



California Fair Political Practices Commission

December 1, 1988

David H. Hirsch
City Attorney
City of Lompoc, City Hall
100 Civic Center Plaza
Lompoc, CA 93438

Re: Your Request for
Informal Assistance
Our File No. I-88-385

Dear Mr. Hirsch:

You have requested advice on behalf Councilmember Karl Braun regarding his responsibilities under the conflict-of-interest provisions of the Political Reform Act (the "Act").^{1/} We do not have sufficient facts to provide a specific answer to your question. Therefore, we consider your letter to be a request for informal assistance pursuant to Regulation 18329(c) (copy enclosed).^{2/}

QUESTION

Councilmember Braun owns commercial property in downtown Lompoc and also receives income from retail businesses and a limited partnership located in the downtown business area. May Councilmember Braun participate in the adoption of a resolution setting forth a policy that would limit commercial development in an area proposed for annexation to the city, known as the "Wye area"?

^{1/} Government Code Sections 81000-91015. All statutory references are to the Government Code unless otherwise indicated. Commission regulations appear at 2 California Code of Regulations Section 18000, et seq. All references to regulations are to Title 2, Division 6 of the California Code of Regulations.

^{2/} Informal assistance does not provide the requestor with the immunity provided by an opinion or formal written advice. (Government Code Section 83114; 2 Cal. Code of Regs. Section 18329(c) (3).)

CONCLUSION

Councilmember Braun may participate in the adoption of the resolution unless the decision will have a material financial effect on Councilmember Braun's commercial properties or on commercial property owned by a limited partnership which is a source of income to Councilmember Braun.

FACTS

The City of Lompoc has applied to the Santa Barbara County Local Agency Formation Commission (LAFCO) for an amendment to its sphere of influence to include a 339 acre area adjacent to the city's limits, commonly referred to as the "Wye area". During hearings on an Environmental Impact Report (EIR) on the subject, concerns were raised about the impact of commercial development in the Wye area on downtown redevelopment and commercial development in other parts of the city. Despite these concerns, the Santa Barbara County staff forwarded the EIR to LAFCO indicating that they viewed the document as adequate and that the appropriate time to address those concerns would be when specific land use designations are adopted prior to annexation.

To address these concerns and the opposition to the sphere of influence amendment by local business interests, the city's planning staff proposed a draft report and resolution for adoption by the city council to provide an indication of its position on commercial development in the area. Staff proposed three options:

Option A: This option would permit significant commercial development in the Wye area. It would have some adverse effects upon ongoing efforts to revitalize the downtown area.

Option B: This option would limit commercial development in the Wye area to neighborhood serving uses such as convenience markets and small shops until (1) a major tenant has been established in the downtown area and (2) all other commercial land in the city has been substantially developed.

Option C: This option would preclude all commercial development in the Wye area.

Staff recommends that the city council adopt Option B. The formal process of establishing land use designations for the Wye area, should it be annexed to the city, would require numerous steps including general plan and zoning ordinance hearings at both the planning commission and city council levels.

Councilmember Braun has several financial interests in downtown Lompoc:

1. He sold a pharmacy he owned and the sale included a loan to the buyer. The buyer is a source of income to him of \$250 or more per year.

2. He has two commercial rental units in the downtown area. The properties are rented out to a ceramic supply store and a photography studio. Presumably, Councilmember Braun's interest in each property is worth \$1,000 or more.

3. Each tenant of his commercial rental units, the ceramic supply store and the photography studio, is a source of income to Councilmember Braun, presumably of \$250 or more in a 12 month period.

4. He recently sold his interest in a limited partnership that owns commercially zoned property in the downtown area. In a telephone conversation on November 21, 1988, you stated that the general partner, on behalf of the partnership, bought Councilmember Braun's interest in the partnership. The partnership is therefore a source of income to him of \$250 or more in the previous 12 months.

ANALYSIS

Section 87100 prohibits public officials from making, participating in, or using their official position to influence any governmental decision in which they know or have reason to know they have a financial interest. An official has a financial interest in a decision if it is reasonably foreseeable that the decision will have a material financial effect, distinguishable from the effect on the public generally, on the official or any member of his or her immediate family, or on:

(b) Any real property in which the public official has a direct or indirect interest worth one thousand dollars (\$1,000) or more.

(c) Any source of income, other than gifts and other than loans by a commercial lending institution in the regular course of business on terms available to the public without regard to official status, aggregating two hundred fifty dollars (\$250) or more in value provided to, received by or promised to the public official within 12 months prior to the time when the decision is made.

Section 87103(b) and (c).

An official makes a governmental decision when he votes, commits his agency to a course of action, enters into a contract, or appoints someone. (Regulation 18700(b), copy enclosed.) Thus even though the decision before the city council is the adoption of a resolution, and the formal process of establishing land use designations for the Wye area will require numerous steps, including hearings, the act of voting is making "a governmental decision" within the meaning of Section 87100. Therefore, the conflict-of-interest provisions of the Act are applicable to this decision.

Councilmember Braun must disqualify himself from participating in the decision if the decision will have a foreseeable and material financial effect distinguishable from the public generally, on any of the following:

(a) His interests in real property -- the commercial rental units which house the ceramic supply store and the photography studio;

(b) The sources of income to him of \$250 or more in the previous 12 months:

(1) The partnership which owns commercially zoned property in the downtown area;

(2) The pharmacy;

(3) The ceramic supply store; and

(4) The photography studio.

Foreseeability

The effects of a decision are reasonably foreseeable if there is a substantial likelihood that they will occur. To be foreseeable, the effects of a decision must be more than a mere possibility; however, certainty is not required. (Downey Cares v. Downey Development Com. (1987) 196 Cal. App. 3d 983, 989-991; Witt v. Morrow (1977) 70 Cal. App. 3d 817, 822; In re Thorner (1975) 1 FPPC Ops. 198 (copy enclosed).) The Act seeks to prevent more than actual conflicts of interest, it seeks to prevent even the appearance of a possible conflict of interest. (Witt v. Morrow, supra at 823.)

In its draft report accompanying the resolution for adoption by the city council, the city's planning staff states that Option A, permitting significant commercial development in the Wye area, can maximize such commercial development by designating 35 acres for commercial purposes. It states that 40-45 percent of this commercial development would be supported

by capturing spending currently going to neighboring towns. The remaining 55-60 percent would be supported by growth in local spending and diversion of sales from existing establishments and as such would have adverse effects upon on-going efforts to revitalize the downtown area. It is therefore foreseeable that this option would have adverse effects upon commercial establishments in the downtown area.

Material Financial Effect

A. Material Financial Effect on Councilmember Braun's Properties and the Property Owned by the Limited Partnership.

In a telephone conversation with you on November 17, 1987, you indicated that the Wye area was located at least two miles from Councilmember Braun's properties in the downtown area.

The material financial effect of the decision on Councilmember Braun's property is delineated in Regulation 18702.3 (copy enclosed). Regulation 18702.3 also provides the standards to determine the material financial effect of the decision on property owned by the limited partnership (the "partnership property"). (Regulation 18702.6 (copy enclosed).) Regulation 18702.3 states in relevant part:

(b) The reasonably foreseeable effect of a decision is not considered material as to real property in which an official has a direct, indirect or beneficial interest (not including a leasehold interest), if the real property in which the official has an interest is located entirely beyond a 2,500 foot radius of the boundaries (or the proposed boundaries) of the property which is the subject of the decision; unless:

(1) There are specific circumstances regarding the decision, its effect, and the nature of the real property in which the official has an interest, which make it reasonably foreseeable that the fair market value or the rental value of the real property in which the official has an interest will be affected by the amounts set forth in subdivisions (a)(3)(A) or (a)(3)(B); and

(2) Either of the following apply:

(A) The effect will not be substantially the same as the effect upon at least 25 percent of all the properties which are within a 2,500 foot radius of the boundaries of the real property in which the official has an interest; or

(B) There are not at least 10 properties under separate ownership within a 2,500 foot radius of the property in which the official has an interest.

Regulation 18702.3(b)

Thus Councilmember Braun may participate in the decision unless:

(1) The decision will increase or decrease the fair market value of any of his properties or the partnership property by \$10,000 or more, or will increase or decrease the rental value of the properties by \$1,000 or more in a 12 month period; and

(2) Less than 25% of all the properties within a 2,500 foot radius of Councilmember Braun's properties or the partnership property will be affected in substantially the same manner as Councilmember Braun's property or the partnership property.^{3/}

B. Material Financial Effect on the Ceramic Supply Store, the Photography Studio and the Pharmacy.

Regulation 18702.2 (copy enclosed) delineates the standards applicable to determine whether the effect of a decision on a business entity is material. Assuming the ceramic supply store, the photography studio and the pharmacy are small businesses which do not meet the financial size standards in the other subdivisions of Regulation 18702.2, the effect of the decision will be material if:

(1) The decision will result in an increase or decrease in the gross revenues for a fiscal year of \$10,000 or more; or

(2) The decision will result in the business entity incurring or avoiding additional expenses or reducing or eliminating existing expenses for a fiscal year in the amount of \$2,500 or more; or

(3) The decision will result in an increase or decrease in the value of assets or liabilities of \$10,000 or more.

Regulation 18702.2(g)

^{3/} There are more than 10 properties under separate ownership within a 2,500 foot radius of Councilmember Braun's properties and the partnership property, therefore we have not applied Regulation 18702.3(b)(2)(B).

Councilmember Braun may participate in the decision unless the effect of the decision on the business entities, which are sources of income to him, will exceed the amounts specified above, and such effect would be distinguishable from the effect on the public generally. (Section 87103.)

The "Public Generally" Exception

If the effect of a decision on an official's economic interests is the same as its effect on the public generally, the public official may participate in the decision, even if the effect is a material one. (Sections 87100 and 87103.) Regulation 18703 (copy enclosed) provides, in part:

A material financial effect of a governmental decision on an official's interests, as described in Government Code Section 87103, is distinguishable from its effect on the public generally unless the decision will affect the official's interest in substantially the same manner as it will affect all members of the public or a significant segment of the public.

Regulation 18703.
(Emphasis added.)

Subdivision (b)(2)(A) of Regulation 18702.3 incorporates this exception in the determination of materiality of decisions affecting real property such as Councilmember Braun's properties and the partnership property. Thus, as stated earlier, the effect of the decision would not be deemed material if the effect on Councilmember Braun's properties and the partnership property was substantially the same as the effect on at least 25% of the properties within a 2,500-foot radius of Councilmember Braun's properties and the partnership property. (Regulation 18702.3(b)(2)(A.) For example, if the entire downtown area would be affected in substantially the same manner by the decision, and that area comprises at least 25% of the property within a 2,500 foot radius of Councilmember Braun's properties and the partnership property, Councilmember Braun may participate in the decision concerning development of the Wye area.

The business entities -- the pharmacy, the ceramic supply store and the photography studio -- may be classified by the general term "retail merchants." (In re Owen (1976) 2 FPCC Ops. 77, 82, copy enclosed.) In the Owen Opinion, the Commission considered, inter alia, the question of the impact of decisions by a city councilmember on a retail business in which he had an interest.

The city councilmember in Owen was a limited partner in the retail business which leased space in a commercial building located in an area designated the "core area." This core area included the traditional downtown shopping area as well as some older residential dwellings. In the process of reviewing its land use plans for the core area, the city council was required to make significant policy decisions regarding the core area. The decisions would have had the effect of either preserving the status quo in terms of the commercial enterprises in the core area or allowing for significant commercial development. Thus the adoption of the core area plan would have had significant financial effects on the value of holdings in real property and commercial business establishments within and near the core area. Since the financial effect of the decisions exceeded the threshold amounts for materiality, the Commission focused its attention on the effect of the decisions on "the public generally."

The Commission stated that the phrase "the public generally" comprised all those people living in the jurisdiction of the city council, i.e., the city. But the Commission recognized that some persons or groups of persons would be economically affected more directly than others and thus attempted to determine if the decisions would affect the councilmember's interest in substantially the same manner as it would affect a significant segment of the public.

The Commission agreed that the decisions would have economic repercussions on the retail merchants of the city. Since there were a substantial number of retail merchants in the core area, the Commission concluded that the effect of adoption of the plan was likely to affect all these retail merchants in the core area in a substantially similar manner. The Commission concluded that these merchants may "reasonably be regarded as 'the public generally' within the meaning of Section 87103 and our regulations." (In re Owen, supra, at 82.)

In the City of Lompoc, the decision involves the adoption of a resolution regarding commercial development in the Wye area. As stated above, the Wye area is located more than two miles from the downtown area. Based on these facts, it seems likely that most retail merchants in the downtown area will experience substantially similar effects on their businesses as a result of development of the Wye area. Based on the facts you have provided, there is no reason to believe that the pharmacy, the ceramic supply store and the photography studio would be affected differently from other retail merchants.

David H. Hirsch
December 1, 1988
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A review of the map of the City of Lompoc indicates that most of the commercial development is in the downtown area and its vicinity. It would appear that most of the retail merchants in the City of Lompoc are likewise located in the downtown area and its vicinity. If indeed most of the retail merchants are located in the downtown area, then, per Owen, supra, these retail merchants should be regarded as "the public generally" within the meaning of Section 87103. In that case, the effect of the decision on these business entities should not bar Councilmember Braun's participation in the decision.

We do not have sufficient facts or knowledge of the City of Lompoc to provide you with a specific answer to your question. I trust this letter provides you with the guidance to enable you to determine if Councilmember Braun must disqualify himself from participating in the decision to adopt the resolution proposed by the staff of the City of Lompoc. Please call me at (916) 322-5901 if you have any questions about this letter.

Sincerely,

Diane M. Griffiths
General Counsel



Jeevan Ahuja
Counsel, Legal Division

DMG:JA:ld

Enclosures



VALLEY OF FLOWERS

CITY OF
LOMPOC

FPPC

OCT 7 2 58 PM '88

October 5, 1988

Diane Griffiths
General Counsel
Fair Political Practices Commission
428 J Street, Suite 800
Sacramento, CA 95814

Re: Request for advise relating to potential conflict associated with
City policy on commercial development

Dear Ms. Griffiths:

I spoke this week with John McLean of your office regarding a conflict of interest question that has developed relating to one of our Councilmembers. After our conversation, I reviewed matters with the Councilmember and our City Administrator and we have concluded that it would be desirable to request written advice from your office in accordance with Government Code § 83114(b). The Councilmember involved, Karl Braun, has expressly authorized me to request an advice letter.

For your assistance I will set forth the circumstances surrounding this conflict of interest question. I am also attaching other relevant documents and maps that will be of assistance. In summary, this issue involves a situation in which a City Councilmember has several commercial financial interests in the City's downtown. The City has applied to the Santa Barbara County Local Agency Formation Commission (LAFCO) for an amendment to its sphere of influence for a 339 acre area adjacent to the City's limits, commonly referred to as the "Wye area". One of the concerns that has developed as a result of issues identified in an Environmental Impact Report, and comments at recent public hearings on this EIR, relates to the question of commercial development in the Wye area. Accordingly, the City staff is proposing to present a report to the City Council seeking clarification as to what its policy will be on future commercial development.

In the public hearings, this issue has emerged in the context of the effect of commercial development in the Wye on downtown redevelopment and other existing commercial areas of the City. Thus, the question has been raised as to whether Councilman Braun would have a conflict of interest in participating on the adoption of a resolution setting forth a policy that would limit commercial development in the Wye, in favor of encouragement of commercial development in other parts of the City, and downtown redevelopment with the establishment of a major tenant. (See attached draft staff report and resolution.)

OVERVIEW OF WYE AREA SPHERE OF INFLUENCE

As noted, the conflict of interest issue in question has developed as a result of the City's proposal to amend its sphere of influence to include the 339 acre area known as the Wye. (Reference attached map) The intent is that this area would subsequently be annexed to the City and future growth of the City would be directed to the north. This is so that growth to the east and west will be limited, since those areas consist of prime agriculture land. To date, the Wye area has not been rezoned by the City, nor have there been any specific land use proposals. There are, however, designations in the City's General Plan that date back to 1974 identifying 197 acres in the Wye for commercial uses. As the attachment to the draft staff report indicates, there have been numerous proposals over the years relating to commercial development in the Wye, ranging from 1 to 3 acres, to 197 acres.

A conceptual plan was prepared by the City's Planning Department staff for the sphere of influence amendment, identifying possible commercial areas. This plan was not based upon the 1974 General Plan designation, since staff viewed it as out of date. According to the City's Planning staff, the Santa Barbara County Department of Resource Management needed to use certain assumptions for purposes of analysis in the EIR, which included build out projections based upon a conceptual land use mix. This land use mix was based upon the City staff's discussions with the property owners, and reflects the owners' hopes as to what might be allowed to be developed in the Wye area.

Keeping in mind that the EIR analyzed a worst case scenario as far as building out the area in order to analyze possible environmental impacts, this "project build out" showed the potential for approximately 52.28 acres of planned commercial development totaling 483,799 square feet of gross floor area. These assumptions were then used to evaluate environmental impacts (i.e., traffic, air pollution, etc.) During public hearings on the EIR, local business groups objected to the adequacy of the EIR, since in their view it did not adequately address the effect of potential commercial development on downtown Lompoc and other commercial areas of the City. Although not necessarily relevant to the conflict of interest issue, it might be noted that on September 27, 1988 the County staff forwarded the EIR to the Local Agency Formation Commission, indicating that they viewed the document as adequate and that the appropriate time to assess effects of commercial development on downtown Lompoc would be when specific land use designations are adopted, prior to annexation.

The purpose of the policy being proposed by the City's planning staff in the attached draft report and resolution, is based upon the view that opposition to the sphere of influence amendment by local business interests might be addressed by the City Council providing an indication of its position on commercial development in the area. At the same time it is important to note that the formal process of establishing land use designations for the Wye area, should it be annexed to the City, will require numerous steps including general plan and zoning ordinance hearings at both the Planning Commission and City Council levels. In addition, it is my understanding that the City staff intends to prepare a specific plan for City Council adoption prior to annexation.

October 5, 1988

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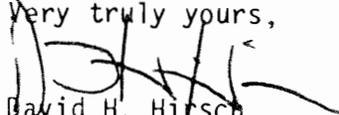
COUNCILMAN BRAUN'S FINANCIAL INTEREST IN THE DOWNTOWN AREA

As noted at the outset, Councilman Braun has several financial interests in the downtown of the City of Lompoc. Up until several weeks ago, he owned a pharmacy located in the downtown. Although he has now sold his business, the sale included a loan to the buyer that will constitute a source of income of \$250 or more a year. In addition, he has two commercial rental units located in the downtown area of the City (113-115 West Ocean Avenue). Councilman Braun also has another financial interest in the downtown, in the form of a source of income of \$250 or more within the last 12 months in that he received a payment to buy out his interest in a limited partnership that owns commercially zoned property.

I hope the foregoing will be of assistance in your analysis as to whether Councilman Braun's financial interests are such that he must disqualify himself from participating in decisions relating to future commercial development in the Wye area. My own view is based upon the fact that the Wye area is not yet in the City's sphere of influence, and that numerous steps as far as annexation and other land use decisions are necessary before the question of uses in the Wye area will be settled. These factors, coupled with the speculative nature of the effect of such a decision on Councilman Braun's downtown interests, make it appear that there is a lack of foreseeability and materiality as to any effect on his financial interests. Moreover, the effect on Councilman Braun's commercial financial interests are the same as all other business owners and commercial property owners in the City (as noted in the staff report, the City has 855 acres of commercial land uses). Thus any effect would appear to be substantially the same as its effect on a significant segment of the public (ref. 2 California Administrative Code § 18703).

We greatly appreciate your office's assistance with regard to analyzing the propriety of Councilman Braun's participation on this issue. If I can provide you with any additional clarification regarding the foregoing, please feel free to contact me at (805) 736-1261, extension 231.

Very truly yours,


David H. Hirsch
City Attorney

c: Gene Wahlers, City Administrator
Councilman Karl Braun

Attachments



California Fair Political Practices Commission

October 11, 1988

David H. Hirsch
City Attorney
City Hall
100 Civic Center Plaza
Lompoc, CA 93438

Re: 88-385

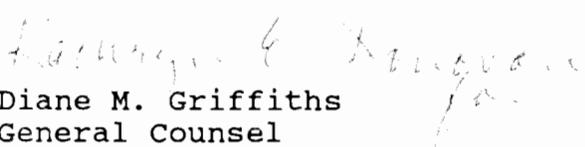
Dear Mr. Hirsch:

Your letter requesting advice under the Political Reform Act was received on October 7, 1988 by the Fair Political Practices Commission. If you have any questions about your advice request, you may contact Lilly Spitz, an attorney in the Legal Division, directly at (916) 322-5901.

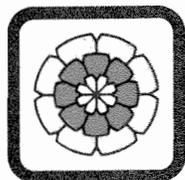
We try to answer all advice requests promptly. Therefore, unless your request poses particularly complex legal questions, or more information is needed, you should expect a response within 21 working days if your request seeks formal written advice. If more information is needed, the person assigned to prepare a response to your request will contact you shortly to advise you as to information needed. If your request is for informal assistance, we will answer it as quickly as we can. (See Commission Regulation 18329 (2 Cal. Code of Regs. Sec. 18329).)

You also should be aware that your letter and our response are public records which may be disclosed to the public upon receipt of a proper request for disclosure.

Very truly yours,


Diane M. Griffiths
General Counsel

DMG:plh
cc: Karl Braun



VALLEY OF FLOWERS

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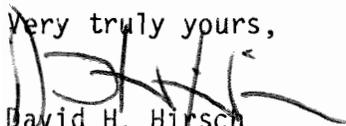
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I hope the foregoing will be of assistance in your analysis as to whether Councilman Braun's financial interests are such that he must disqualify himself from participating in decisions relating to future commercial development in the Wye area. My own view is based upon the fact that the Wye area is not yet in the City's sphere of influence, and that numerous steps as far as annexation and other land use decisions are necessary before the question of uses in the Wye area will be settled. These factors, coupled with the speculative nature of the effect of such a decision on Councilman Braun's downtown interests, make it appear that there is a lack of foreseeability and materiality as to any effect on his financial interests. Moreover, the effect on Councilman Braun's commercial financial interests are the same as all other business owners and commercial property owners in the City (as noted in the staff report, the City has 855 acres of commercial land uses). Thus any effect would appear to be substantially the same as its effect on a significant segment of the public (ref. 2 California Administrative Code § 18703).

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Very truly yours,


David H. Hirsch
City Attorney

c: Gene Wahlers, City Administrator
Councilman Karl Braun

Attachments

September 27, 1988

DRAFT

TO: Gene L. Wahlers, City Administrator
FROM: Jeremy Graves, Associate Planner
SUBJECT: Commercial Development in the Wye Area

BACKGROUND

During the update of the Lompoc General Plan and the review of the Draft EIR on the Wye Sphere of Influence Amendment, concerns have been raised continually regarding the effect of future commercial development in the Wye. These concerns can be summarized as follows:

- How will commercial growth in the Wye, if any, affect downtown redevelopment?
- What will be the effect on existing businesses?

In order to address these concerns, this report analyzes the commercial components of various City and County planning documents. These documents show a large range of commercial development that could occur at the Wye. The attached table summarizes the commercial development that would be allowed according to the various plans and studies. For comparison purposes, the City had approximately 855 acres of commercial land uses in 1986. From these studies, it is clear that the City has several options regarding future commercial development. These options are as follows:

- Option A: The "Lompoc Valley and Wye Area Market Study" provided a detailed examination of future commercial demand in the Lompoc Valley. In a public presentation before the General Plan Advisory Committee, Overall Economic Development Plan Committee, and Planning Commission the author of the study pointed out that commercial development in the Wye can be maximized by designating 35 acres for commercial uses. Approximately, 40-45 percent of this commercial development would be supported by capturing spending currently going to Santa Maria and other areas. The remaining 55-60 percent would be supported by growth in local spending and diversion of sales from existing establishments within the Lompoc Valley. Clearly, this option would have some adverse effects upon on-going efforts to revitalize the downtown area. This option would have a beneficial effect by maximizing the capture of sales tax revenues, which are currently lost to other areas. The Planning Commission has adopted a recommendation which states: "Opportunities should be provided for significant commercial development in the Wye".

M.GWWYE

- Option B: The City can limit commercial development in the Wye to neighborhood-serving uses (i.e., convenience market and small shops) until such time as 1) a major tenant has been established in the downtown redevelopment project, and 2) all other commercial land in the City has been substantially developed. This is commonly done with specific plans. This option would continue an emphasis upon redevelopment efforts and delay the establishment of a large number of competing businesses in the Wye area. The General Plan Advisory Committee has adopted a recommendation which states: "Limit retail development in the Wye area to neighborhood center uses until the City determines (e.g. the Planning Commission makes a finding) that all other commercial land is substantially used for commercial purposes".
- Option C: The City can preclude all commercial development in the Wye. This option would provide the strongest emphasis for downtown redevelopment and would direct future commercial growth into undeveloped and underutilized commercial areas in the City, Vandenberg Village, and Mission Hills. This option would also limit the potential recapture of sales tax revenues which are currently lost to Santa Maria, Santa Barbara, and other areas. Future commercial outlets in the Wye, which could compliment the Space Museum and Science Center or Allan Hancock College would not be allowed under this option.

In order to address the above-noted concerns and to provide guidance to the staff in the update of the general plan, the attached resolution has been prepared for City Council consideration.

RECOMMENDATION

Staff recommends that the City Council adopt the attached resolution which corresponds with Option B by limiting commercial development in the Wye to neighborhood center uses until 1) downtown commercial development occurs and 2) other commercial areas in the City are developed for commercial uses.

APPROVED FOR SUBMITTAL TO THE CITY ADMINISTRATOR

King Patrick Leonard, Planning Director

APPROVED FOR SUBMITTAL TO THE CITY COUNCIL

Gene L. Wahlers, City Administrator

JG:sk

Attachments: Proposed Commercial Development in Wye Area
Resolution No.

M.GWWYE1

PROPOSED COMMERCIAL DEVELOPMENT IN WYE AREA

<u>Document</u>	<u>Acres of Commercial Development</u>
Santa Barbara County Comprehensive Plan (Adopted in 1979)	85
City of Lompoc General Plan (Adopted in 1974 and currently being updated)	197
City of Lompoc Growth Management Program (Adopted in 1984)	24
Wye Area Sphere of Influence Draft EIR Conceptual Land Use Plan	52
Lompoc Valley and Wye Area Retail Market Study (Phase I of Wye Area Specific Plan)	12-15 Minimum 35 Maximum
City of Lompoc General Plan Issue Papers (Approved by Lompoc GPAC in February 1988)	1-3

DRAFT

RESOLUTION OF THE COUNCIL OF THE CITY OF LOMPOC
COUNTY OF SANTA BARBARA, STATE OF CALIFORNIA

IN THE MATTER OF: COMMERCIAL AND RESIDENTIAL LAND USES
IN A SPECIFIC PLAN FOR THE WYE AREA

NO. _____

I, Maureen Bosking, City Clerk of the City of Lompoc, County of Santa Barbara, State of California, do hereby certify that the following resolution, proposed by Councilmember _____, seconded by Councilmember _____, was duly passed and adopted by the council of the City of Lompoc at a regular meeting thereof assembled this _____ day of _____, 1988, by the following vote, to-wit:

AYES: Councilmember:

NOES: Councilmember:

ABSENT: Councilmember:

(S E A L)

Maureen Bosking, City Clerk, City of Lompoc

THE CITY COUNCIL OF THE CITY OF LOMPOC DOES HEREBY RESOLVE AS FOLLOWS:

WHEREAS, the Local Agency Formation Commission has approved a Tentative Sphere of Influence Amendment for the City of Lompoc which encompasses approximately 339 acres generally adjacent to the existing city limits at the intersection of Lompoc Casmalia Road, Harris Grade Road, and Purisima Road, also known as the "Wye Area"; and

WHEREAS, the City of Lompoc General Plan contains policies to protect prime agricultural land east and west of the City and to direct growth of the City northward; and

WHEREAS, the City of Lompoc is successfully implementing long-standing policies of encouraging the provision of reasonably-priced high quality housing;



County of Santa Barbara

RESOURCE MANAGEMENT DEPARTMENT

Dianne Guzman, AICP, Director

TO: Interested Parties

FROM: Daniel H. Gira, Environmental Planner *DHG*
Division of Environmental Review

DATE: September 27, 1988

RE: Preliminary Responses to General Main Issues of 87-EIR-9

While extensive public comment has been received on all portions of the Draft EIR for the Amendment to Lompoc's Sphere of Influence, the following outline presents the County's preliminary responses to the primary issues concerning the legal adequacy of the EIR. Detailed responses to comments will be contained in the final EIR which will be subject to certification by LAFCO.

Primary issues raised concerning the EIR's adequacy and responses include:

- o Potential commercial development in the Wye area could create physical deterioration in the City's downtown area by drawing off substantial amounts of customers. High vacancy rates already exist in the Lompoc commercial sector.

A sphere of influence does not designate land use for an area, but designates which areas may be appropriate for urbanization and which agency should provide services to that area. The entire sphere area (300 acres) is currently designated for urban use by the County with approximately 200 acres of residential zoning and 100 acres of Highway Commercial. The extension of a sphere of influence, with no legally valid/enforceable land use plan, is not the appropriate time to look at detailed impacts associated with urbanization of the area. The appropriate time to assess impacts associated with a specific land use will be during the preparation of a specific plan for the area prior to its annexation to the City.

- o The EIR contains an insufficient degree of analysis of possible project alternatives, particularly the reduced project alternative which could include annexation of only certain sections of the Wye area to the City.

The northern 2/3 of the sphere expansion area was examined for possible inclusion within the MHCSD sphere in 85-EIR-7. This option was rejected by LAFCO in 12/85 and the area was given to Lompoc pending proper environmental review. As a result of LAFCO's decision, staff decided to focus on six alternatives (including no project) with the City having land use control in four of these and the County in two. Service options included services by the City, services by MHCSD, and a mix of services by both agencies with the City serving the south and MHCSD the north.

The range of alternatives was selected to the County's existing urban designation for the area, LAFCO's previous rejection of the MHCSD as the logical agency to provide services, and its decision to tentatively award the area to Lompoc pending environmental review. While other alternatives may be appropriate for study to provide LAFCO with useful regional planning information, they do not seem to be required in this case given the existing regional studies recommending City growth to the north, and the information provided to LAFCO in 85-EIR-7 (incorporated by reference in 87-EIR-9).

- o The EIR inadequately evaluates potential fiscal impacts associated with increased cost to the City of Lompoc to provide services to the Wye area.

CEQA does not require the assessment of socio-economic impacts unless a direct logical chain of events can be established linking changes to the socio-economic environment directly to physical changes in the environment (CEQA Section 15131). Unlike the incorporation of a new city (such as Goleta), the annexation of a comparatively small area to a long established city does not appear to create a reasonably foreseeable potential for physical impacts.

- o The EIR does not adequately assess the impacts of growth inducement.

The entire EIR focuses upon the project's growth inducing impacts to regional resources and services. Responses and modifications to individual issue areas will be provided in the response to comments section of the FEIR. However, the level of detail will be appropriate to an EIR on a sphere of influence.

- o The EIR does not examine cumulative school impacts or impacts from hazardous waste transport and solid waste generation, and it misstates traffic impacts while understating required mitigation.

Impacts associated with solid and hazardous waste are of concern. However, they are more appropriately dealt with when the area is pre-zoned prior to annexation. The analysis of traffic impacts and mitigation will be refined and more specific mitigations proposed. The schools section will be revised to reflect the important information of optimum classroom size, mitigation costs and cumulative problems noted in public testimony.

The public input received on this EIR reflects strong public concern over the need for regional planning in the Lompoc Valley. While many of the issues raised are appropriate for examination in an environmental document, they may be more appropriate for a document compiled at a greater level of detail for a project such as an annexation or specific plan. Interested parties should be aware that Lompoc will be required to pre-zone the Wye area prior to environmental review and approval of annexation by LAFCO, so that specific land uses will be identified at that time. This is the appropriate time for more detailed analysis of the impacts of potential urbanization of the area.

Many of the planning issues raised are of regional concern, and while not necessarily appropriate for inclusion in an EIR, are appropriate for consideration by LAFCO. Some of the issues are possible interference with future incorporation of Mission Hills and Vandenberg Village, updating the entire sphere of influence for the City, cooperative joint land use planning effort between the City and residents of the two Districts, and socio-economic impacts associated with City expansion into the Wye area. These issues may best be addressed by LAFCO in a regional sphere of influence study, such as that performed for the Valley in 1978.

DHG:jms:5244A