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## MEMORANDUM

DATE March 4, 2010

TO Butte County General Plan 2030 Citizens Advisory Committee

FROM DC&E and Development Services Staff

RE **March 11, 2010 CAC Meeting: Zoning Ordinance Update**

As part of the General Plan 2030 Update process, Butte County is also preparing a comprehensive update to the County's Zoning Ordinance. The Zoning Ordinance establishes detailed regulations for land uses, structures, and site improvements in the county. The Zoning Ordinance is the primary document used by the County to implement the goals and policies contained in General Plan 2030. By law, the Zoning Ordinance must be consistent with General Plan 2030.

The updated Zoning Ordinance will contain a number of new regulations and procedures that will affect property owners and project applicants in the county. DC&E and County staff have been working closely together to identify the changes that need to be made to the existing Zoning Ordinance to update it for the 21<sup>st</sup> century, make it consistent with General Plan 2030, and ensure that it is clear and easy to use for staff, decision-makers, and property owners. At the March 11, 2010 CAC meeting, DC&E and County staff will present key changes to the existing Zoning Ordinance anticipated in the updated Zoning Ordinance. The CAC will have an opportunity to ask questions about these changes and provide suggestions for County staff and DC&E to consider when drafting the updated Zoning Ordinance.

A public review draft of the updated Zoning Ordinance will be released for public review in May of 2010. A workshop to present the draft updated Zoning Ordinance to the public will be held on June 23, 2010. The Planning Commission will then hold a series of up to ten meetings in the summer and fall of 2010 to review the draft updated Zoning Ordinance in detail. County staff anticipates that the final updated Zoning Ordinance will be adopted by the Board of Supervisors in February of 2011.

At the March 11 CAC meeting, we will ask CAC members to review recommendations and offer feedback on 13 key issues for the updated Zoning

Ordinance. These key issues relate primarily to the most significant change to the existing Zoning Ordinance. Input from the CAC will be considered during the development of the updated Zoning Ordinance prior to its publication in May.

Below is a brief discussion of the 13 key issues for the updated Zoning Ordinance. The discussion identifies how County staff and DC&E intend to address each issue in the updated Zoning Ordinance, along with relevant policy guidance from General Plan 2030. For many of the issues, a text box identifies specific policies from General Plan 2030 that will guide how the Zoning Ordinance addresses the issues. Please note that listed policies do not include all General Plan 2030 goals, policies, and actions relating to the issue, but rather only those that provide specific guidance on how to address the issue in the updated Zoning Ordinance.

#### 1. Sustainability

Sustainability is identified as one of the guiding principles for General Plan 2030. Sustainability is to be promoted by enhancing “economic opportunity, viability, and community well-being while protecting and restoring the natural environment.” Sustainability is an overarching principle that guides specific goals and policies within all elements of General Plan 2030.

Like General Plan 2030, the updated Zoning Ordinance features sustainability as a core concept. Generally, the updated Zoning Ordinance will promote sustainability by:

- ◆ Supporting reductions to greenhouse gas emissions;
- ◆ Facilitating renewable energy production;
- ◆ Requiring water conservation;
- ◆ Protecting water quality;
- ◆ Protecting biological resources;
- ◆ Supporting waste reduction and recycling; and
- ◆ Supporting local food production.

Some of the specific ways the updated Zoning Ordinance will promote sustainability are described in the following sections of this memorandum. For example, new landscaping requirements for parking lots will improve water quality by increasing the on-site filtration of stormwater. New general landscaping standards will mandate the use of native, drought-tolerant species for larger project in certain zoning districts. New parking standards will require bicycle facilities for larger projects in order to promote alternative forms of transportation.

The updated Zoning Ordinance will include numerous other specific provisions relating to sustainability.

## 2. Zoning Districts

General Plan 2030 establishes land use designations that apply to all unincorporated land in Butte County. For each designation, General Plan 2030 identifies permitted land uses and building intensity. Building intensity is expressed as dwelling units per acre for residential uses and floor-area ratios for non-residential uses. The General Plan 2030 also establishes overlays that contain additional standards and regulations beyond what is required or allowed by the underlying designation.

The Zoning Ordinance is required by law to be consistent with General Plan 2030. Each land use designation in General Plan 2030 must be implemented by one or more zoning district with consistent land use and building intensity standards. A table identifying the zoning districts in the updated Zoning Ordinance that will implement General Plan 2030 is attached to this memorandum as Attachment 1.

Achieving consistency with General Plan 2030 requires numerous changes to the existing Zoning Ordinance. Many existing zoning districts will be eliminated, and several new zoning districts will be added. The key changes to the zoning districts in the updated Zoning Ordinance are as follows:

- ◆ A new Agricultural Services zoning district will be established, consistent with the new Agricultural Services land use designation in General Plan 2030, that allows agricultural activities and commercial and light industrial uses that directly support agricultural activities in the county.
- ◆ The A-5, A-10 and A-15 zoning districts in the existing Zoning Ordinance will be eliminated, as described in Section 4 below.
- ◆ The TM-1 through TM-40 zoning districts in the existing Zoning Ordinance will be eliminated, as described in Section 4 below.
- ◆ The 25 residential zoning districts in the existing Zoning Ordinance will be reduced to 10 residential zoning districts in the updated Zoning Ordinance, consistent with the range of residential land use designations in General Plan 2030. The Agricultural Residential and Suburban Residential zoning districts will be eliminated.
- ◆ Three new Mixed Use zoning districts will be added to implement the new Mixed Use designation in General Plan 2030. The Mixed Use zoning districts will allow residential uses at 6 to 20 dwelling units per acre and retail, office, and service uses with a floor-area ratio of 0.5.
- ◆ A new Community Commercial zoning district will be established to allow retail and service uses within proximity to residents in rural areas of the county.

- ◆ A new Deer Herd Migration overlay zone will be established as described in section 5 below, consistent with the Deer Herd Migration Area overlay zone in General Plan 2030.
- ◆ A new Retail overlay zone will be established that allows retail and service uses in addition to uses allowed by the underlying base zoning district, consistent with the new Retail overlay in General Plan 2030. The Retail overlay zone is intended to be applied to areas where larger-scale commercial uses permitted in the commercial and mixed use zoning districts are not appropriate. General retail and personal service uses less than 1,000 sq. ft. in area will be permitted as of-right. Larger general retail, personal service uses and other commercial uses will be permitted with approval of a Minor Use Permit.
- ◆ A new Unique Agriculture overlay zone will be established, consistent with the new Unique Agriculture overlay in General Plan 2030, as described in Section 6 below.

The update to the Zoning Ordinance will also include a number of additional changes and refinements to existing zoning districts and overlay zones.

### **3. Urban and Rural Zoning Districts**

Preserving and enhancing the rural character of Butte County is an important goal in General Plan 2030. The updated Zoning Ordinance can help implement this goal by establishing regulations that are tailored to the unique needs of a rural community. One way in which the updated Zoning Ordinance will do this is by identifying “rural” and “urban” zoning districts. As shown in Appendix 2, rural zoning districts include the Agriculture, Agricultural Services, Timber Mountain, Timber Preserve, Resource Conservation, Foothill Residential, and Rural Residential zoning districts. All other zoning districts are classified as urban zoning districts.

When needed, the updated Zoning Ordinance will contain different regulations for urban and rural zoning districts. For example, projects located within urban zoning districts will be subject to new landscaping standards, as described in Section 9 below, and new parking lot design standards, as described in Section 11 below. Properties within urban zoning districts also will be subject to new fence and wall and lighting standards. In general, urban zoning districts are subject to more detailed standards than apply to rural zoning districts. These standards are intended to minimize impacts on adjacent properties in urbanized areas where properties are located closer together than in rural areas.

### **4. Minimum Agricultural and Timber Mountain Parcel Size**

The Guiding Principles of General Plan 2030 state that agriculture is an “important aspect of Butte County’s economy that will be protected, maintained, promoted, and enhanced.” A critical part of the County’s strategy to protect agriculture is establishing larger minimum parcel sizes within agricultural areas.

Currently, the minimum parcel size in agricultural areas is 5 acres. The Draft General Plan establishes a new minimum parcel size of 20 acres in agricultural areas, consistent with direction from the Board of Supervisors.

**General Plan 2030 Policies Relating to Agriculture and Timber Parcel Size**

- The County shall protect and preserve agricultural land, including cropland and grazing land. (LU-P1.1)
- The County shall preserve timber resources. (LU-P1.6)
- Agricultural uses shall be the primary uses within the Agriculture land use designation. Residential uses, such as a farmer's home, shall be considered accessory uses. (AG-P5.1)
- Urban development shall not limit the financial sustainability of agricultural operations. (AG-P5.2)

General Plan Land Use Designations:

- **Agriculture:** This designation allows the cultivation, harvest, storage, processing, sale, and distribution of all plant crops, especially annual food crops, as well as roadside stands for the sale of agricultural products grown or processed on the property. The Agriculture designation also allows livestock grazing, animal husbandry, intense animal uses, and animal matter processing. Alternative energy facilities are allowed in the Agriculture designation, subject to permit requirements. Residential uses in the Agriculture land use designation are limited to one single-family dwelling and a second dwelling unit per legal parcel. Farm labor housing is also permitted. The minimum parcel size is between 20 to 320 acres, although existing parcels smaller than the minimum may remain as legal nonconforming parcels.
- **Timber Mountain:** This designation allows forest management and the harvesting and processing of forest products. Lands zoned Timber Preserve are located in this designation. Alternative energy facilities are allowed in the Timber Mountain designation, subject to permit requirements. Residential uses are limited to one single-family dwelling per legal parcel. The minimum parcel size is 160 acres, although existing parcels smaller than that minimum may remain as legal nonconforming parcels.

The updated Zoning Ordinance will implement General Plan 2030 by eliminating existing Agricultural zoning districts that allow parcels smaller than 20 acres. The updated Zoning Code will include A-20, A-40, A-80, A-160 and A-320 zones, indicating minimum allowable parcel sizes of 20, 40, 80, 160 and 320 acres, respectively. Parcels currently zoned A-5, A-10 and A-15 will be rezoned as A-20, A-40 or A-80. In addition, the updated Zoning Ordinance will establish new criteria for rezoning agricultural parcels to another agricultural zoning district that allows smaller parcels (e.g., rezoning from AG-40 to AG-20). Establishing these new criteria is supported by General Plan 2030 policy AG-P2.4, which states that “rezoning agricultural land to agricultural zones with lower parcel size restrictions shall be minimized and allowed only if specific criteria are met.”

General Plan 2030 also establishes a new minimum parcel size of 160 acres for lands designated as Timber Mountain. The updated Zoning Ordinance will implement this land use designation by eliminating all Timber Mountain zoning

districts that allow parcels smaller than 160 acres. Parcels currently zoned as TM-1, TM-2, TM-2-1/2, TM-3, TM-5, TM-10, TM-20, and TM-40 will be rezoned as TM-160.

#### 5. Deer Herd Migration Area Overlay Zone

The General Plan 2030 land use map contains a Deer Herd Migration Area overlay that applies to Winter and Critical Winter deer herd migration areas. The minimum parcel size is 20 acres within Winter migration areas and 40 acres in Critical Winter migration areas. General Plan 2030 also contains a number of policies related to the protection of deer herd migration areas.

#### **General Plan 2030 Goal and Policies Relating to the Deer Herd Overlay**

- Facilitate the survival of deer herds in winter and critical winter migratory deer herd ranges. (Goal COS-10)
- The County shall preserve important habitat and watershed areas. (LU-P1.7)
- The County shall limit development in foothill and mountain areas that are constrained by fire hazards, water supply, migratory deer habitat, or infrastructure. (LU-P1.11)
- Clustered development shall be allowed and encouraged within the Winter and Critical Winter Deer Herd Migration Area Overlays in order to protect migratory deer herd ranges. (COS-P10.1)

The updated Zoning Ordinance will also include a new Deer Herd Migration overlay zone to be consistent with and implement General Plan 2030. This overlay will apply to areas identified as Winter and Critical Winter deer herd migration areas in the County's Deer Herd Migration Overlay Map. The establishment of any structure within the overlay will require approval of an Administrative Permit (See Section 13 below). In addition to establishing minimum parcel sizes as called for by General Plan 2030, the overlay will also require clustering.

#### 6. Unique Agriculture Overlay Zone

A number of policies in the Draft General Plan call for the promotion of small-scale specialty crop cultivation and agritourism as an important part of agriculture in the County. General Plan 2030 includes a Unique Agriculture Overlay designation applied to rural residential areas where farmstays, education and local retail sales are permitted in order to support small-scale agriculture and agritourism.

### **General Plan 2030 Policies Relating to the Unique Agriculture Overlay**

- The County shall promote agritourism, such as through special events and themed “farm trails” and routes within Butte County’s agricultural areas. (ED-P2.3)
- The County shall facilitate the establishment of specialty farming areas that grow high value crops, such as organic and heirloom products and fruits, nuts, and vegetables. (AG-P4.3)
- The County shall encourage the establishment of small-scale agriculture uses such as specialty crops, organic farming, specialized animal facilities, and agricultural research operations on small parcels of land in existing agricultural areas. (AG-P4.4)
- The Unique Agriculture Overlay land use and zoning designation shall be applied to areas where farmstays, education and local retail sales are appropriate in order to support agritourism. (AG-P4.5)

The updated Zoning Ordinance will also include a new Unique Agriculture Overlay zone to be consistent with and implement General Plan 2030. This overlay zone may be combined only with the Rural Residential zoning district. Uses permitted as-of-right will include bed and breakfasts, farm tours, farmstays, the growing and harvesting of unique agricultural products, on-site sale of agricultural products, petting farms, the processing and packaging of products produced on-site, and the sale of products produced on-site. Special events, restaurants, tasting rooms, and other similar uses and activities will be permitted with the approval of a Minor Use Permit. The overlay zone will also establish specific development and operational standards to ensure that permitted activities do not negatively impact surrounding properties.

### **7. Riparian Buffers**

The area surrounding creeks and rivers are important natural resources in Butte County. The Draft General Plan establishes a number of policies to protect these riparian areas.

### **General Plan 2030 Policies Relating to Riparian Buffers**

- The County shall preserve important habitat and watershed areas. (LU-P1.7)
- Any alteration of natural channels for flood control shall retain and protect riparian vegetation and allow for sufficient capacity and natural channel migration. Where removing existing riparian vegetation is unavoidable, the alteration shall allow for reestablishment of vegetation without compromising the flood flow capacity. (W-P6.1)
- Creeks shall be maintained in their natural state whenever possible, and creeks and floodways shall be allowed to function as natural flood protection features during storms. (COS-P7.3)
- New development shall mitigate its impacts in sensitive habitat areas through on- or off-site habitat restoration, clustering of development, and/or project design. (COS-P7.4)
- No new development shall occur in wetlands or within significant riparian habitats. (COS-P7.5)
- New development shall include setbacks and buffers along riparian corridors and adjacent to sensitive habitat. (COS-P7.6)

The Zoning Ordinance will implement these policies by establishing new riparian buffer standards. Riparian areas are defined as areas 50 feet in width from the the top of bank from any intermittent or perennial stream or river. Special development standards will apply within these areas. Standards will include limitations on impervious surfaces, the prohibition of culverts and riprap, limitations on grading or alterations to riparian vegetation, and the prohibition of filing, grading, excavating or obstructing streambeds except in certain circumstances. In addition, the establishment of any use or structure within a riparian buffer will require approval of a Minor Use Permit. To approve the Minor Use Permit, the County will need to find that the use or structure cannot feasibly be located outside of the riparian buffer, and that the project incorporates measures to minimize impacts to habitat and water quality.

#### 8. Clustered Development

The Draft General Plan contains a number of policies relating to clustered development. Clustered development is the practice of allowing dwelling units to be developed in a more compact manner than ordinarily allowed with the purpose of preserving open space areas. The existing Zoning Ordinance contains clustered development provisions, known as Flexible Lot Size Provisions (Section 24-82). The existing Flexible Lot Size Provisions will be carried forward into the updated Zoning Ordinance with limited modifications.

#### **General Plan 2030 Policies Relating to Clustered Development**

- The County shall preserve important habitat and watershed areas. (LU-P1.7)
- Projects that provide lands for private open spaces, parks, community service facilities, such as places of worship and daycare facilities, and public facilities may be allowed to transfer density to other portions of the site. (LU-P6.4)
- The County shall retain and protect agricultural lands through the use of proactive land use techniques, including, but not limited to, the following:
  - Clustered development, allowing a “clustering” of permitted densities in a compact configuration in order to protect agricultural land.
  - Density bonuses, permitting increased density on developable land in exchange for protection of agricultural land. (AG-P2.6)
- Clustered development patterns shall be encouraged in order to preserve sensitive habitat and biological resources. (COS-P7.2)
- Develop and provide incentives to developers to preserve and maintain important habitat areas and sensitive biological resources (COS-A7.1)
- Native plant species shall be protected and planting and regeneration of native plant species shall be encouraged, wherever possible, in undisturbed portions of development sites. (COS-P8.1)
- Clustered development shall be allowed and encouraged within the Winter and Critical Winter Deer Herd Migration Area Overlays in order to protect migratory deer herd ranges. (COS-P10.1)

## 9. Landscaping

The Draft General Plan contains a number of policies relating to landscaping that will be implemented through the Zoning Ordinance. To implement these policies, a new landscaping section will be added to the Zoning Ordinance. These standards will apply only in urban zoning districts and to significant new construction or remodels. Projects subject to these standards will be required to prepare a landscaping plan for County review and approval. Projects will need to comply with standards relating to plant selection, plant groupings, turf lawns, water features, and public safety. Residential and non-residential projects will be subject to different standards relating to the minimum amount of landscaping required on a parcel. The section will also establish standards for irrigation and water efficiency, timing of landscaping installation, and maintenance of landscaped areas.

### **General Plan 2030 Policies Relating to Landscaping**

- Pest-tolerant landscapes shall be encouraged to minimize the need for pesticides. (W-P1.5)
- Agricultural and urban water use efficiency shall be promoted. (W-P4.1)
- New public and private development should use drought-tolerant landscaping. (W-P4.4)
- Opportunities to recover and utilize wastewater for beneficial purposes shall be promoted and encouraged. (W-P4.5)
- The use of reclaimed wastewater for non-potable uses shall be encouraged, as well as dual plumbing that allows graywater from showers, sinks, and washers to be reused for landscape irrigation in new developments. (W-P4.6)
- New development shall adopt best management practices for water use efficiency and demonstrate specific water conservation measures. (W-P4.7)
- New landscaping shall promote the use of xeriscape and native tree and plant species, including those valued for traditional Native American cultural uses. (COS-P8.2)

## 10. Signs

Butte County currently has only very limited sign regulations. During the General Plan 2030 process, we heard concerns that the absence of appropriate sign regulations has resulted in the establishment of signs that are poorly designed, excessively large, and generally incompatible with the desired character of urban and rural areas. To address this situation, the updated Zoning Ordinance will contain new sign regulations that will apply in all zoning districts. Most signs will require the approval of an Administrative Permit. County staff will review the permit application to verify that proposed signs comply with the new standards. Different standards will be established for residential, commercial, industrial and agricultural zoning districts. Standards will identify permitted sign types, maximum number of signs, maximum area per sign, and maximum sign height within each zoning district. Standards will also clearly identify signs that are prohibited, and signs that are allowed without permits.

### 11. Parking and Loading

The draft General Plan contains a number of policies specifically relating to parking. These policies are intended to reduce barriers to affordable housing caused by parking requirements, promote more environmentally-friendly parking designs, and encourage transportation options other than the automobile.

#### **General Plan 2030 Policies Relating to Parking**

- The County shall review its parking requirements for multifamily housing and reduce the number of required spaces in order to reduce costs for multifamily housing development. At a minimum, the County will modify the Zoning Ordinance to reduce the parking requirements for studio and one-bedroom units. (H-A1.2)
- Pervious pavements shall be allowed and encouraged where their use will not hinder mobility. (W-P5.3)
- The bicycle system shall be integrated with other transportation modes by connecting bicycle routes and transit stops, providing secure bicycle parking facilities, and supporting efforts to expand accommodation of bicycles aboard buses. (CIR-P5.3)
- Owners of apartment complexes and major commercial, office, industrial, and educational sites shall provide safe, plentiful, and centrally located bicycle parking facilities. (CIR-P5.7)
- The Zoning Ordinance shall incorporate shading requirements for new parking lots as appropriate to relieve the potential for heat islands. (COS-P4.2)

The updated Zoning Ordinance will contain a number of new parking provisions to implement these policies and modernize the County's existing parking regulations. The required number of on-site parking spaces will be reviewed to ensure that required parking does not act as a barrier to achieving the County's goals of providing adequate affordable housing. The updated Zoning Ordinance will allow for reductions to required on-site parking for mixed-use projects, development near bus routes, employers that implement employee trip reduction strategies, and shared parking arrangements. Bicycle facilities will also be required for large projects in urban zoning districts. The updated Zoning Ordinance will differentiate between parking design requirements for rural and urban areas. Urban zoning districts will be subject to landscaping, screening, pedestrian access and other new parking design standards. Parking areas in rural zoning districts will be subject to design standards similar to those in the existing Zoning Ordinance.

### 12. Zoning Administrator

An overarching goal for the updated Zoning Ordinance is to simplify and streamline the permit approval process. This goal is supported by policies in the draft General Plan that call for a streamlined permit approval process.

### **General Plan 2030 Policies Relating to Streamlined Permitting**

- The County shall support businesses and entrepreneurs by streamlining and providing information about County permit processes. LU-P5.1
- Audit current permit processes to identify opportunities to streamline permit processes for small business owners. LU-A5.1
- Home occupations shall be encouraged through streamlined application processes that are appropriate to the intensity and proposed uses of the home business. CIR-P2.3

One way the updated Zoning Ordinance will streamline the permit approval process and save time and money is by delegating decision-making authority to County staff on more routine permits. With this end in mind, the updated Zoning Ordinance will establish the new staff role of Zoning Administrator. The Zoning Administrator will serve as the review authority and hearing officer for a number of discretionary permits, including Minor Use Permits, Minor Variances, and Site Development Permits and will make decisions on these permits without taking the matter before the Planning Commission. Zoning Administrator action on these permits will require a public hearing only if requested by a noticed neighbor. For controversial matters, the Zoning Administrator can decide that the Planning Commission should act on an application that is ordinarily acted upon by the Zoning Administrator. All decisions of the Zoning Administrator can be appealed to the Planning Commission and ultimately to the Board of Supervisors. In addition, any Board member will be able to “call up for review” and decision of the Zoning Administrator for reconsideration by the Board.

#### **13. Permits**

To further improve the permitting process, the updated Zoning Ordinance will add a number of types of permits to those established by the existing Zoning Ordinance. Some of these permits are intended to create greater flexibility for project applicants and staff. For example:

- ◆ The updated Zoning Ordinance will include a new *Exception* provision. Exceptions are only granted to existing structures. Exceptions provide flexibility for existing structures subject to new Zoning Ordinance standards adopted after the structure was originally established. The Zoning Administrator will be able to approve an Exception to allow for limited adjustment to development standards such as structure height, setbacks and parking. An Exception may be granted for the deviation of not more than 10 percent from the applicable development standard. Only existing structures will be eligible for an exception.
- ◆ The updated Zoning Ordinance will also include a new *Site Development Permit*. Most major new development, excluding single-family and duplex homes, will require Zoning Administrator Approval of a Site Development Permit. Site Development Permits are intended to ensure that new development is well designed and compatible with its surroundings. Site

Development Permits will also enable the County to attach necessary conditions to the approval of new development and to ensure that a proposed project is consistent with all goals and policies in General Plan 2030.