



**ALAMEDA COUNTY COMMUNITY DEVELOPMENT AGENCY
PLANNING DEPARTMENT**

STAFF REPORT

**TO: PLANNING COMMISSION
HEARING DATE: APRIL 1, 2019**

GENERAL INFORMATION

PROPOSED GENERAL PLAN AMENDMENT AND ZONING ORDINANCE AMENDMENT: Modify the East County Area Plan (ECAP) and the Alameda County Zoning Ordinance (ACZO) to enhance opportunities and expand potential for Bed and Breakfast Establishments in the South Livermore Valley Area, “CA – Cultivated Agriculture” Combining District

PROPOSAL: Modify specific text in the East County Area Plan (ECAP) and the Alameda County Zoning Ordinance (ACZO) to ease existing limitations on the size and nature of Bed and Breakfast Establishments as conditionally permitted in the “CA – Cultivated Agriculture” Combining District, South Livermore Valley Area, to enhance tourism and overnight access to the viticulture region.

ZONING: All parcels zoned “A-Agriculture” AND within the “CA – Cultivated Agriculture” overlay would be affected.

GENERAL PLAN DESIGNATION: “LPA” (Large Parcel Agriculture) designations in the South Livermore Valley Area would be affected.

ENVIRONMENTAL REVIEW: This action requires analysis under the California Environmental Quality Act (CEQA). An Addendum to the original EIR for the South Livermore Valley Area Plan (SLVAP) has been prepared to describe how the proposed policy and zoning ordinance amendments do not differ significantly from the original adopted policies and zoning requirements for Bed and Breakfast establishments (Addendum is attached as Attachment 3).

RECOMMENDATION Staff recommends that:

- The Planning Commission accept Staff’s presentation, take public testimony and, if it so concludes, approve the attached Resolution that provides for the following:
- Recommend to the Board of Supervisors the adoption of the attached Addendum to the 1993 South Livermore Valley Area Plan EIR as the CEQA analysis for this proposal, and
- Recommend to the Board of Supervisors adoption of the proposed ECAP Policy Amendments and amendments to the Zoning Ordinance regarding Bed and Breakfast Establishments.

DESCRIPTION OF PROPOSAL

Amend the Alameda County General Plan (ECAP, specifically), by the following modifications of Policy 344 and Program 125:

Policy 344: The County shall encourage the promotion of, and access to, the South Livermore Valley as a premier wine-producing center by encouraging appropriate tourist-attracting and supporting uses, such as bed and breakfast establishments, bicycle and equestrian facilities, a conference center, a wine museum, or other uses, and by establishing clear, well-signed travel corridors from major highways to the area.

Program 125: The County shall limit new commercial uses within the Cultivated Agriculture Overlay District to appropriate small-scale uses that promote the area's image as a wine region, subject to issuance of a conditional use permit. To this end, the County shall develop a full list of conditionally-permitted commercial uses and standards. New commercial uses proposed as a part of a bonus density application should be limited to the 10% maximum area of each parcel not dedicated to cultivated agriculture, subject to appropriate coverage limitations, and should be sited to maximize efficient use of cultivated lands. Wineries and small bed-and-breakfast establishments, and associated small restaurants of no more than forty-nine (49) permanent indoor seats, are examples of appropriate commercial uses. Visitor serving commercial uses are considered non-residential and are subject to the maximum building intensity for non-residential buildings, which is .01 FAR (floor area ratio) but not less than 20,000 square feet, provided they are located on the allowable building envelope(s). Bed-and-breakfast establishments may be established in ~~shall be limited to~~ existing homes or homes permitted under the *South Livermore Valley Area Plan*, ~~or may be located in construction of~~ separate additional structures located within the allowable building envelope(s) onsite, shall not be permitted. No more than twenty-five (25) Bed-and-Breakfast establishments or similar establishments shall be permitted in the Cultivated Agriculture Overlay District. The County shall require that proponents of new commercial development in rural areas show, to the satisfaction of the County and Zone 7, that development can be adequately served by a septic system and that adequate water supplies are available for commercial needs.

ZONING ORDINANCE:

Amend the Alameda County Code of Ordinances, Title 17 - Zoning, Section 17.30, Article VII, Combining CA (Cultivated Agriculture) Districts by modification of Section 17.30.170(F)(2)(a), Conditional uses—Board of zoning adjustments, Paragraph I, as follows:

“In addition to the conditional uses in the A (agricultural) district with which it is combined, the following are conditional uses in the CA combining district and shall be permitted only if approved by the board of zoning adjustments as provided in Section 17.54.130:

- a. Bed and breakfast establishment, ~~if conducted within an existing or permitted dwelling;~~ maximum of fourteen (14) rooms available for guests;
- b. Restaurant, with seated service only, and a maximum of forty-nine (49) permanent indoor seats, that features agricultural products of the South Livermore Valley Area...”

STAFF ANALYSIS

BACKGROUND – COUNTY POLICY AND CODE

PLANNING COMMISSION

APRIL 1, 2019

South Livermore Valley Area Plan and ECAP: On February 3, 1993, the Board of Supervisors approved the South Livermore Valley Area Plan (SLVAP), a County planning document designed to enhance viticulture, other long-term agriculture, related job growth, and tourism in the unincorporated South Livermore Valley Area (SLVA). A similar and complementary set of policies was adopted by the City of Livermore. The SLVAP policies were incorporated into the East County Area Plan (ECAP). Those policies included provisions for allowing bed-and-breakfast establishments (B&Bs) as conditional uses.

Among the policies adopted by the Board are ECAP Policy 344 and ECAP Program 125 (shown above), the latter of which also discusses appropriate commercial uses, including B&Bs.

The Alameda County Zoning Ordinance also discusses B&Bs, as shown above.

ECAP / Measure D Initiative and Applicable Policies: In November 2000, the Alameda County electorate approved the Save Agriculture and Open Space Lands Initiative (Measure D). The Initiative amended portions of the County General Plan, including the *East County Area Plan* (ECAP). The portions of the ECAP revised or enacted under the Initiative may not be amended except by voter approval, with the exception that the Board of Supervisors can impose more stringent restrictions on development and land use and it may make technical or nonsubstantive changes to the Initiative provisions. Existing and future County plans, zoning regulations, etc. must be consistent with the provisions of the Initiative. Portions of the ECAP and other planning documents that were not amended or enacted by the Initiative may still be modified without voter approval provided the modifications are consistent with the provisions of the Initiative.

The Initiative added, deleted, and revised more than 60 ECAP policies and programs. Some of these amendments, along with a handful of previous ECAP policies, apply generally to land use and development standards in the South Livermore Valley Area. Planning staff has discussed the applicability of such policies and programs with County Counsel and believes that among these amendments and policies, the following may apply to B&B establishments. Staff points out that these policies mostly apply to permit findings and development standards such as visual treatment, water supply and septic management, rather than land use limitations, although one of them (addressed below) has land use implications:

Policy 1 (Measure D): The County shall identify and maintain a **County Urban Growth Boundary** that divides areas inside the Boundary, next to existing cities, generally suitable for urban development from areas outside suitable for long-term protection of natural resources, agriculture, public health and safety, and buffers between communities. The County Urban Growth Boundary shall be the Urban Growth Boundary of the City of Pleasanton starting at its eastern junction with U.S. I-580 clockwise to U.S. I-580, west to the boundary of the East County Area Plan, north to the proposed western Urban Growth Boundary for the City of Dublin on the November 7, 2000 election ballot, to the Alameda-Contra Costa County line, east to the eastern boundary of the East Dublin Specific Plan on February 1, 2000, south to U.S. I-580, east to the city limits of the City of Livermore, the northern Livermore city limits, except where the northern city limits are below U.S. I-580 the Boundary shall be I-580, to the eastern city limits of Livermore, to the proposed southern Urban Growth Boundary for Livermore on the March 7, 2000 election ballot to U.S. I-580, and west to the City of Pleasanton Urban Growth Boundary.

Policy 81 (Original ECAP): The County shall give highest priority in areas designated “Large Parcel Agriculture” to agricultural operations. Visitor-serving commercial facilities (such as

wineries, inns and food and beverage stores) shall be limited to facilities that promote agriculture and are subordinate and directly related to the area's agricultural production.

Policy 82 (Measure D): In areas designated Large Parcel Agriculture, the County shall permit limited agriculture enhancing commercial uses that primarily support the area's agricultural production, are not detrimental to existing or potential agricultural use, demonstrate an adequate and reliable water supply, and comply with other policies and programs of the Initiative.

Policy 83 (Original ECAP): The County shall require any proposal for a **visitor-serving commercial** use in an agricultural area to meet all of the following criteria:

- The project will primarily promote agricultural products grown or processed in Alameda County;
- The project is compatible with existing agricultural production activities in the area;
- The project mitigates, to the satisfaction of the County, all potential conflicts with surrounding agricultural uses and other environmental impacts; and
- The project can demonstrate an adequate and reliable water source that does not significantly diminish the availability of water to serve existing or potential agricultural use.

Policy 115 (Measure D): In all cases appropriate building materials, landscaping and screening shall be required to minimize the visual impact of development. Development shall blend with and be subordinate to the environment and character of the area where located, so as to be as unobtrusive as possible and not detract from the natural, open space or visual qualities of the area. To the maximum extent practicable, all exterior lighting must be located, designed and shielded so as to confine direct rays to the parcel where the lighting is located.

Large Parcel Agriculture (*Measure D definition*) requires a minimum parcel size of 100 acres, except as provided in Programs 40 and 41. The maximum building intensity for non-residential buildings shall be .01 FAR (floor area ratio) but not less than 20,000 square feet... One single family home per parcel is allowed provided that all other County standards are met for adequate road access, sewer and water facilities, building envelope location, visual protection, and public services. Residential and residential accessory buildings shall have a maximum floor space of 12,000 square feet. Additional residential units may be allowed if they are occupied by farm employees required to reside on-site. Apart from infrastructure under Policy 13, all buildings shall be located on a contiguous development envelope not to exceed 2 acres except they may be located outside the envelope if necessary for security reasons or, if structures for agricultural use, necessary for agricultural use. Subject to the provisions of the Initiative, this designation permits agricultural uses...visitor-serving commercial facilities (by way of illustration, tasting rooms, fruit stands, bed and breakfast inns) ... and similar uses compatible with agriculture. Different provisions may apply in the South Livermore Valley Plan Area, or in the North Livermore Intensive Agriculture Area.

[The foregoing definition has land use implications. Recalling that the original requirement for B&B establishments includes locating within existing or permitted dwellings (which imply a residential use and associated FAR limitations of 12,000 square feet), B&Bs are also referred to as visitor-serving commercial uses, which implies the larger allowance of .01 FAR or 20,000 square feet minimum building size. This ambiguity may need to be resolved, and staff proposes to do so in its recommendation. In either case, this definition strongly implies that B&B establishments are generally compatible with agriculture.]

Policy 253 (Measure D): The County shall approve new development only upon verification that

an adequate, **long-term, sustainable, clearly identified water supply** will be provided to serve the development, including in times of drought.

DISCUSSION

- 1. Present Conditions:** Since adoption of the SLVAP, only one B&B has become established in the SLVA. This establishment is the Purple Orchid Inn, located at 4549 Cross Road, in the northeast section of the SLVA. The Purple Orchid Inn offers 10 rooms for lodging, a spa, and amenities for events such as weddings. A handful of other developers have proposed B&Bs in the SLVA in the last 25 years. Currently, the Purple Orchid Inn proposes to add two rooms to its facility, and another developer, in association with Rios-Lovell Winery, has submitted an early concept to construct a new B&B with 14 rooms, a restaurant and other amenities.

All other current motels, hotels, inns and other commercial lodging establishments are located near the I-580 freeway, several miles north of the SLVA. Staff also understands that the City of Livermore has tentatively approved a concept for a downtown hotel.

- 2. Desire and Demand for Additional B&B Establishments:** Staff has investigated the demand for B&Bs or other appropriate lodging for the SLVA and the eastern Tri-Valley in general. While no hard demand-side data appears to exist, there is some information from city and private sources that suggests a desire for more lodging of different types, or at least that if the availability of lodging were greater it would make the area more accessible and would attract more multi-day visitation for both business and leisure.

The accommodation and food service industries in the Tri-Valley already support almost 3,500 jobs as of 2016 (Dean Runyan Associates, Tri-Valley, California Travel Impacts, 2012- 2016, June 2017) and occupancy for existing lodging varies from 67% - 81%, depending on the year of record and cost of lodging (CBRE Hotels, Hotel Horizons, September-November 2017 edition). These values appear to be a strong indicator of regional lodging demand, well above the long-term average.

In the Tri-Valley, lodging demand is generally greater during weekdays than on weekends (STR, Inc., Tri-Valley CVB for the month of December 2017), suggesting that business and government travel are more significant attractors than leisure travel; however, this is not necessarily an indicator of lack of demand or desire for more leisure lodging with regional cultural appeal, as the existing lodging does not necessarily cater to leisure travelers looking for wine country or other regional experiences.

According to a Regional Tourism Asset Assessment prepared for Visit Tri-Valley (Strategic Marketing Group [SMG], 2014), strong desire has been expressed among various community organizations to increase appropriate styles of lodging, including B&Bs and other small to medium-sized facilities, to provide greater access for tourist travelers seeking wine country and regional cultural / recreational experiences. At least some of the SMG analysis focuses on the SLVA, identifying a need for up to 150 rooms in the region, and while it recognizes the desire for small facilities such as B&Bs in a few places, it specifically describes only a single hypothetical 100 - 150 room resort to primarily serve the dual golf course recreational opportunities of Poppy Ridge and the Course at Wentz Bros. In addition, the SMG analysis discusses an overall marketing and outreach strategy for increasing tourism and visitation to the Tri-Valley region.

However, all of the above needs to be measured against historical experience. Despite the apparent demand, there has been little movement toward the predicted build-out of B&Bs or any

other type of lodging in the SLVA. The original SLVAP EIR presumed relatively strong demand for B&B units, and concern from some quarters (especially Greenbelt Alliance) about overdevelopment of B&B Establishments resulted in proposed mitigation of no more than 25 B&Bs total in the A-CA Overlay Zone, and a limitation to existing or permitted residences. Of these two mitigation measures, only the latter was adopted as a policy. Whether due to this mitigation-policy or market conditions, apart from the Purple Orchid Inn and a single modern proposal (which has not yet been submitted as an application), there have been no other B&Bs established in the SLVA, either in the unincorporated area or in the City of Livermore. Therefore, *Staff believes that the general demand for overnight rooms at this time is probably a bit less than that predicted by the sources cited above, and maybe closer to 5-7 new B&Bs if built out to a maximum of 14 rooms each.*

3. Possible Amendments to Encourage Bed and Breakfast Establishments:

In order to accommodate the community desire to establish new B&Bs in the SLVA, it would be necessary to alter ECAP Policy 344, ECAP Program 125 and the Zoning Ordinance. Those amendments could be simple or more extensive.

To this end, staff has sought to answer the following questions:

- a. Should B&Bs continue to be limited to “existing or permitted dwelling” units, or could they be built as new stand-alone facilities? Or, stated slightly differently, Should the County continue the policy that “construction of separate additional structures shall not be permitted”, or could this requirement be relaxed?
- b. Pursuant to Question (a) above, should B&Bs then be limited to 12,000 square feet maximum floor area, as required for a residential dwelling, or should a more liberal size allowance be adopted (e.g., 0.01 FAR or 20,000 square feet) as implied by its identification as a visitor-serving commercial use?
- c. Should an owner / operator be required to maintain his or her residence at the B&B, as is most common, or could the establishment be owned and / or operated by an offsite person?
- d. Can a B&B appropriately include a full-service restaurant for multiple meals, a spa or an event center?
- e. If the existing requirements are relaxed to make B&Bs more viable, should the County place a limit of the number of applications that may be approved in a given time period?
- f. Should the Zoning Ordinance be amended to allow B&Bs in the broader LPA – Large Parcel Agriculture zone?

In fashioning the policy and ordinance amendments, Staff considered the economic viability of small inns depending on size, the relative minimum of suitable existing housing stock in the SLVA, the objectives of the SLVAP policies, and the desire of the SLVA community to enhance opportunities for visitor access through overnight accommodations. The result was that Staff answered questions (a), (b) and (d) above by drafting changes to allow new, stand-alone single-purpose structures for B&B facilities of 20,000 square feet, or 0.01 FAR whichever is larger, along with associated restaurant, as long as the structures and use areas are located on the mandatory 2-acre / 10% building site and the remaining 90% is left for cultivated agriculture.

On questions (c), (e) and (f), the County has decided to not presume any more implicit meaning in the phrase “Bed and Breakfast”; to allow market conditions to determine the frequency with which applications could be approved with a limit of 25 total establishments areawide; and to focus strictly on the South Livermore Area and its viticultural character. In deference to the concerns discussed by 1992 Greenbelt Alliance letter, in removing the “existing home” limitation,

staff has also recommended the 25-unit limit mitigation in the draft policy/zoning amendment, which would prevent an overabundance of B&Bs without placing onerous limitations on individual establishments. If desired, the other issues described above in (c) and (f) could be taken up separately at another time.

Environmental Review

In 1992, the Draft South Livermore Valley Area Plan (SLVAP) was subject to CEQA environmental review. The SLVAP EIR included analysis of the impacts of up to 25 Bed and Breakfast Establishments in the SLVA. The Draft EIR was issued in June 1992, and the Final EIR was issued in November 1992 after a public review period. The EIR specified some significant environmental impacts, most avoidable but with a subset of them unavoidable by any mitigation measures available. On February 23, 1993, the EIR for the program was certified, and the SLVAP was adopted by the Alameda County Board of Supervisors, with most if not all of the mitigation measures specified in the EIR included.

On May 5, 1994, the policies and programs of the SLVAP were slightly edited and reorganized, and incorporated into the East County Area Plan by the Board of Supervisors, where these policies and programs reside in 2019. These policies, in specific cases, were used to prepare amendments to the County Zoning Ordinance, including establishing Bed and Breakfast Establishments as Conditional Uses subject to public review, with certain limitations as to characteristics and origin in part based on mitigation measures found in the Final EIR. It is these current policies and zoning requirements upon which the proposed program changes are structured, and the attached Addendum is also based upon those policies, which include mitigation measures to address significant environmental impacts.

Under CEQA guidelines Section 15162, after an EIR has been prepared, a subsequent or supplemental EIR may not be required unless:

1. Subsequent changes are proposed in the project which will require important revisions of the previous EIR due to the involvement of new significant environmental impacts not considered in a previous EIR on the project;
2. Substantial changes occur with respect to the circumstances under which the project is undertaken...which will require important revisions in the previous EIR due to the involvement of new significant environmental impacts not covered in the previous EIR; or
3. New information of substantial importance to the project becomes available, and
 - A. the information was not known and could not have been known at the time the previous EIR was certified as complete, and
 - B. the new information shows any of the following:
 - (a) The project will have one or more significant effects not discussed previously in the EIR;
 - (b) Significant effects previously examined will be substantially more severe than shown in the EIR;
 - (c) Mitigation measures or alternatives previously found not to be feasible would in fact be feasible and would substantially reduce one or more significant effects of the project; or

- (d) Mitigation measures or alternatives which were not previously considered in the EIR would substantially lessen one or more significant effects on the environment.

Staff considered whether any of the foregoing criteria have been met since original certification of the SLVAP EIR and program approvals, and concluded that using these criteria, a supplemental or subsequent EIR is not appropriate. Therefore, the purpose for this Addendum is to set forth the basis for this conclusion. Although the conclusion of this Addendum indicates that no new mitigation should be imposed to address project impacts, staff may recommend the imposition of several new conditions of approval to ensure that the project as amended complies with applicable County ordinances and state and local regulations. These conditions are not mitigation measures per se because they do not relate to significant environmental impacts of the project; however, they may be briefly described in this Addendum as a convenience in considering the proposed modifications to the project.

Individual conditional use permit and site development review applications for B&Bs may also require subsequent CEQA analyses of their own.

NEXT STEPS: If the Planning Commission adopts the Staff Recommendation,

- Assemble the information gathered at your hearing and in this process, and develop a final recommendation for the Board of Supervisors to consider.
- Bring the proposal to the Board of Supervisors Transportation and Planning Committee, and with its approval, to the full Board of Supervisors.

PREPARED BY:

Bruce Jensen, Senior Planner

REVIEWED BY:

Albert Lopez, Planning Director

Attachments:

- Attachment 1: Draft RESOLUTION OF THE PLANNING COMMISSION OF THE COUNTY OF ALAMEDA REGARDING AN ORDINANCE AMENDING CHAPTER 17.30 OF THE ALAMEDA COUNTY GENERAL ORDINANCE CODE TO MODIFY REQUIREMENTS FOR PERMITTING BED AND BREAKFAST ESTABLISHMENTS IN THE SOUTH LIVERMORE VALLEY AREA, CA-CULTIVATED AGRICULTURE OVERLAY ZONE
- Attachment 2: Draft ORDINANCE AMENDING CHAPTER 17.30 OF THE ALAMEDA COUNTY GENERAL ORDINANCE CODE TO MODIFY REQUIREMENTS FOR PERMITTING BED AND BREAKFAST ESTABLISHMENTS IN THE SOUTH LIVERMORE VALLEY AREA, CA-CULTIVATED AGRICULTURE OVERLAY ZONE
- Attachment 3: Addendum to the Final Environmental Impact Report, South Livermore Valley Area Plan (March 2019) (Includes Map of Area to which proposed amendments would apply).