based on a concern that this project would set a precedent for other properties in the area to also request receiving site status.

Page 6 - Right hand column:

> Ms. Smith appealed the SRB's denial to the County Board of Supervisors. At the hearing, the SRB recommended that the Board adopt a resolution denying the appeal and affirming the action of the Subdivision Review Board. The Supervisors voted to approve Ms. Smith's proposal.

Staff Response:

The decision of the Subdivision Review Board was overturned by the Board on appeal as the Board has the final authority to make that decision. Therefore, this statement in the report of the Grand Jury appears to have no significance relative to the countywide TDC program. The Board's approval of the project will allow the property to be subdivided into two parcels. One credit is required to be purchased to allow the division to occur.

Martin Project

Page 7 - Left hand column:

> This means that the 160-acre subdivision will yield 55 lots under the TDC program rather than 32 lots allowed by the General Plan. In other words, the same piece of property will yield an additional 23 building lots for homes likely valued in excess of the County median home price of approximately $250,000.

Staff Response:

As noted in earlier staff responses, the TDC program is an incentive based program, so the program allows for a density bonus on qualified receiving sites that are ultimately approved with a density bonus. However, it is unclear why the Grand Jury referenced the potential price of homes that could be constructed in the subdivision. This statement appears to have no significance relative to the countywide TDC program.

Page 7 - Left hand column:

> Because the TDC ordinance is very specific, there is little questions whether or not a proposal will qualify. Accordingly, this is an example of the TDC program being used to increase density rather than working with the politically problematic General Plan amendment process.

Staff Response:

The criteria for determining whether a project could qualify as a receiving site is very specific, however, the decision of whether to designate a site as a receiving site is discretionary and may be approved, conditionally approved or denied by the Review Authority. As another example, the criteria for determining minimum parcel size as allowed by zoning is also very specific, but the discretionary review process, the identical process used to review receiving sites, may result in applying a larger minimum parcel size than what is otherwise set forth in the ordinance.

The TDC program is an incentive based program that allows for a density bonus. This bonus is far less than what an applicant could achieve with a general plan amendment. For instance, a property designated Residential Rural can subdivide to a five acre density. If the maximum density bonus was granted as a receiving site, that same property could be developed at an approximate three acre density. A general plan amendment that rezoned the property to Residential Suburban could allow a density of one acre, thus tripling the potential density . A general plan amendment requires the same public hearing process as the tentative map that would be used to approve a receiving site. Therefore the Grand Jury's statement about the general plan amendment process appears to be opinion and has no significance relative to the countywide TDC program.

Response to Findings

Page 7 - Left hand column:

a)	The County's TDC Program recognizes that the best approach is through a community-based program tailored to the local needs. "Local" is defined as within one of the five Inland Geographic Regions of the County, not within the County as a whole.

Staff Response:

The Land Use Element of the General Plan states that community-based or special focus TDC Programs are programs developed for a logical contiguous area (such as a planning area) or an area of special focus (such as a watershed area or the Morros). The purpose of establishing these types of TDC programs is to allow a community or area to develop a TDC program that is tailored to the individual community's or area's goals. Establishment of these TDC programs are encouraged and in many instances may be preferable to using the county-wide program.

Page 7 - Right hand column:

b) The TDC Program is complex and difficult for the public to understand. In some cases, attorneys or other experts craft the applications with significant help from County Staff. Based on the following issues in the countywide program, the Grand Jury finds that the TDC Program in San Luis Obispo County has serious problems.

- On January 9, 2001, the Board Of Supervisors directed staff to bring the TDC ordinance to the Board for an in depth discussion on options in 90 days. The Board did not act to amend the TDC Review Committee membership as recommended by the Planning Commission.

Staff Response:

On May 15, 2001, the Board is scheduled to review an issue paper on TDCs prepared by staff. A draft of this issue paper was distributed to all Community Advisory Councils on March 1, 2001 for review and comment. On January 9, 2001, staff introduced an amendment that would have modified the membership of the TDC Review Committee. The Board chose to withdraw that item and directed staff to prepare the issue paper for future discussion.

It is unclear how the above finding in the Grand Jury's report supports the finding that the TDC program in San Luis Obispo County has serious problems.

Page 7 - Right hand column:

- The tax implications of the program, both property and other, are not considered during its implementation. Moreover, the tax implications are not presented in the supporting staff reports or documented elsewhere in the files.

Staff Response:

A staff member from the Assessor's Office was invited to and attended most of the TDC Technical Advisory Committee meetings and was an active participant in the development of the program.

As was pointed out earlier in this response, the Assessor's Office does not have an involvement in any land use decision. Therefore, no calculation is ever made of the fiscal impacts of reassessment, either up or down, from a project approval or denial. If the Assessor's Office were to get involved with those decisions, a project might be approved by the decision-makers based on it's potential to increase the property tax rolls, rather than whether it meets the goals of the General Plan and how it fits into a community.

The ramifications of potential property tax reductions based on a property entering into a conservation easement were specifically addressed during the development of the TDC program. In the report entitled "Lessons, Issues and Recommendations for a TDC Program in San Luis Obispo County - December, 1995," there is a section that discusses the Assessor's Office concerns about making sure the restrictions on the sending site are permanent and making sure there is a way of tracking where the credits went so the reduced value at the sending site can be recaptured through taxation of increased density at the receiving site.

The program ultimately addressed these concerns through tracking of individual registration numbers given to credits and by using well-recognized and established conservation easements. The standard conservation easement is an easement that runs in perpetuity.

As noted in an earlier response, it would appear that this finding is not entirely accurate. It is also unclear how the above referenced bulleted statement in the Grand Jury's report supports the finding that the TDC program in San Luis Obispo County has serious problems.

Page 7 - Right hand column:

- Sending sites create the opportunity for increased density beyond the provisions of the General Plan. The CEQA review resulting in a General Rule or a Categorical Exemption does not provide an evaluation of the cumulative impacts on the planning area affected.

Staff Response:

Sending sites themselves do not create the opportunity for increased density. Receiving sites are allowed to request a density bonus pursuant to the ordinance which is subject to a complete and thorough review. From a CEQA perspective, it should be noted that creating a sending site, in and of itself, has no direct environmental impact. If not for the fact that creation of a sending site could result in physical environmental changes in another location, the sending site portion of the TDC program might be deemed "not a project" for CEQA purposes. In practice, most sending sites created to date have been processed with class 17 Categorical Exemptions, "Open Space Contracts or Easements," or with General Rule Exemptions.

The potential impacts at the time of reviewing the sending site application are unknown and not foreseeable for a number of reasons. There are many options available to a sending site landowner, including never entering into the conservation easement and therefore never creating credits. "Credits" do not exist until the landowner enters into a conservation easement that restricts the use of the property in perpetuity. Until that time, there are no potential impacts, as there are no credits to use.

It is envisioned that an application would enter into the conservation easement only after the credits have a buyer. A buyer would not exist until a receiver site within three miles of the sending site, or within the larger geographical area defined by the ordinance, has been approved. This application is required to undergo environmental review under the California Environmental Quality Act (CEQA), and an advertised public hearing is required before the project is approved. In addition, a receiver site is required to meet all of a series of specific criteria. The applicant is also required to notify all property owners within 300 feet of their intent to request receiving site status at least 10 days prior to coming to the county with their application.

Credits may also be sold to a conservation agency and the conservancy could retire those credits permanently, resulting in credits never being used on a receiving site. The credits could also be used in the cities. If any of the cities were to develop TDC programs, and allowed sending credits from the unincorporated areas, then credits created in the county could be used in a city program.

Simply approving sending sites does not appear to create pressure for receiving site creation as evidenced by the approved sending sites in the north county. There are three approved sending sites in the north county, two of which have been approved since 1998. The receiving sites approved in the north county are a site where the General Plan mandates the use of TDCs (and did so prior to adoption of the TDC program) and a parcel east of Templeton that requested to be divided in half (which was supported by the Templeton Area Advisory Group). An application is currently being reviewed within the Templeton Urban Reserve Line as a receiving site. This site also was mandated to use TDCs through the General Plan (again prior to adoption of the TDC program).

*Potential cumulative impacts related to receiving sites are addressed through two important components of the TDC program: (1) all projects using TDC credits are subject to environmental review, which necessarily considers cumulative impacts; and (2) the TDC program **prohibits** approval of any project where significant, unavoidable impacts attributable to the increase in density, would result from the use of TDC credits. So if there is an impact to roads, water, schools, visual, etc., that cannot be mitigated, then the site cannot be considered for receiving site status.*

Page 7 - Right hand column:

- Some sending sites have a significant multiplying effect on credits; many more transfer credits are generated than the underlying zoning would produce.

Staff Response:

*The purpose and intent statements in both the General Plan and ordinance state that this program is **voluntary, incentive-based, and market -driven** Therefore, incentives exits to participate in the program both for the sending sites and receiving sites.*

As was discussed previously in this response, the numbers of credits generated being larger than the allowed density on the site has been raised as an issue a number of times. Increasing development rights on the sending site is a typical incentive for encouraging owners to participate in a TDC program. A couple of examples of this were referenced earlier in this response.

Using value as a means of determining numbers of credits on sending sites also "levels the playing field" for all potential sending sites. This is because various parts of the county have properties that have differing values and properties that have, or don't have, underlying legal lots. Determining the number of credits for sending sites received an in-depth review from the Technical Advisory Committee during the development of the TDC ordinance. ***The committee determined that it was essential that a participating land owner receive back the value of what it is they are giving up.***

Towards that end, the Technical Advisory Committee considered two ways of assigning credits using exchange rates. The first was called a "variable exchange rate" and the second was called a "fixed exchange rate". A discussion of variable and fixed exchange rates is discussed in great detail earlier in this response. The essential difference between these two approaches is whether the lots that would be allowed to be created under the General Plan should be used as the basis for assigning credits, or whether this decision should be based on the actual dollar value of the development potential being given up in perpetuity.

Therefore, the incentives set forth in the program are consistent with the purpose and intent statements of the program in both the General Plan and ordinance and would not appear to support the finding that the program has serious problems.

Page 7 - Right hand column:

- Bonus credits provide an additional incentive for the owner of the sending site to participate in the Program.

Staff Response:

The purpose and intent statements in both the General Plan and ordinance state that this program is ***voluntary, incentive-based, and market-driven****. Therefore, incentives exist to participate in the program both for the sending sites and receiving sites. Therefore, the incentives set forth in the program are consistent with the purpose and intent statements of the program in both the General Plan and ordinance and would not appear to support the finding that the program has serious problems.*

Page 7 - Right hand column:

- The agriculture criteria for sending sites are so broad that essentially any agricultural use of land will qualify.

Staff Response:

The Land Use Ordinance sets out the criteria to be used in determining if a property is eligible for sending site status. If a property meets the specific or general criteria set forth in the TDC ordinance, the property would then be eligible to have base credits assigned.

The TDC Review Committee can determine the site to be eligible for sending site status based on general criteria. There is discretion in this determination, as the general criteria require the TDC Review Committee to first find that designation as a sending site would satisfy the policy statement of the applicable general criteria and any or all of the general criteria listed. This is different from a site that would qualify for sending site status using the "specific criteria". These criteria do not require a judgement call by the TDC Review Committee as the criteria are objective in nature, the project either meets the criteria, or it doesn't..

However, the TDC Review Committee can determine that a site does not meet the general criteria. Therefore, it is not true that any agricultural use of land would qualify as a sending site. Therefore, the bulleted statement appears to not be supported by facts and would not support the finding that the TDC program in San Luis Obispo has serious problems.

Page 7 - Right hand column:

- One sending site was handled on a piecemeal approach, which is deemed to be in conflict with CEQA guidelines. There was no explanation of the need for this action.

Staff Response:

The staff report prepared for the September 15, 2000 public hearing clearly stated that the remaining portion of the application was held in abeyance to allow staff and the applicant time to continue to develop additional information and resolve issues and recommended that 41.5 credits be issued on a 554 acre portion of the site. The remaining 943 acre portion of the application was heard on March 23, 2001 and 160.5 credits were issued on that portion.

It would appear that the reasons for hearing the project in phases was clearly stated in the staff report. In addition, it is important to note that the General Rule Exemption was granted over the entire property and therefore the whole of the action, not simply its constituent parts, was reviewed in determining whether it would have a significant environmental effect.

This finding therefore appears to be incorrect and not supported by facts.

Page 8 - Left hand column:

- All receiving sites to date have been approved with a negative declaration. The public perception is that this is a very cursory CEQA review.

Staff Response:

The receiving sites were approved through the tentative map process which includes the preparation of an environmental determination. An initial study is prepared for every project that is determined to be a project that is subject is CEQA and that is not otherwise exempt from the provisions of CEQA. This initial study includes a description of the project, potential environmental impacts and mitigation measures for any significant effects. An Initial Study relies on expert opinion supported by facts, technical studies or other substantial evidence. This includes a review of cumulative effects. In the case of the approved receiving sites, the Initial Studies completed for the projects met the requirements of state law. Technical studies, responses from local, state and federal agencies, as well as developer statements agreeing to specific project features designed to mitigate identified potential impacts were all a part of the Initial Studies prepared for the receiving sites. If the potential impact cannot be mitigated to a point of insignificance so that a Negative Declaration can be issued, an Environmental Impact Report would need to be prepared in accordance with CEQA before the receiving site can be approved.

The above conclusion therefore appears to be inaccurate and it is unclear how it supports the finding that the TDC Program in San Luis Obispo County has serious problems.

Page 8 - Left hand column:

c) There are so many problems in the countywide program that simple modifications are not appropriate; a different approach is more suitable.

Staff Response:

Because the allegations and issues raised by the Grand Jury are not substantiated by any compelling evidence or testimony, the Department recommends that the Board of Supervisors proceed with the review of the Issue Paper scheduled for May 15, 2001, and then provide staff with direction on any amendments to the program based on that review.

Response to Recommendations

Page 8 - Left hand column:

1.	The TDC ordinance should be amended to provide for community-based programs only, tailored to local needs. This would not preclude a community from adopting the countywide program; however, it would leave the decision to the local community. Each of the five Geographical Regions should be given the option of developing a community-based TDC program, adopting the countywide program or electing not to have a program.

Staff Response:

The Land Use Element of the General Plan states that community-based or special focus TDC Programs are programs developed for a logical contiguous area (such as a planning area) or an area of special focus (such as a watershed area or the Morros). The purpose of establishing these types of TDC programs is to allow a community or small area to develop a TDC program that is tailored to the individual community's or area's goals.

A community currently has the option of proposing a special program designed to address its specific needs. A community based program was never envisioned to apply to more than a community (like Templeton) or a smaller planning area (like Huasna or South County). Many of the Geographical Regions defined in the ordinance contain more than one community and more than one planning area.

The Department recommends that the county continue to encourage communities to create their own program (where the community is interested in having a program different from the countywide program) and that the countywide program apply until such time as a community decides to come forward with a new program and a specifically defined area where that new program will apply.

This has recently occurred in Nipomo. On March 9, 2001, the Nipomo Community Advisory Council voted to support a community based program that would help the community address preservation of open space land and the potential impacts of a number of general plan amendment applications that are requesting significant increases in density. The community is working with their Supervisor to incorporate this program into the county code. It would apply in place of the countywide program in the South County Planning Area. This is exactly the process that was envisioned when the provisions for community based programs were formulated and included in the Land Use Element.

Page 8 - Left hand column:

2.	The TDC ordinance should be amended to modify the membership of the TDC Review Committee as previously approved by the Planning Commission.

Staff Response:

This proposed ordinance amendment could be acted on by the Board after it is properly advertised and a public hearing was held. The Board retains discretion whether to proceed on this issue.

Page 8 - Left hand column:

3.	The Board of Supervisors should immediately stay the implementation of the Ordinance until Recommendations 1 and 2 are implemented.

Staff Response:

The Department recommends that the Board of Supervisors proceed with the review of the Issue Paper scheduled for May 15, 2001, and then provide staff with direction on any amendments to the program based on that review and that no "stay" of the ordinance occur.

Page 8 - Left hand column:

4.	No further efforts should be expended in amending the countywide program except to accomplish Recommendations 1 and 2.

Staff Response:

The Department recommends that the Board of Supervisors proceed with the review of the Issue Paper scheduled for May 15, 2001, and then provide staff with direction on any amendments to the program based on that review.

Page 8 - Left hand column:

5.	In responding to this report, the County Board of Supervisors should schedule the response as a separate agenda item outside of the consent agenda and hold a public hearing to allow broad public participation.

Staff Response:

The Department recommends that the Board of Supervisors schedule this response to the Grand Jury at the same time as the review of the Issue Paper scheduled for May 15, 2001, as a business item on the agenda, which would allow for public participation.

APPENDIX A
Processing Steps

SENDING SITE:

The sending site landowner follows an uncomplicated 5-step process in receiving sending site approval as follows:

Step 1 - Determine if you qualify as a sending site. There are three separate criteria for determining if your property qualifies as a sending site, agricultural criteria, natural resources criteria and antiquated subdivision criteria. There are two kinds of criteria for each resource; specific and general. The specific criteria are designed to be very clear and easy to under. For example, a parcel would qualify as a sending site if contains at least 50% Class I or II soils. The general criteria provide for flexibility where a parcel does not meeting the specific standards. For example, land could also qualify as sending site if removing development from the land would preserve as areas that have a special microclimate that supports a specific type of crop. This list of criteria was developed to give as many landowners an opportunity to participate as possible.

Step 2 - Apply to the County An applicant must formally apply to the County and pay the review fee

Step 3 - Review of the application County staff reviews the application and makes a determination on the numbers of credits that could be assigned to the site and completes the environmental determination. The number of credits are based on one of two methods. Credits can be either based on the value of the development that is being given up in perpetuity or can be based on the number of primary dwellings an applicant could built on the existing underlying legal lots of record. Staff makes a recommendation which is taken to the TDC Review Committee who either approves, conditionally approves or denies the request at a noticed public hearing.

Step 4 - Apply a conservation easement to the land. If the TDC Review Committee approves the site as a sending site, staff issues a Notice of Eligibility. This Notice tells a landowner how many credits they have to sell once a conservation easement is placed on the property. Before an applicant can actually sell credits, a permanent commitment to restrict the use of their property must be recorded. This is called a conservation easement.

Step 5 - Obtain the Certificate of Sending Credits. Once a conservation easement is placed on the property, a Certificate of Sending Credits is issued for the number of credits that the site is eligible for. The Certificate defines the property and gives each credit an individual registration number. The property owner now has credits to sell to an approved receiving site.

RECEIVING SITE:

A receiving site goes through a 6 step process similar to a tentative map as follows:

Step 1 - Determine if your site qualifies. There are criteria in the ordinance that define property that could qualify as a receiving site. The property must meet ALL of these criteria including the criteria that limits receiving sites to those sites where the additional density would not create an environmental impact that is not mitigable. If there is an impact due to the extra density, that would not be mitigated below a level of significance, the property can not be considered for receiving site status.

Step 2 - Apply to the County. A receiving site would apply to the county for a tentative map. the tentative map application includes a request to be determined to be a receiving site. The applicant must provide notice to surrounding properties at least 10 days before they apply to the county. In pre-application meetings, staff also encourages neighborhood meetings and meetings with the community advisory group, prior to submittal of an application.

Step 3 - Review of the application. The application is reviewed by staff to determine if the site qualifies as a receiving site and how many lots the subdivision could support. As with every tentative map application, staff looks at design, circulation and surrounding neighborhood compatibility. An environmental determination is completed at this time and a recommendation si made to either the Planning Commission or Subdivision Review Board depending on the number of lots to be created. The Planning Commission or SRB either approves, conditionally approves or denies the Tentative Map at a noticed public hearing.

Step 4 - Shop for TDCs - If the map is approved, the applicant must look to buy TDCs before the map can be recorded. Credits must be from properties located within three miles of the receiving site, or if no credits are available, from within a larger defined geographic area. The county maintains a list of approved sending sites and this is a good place for an applicant to begin to looks for TDCs. The price negotiated for TDCs is completely between the seller and buyer. The county does not participate in this transaction.

Step 5 - Obtain ownership of the credits. When the final map is ready to record, an applicant twill purchase the TDCs from the sending site and be issued a Receipt of Transfer. The Certificate of Sending Credits will be permanently altered to show the deletion of the individual registration numbers of the credits that were transferred. The Receipt of Transfer issued to the purchaser will also delineate the individual registration numbers of the credits.

Step 6 - Record the Map. Upon recordation of the map, the credits are transferred to the county and are retired.

APPENDIX B

TRANSFER OF DEVELOPMENT CREDIT TECHNICAL ADVISORY COMMITTEE

Appointed by the Board of Supervisors November 2, 1993

Bill Denneen, Biology Educator (retired)
John Evans, County Director, Emeritus, University of California Cooperative Extension
Joy Fitzhugh, Legislative Analyst, San Luis Obispo County Farm Bureau
John French, Project Manager, San Luis Bay Estates Holding Company
Bob Graham, Real Estate Broker
T. Keith Gurnee, Senior Vice-President, Director, Planning Division, RRM
Kurt Kupper, Environmental Center of San Luis Obispo (resigned)
Dick Montague, Ag Task Force (Rancher)
Tim O'Keefe, Professor, Natural Resources Management, Calif. Polytechnic State University
Dominic Perello, Member of the Sierra Club

APPENDIX C
GENERAL GOALS OF THE LAND USE ELEMENT OF THE COUNTY OF SAN LUIS OBISPO GENERAL PLAN

Environment

1. Maintain and protect a living environment that is safe, healthful and pleasant for all residents by conserving nonrenewable resources and replenishing renewable resources.

2. Balance the capacity for growth allowed by the Land Use Element with the sustained availability of resources.

Air Quality

3. Preserve and protect the air quality of the county by seeking to attain and maintain state and federal ambient air quality standards.

4. Determine, and mitigate where feasible, the potential adverse air quality impacts of new development.

5. Minimize the generation of air pollutants from projected growth by implementing land use policies and programs that promote and encourage the use of transportation alternatives to the single-passenger vehicle and minimize travel distance and trip generation.

Population Growth

6. Provide for a sustainable rate of orderly development within the planned capacities of resources and services and the county's and citizens' financial ability to provide them.

Distribution of Land Uses

7. Encourage an urban environment that is an orderly arrangement of buildings, structures and open space appropriate to the size and scale of development for each community.

8. Maintain a distinction between urban and rural development by providing for rural uses outside of urban and village areas which are predominately agriculture, low-intensity recreation, residential and open space uses, which will preserve and enhance the pattern of identifiable communities.

9. Identify important agricultural, natural and other rural areas between cities and communities and work with landowners to maintain their rural character.

10. Encourage the protection of agricultural land for the production of food, fiber, and other agricultural commodities.

Phasing of Urban Development

11. Design and maintain a land use pattern and population capacity that is consistent with the capacities of existing public services and facilities, and their programmed expansion where funding has been identified.

12. Encourage the phasing of urban development in a compact manner, first using vacant or underutilized "infill" parcels and lands next to existing development.

Residential Land Uses

13. Locate urban residential densities within urban or village reserve lines near employment areas, while protecting residential areas from incompatible and undesirable uses.

Commercial and Industrial Land Uses

14. Designate a pattern of strategically located commercial and/or industrial areas compatible with overall land use that is convenient to patrons, realistically related to market demand and the needs of the community, and near areas designated for residential use.

Public Services and Facilities

15. Provide additional public resources, services and facilities to serve existing communities in sufficient time to avoid overburdening existing resources, services and facilities.

16. Avoid the use of public resources, services and facilities beyond their renewable capacities, and monitor new development to ensure that its resource demands will not exceed existing and planned capacities or service levels.

17. Finance the cost of additional services and facilities from those who benefit by providing for dedications, in-lieu fees or exactions.

18. Locate new and additional public service facilities on existing public lands where feasible, allowing for sufficient buffers to protect adjacent rural and agricultural areas.

Circulation

19. Integrate land use and transportation planning in coordination with cities to ensure that traffic and transportation demands can be safely and adequately accommodated.

20. Design a transportation system that provides safety within feasible economic and technical means, preserves important natural resources and features, promotes the esthetic quality of the region and minimizes adverse environmental changes.

Administration

21. Work toward minimizing administrative delays and costs to fee payers in the administration of the Land Use Element. Simplify development review procedures and provide incentives for development to locate where plan policies encourage it to occur.

22. Work closely with cities to provide continuity between city and county land use planning and to achieve common land use goals through reciprocal agreements.

Child Protective Services

Response - San Luis Obispo County Board of Supervisors

County of San Luis Obispo

COUNTY GOVERNMENT CENTER, RM. 370 • SAN LUIS OBISPO, CALIFORNIA 93408 • (805) 781-5011

DAVID EDGE
COUNTY ADMINISTRATOR

TO: GRAND JURY FOREMAN

FROM: DEB HOSSLI, PRINCIPAL ADMINISTRATIVE ANALYST

DATE: SEPTEMBER 17, 2001

SUBJECT: ADVANCED COPY OF GRAND JURY RESPONSE

On June 28, 2001, the Grand Jury issued a report on the subject of Child Protective Services. A consent item will appear on the Board of Supervisors' meeting agenda on September 25, 2001 responding to the Grand Jury's report.

The attached Grand Jury report response copy is provided for you in advance of the agenda item appearing on the Board of Supervisors' meeting agenda. Please call me if you have any questions.

Thank you.

received
9/19/01

COUNTY OF SAN LUIS OBISPO BOARD OF SUPERVISORS
AGENDA ITEM TRANSMITTAL

(1) DEPARTMENT	(2) MEETING DATE	(3) CONTACT/PHONE
Administration	September 25, 2001	Deb Hossli (805) 781-5014

(4) SUBJECT
Board of Supervisors' response to the 2000-01 Grand Jury Report on Child Protective Services

(5) SUMMARY OF REQUEST
On June 28, 2001, the Grand Jury issued a report on Child Protective Services. In accordance with State law, the Department of Social Services and County Counsel responded to the report and provided a copy of the response to the Presiding Judge of the Superior Court within the sixty day time-frame. The Board of Supervisors is now required to provide their response to the Grand Jury Report. This must be completed within ninety days (or by September 26, 2001). Administrative Office staff recommends that the responses prepared by Social Services and County Counsel serve as the Board of Supervisors' response to the report.

(6) RECOMMENDED ACTION
That the Board approve the response to the Grand Jury Report and forward a copy of the response to the Grand Jury Foreman and the Superior Court Presiding Judge.

(7) FUNDING SOURCE(S)	(8) CURRENT YEAR COST	(9) ANNUAL COST	(10) BUDGETED?
N/A	N/A	N/A	☐ YES ☑ N/A ☐ NO

(11) OTHER AGENCY/ADVISORY GROUP INVOLVEMENT (LIST):
Social Services, County Counsel

(12) WILL REQUEST REQUIRE ADDITIONAL STAFF? ☑ No ☐ Yes, How Many? _____
☐ Permanent _____ ☐ Limited Term _____ ☐ Contract _____ ☐ Temporary Help _____

(13) SUPERVISOR DISTRICT(S)	(14) LOCATION MAP
1st, 2nd, 3rd, 4th, 5th, All	☐ Attached ☑ N/A
(15) AGENDA PLACEMENT ☑ Consent ☐ Hearing (Time Est. _____) ☐ Presentation ☐ Board Business (Time Est. _____)	(16) EXECUTED DOCUMENTS ☐ Resolutions (Orig + 4 copies) ☐ Contracts (Orig + 4 copies) ☐ Ordinances (Orig + 4 copies) ☑ N/A
(17) NEED EXTRA EXECUTED COPIES? ☐ Number: _____ ☐ Attached ☑ N/A	(18) APPROPRIATION TRANSFER REQUIRED? ☐ Submitted ☐ 4/5th's Vote Required ☑ N/A

(19) ADMINISTRATIVE OFFICE REVIEW

clc dh

received
9/19/01 dR

County of San Luis Obispo

OUNTY GOVERNMENT CENTER, RM. 370 • SAN LUIS OBISPO, CALIFORNIA 93408 • (805) 781-5011

DAVID EDGE
COUNTY ADMINISTRATOR

TO: **Board of Supervisors**

FROM: **Deb Hossli, County Administration** DH

DATE: **September 25, 2001**

SUBJECT: **Board of Supervisors' Response to the 2000-01 Grand Jury Report on Child Protective Services**

Recommendation:

That the Board approve the response to the Grand Jury Report and forward a copy of the response to the Grand Jury Foreman and the Superior Court Presiding Judge.

Discussion:

On June 28, 2001, the Grand Jury issued a report on Child Protective Services (see attachment 1). In accordance with State law, the Department of Social Services and County Counsel responded to the report and provided a copy of the response to the Presiding Judge of the Superior Court within the sixty day time-frame. The Board of Supervisors is now required to provide their response to the Grand Jury Report. This must be completed within ninety days (or by September 26, 2001). Administrative Office staff recommends that the response prepared by Social Services and County Counsel serve as the Board of Supervisors' response to the report.

Other Agency Involvement/Impact:

The Department of Social Services and the County Counsel cooperatively prepared the Board of Supervisors' response to the Grand Jury Report on Child Protective Services.

Financial Considerations:

Approval of the attached response will not result in any additional cost to the County.

Results:

State law requires the Board of Supervisors formally respond to Grand Jury Reports within 90 days of their issuance. Approval of the attached response will allow the Board to meet this legal requirement.

Attachments:

1) Grand Jury Report on Child Protective Services
2) Recommended Board response to Grand Jury Report on Child Protective Services

CHILD PROTECTIVE SERVICES
SAN LUIS OBISPO COUNTY

Introduction

The Grand Jury of 2000/2001, soon after beginning its term, gave attention to several complaints, each dealing with alleged improprieties of caseworkers when dealing with families involved with Child Protective Services (CPS). In our decision to study the relationship of families and CPS, we reviewed the report of the 1993/1994 Grand Jury and found that the theme of intimidation by caseworkers was not new, as it had been expressed to the prior 1993/1994 Grand Jury. It should be emphasized that the prior Grand Jury found no evidence to support such allegations. Contrary to the allegations, it found that CPS workers were doing a difficult job, were well intentioned and motivated to accomplish objectives consistent with the high ideals of Social Services - the protection of children.

Our decision to study this agency was also motivated by high ideals. The power to separate children from parents is awesome. The consistency of similar complaints over the years is troublesome.

Our report for the year 2000/2001 will speak more of failure than success in our efforts to conduct an investigation. More important, we will speak of the Grand Jury's lack of power to scrutinize an agency where "juvenile confidentiality" prevented a random perusal of those activities that many times have become the issue of complaints. A random review would help detect patterns of inappropriate action. It is incredible that the County of San Luis Obispo impaneled a Grand Jury, assigned the office of County Counsel to advise, required the Presiding Judge to supervise and the Board of Supervisors to fund, 19 people who are charged with the public responsibility, under oath, to oversee a government agency, but lack the power to do the job. That is the regrettable reality for 2000/2001.

Methodology

1. Interviewed several complainants under oath and reviewed materials provided.
2. Listened to presentations by the director and assistant director of Social Services and reviewed materials provided.
3. Interviewed legal advocates for parents and dependents.
4. Interviewed representatives of the District Attorney's office and social workers assigned to that office.
5. Interviewed representatives of Aspira Foster Care Agency, Court Appointed Special Advocate (CASA), Children's Network, Child Advocacy Program (CAP) and a foster parent.
6. Completed "confidentiality training" at the office of County Counsel.
7. Attended juvenile court to witness child detention proceedings.
8. Interviewed a Family Court Judge and a former Commissioner of Juvenile Court.
9. Interviewed middle management personnel and former employees of CPS.
10. Reviewed two CPS case files.
11. Communicated with State Department of Social Services and secured policies and procedures relative to state audits of CPS.
12. Conferred with County Counsel and the Director of Social Services relative to the investigation and the issue of confidentiality.
13. Reviewed new federal child and family services guidelines

Background

The Department of Social Services from top management to the telephone receptionist deals with people at all levels of dysfunction, emotional instability, addiction, economic distress and who are often in conflict with what is best for a child.

Doing what is best for the child first and reestablishing the family when possible are noble and challenging goals. Doing it right is everyone's objective. The best decision often falls short of perfection and may only be better than any other alternative. This is fertile ground for criticism and complaints. The Grand Jury recognizes the complexity of trying to get it right.

Getting it wrong can be catastrophic. Judgments made in concert with others are probably better thought out than those made by a single individual. The recent introduction of "triage" by CPS is a good step away from the exercise of one person's subjective judgment to intervene into a family. It is important that " triage" is judgment in concert with others and not an echo for a single voice.

It is our understanding that when a child is removed from a home, CPS must file a petition with the court within two days and on the third day, the juvenile court conducts a detention hearing to determine custody of the child. Shortly thereafter, the court will have further hearing(s) to determine jurisdiction and disposition of and for the child. Each participant, including child, birth parent, caseworker and occasionally foster parent(s) will have separate counsel to represent the position of each. A judge will make a final decision affecting the welfare of the child.

An alternative to a judicial hearing is the voluntary agreement. By this method, a parent may permit placement of a child in a foster home or accept a program where a caseworker will monitor the safety and progress in the parent's home. We have focused attention on the increasing number of voluntary agreements by parents. This alternative delays the court and advocacy procedure for as long as six months. The complaints received by the Grand Jury allege that some agreements are secured by intimidation, or as a professional in the field has stated, by "persuasion." Experts have advised that court involvement provides more creative plans and better cooperation between the parties. Judges have expressed reservation about the growing number of voluntary agreements that exclude the court and legal counsel for the parties from the mix for as long as 6 months. Our efforts to send out questionnaires to families who have had interactions with CPS were prevented by CPS claiming to do so would violate confidentiality.

Our efforts to review a random selection of CPS files to determine whether or not caseworkers were routinely complying with the rules and procedures of their department were also denied for the same reason. Again, we were told that confidentiality prevents a random review of files. County Counsel representing the Department of Social Services opines that Welfare and Institution Code Section 827 excludes the Grand Jury from access to the files of CPS. Noting that CPS has received complaints of improprieties by caseworkers, we requested the opportunity to review the complaint files against caseworkers and were told that such files are confidential under Civil Service regulations.

In an effort to get clarification of the right or the power of the Grand Jury to investigate CPS we wrote to the California Attorney General for an opinion. In our letter of February 2001, we cited court cases that define members of the Grand Jury as "officers of the court" as well as the Welfare and Institution Code section identifying, in specificity, those other "officers of the court" who unlike the Grand Jury are permitted to review CPS files. We have received no written opinion or acknowledgment from the office of the Attorney General. A telephone inquiry by the Grand Jury suggested there would be no opinion provided because the Grand Jury may not make inquiries directly of the Attorney General.

The Grand Jury was told that CPS is not without external monitoring. We were reassured that the Department of Social Services is accountable to the State of California. The State of California audits CPS once every three years. It is our understanding that the State's review does not extend to evaluating the quality of work done, but concerns itself with conformance to state guidelines and compliance to policies and procedures mandated by the State. The inspection focus is largely on computer documentation of activity rather than on the quality of the activity performed. The State will note, as a deficiency, a failure to find computer documentation of a monthly contact with

a child in foster care but cannot evaluate the quality of the relationship among the parties.

From the information collected, it is evident that the State Department of Social Services does not investigate complaints of intimidation, poor judgment or unfair treatment. We have, therefore concluded that external investigation of complaints is a proper function of this Grand Jury.

The Department of Social Services sent us a copy of the federal guidelines. The Federal Child and Family Service Guidelines are new and have as their purpose the establishment of a national standard where each of 51 jurisdictions will be assessed for substantial conformity in two basic areas: safety and permanent outcomes.

Six statewide indicators will be used to assess conformity, recurrence of maltreatment, child abuse by foster care, foster care reentries, stability of foster care placement, length of time to achieve adoption and length of time to achieve reunification. Data will be collected from each of the 51 jurisdictions to establish the 75th percentile of performance. That number will be established as the national standard.

Child and Family Service reviews will be conducted to examine the systems in place within the states and to analyze the outcomes achieved. This process will be an opportunity for states to look beyond numbers and to look at what is happening to children and families in the state. For the fiscal year ending September 2001, 17 states (the District of Columbia is included as a state) will be reviewed. California is not included in 2001, but is scheduled for the fiscal year of 2002.

The onsite review will consist of a joint state and federal team, including external organizations that will conduct extensive reviews of 30-50 cases at each of three locations in the state, including the largest metropolitan areas. It would appear that in the case of California, Los Angeles County and other heavily populated counties would have a greater probability of being reviewed than the County of San Luis Obispo. It also appears that California will be reviewed once every three years (presuming 17 states each fiscal year).

It appears a minimum standard will be established nationally. Undoubtedly, the standard will be heavily influenced by high-density counties, making the 75th percentile comparatively easy to achieve for the affluent and less populated counties. The federal schedule suggests that many of California's 58 counties cannot be regularly reviewed. Possibly, some will never be inspected. Certainly, federal standards for staff training, case review, responsiveness to the community, quality assurance, and foster and adoptive parent recruitment and retention are positive objectives for each of the 51 jurisdictions.

However, it is the Grand Jury's view that complaints of intimidation and/or a policy program that may discourage the exercise of due process need to be addressed, as they occur, by local investigators. Federal review, with its limited scope, is not an adequate vehicle to safeguard our community.

The Grand Jury was denied access to files unless we revealed the names of the complainants, which would violate the penal code. In addition, we were not allowed to review files if someone other than parents made complaints.

The Grand Jury with parental consent reviewed two files. This was hardly an adequate number to evaluate patterns of performance. One case involved an impossible situation of a serious problem and we applaud the efforts made by the court, the attorneys and the caseworker to formulate a plan to make matters better and safer. The other case file demonstrated an injustice caused by poor judgment that may have resulted from anger and preoccupation with the antagonism between the parties. This was a voluntary agreement that would have been better served by a petition for court intervention. The complaint received by the Grand Jury stated intimidation by the caseworker prevented a request that a petition be filed with the court. Intimidation preventing a person from insisting on due process, if true, is a matter of great concern.

Conclusion

Without effective external monitoring, Child Protective Services is vulnerable to criticism of abuse of power whether it be deserved or undeserved.

Findings

a) The Grand Jury of 2000/2001 was prevented from effectively investigating CPS by alleged statutory claims of confidentiality.

b) The rapidly increasing number of voluntary agreements, if secured by intimidation, deprives parents and guardians of their constitutional rights of due process.

c) CPS inadequately monitors the quality of field performance.

d) The Office of County Counsel represents conflicting interests as counsel for both the Grand Jury and CPS. This requires independent counsel to represent the Grand Jury in the interpretation of applicable law.

Recommendations

If CPS is correct, and the Welfare and Institutions Code Section 827 excludes the Grand Jury (who are officers of the court) from reviewing the files of CPS and/or prevents the re-release of names and addresses of parents for contact by questionnaire, then we recommend that:

1. The Board of Supervisors fund two independent and experienced social workers to be assigned to the juvenile court with the power to audit all levels of case-worker's performance, particularly in areas interfering with access to due process.

2. Supervisors for Child Protective Services should randomly accompany caseworkers on monthly calls to evaluate the caseworker and the progress of the program. In addition, the supervisor should, on occasion, make personal visits to determine if children are actually being seen as often as reported by the caseworker.

3. The mere appearance of a conflict of interest should be sufficient for the Grand Jury to request separate counsel or for the office of County Counsel to recuse itself from competing commitments or loyalties.

4. Future Grand Juries will need funding for outside independent counsel to address the courts if they are to adequately investigate Child Protective Services.

Required Responses

Under Penal Code Section 933.05 the San ***Luis Obispo County Board of Supervisors is required to respond to all of the above Findings and Recommendations. The San Luis Obispo County Department of Social Services*** is required to respond to Findings (a), (b), (c), and Recommendation 2. The ***Office of County Counsel*** is required to respond to Finding (d) and Recommendation 3.

Board of Supervisors' Response
2000-01 Grand Jury Report on Child Protective Services

Below represents the Board of Supervisors' response to the Grand Jury Report on Child Protective Services. Please note that the response has been structured so that the Department of Social Services comments appear first; County Counsel's second. Social Services responded to the conclusion, findings "a", "b", and "c" and recommendations "1" and "2" contained in the Grand Jury Report. County Counsel responded to finding "d" and recommendations "3" and "4" contained in the Grand Jury's report.

PART I -- THE DEPARTMENT OF SOCIAL SERVICES' RESPONSE

Conclusion:

In its Conclusion, the Grand Jury of 2000/2001 found the following:

"Without effective external monitoring, Child Protective Services is vulnerable to criticism of abuse of power whether it be deserved or undeserved."

We do not disagree that the decisions made by the Social Services Department are subject to criticism, nor do we dispute the fact that Federal and State statutes provide broad powers to the Department that, if abused, could have devastating impact on innocent members of the community.

These facts notwithstanding, it must be noted that the Grand Jury did not discover any actual instances of "abuse of power," despite the Department's offer of access to any file in which a complaint had been lodged and for which the parents had consented to an investigation.

Furthermore, the Grand Jury neglected to mention the multiple checks-and-balances that serve to ensure that each case is subject to thorough and repeated review, to wit:

Each substantiated allegation of child abuse or neglect received by the Department is cross-reported by the Department to the law enforcement agency with jurisdiction over the matter. The investigating worker is required to utilize the Structured Decision Making model, a validated method for making objective decisions regarding the assessed risk to a child's safety. Other Social Workers may participate in a review of the investigating worker's findings and recommendations, as well as members of a multidisciplinary team that may include staff from other County agencies, community-based non-profit organizations and schools. One or more Social Work Supervisors review each case. In consultation with County Counsel, the Social Worker prepares recommendations that may include referral to the Superior Court for judicial intervention.

When cases are filed with the Superior Court, each party is assigned an attorney. These attorneys have broad access to our records, and have not only the ability but also the duty to question and challenge the findings and recommendations of the Social Worker. The Judge/Commissioner who hears the matter evaluates the facts and recommendations and issues a finding which itself is subject to appeal and further review.

ıe performance of the Department is subject to triennial review by the State Department of Social ervices, as well as ongoing review and investigation of any actions alleging abuse or error by any epartment employee. The Department itself has an established complaint process in which each ıd every complaint is thoroughly investigated by an individual who is not in the same chain-of-ımmand of any Social Work staff subject to investigation.

ertainly, it is misleading to state that the Department is "without effective external monitoring," ıen one considers that its work is routinely reviewed by police officers, attorneys, judges, ıpellate court judges, professionals from other agencies and staff from our state supervisory ıency.

'e cannot imagine a public agency that is subject to more effective external monitoring than the epartment of Social Services, and cannot agree with the assumptions and conclusions reached ' the 2000/2001 Grand Jury.

ndings:

ıding (a) *The Grand Jury of 2000/2001 was prevented from effectively investigating CPS by alleged statutory claims of confidentiality.*

esponse:

ıe Department respectfully disagrees. In fact, the Grand Jury was afforded the opportunity to review ıch and every case for which they had obtained and presented permission from the parents. ırthermore, they were given the opportunity to review these cases with assurances that the Social orker(s) who had worked on the cases would not have knowledge of the Grand Jury's review. Since ıly two families evidently agreed to waive their right to confidentiality and authorize such a review, the ·and Jury was allowed to review only the cases of those two families.

ıe laws governing the confidentiality of Child Welfare case files are deliberately strict in order to event random reviews by the curious. Welfare and Institutions Code Section 827 provides an ıambiguous list of those who may have access to case files. The Grand Jury is not listed among the ırties authorized by statute to have access, and we would not agree to the random access to files ıught by the 2000/2001 Grand Jury.

ıding (b) *The rapidly increasing number of voluntary agreements, if secured by intimidation, deprives parents and guardians of their constitutional rights of due process.*

esponse:

ıe Department agrees in part and respectfully disagrees in part. Certainly any voluntary agreement at is secured by intimidation would not meet any test of being truly "voluntary," and we agree that ımidation by a Social Worker has no place in our vision of best practices. The Grand Jury did not ımonstrate, however, that they had discovered any evidence of such intimidation.

Certainly there is no evidence of a "rapidly increasing number of voluntary agreements" that have resulted in the removal of a child from the home, since there are only four children placed in Voluntary Foster Care.

The Department is committed to providing the least intrusive appropriate intervention in working with families, believing that families indeed are intimidated by a system that would force them to court on cases in which there is minimal risk to the child's safety.

Finding (c) CPS inadequately monitors the quality of field performance.

Response:

The Grand Jury offered no evidence in support of this finding, with which we respectfully disagree. As detailed above, the performance of Social Work staff is subject to intensive, ongoing review by multiple parties both within the Department and external to the Department.

Recommendations:

Recommendation 1. The Board of Supervisors fund two independent and experienced social workers to be assigned to the juvenile court with the power to audit all levels of case-worker's performance, particularly in areas interfering with access to due process.

Response:

The Department respectfully disagrees. Such a structure would violate the separation of powers intended by the framers of the statutes governing Child Welfare Services. There is no foundation to the assumptions of the Grand Jury in making this recommendation, in that no evidence was produced that demonstrated that the Department interfered with "access to due process." Indeed, the Department is thoroughly committed to involving parents in the development of a case plan, and works closely with County Counsel to ensure that families' rights to due process are not compromised at any stage.

Recommendation 2. Supervisors for Child Protective Services should randomly accompany caseworkers on monthly calls to evaluate the caseworker and the progress of the program. In addition, the supervisor should, on occasion, make personal visits to determine if children are actually being seen as often as reported by the caseworker.

Response:

While we do not disagree with the concept of supervisory review of staff performance, we question the assumptions of the Grand Jury when it questions "if children are actually being seen as often as reported by the caseworker." The Grand Jury offers no evidence that caseworkers have been untruthful, and we know of no such instances. We concur that children should be visited more frequently, however, and continue to work with the California State Legislature in an attempt to secure

e resources necessary to fulfill our statutory goals and program expectations.

nust also be noted that Social Work Supervisors do, in fact, occasionally accompany caseworkers ı calls.

summary, the Department of Social Services submits that the 2000/2001 Grand Jury missed the ›portunity to inform the community of the dramatic changes in Child Welfare Services that are being ıplemented by the Department. These changes—focusing on a "best practices" approach to service ·livery—have produced compelling results that include the following:

A responsive system that investigates more reports than counties much larger than ours. In the sample quarter of April – June 2000, the Department responded in person to 969 referrals of child abuse or neglect while Monterey County, for example, with a population 63% larger than SLO's, responded to only 692. Sonoma's population is 84% larger, but they responded to only 846. San Mateo's population is 198% larger, but they responded to only 968 and San Francisco, with a population over three times that of SLO, responded to only 808 referrals.

Children are less likely to remain at-risk of injury or abuse in San Luis Obispo, because we respond to such a high percentage of the reports we receive.

A system in which risk is assessed equitably and consistently. Utilizing the Structured Decision Making model, Social Workers investigate referrals and abide by the findings of that structured assessment. While the system permits a Social Worker to "override" the results, this override occurs in practice less than one-half of one percent of the cases, compared to a 2% rate in all the counties utilizing Structured Decision Making. This demonstrates clearly that Social Workers do not abuse the power of their office. Of the cases investigated by Department staff, only 21% are considered "substantiated"—a rate of substantiation that is exceeded by 51 of California's 58 counties.

A system that focuses on supporting families with the least intrusive intervention. While the filing of a petition in court is necessary in some cases, it should be considered only in those cases where the risk to the child is the greatest and the motivation of the parents to resolve the risk is the least. In keeping with this philosophy, the Department filed petitions on fewer than 4% of the cases for which it received reports of child abuse or neglect. In fact, court petitions have declined each year since 1997 and, in 2000, were at the lowest level since 1988. This trend is hardly consistent with a Department that might be inclined to "abuse its power."

A system that focuses on keeping families intact. When no other services will help to ensure the safety of the child at home, we ask the court to remove the child and authorize placement in a foster home. Because we are committed to supporting families and maintaining them, however, out-of-home placements have been declining each year since 1997. We utilize a number of programs and interagency collaboratives to support families, and these efforts see a "payoff" not only financially but also socially. This trend is hardly

consistent with a Department that might be inclined to "abuse its power."

By choosing to focus on a handful of complaints that it could not substantiate, and dedicating its efforts to a description of its frustration in being denied wholesale access to sensitive Child Welfare Records, the Grand Jury's report serves to mislead the public.

The Department believes that it is the duty of the Grand Jury to investigate and report upon both the bad and the good. They failed to uncover the former, and failed to report the latter.

PART II -- COUNTY COUNSEL'S RESPONSE

The 2000-2001 Report of the Grand Jury has correctly stated that the staff at the Department of Social Services, and particularly the staff of the Child Welfare Services (hereinafter "CWS"; formerly known as Child Protective Services) deal with people at all levels of dysfunction, addiction, emotional instability, economic distress who in some instances are in conflict with the Department over what is best for their child or children.

In its report, the Grand Jury makes clear its frustration concerning the inability of the juvenile committee of the Grand Jury to review randomly selected files of the Department of Social Services, CWS Division. The Grand Jury's observation that a conflict of interest exists within the Office of the County Counsel, due to its representation of them and of the Department of Social Services, appears to derive from the issue of access to confidential juvenile information. Therefore, before responding to the specific Findings and Recommendations, we have included a brief overview of that topic.

Confidentiality Issue

Due to the sensitivity of the very personal matters which come to the attention of CWS, the access to information contained therein has been tightly regulated by state and federal law. In California, government records regarding children who are physically, sexually, or emotionally abused, being neglected or being exploited are made confidential in order to protect the "privacy rights of the child." (Welf. & Inst. Code, § 300.2) The Grand Jury has free access to all records that are available to the public. Confidential juvenile records are not available to the public. Access to confidential juvenile records is controlled by the Welfare & Institutions Code section 10850.

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e 2000-2001 juvenile committee members expressed their intention to go beyond the authority en to grand jurors by the protocol outlined in the 1993 Standing Order. Their stated reasons re (1) the legal obligation of the Grand Jury to maintain the confidentiality of the complainant, and

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[1] The petition referred to in section 827(a)(1)(M) is a printed form provided by the Judicial Council of California, and available at the Office of the Clerk of the Superior Court. Our local Superior Court has established a protocol for the processing of the various requests for inspection. All section 827 petitions are reviewed by the Juvenile Court judicial officer, and if factually sufficient, are then scheduled for a court hearing. After the court hearing at which all interested parties, including the petitioner, may present argument for or against release, the file is reviewed *in camera* (privately) by the judicial officer and the release, if any, is distributed by the Juvenile Court Clerk. Cautionary language regarding further distribution is included in the order accompanying the release.

!) the perceived opportunity for the social worker to retaliate against the complainant in some way. Therefore, at a meeting on January 11, 2001, attended by members of the Grand Jury's juvenile committee, the Director of the Department of Social Services, other Departmental employees, the eputy County Counsel representing the Grand Jury and the Deputy County Counsel representing the Department, a different protocol for 2000-2001 was agreed upon. (See attached memo.)

.. this new arrangement, the social worker would not know that a complaint had been made to the Grand Jury. The file would be obtained from the social worker by the employee of the Department ho has the task of investigating complaints.[2] This employee is not assigned to the CWS Division. he would then meet with members of the Grand Jury juvenile committee and assist them in their review of the file.[3] The file would be returned to the social worker, or to closed files, without notation comment. This procedure was used twice by the Grand Jury juvenile committee.

The Grand Jury of 2000-2001 never made a request of the Juvenile Court for approval for any other pe of access to juvenile case records, either through a section 827 petition or a direct written request, nor did they ask their assigned County Counsel for assistance. Without the approval of such a request from the Juvenile Court, the Department was prohibited by law from making any cords or files available for inspection, particularly on a random basis.

Findings:

Finding (d) *The Office of County Counsel represents conflicting interests as counsel for both the Grand Jury and CPS. This requires independent counsel to represent the Grand Jury in the interpretation of applicable law.*

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On a daily basis the Office of the County Counsel is involved in resolving disputes between officials, odies and departments to which it has the obligation to provide legal advice. Although public ector attorneys are governed by the same conflict of interest rules as private sector attorneys, it has been recognized that application of those rules must take into consideration factors unique to e government context. In any case, if a grand jury believes that the Office of County Counsel has conflict of interest in any particular investigation, pursuant to Penal Code section 934, it may seek

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[2] This employee investigates complaints lodged locally and also conducts investigations and provides reports to CA Department of Social Services when complaints are made directly to that agency. Further, it is not unusual for files to be requested from the social worker for internal program reviews. The mere fact that a file was requested by this person would not serve as notice to a social worker that a complaint had been received by the Grand Jury.

[3] Because other than the various listed agencies, section 827 limits access to the juvenile case file to the parents or the minor, the Department asked that the Grand Jury juvenile committee satisfy themselves that the complainant was a party to the case rather than a stranger before availing themselves of this confidential process to review a specific file.

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commendation 3 *The mere appearance of a conflict of interest should be sufficient for the Grand Jury to request separate counsel or for the office of County Counsel to recuse itself from competing commitments or loyalties.*

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achments

GRAND JURY CORRESPONDENCE
In # 227
Out Meeting date: 1-13-94
Copy to:
Master File
Committee

STANDING ORDER OF THE JUVENILE COURT
SAN LUIS OBISPO COUNTY SUPERIOR COURT
REGARDING GRAND JURY ACCESS TO C.P.S. MATERIAL

This court approves the policy created by the San Luis Obispo County Department of Social Services, County Counsel and the Grand Jury which is designed to allow Grand Jury access to Department of Social Services cases as follows:

The Grand Jury will appoint two to four members to address juvenile issues. These members will be provided specialized training in Child Protective Services confidentiality standards. They will thereafter be allowed access to confidential information. With respect to non-case specific information, the Grand Jury juvenile committee members will be allowed to discuss general policies and procedures, attend training sessions, observe emergency response workers at the phones and in the field. This general information may be shared with the entire Grand Jury as long as no case-specific information obtained through this process is included.

With respect to case-specific inquiries, members of the

COPY

juvenile committee may discuss individual cases with the assigned social worker and the worker's supervisor. This information can be reported back to the entire Grand Jury only in the form of the conclusions the members have reached regarding their concerns about policies and procedures.

If the juvenile committee members wish to report case-specific factual information to the entire Grand Jury, including the names or identities of any person, they may file a petition under Welfare & Institutions Code section 827 to obtain court permission.

If the juvenile committee members believe that they are being denied access to necessary information, they may file a request for additional information under Welfare & Institutions section 827.

Members of the juvenile committee may also view specific juvenile files upon filing a request and having that request approved by the court.

Dated: December 20, 1993.

MICHAEL L. DUFFY
Presiding Judge, San Luis Obispo
County Juvenile Court

MEMORANDUM TO FILE

TO: FILE

FROM: Patricia A. Stevens, Deputy County Counsel

SUBJECT: Grand Jury Protocol re
Investigation of Complaints Concerning Child Protective Services

DATE: January 26, 2001

Confirming my understanding at the conclusion of my meeting on January 11, 2001, with representatives of the Grand Jury Juvenile Committee, their attorney Wyatt Cash, Lee Collins, Director of Department of Social Services, and other Social Services representatives, I have contacted Ms. Janet Hayakawa at the Department of Social Services and advised her of the following protocol which was agreed upon by the representatives from the Grand Jury in attendance and Lee Collins, Director.

When a review by the Grand Jury of a Child Welfare Services (CWS) file becomes necessary during an investigation of a complaint concerning the practices of the CWS Division of the Department of Social Services, a member of the Grand Jury who has been appointed to the special sub-committee will contact a Deputy County Counsel who handles dependency cases to identify the requested file(s). The Deputy County Counsel will then contact Ms. Hayakawa and ask her to retrieve the identified file(s) from the social worker or from closed files. Ms. Hayakawa will not mention to anyone that it is a Grand Jury request that is causing her to obtain a CWS file.

Once the file is secured by Ms. Hayakawa, a meeting will be set up between her and the Grand Jury representatives to review the file. The Grand Jury members able to inspect a CWS

file are restricted to those who have been specially designated and have participated in the training provided by County Counsel and/or the Department of Social Services. After review, the file will be returned to the assigned social worker or to closed files, without comment or notation.

Although the Department wishes to assist the Grand Jury whenever possible, Mr. Collins stated clearly that the protocol outlined above will be applicable only when a parent or other party to the juvenile case is the complainant. The customary parties in a dependency case are the parents or guardians, and the minor. When the Grand Jury complainant is a "stranger" to the case, the discovery procedures set forth in Welfare & Institutions Code section 827 are available to the Grand Jury to conduct its investigation.

It is my further recollection it was agreed that because the focus of a Grand Jury investigation is on systems and process, the complaining party will not be receiving a factual response from the Grand Jury; rather, the information obtained will be used to make more general findings and recommendations.

PAS:ep:mja

PDS 1154epmmo2.wpd

Child Protective Services

Response - San Luis Obispo County Department of Social Services

County of San Luis Obispo

COUNTY GOVERNMENT CENTER, RM. 370 • SAN LUIS OBISPO, CALIFORNIA 93408 • (805) 781-5011

DAVID EDGE
COUNTY ADMINISTRATOR

TO: SUPERIOR COURT PRESIDING JUDGE

FROM: DAVID EDGE, COUNTY ADMINISTRATOR

DATE: AUGUST 27, 2001

SUBJECT: DEPARTMENTAL RESPONSE TO GRAND JURY REPORT ON CHILD PROTECTIVE SERVICES

On June 28, 2001, the Grand Jury issued a report on the subject of Child Protective Services. State statute requires written responses from departments that are subject of Grand Jury Report findings and recommendations. According to the law, responses are to be directed to the Superior Court Presiding Judge within sixty days.

The attached documentation is submitted to you with this memorandum to serve as the Department's response to the Grand Jury report. Please be sure to forward this information to the Grand Jury for their records and disposition.

Thank you.

DEPARTMENT OF SOCIAL SERVICES

433 South Higuera Street, P.O. Box 8119, San Luis Obispo, CA 93403-8119

DATE: August 8, 2001
TO: David Edge, County Administrative Officer
FROM: Lee Collins, DSS Director
SUBJECT: Response to Grand Jury Report

In its Conclusion, the Grand Jury of 2000/2001 found the following:

"Without effective external monitoring, Child Protective Services is vulnerable to criticism of abuse of power whether it be deserved or undeserved."

We do not disagree that the decisions made by the Social Services Department are subject to criticism, nor do we dispute the fact that Federal and State statutes provide broad powers to the Department that, if abused, could have devastating impact on innocent members of the community.

These facts notwithstanding, it must be noted that the Grand Jury did not discover any actual instances of "abuse of power," despite the Department's offer of access to any file in which a complaint had been lodged and for which the parents had consented to an investigation.

Furthermore, the Grand Jury neglected to mention the multiple checks-and-balances that serve to ensure that each case is subject to thorough and repeated review, to wit:

Each substantiated allegation of child abuse or neglect received by the Department is cross-reported by the Department to the law enforcement agency with jurisdiction over the matter. The investigating worker is required to utilize the Structured Decision Making model, a validated method for making objective decisions regarding the assessed risk to a child's safety. Other Social Workers may participate in a review of the investigating worker's findings and recommendations, as well as members of a multidisciplinary team that may include staff from other County agencies, community-based non-profit organizations and schools. One or more

Social Work Supervisors review each case. In consultation with County Counsel, the Social Worker prepares recommendations that may include referral to the Superior Court for judicial intervention.

When cases are filed with the Superior Court, each party is assigned an attorney. These attorneys have broad access to our records, and have not only the ability but also the duty to question and challenge the findings and recommendations of the Social Worker. The Judge/Commissioner who hears the matter evaluates the facts and recommendations and issues a finding which itself is subject to appeal and further review.

The performance of the Department is subject to triennial review by the State Department of Social Services, as well as ongoing review and investigation of any actions alleging abuse or error by any Department employee. The Department itself has an established complaint process in which each and every complaint is thoroughly investigated by an individual who is not in the same chain-of-command of any Social Work staff subject to investigation.

Certainly, it is misleading to state that the Department is "without effective external monitoring," when one considers that its work is routinely reviewed by police officers, attorneys, judges, appellate court judges, professionals from other agencies and staff from our state supervisory agency.

We cannot imagine a public agency that is subject to more effective external monitoring than the Department of Social Services, and cannot agree with the assumptions and conclusions reached by the 2000/2001 Grand Jury.

FINDINGS:

Finding (a) The Grand Jury of 2000/2001 was prevented from effectively investigating CPS by alleged statutory claims of confidentiality.

RESPONSE:

The Department respectfully disagrees. In fact, the Grand Jury was afforded the opportunity to review each and every case for which they had obtained and presented permission from the parents. Furthermore, they were given the opportunity to review these cases with assurances that the Social Worker(s) who had worked on the cases would not have knowledge of the Grand Jury's review. Since only two families evidently agreed to waive their right to confidentiality and authorize such a review, the Grand Jury was allowed to review only the cases of those two families.

The laws governing the confidentiality of Child Welfare case files are deliberately strict in order to prevent random reviews by the curious. Welfare and Institutions Code Section 827 provides an unambiguous list of those who may have access to case files. The Grand Jury is not listed among the parties authorized by statute to have access, and we would not agree to the random access to files sought by the 2000/2001 Grand Jury.

Finding (b) The rapidly increasing number of voluntary agreements, if secured by intimidation, deprives parents and guardians of their constitutional rights of due process.

RESPONSE:

The Department agrees in part and respectfully disagrees in part. Certainly any voluntary agreement that is secured by intimidation would not meet any test of being truly "voluntary," and we agree that intimidation by a Social Worker has no place in our vision of best practices. The Grand Jury did not demonstrate, however, that they had discovered any evidence of such intimidation.

Certainly there is no evidence of a "rapidly increasing number of voluntary agreements" that have resulted in the removal of a child from the home, since there are only four children placed in Voluntary Foster Care.

The Department is committed to providing the least intrusive appropriate intervention in working with families, believing that families indeed are intimidated by a system that would force them to court on cases in which there is minimal risk to the child's safety.

Finding (c) CPS inadequately monitors the quality of field performance.

RESPONSE:

The Grand Jury offered no evidence in support of this finding, with which we respectfully disagree. As detailed above, the performance of Social Work staff is subject to intensive, ongoing review by multiple parties both within the Department and external to the Department.

Finding (d) The Office of County Counsel represents conflicting interests as counsel for both the Grand Jury and CPS. This requires independent counsel to represent the Grand Jury in the interpretation of applicable law.

RESPONSE:

The Department defers to the Office of the County Counsel for a response to this finding.

RECOMMENDATIONS:

Recommendation 1. The Board of Supervisors fund two independent and experienced social workers to be assigned to the juvenile court with the power to audit all levels of case-worker's performance, particularly in areas interfering with access to due process.

The Department respectfully disagrees. Such a structure would violate the separation of powers

intended by the framers of the statutes governing Child Welfare Services. There is no foundation to the assumptions of the Grand Jury in making this recommendation, in that no evidence was produced that demonstrated that the Department interfered with "access to due process." Indeed, the Department is thoroughly committed to involving parents in the development of a case plan, and works closely with County Counsel to ensure that families' rights to due process are not compromised at any stage.

Recommendation 2. *Supervisors for Child Protective Services should randomly accompany caseworkers on monthly calls to evaluate the caseworker and the progress of the program. In addition, the supervisor should, on occasion, make personal visits to determine if children are actually being seen as often as reported by the caseworker.*

While we do not disagree with the concept of supervisory review of staff performance, we question the assumptions of the Grand Jury when it questions "if children are actually being seen as often as reported by the caseworker." The Grand Jury offers no evidence that caseworkers have been untruthful, and we know of no such instances. We concur that children should be visited more frequently, however, and continue to work with the California State Legislature in an attempt to secure the resources necessary to fulfill our statutory goals and program expectations.

It must also be noted that Social Work Supervisors do, in fact, occasionally accompany caseworkers on calls.

Recommendation 3. *The mere appearance of a conflict of interest should be sufficient for the Grand Jury to request separate counsel or for the office of County Counsel to recuse itself from competing commitments or loyalties.*

The Department defers to the Office of the County Counsel for a response to this recommendation.

Recommendation 4. *Future Grand Juries will need funding for outside independent counsel to address the courts if they are to adequately investigate Child Protective Services.*

The Department defers to the Office of the County Counsel for a response to this recommendation.

The Department of Social Services submits that the 2000/2001 Grand Jury missed the opportunity to inform the community of the dramatic changes in Child Welfare Services that are being implemented by the Department. These changes—focusing on a "best practices" approach to service delivery—have produced compelling results that include the following:

- A responsive system that investigates more reports than counties much larger than ours. In the sample quarter of April – June 2000, the Department responded in person

to 969 referrals of child abuse or neglect while Monterey County, for example, with a population 63% larger than SLO's, responded to only 692. Sonoma's population is 84% larger, but they responded to only 846. San Mateo's population is 198% larger, but they responded to only 968 and San Francisco, with a population over three times that of SLO, responded to only 808 referrals.

Children are less likely to remain at-risk of injury or abuse in San Luis Obispo, because we respond to such a high percentage of the reports we receive.

- A system in which risk is assessed equitably and consistently. Utilizing the Structured Decision Making model, Social Workers investigate referrals and abide by the findings of that structured assessment. While the system permits a Social Worker to "override" the results, this override occurs in practice less than one-half of one percent of the cases, compared to a 2% rate in all the counties utilizing Structured Decision Making. This demonstrates clearly that Social Workers do not abuse the power of their office. Of the cases investigated by Department staff, only 21% are considered "substantiated"—a rate of substantiation that is exceeded by 51 of California's 58 counties.

- A system that focuses on supporting families with the least intrusive intervention. While the filing of a petition in court is necessary in some cases, it should be considered only in those cases where the risk to the child is the greatest and the motivation of the parents to resolve the risk is the least. In keeping with this philosophy, the Department filed petitions on fewer than 4% of the cases for which it received reports of child abuse or neglect. In fact, court petitions have declined each year since 1997 and, in 2000, were at the lowest level since 1988. This trend is hardly consistent with a Department that might be inclined to "abuse its power."

- A system that focuses on keeping families intact. When no other services will help to ensure the safety of the child at home, we ask the court to remove the child and authorize placement in a foster home. Because we are committed to supporting families and maintaining them, however, out-of-home placements have been declining each year since 1997. We utilize a number of programs and interagency collaboratives to support families, and these efforts see a "payoff" not only financially but also socially. This trend is hardly consistent with a Department that might be inclined to "abuse its power."

By choosing to focus on a handful of complaints that it could not substantiate, and dedicating its efforts to a description of its frustration in being denied wholesale access to sensitive Child Welfare Records, the Grand Jury's report serves to mislead the public.

The Department believes that it is the duty of the Grand Jury to investigate and report upon both the bad and the good. They failed to uncover the former, and failed to report the latter.

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COUNTY OF SAN LUIS OBISPO
OFFICE MEMORANDUM

TO: DEB HOSSLI
County Administrative Office

DATE: August 15, 2001

FROM: Office of County Counsel

SUBJECT: Response of County Counsel to 2000-2001 Grand Jury Report

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In accordance with the request of your office and the 2000-2001 Grand Jury, we propose the following response to the Grand Jury's report concerning Child Welfare Services and the role of this department in determining the availability of confidential Child Welfare Services records.

RESPONSE OF COUNTY COUNSEL TO 2000-2001 GRAND JURY REPORT

The 2000-2001 Report of the Grand Jury has correctly stated that the staff at the Department of Social Services, and particularly the staff of the Child Welfare Services (hereinafter "CWS"; formerly known as Child Protective Services) deal with people at all levels of dysfunction, addiction, emotional instability, economic distress who in some instances are in conflict with the Department over what is best for their child or children.

In its report, the Grand Jury makes clear its frustration concerning the inability of the juvenile committee of the Grand Jury to review randomly selected files of the Department of Social Services, CWS Division. The Grand Jury's observation that a conflict of interest exists within the Office of the County Counsel, due to its representation of them and of the Department of Social Services, appears to derive from the issue of access to confidential juvenile information. Therefore, before responding to the specific Findings and Recommendations, we have included a brief overview of that topic.

Child Protective Services

Response - San Luis Obispo
Office of County Counsel

Confidentiality Issue

Due to the sensitivity of the very personal matters which come to the attention of CWS, the access to information contained therein has been tightly regulated by state and federal law. In California, government records regarding children who are physically, sexually, or emotionally abused, being neglected or being exploited are made confidential in order to protect the "privacy rights of the child." (Welf. & Inst. Code, § 300.2) Access to confidential juvenile records is controlled by the Welfare & Institutions Code sections 827 and 10850. Section 827(e) defines the term "juvenile case file" and the case of *Lorenza P. v. Superior Court* (1988) 197 Cal.App.3d 767 includes departmental records about a family in that protected category, even if no case has been filed with the Juvenile Court.

Section 827(a)(1) lists specifically those 12 categories of persons who may inspect a confidential juvenile file. The Grand Jury is not included on that list. Section 827(a)(1)(M) then provides for inspection by "any other person who may be designated by court order of the judge of the juvenile court upon filing a petition."[1]

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[1] The petition referred to in section 827(a)(1)(M) is a printed form provided by the Judicial Council of California, and available at the Office of the Clerk of the Superior Court. Our local Superior Court has established a protocol for the processing of the various requests for inspection. All section 827 petitions are reviewed by the Juvenile Court judicial officer, and if factually sufficient, are then scheduled for a court hearing. After the court hearing at which all interested parties, including the petitioner, may present argument for or against release, the file is reviewed *in camera* (privately) by the judicial officer and the release, if any, is distributed by the Juvenile Court Clerk. Cautionary language regarding further distribution is included in the order accompanying the release.

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The 1993 policy called for an identified committee of the Grand Jury to receive special training regarding CWS confidentiality standards. Then when responding to a complaint, if it became necessary to review a specific case file, those specially trained Grand Jury members would be able to meet with the assigned social worker and the supervisor to review the file and ask questions. The Standing Order also addressed in what manner the information would be reported back to the entire Grand Jury. Further, the Standing Order provided the Grand Jury with the remedy of seeking relief from the Juvenile Court if they believed they were improperly being denied access to confidential records. This system appeared to work well, and was frequently utilized after its inception. Then, for a period of several years in the late 1990s, the Department received no requests for information or access to individual case files from any Grand Jury.

At the time of the seating of the 2000-2001 Grand Jury, due to the activities of a local citizen's group known as The Real F.A.C.T.S., the Department anticipated that the Grand Jury would again be asked to investigate CWS and therefore arranged for the juvenile committee to

receive the specialized training. Two training sessions were provided by the Deputies County Counsel representing the agency. During those training sessions the Standing Order protocol was explained.

The 2000-2001 juvenile committee members expressed their dissatisfaction with the protocol outlined in the 1993 Standing Order. Their stated reasons were (1) the legal obligation of the Grand Jury to maintain the confidentiality of the complainant, and (2) the perceived opportunity for the social worker to retaliate against the complainant in some way. Therefore, at a meeting on January 11, 2001, attended by members of the Grand Jury's juvenile committee, the Director of the Department of Social Services, other Departmental employees, the Deputy County Counsel representing the Grand Jury and the Deputy County Counsel representing the Department, a different protocol for 2000-2001 was agreed upon. (See attached memo.)

In this new arrangement, the social worker would not know that a complaint had been made to the Grand Jury. The file would be obtained from the social worker by the employee of the Department who has the task of investigating complaints.[2] This employee is not assigned to the CWS Division. She would then meet with members of the Grand Jury juvenile committee and assist them in their review of the file.[3] The file would be returned to the social worker, or to

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[2] This employee investigates complaints lodged locally and also conducts investigations and provides reports to CA Department of Social Services when complaints are made directly to that agency. Further, it is not unusual for files to be requested from the social worker for internal program reviews. The mere fact that a file was requested by this person would not serve as notice to a social worker that a complaint had been received by the Grand Jury.

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The Grand Jury of 2000-2001 never made a request of the Juvenile Court for approval for any other type of access to juvenile case records, either through a section 827 petition or a direct written request, nor did they ask their assigned County Counsel for assistance. Without the approval of such a request from the Juvenile Court, the Department was prohibited by law from making any records or files available for inspection, particularly on a random basis.

Response to Findings and Recommendations

Finding (d)

The Office of County Counsel represents conflicting interests as counsel for both the Grand Jury and CPS. This requires independent counsel to represent the Grand Jury in the interpretation of applicable law.

Response to Finding (d)

On a daily basis the Office of the County Counsel is involved in resolving disputes between officials, bodies and departments to which it has the obligation to provide legal advice. Although public sector attorneys are governed by the same conflict of interest rules as private sector attorneys, it has been recognized that application of those rules must take into consideration factors unique to the government context. In any case, if a grand jury believes that the Office of County Counsel has a conflict of interest in any particular investigation, pursuant to Penal Code section 934, it may seek legal advice from one of its alternate legal advisors, the Superior Court, the District Attorney, or the State Attorney General.

Recommendation 3

The mere appearance of a conflict of interest should be sufficient for the Grand Jury to request separate counsel or for the office of County Counsel to recuse itself from competing commitments or loyalties.

Response to Recommendation 3

Please refer to the Response to Finding (d), above. The Office of the County Counsel does not believe that there is an appearance of conflict. During its 2000-2001 term the Grand Jury, with the assistance of counsel, negotiated with the Department of Social Services a new protocol for its review of agency records. Their desire to randomly access the CWS files is prohibited by law and therefore not within the ability of the agency to permit nor their counsel to advocate. As discussed above, pursuant to Penal Code section 934, a grand jury at anytime can seek the advice of the Superior Court, the District Attorney, or the State Attorney General, which are its designated legal advisers other than the County Counsel.

Recommendation 4

Future Grand Juries will need funding for outside independent counsel to address the courts if they are to adequately investigate Child Protective Services.

Response to Recommendation 4

Please refer to the Response to Recommendation 3. Further, Penal Code section 936.5 outlines the procedure available to the Grand Jury when it believes that a conflict would prevent the local County Counsel, the local District Attorney and the California Attorney General from assisting in the performance of an investigation. Under this section, the Grand Jury requests that

the Presiding Judge of the Superior Court employ special counsel and special investigators. The Presiding Judge then conducts an evidentiary hearing to determine whether such a conflict exists.

Very truly yours,

JAMES B. LINDHOLM, JR.
County Counsel

By: Jac A. Crawford
Assistant County Counsel

JAC:PAS:ep:mja
Attachment

PDS
1434epmmo.wpd
011238

California Men's Colony Inmate Package Management & Educational, Vocational, and Pre-Release Programs

Response - California Men's Colony

DEPARTMENT OF CORRECTIONS
CALIFORNIA MEN'S COLONY
SAN LUIS OBISPO, CA 93409

GRAY DAVIS,

October 22, 2001

received
11-1-01

Amended Copy

The Honorable E. Jeffrey Burke
Presiding Judge of the Superior Court
County Government Center
San Luis Obispo, CA 93408

Dear Sir,

As mandated by California Penal Code Section 933, I am submitting a response to the 00/01 San Luis Obispo County Grand Jury's recommendation for the California Men's Colony (CMC). We appreciate the thoroughness and thought with which the Grand Jury reviewed our facility. Some of the issues can be addressed locally at CMC and the remaining issues introduced can only be remedied at the departmental level. Those issues will be forwarded to the California Department of Corrections (CDC), Institutions Division for their information.

INMATE PACKAGE MANAGEMENT

Findings:

a) CMC staff provided and conveyed requested available information and materials to the Grand Jury in a commendably prompt, organized and effective manner;

The respondent agrees with the finding.

(b) The written procedures as to allowable receipt of packages, allowable items that may be received, logging in of packages, inventorying of packages and examining packages are detailed, logical, and comprehensive;

The respondent agrees with the finding.

(c) R & R officers examining packages work alone. When there are two R & R officers examining packages at the same package room (CMC-East package area), they are always at different workstations. The examination process depends solely on the integrity of the officers.

The respondent agrees with the finding.

(d) Appeals/complaints as to legal and allowable items that are allegedly sent to inmates but never received by them are numerous and persistent. These appeals/complaints are invariably adjudicated by CMC staff as being not substantiated. The situation is similar in respect to complaints regarding rejection of "damaged" packages particularly in CMC-East.

The respondent disagrees wholly or partially with the finding.

Each inmate appeal regarding property or any other issue is not invariably adjudicated by CMC staff as being not substantiated. Each appeal is processed and reviewed with numerous appeals being remedied in the inmate's favor. This includes appeals regarding property issues.

(e) Approximately 3.5% of packages received by the CMC-West package room are deemed not acceptable for receipt due to damage or incorrect labeling. Approximately 9% of packages received by the CMC-East package room are deemed not acceptable for receipt due to damage or incorrect labeling. Packages deemed not acceptable must be returned to the sender (usually at the inmate's expense), destroyed, or donated.

The respondent agrees with the finding.

(f) Appeals/complaints records are maintained on computer and classified into broad categories. Appeals/complaints in respect to packages are classified under the broad category "PROPERTY". This category contains all appeals/complaints regarding property whether it involves packages, or loss or damage to property in a cell, or during a transfer, etc. This makes it very difficult to obtain the number of appeals/complaints due to "missing" items from packages. It also makes it difficult to detect changes in patterns of such complaints.

The respondent agrees with the finding.

(g) An x-ray machine is available for examining dubious items at the CMC-East package room. The CMC-West package room does not have a x-ray machine. Dubious items that are found to require x-ray examination at the CMC-West package room must be transported to the CMC-East package room, which is approximately one-third of a mile away. This process consumes CMC staff time and makes the package examination process at CMC-West less efficient and effective.

The respondent agrees with the finding.

Recommendations

1. Surveillance cameras and recorders should be installed at each workstation in the package rooms so that a record is made of the package rooms so that a record is made of the package examination. This would help ensure the integrity of the process, help allay concerns of inmates, help ensure that illegal items such as narcotics are properly accounted for, and help protect the CMC officers examining packages against unjustified allegations of impropriety.

The recommendation will not be implemented because it is not warranted or is not reasonable, with an explanation.

The integrity of the inmate package process has not been an issue at CMC. Very few appeals allege theft by staff to justify the installation of very expensive surveillance equipment. Any and all complaints that allege staff misconduct are thoroughly investigated and if cause has been determined, quick and decisive corrective action is taken. We do not believe that surveillance cameras should be utilized to monitor employee work performance. Due to the expense of such equipment, their use is better employed to detect threats to the institution security, personnel, and to the community.

2. The sharp differences in the percentages of packages rejected as unacceptable because of damaging and incorrect labeling between CMC-East (9 %) and CMC-West (3.5 %) indicate that there are most probably differences in the application of acceptance criteria and/or in the handling of packages. CMC Administration should initiate a review and institute measures to ensure that there is fair, uniform and secure application of methods and procedures.

   The recommendation will not be implemented because it is not warranted or is not reasonable, with an explanation.

   Currently, the procedures for packages are the same for both CMC-East and West Facilities. The differences in the percentage of packages deemed unacceptable were largely due to workload and staff perception of damaged packages.

3. CMC Administration should install an x-ray machine for use in the package examination process at CMC-West.

   The recommendation has not yet been implemented, but will be implemented in the future, with a timeframe for implementation.

   We agree that a x-ray machine, image enhancing device or spectra-analysis machine can enhance the detection of secreted contraband and increase search efficiency. As these types of equipment are quite expensive and this institution has chronically operated in a budget deficit, we will need to plan when procurement is fiscally feasible. Until then, each item shall be hand-searched and any suspicious items are referred to the institution's Investigative Services Unit for image enhancement and investigation.

4. CMC should revise the appeals/complaints computer record process so that specific types of complaints can be more readily identified and that differences in patterns can be more readily detected. The Grand Jury realizes that the Department of Corrections has to approve such changes and that they cannot be instituted unilaterally by CMC Administration. Such refinement of complaint classifications, if adopted system wide, would be useful in identifying specific problems, detecting changes, and making possible comparisons, both internal and with other institutions.

   The recommendation will not be implemented because it is not warranted or is not reasonable, with an explanation.

The Central Office of the Department of Corrections establishes inmate appeal categories, not the CMC. The Department and this institution are equally concerned over all inmate property concerns. Managers and supervisors have a working knowledge of the property complaints and have a known record in addressing concerns that are property related in a fair and timely manner. The current tracking system adequately serves both CMC and the Department. Therefore, additions or changes to that system are not warranted.

EDUCATIONAL, VOCATIONAL AND PRE-RELEASE PROGRAMS

Findings:

a) CMC does not collect statistics on recidivism for those completing the educational, vocational and three-week pre-release program.

The respondent agrees with the finding.

b) Parolees have difficulty in finding lodging, jobs and access to public transportation.

The respondent disagrees wholly or partially with the finding.

Inmates paroling from CMC have not had any difficulty accessing public transportation. It cannot be determined if parolees have difficulty finding lodging or jobs since contact with them ceases after parole. The CDC, Paroles Division, would better address this finding.

c) Inmates need to broaden their skills in order to seek employment and rejoin society.

The respondent disagrees wholly or partially with the finding.

CMC cannot objectively determine with certainty if parolees' skills development is sufficient or insufficient to seek employment and reintegrate into society. An indeterminable number of subjective personal and external factors have bearing and effect on an individual parolee's potential for success or failure.

d) Copyright law has prevented CMC from providing Spanish translation of the pre-release material. Efforts to gain permission to provide these materials have not been successful.

The respondent agrees with the finding.

Recommendations

1. CMC should commence a dialogue with the Sociology Department at Cal Poly for direction to a research institution possibly within the California University System with expertise to organize, implement and fund a scientific study on the impact pre-release programs have on the rate of recidivism.

The recommendation will not be implemented because it is not warranted or is not reasonable, with an explanation.

Initiation of any study of recidivism rates as related to inmates' having attended a Pre-Release program would have to be initiated and addressed through CDC's Institutions Division. Such a study and analysis would require approved, designated allocations of monies and staff derived from the Department of Corrections budget allotment. In this time of strict budget constraints for the Department of Corrections, CMC does not have the staffing, the fiscal means, or the authorization to implement this recommendation.

2. Transportation to available jobs is a major problem for parolees. CMC should implement a dial-a-ride type program, under the supervision of the Department of Parole in collaboration with the State Department of Human Resources to enable parolees to locate and participate in available employment.

   The recommendation will not be implemented because it is not warranted or is not reasonable, with an explanation.

   The issue of parolees' transportation once released from prison is not a responsibility of the institution or the Education Department of CMC. This recommendation would be more appropriately directed to the Paroles Division for consideration and evaluation. Approval and feasibility for such a dial-a-ride-type program would be a legislative action that would affect every county in California.

3. CMC should extend the three-week pre-release program to six weeks. Inmates need to broaden their skills to find employment, establish a residence and to rejoin society. We urge that the concept of a pilot program be pursued at some level.

   The recommendation will not be implemented because it is not warranted or is not reasonable, with an explanation.

   All curriculum and guidelines for Education Department programming are governed by the Department Operations Manual (DOM), Sections 53090.1-14 and by policies and procedures set forth by the Education and Inmate Programs Unit (EIPU) in Sacramento. These guidelines are standardized for all institutions throughout the CDC system, and uniform adherence is expected and evaluated via the formal compliance review process to ensure such uniformity. Recently all prisons were directed to convert all Re-Entry Programs to continuous three-week sessions. The only exception is that women's facilities may continue or implement CDC's Six-Week Expanded Re-Entry Curriculum. The Department's policy is clear, it is unlikely that the opportunity to extend Pre-Release classes to six weeks will occur in the foreseeable future.

4. CMC should negotiate and contract with the holder of the copyright on the pre-release material and secure a Spanish translation.

   The recommendation will not be implemented because it is not warranted or is not reasonable, with an explanation.

Only those inmates that are citizens of the United States (US) are allowed to participate in Pre-Release classes. Any inmate that has been naturalized had to take a test using the English language. Therefore, it is not necessary to obtain Pre-Release materials in Spanish. Moreover, inmates with United States Immigration Naturalization Service (USINS) holds are returned to their country of origin. Those inmates with USINS holds would not benefit from Pre-Release instruction intended for US residents.

Hopefully, the above information provides a satisfactory response to the findings and recommendations offered by the Grand Jury. If you require further clarification, please advise me at your earliest convenience.

Sincerely,

W. A. DUNCAN
Warden

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California Men's Colony Inmate Package Management & Educational, Vocational, and Pre-Release Programs

Response - California State Department of Corrections

STATE OF CALIFORNIA—YOUTH AND ADULT CORRECTIONAL
DEPARTMENT OF CORRECTIONS
P.O. Box 942883
Sacramento, CA 94283-0001

GRAY DAVIS, *Governor*

received
10-18-01

October 2, 2001

The Honorable E. Jeffrey Burke
Judge of the Superior Court
County Government Center
San Luis Obispo, CA 93408

Dear Judge Burke:

As mandated by California Penal Code Section 933, Warden William A. Duncan has responded to the 2000/2001 San Luis Obispo County Grand Jury's recommendation for the California Men's Colony (CMC). The findings and recommendations received thorough review by CMC's executive staff. They thoughtfully responded to the issues in the time allotted by the Penal Code. All of the issues were addressed locally at CMC and one issue introduced affects the entire Department. That issue will be forwarded to the Department of Corrections for information and review.

If you have any questions regarding the responses by CMC, please contact Warden Duncan at (805) 547-7901.

Sincerely,

E. S. Alameida

EDWARD S. ALAMEIDA, JR
Director
Department of Corrections

cc: William A. Duncan, Warden, CMC

bcc: Larry Witek, Deputy Director, Institutions Division
David Tristan, Chief Deputy Director, Field Operations

El Paso de Robles Youth Correctional Facility of California Youth Authority

Response - El Paso de Robles Youth Correctional Facility

STATE OF CALIFORNIA

GRAY DAVIS, Governor

DEPARTMENT OF THE YOUTH AUTHORITY

EL PASO DE ROBLES YOUTH CORRECTIONAL FACILITY

P.O. BOX 7008
PASO ROBLES, CA 93447-7008
Telephone: (805) 238-4040
FAX: Admin. (805) 239-7492
TDD (916) 262-2913
California Relay (800) 735-2929

August 29, 2001

SEP 2001
Received
Superior Court

Honorable E. Jeffrey Burke
Judge of the Superior Court
C/O Cathi Dockstader - Room 236
County Government Center
San Luis Obispo, CA 93408

Honorable E. Jeffrey Burke:

The below-listed information is El Paso de Robles Youth Correctional Facility's (EPdRYCF) response to findings and recommendations of the final report of the 2000/2001 San Luis Obispo County Grand Jury.

Findings:

- The 2000/2001 Grand Jury found all access roads to be in satisfactory condition.

  EPdRYCF agrees with the findings.

- CYA Administration instituted procedures to closely control and monitor the use of chemical restraints.

  EPdRYCF agrees with the findings.

- An investigation had been conducted by CYA as to charges of misconduct by CYA staff toward wards and appropriate corrective action has been taken.

  EPdRYCF agrees with the findings.

- CYA is cognizant of the provisions of the Welfare and Institutions Code.

  EPdRYCF agrees with the findings.

- No tattoo removal equipment exists at the facility. Equipment has been requested.

  EPdRYCF agrees with the findings and has been participating with the San Luis Obispo County Tattoo Removal Program.

- The new outpatient facility remains unoccupied due to design changes.

  EPdRYCF disagrees with the findings as the Outpatient Housing Unit (OHU) was operational July 2, 2001.

Findings: (Continued)

- The Grand Jury found the facility grounds and buildings inspected to be secure, orderly, and immaculate.

EPdRYCF agrees with the findings.

Recommendations:

1. Gang markings are a deterrent to returning to society. Acquiring portable equipment for the on site laser removal of tattoos should be given top priority.

   Contact has been made with Assistant Deputy Director Milton Braswell to research the grant money availability to purchase or assign a laser tattoo removal machine at EPdRYCF. We currently participate monthly in the San Luis Obispo County Liberty Tattoo Removal Program. Selected EPdRYCF wards are eligible to participate for the monthly public service work that is completed.

2. The new Outpatient Facility should be made operational and staffed.

   This recommendation has been implemented and the Outpatient Housing unit (OHU) became operational and staffed on July 2, 2001.

If I may provide any additional information, please do not hesitate to contact me.

Sincerely,

David Bacigalupo
Assistant Superintendent

DB:tw

cc: Judy Weiss

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County Jail Facility

Response - San Luis Obispo County Board of Supervisors

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COUNTY OF SAN LUIS OBISPO BOARD OF SUPERVISORS
AGENDA ITEM TRANSMITTAL

(1) DEPARTMENT	(2) MEETING DATE	(3) CONTACT/PHONE
County Administrative Office	September 25, 2001	Vincent Morici, Administrative Office (805) 781-5020

(4) SUBJECT

Board of Supervisors Response to the 2000-2001 Grand Jury Report on the County Jail Facility

(5) SUMMARY OF REQUEST

On June 28, 2001 The Grand Jury issued a report on County Jail Facility. The Administrative Office has prepared a response for the Board. The Board of Supervisors is now required to provide their response to the Grand Jury by September 26, 2001. Administrative Office staff recommends that the response attached response serve as the Board of Supervisors' response to the report.

(6) RECOMMENDED ACTION

That the Board approve the response to the Grand Jury Report and forward a copy of the response to the Grand Jury Foreman and the Superior Court Presiding Judge

(7) FUNDING SOURCE(S)	(8) CURRENT YEAR COST	(9) ANNUAL COST	(10) BUDGETED?
N/A	N/A	N/A	☐ YES ☒ N/A ☐ NO

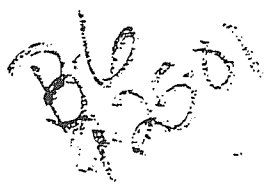
(11) OTHER AGENCY/ADVISORY GROUP INVOLVEMENT (LIST):

County Administrative Office, Sheriff, General Services

(12) WILL REQUEST REQUIRE ADDITIONAL STAFF? ☑ No ☐ Yes, How Many? _____
Permanent _____ ☐ Limited Term _____ ☐ Contract _____ ☐ Temporary Help _____

(13) SUPERVISOR DISTRICT(S)	(14) LOCATION MAP
1st, 2nd, 3rd, 4th, 5th (All)	☐ Attached ☒ N/A
(15) AGENDA PLACEMENT ☑ Consent ☐ Presentation ☐ Hearing (Time Est. _____) ☐ Board Business (Time Est. _____)	**(16) EXECUTED DOCUMENTS** ☐ Resolutions (Orig + 4 copies) ☐ Ordinances (Orig + 4 copies) ☐ Contracts (Orig + 4 copies) ☒ N/A
(17) NEED EXTRA EXECUTED COPIES? ☐ Number: _____ ☐ Attached ☒ N/A	**(18) APPROPRIATION TRANSFER REQUIRED?** ☐ Submitted ☐ 4/5th's Vote Required ☑ N/A

(19) ADMINISTRATIVE OFFICE REVIEW



County of San Luis Obispo

COUNTY GOVERNMENT CENTER, RM. 370 • SAN LUIS OBISPO, CALIFORNIA 93408 • (805) 781-5011

DAVID EDGE
COUNTY ADMINISTRATOR

TO: Board of Supervisors

FROM: David Edge, County Administrator DE

DATE: September 25, 2001

SUBJECT: Board of Supervisors Response to the 2000-2001 Grand Jury Report on County Jail Facility

Recommendation:

That your Board approve the response to the Grand Jury and forward a copy of the response to the Grand Jury Foreman and the Superior Court Presiding Judge.

Discussion:

On June 28, 2001, the Grand Jury issued a report on the County Jail facility (see Attachment 1). A reply is required of the Board by September 26, 2001. While the majority of the report is complimentary about the manner that jail is run, the issue of overcrowding in the women's jail was identified as a finding. Three recommendations were made by the Grand Jury requiring Board response. The Grand Jury did not require a response from the Sheriff. Administrative Office Staff has prepared the following response as the Board of Supervisors' response to this report.

Findings:

a) *Space inadequacies continue to exist for the women's jail*

Board of Supervisors' Response:

The Board of Corrections has established a capacity rating of 41 inmates in the women's jail. The actual bed capacity of the women's jail is higher (62 inmates) than the Board of Corrections identified capacity. The average daily inmate count for the year 2000 is higher than the Board of Corrections rated capacity, but less than the actual bed capacity. Sheriff's staff has done a commendable job accommodating the women inmates within the facility . The County has prepared a draft Master Plan for the County Operational Center facilities, including the jail facilities. This draft is undergoing review. This review will also examine the situation with the women's jail. Local governments face many capital project needs. Funding each of these needs requires a process where priorities are reviewed and determined. Projects that are

B-6

capable of providing state or federal funding sources help extend the ability of local governments to meet capital project needs. The County will continue to evaluate the situation with the womens' jail. Sources of State funding for expansion of the jail will be examined and where possible, pursued. Obtaining this funding will be a critical component for establishing the priority of a women's jail expansion project.

Recommendations:

1. *Complete the Master Plan giving specific consideration to overcrowding*

Board of Supervisors' Response:

The Master Plan for the County Operational Center and Jail Facilities is completed in draft. The Master Plan looks at the County Jail Facilities as well as the other facilities in the Operational Center. Concepts for future improvement and expansion, including the womens' jail facility, are considered in this document. The master Plan is currently targeted for completion as a final document by the end of the current fiscal year.

2. *Conduct a Public Hearing and request input on relative need/priority.*

Board of Supervisors' Response:

Public Hearings are held as part of the County budget process. Any funding proposals for capital improvement projects at the jail resulting from the Master Plan process, will go before the Board of Supervisors either as part of the budget, or as a separate Board of Supervisors item on the Board Agenda. Members of the public and other interested parties have the opportunity to provide input during the budget hearings or as part of the Board Agenda during regularly scheduled Board meetings.

3. *Fund and construct a new womens' jail facility, if warranted.*

Board of Supervisors' Response:

As mentioned in the response to the finding above, the County faces many capital project needs. The women's jail facility is one of many facility needs. The County will evaluate the need for facilities, including the women's jail facility, as part of the ongoing facility needs assessments. The annual budget process provides an opportunity to review funding priorities for capital improvement projects. Completion of Master Plan will also help identify the relative priority of the women's jail facility. Obtaining sources of funding from the State will have a positive effect for increasing the priority of a project for expansion of the women's jail.

Other Agency Involvement:

B-16

The County Sheriff and General Services were sent copies of the Grand Jury report as informational items. The County Administrative Office staff has reviewed the report on behalf of the Board.

Financial Considerations:

The Grand Jury report recommends the construction of a new women's jail if warranted. The financial considerations of undertaking such a project will vary based upon design, size and timing of a project. At the current time, no specific expansion project has been approved and so there is no direct fiscal impact associated with the response to the Grand Jury Report.

Results:

State law requires that the Board of Supervisors formally respond to the Grand Jury Reports within 90 days. Approval of the attached response will allow the Board to meet this requirement.

B6

COUNTY JAIL FACILITY

Introduction

California Penal Code Section 919 (b) states: *"The grand jury shall inquire into the condition and management of the public prisons within the county."*

Methodology

Members of the 2000-2001 San Luis Obispo County Grand Jury met with County Sheriff-Coroner Patrick Hedges and his staff for a presentation describing the Sheriff's Department and County Jail operations. Following the presentation an inspection was conducted that included the Department, County Jail facility, the Communications Center, Honor Farm and the kitchen facility. The Grand Jury reviewed the Sheriff's Department's Inmate Rules, organizational chart and budget charts.

Background

The main jail facility is located next to the Sheriff's Department headquarters at 1585 Kansas Avenue. The oldest section was built in 1971, a newer section in 1993, and the kitchen area and conference/dining room in 1991. The Honor Farm houses nonviolent sentenced inmates and was constructed in 1991. The refurbished World War II barracks located at the intersection of Kansas Avenue and Highway 1 are used for weekenders.

There are 162 employees working in the County Jail complex, including the Court Holding Facility.

Formal training to be a correctional officer takes approximately five weeks, followed by a six-month probationary period of on-the-job-training. The State of California mandates 24 hours of additional training per year, but because in-house instructors are available, the total offered is closer to 40-50 hours of training.

The Board of Corrections rated capacity is 587 inmates, although the jail has the capability of handling 766 inmates. The average daily population is 400. This increases to 430-440 inmates on weekends, with the addition of inmates, mostly convicted of alcohol-related charges, sentenced to serve their terms on weekends. Terms of incarceration are one year or less, with the average term approximately six months. Inmates being held for trial and who have not been convicted of a crime are usually housed separately, but receive the same jail services.

Inspections

The State Board of Corrections conducts biennial inspections of the County Jail and Honor Farm. They consist of walk-through observations of each physical plant and a review of policies and procedures governing the operation of each facility. The last inspection was done in February, 1999. According to the 1999 report, "Each physical plant was clean and in good condition in all areas."

The jail must comply with all applicable codes and safety regulations; the County and State Fire Marshals as well as the County Health Department all make annual inspections.

Women's Facility

The women's section of the jail has been developed over the course of several additions to the structure. The 1999 Board of Corrections report states, "It (the female section) is not well designed for either programming or control of inmates. The

current population does not comply with minimum physical plant standards and exceeds the reasonable use of the space".

The past two Grand Juries have also noted the inadequacies of the women's facility, both for housing and vocational training and urged expansion of the facility. Since then, computer training and other programs have been added to improve vocational training for women.

Currently, the capacity is 42 women, and the jail is often over capacity (sometimes holding up to 70 female inmates). The quarters appear cramped and seem to contain less recreational space than the men's areas. The number of female inmates has increased steadily over the last 10-15 years. Women are also staying in jail longer as their offenses are becoming more serious.

A comprehensive Master Plan of the Operational Center (the whole Kansas Avenue area and the Juvenile Services Center area) is being developed to show where expansion can best take place, to avoid future ad hoc planning and construction.

Planning, with much input from County jail personnel, is under way. The current thinking is to eliminate dormitory housing in favor of one-person cells in a two-tier pod system, using as a model the newer West housing for male inmates. This is considered much safer for both staff and inmates and makes it easier to separate inmates who should be kept apart. In such a pod arrangement, there would be six housing units for 108 inmates, requiring only three correctional officers for each unit - two on the floor, and one in the monitoring center overhead. It will be more costly to build, but the Sheriff's Department believes the reduction in ongoing staffing costs should partially offset this.

Honor Farm (Male)

The capacity of the Honor Farm is 80 sentenced male inmates. There are also two barracks for sentenced male inmates serving their sentences on weekends. The weekender capacity is 66 inmates.

There are two dormitories, a wood shop, a welding shop and a laundry facility (providing laundry services for the jail and the Juvenile Services Center). The wood and welding shops provides job-training experience. The inmates make furniture for the county, saving the county money.

Honor Farm inmates do all maintenance and grounds work. They also are sent out as road crews, as moving crews for county offices, or to perform other appropriate tasks to help various governmental and nonprofit agencies.

Honor Farm (Female)

The female Honor Farm inmates are housed in two dormitories in the main jail. They have TV/VCR privileges and the use of an exercise bicycle. Most of their assignments are of the housecleaning type inside the jail. Because male and female inmates must be kept apart, women are not sent outside on job assignments because honor farm inmates are not subject to the constant supervision required to maintain the separation.

Kitchen Facility

Work in the kitchen area is another job privilege for male honor farm inmates. Seven paid employees supervise the inmates in a variety of cooking, baking, food service and cleanup tasks.

A conference center near the kitchen area can be used for serving meals to visitors. The meal prepared on the day of the Grand Jury visit was of excellent quality and taste.

B-6 B-10

The food supervisor described various cost-cutting methods used to procure quality food at reduced cost. Major savings come from doing all baking in-house - including rolls, cookies, pastries, and all breads used for sandwiches. Other cost savings involve preparing foods from "scratch" rather than purchasing processed items. This also provides training for inmates.

Twelve hundred meals are served every day, with a cost per meal of 50 cents, or $1.50 per day per inmate. A typical day's service includes hot dishes for breakfast and dinner. A bag lunch is distributed at noon, including fruit, cookies, a sandwich and milk. The menu is developed in cooperation with a dietitian at Cal Poly San Luis Obispo to ensure that all daily nutritional requirements are met.

Meals are delivered to the inmates' cells or dormitory areas. The County Health Department makes spot checks to ensure that hot food temperatures are maintained properly at the time of delivery to the inmates.

The kitchen facility appears to be exceptionally clean, well organized and well maintained.

Booking Procedures

The jail serves all of San Luis Obispo County. Arrestees are transported there from all city police departments, the California Highway Patrol, and from the Sheriff's Department substations in Los Osos, Templeton and Arroyo Grande.

In the booking area, personal property, such as money, jewelry, and identification documents, is described and inventoried along with the clothing worn by the prisoner. If a sobriety test was refused in the field, officers will try to administer one at this point.

Once booked, prisoners are taken inside to holding cells surrounding a central observation and processing area. The holding cells have concrete benches and two phones for free local calls. The fingerprinting, ID room and classification office are also located in this area.

A classification officer then conducts a one-on-one interview to determine the appropriate housing assignment for each inmate. There are four such officers to provide 20-hour coverage each day. The interview process takes an average of ten minutes and, when possible, is done immediately on arrival, with follow-up as needed. If inmates arrive during the four hours per day when a classification officer is not available, they remain in the holding cells until processed.

Classification involves considering an inmate's gender, physical size, age, medical history, criminal history, gang affiliation and tattoos, and most important, the charges against the inmate. A check may be done with other prison facilities for prior housing assignments. This classification system, which is also in effect for visiting hours, seeks to avoid confrontational situations. Inmate safety is the guiding principle for housing assignments.

If an inmate is considered suicide-prone, he or she is put in a safety cell, with 15-minute check by the staff, with the time of the check noted in a logbook. Staff will also notify County Mental Health, if needed. There is no camera for monitoring the safety cells.

Inmates wear ID photos on computerized wristbands at all times. Prisoners sentenced to 60 days or more may request a review of their classification status once every 30 days. However, they cannot appeal the assigned housing location.

Discipline

Detailed rules for inmate behavior are listed in the pamphlet "Inmate Rules" and are designed to ensure inmate and staff safety. Disciplinary actions for violations are also set forth.

Pepper spray and handcuffs are used to restrain inmates if necessary. Inmates who destroy jail property or commit other crimes in jail are dealt with in the criminal justice system.

Medical and Dental Services

When an inmate is booked into jail, a Medical Pre-Screen Form is completed. If incarceration is for more than three days (the time needed to read the test), a TB test is given. HIV testing is not mandatory. Unless an inmate shows symptoms or requests a test, a Hepatitis C test is not given.

Inmates with HIV/AIDS are not isolated unless there is a behavioral problem or to protect them if susceptible to infections. An AIDS education class is held regularly. Universal precautions against the spread of HIV are taken throughout the jail. Members of the local AIDS Support Network regularly visit inmates and provide a liaison with the community.

There is 24-hour coverage by a registered nurse. Inmates must complete an Inmate Request for Medical Attention form to get access to medical services. No charge is made for potentially life-threatening conditions or for pregnancy, but inmates must pay $3.00 for non-emergency inmate-initiated treatment. This is deducted from an inmate's jail account. For medical emergencies, the inmate is transported to a local hospital. The hospital contracts are less costly than maintaining a full-service facility at the jail.

Two sick calls are held daily, with medications dispensed twice a day on a closely monitored basis. Inmates with special dietary requirements are accommodated and monitored; this includes the special nutritional needs of pregnant women. There is a contract physician who can see up to 20 patients in the morning and the RN on duty can see up to 36 patients in the afternoon. Two dentists alternate screening and treatment.

There are counseling services available to inmates who fill out a Request for Psychiatric Attention. Correctional officers may also request counseling help for inmates. There are a variety of counseling programs, including alcohol and drug counseling, offered in the jail, with participation dependent on the inmate's classification, disciplinary history, and other criteria.

A County Mental Health crisis team responds on site when needed.

Commissary, Law Library, and Education Program

The County Jail operates an inmate store providing commissary items that may be ordered once a week. The stock includes snacks, writing materials, playing cards, personal hygiene items, and, for the Honor Farm only, cigarettes.

Purchases are charged against an inmate's jail account, which is established with any cash taken in when the inmate is arrested and booked into jail. Indigent inmates may order a Welfare Pack that includes correspondence items and shampoo. A correctional officer issues all other personal hygiene supplies.

Proceeds from commissary sales and from pay phones go into an inmate welfare fund to pay for law books, upgrade equipment, and for an adult education

program. High school equivalency classes are available, as well as Cuesta College courses, all taught by certified instructors.

A law library is maintained for use by inmates, who must submit an Inmate Request Form to use it. Requests are usually granted within a few days. The library is available 24 hours a day, as staffing permits. Only one inmate at a time can use the library. The cost of updating books is paid from the Inmate Welfare Fund. Grand Jurors noted that the lighting in the existing library has been improved.

The jail is currently in the process of moving the law library to larger, well lit, ventilated and carpeted area. This area has a security camera and wire gate. The room is ready and the shelving is being installed. The new library should be operational soon.

Release Procedures

About 1100 inmates are processed for release every month. Inmates cannot be held beyond the time set for release. Most inmates arrange to be picked up by family or friends, but they also have the option of calling a cab, requesting a CCAT bus to stop, or walking. According to staff, rides are available to the disabled if they ask for this assistance.

CCAT bus service is available four times a day for $2, but only if a call is made ahead of time requesting that the bus stop at the jail. This bus does not run after 6 p.m.

Pay phones are available once an inmate has been released. Change is always available; if the inmate has money left in his or her account, at lease a dollar of it will be given in coins for the phone. For those lacking funds, a free phone call using a Department phone is offered.

The Department has another transportation option with a 24-hour direct phone line to a cab company that has agreed to accept $15 vouchers for trips to San Luis Obispo or Morro Bay. The vouchers are given to released inmates who do not have the means for a ride. The cab drivers later return the vouchers to the Sheriff's Department for cash. Instructions to the inmates about this option are printed beside the phone, and also explained in the Inmate Rules booklet.

Funding for this transportation program is from the Inmate Welfare Fund.

The Sheriff's Department does not release inmates during hours of darkness, unless bail has been posted (in which event an inmate cannot be held further).

Conclusions

Upon inspection, the Grand Jury found the various aspects of the facility, were professionally managed and well maintained.

The atmosphere of the facility seemed comfortable and relaxed, and interchanges between staff and the administrators accompanying Grand Jurors were respectful and professional. All Grand Jury questions were answered fully.

Since last year's report, we noted that some of the recommendations have been carried out, namely new lighting for the old law library, as well as constructing a new law library area. While there are still not cameras in the safety cells, a new procedure for monitoring those inmates is now in place.
Overcrowding still exists in the women's jail.

We commend Sheriff Hedges and his staff for a well-run facility.

Findings

a) Space inadequacies continue to exist for the women's jail.

B-6

Recommendations

1. Complete the Master plan, giving specific consideration to the overcrowding;
2. Conduct a public hearing and request input on relative need/priority;
3. Fund and construct a new women's facility, if warranted.

Required Responses

Penal Code Section 93305 requires that the ***San Luis Obispo County Board of Supervisors*** be required to respond to Finding No. 1 and Recommendations No. 1, 2 and 3.

B6 10

County Superior Court Holding Facility

Response - San Luis Obispo County Board of Supervisors

County of San Luis Obispo

COUNTY GOVERNMENT CENTER, RM. 370 • SAN LUIS OBISPO, CALIFORNIA 93408 • (805) 781-5011

DAVID EDGE
COUNTY ADMINISTRATOR

TO: SUPERIOR COURT PRESIDING JUDGE

FROM: DAVID EDGE, COUNTY ADMINISTRATOR

DATE: AUGUST 27, 2001

SUBJECT: DEPARTMENTAL RESPONSE TO GRAND JURY REPORT ON SUPERIOR COURT HOLDING FACILITY

On June 28, 2001, the Grand Jury issued a report on the subject of Superior Court Holding Facility. State statute requires written responses from departments that are subject of Grand Jury Report findings and recommendations. According to the law, responses are to be directed to the Superior Court Presiding Judge within sixty days.

The attached documentation is submitted to you with this memorandum to serve as the Department's response to the Grand Jury report. Please be sure to forward this information to the Grand Jury for their records and disposition.

Thank you.

San Luis Obispo County Sheriff's Department

Patrick Hedges
Sheriff-Coroner
P.O. Box 32
San Luis Obispo, CA 93406

August 13, 2001

The Honorable E. Jeffrey Burke
Presiding Judge of the Superior Court
County Government Center
San Luis Obispo, CA 93408

RE: 2000-2001 Grand Jury Report

Dear Judge Burke:

I have reviewed the 2000-2001 San Luis Obispo County Grand Jury Report regarding their inspection of the Court Holding Facilities. My response to their findings and recommendations are as follows:

Findings:

a. *"The only way for correctional officers escorting inmates in the stairway to communicate with the control room is by hand-held radio."*

The respondent agrees with this finding.

Recommendations:

1. *"Install a video monitoring system in the stairways leading to the courtrooms."*

The recommendation requires further analysis. A video monitoring system requires that a staff member be available to monitor the cameras if a video system is to be effective. It is possible that an audio monitoring system, similar to ones installed in jail cells, would offer a better backup to existing radio communication. Such a system is activated when sound reaches a certain decibel level, sounding an alarm. A decision on alternative systems will be made by November 30, 2001, in time for budget submission for the next fiscal year.

Findings:

b. *"The proposed remodel may solve the problem of overcrowding identified by both previous Grand Jury Reports and a State Board of Corrections report dated March 16, 1999."*

The respondent agrees with this finding.

Recommendations:

2. *"Take all actions necessary to expedite the remodeling process and/or commence construction of a new building."*

The recommendation has not yet been implemented. As stated in last year's response, the remodeling and expansion of the Court Holding Facilities has been placed on hold at the request of the Superior Court. The Superior Court is pursuing the feasibility of constructing a new building for the Courts. I have, in discussion with the Court Executive Officer, asked that the Court review existing scheduling in an effort to spread out the appearance of "in-custodies," particularly as it pertains to inmates from the California Men's Colony and the Atascadero State Hospital. I will, under separate cover, ask that the Court complete this review by September 28, 2001, and inform me of their proposed appearance schedule. If there are no alternatives, then I will recommend that the $1.5 million dollar project proceed in a manner previously approved and funded by the Board of Supervisors.

Findings:

c. *"Shackled inmates are at risk for injury in the stairways."*

The respondent disagrees with this finding. While there is a potential for injury in any activity, the ankle chains are of sufficient length to allow an individual to walk up and down stairways in a controlled manner. Thousands of shackled inmates have navigated the stairways leading to and from the courtrooms for many, many years without incident. While no one would like to see an injury occur due to an accident, the safety of the court, correctional staff, public and the inmates is paramount.

Recommendations:

3. *"Any new design should give greater consideration to safety and security in the hallways and stairways."*

The recommendation has not yet been implemented as the recommendation applies to a future event. When new building design is undertaken, such recommendation will be a priority.

Sincerely,

Patrick Hedges
Sheriff-Coroner

PH/etd

County Superior Court Holding Facility

Response - San Luis Obispo County Sheriff's Department

San Luis Obispo County Sheriff's Department

Patrick Hedges
Sheriff-Coroner
P.O. Box 32
San Luis Obispo, CA 93406

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Patrick Hedges
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PH/etd

AUG 2001
Received
Superior Court

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