

Summary Notes: April 26, 2010 Board of Supervisors Workshop on Draft Zoning Ordinance

Development Services Director Tim Snellings stated the purpose of the workshop to receive Board guidance on four topics areas:

- 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 and Structures 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)

Mr. Snellings made the following points concerning the Workshop's Agenda:

- ◆ Today's workshop will be devoted to receiving public comment and Board direction only on the four Agenda Topics outlined in the Staff Report.
- ◆ This workshop will not be covering other parts of the Draft Zoning Ordinance or Map. Other specific requests concerning technical content or requests concerning the Zoning Map may be submitted but will not be considered at this workshop.
- ◆ If you have comment to provide to the Board on an item that is not related to the four Agenda Topics, a time is provided near the end of today's workshop for general comment. The Board Chair will ask for General Public comment at that time.
- ◆ The direction received at this workshop will allow staff to finalize the Second Draft Zoning Ordinance and Map, which will be subject to further review by the public, Planning Commission and ultimately the Board of Supervisors.
- ◆ The Agenda for today's workshop will include a presentation for each topic, followed by a period for Q+A from the Board, followed by Public Input on that topic, followed by Board Direction to staff.
- ◆ Goal for Workshop was to receive direction for Second Draft of the Zoning Ordinance.

Mr. Snellings explained the process to date GP 2030 including the relationship to General Plan 2030 and Meeting Series #8, devoted to the Zoning Ordinance, the benefits of updating the zoning ordinance, including the streamlining of permit processes, consistent implementation of policies contained within the General

Plan, ease of use, improve language & illustrations, updates all zones, ensure that permit processes fit use, the provision of clear guidance to public and staff, clarity of process; and providing certainty to landowners.

Mr. Snellings explained the Meeting Series #8 processes including the Citizens Advisory Meeting held on March 11, 2010, the release of the July 2, 2010 Draft Zoning Ordinance, the Public Workshop held on July 28, 2010 and the Planning Commission's series of eight meetings.

Item #1: The Process and Updated Schedule for Reviewing the Draft Zoning Ordinance

Mr. Breedon introduced the first item pertaining to the Process and Updated Schedule for the Review and Adoption of the Draft Zoning Ordinance and covered staff's recommendation to accept the revised process as detailed in staff report.

Board of Supervisor's Questions and Comments

Supervisor Wahl asked at what point it is appropriate for landowners that have requested changes to come forward.

Mr. Breedon responded that the Planning Commission would be considering such requests in August and that the process is open to receiving more requests for the Planning Commission's consideration and recommendation to Board.

Supervisor Wahl asked that if a requests if a General Plan Amendment is necessary, should such request come at the same time.

Mr. Breedon answered yes.

Mr. Snellings indicated that these were primarily for the correction of mistakes – such as clean ups, fixes, corrections and that the General Plan clean-up process will come back to the Board. None of the changes are inconsistent with the General Plan or the EIR.

Supervisor Wahl asked if staff could provide the public and the Board with a memo that would include the criteria that would substantiate a correction.

Mr. Snellings indicated that staff would provide a memo with the criteria that would substantiate a correction.

Public Comments

Mike Ashlock – Concow. Commented that the review by the Board proposed for September was soon after the review process. Had concerns about CEQA scheduling.

Mr. Snellings responded that CEQA will be required on the ZO after direction by the Board and that a Supplemental EIR will be released after the September. Board action

Daniel Andruss. Asked if a 30-day review period had taken place to provide for comments and additionally asked if an EIR had been completed. He further commented that an EA is inadequate to address this.

County Counsel Bruce Alpert replied that CEQA and noticing would be done.

Wohpe Twofeathers. Asked if landowners are requesting existing changes or changes to 2030 plan and additionally asked if this process was connected with the “U.N. 21” process. Ms. Twofeathers also asked if the process was part of the County.

Mr. Breedon responded that there are two types of requests being considered: one requires General Plan Amendment and another requires a change to the Draft Zoning only, with no GPA required and that staff recommendations would be formulated for all requests. Mr. Breedon also indicated that the Zoning Ordinance process was not associated with a “U.N.21” process.

Chair Lambert indicated that this process applies to the whole county.

Bob Kromer. Suggested waiting 30-days after draft issued to have the Planning Commission meeting and that the Board meeting in September should be 30-days after Planning Commission meeting for public to review materials and discuss with Board.

Public Comment Closed

Board Direction: Zoning Ordinance Process and Schedule – Motion to Accept (Connelly); 2nd (Yamaguchi), Vote – 5-0

Item #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)

Mr. Breedon introduced the Second Item pertaining to the Zoning Administrator and provided a brief background concerning this concept, including how it is supported under the General Plan, is intended to streamline the permit process, and that it is used in many other county and city jurisdictions in California. It was also explained that the Zoning Administrator would be delegated by the Board to existing Director-level management staff, and that no new position would be created.

Mr. Breedon and Mr. Snellings also explained that it was the request of staff to amend the Subdivision Ordinance (Chapter 20 of the Butte County Code) to allow Zoning Administrator review of minor Tentative Parcel Map applications. An overview of levels of review was provided. The Zoning Administrator would be responsible for Administrative Permits, Minor Use Permits, Tentative Parcel Maps; and appeals, General Plan Amendments, Zoning Amendments, Conditional Use Permits, would be handled by the Planning Commission.

All actions of the Zoning Administrator could be appealed and the Board could call for review all Zoning Administrator actions. Benefits to public include reduction of process times and fees. The Zoning Administrator function would also free-up the Planning Commission to address higher-level issues.

Mr. Snellings indicated that the Zoning Administrator process includes full public notice, surrounding property owners, and streamlined process. Saves time and money for applicant for non-controversial projects. Provides outlet to Planning Commission if item is controversial.

Board of Supervisor's Questions and Comments

Supervisor Kirk inquired if there would be a cost saving because the Zoning Administrator would result in less meetings.

Mr. Snellings indicated that yes due to the use of a streamlined staff report; quicker processing times to hear items at the Zoning Administrator there would be less hours spent, less fees.

Supervisor Wahl asked if it was the intention of staff to allow for the review of parcel maps by the Zoning Ordinance.

Mr. Snellings indicated that yes there would be a need to amend the subdivision ordinance for this purpose, but that this was not an issue that required an amendment to the Zoning Ordinance.

Supervisor Kirk indicated that the process works very well in the City of Chico. It takes awhile to provide the notices in local newspapers.

Supervisor Wahl indicated that a Zoning Administrator function worked real well in the City of Chico and that it would be a good step toward streamlining

Supervisor Kirk indicated that it was not productive to go through a lot of process for something that is checking boxes.

Supervisor Connelly indicated that he supported the Zoning Administrator to serve the public and keep costs down.

Chief Administrative Officer Paul Hahn indicated that this was not a new concept, there is a track record through the state. He indicated that it is appropriate to err on the side of caution if an item is controversial. He indicated that there is always the ability to bring a project back up if the Zoning Administrator renders a questionable decision.

Mr. Snellings informed the Board that all decisions could be appealed in case a Board member wishes further review.

County Counsel Bruce Alpert indicated that there will be good direction and rules and regulations to follow so that decisions made by the Zoning Administrator will not be controversial.

Public Comments

Bob Kromer – supports idea. Will fees be published? Can first meeting be an exploration meeting with applicant? If Zoning Administrator says yes, then Board has 30-days to reject or final decision. There should not be a prolonged period for an appeal.

Robin Huffman – commented on public notice – the neighborhood should be notified. Hard to judge a project if there are only 2 or 3 adjacent neighbors. The notification standard of 300 feet surrounding the project is inadequate and should be expanded.

Public Comment Closed

Chair Lambert indicated that the right person needed to be appointed as Zoning Administrator and that they should understand the positions of the majority of Board.

Supervisor Kirk inquired if a preliminary review by the Zoning Administrator could be accommodated.

Mr. Snellings indicated that the Development Services already maintains an Inter Departmental Review to handle preapplication processes to review future projects and review concepts, ideas, but that this would not be the Zoning Administrator's role.

County Counsel Alpert indicated that there had to be safeguards on access to the Zoning Administrator and that this position must be an objective fact finder.

Board Direction: Zoning Administrator Concept – Motion to Accept (Kirk); 2nd (Wahl), Vote – 5-0

Item #3 The concept and strategy of permitting Accessory Uses and Structures within the Draft Zoning Ordinance (Draft Section 24-150)

Mr. Breedon provided a brief overview and background regarding this item. The regulation of accessory uses and structures pertains to the relationship between primary (such as a residence) and secondary uses (such as a shop or storage building). He indicated that staff was looking for the Board's direction concerning the revised approach shown under Table 2 of staff report. He stated that accessory uses and structures have been an on-going issue during the General Plan update process and has generated much interest from the public over the years.

The ability to develop such uses and structures prior to the development of a single-family dwelling was discussed. Mr. Breedon indicated that uses and structures are generally covered in a Zoning Ordinance so that development is appropriate for the area and to ensure that such uses do not overshadow the primary intent and use of a zone. Without regulation under the Zoning Ordinance, accessory uses and structures can undermine the zoning ordinance's intentions, and create public nuisances. Public input during the process asked for greater flexibility for structures and uses in rural areas. Mr. Breedon indicated that the revised approach set forth under Table 2 and within the staff report was provided to address these comments.

Mr. Snellings indicated that this would be a shift in approach from current regulations. A residential property currently has to have a residence before an accessory structure or use is developed.

Mr. Breedon indicated that in residential zones, the residence has been the anchor for the uses on the property. In urban areas, this protocol for development of accessory uses and structures would be maintained. In Rural areas of the county, a different approach would be implemented in the Foothill Residential and Rural Residential zones. Accessory structures could be developed parcels of 5 acres and greater in size and can be allowed without a primary use. He explained that this would be a departure from current the current Zoning Ordinance, but would address public comment.

Supervisor Wahl commented about areas in foothills where owner has assembled several small parcels. If a person has a residence on own parcel but a shop on another, this situation would apply.

Mr. Breedon pointed out that the provision would be limited to parcels of 5-acres or more in size. We have received comment from Concow Community Association that they would prefer a 1-acre minimum instead of the 5-acre minimum.

Mr. Snellings indicated that we did not necessarily need to address this issue today but that this was a check-in on the concept, detail is not necessary at this point.

Supervisor Connelly indicated that in either the Timber Mountain or Rural Residential you should be able to raise a steer or a hog as well as domestic animals. He indicated that we needed further flexibility. Rural Residential should not be restricted on their accessory uses.

Supervisor Yamaguchi was concerned with setbacks and that this should be addressed in the new Zoning Ordinance.

Supervisor Wahl indicated that grandfathered uses should be allowed to continue regardless of this ordinance.

Mr. Snellings indicated that a more flexible and responsive approach is needed and would be considered.

Chair Lambert indicated that livestock in Agricultural zones should be same as Rural Residential zones.

Mr. Breedon responded that the accessory structure section does not address animal keeping because it is not an accessory use, grazing and animal keeping is an allowed primary use, and is covered in other parts of the Zoning Ordinance.

Supervisor Connelly indicated that a small parcel with residence with another parcel across the street should be addressed.

Mr. Snellings indicated that this new section should help to facilitate this.

Public Comment

Sarah Salisbury – Yankee Hill/Concow. Commended staff and board. Stated that we have been heard. Supported a 1-ac minimum and provided examples why – follows land use designations, clarify, simplify. Land owned, not parcel sizes. Merging property costs money and does not always fit the situation. Lay of the land may not accommodate a use or structure on the same parcel. There is a General Plan desire to limit amount of residences in foothill areas. The existing approach creates pressure to develop houses to accommodate accessory structures.

County Counsel Bruce Alpert commented that common ownership of parcels should be looked at.

2. Amanda Pyle. Concow. Lives in Chico. General Plan process has worked for us. Pleased to see this flexibility. Understand we are in the pre-draft process. Foothill Residential goes from 1 to 40 acres. There should be a 1-acre threshold for accessory structures. Merger does not work for financial reasons. This seems to be agricultural related. Keep in mind, there is a need for vegetative management and store tools for example. Missing is concept of recreation. 50 percent absentee owners in Concow live in Butte County. They visit, enjoy their property may build house later. Need to allow recreational uses and structures – pools, play structures. Compatibility with surrounding neighbors is an issue. Foothill Residential is not high density. Shop first or house second it does not affect the neighborhood.

3. Jacqueline Chase. Professor at CSU, Chico. Mapping of absentee parcels. Found that people in Butte County own 50 percent of the absentee parcels. Discussed clusters – people assembling parcels ownership to support their livelihood.

Supervisor Yamaguchi asked why absentee parcel ownership was a problem

Ms. Chase responded that this stemmed from fire safety issues – absenteeism is a simple target.

David Hilst. Yankee hill road. Support Amanda's comments, Suggest adding – 1 acre min to follow Foothill Residential zone. Makes it easy to understand and would be a benefit. Composting bins, community gardens should be permitted uses.

Doug Teeter. Paradise. Own 17 acres near Afterbay. Battled building barn on parcel and had to convince planning to allow him to build it. Likes the accessory use would not eliminate residential. Some parcel sizes are small and should be designed to allow placement of residence. Inquired about limited Agriculture permitting – can they still build them? Husbandry should be a right not an accessory. Allowing camping. Should be able to stay on a camper for a week.

Frank Funez. Concow. 7 parcels. Intermingled. Surrounded by large and small parcels. Five acres is not typical. Land contour can be constraint and need to use multiple parcels for uses.

Mike Ashlock. Thank board and staff. 9 partner land ownership. Home and other structures were burned down. Grows vegetables and would like to expand. Need a garden shed. Would like to graze goats to remove fire hazard.

Hubert Townsend. 40 acres in Palermo. 5 or 6 parcels ranging in size. Mobilehome with renters tore up the mobile. He had PG&E turn off power to the property. He has lost money in the bank. Want to sell house and live in a trailer on his property but cannot – has to build a house. He cannot get power to trailer. Would like to live in a RV – and come and go on a transient basis.

Dan Hunter. Bangor. Absentee owner with land in Concow. Staff has done a great job. This County cares for us. Thank you.

Dan Salmon. Remind everyone about the American dream. People invest in themselves. Owns Scooters café.

Robin Huffman. Would like to address the definition of Single-family Dwelling. Need flexibility for sustainable homes to get through the system. Semi-permanent structure like a Yurt should be allowed as a permitted use. Not in support of a limitation of camping on private property.

Larry Young. Concow. Attempting to get a Winery permit. Have not been satisfied. Should not be subject to same definition as ag tourism that allows wine tasting. He was lost on the process so far. What is my next step? Been to staff, still don't have a permit.

Mr. Snellings indicated that he will meet with Mr. Young to discuss the process and answer questions.

Don Mathews. Concow. Favors accessory use additions. 105 acres into 6 parcels.

Katherine Ferris. Lives in Concow. Likes additional flexibility, please address lay of land and grouping of parcels.

Paul Mathews. Agree with changes proposed. Building a house on 36 acres. In this area, it is so steep, it is hard to find location to build another structure. Supports 1-acre minimum.

Public Comment Closed

Supervisor Connelly indicated that an application was approved earlier to day to improve a portion of a road in Concow; approved chipper program; approved rebuild of burned down home.

Supervisor Wahl thanked staff for bringing up these issues. Refreshing to see a group of people to speak about personal property rights, what they can do on their land.

Supervisor Connelly indicated that there was a camping restriction because of problems with septic, litter, trash. Need to figure out a way for people to legitimately camp on their property.

Supervisor Yamaguchi indicate that in Plumas County camping was permitted for 180-days. Another example included the allowance of a parcel with an accessory building with power and septic allowing camping for 6 weeks and to live on property while building a home.

Chair Lambert Cautioned about assuming all people are good people. There are bad neighbors. Discussed realities of both camping and accessory businesses. Indicated that back up alarms on equipment can be a nuisance to neighbors. Don't assume that people will behave well.

Mr. Snellings indicated that staff will survey other counties about practices for camping.

Chair Lambert indicated that if you have a permit to build a house you can get a trailer permit.

Supervisor Kirk discussed a tennis court on a 1-acre parcel and close to neighbor's house and Pet shelters vs. domestic pet shelters. Supports garages but did not want to impact the neighbors

Mr. Snellings indicated that we will work this out with the Planning Commission with the concept direction by the Board.

Supervisor Connelly indicated that you will not make everybody happy. There are negative sides to everything. Trailers are problems. There should be room to compromise.

Board Direction: Accessory Uses and Structures. Motion to Accept (Connelly); 2nd (Yamaguchi), Vote – 5-0

(BREAK)

Chair Lambert – recognized District 5 Supervisor Kim Yamaguchi for ten years of service and hard work on the Board.

Item #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)

Mr. Breedon provided staff's recommendation concerning this item from the Staff Report. He provided an overview and background concerning this item. He discussed the differences applied to: 1) photovoltaic power stations, and 2) Photovoltaic Panel systems accessory to a permitted land use. Governor recently approved new law requiring 33 percent of all energy to be from renewable sources by 2020.

The current Zoning Ordinance does not address solar power uses. The July 2, 2010 draft divides solar power into large photovoltaic power and smaller photovoltaic systems accessory to permitted uses. General Plan policy supports both renewable energy and agriculture in the County. Mr. Breedon indicated that there could be conflicts with converting agriculture land with large solar arrays, as opposed to a smaller system that serves the agricultural use such as a pump. Mr. Breedon provided an overview of General Plan policy related to Agricultural preservation and renewable resources.

He indicated that staff is asking the Board to consider different approaches for larger solar power facilities; including identifying the suitability of site and an amendment to the General Plan could allow power stations with an off-site easement mitigation strategy.

Mr. Breedon indicated that staff supports smaller systems that are accessory to permitted uses as a permitted use by right with a building permit. There is a need to determine how much area can be developed in order to protect the agricultural resource.

Mr. Snellings indicated that a company contacted Development Services last week – desiring to permit half-acre system to sell to farmers to rent space and generate power to the grid. Discussed the need to determine an appropriate level for such systems, ½ or 1 acre. Discussed SB 618 concerning solar power development on Williamson Act properties.

Supervisor Kirk asked how large the Farwest Rice solar array was.

Supervisor Wahl asked staff why there was confusion regarding the existing code.

Mr. Breedon indicated that the current code does not specify it as a permitted use.

Supervisor Wahl indicated that there was no confusion there.

Supervisor Kirk indicated that there was neighborhood concern and this is not an easy issue. On-site accessory use of solar should be okay.

Public Comment

Jason Bougie – 2core9 . An array to feed power to grid through PG&E. Technically all solar power is not used on-site – it all goes to the grid. It is whether there is an off-set for cost to the property owner.

Supervisor Yamaguchi commented that the goal would be revenue neutral, you would eliminate the payment for your bill.

Jason Bougie – Cited Government Code related to solar (provided handout). State intent – specific rights to solar. Read Government Code portions related to solar. Statewide concern and intent to not create unreasonable barriers to solar; promote and encourage systems.

Terry Faulkner – Forest Ranch. Felt that the issue was limited at looking at solar power. Cows pick a sunny or shady spot. You can still have solar power and grazing. Design it like Sierra Nevada's parking lot. Orchard trees could have solar panels too. Not all solar power goes to the grid. There are areas that are too costly to bring PG&E power. Ag and solar can work, but I do not have all the answers.

Chair Lambert indicated that cows would destroy a solar array. Trees and grass need the sun to grow.

Bob Kromer. Discussed the definition of Utilities major and minor in draft code. Asked staff to be more specific about KWhs instead of the acreage covered. Square footage or acreage is vague.

Robin Huffman. This is a difficult issue. Super important need and urgency to stop use of fossil fuels and generation of greenhouse gases. Would not be appropriate on prime agricultural land. Define on-site use is important. No huge solar arrays on prime agricultural land.

Chair Lambert inquired about development of solar in an area east of Bruce Road for example.

Robin Huffman indicated that if vernal pools are protected, this would be okay.

Jason Bougie. Solar is not exempt from CEQA. Some are exempt. There should be a designation of scale and size. The Utility has a review at 1.5 KW. Technology may change – could generate more energy with fewer solar panels and thus less acreage or square feet of coverage. Preferred approach of using acreage instead of KWhs.

Mr. Snellings inquired of Mr. Bougie if he was aware of any County that is out front on this?

Mr. Bougie indicated no, that this is new to this area. Mentioned Glenn, Tehama, San Joaquin Counties.

Supervisor Connelly indicated that Inyo County had large solar arrays.

Lucy Cooke – Commented on Chair Lambert's comment of grazing and solar panels. Commented that Prime Agricultural land is sacred better to have this use on grazing land.

Chair Lambert indicated that grass needs sun to grow.

Lucy Cooke indicated that you could fence off a couple of acres instead of using prime land.

Doug Teeter provided question on staff report. Why not address solar in other zones besides agriculture? Should he have to pay same building permit fee for small systems to be affordable.

Colleen Cecil. Butte County Farm Bureau. Land use committee will review this issue. Support of solar to support primary use of the land. Supported preserving agricultural land.

Supervisor Kirk asked if an array would ruin the land after it was removed.

Colleen Cecil responded that she was not familiar with these issues.

Jason Bougie indicated that installing solar panels was similar to installing an irrigation system in an orchard.

Supervisor Yamaguchi indicated that one of his relations, Professor Yamaguchi projected that houses will be removed in the future to restore agricultural land.

Supervisor Wahl commented on how many MW and acres of Solar power we need to achieve the directive of the Governor.

Public Comment Closed

Supervisor Connelly indicated that the Farm Bureau and Cattlemen's Association needed to look at this. No problem with tops of barns or other buildings. Taking prime land and grazing land out of production – we need input from people that are affected.

Supervisor Kirk indicated that we should encourage solar for individual use. Need more information on larger system.

Supervisor Connelly indicated that large solar facilities should be placed within power line easements

Supervisor Wahl indicated that he would like staff to pursue information that Jason Bougie provided. Respect property rights and preserve agricultural land. Make it affordable to try to install.

Chair Lambert commented that he has a solar well on site. The money for rent to develop a large system is well worth considering. We do not want a windmill situation.

Chair Lambert asked if further direction was needed concerning this issue.

Mr. Snellings indicated that sufficient direction had been received.

It was clarified that staff would work with the Solar Industry in addition to the Farm Bureau and Cattleman's Association concerning this issue.

Board Direction: Solar Energy. Motion to Accept (Wahl); 2nd (Kirk), Vote – 5-0

---Adjourned at 4:00 pm---