

COUNTY OF SONOMA
BOARD OF SUPERVISORS

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April 9, 2009

Mayor Joe Palla, City of Cloverdale
Mayor John Guardino, City of Cotati
Mayor Eric Ziedrich, City of Healdsburg
Mayor Pamela Torliatt, City of Petaluma
Mayor Robin Goble, Town of Windsor
Mayor Pro Tem Steve Barbose, City of Sonoma
Mayor Amie L. Breeze, City of Rohnert Park
Mayor Susan Gorin, City of Santa Rosa
Mayor Sarah Glade Gurney, City of Sebastopol

Subject: Development Projects within City Urban Growth Boundaries

Dear Mayors:

Recently, the Board of Supervisors has heard from several cities with concerns about the County's consideration of development projects within city Urban Growth Boundaries (UGBs). As you are aware, the Sonoma County Board of Supervisors is currently considering an application by the Dutra Group for an asphalt plant that lies partially within the UGB for the City of Petaluma. The Petaluma City Council and the mayors of at least two other cities have expressed concern that the Board has not given sufficient consideration to the City Council's views on the pending project. The cities have expressed a broader concern that the County may not give adequate consideration to development projects within city UGBs.

The purpose of this letter is twofold. First, to clarify the facts surrounding the County's efforts to consult with the City of Petaluma regarding the Dutra project. Second, to assure each city that this Board and County staff take seriously our obligation to consult with and consider the views of affected cities when the County considers development projects within city UGBs.

Communication with City of Petaluma on the Dutra Project

As noted above, only a portion of the proposed Dutra project lies within the City of Petaluma's UGB. In fact, most of the site, including the proposed asphalt plant itself, is actually outside the UGB while only the river-side aggregate off-load area and some minor project components are inside the boundary. Nonetheless, the County recognized the City's anticipated interest in this project and made every effort to include the City in our project review process. The following provides a timeline of that outreach:

- March 2004, County held a pre-application meeting; no response from City.

- May 2004, application filed and a referral was sent to City of Petaluma Planning Department. The City did not provide a written response.
- June 2004, at the invitation of County staff, City planning staff attended a multi-agency meeting at County offices to discuss coordination of road and other improvements related to the Dutra project and several others pending in the Petaluma Boulevard South industrial area.
- February 2006, County issued a Notice of EIR Preparation (NOP) seeking comments regarding the scope of issues to be addressed in the project EIR. A public scoping meeting was also held. Notices were sent to several City offices, including separate notices to the City Council and the City Planning Commission. The City did not attend the scoping meeting and the only written response was a one-page letter from the City's Engineering Manager asking that the EIR address surface water quality issues.
- January 2008, the Draft EIR was released. The Notice of Completion for the Draft EIR and a Notice of Public Hearing on the Draft EIR were sent to several City offices, again including separate notices to the City Council and City Planning Commission. The City did not attend the public hearing and did not submit comments on the Draft EIR.
- August 2008, the County Planning Commission held a public hearing to consider its recommendations on the Final EIR and the project itself. Again, notices were sent to several City offices, including separate notices to the City Council and City Planning Commission. Councilwoman Barrett and the City's Parks and Landscape Manager both addressed the Commission during the public hearing, focusing primarily on potential impacts to Shollenberger Park. At the conclusion of the hearing, the Planning Commission continued its deliberations to October 16.
- October 14, 2008, Mayor Torliatt sent a letter to the County Planning Commission summarizing the City Council's review of the project. The letter states in part: "the City Council generally expressed its support for the Dutra operation and its economic value to the south county. However, the City Council was particularly focused on the potentially detrimental impacts of the plant operations on the sensitive wildlife habitats on the site and across the river at Shollenberger Park." The letter asks the Planning Commission to incorporate seven specific comments into the final project mitigations and conditions of approval. The letter concludes by thanking "the Planning Commission in advance for its efforts to reach a recommendation to the Board of Supervisors that will allow the Dutra asphalt plant to operate while protecting a unique and valuable environmental and economic resource and the residents and visitors who will use it."

County staff had already recommended measures to address some of the specific issues raised in the Mayor's letter and the Planning Commission thereafter recommended several project modifications to address the City's concerns. These modifications were included in the Planning Commission's recommendation to the Board of Supervisors.

- November 2008, County issued a Notice of Public Hearing for the Board of Supervisors to consider the project on December 9. This hearing was subsequently continued to February 3, 2009. Notices were sent to several City offices, including separate notices to the City Council and City Planning Commission.

- February 2, 2009, Mayor Torliatt sent a letter to the Chairman of the Board of Supervisors summarizing the City Council's concerns following an "overwhelming outpouring from the public" at its January 26 Council meeting. This letter cites a far broader range of issues than its October 2008 letter and urges the Board to "deny this proposal in its current form." The letter also asks the Board to incorporate an extensive list of City comments into the project in the event the Board does not deny the application. Mayor Torliatt also addressed the Board at the public hearing on February 3.

The Board of Supervisors took these concerns seriously in its direction to staff following the February 3 hearing. A number of the City's concerns had already been addressed in the Planning Commission's recommendation and did not require further action by the Board. For example, the Commission recommended reduced hours for the recycling operation as requested by the City, and further restrictions on truck idling, nighttime lighting and conditions to avoid traffic impact on City streets. In addition, the Board asked staff to return with modified conditions of approval in several areas to address other concerns raised by the City. These include requirements for additional landscape screening, avoidance of navigation hazards, and enclosure of the drum mixer and burner to further reduce air emissions. The Board also asked staff to return with more information on air quality impacts, including the differences between the two Health Risk Screening Assessments, channel navigation and use of water from the Petaluma River. Finally, Supervisor Kerns added a condition that Dutra pay for monitoring to ensure all conditions and mitigations are implemented or complied with.

I hope it is apparent from this account that the County made every effort to involve the City of Petaluma in the project review process at every step of the way, and the County was responsive to input from the City. The County's notifications to the City went well beyond statutory mandates. As you know, the EIR scoping and Draft EIR stages are where the greatest opportunities exist to influence the environmental analysis and mitigation measures. The City did not become substantively engaged until after the EIR was completed and the project was before the County Planning Commission, and the Commission addressed most of the concerns expressed by the City at that time. However, following the Planning Commission's recommendation, the City Council's position on the project shifted from general support (albeit with concerns) to a request that the Board of Supervisors deny the project.

The City's engagement with the Dutra project coincided with a rapid and dramatic increase in public concern about the project, an increase that is keenly felt by this Board as well. When the County Planning Commission conducted its public hearing in August 2008, only about a dozen people addressed the Commission and opposition testimony was almost entirely related to impacts on Shollenberger Park. In contrast, the Board's February 3 hearing was one of the longest in memory, with approximately 70 people addressing the Board.

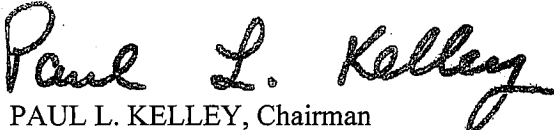
Sonoma County's Approach to Development within City Urban Growth Boundaries

Conflicts between the County and cities over unincorporated development within the cities' UGBs have been extremely rare, and for good reason. The County's adopted policy, through its General Plan, is that urban development within city UGBs generally should *not* occur prior to annexation by the city. There are some exceptions to this general approach. One is for urbanized areas within the City of Santa Rosa's UGB where a long-standing County-City Agreement provides City utilities to unincorporated development in these areas. Another exception relates directly to the Dutra project: The County General Plan policy that otherwise limits commercial and industrial uses within Petaluma's UGB also states: "However, consider additional river dependent commercial and industrial uses along the Petaluma River, where necessary to maintain the river as a navigable waterway connecting the Bay to downtown Petaluma."

The County's general plan is strongly city-centered, meaning that urban development is focused within the cities and existing urbanized areas. As a result, the County does not support the expansion of urban land uses outside of these areas. Again, conflicts between the County and cities over development projects, even outside of city UGBs, have been extremely rare.

Finally, the County recognizes that there will be occasions when development proposed in the unincorporated area is a concern to one or more cities. When that occurs, County staff is diligent about making sure that our city counterparts are well informed about the process, and I believe the record for the Dutra project demonstrates that. Our staff and this Board want very much to understand the concerns of the cities, and I believe we have demonstrated a strong willingness to address those concerns to the best of our ability. At the end of the day, though, the Board, just like your city council, must do the job that the people elected us to do, which is to balance competing interests and make decisions that are in the public interest. These are not always the most popular decisions, but in the end this Board strives to ensure that our decisions are fact-based and well-reasoned.

Sincerely,

A handwritten signature in black ink that reads "Paul L. Kelley". The signature is written in a cursive, flowing style.

PAUL L. KELLEY, Chairman
Sonoma County Board of Supervisors

- c: Board of Supervisors
- City Managers
- Bob Deis, County Administrator
- Pete Parkinson, Director, Permit and Resource Management