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MEMORANDUM

DATE: 07 May 2024

TO: Board of Supervisors

FROM: Permit Sonoma

SUBJECT: Impacts of Proposed Ballot Initiative to Prohibit Concentrated Animal Feeding Operations (CAFOs)

A proposed ballot initiative aims to prohibit medium and large Concentrated Animal Feeding Operations (CAFOs) in Sonoma County. The intention of the initiative is to reduce inhumane animal treatment, greenhouse gas emissions, water use and its contribution to drought, water and air pollution, and biodiversity loss. A phase-out period is proposed for existing medium and large CAFOs, along with employee re-training and assistance programs for workers in existing CAFOs. The initiative includes the addition of Section 26-18-075 to Chapter 26 of the Sonoma County Code and amendments to Sections 26-04-020(C), 26-18-070(A), 26-18-080(A)(1), and 26-18-090(A)(2) of the Sonoma County Zoning Code.

This memo includes a preliminary analysis of the proposal's consistency with existing County land use policy and a high-level discussion of the potential organizational, economic, and social impacts.

GENERAL PLAN CONSISTENCY

Select Applicable General Plan Goals, Objectives, and Policies

Agricultural Resources Element

GOAL AR-1: Promote a healthy and competitive agricultural industry whose products are recognized as being produced in Sonoma County.

Objective AR-1.1: Create and facilitate opportunities to promote and market all agricultural products grown or processed in Sonoma County.

Policy AR-1b: The Economic Development Board shall promote agriculture as a major County industry.

Policy AR-1e: Encourage and support farms and ranches, both large and small, that are seeking to implement programs that increase the sustainability of resources, conserve energy, and protect water and soil in order to bolster the local food economy, increase the viability of diverse family farms and improve the opportunities for farm workers.

Policy AR-1f: Recognizing the benefits that a flourishing organic sector industry can provide, encourage and support those agricultural businesses seeking to use organic practices.

Policy AR-1g: Support the activities of the Sonoma County Agricultural Commissioner's Office and the Farm Advisors Office in promoting sustainable and organic agricultural production and encourage the exploration of possibilities for production of other diverse agricultural products.

Objective AR-3.1: Avoid the conversion of agricultural lands to residential or nonagricultural commercial uses.

Goal AR-4: Allow farmers to manage their operations in an efficient, economic manner with minimal conflict with nonagricultural uses.

Policy AR-4a: The primary use of any parcel within the three agricultural land use categories shall be agricultural production and related processing, support services, and visitor serving uses. Residential uses in these areas shall recognize that the primary use of the land may create traffic and agricultural nuisance situations, such as flies, noise, odors, and spraying of chemicals.

Objective AR-7.1: Encourage farm operators to provide sufficient housing in addition to housing permitted by applicable density for permanent and seasonal agricultural employees and for family members to maintain agricultural production activities.

Policy AR-7a: Permit permanent employee housing in addition to permitted density according to the needs of a particular sector of the agricultural industry. Express in the Development Code specific criteria to establish the number of agricultural employee units.

Policy AR-8b: Encourage programs for promotion and marketing of agricultural products grown in the County.

Open Space and Resource Conservation Element

Goal OSRC-16: Preserve and maintain good air quality and provide for an air quality standard that will protect human health and preclude crop, plant and property damage in accordance with the requirements of the Federal and State Clean Air Acts.

Objective OSRC-16.1: Minimize air pollution and greenhouse gas emissions.

Objective OSRC-16.2: Encourage reduced motor vehicle use as a means of reducing resultant air pollution.

Land Use Element

GOAL LU-11: Promote a sustainable future where residents can enjoy a high quality of life for the long term, including a clean and beautiful environment and a balance of employment, housing, infrastructure, and services.

Discussion

Goal AR-1, Objective AR-1.1, Policy AR-1b, and Policy AR-8b of the Agricultural Resources Element of the Sonoma County General Plan center around promotion of locally produced agricultural products. Prohibition of medium and large CAFO's would likely conflict with stated General Plan goals to support local agricultural industry and result in a reduction of locally produced agricultural products.

Policy AR-1e, Policy AR-1f, and Policy AR-1g promote sustainable and organic agricultural production to increase biodiversity and reduce negative impacts of farm animal operations. The stated goals of the proposed CAFO prohibition are generally consistent with goals, objectives, and policies for reduced environmental impacts and improved biodiversity from farming operations.

Policy AR-4a establishes the County's policy that the primary use of any parcel under one of the three agricultural land use categories shall agricultural production and related processing or service. Objective AR-3.1, along with other policies, are intended to avoid conversion of agricultural lands into residential or non-agricultural uses. If CAFOs are prohibited, existing operations that are required to be phased-out may be unable to continue with productive agriculture on those properties, which could lead to the conversion of agricultural lands to other uses.

Objective AR-7.1 and Policy AR-7a discuss the supply of housing for full-time agricultural employees. Existing full-time agricultural employee housing would not be impacted by the proposed prohibition of CAFOs, but could impact an applicant's ability to apply for full-time agricultural employee housing after taking effect.

Goal OSRC-16 and Objectives OSRC-16.1 and 16.2 encourage reduced greenhouse gas emissions and air pollution through reduced reliance on motor vehicles. If passed, the prohibition on CAFOs could result in impacts to local food and resource supply chains, requiring increased reliance on out-of-county sources thereby increasing vehicle miles traveled.

Goal LU-11 highlights the County's commitment to economic and environmental sustainability. Prohibiting a local industry may significantly impact the local economy and land use patterns through reduced agricultural production and limitations on uses of agricultural land.

ZONING CONSISTENCY

The Zoning Code allows CAFOs of any size by right, with Zoning Permit approval, on properties within the LIA (Land Intensive Agriculture), LEA (Land Extensive Agriculture), and DA (Diverse Agriculture) zoning districts if the facility is 500 feet or more from a nonagricultural land use category. If the facility would be within 500 feet of a non-agricultural land use category, a discretionary Use Permit is required. There may be existing operations that have not been permitted through Permit Sonoma. The proposed code changes would be a significant shift in allowed uses in agricultural zoning districts, converting what is largely by-right uses to prohibited uses. By some of the definitions in the proposed ordinance, the changes could affect more than what the County Code currently defines for animal keeping categories as confined or not confined farm animals, pursuant to County Code Sections 26-18-070 and 26-17-080, respectively. Existing grazing operations could potentially be affected if they are providing supplemental feed or housing for more than 45 days over a 12-month period.

Additionally, if the proposed CAFO initiative results in a major change of land use away from agricultural uses that qualify properties for agricultural employee housing units (as allowed under Zoning Code Sec. 26-24-030, -040, -050, -060, and -070); the initiative may limit the quantity of parcels qualifying for agricultural employee housing and result in conflicts with existing agricultural employee housing agreements made between the County and individual landowners. As a result of losing the qualifying agricultural use agricultural employee housing units may become legal nonconforming residential uses subject to the nonconforming use provisions of the Zoning Code.

SONOMA COUNTY LAND CONSERVATION ACT (WILLIAMSON ACT) PROGRAM

The goal of the County's Land Conservation Act Program is long-term preservation of agricultural and open space lands. The program is governed by the California Land Conservation Act (also known as the Williamson Act), the County's Uniform Rules for Agricultural Preserves and Farmland Security Zones (Uniform Rules), and the recorded contract between the owner and the County, which automatically transfers with the property in the case of ownership change. The California Land Conservation Act allows the County and owners of agricultural and open space land to voluntarily enter into agreements that restrict the owner's use of the land to agricultural and/or open space uses and uses compatible with those agricultural and/or open space uses, in exchange for a reduction in property tax assessment.

Landowners must remain in compliance during the entire life of the contract, even after transfer of ownership or during phase out after nonrenewal has been initiated. Land Conservation Contracts have ten (10)-year automatically renewing terms. When a contract phases out, the property no longer is restricted and the property is not required to be used for agricultural use or limit non-agricultural uses to those that are compatible with agricultural uses, and as a result, the property taxes increase to what they would be absent the restriction, which will vary depending on a variety of factors consistent with Proposition 13. According to the Department of Conservation, the Williamson Act is estimated to save agricultural landowners from 20 percent to 75 percent in property tax liability each year.¹

According to the California Department of Conservation:

The Williamson Act Program has remained stable and effective as a mechanism for protecting agricultural and open space land from premature and unnecessary urban development. Participation in the program has been steady, hovering at about 16 million acres enrolled under contract statewide since the early 1980s. This number represents about one third of all privately held land in California, and about one half of all the state's agricultural land. ²

Approximately 27 percent of unincorporated land in Sonoma County is subject to a Williamson Act or open space land conservation contract. The County's Uniform Rules require all agriculturally contracted properties be continuously used or maintained for a qualifying commercial agricultural production use, generate certain levels of income from commercial agricultural use of the land, and meet a minimum size - either 10 or 40 acres depending on the type of land. And any non-agricultural use of the land must be an allowable compatible use as defined and listed by the Uniform Rules.

Uniform Rule 7.2(A) identifies the agricultural uses eligible for Williamson Act contracts, including the commercial raising of livestock, swine, goats, poultry, and similar animals produced for food or fiber.

1. General farming and the raising, growing, and harvesting of vegetables, field, orchard, bush and berry crops, vineyards, and trees.
2. Commercial growing of flowers.
3. Stock nurseries, greenhouses, floriculture, and horticulture.
4. Commercial growing of irrigated pasture crops.
5. Commercial growing of ornamental trees.
6. Commercial raising of livestock, swine, goats, llamas, poultry, rabbits, birds, fish, frogs, and similar animals produced for food or fiber.
7. Commercial growing of mushrooms.
8. Commercial vermiculture.
9. Beekeeping.
10. Commercial raising of fur-bearing animals.
11. Commercial horse breeding, when the annual breeding operation consists of at least 15 brood mares.
12. Forestry, when at least 50 percent of the parcel is classified as timberland and is subject to an approved timber management plan.

Uniform Rule 7.2(B) allows accessory agricultural uses and structures on contracted lands which include fencing, corrals, paddocks, and other similar structures used in the commercial raising of plants or animals for food or fiber.

Uniform Rule 8.3(B) allows agricultural support uses a compatible use on contracted lands and include processing of agricultural commodities beyond the natural state, including processing by pressing, pasteurizing, slaughtering, cooking, freezing, dehydrating, and fermenting. This use includes facilities for processing and storage of agricultural commodities beyond the natural state such as wineries, dairies, slaughterhouses, and mills.

If the proposed CAFO initiative results in a major change of land use away from qualifying commercial agricultural use of agricultural contracted lands, the initiative may result in lands that are in breach of Williamson Act contract restrictions. Properties are individually subject to demonstrating compliance

with their land conservation contracts and a site-specific assessment may be required to determine the appropriate remedy for breach of contract. Options to remedy the breaches would include:

1. Landowner brings the property into compliance by establishing a qualifying commercial agricultural use in accordance with the Uniform Rules.
2. Landowner files an application with Permit Sonoma to convert the contract from an agricultural contract to an Open Space Contract if the property qualifies as suitable habitat for wildlife use or other qualifying open space use. Properties subject to open space contracts must be devoted to a qualifying open space use, such as a wildlife habitat area, must be a minimum size of 40 acres, and any non-open space use of the land must be an allowable compatible use as defined and listed by the Uniform Rules. Due to the required parcel sized this option may not be available to some agricultural operators.
3. Landowner or the Board of Supervisors initiates nonrenewal of the contract(s) pursuant to Uniform Rule 9.0. Restrictions and provisions of the contract will generally be applied throughout the whole phase out period.

To the extent the initiative impairs the ability of a restricted parcel to comply with the terms of a Williamson Act contract, for instance, by leading to the cessation of the production of animal products, that are not replaced by any other qualifying form of agricultural use, it could lead to contract breaches and the ultimate removal of land from contract protections designed to protect and preserve agricultural lands. On the other hand, if properties convert from a CAFO use to another qualifying agricultural use, then the requirement to affirmatively utilize the land for agricultural use would continue to be satisfied. The County recognizes that there may be short periods of time when land is not used for agriculture but is not in breach, such as when strategically leaving crop lands fallow to improve soil productivity, actively converting to a different agricultural use, or recovering following a natural disaster. If land restricted by a Williamson Act contract is ultimately removed from the contract, then the property's land use would be governed by its zoning and General Plan designation.

IMPACTS OF PROPOSAL

The proposed ordinance could support County initiatives for improved biodiversity in agricultural and a reduction of some negative environmental impacts such as green house gas emissions however as proposed the definitions would conflict with existing code and stated County objectives.

If passed, the proposed ballot initiative to prohibit CAFOs in the unincorporated County could impact County organizational resources, both staffing and fiscal; the local economy and businesses; and agricultural workers and the general public through job loss and food system changes.

If the ballot measure passed, Permit Sonoma Planning and Code Enforcement would bear costs of staff time associated with implementing and enforcing the prohibition, which may involve revising existing or establishing new County policies to align with the measure. Additional staff time would be expected for in-office and media public communications about the change to County policy.

Other County departments may also be affected, including but not limited to the Agricultural Commissioner's Office, County Counsel, ACTTC, County Human Resources, and the Economic Development Board. As written, the measure identifies the Agricultural Commissioner as responsible for job retraining and employment assistance to former CAFO workers. County Counsel may experience costs associated with potential takings claims.

If passed, the ballot measure would directly affect the operations of local businesses, including dairy farms and poultry/bird producers, and may lead to business closures and job loss. In 2022, the value of the County's livestock and poultry was \$34,876,700 and the value of livestock and poultry products was \$106,771,000, according to the annual [Sonoma County Crop Report](#). Agriculture and natural resource extraction jobs make up approximately three percent of Sonoma County's total employment, according to the County Economic Development Board's [2023 Workforce Development Survey](#).

Business closures and job losses are likely to have disproportionate impacts on low income, immigrant farmworker families. Potential reductions to the supply of locally sourced food products could affect the local food system, including food prices.