

Exhibit A

Background

2012 Omnibus Zoning Code Update Ordinance County-Initiated Zoning Code Text Amendment № P11-00215-ORD

GENERAL PLAN COMPLIANCE

The *2012 Omnibus Zoning Code Update Ordinance* is designed to streamline and otherwise update the County's Zoning Code and to insure consistency with the County's General Plan. The vast majority of the proposed changes are editorial and non-substantive and, to the extent that substantive changes are proposed, they are consistent with the General Plan. In particular, this Ordinance implements the following General Plan policies:

Ag/LU-1

"Agriculture and related activities are the primary land uses in Napa County."

Ag/LU-2

"... Agriculture also includes farm management businesses..."

Ag/LU-19

"The County recognizes that increasing local food production... will contribute to greater food security, increase agricultural diversity, and create a reliable market for small-scale farmers."

Ag/LU-34

Standards for lands designated Urban Residential by the General Plan Land Use Map.

Ag/LU-35

Standards for lands designated Rural Residential by the General Plan Land Use Map.

Ag/LU-45

"All existing commercial establishments that are currently located within a commercial zoning district shall be allowed to continue to operate and use the existing buildings and/or facilities. Additional commercial uses and mixed residential-commercial uses which are permitted by the existing commercial zoning of the parcel shall be permitted on that portion of the parcel zoned commercial. With respect to Policies AG/LU-44 and 45, due to the small numbers of such parcels, their limited capacity for commercially-viable agriculture due to pre-existing uses and/or size, location and lot configuration, and the minimal impact such commercial operations and expansions will have on adjacent agriculture or open space activities or the agricultural and open space character of the surrounding area, such limited development will not be detrimental to Agriculture, Watershed or Open Space policies of the General Plan. Therefore such development is consistent with all of the goals and policies of the General Plan..."

Ag/LU-48

"In recognition of the limited services and employment opportunities available within rural areas, the County shall allow home occupations in circumstances where those occupations do not change the outward appearance of the home or impact surrounding residents or other land uses."

Ag/LU-50

Standards for lands designated as Commercial by the General Plan Land Use Map.

Ag/LU-107

"The County shall provide a clear, consistent, timely, and predictable review process for all proposed projects, ensuring that all applicants are treated fairly, that staff's analysis is objective, and that decision-makers and interested members of the public receive information and notice as required by law."

CC-3

"Signs shall be used primarily to provide necessary information and business identification rather than the advertisement of goods and services. Sign size limits and locational requirements shall be established to avoid over-proliferation of signs. Although the sign size may be limited, lettering should be large and easy to read."

Con-27

"The County shall enforce compliance and continued implementation of the intermittent and perennial stream setback requirements set forth in existing stream setback regulations..."

2009 General Plan Housing Element Update Policy H-2g

"The County shall encourage the provision of second units, as described in Government Code section 65852.2, in suitable locations."

CEQA COMPLIANCE, GENERALLY

Staff recommends that the Planning Commission and Board of Supervisors find that the whole of the proposed ordinance is a minor alteration in land use limitations, subject to the Class Five categorical exemption ("Minor alterations in land use limitations in areas with an average slope of less than 20%, which do not result in any changes in land use or density..." *CEQA Guidelines, Section 15305*). The project affects the entirety on Napa County, an area having an average slope of less than 20%. Because the proposed ordinance amends diverse sections of the Zoning Code in order to achieve greater clarity and consistency with the County's adopted General Plan and with the existing regulatory practice of the Department of Conservation, Development, and Planning it will not foreseeably result in any changes to existing land use or density.

As discussed in greater detail below, certain portions of the proposed ordinance are also subject to the *CEQA Guidelines Section 15282 (h)* Statutory Exemption for the adoption of ordinances regarding second units and/or the General Rule Exemption, which states that "CEQA applies only to projects that

have the potential for causing a significant effect on the environment” (*CEQA Guidelines Section 15061(b)(3)*).

Because the *2012 Omnibus Zoning Code Update Ordinance* proposes only minor clarifying changes to the Zoning Code and will not substantially alter existing County policy, it will not have an impact on environmental resources of hazardous or critical concern as identified in County environmental resource mapping. Effects on the environment will be insignificant, both individually and cumulatively. The proposed ordinance would not alter the status of or otherwise significantly impact any scenic highway, hazardous waste site, or historic resource.

SPECIFIC CHANGES PROPOSED IN THE 2012 OMNIBUS ZONING CODE UPDATE

Section 1.

Description of proposed change: The definition of a “home occupation” would be revised to strike an existing reference to “single family” dwelling units. As currently written, the definition of a home occupation could be interpreted to disallow home occupations in apartment buildings or second units. The Planning Department has always allowed home occupations in any legal dwelling unit.

CEQA Analysis: The proposed change clarifies and reaffirms existing Departmental policy with regard to home occupations. As such, there will be little to no change from the existing, baseline, regulatory condition. Section 1 represents a minor alteration in land use limitations. To the extent that the revised definition affects residential second units, it is also subject to the CEQA Guidelines Section 15282 (h) statutory exemption for ordinances enabling second units.

Section 2.

Description of proposed change: The definition of a “multiple-family dwelling unit” would be revised to strike a reference to the RD (Residential Double) district. The County has no property zoned RD and this ordinance deletes all references to RD zoning.

CEQA Analysis: The proposed change deletes a reference to an archaic zoning district. It will have no physical affect on the environment. The change represents a minor alteration in land use limitations and is additionally subject to the *General Rule* that “CEQA applies only to projects that have the potential for causing a significant effect on the environment.”

Sections 3 & 4.

Description of proposed change: The definitions of a “public kennel” and a “public stable” would be revised to clarify that “kennels” are interchangeable with “public kennels” and “stables” are interchangeable with “public stables” as used in the Zoning Code. These changes correct an editing error that has propagated itself through the Code over time. They would not alter existing law or policy in any way.

CEQA Analysis: The proposed changes are clarifying only and would have no physical affect on the environment. As such, they are, at most, a minor alteration in land use limitations and are subject to the *General Rule* that “CEQA applies only to projects that have the potential for causing a significant effect on the environment.”

Section 5.

Description of proposed change: The definition of a “small winery” would be revised to remove language allowing the definition to apply to new wineries. The County long-ago abandoned the small winery exemption process and, as a result, only previously-approved small wineries should be referenced in this definition.

CEQA Analysis: The proposed change represents a minor editorial correction which would not change existing County policy or have any effect on the environment. As such, it constitutes a minor alteration in land use limitations and is additionally subject to the *General Rule* that “CEQA applies only to projects that have the potential for causing a significant effect on the environment.”

Sections 6 & 13.

Description of proposed change: Chapter 18.08 (Definitions) would be revised to add a new definition of “wildlife rescue center” and Chapter 18.20 (AW Agricultural Watershed) would be revised to conditionally allow wildlife rescue centers in the AW zone upon issuance of a use permit. Because native wildlife rehabilitation centers are neither precisely a veterinary hospital, an open space use, or an agricultural operation, it has been argued that they are not allowed in any of the County’s zoning districts. Sections 6 and 13 would allow wildlife rescue centers in the AW zoning district upon approval of a use permit and subject to limitations ensuring that sites are not overbuilt and that only native species are housed and rehabilitated there.

CEQA Analysis: The proposed changes would allow a facility, or facilities, focused on the care and rehabilitation of native wildlife species to be located within the AW zoning district. Facilities such as veterinary hospitals and agricultural operations are already allowed in the AW, and those uses differ from a wildlife rescue center only in that they harbor domesticated animals and not native wildlife species. Because wildlife rescue centers would require discretionary use permit approval, project-specific environmental impacts can and will be analyzed as part of the use permit review process. The changes proposed here would not, in and of themselves, have an appreciable environmental impact. As a result, Sections 6 & 13 represent a minor alteration in land use limitations.

Sections 7 & 52.

Description of proposed change: Section 7 includes a number of non-substantive editorial changes to the code section listing the duties of the Zoning Administrator. The substantive changes proposed at Sections 7 and 52 would enact a new limitation on the powers of the Zoning Administrator to grant variances from the terms of the Conservation Regulations. As it stands now, construction on slopes greater than 30% is allowed only upon grant of a use permit exception by the Planning Commission. Perversely, construction

on slopes greater than 50% is allowed with a variance, and standalone variances are generally heard at the lower Zoning Administrator level. Given the importance of the Conservation Regulations to the protection of Napa County's environment, staff is taking the position that variances to the Conservation Regulations should only be heard by the Planning Commission (or the Board of Supervisors on appeal).

CEQA Analysis: The changes proposed in Section 7 consist primarily of editorial corrections to code citations and gendered language, changes which could not have any foreseeable affect on the environment, these changes are subject to the *General Rule* that "CEQA applies only to projects that have the potential for causing a significant effect on the environment." The proposed requirement that Conservation Regulations variances not be heard by the Zoning Administrator (enacted by Section 52 and a portion of Section 7) should subject them to heightened public scrutiny while in no way changing the standards and findings required for approval. This proposed change constitutes a minor alteration in land use limitations.

Sections 8, 15, 22, 23, 24, 25, 27, 28, 29, 31, 32, and 35.

Description of proposed change: The above-listed sections delete references to archaic zoning districts which are no longer in use in Napa County. Section 8 also adds a reference to the previously adopted :AH Affordable Housing Combination District. None of the proposed changes will have any effect on the Zoning Code in application.

CEQA Analysis: The proposed changes represents minor editorial corrections which would not change existing County policy or have any effect on the environment. As such, they constitute minor alterations in land use limitations and are additionally subject to the *General Rule* that "CEQA applies only to projects that have the potential for causing a significant effect on the environment."

Sections 9, 10, 11, and 12.

Description of proposed change: Sections 9, 10, 11, and 12 revise and update code sections which address the maintenance of the County's "Official Zoning Map." The existing code sections pre-date Geographic Information Systems mapping and assume that there is a single large zoning map hanging on the wall of the Planning Director's office which, when amended, is done so painstakingly and by hand. For as long as anyone currently employed by the Planning Department can remember, the County's official zoning map has actually been a set of Assessor's Parcel Maps housed in the Planning Department and amended (easily) by computer when zoning districts are (very rarely) changed. The changes proposed in Sections 9-12 would make the Zoning Code more clearly consistent with the Department's longstanding procedures regarding the maintenance and occasional amendment of the official zoning map(s).

CEQA Analysis: The proposed changes are clarifying only and would have no physical affect on the environment. As such, they are subject to the *General Rule* that "CEQA applies only to projects that have the potential for causing a significant effect on the environment" they also represent a Class 5 minor alteration in land use limitations.

Section 14.

Description of proposed change: Section 14 would amend regulations applicable to the AV (Airport) zoning district, which covers the Napa County Airport and Angwin's Parrett Field, to clarify that uses which are approved via County-adopted Airport Master Plan do not require additional use permit approval and need not comply with setbacks or other zoning requirements. The foregoing has been the longstanding policy of the Planning Department.

CEQA Analysis: The proposed change represents a minor clarifying addition which would not alter existing County policy; it constitutes a minor alteration in land use limitations and is subject to the *General Rule* that "CEQA applies only to projects that have the potential for causing a significant effect on the environment."

Sections 16 & 19.

Description of proposed change: Sections 16 and 19 add a clarifying statement to the lot area restriction applying in the County's two commercial zoning districts (CL and CN) which notes that commercial airspace condominiums do not constitute new lots subject to minimum lot area regulations within these commercial districts. The changes, when added to language in General Plan policy Ag/LU-112, are intended to reinforce existing restrictions on condominiumization of agriculturally zoned land by clearly delimiting the districts in which such condominium subdivisions *are* possible. The changes conform to existing practice and the longtime written policies of the Planning Department.

CEQA Analysis: The proposed changes are clarifying only and would have no physical effect on the environment. They are minor alterations in land use limitations and are subject to the *General Rule* that "CEQA applies only to projects that have the potential for causing a significant effect on the environment."

Section 17.

Description of proposed change: Section 17 amends the "intent" of the CN (Commercial Neighborhood) zoning district to strike language which could be read to imply that uses other than those enumerated in the Zoning Code may be allowed in the CN district.

CEQA Analysis: The proposed change represents a minor clarifying addition which would not alter existing County policy; it constitutes a minor alteration in land use limitations and is subject to the *General Rule* that "CEQA applies only to projects that have the potential for causing a significant effect on the environment."

Section 18.

Description of proposed change: Section 18 deletes the archaic "Development Plan" section of the CN (Commercial Neighborhood) zoning district chapter. The development plan process was long-ago replaced by a use permit regime.

CEQA Analysis: The proposed change represents a minor editorial correction which would not change existing County policy or have any effect on the environment. As such, it constitutes a minor alteration in

land use limitations and is subject to the *General Rule* that “CEQA applies only to projects that have the potential for causing a significant effect on the environment.”

Section 20.

Description of proposed change: This section strikes a series of exclusions to development standards in the IP Industrial Park zoning district which were adopted in tandem with the 1998 Airport Specific Plan approval. Because the 1998 Specific Plan was invalidated by the courts in *Napa Citizens for Honest Government v. Napa County Bd. of Supervisors*, 91 Cal.App.4th 342 (2001), the subject standards are no longer applicable or correct.

CEQA Analysis: The proposed change represents a minor editorial correction which would not change existing County policy or have any effect on the environment. As such, it constitutes a minor alteration in land use limitations and is subject to the *General Rule* that “CEQA applies only to projects that have the potential for causing a significant effect on the environment.”

Section 21.

Description of proposed change: Section 21 would add “agriculture” as an allowed use in the PD (Planned Development) zoning district, provided that the lot on which the agriculture is to occur is one acre in size or greater.

CEQA Analysis: While the proposed change would allow agriculture to occur by-right on PD-zoned parcels which do not currently allow it, it is in keeping with the County’s longstanding pro-agriculture policy framework and would affect a relatively limited number of large parcels in a similarly-limited number of PD districts. The proposed change would not have a substantial negative impact on the environment and, as such, it constitutes a minor alteration in land use limitations.

Section 26.

Description of proposed change: Section 26 would add nonconforming “farm management” uses to the list of uses conditionally allowed in the RC (Residential Country) zoning district. Conforming farm management uses are presently allowed in the RC under the definition of “agriculture” but there is no use permit approval process possible for farm management uses which are too big or are, in some other way, inconsistent with the by-right standards. The proposed change would bring the farm management rules applicable in the RC district into conformance with those of the AP and AW districts.

CEQA Analysis: While the proposed change would allow nonconforming farm management on RC-zoned parcels with a use permit, it is in keeping with the County’s longstanding pro-agriculture policy framework and consistent with the rules in place in the AW and AP districts. Because nonconforming farm management uses would require discretionary use permit approval, environmental impacts would be analyzed on a project specific basis. This change would not have a substantial negative impact on the environment and, as such, it constitutes a minor alteration in land use limitations.

Section 30.

Description of proposed change: Section 30 would amend regulations applicable in the :UR (Urban Reserve) combination zoning district to delete a reference to subdivisions in the :UR (under General Plan policy AG/LU 128 subdivisions are no longer allowed absent annexation) and to move language defining “reasonable annexation requests” which was previously incorporated by reference into the text of the Zoning Code. None of the proposed changes are substantive and they are fully consistent with the County’s General Plan.

CEQA Analysis: The proposed change represents a minor editorial correction which would not change existing County policy or have any effect on the environment. As such, it constitutes a minor alteration in land use limitations and is subject to the *General Rule* that “CEQA applies only to projects that have the potential for causing a significant effect on the environment.”

Section 33.

Description of proposed change: Section 33 deletes a series of archaic procedural requirements relating to the handling of physical copies of approved development plans. To our knowledge, the complete list of requirements was never implemented even when the Department was approving development plans with greater regularity. Given the limited number, and generally built-out character, of the County’s PD zoning districts today new development plans are rarely if ever processed. If one were to be approved in the future, Staff believes that it would be adequate to have the final plan filed with the Department. Requirements that the plans be signed by the Chair of the Planning Commission, formally submitted to the County engineer, and the like are not necessary.

CEQA Analysis: Rules concerning the handling of physical copies of approved development plans could not have any conceivable effect on the environment. The proposed change is subject to the *General Rule* that “CEQA applies only to projects that have the potential for causing a significant effect on the environment.”

Section 34.

Description of proposed change: This section would delete a requirement that guest cottages be located outside of environmentally sensitive areas in favor of a requirement that they comply with the requirements of the County’s Conservation Regulations. The problem with the existing “environmentally sensitive area” requirement is that it introduces substantial discretion (with all of its CEQA implications) into what is, or at least should be, a ministerial building permit review process. Conformance with the Conservation Regulations is a standard which is clearly ministerial and should result in the same net environmental outcome- limiting structural development on steep slopes and within stream setback areas.

CEQA Analysis: While the proposed change would amend regulations limiting the sites on which residential guest cottages can be constructed, the proposed alternate language will have the same practical effect as the current rules. The new language also conforms to longstanding Departmental policy, which has been to treat guest cottages ministerially. This change would not have a substantial negative impact on the environment and, as such, it constitutes a minor alteration in land use limitations.

Section 36.

Description of proposed change: Section 36 amends the standards for measuring maximum building height to delete references to archaic building codes and to delete out-of-date zoning code cites.

CEQA Analysis: The proposed changes are minor editorial corrections which would not have any substantial effect on the environment. As such, they constitute minor alterations in land use limitations.

Section 37.

Description of proposed change: Section 37 would amend the regulations affecting second units to: 1.) remove the requirement that the primary residence be owner-occupied; 2.) delete language excluding setback areas from the second unit minimum lot area calculation; and 3.) clarify that all second units, whether attached or detached, are subject to a 1,200 square foot maximum floor area standard. All of the proposed changes reflect current Departmental practice and each would also make it somewhat easier to construct allowed second units in furtherance of the County's housing goals.

CEQA Analysis: On margin, the proposed changes would liberalize the County's limitations on second units, however the changes are very slight and each conforms to existing County practice. The changes would not make it any easier to build second units in environmentally sensitive areas, nor would they allow second units in any zoning district in which they are not currently allowed. The proposed changes are statutorily exempt from CEQA under *Guidelines Section 15282(h)* as they constitute an ordinance implementing second units. They are also categorically exempt under Class 5, minor alterations in land use limitations.

Sections 38, 39, 43, & 51.

Description of proposed change: These sections makes minor editorial changes to citations and other language included in the County's fence regulations, none of which are substantive.

CEQA Analysis: The proposed changes are minor editorial corrections which would not alter existing County policy or have any effect on the environment. As such, they constitute minor alterations in land use limitations and are subject to the *General Rule* that "CEQA applies only to projects that have the potential for causing a significant effect on the environment."

Section 40.

Description of proposed change: Section 40 makes a series of textual changes which are intended to clarify that driveways and parking pads "structurally supported entirely by earth at no higher than natural grade" are allowed within setbacks. The proposed changes would align the Code to the Department's longstanding policy in this regard.

CEQA Analysis: This section represents a minor clarifying addition which would not alter existing County policy; it constitutes a minor alteration in land use limitations and is subject to the *General Rule* that "CEQA applies only to projects that have the potential for causing a significant effect on the environment."

Section 41.

Description of proposed change: Section 41 updates the findings that must be made in order to approve an exception to the Conservation Regulations to delete a finding which, as currently written, is circular and self-cancelling. The Code's existing language could be read to require that a development meet all required stream setbacks in order to be granted an exception from those very stream setback regulations. The proposed change, which requires that any stream setback exception be "the minimum necessary" to allow the project, is fully consistent with existing Departmental practice.

CEQA Analysis: This section represents a minor clarifying addition which would not alter existing County policy; it constitutes a minor alteration in land use limitations and is subject to the *General Rule* that "CEQA applies only to projects that have the potential for causing a significant effect on the environment."

Section 42.

Description of proposed change: Section 42 makes a minor editorial change correcting a citation included in the County's agricultural erosion control plan regulations. The change is not substantive.

CEQA Analysis: The proposed change is a minor editorial correction which would not alter existing County policy or have any effect on the environment. As such, it constitutes a minor alteration in land use limitations and is subject to the *General Rule* that "CEQA applies only to projects that have the potential for causing a significant effect on the environment."

Sections 44 & 45.

Description of proposed change: Sections 44 and 45 address signage, replacing the word "reflectorized" with the more commonly used "reflective" and clarifying that political signs are not allowed within the public right-of-way.

CEQA Analysis: While the County errs on the side of allowing political signage wherever possible, political signs in the public right-of-way can impede sightlines and threaten the safety of all road users. The proposed changes will improve traffic safety and will not have any other substantive effect on the environment. They represent a minor alteration in land use limitations.

Section 46.

Description of proposed change: Section 46 makes a minor editorial change correcting and updating references to surface mining in the list of uses which are sometimes allowed without a use permit. The change is not substantive.

CEQA Analysis: The proposed change is a minor editorial correction which would not alter existing County policy or have any effect on the environment. As such, it constitutes a minor alteration in land use limitations and is subject to the *General Rule* that "CEQA applies only to projects that have the potential for causing a significant effect on the environment."

Sections 47 & 53.

Description of proposed change: Sections 47 and 53 clarify that use permit and variance application forms are created and maintained by the Planning Department and not by the Planning Commission.

CEQA Analysis: This section represents a minor clarifying addition which would not alter existing County policy; it constitutes a minor alteration in land use limitations and is subject to the *General Rule* that “CEQA applies only to projects that have the potential for causing a significant effect on the environment.”

Sections 48, 49, & 50.

Description of proposed change: Sections 48 through 50 make a number of textual changes to the regulations affecting the extension of use permits, all of which are intended to clarify existing language and to reflect existing Planning Commission policy and Departmental practice. More specifically, these sections clarify that: 1.) the Planning Commission or (in a more limited way) the Planning Director can extend the standard two year window in which a use permit must be acted on; 2.) the Planning Commission may, following a noticed public hearing, extend any use permit for any period of time; and 3.) the Planning Director may grant up to three serial one-year extensions for any given use permit approval by following the rules which currently exist for “very minor” use permit modifications. Section 49 also institutes clearer procedural requirements for when and how public noticing is required for “minor” and “very minor” use permit modifications.

CEQA Analysis: The proposed changes primarily clarify and reaffirm existing Planning Commission and Departmental policy with regard to use permit extensions of time. The noticing requirements of proposed Code §18.124.130 (B) largely codify existing practice and, to the extent that they alter existing policy, they provide for a more transparent and predictable noticing process. The proposed changes represent a minor alteration in land use limitations.

Sections 54 & 55.

Description of proposed change: Sections 54 and 55 clarify that the Zoning Administrator is subject to the same procedural requirements as the Planning Commission regarding public hearings and required findings when acting on a variance request.

CEQA Analysis: The proposed changes are minor editorial clarifications which would not alter existing County policy or have any effect on the environment. As such, they constitute minor alterations in land use limitations and are subject to the *General Rule* that “CEQA applies only to projects that have the potential for causing a significant effect on the environment.”

Section 56.

Description of proposed change: Section 56 makes a minor change to the County’s Certificate of Legal Nonconformity regulations. The proposed change is entirely editorial and non-substantive.

CEQA Analysis: The proposed change is a minor editorial correction which would not alter existing County policy or have any effect on the environment. As such, they constitute minor alterations in land use

limitations and is additionally subject to the *General Rule* that “CEQA applies only to projects that have the potential for causing a significant effect on the environment.”

Section 57.

Description of proposed change: Section 57 makes a number of changes to the regulations affecting certificates of legal nonconformity (CLNs). The sole substantive change is the addition of a new streamlined process for reviewing CLNs recognizing residential structures located in required setbacks. The Code currently requires a CLN, with noticing to neighbors and the potential for a public hearing, in order to renovate any residential structure located within required setbacks. Thanks to the records of the County Assessor and the historical aerial photography available to the Department, the legal nonconforming status of houses in required setbacks can generally be determined conclusively in a matter of minutes. In that way, residences located in setbacks are very unlike, say, commercial wedding venues in historic gardens or garages which have been converted into dwelling units. The revisions included in Section 56 allow the Department to approve straightforward CLNs for setback encroachment quickly and easily.

CEQA Analysis: As a matter of definition, CLNs recognize existing legal conditions; they represent a baseline condition that cannot have any physical effect on the environment. As a result, Section 56 is subject to the *General Rule* that “CEQA applies only to projects that have the potential for causing a significant effect on the environment.” It is also a Class 5 categorical exemption (Minor Alterations in Land Use Limitations.)