

**BUTTE COUNTY
BOARD OF SUPERVISORS
AGENDA TRANSMITTAL**

CLERK OF THE BOARD USE ONLY

MEETING DATE:

AGENDA ITEM:

AGENDA TITLE: Board of Supervisors Workshop –Draft Zoning Ordinance, Butte County General Plan 2030

DEPARTMENT: Development Services	DATE: April 12, 2011	MEETING DATE REQUESTED: April 23, 2011
CONTACT: Tim Snellings, Director Dan Breedon, Principal Planner	PHONE: 530-538-6821 530-538-7629	REGULAR <u>X</u> CONSENT _____

DEPARTMENT SUMMARY AND REQUESTED BOARD ACTION:

The Butte County Zoning Ordinance is undergoing an update in conjunction with the recently approved Butte County General Plan ("Butte County General Plan 2030"). A Draft of the updated Zoning Ordinance and Zoning Map was published on July 2, 2010. The Planning Commission performed a comprehensive review of the Draft Zoning Ordinance during eight all-day public workshops. The purpose of this workshop is to receive further direction from the Board of Supervisors on several outstanding Policy items. This direction will allow staff to complete a Second Draft Zoning Ordinance, which will be subject to further review, and to proceed with the Draft Zoning Ordinance Update process (General Plan 2030 Meeting Series #8). Though the subject of this workshop will not involve a detailed review of the entire Draft Zoning Ordinance, the workshop is open to the public who are invited to attend and provide comment on the four items set-forth below.

Development Services staff requests Board of Supervisors discussion and direction on the following four items:

- 1) The process and updated schedule for reviewing the Draft Zoning Ordinance leading to adoption
- 2) The concept of utilizing a Zoning Administrator function in the Draft Zoning Ordinance as the review authority for Minor Use Permits, Minor Variances, Interpretations of the Zoning Ordinance, and other minor permit processes (Draft Section 24-260)
- 3) The concept and strategy of permitting Accessory Uses within the Draft Zoning Ordinance (Draft Section 24-150)
- 4) The Policy Question of how to permit Solar Energy land uses in Agricultural zones within the Draft Zoning Ordinance. (Draft Section 24-151 and 24-12)

Development Services staff requests that the Board of Supervisors take the following Action: Provide direction to staff on the above four items and instruct staff to incorporate all changes into the Second Draft Zoning Ordinance and proceed with the Draft Zoning Ordinance update process (Meeting Series #8) and schedule additional meetings with the Planning Commission and Board of Supervisors for further review.

--See Attached Agenda Report--

**AGENDA ITEM SUBMITTALS REQUIRE THE ORIGINAL AND TWELVE (12) COPIES
ATTACH EXPLANATORY MEMORANDUM AND OTHER BACKGROUND INFORMATION AS NECESSARY**

Budgetary Impact: Yes _____ No X _____
If yes, complete Budgetary Impact Worksheet on back
Budget Transfer Requested: Yes _____ No X _____
If yes, complete Budget Transfer Request Worksheet on back. (Deadline is one business day prior to normal agenda deadline)
Will Proposal Require an Agreement: Yes _____ No X _____
Auditor-Controller's Number (if required): _____
County Counsel's Approval: Yes _____ No X _____
Will Proposal Require Additional Personnel: Yes _____ No X _____
Number of Permanent: _____ Temp _____ Extra Help _____

CAO OFFICE USE ONLY

Administrative Office Review _____
Administrative Office Staff Contact _____

4/5's Vote Required: Yes: _____ No: _____

Date Received by Clerk of Board: _____

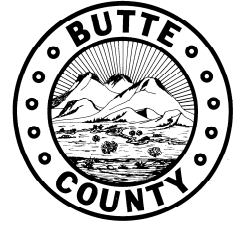
Previous Board Action Date: _____
Describe: _____

Additional Information Attached: Yes X _____ No _____

Butte County Department of Development Services

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Butte County Board of Supervisors AGENDA REPORT Butte County General Plan 2030 – Draft Zoning Ordinance

April 26, 2011

Butte County Board of Supervisors
25 County Center Drive
Oroville, CA

Subject: Development Services staff requests Board of Supervisors discussion and direction on the following four items related to the Draft Zoning Ordinance:

- 1) The process and updated schedule for reviewing the Draft Zoning Ordinance leading to adoption
- 2) The concept of utilizing a Zoning Administrator function in the Draft Zoning Ordinance as the review and approval authority for Minor Use Permits, Minor Variances, Interpretations of the Zoning Ordinance, Tentative Parcel Maps, and other minor permit processes (Draft Section 24-260)
- 3) The concept and strategy of permitting Accessory Uses within the Draft Zoning Ordinance (Draft Section 24-150)
- 4) The Policy Question of how to permit Solar Energy land uses in Agricultural zones within the Draft Zoning Ordinance. (Draft Section 24-151 and 24-12)

I. RECOMMENDATIONS

Provide direction to staff on the four items as set-forth below and instruct staff to incorporate all changes into the Second Draft Zoning Ordinance and continue with the

Draft Zoning Ordinance update process (Meeting Series #8) and the publication of the Second Draft Zoning Ordinance and Map and schedule additional meetings with the Planning Commission and Board of Supervisors for further review.

II. BACKGROUND

The Butte County General Plan 2030 process involves three main components: 1) the Updated General Plan 2030 and Land use Map, 2) the General Plan 2030 EIR, and 3) the Updated Zoning Ordinance. On October 26, 2010, the Board of Supervisors adopted the updated General Plan, Land Use Map and certified the associated EIR. The Draft Zoning Ordinance implements the General Plan's land use designations and incorporate new policy direction provided by the new General Plan. Additional benefits from updating the Zoning Ordinance include the following:

- ◆ To bring the Zoning Ordinance in consistency with General Plan 2030
- ◆ To implement several new zones as created by General Plan 2030
- ◆ Streamline permit processes and procedures
- ◆ Make the Zoning Ordinance easier to use and more effective
- ◆ Improve language, procedures, definitions, tables, graphics and illustrations
- ◆ Update all zones to address changes in land use practices, business types, local conditions and issues, new industries and technology, and evolving trends
- ◆ Ensure that the required permit process fits the proposed use (e.g. uses appropriate for over-the-counter permit do not require a Minor use Permit; uses that are appropriate for a Minor Use Permit do not require a Major Use Permit)
- ◆ Ensure that county staff has clear guidance in serving the public
- ◆ Provide landowners with certainty about uses and development potential
- ◆ Provide businesses and landowners with clear direction on permit and project processes, applicable uses, development standards, and appeal processes
- ◆ Provide clear standards for parking, signs, landscaping, renewable energy (solar and wind), non-conforming uses, clustered development projects, wineries and olive oil production facilities, accessory uses, outdoor lighting, setbacks and height, lot-line adjustments, and others land uses.

Meeting Series #8: Draft Zoning Ordinance

Meeting Series #8 is devoted to the Zoning Ordinance Update. The meeting series began with a Citizens Advisory Committee meeting held on March 11, 2010. The Citizens Advisory Committee provided direction on a variety of issues considered under the new Zoning Ordinance. On July 2, 2010, a first draft of the new Zoning Ordinance and Map became available for public review. The Planning Commission was tasked

with performing a comprehensive, page-by-page technical review of the first Draft Zoning Ordinance and Map. This review took place over eight all-day workshops held between August 5, 2010 and November 2, 2010. Notes from those meetings are available to the public on our website at <http://www.buttegeneralplan.net> .

The Planning Commission edited many sections of the Draft Zoning Ordinance at each of these meetings. Additionally, many members of the public provided oral and written input concerning the Draft Zoning Ordinance text and map. Staff is working to review all of the public requests and follow-up on the Planning Commission recommendations. The Planning Commission's work provides the basis to complete a Second Draft Zoning Ordinance, which will incorporate their edits and address public comments. However, staff has determined that the several policy items that are the subject of this meeting require Board of Supervisors direction before assembling a Second Draft.

III. ANALYSIS

A. The Process and Updated Schedule for Reviewing and Adopting the Draft Zoning Ordinance (Meeting Series #8)

- ◆ Staff recommends that the Board of Supervisors consider the revised process and schedule as set-forth below and direct staff to proceed in accordance with the schedule.

An updated schedule for the remainder of Meeting Series #8 is provided below for the Board's consideration (Table 1). This process assumes that the result of this meeting entails proceeding with the creation and publication of a Second Draft Zoning Ordinance.

DRAFT ZONING ORD. TASK		Timing
1.	Bring Policy Questions to Board for Direction	April 26, 2011
2.	Publish 2 nd Draft Zoning Ordinance	June - July, 2011
3.	First Planning Commission Meeting (focused on 2 nd Draft Zoning Ordinance text)	August, 2011
4.	Second Planning Commission Meeting (focused on 2 nd Draft Zoning Map)	August, 2011
5.	Review of 2 nd Draft by Board of Supervisors	September, 2011

Publication of Second Draft Zoning Ordinance and Map

Item #2 above concerns the publication of the Draft Zoning Ordinance and Map. The Second Draft Zoning Ordinance and Map will incorporate all of the changes recommended by the Planning Commission as well as issues brought up during public comment, and the direction provided by the Board concerning the policy issues that are the subject of this meeting. Staff is analyzing each issue and comment brought up during the review of the Draft Zoning Ordinance. The Second Draft Zoning Ordinance and Map will be widely distributed and will be available for public review.

Planning Commission Meetings on Second Draft Zoning Ordinance and Map

Items #3 and 4 above concerns the Planning Commission's review of the Second Draft Zoning Ordinance and map, which is broken into two meetings, one meeting

will focus specifically on the text of the Draft Zoning Ordinance, the second meeting will focus on the Draft Zoning Map. Staff does not anticipate that major changes or substantial amounts of time will be required to review the Second Draft Zoning Ordinance and Map, because of the comprehensive review already undertaken by the Planning Commission on the First Draft Zoning Ordinance and Map.

The public's review of the Draft Zoning Map has resulted in approximately 12 individual requests from members of the public for specific changes to the Draft Zoning Map. Staff will provide recommendations for each of these requests to the Planning Commission and Board of Supervisors. Those requests supported by staff will be incorporated into the Second Draft Zoning Map for further review.

The updated Second Draft Zoning Map will include the following three major changes:

1. Recommendations for changes received from the Planning Commission on the First Draft Zoning Map provided during their series of eight meetings.
2. Clean-ups and staff-supported public requests concerning zone changes to an individual parcel, parcels or area made during the Planning Commission's series of eight meetings.
3. Clean-ups recommended to the General Plan 2030 Land Use Map that necessitate corrections to the Zoning Map.

Board of Supervisors Review of Second Draft Zoning Ordinance and Map

Item #5 above concerns the review of the Second Draft of the Zoning Ordinance by the Board of Supervisors. An agenda report for this meeting will be prepared that will outline and highlight all of the substantive changes recommended by the public, the Planning Commission and staff. General Plan 2030 staff will provide an overview of each of the seven major parts of the Second Draft Zoning Ordinance and accept further Board direction. Staff will additionally review major recommended changes to the Draft Zoning Map as recommended by the Planning Commission. Once the Board of Supervisors makes final recommendations, a Third Draft Zoning Ordinance and Map may be necessary prior to publication and circulation of the Supplementary EIR. Staff will make a determination on the need for a Third Draft at that time.

B. The concept of utilizing a Zoning Administrator function in the Draft Zoning Ordinance as the review and approval authority for Minor Use Permits, Minor Variances, Interpretations of the Zoning Ordinance, Tentative Parcel Maps, and other minor permit processes (Draft Section 24-260)

- ◆ Staff recommends that the Board of Supervisors approve the inclusion of a Zoning Administrator Function in the Draft Zoning Ordinance.

The proposed Zoning Administrator function would be a new process for Butte County, currently not provided for under the existing Zoning Ordinance. The appointment and role of this position is discussed under Section 24-260 of the July 2, 2010 Draft Zoning Ordinance. The Director of Development services or the Director's designee shall serve as the Zoning Administrator; no new position would be created to carry out these duties.

Background

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.

- ◆ 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 Draft Zoning Ordinance would streamline the permit approval process is by delegating decision-making authority to Director-level County management staff on more routine permits. Because extra staff would not be required to support a Planning Commission meeting a savings in time and resources would be realized. A Zoning Administrator can also respond quickly and efficiently to permit issues as they arise, without taking such issues to the Planning Commission. Minor permits often require technical level details that warrant staff level attention. The Planning Commission's role would become more appropriately focused on major projects and issues, reducing their overall workload and increasing their efficiency.

The Zoning Administrator would 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 would make decisions on these permits without taking the matter before the Planning Commission. For controversial matters, the Zoning Administrator can decide that the Planning Commission should act on an application ordinarily acted upon by the Zoning Administrator.

A 1998 Study conducted by the California Governor’s Office of Planning and Research (OPR) indicated that 188 jurisdictions, including 29 counties, utilized a Zoning Administrator (Source: 1999 California Planners’ Book of Lists, Governors Office of Planning and Research). A more recent survey conducted in 2010, by the California County Planning Directors Association indicated that over half of the twenty-seven responding county jurisdictions utilized a Zoning Administrator.

How the Zoning Administrator Would Function

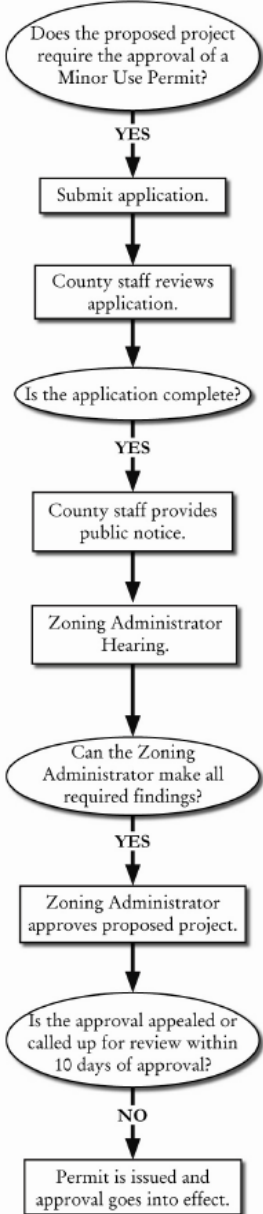
Figure 24-212-1 from the Draft Zoning Ordinance shown here in the sidebar provides a diagram on how a Minor Use Permit would be processed by the Zoning Administrator. Note that this figure does not include a review under the California Environmental Quality Act (CEQA). Most permits approved by the Zoning Administrator will not trigger CEQA, due to their minor nature. However, staff will still be required to assess whether projects can be categorically or statutorily exempt from CEQA. Some projects heard by the Zoning Administrator may require CEQA review.

The Zoning Administrator would hear all of the minor permits identified within the Draft Zoning Ordinance. These include the following types of permits and processes (listed in order of general complexity from less to more).

Zoning Clearance: A Zoning Clearance is a procedure used to verify that a proposed use or structure complies with the Zoning Ordinance (e.g., a hotel or motel are uses permitted within the General Commercial zone).

Interpretations: An Interpretation is sometimes required to clarify an ambiguity that would otherwise interfere with the effective administration of

FIGURE 24-212-2 TYPICAL PROCESS FOR MINOR USE PERMIT APPROVAL



the Zoning Ordinance (e.g., whether a land use that is not listed under the zoning ordinance can be interpreted to be consistent with other uses allowed by the zone).

Reasonable Accommodation: A reasonable accommodation typically involves an adjustment to a design standard to accommodate development for a disabled person (e.g., placement of a wheelchair ramp).

Site Development Permit: A Site Development Permit ensures that certain development projects (e.g., commercial or industrial buildings) comply with all standards contained within the Zoning Ordinance. The Site Development Permit process is required at the time of Building Permit application.

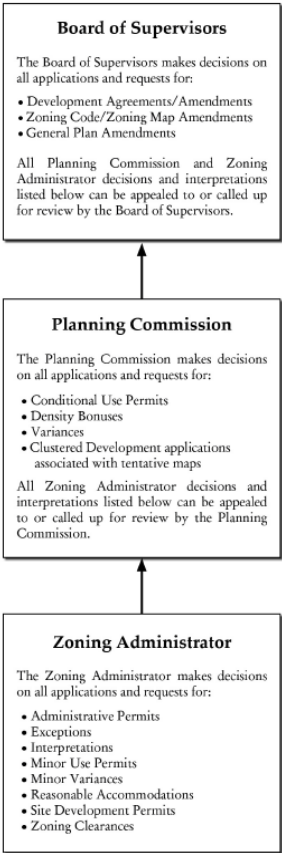
Administrative Permit: An administrative permit is required for uses permitted as-of-right yet subject to specific Zoning Ordinance standards. An Administrative Permit also enables the County to ensure that the applicant understands and accepts those standards. Examples of uses subject to an administrative permit include Small Child Care Center, certain retail uses in Industrial zones, Minor Home Occupations, Signs, and Temporary Uses.

Minor Variance: A Minor Variance is defined as a deviation from a standard by 10 percent or less (e.g., a structure must be developed slightly within a required setback). A variance may be granted only when the strict application of development standards creates a unique hardship due to unusual circumstances associated with the property.

Minor Use Permit: A Minor Use Permit is required for uses that are generally appropriate within a zone but potentially undesirable on a particular parcel or in large numbers. Examples of uses that would require a Minor Use Permit are Large Child Day Care Centers, Large Residential Care Homes, Bed and Breakfasts, Major Home Occupations, in certain commercial zones uses such as Drive-Through Facilities, Equipment Sales and Rentals, Gas and Service Stations, Recreational Vehicle Parks, Caretaker Quarters, and Personal Kennels.

Tentative Parcel Maps: This would require an amendment to Chapter 20 of the County Code having to do with subdivisions. By having the Zoning Administrator review and approve non-controversial parcel maps, it will save time and

FIGURE 24-256-1 ROLE OF THE BOARD OF SUPERVISORS, PLANNING COMMISSION, AND ZONING ADMINISTRATOR



money for the applicant and reserve the efforts of the Planning Commission to more complex or controversial projects.

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 would be able to “call up for review” any decision of the Zoning Administrator for reconsideration by the Board. Figure 24-256-1, from the Draft Zoning Ordinance shown above in the sidebar, provides a diagram indicating the relationship between the various hearing bodies and appeals, the arrows indicate the appeal process, from Zoning Administrator to Planning Commission to the Board of Supervisors.

C. The concept and strategy of permitting Accessory Uses within the Draft Zoning Ordinance (Draft Section 24-150)

- ◆ Staff recommends that the Board of Supervisors consider the revised approach to Accessory Structures and Uses as shown in Table 2 below and direct staff to include the revisions within the Second Draft Zoning Ordinance.

The July 2, 2010 Draft Zoning Ordinance refers to Accessory Uses and Structures under Section 24-150. Several members of the public provided written and oral comment at the September 30, 2010 Planning Commission meeting indicating that this section needed further work to provide greater flexibility and clarity in how accessory uses would be regulated under the new Zoning Ordinance. In light of these concerns, the Planning Commission directed that staff review the regulatory aspects of this section.

Background

The relationship between primary and accessory uses is regulated under zoning ordinances to protect the viability of the zoning district, and to preserve compatibility between adjacent uses and parcels, particularly in areas that allow higher density residential land uses. A higher density residential neighborhood would therefore not be overrun with accessory structures or uses that would be incompatible with the primary residential use of the zone. The establishment of a primary use also ensures that the accessory use remains subservient to the primary use. In other words, a primary structure such as a single-family dwelling establishes the accessory nature of a workshop, storage building or other structure.

Accessory uses and structures are those uses and structures that are appurtenant to a primary use or structure. For instance, the current Agriculture Residential zone indicates that such structures as workshops, garages, and sheds, are accessory to single-family dwellings. A workshop is to be used in conjunction with, or incidental to, the residential use. Therefore, a parcel that has not been developed with a single-family dwelling would not be eligible to build a workshop, garage or shed, until a single-family dwelling is improved on the property.

The classification of various structures such as workshops, sheds, storage buildings, barns, greenhouses, and well houses as accessory, and therefore secondary, to a single-family dwelling, especially in rural areas, may not be appropriate. This is because these types of structures are often needed for land uses that are permitted under the zone. For instance, the agricultural activities that are allowed in the Foothill Residential and Rural Residential zones require support structures, even if a single-family dwelling has not been

developed on the property. A property owner in a Rural Residential zone may require a storage building to keep agricultural equipment, because the parcel is farmed but is not developed with a residence.

Changes to Accessory Uses and Structures

In light of the concerns expressed by members of the public and as directed by the Planning Commission, staff reviewed Section 24-150 of the Draft Zoning Ordinance. Accordingly, staff developed Table 2, as shown below, to address the concerns that have been set-forth by the public as well as to increase the overall readability and understanding of this section of the Draft Zoning Ordinance. This new table, and accompanying text, will also help to streamline the use and regulation of accessory structures and uses.

Table 2 will be inserted into the Draft Zoning Ordinance under Section 24-150. Table 2 is organized by Rural Zones (AG, TM, FR and RR), Urban Zones (VLDR, LDR, MDR, MHDR, HDR, VHDR, and MU), and Commercial, Industrial and Special Purpose Zones. Table 2 provides a listing of structures and uses that are either accessory to a single-family dwelling, or accessory to the zone. In this way, accessory structures and uses will be clearly identifiable to users of the new Zoning Ordinance.

Accessory structures allowed in the Foothill Residential and Rural Residential zones have been amended in order to address the concerns set-forth by members of the public concerning the ability to develop such structures as workshops, sheds, storage buildings, barns, greenhouses, and well houses prior to the development of a single-family dwelling. This is accomplished by listing these structures as accessory to the uses permitted under the zone.

The Table indicates that these structures would be allowed only on parcels 5-acres or larger. This limitation is recommended by staff in recognition of the residential uses that are also permitted within these zones. The allowance of these structures on smaller parcels may be considered incompatible with the residential uses allowed by these zones. It should be noted that these structures are not allowed in the higher density residential zones (Urban Zones) because they would not be appropriate in an urban setting as accessory to the zone.

TABLE 2	
ACCESSORY STRUCTURES AND USES	
Rural Zones (AG, TM, FR, RR)	
Accessory Structures	
Accessory to SFD	Pool, Pool House, Spa, Dressing Room, Domestic Pet Shelter, Game Room, Garages, Sunroom, Tennis Courts, Gazebo, Playground Equipment, Hobby Room, Trash Enclosure, Workshop, Shed, Storage Building, Barn, Greenhouse, Well house
Accessory to Zone (No SFD)	Workshop, Shed, Storage Building, Barn, Greenhouse, Well house (Only on parcels 5-acres or larger, except in AG and TM zones, where there is no limitation on parcel size)
Accessory Uses	
Accessory to SFD	Keeping of Domestic Pets, Composting Bins, Parking, Gardens, Planter Boxes, Vegetation Management, Irrigation, Landscaping
Accessory to Zone (No SFD)	Gardens, Planter Boxes, Vegetation Management, Irrigation, Landscaping
Urban Zones (VLDR, LDR, MDR, MHDR, HDR, VHDR, MU)	
Accessory Structures	
Accessory to SFD or Multi-Family Units	Pool, Pool House, Spa, Dressing Room, Domestic Pet Shelter, Game Room, Garages, Sunroom, Tennis Courts, Gazebo, Playground Equipment, Hobby Room, Trash Enclosure, Workshop, Shed, Storage Building, Barn, Greenhouse, Well house
Accessory to Zone (No SFD or Multi - Family Units)	None
Accessory Uses	
Accessory to SFD or Multi-Family Units	Keeping of Domestic Pets, Composting Bins, Parking, Gardens, Planter Boxes, Vegetation Management, Irrigation, Landscaping
Accessory to Zone (No SFD or Multi - Family Units)	Gardens, Planter Boxes, Vegetation Management, Irrigation
Commercial, Industrial, and Special Purpose Zones	
Accessory Structures	
Accessory to Development	Accessory structures pertinent to any permitted use
Accessory to Zone (No Development)	Accessory structures pertinent to any permitted use
Accessory Uses	
Accessory to Development	Accessory uses pertinent to any permitted use, Vegetation Management, Landscaping, Irrigation
Accessory to Zone (No Development)	Vegetation Management, Landscaping, Irrigation

D. The Policy Question of how to permit Solar Energy land uses in Agricultural zones within the Draft Zoning Ordinance (Draft Section 24-151 and 24-12)

- ◆ Staff recommends that the Board of Supervisors consider the alternatives set-forth below concerning solar power in Agricultural zones applied to: 1) photovoltaic power stations, and 2) Photovoltaic Panel systems accessory to a permitted land use. Board direction concerning these areas will be incorporated into the Draft Zoning Ordinance.

Interest in renewable energy sources has increased in the last several years due to the downturn in the economy and the need to find alternatives to conventional energy sources. Both wind and solar energy is currently addressed under the Draft Zoning Ordinance. At this time, the Department of Development Services is pursuing amendments to the wind turbine ordinance to be provided separately to the Board on April 12.

Interest in renewable energy sectors comes from both individual property owners seeking ways to supplement their energy uses, and private companies interested in developing renewable energy facilities for the sale of power to major utilities. Once the wind turbine ordinance is reviewed and approved by the Board, it will be incorporated into the Draft Zoning Ordinance. The policy issue concerning the use of solar energy in Agricultural zones is the subject of this staff report.

Background

The current Zoning Ordinance does not provide any regulation of solar energy or renewable energy sources. This has resulted in difficult interpretations and ambiguity in advising the public and decision-makers. The Draft Zoning Ordinance includes Section 24-151 on Alternative Energy Structures. The Draft Zoning Ordinance describes two types of solar power structures, including:

1. Photovoltaic power stations
2. Photovoltaic Panel systems accessory to a permitted land use.

Photovoltaic power stations (#1 above) are classified under the Draft Zoning Ordinance as a “Utility, Major” within the Use Tables for each zone. For instance, a Conditional Use Permit is required in the Agriculture zones to develop a photovoltaic power station. Alternatively, If a landowner wishes to develop photovoltaic panel systems that would be accessory to their home or another use such as irrigation system supporting an orchard (#2 above), the Draft Zoning Ordinance indicates that such a use would be permitted as-of-right, meaning it would be permitted without further discretionary permits.

Development Services staff supports the process as set-forth in the Draft Zoning Ordinance, recognizing, however, that General Plan 2030 has been developed to address a wide variety of stakeholders and interests. As a result, the General Plan is intended to meet multiple, and sometimes competing policy objectives.

The Goals, Policies and Actions as set-forth from General Plan 2030 show that both solar energy and agriculture are important land uses that are supported by the General Plan. Conservation Element Policy COS-P3.7 states the following:

“Wind power generation facilities, solar power generation facilities and other alternative energy facilities shall be conditionally permitted in the Agriculture, Agriculture Services, Timber Mountain, Industrial and Public land use designations, provided that significant adverse environmental impacts associated with such development can be successfully mitigated.”

Conservation Element Action COS-A3.1 directs the following:

“Prepare a countywide Alternative Energy Promotion Study that will include the following

1. Identify possible sites and resources for the production of energy using local renewable resources such as solar, wind, small hydro and biogas.
2. Evaluate potential land use, environmental, economic and other constraints affecting renewable energy development.
3. Identify measures to protect renewable energy resources such as utility easements, rights-of-way and land set-asides.
4. Evaluate the feasibility of Community Choice Aggregation (CCA) for the County. CCA allows cities and counties, or groups of them, to aggregate the electric loads of customers within their jurisdictions for purposes of procuring electrical services. CCA allows the community to choose what resources will serve their loads and can significantly increase renewable energy. If CCA is ultimately not pursued, evaluate the feasibility of purchasing renewable energy certificates to reduce them County’s contribution to greenhouse gas emissions related to County electricity use.
5. Evaluate permit processes for approval of small-scale wind and solar energy systems for on-site home, small commercial and farm use.

General Plan 2030 includes Goal AG-2 from the Agriculture Element that states “Protect Butte County’s agricultural lands from conversion to non-agricultural uses.” A supporting policy (Policy AG-P2.5) indicates that when a request is made for a Conditional Use Permit on a parcel with existing agricultural operations, an agricultural maintenance plan will be required to provide for the continuation of existing agricultural activities.

Further direction within the Zoning Ordinance is necessary to address the multiple policy directions set-forth by General Plan 2030. For instance, it may be difficult to demonstrate compliance with Agriculture Element Policy AG-P2.5, which requires that an existing agricultural operation continue to operate if it is replaced by a photovoltaic power station. Large arrays of photovoltaic panels cover underlying land, intercept solar radiation and therefore convert the land’s original agricultural use. Therefore, there is little opportunity to support a continued agricultural use as required by the policy.

Development Services staff provides the following alternatives in amending the Draft Zoning Ordinance and General Plan 2030 as it relates to: 1) photovoltaic power stations and, 2) photovoltaic panel systems accessory to a permitted land use:

1. Photovoltaic Power Stations

- a. Consider amending the General Plan concerning the allowance of photovoltaic power stations in Agricultural zones and designations by Use Permit. Provide additional policy language within Agricultural Element Policy AG-P2.5 that takes into account factors that constrain or benefit agricultural uses. For example, this policy could require the consideration of the availability of irrigation water, on-site growing conditions, biological constraints, and existing and historic agricultural practices. Upon amendment of Agricultural Element AG-P2.5, update the Zoning Ordinance to describe the criteria necessary to permit a conditional use permit in agriculture zones for a photovoltaic power station.
- b. Another approach, used in conjunction with the proposed Agriculture Mitigation Ordinance (Agricultural Element Action AG-A2.1), would allow the development of photovoltaic power stations on Agricultural land subject to mitigation. The mitigation would require the developer to permanently protect agricultural land of equal or greater value, or pay an in-lieu fee used to purchase conservation easements or to complete other projects designed to protect and conserve agricultural land. This approach would require the amendment of AG-A2.1 to allow for the mitigation of Use Permits on agricultural land.

2. Photovoltaic Panel systems accessory to a permitted land use

Continue to provide the ability for landowners in Agriculture zones to install photovoltaic solar panels accessory to permitted uses, but consider the inclusion of the following additional standards:

- a. If the landowner wishes to sell a portion of this power for off-site use no more than one-half of all power generated may be sold for off-site use and no more than one-acre of photovoltaic panels shall be installed per parcel.
- b. A Minor Use Permit would be required for photovoltaic panel systems that will be used to generate off-site power.

IV. NEXT STEPS

Upon receiving direction from the Board, Development Services staff will develop the second Draft Zoning Ordinance and Map and release them for public review. Staff will schedule additional meetings with the Planning Commission and Board of Supervisors in accordance with the approved schedule.

Should you have any questions regarding any of the information provided within this Agenda Report, please do not hesitate to contact me at 530-538-6821 or Principal Planner Dan Breedon at 530-538-7629.

Sincerely,

Tim Snellings, Director
Butte County Department of Development Services