



DEPARTMENT OF PLANNING AND BUILDING

TO: BOARD OF SUPERVISORS

FROM: JAMES CARUSO, SENIOR PLANNER

DATE: SEPTEMBER 25, 2012

SUBJECT: PLANNING COMMISSION ACTION ON THE PROPOSED AMENDMENTS TO THE COUNTY LAND USE ORDINANCE (TITLE 22), SECTIONS 22.92.020D, 22.94.020E, 22.98.030E, 22.100.020B, 22.102.020D, 22.104.020I, 22.110.030E, and 22.110.060A (LRP 2010-00014)

The Planning Commission of the County of San Luis Obispo held a public hearing on July 26, 2012 to consider proposed amendments to the Land Use Ordinance (Title 22 of the San Luis Obispo County Code). The proposed amendments add water conservation requirements for discretionary land use permit applications, land divisions and general plan amendments within: 1) the rural portions of the Paso Robles Groundwater Basin (PRGWB), outside of the Atascadero Sub-basin, 2) the Whitley Gardens and Creston Village Reserve Lines, and 3) the unincorporated Paso Robles Urban Reserve Line.

The San Luis Obispo County Planning Commission recommends to the Board of Supervisors of the County of San Luis Obispo, State of California, approval of proposed amendments to Title 22 of County Code. LRP 2010-00014.

On the motion of Commissioner Irving, seconded by Chairperson O'Grady, and on the following roll call vote, to wit:

AYES: Commissioners Irving, Chairperson O'Grady, Christianson, Topping

NOES: Murphy

ABSENT: None

EXHIBIT LRP2010-0014:B

ORDINANCE NO. _____

AN ORDINANCE AMENDING ARTICLE 9 OF TITLE 22 OF THE SAN LUIS OBISPO COUNTY CODE, THE LAND USE ORDINANCE, BY ADDING SECTIONS 22.92.020D, 22.94.020E, 22.98.030E, 22.100.020B, 22.102.020D, 22.104.020I, 22.110.030E, AND 22.110.060A RELATING TO WATER CONSERVATION IN THE PASO ROBLES GROUNDWATER BASIN

The Board of Supervisors of the County of San Luis Obispo ordains as follows:

SECTION 1: Article 9 of the Land Use Ordinance, Title 22 of the San Luis Obispo County Code, is hereby amended by adding Subsection D and figure 92-XXX to Section 22.92.020, Subsection E and figure 94-XXX to Section 22.94.020, Subsection E and figure 98-XXX to Section 22.98.030, Subsection B and figure 100-XXX to Section 22.100.020, Subsection D and figure 102-XXX to Section 22.102.020, Subsection I and figure 104-XXX to Section 22.104.020, and Subsection E and figure 110-XXX to Section 22.110.030 as follows and renumber figures as necessary (the "X" below will be replaced with the correct Subsection letter and figure number):

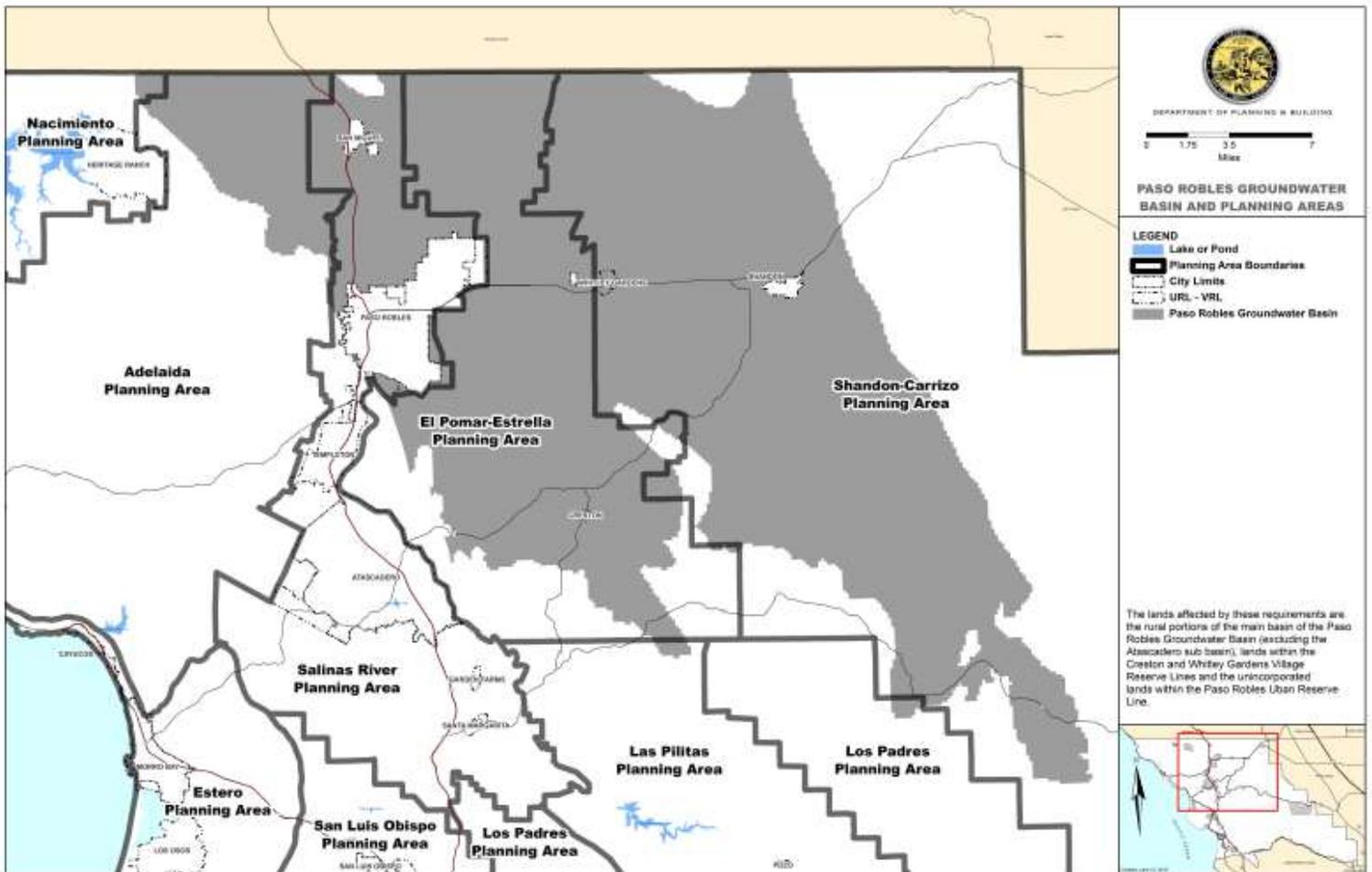
"X" **Paso Robles Groundwater Basin.** The following standards apply to lands where development uses or would use water from the Paso Robles Groundwater Basin in the areas shown in Figure "X".

1. Definitions. The following definitions are for the purposes of this Subsection.

- a. "Net increase" means the expected increase in water use due to proposed development requiring a discretionary permit, taking into account net existing demand.
- b. "Net existing water demand" is the amount of water used for non-agricultural purposes on the site of proposed development requiring a discretionary permit minus the volume of water returned to the groundwater basin through wastewater return flows. The calculation of net existing water demand is the sole responsibility of the Planning Director using historical water records if available or other means if records are not available.
- c. "Net new water demand" is the amount of water used for non-agricultural purposes by new development requiring a discretionary permit minus the volume of water returned to the groundwater basin through wastewater return flows. The calculation of net new water demand is the sole responsibility of the Planning Director using water demand factors for the proposed land uses.

- d. "Water used for non-agricultural purposes" is water that has never been used, whether on or off the site, for an agricultural activity such as cultivation, growing, harvesting and production of any agricultural commodity and appurtenant practices incidental to the production of agricultural commodities.
2. **General plan amendments.** General Plan amendment applications that would result in a net increase in the amount of water used for non-agricultural purposes shall not be approved until a Level of Severity I is certified for the Basin by the Board of Supervisors after adoption of a Resource Capacity Study.

Figure "X"



3. **Land divisions.** Divisions of land shall not be approved until a Level of Severity I is certified for the Basin by the Board of Supervisors after adoption of a Resource Capacity Study. Exceptions to this provision may be approved by the review authority only when the proposed land division is:
 - a. For a public use or facility (e.g. fire station), or
 - b. Required for conservation purposes and found to be consistent with the Conservation and Open Space Element of the General Plan.
4. **Outdoor water use, discretionary permits.** New development requiring discretionary land use permits is subject to the following requirements:
 - a. Residential uses shall have no more than 25% percent of the area of irrigated, ornamental landscaping planted with turf.
 - b. All landscaped areas shall be irrigated with automatic irrigation systems, including irrigation controllers and moisture sensors.
 - c. All landscape plantings shall be low-water using.
 - d. Non-irrigated, drought resistant landscaping is encouraged in lieu of irrigated landscaping. The portion of a parcel that is not used for structural development, landscaping or driveways is encouraged to be left in a native state.
 - e. **Rainwater capture or other alternative water systems are encouraged in compliance with Titles 8 and 19 of the County Code.**
 - f. In cases where these standards conflict with other provisions of this Title that are more stringent, the more stringent provisions shall apply.
5. **Offset requirements for discretionary permits.** New development requiring discretionary land use permits shall offset the resulting net new water demand as follows:
 - a. Land use permit applications shall include existing water use data, if it is available, that is sufficient to calculate net existing water demand on the proposed project site. The land use application shall include descriptions of all proposed uses on the site in a level of detail adequate to calculate the proposed project's net new water demand. In any case, determinations of net new water demand, net existing water demand and net increase shall be the responsibility of the Planning Director or designee.

- b. The net new water demand shall be offset at a ratio of 2:1 through participation in water conservation programs listed in subsection c below. Any net existing water demand shall be taken into account in the calculation of required offsets of net new water demand.
 - c. Programs to offset water used for non-agricultural purposes may include but are not limited to the following, but in any case, shall conserve only water used or potentially used for non-agricultural purposes:
 - (1) Retiring the development potential of lots in the Paso Robles Groundwater basin through an agreement with the County or qualified land trust.
 - (2) Retrofitting plumbing fixtures in the Paso Robles Groundwater Basin.
 - (3) Purchasing supplemental water for a water supplier that uses groundwater from the main Paso Robles Groundwater Basin.
 - (4) Participating in an approved water conservation program in the Paso Robles Groundwater Basin that results in water savings.
 - (5) Reducing water demand in the Paso Robles Groundwater Basin through other means approved by the Planning Director.
 - (6) Water from the Nacimiento or State Water Projects shall not be used for development in the rural area.
 - d. Any required offset of net new water demand shall be completed at the time of final inspection or issuance of a certificate of occupancy unless an alternative completion time (which may be more or less time) is approved by the review authority. In any case, the review authority must find the offsets to be verifiable, permanent and enforceable.
 - e. Agricultural Processing uses (as defined in the Land Use Ordinance), including outdoor and other appurtenant water use, shall be exempt from the preceding offset requirements for discretionary permits. Instead, agricultural processing uses shall be subject to project-specific land use and/or water conservation mitigation measures required by the review authority based on environmental review.
6. **Resource Management System Biennial Summary Report. Included with the biennial summary report shall be a review of this subsection, including whether amendment or repeal of this subsection is warranted based on the certified level of severity (LOS) for the Basin changing from a LOS III to a LOS I. Any amendment or repeal of this subsection shall be processed consistent with Section 22.70.040.**

SECTION 2: Section 22.100.020 of the Land Use Ordinance, Title 22 of the San Luis Obispo County Code, is hereby amended as follows:

22.100.020 - Areawide Standards –~~Land Divisions~~

A. Land Divisions. The County shall refer all land divisions proposed within the Los Padres planning area to the U.S. Forest Service for review.

SECTION 3: Section 22.110.060 of the Land Use Ordinance, Title 22 of the San Luis Obispo County Code, by adding Subsection A and figure 110-18 as follows:

22.110.060 - Whitley Gardens Village Standards

The following standards apply within the Whitley Gardens village reserve line to the land use categories or specific areas listed.

A. Paso Robles Groundwater Basin. The following standards apply to all land use categories within the Whitley Gardens village reserve line.

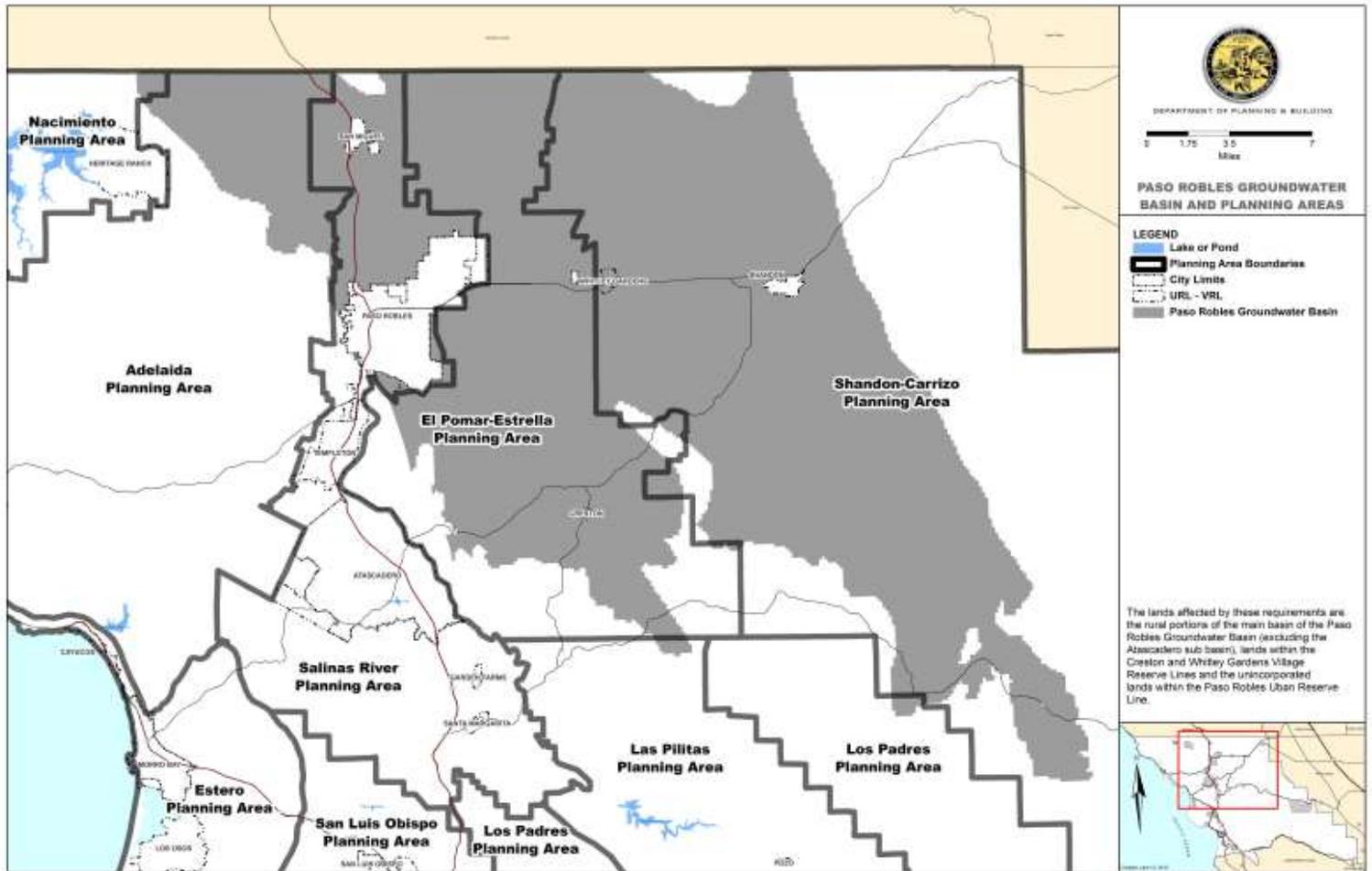
1. Definitions. The following definitions are for the purposes of this Subsection.

- a. “Net increase” means the expected increase in water use due to proposed development requiring a discretionary permit, taking into account net existing demand.
- b. “Net existing water demand” is the amount of water used for non-agricultural purposes on the site of proposed development requiring a discretionary permit minus the volume of water returned to the groundwater basin through wastewater return flows. The calculation of net existing water demand is the sole responsibility of the Planning Director using historical water records if available or other means if records are not available.
- c. “Net new water demand” is the amount of water used for non-agricultural purposes by new development requiring a discretionary permit minus the volume of water returned to the groundwater basin through wastewater return flows. The calculation of net new water demand is the sole responsibility of the Planning Director using water demand factors for the proposed land uses.
- d. “Water used for non-agricultural purposes” is water that has never been used, whether on or off the site, for an agricultural activity such as cultivation, growing, harvesting and production of any agricultural commodity and appurtenant practices incidental to the production of agricultural commodities.

2. General plan amendments. General Plan amendment applications that would result in a net increase in the amount of water used for non-agricultural purposes

shall not be approved until a Level of Severity I is certified for the Basin by the Board of Supervisors after adoption of a Resource Capacity Study.

Figure 110-18



3. **Land divisions.** Divisions of land shall not be approved until a Level of Severity I is certified for the Basin by the Board of Supervisors after adoption of a Resource Capacity Study. Exceptions to this provision may be approved by the review authority only when the proposed land division is:
 - a. For a public use or facility (e.g. fire station), or
 - b. Required for conservation purposes and found to be consistent with the Conservation and Open Space Element of the General Plan.
4. **Outdoor water use, discretionary permits.** New development requiring discretionary land use permits is subject to the following requirements:
 - a. Residential uses shall have no more than 25% percent of the area of irrigated, ornamental landscaping planted with turf.
 - b. All landscaped areas shall be irrigated with automatic irrigation systems, including irrigation controllers and moisture sensors.
 - c. All landscape plantings shall be low-water using.
 - d. Non-irrigated, drought resistant landscaping is encouraged in lieu of irrigated landscaping. The portion of a parcel that is not used for structural development, landscaping or driveways is encouraged to be left in a native state.
 - e. **Rainwater capture or other alternative water systems are encouraged in compliance with Titles 8 and 19 of the County Code.**
 - f. In cases where these standards conflict with other provisions of this Title that are more stringent, the more stringent provisions shall apply.
5. **Offset requirements for discretionary permits.** New development requiring discretionary land use permits shall offset the resulting net new water demand as follows:
 - a. Land use permit applications shall include existing water use data, if it is available, that is sufficient to calculate net existing water demand on the proposed project site. The land use application shall include descriptions of all proposed uses on the site in a level of detail adequate to calculate the proposed project's net new water demand. In any case, determinations of net new water demand, net existing water demand and net increase shall be the responsibility of the Planning Director or designee.

- b. The net new water demand shall be offset at a ratio of 2:1 through participation in water conservation programs listed in subsection c below. Any net existing water demand shall be taken into account in the calculation of required offsets of net new water demand.
 - c. Programs to offset water used for non-agricultural purposes may include but are not limited to the following, but in any case, shall conserve only water used or potentially used for non-agricultural purposes:
 - (1) Retiring the development potential of lots in the Paso Robles Groundwater basin through an agreement with the County or qualified land trust.
 - (2) Retrofitting plumbing fixtures in the Paso Robles Groundwater Basin.
 - (3) Purchasing supplemental water for a water supplier that uses groundwater from the main Paso Robles Groundwater Basin.
 - (4) Participating in an approved water conservation program in the Paso Robles Groundwater Basin that results in water savings.
 - (5) Reducing water demand in the Paso Robles Groundwater Basin through other means approved by the Planning Director.
 - (6) Water from the Nacimiento or State Water Projects shall not be used for development in the rural area.
 - d. Any required offset of net new water demand shall be completed at the time of final inspection or issuance of a certificate of occupancy unless an alternative completion time (which may be more or less time) is approved by the review authority. In any case, the review authority must find the offsets to be verifiable, permanent and enforceable.
 - e. Agricultural Processing uses (as defined in the Land Use Ordinance), including outdoor and other appurtenant water use, shall be exempt from the preceding offset requirements for discretionary permits. Instead, agricultural processing uses shall be subject to project-specific land use and/or water conservation mitigation measures required by the review authority based on environmental review.
6. **Resource Management System Biennial Summary Report. Included with the biennial summary report shall be a review of this subsection, including whether amendment or repeal of this subsection is warranted based on the certified level of severity (LOS) for the Basin changing from a LOS III to a LOS I. Any amendment or repeal of this subsection shall be processed consistent with Section 22.70.040**

A.B. Residential Suburban (RS). The following standards apply within the Residential Suburban land use category.

1. Limitation on land division. Further divisions of lots existing on the effective date of the Land Use Element are allowed only after the community water system is brought into conformity with County Health Department standards.

2. Parcel size. The minimum allowable parcel size for new land divisions after completion of upgrading of the Whitley Gardens community water system is 2½ acres unless a larger size would otherwise be required by Chapter 22.22.

SECTION 4. This project is categorically exempt from the California Environmental Quality Act (CEQA) under Section 15308 of the CEQA Guidelines (Class 8 exemption) as it is an action taken to assure the maintenance, restoration, or enhancement of the environment.

SECTION 5. If any section, subsection, clause, phrase or portion of this ordinance is for any reason held to be invalid or unconstitutional by the decision of a court of competent jurisdiction, such decision shall not affect the validity or constitutionality of the remaining portion of this ordinance. The Board of Supervisors hereby declares that it would have passed this ordinance and each section, subsection, clause, phrase or portion thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases or portions be declared invalid or unconstitutional.

SECTION 6: Before the expiration of 15 days after the adoption of this ordinance by the San Luis Obispo County Board of Supervisors, it shall be published once in a newspaper of general circulation published in the County of San Luis Obispo, State of California, together with the names of the members of the Board of Supervisors voting for and against the ordinance.

PASSED AND ADOPTED by the Board of Supervisors of the County of San Luis Obispo, State of California, on the _____ day of _____, 20_____, by the following roll call vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAINING:

Chairman of the Board of Supervisors,
County of San Luis Obispo,
State of California

ATTEST:

County Clerk and Ex-Officio Clerk
of the Board of Supervisors
County of San Luis Obispo, State of California

[SEAL]

ORDINANCE CODE PROVISIONS
APPROVED AS TO FORM AND CODIFICATION:

WARREN R. JENSEN., County Counsel

By: _____
Deputy County Counsel

Dated: _____