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Planning Services Division

MEMORANDUM

Agenda Item No. 1

TO: Solano County Planning Commission
FROM: Matt Walsh, Principal Planner
SUBJECT: Zoning Text Amendment ZT-14-02
DATE: April 16, 2015

RECOMMENDATION

That the Planning Commission:

1. Open a public hearing; and
2. Recommend that the Board of Supervisors adopt the amendments identified in ZT-14-02 relating to updates to the Commercial Service (CS) and Residential (R) zones for emergency shelters, transitional/supportive housing, single room occupancy units, and provisions for reasonable accommodation.

BACKGROUND

The Housing Element is considered the primary policy document for any given jurisdiction to guide the development, rehabilitation, and preservation of housing for all economic segments of the County's population. Accordingly, the County's Housing Element includes the identification and analysis of the existing and projected housing needs of the County. The document also contains goals, policies, and objectives along with implementation programs for the preservation, improvement, and development of the range of housing needs.

Under state Housing Element law, agency Housing Elements have historically been required to be reviewed and updated every five years. Once adopted, the elements are required to be certified by the State Department of Housing and Community Development (HCD). HCD's review includes ensuring that the Housing Element incorporates the agency's Regional Housing Needs Allocation (RHNA), and an analysis showing that the County has adequately zoned land available to meet its housing need for all income categories. HCD's review also includes ensuring that the Housing Element is updated to adhere to any recent changes in state law relating to housing for any and all segments of the population including housing for people with special needs.

The County's currently adopted Housing Element (2007-2014) includes implementation programs that were required by HCD to address changes in state law relating to provisions of housing opportunities for: emergency homeless shelters, transitional/supportive housing, single room occupancy units, and reasonable accommodation flexibility. In order to meet the provisions of the law, the County's zoning ordinance is required to be updated to reflect that permitting of special needs housing is consistent with statute.

DISCUSSION

The following is a summary of the zoning text amendments being proposed:

Emergency Shelters and Transitional/Supportive Housing

SB 2 (Cedillo, 2007) required local jurisdictions to strengthen provisions for addressing the housing needs of the homeless, including the identification of a zone or zones where emergency shelters are allowed as a permitted use without a conditional use permit and allowing transitional and supportive housing types as residential uses.

This requires the County to identify at least one zone that will allow emergency shelters by right, the number of acres of vacant land in that zone and provide justification for why that zone was selected. This also requires the County to define transitional and supportive housing and allow these types of housing uses in all residential zones as a permitted use subject to only the same restrictions on residential uses contained in the same type of structure.

The current Housing Element commits to implementing these requirements. The Element discusses the intent of updating the Commercial Service zone to allow for emergency shelters as a permitted use without the need for a use permit. Additionally, it proposes that all residential zoning districts will be updated to allow transitional and supportive housing as permitted uses that will be treated and permitted in a similar fashion to any residential use, as allowed in the same zoning district.

Zoning Text Amendment

As proposed in the attached draft ordinance language, emergency homeless shelters and transitional and supportive housing will be defined separately, as follows:

Emergency Shelter. One or more dwelling units otherwise allowed within the zoning district, or a commercial or industrial building otherwise allowed within the zoning district that has been converted to create residential space, operated as an emergency shelter pursuant to the state Emergency Housing and Assistance Program (Health & Safety Code, section 50800 et seq.) to provide housing with minimal supportive services for homeless persons.

Supportive housing. A dwelling, including a dwelling unit within a duplex or a multi-family dwelling, offered for lease or rent to, or leased or rented by, one or more persons with low incomes who have one or more disabilities, including mental illness, HIV or AIDS, substance abuse, or other chronic health condition, or individuals eligible for services provided pursuant to the Lanterman Developmental Disabilities Services Act, in which the lease or rental agreement imposes no limit on length of stay and links the housing to a service that assists the resident in retaining the housing, improving his or her health status, and maximizing his or her ability to live and, when possible, work in the community. Does not include any facility used to provide services to residents of supportive housing.

Transitional housing. A group of five or more dwelling units, in one or more residential structures otherwise allowed within the zoning district and located on one or more parcels, with common financing, ownership, and management, operated under program requirements that require the termination of assistance and recirculating of the assisted unit to another eligible program recipient at a predetermined future point in time that shall be no less than six months from the beginning of the assistance. No more than one of the dwelling units may be occupied as a primary residence by a person or household who is the owner.

These uses were previously included in the definition of a community care facility. Emergency shelters are added to the list of allowed land uses in the Commercial Service (CS) zoning district. It

should be noted that discussion has occurred relating to whether or not the County can impose “locational” standards on emergency shelters (i.e. a minimum distance from a school or liquor store). HCD staff has stated that this is not permissible. The intent of the statute is to provide opportunities for shelters to locate in any city or county and to remove stigmas. HCD stated that locational standards of this nature would not meet the intent of the law.

Transitional and Supportive Housing are being added as an allowed use in each of the residential zoning districts. They are required to be permitted as a residential use, consistent with permitting of an identical residential use. For example, a supportive housing facility located within the equivalent of a single family residence must be allowed wherever a single family residence is allowed. A facility located within multiple housing units must be allowed wherever multiple housing units are otherwise permitted.

Single Room Occupancy Units (SROs)

AB 2634 (Lieber, 2006) requires Housing Elements to identify zoning to encourage and facilitate supportive housing and single room occupancy units. The State would like to see what zone or zones allow for Single Room Occupancy (SRO's) units.

Zoning Text Amendment

Currently, the County does not explicitly define SROs in the Zoning Code, but defines “rooming or boarding house” in the Zoning Code as “A dwelling, other than a hotel, where lodging or meals, or both, for four or more persons are provided for compensation.”. Originally, and as stated in the current Housing Element, the County proposed to add SROs to its definition of Rooming and Boarding Houses, which is an allowed use only in the Residential Traditional Community Multi Family zoning district (R-TC-MF). The State accepted this course of action. At this time, however, the County is proposing to provide a separate definition for SROs because the State’s definition of an SRO is notably different from the County’s local definition of Rooming and Boarding House. The County is still proposing to make them an allowed use in the R-TC-MF zone, similar to a Rooming and Boarding House. The new definition for an SRO being included in the ordinance is:

Single room occupancy hotel or residential hotel. A building, portion of a building, or group of buildings containing six or more guest rooms or efficiency units, intended or designed to be used, rented, or hired out, to be occupied, or which are occupied, for sleeping purposes by guests, which is also the primary residence of those guests. A single room occupancy hotel may include accessory uses, such as a commercial kitchen or common dining facilities for residents.

Provisions for Reasonable Accommodation

SB 520 required agencies to develop a Reasonable Accommodation ordinance to remove governmental constraints to provide assistance to people with disabilities. The Building Code already contains strict requirements relating to compliance with the Americans with Disabilities Act (ADA) and the California Accessibility Standards. However, there is no provision in the zoning ordinance to allow flexibility or exceptions to development standards relating to housing for persons with disabilities.

Zoning Text Amendment

The proposed zoning text amendments will add a section to the zoning ordinance that provides an administrative process to grant a “waiver” of a zoning standard that may serve as a constraint to someone with a disability. An example would be to allow a wheelchair ramp within a required setback area if there is no other location for it. The intent is to provide administrative relief for a zoning standard that would otherwise prevent someone with a disability from obtaining safe housing or housing that can provide necessary accommodations to serve the disability.

Relationship to the New Housing Element Update

A report and recommendation on the new Housing Element Update (2015-2023) is provided to the Planning Commission as a separate agenda item. HCD has stated that they will not certify the new Housing Element Update until the zoning ordinance amendments relating to special needs housing have been approved by the County. As such, staff intends to submit the draft zoning ordinance amendments and new Housing Element update to the Board of Supervisors concurrently.

Approval Process

At the conclusion of the Planning Commission's public hearing, the Commission will be asked to recommend to the Board of Supervisors approval of the draft zoning ordinance text amendments. The Board of Supervisors will then conduct a public hearing and act on the text amendments prior to taking action on the adoption of the new Housing Element Update.

Environmental Review

A Negative Declaration was previously prepared and circulated for public comment for the current Housing Element (2007-2014). The Negative Declaration discussed and analyzed the need for these zoning ordinance revisions. As such, the scope of that Negative Declaration encompasses the proposed amendments and satisfies the required CEQA analysis.

Attachments:

Exhibit A: Draft Zone Text Amendment Ordinance

Exhibit B: Maps showing existing CS zoning in Solano County and Location Summary

DRAFT ORDINANCE NO. 2015 – xxxx

**AN ORDINANCE TO AMEND SECTIONS 28.01, 28.31, 28.32, AND 28.41 OF,
AND TO ADD SECTION 28.108 TO, CHAPTER 28 OF THE SOLANO COUNTY CODE
TO INCORPORATE DEFINITIONS AND PERMITTING PROCEDURES FOR
TRANSITIONAL HOUSING, SUPPORTIVE HOUSING, EMERGENCY SHELTERS,
AND SINGLE ROOM OCCUPANCY HOTELS,
AND TO ADD A REASONABLE ACCOMODATION WAIVER PROCESS**

The Board of Supervisors of the County of Solano ordains as follows:

SECTION I

The following definitions are added, in alphabetical order, to Section 28.01 of Chapter 28 of the Solano County Code:

Emergency Shelter. One or more dwelling units otherwise allowed within the zoning district, or a commercial or industrial building otherwise allowed within the zoning district that has been converted to create residential space, operated as an emergency shelter pursuant to the state Emergency Housing and Assistance Program (Health & Safety Code, section 50800 et seq.) to provide housing with minimal supportive services for homeless persons.

Single room occupancy hotel or residential hotel. A building, portion of a building, or group of buildings containing six or more guest rooms or efficiency units, intended or designed to be used, rented, or hired out, to be occupied, or which are occupied, for sleeping purposes by guests, which is also the primary residence of those guests. A single room occupancy hotel may include accessory uses, such as a commercial kitchen or common dining facilities for residents.

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Transitional housing. A group of five or more dwelling units, in one or more residential structures otherwise allowed within the zoning district and located on one or more parcels, with common financing, ownership, and management, operated under program requirements that require the termination of assistance and recirculating of the assisted unit to another eligible program recipient at a predetermined future point in time that shall be no less than six months from the beginning of the assistance. No more than one of the dwelling units may be occupied as a primary residence by a person or household who is the owner.

SECTION II

The following definition in Section 28.01 of Chapter 28 of the Solano County Code is amended as follows:

Community care facility. Any facility not otherwise defined in this chapter, excluding any facility owned and operated by the County, which is maintained and operated to provide residential care or day care to children, adults, or children and adults in need of personal services, guidance, counseling, supervision, recovery services, supportive services, or assistance essential for sustaining the activities of daily living or for the protection of the individual, including, but not limited to, the physically impaired or handicapped, mentally impaired, incompetent persons, and abused or neglected children. A community care facility may provide incidental medical services. For purposes of this definition, “residential care” means nonmedical care provided on a 24-hour basis and “day care” means nonmedical care provided on a less than 24-hour basis.

A residential care facility or day care facility that serves six (6) or fewer persons, exclusive of the licensee, members of the licensee’s family, and persons employed as facility staff, shall be considered a residential use of property rather than a community care facility. A family day care home, licensed and operated pursuant to the California Child Day Care Facilities Act (Health and Safety Code section 1596.70 et seq.), shall be considered a residential use of property rather than a community care facility.

SECTIONS III and IV

Amend Tables 28.31A and 28.32A in sections 28.31 and 28.32, respectively, to allow Transitional Housing and Supportive Housing as allowed residential uses in all Rural Residential (RR) and Residential-Traditional Community (R-TC) zoning districts, with a footnote that these land uses are subject to the same restrictions on residential uses contained in the same type of structure.

SECTION V

Amend Table 28.32B in section 28.32 to allow Single Room Occupancy Hotel as an allowed residential use in the Residential – Traditional Community Multi-family (R-TC-MF) zoning district.

SECTION VI

Amend Table 28.41A in section 28.41 to allow Emergency Shelter as an allowed residential use in the Service Commercial (C-S) zoning district.

SECTION VII

Section 28.108 of Chapter 28 of the Solano County Code is amended as follows:

28.108 Waiver of Residential Development Standards

- A. Neighborhood Compatibility Waiver.** Waiver of any of the residential minimum development standards in subsection 28.72.10(A)(1) may be granted by the Director of Resource Management if the proposed dwelling is compatible with the surrounding neighborhood in accord with the architectural standards set forth in Section 28.91. The waiver request shall be submitted on an application form prepared by the Director of Resource Management and is subject to the noticing requirements as set forth in subsection 28.04(F).
- B. Reasonable Accommodation Waiver.** A request for reasonable accommodation may be made by any person with a disability or their representative to modify applicable zoning development standards that may act as a barrier to equal opportunity to specific housing of their choice, without the need for the approval of a variance. A request for reasonable accommodation may include a modification or exception to the rules, standards, and practices for the siting, development, and use of housing or housing-related facilities. The grant of a reasonable accommodation request to a person with a disability is a personal privilege that does not apply to the successors in interest to the property. The waiver request shall be submitted on an application form prepared by the Director of Resource Management and is subject to the noticing requirements as set forth in subsection 28.04(F). The Director of Resource Management, as the granting authority, shall review the application and grant or deny the waiver based on consideration of the following factors:
1. Whether the specific housing, which is the subject of the request, will be used by an individual with a disability protected under fair housing laws.
 2. Whether the requested accommodation is necessary to make specific housing available to an individual with a disability protected under fair housing laws.
 3. Whether there are alternative reasonable accommodations that may provide an equivalent level of benefit.
 4. Whether the requested accommodation would impose an undue financial or administrative burden on the County.
 5. Whether the requested accommodation would require a fundamental alteration in the nature of the County's land-use and zoning program.
 6. Whether the requested accommodation would reduce barriers and increase visitability on the site, in light of physical attributes of the property and its structures.

SECTION VIII

This ordinance will be effective thirty (30) days after its adoption.

SECTION IX

If any provision of this ordinance or the application of it to any persons or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the ordinance which can be given effect without the invalid provision or application, and to this end the provisions of the interim ordinance are declared to be severable.

SECTION X

A summary of this ordinance will be published once within fifteen (15) days after its adoption in the Fairfield Daily Republic, a newspaper of general circulation.

Passed and adopted by the Solano County Board of Supervisors on **(Date)** by the following vote:

AYES: Supervisors _____

NOES: Supervisors _____

EXCUSED: Supervisors _____

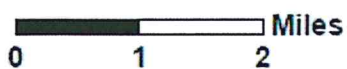
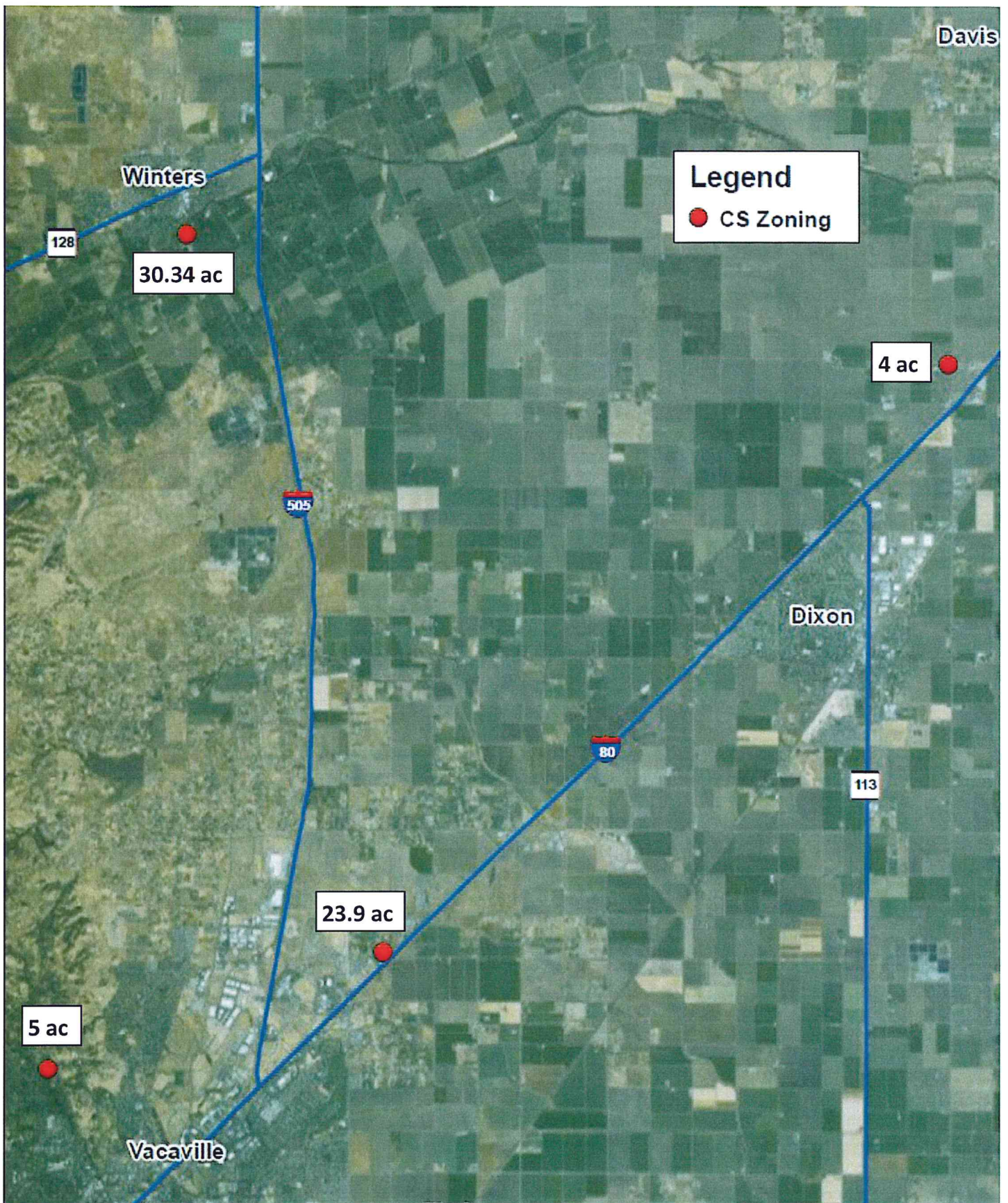
Erin Hannigan, Chairwoman
Solano County Board of Supervisors

ATTEST:
Birgitta E. Corsello, Clerk
Board of Supervisors

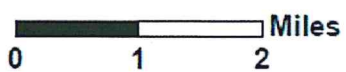
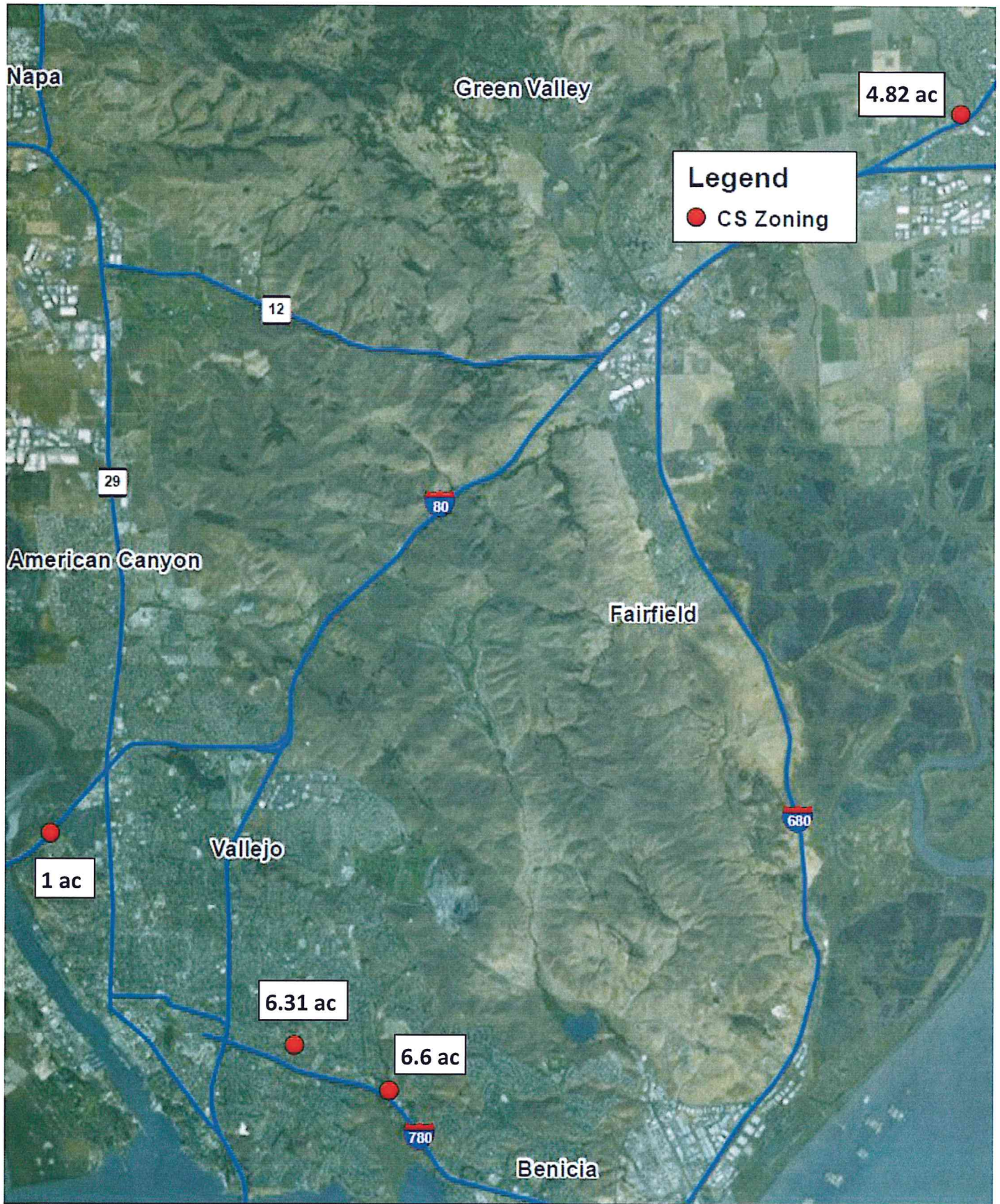
By: _____
Jeanette Bellinder, Chief Deputy Clerk

Maps showing existing CS zoning in Solano County and
Location Summary

EXHIBIT B



Solano County
Department of Resource Management
675 Texas Street, Suite 5500
Fairfield, CA 94533



Solano County
Department of Resource Management
675 Texas Street, Suite 5500
Fairfield, CA 94533

Commercial Service Zoning District Locations:

North County

30.34 acres: Parcels on the north and south side of Putah Creek Road, approx. ¾ mile west of Hwy 505.

4 acres: West side of Pedrick Road, 1/3 mile north of Hwy 80 at intersection of Pedrick and Tremont Rds.

23.9 acres: North of Hwy 80 at intersection of Quinn Rd. and Ellsworth Rd.

5 acres: Gibson Canyon Road, ¼ mile south of Farrell Road

South County

4.82 acres: South side of Rockville Road, adjacent to City of Fairfield west of Oliver Road

1 acre: South side of Hwy 37, adjacent to City of Vallejo at Sacramento Street

6.31 acres: Parcels on the north and south side Benicia Road in the Homeacres neighborhood, west and east of Turner Ln.

6.6 acres: North side of Hwy 780, immediately west of Columbus Parkway