

Butte County Department of Development Services

TIM SNELLINGS, DIRECTOR | PETE CALARCO, ASSISTANT DIRECTOR



7 County Center Drive
Oroville, CA 95965
(530) 538-7601 Telephone
(530) 538-7785 Facsimile
www.buttecounty.net/dds
www.buttegeneralplan.net

Butte County Planning Commission AGENDA REPORT

Butte County General Plan 2030 Second Draft Zoning Ordinance – Zoning Text Meeting Series #8

September 15 and 22, 2011

Butte County Planning Commission
7 County Center Drive
Oroville, CA

**Subject: Second Draft Zoning Ordinance Text
(Butte County General Plan 2030 Meeting Series #8)**

I. 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 Environmental Impact Report (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 Final EIR. The Draft Zoning Ordinance and Map implements the General Plan's land use designations and incorporates policy directions provided by the new General Plan. A variety of benefits stem from updating the Zoning Ordinance and Map including the following:

- ◆ Brings the Zoning Ordinance into consistency with General Plan 2030;
- ◆ Implements several new zones as created by General Plan 2030;

- ◆ Streamlines permit processes and procedures;
- ◆ Makes the Zoning Ordinance easier to use and more effective;
- ◆ Improves language, procedures, definitions, tables, graphics and illustrations over the existing ordinance;
- ◆ Updates all zones to address changes in land use practices, business types, local conditions and issues, new industries and technology, and evolving trends;
- ◆ Ensures that the permitting 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);
- ◆ Ensures that County staff has clear guidance in serving the public;
- ◆ Provides landowners with additional certainty about uses and development potential;
- ◆ Provides businesses and landowners with clear direction on required permits and project processes, applicable uses, development standards, and appeal processes; and
- ◆ Provides 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. Over 1-year ago, 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.

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 reviewed all of the public requests and followed-up on the Planning Commission's recommendations. Additionally the Board of Supervisors held a Special Meeting on April 28, 2011 and provided staff with direction concerning: the use of a Zoning Administrator to facilitate permit streamlining; the permitting of accessory uses; and the policy issue of permitting solar energy projects in agricultural zones (**Attachment F**). The Planning Commission's work and

additional direction from the Board provided the basis to complete a Second Draft Zoning Ordinance and Map, which incorporates their edits and address public comments.

The Planning Commission will review the Second Draft Zoning Ordinance and Map over several meetings as shown under the following table:

Meeting Series #8 – Draft Zoning Ordinance		
DRAFT ZONING ORD. TASK		Timing
1.	Publish 2 nd Draft Zoning Ordinance and Map	7/8/11
2.	Planning Commission Meetings -focused on 2 nd Draft Zoning Ordinance Map	8/18/11, 9:00 am – 4:00 pm 8/25/11, 11:00 am – 4:00 pm
3.	Planning Commission Meetings -focused on 2 nd Draft Zoning Ordinance Text	9/15/11, 9:00 am – 4:00 pm 9/22/11, 11:00 am – 4:00 pm
4.	Review of 2 nd Draft by Board of Supervisors	October/November 2011

The Second Draft Zoning Ordinance and Map was published on July 8, 2011, made available online at www.buttegeneralplan.net, and distributed to all Butte County Branch Libraries. A 30-day review period was provided prior to the Planning Commission meetings to allow for public review.

The first set of Planning Commission meetings to be held on August 18 and August 25, 2011, will be focused exclusively on the Draft Zoning Map. The second set of Planning Commission meetings to be held on September 15 and September 22, 2011 will be focused exclusively on the Draft Zoning Ordinance text. This staff report focuses on the Second Draft Zoning Ordinance text. A separate staff report was completed for the August meetings focusing on the Second Draft Zoning Ordinance map, which is also available online.

The Planning Commission comprehensively reviewed the Draft Zoning Ordinance and Map during the eight meetings held in August through November of 2010 as shown under the following table:

Previous PC Meetings Held on Draft Zoning Ordinance		
Planning Commission Meeting	Zoning Map Review - Locations	Zoning Ordinance Review - Sections
August 5, 2010	Durham, Dayton, Nelson, Richvale	Part 1 –Enactment and Applicability Part 2 –Zoning Districts, Land Uses and Development Standards (Articles 4 – 8)
August 19, 2010	Chico, Nord, Cohasset	Part 2 –Zoning Districts, Land Uses and Development Standards (Articles 9 – 10)
September 2, 2010	Forest Ranch, Butte Meadows, Jonesville	Part 3 –General Regulations (Articles 11 – 17)
September 16, 2010	Paradise, Concow, Yankee Hill, Stirling City	Part 3 –General Regulations (Articles 18 – 24)
September 30, 2010	Cherokee, Butte Valley	Part 4 –Supplemental Use Regulations (Articles 25, 26) Part 5 –Land Use and Development Approval Procedures (Articles 27– 29)
October 7, 2010	Oroville, Palermo, Bangor, Honcut	Part 5 –Land Use and Development Approval Procedures (Articles 30 – 35)
October 21, 2010	Berry Creek, Feather Falls, Clipper Mills, Forbestown	Part 6 –Zoning Ordinance Administration
November 2, 2010	Biggs, Gridley	Part 7 -Definitions Parts 1 – 7 Adjustments

During each of these meetings, the Planning Commission received public input and provided direction to staff concerning the Draft Zoning Map. Summary notes for these meetings are provided under **ATTACHMENT B**.

II. ANALYSIS

The focus of these two (September 15 and 22, 2011) Planning Commission meetings will be the review of the Second Draft Zoning Ordinance text. The Draft Zoning Ordinance Map was reviewed on August 18 and 25, 2011.

On July 8, 2010 the Planning Commission received copies of the Second Draft Zoning Ordinance. The Planning Commission received one “edited” version of the Second Draft Zoning Ordinance that showed edits and changes to the first draft in underline and strikeout text, and another version that constitutes a “clean” copy of the Second Draft Zoning Ordinance without edits. The edited version of the Second Draft helps to review all of the minor and substantive changes that have taken place since the first draft.

General Plan 2030 staff incorporated input and direction from the Planning Commission on the Draft Zoning text provided during the previous eight Planning Commission meetings. Additionally, input from the public received during previous Planning Commission meetings and other comments that have been received since those meetings were reviewed by staff and appropriate changes were incorporated into the Second Draft under **Attachment A**.

Follow-up on August 18 and 25, 2011 Planning Commission Meetings on Draft Zoning Map

Agriculture Subzones

During the August 18 and 25 Planning Commission Meetings, the Planning Commission provided new direction concerning the Brouhard, Swartz, Horning and Crane requests concerning the AG160 and AG-320 sub zones. In these areas, the Planning Commission reduced the minimum parcel size of the applicable AG-160 and AG-320 subzones to 80 acres (AG-80). In reviewing this new direction, staff recommends that other areas of the County, that are similarly subject to agricultural sub-zoning (AG-20, AG-40, AG-80, AG-160 and AG-320) under the Second Draft Zoning Map, also be reviewed by the Planning Commission. This will ensure that these areas are reviewed, in light of the Planning Commission’s new recommendations. Staff therefore recommends that an agenda item be included on the September 22, 2011, Planning Commission meeting allowing for the review of Agricultural subzones in other areas of the county. Staff will provide separate information regarding this item to assist in the Planning Commission’s review.

Additional Draft Zoning Map Requests

Staff recommends that the other Draft Zoning Map requests provided at the August 25, 2011, meeting, and others that may come to staff's attention, be agendaized for review on September 22, 2011. Staff will provide separate analysis for the Planning Commission's review prior to the September 22, 2011 meeting.

Manning Request Correction

An error in the August 18, 2011, staff report concerning the request by Brian Manning for the Paradise Bluffs property needs correction. Specifically, the 2.5 acre minimum parcel size was incorrect as reflected in the staff report. The correct zoning allows a ½-acre parcel size (RT-½). The error resulted in the Planning Commission's recommendation of a Very Low Density Residential 2.5 zone. It is the understanding of staff that the Planning Commission voted 4-1 to change the AG-160 zone to be consistent with Mr. Manning's request, which was for the existing ½-acre zoning. If this is the Planning Commission's understanding, it would be staff's recommendation that the Planning Commission amend their recommendation from VLDR – 2.5 to Low Density Residential (1-3 dwelling units/acre) in order to correct this error. If this is not the case, staff will contact the applicant and schedule this item for further review on September 22, 2011.

III. RECOMMENDATIONS TO PLANNING COMMISSION:

The following section is divided into Parts 1 through 7, corresponding to the Second Draft Zoning Ordinance:

- Part 1 – Enactment and Applicability
- Part 2 – Zoning Districts, Land Uses, and Development Standards
- Part 3 – General Regulations
- Part 4 – Supplemental Use Regulations
- Part 5 – Land Use and Development Approval Procedures
- Part 6 – Zoning Ordinance Administration
- Part 7 – Definitions

For each of the 7 parts identified above, staff provides the following sections:

1. Recommendation: This section provides the Planning Commission with the recommended motion to approve each Part.
2. Major Changes: Includes major substantive changes that have taken place since the first draft of the Zoning Ordinance.
3. Additional Staff Recommendations: Devoted to other needed corrections and staff recommendations that have come to light since the publication of the Second Draft Zoning.
4. Planning Commission Discussion Issues: For some Parts of the Second

Draft Zoning Ordinance, an additional section is included that is devoted to issues that need further direction from the Planning Commission.

Part 1 –Enactment and Applicability

- ◆ **RECOMMENDATION:** Staff recommends that the Planning Commission recommend approval of Part 1 –Enactment and Applicability as contained within the Second Draft Zoning Ordinance, with any additional recommendations directed by the Planning Commission.

MAJOR CHANGES –PART 1:

There are no major changes to Part 1. The Planning Commission should review the minor edits shown in the edited version of the Second Draft Zoning Ordinance and provide any further direction as needed.

Part 2 –Zoning Districts, Land Uses, and Development Standards

- ◆ **RECOMMENDATION:** Staff recommends that the Planning Commission recommend approval of Part 2 – Zoning Districts, Land Uses, and Development Standards as contained within the Second Draft Zoning Ordinance, with the additional recommendations as provided by staff and any additional recommendations directed by the Planning Commission.

MAJOR CHANGES –PART 2:

- ◆ **Use Regulation Tables.** All use regulation tables were updated (i.e. Table 24-13-1 and all others) with new information provided during the Planning Commission meetings, staff recommendations, and from public comment.
- ◆ **TPZ Zones** (Article 5).
 - Table 24-16-1 –Permitted Land Uses in the Natural Resource Zones. Based upon public input, crop cultivation and agricultural processing has been added to the permitted uses for the TPZ zones. Additionally, single family homes have been changed to a permitted use. This would be an expansion of uses allowed under the existing TPZ zone, but are uses that can be accommodated in TPZ zones under state law.
 - Section 24-17 D. and E. have been added to provide instructions concerning the rezoning of lands zoned TPZ and the allowance of Use Permits and Minor Use Permits in TPZ zones. These new sections have been added to address public input in allowing the consideration of uses determined to be compatible with timber growing and harvesting.

- ♦ **Minimum Residential Densities –Exceptions** (Section 24-20 C) This section was included to address instances where a development cannot meet the minimum residential density imposed by residential zones. General Plan Land Use Element Policy LU-P4.2 states that: “Residentially-designated land shall be developed at or above the minimum density range established by the land use designation for a given area or parcel.” There are instances where constraints limit the ability of a site to support development at the required minimum residential densities. This section provides direction to staff and applicants to address those instances through a review process.

- ♦ **Grazing and Private Stables in Mixed Use Zones** (Table 24-22-1). In order to address the need to allow grazing in Mixed Use-2 zones, which are not anticipated to develop for many years, Grazing and Private Stables have been shown to be permitted for the MU-2 zone as an interim use prior to redevelopment or conversion to a more intensive use. This issue was brought up by several property owners in this area.

- ♦ **Public Housing Overlay Zone** (Section 24-39). Representatives from the Housing Authority of the County of Butte met with Development Services staff concerning the Gridley Farm Labor Housing project, located near Gridley at 850 East Gridley Road (APN: 024-220-030). This facility has a long history within Butte County serving farm workers and low-income families in the Biggs, Gridley and the Live Oak areas. According to the Housing Element, the facility offers 130 units of year-round housing and houses about 500 farm workers and their families. The Housing Element also indicates that the facility is sufficient to meet the needs of farm workers in the area.

The Planning Commission approved the inclusion of the Public Housing Overlay during the August 18 and 25, 2011, meetings on the Second Draft Zoning Map.

The Housing Element contains the following applicable Goal and Action, specific to the Gridley Farm Labor Housing facility:

Goal H-4: Collaborate with existing service providers to meet the special housing needs of homeless persons, elderly, large families, disabled persons, and farm workers.

Housing Element Action H-A4.9

H-A4.9 Rehabilitation of Existing Farm worker Housing: The County will support the efforts of the Housing Authority of Butte County to rehabilitate the existing Gridley Farm Labor Housing facility, including providing expedited permit processing, plan checking, and inspections. In addition, the County will assist the Housing Authority with support such as available data, letters of support, or similar assistance in the event that the Housing Authority requires County

assistance in pursuing grant funding or other financial assistance for this project.

Housing Authority staff indicated that the current Public General Plan designation and Draft Zoning applicable to this site did not support the continued operation and rehabilitation of this facility. In order to address this situation staff has developed a Public Housing Overlay Zone (Section 24-39 of the Second Draft Zoning Ordinance) in coordination with Housing Authority representatives. The Public Housing Overlay Zone applies only to the Gridley Farm Labor property under the Second Draft Zoning Map.

The new Overlay enables the facility to continue as a legal operation, complete the rehabilitation currently underway, and to pursue additional improvements in the future. The new Overlay also fulfills the County's obligations under Housing Element Action H-A4.9, and supports Housing Element Goal H-4. The Board of Commissioners of the Housing Authority of the County of Butte approved the language for the new Overlay at their regular meeting held on May 19, 2011.

ADDITIONAL STAFF RECOMMENDATIONS –PART 2

- ♦ **Military Airspace Overlay Zone –Attachment C.** In accordance with the presentation provided to the Planning Commission on August 25, 2011, representatives from the United States Navy Intergovernmental Planning office set forth a Military Airspace Overlay Zone and other changes for incorporation into the Second Draft Zoning Ordinance and Map. This is in accordance with California Government Code Section 65302 (a) (2), which states that the Land Use Element: *“shall consider the impact of new growth on military readiness activities carried out on military bases, installations, and operation and training areas, when proposing zoning ordinances or designating land uses covered by the general plan for land, or other territory adjacent to military facilities, or underlying designated military aviation routes and airspace.”*

These changes will also necessitate amending the General Plan with new policy and revisions (Also shown under Attachment C). Provided staff receives direction to update the Second Draft Zoning Ordinance with the Military Airspace Overlay Zone, staff will recommend amending the General Plan.

- ♦ **Feed Stores.** Table 24-13-1 Permitted Land Uses in the Agriculture Zones. This table and all of the other Use Tables should include “Feed Store” as a listed use. Feed Store is currently defined in Part 7 –Glossary. Staff recommends that Feed Stores be permitted conditionally in the Agriculture zones, and permitted as-of-right in the Agriculture Services zone. Feed Stores would also be allowed as-of-right in the General Commercial, Neighborhood Commercial and Community Commercial zones. All other zones would not support a Feed Store use.

- ◆ **Aerial Applicator and Support.** Table 24-13-1 Permitted Land Uses in the Agriculture Zones. Staff met with the Land Use Committee of the Butte County Farm Bureau. The Committee recommended that the listed use “Aerial Applicator and Support” be changed from a conditional use permit process to a minor use permit process. Staff concurs with this change because the use is clearly related to agricultural activities and support.
- ◆ **Agricultural Maintenance Plan.** Section 24-13 B. –Agricultural Maintenance Plan, Section 3. The Land Use Committee of the Butte County Farm Bureau requested additional language requiring consultation with the Agriculture Commissioner. Staff concurs with this change.
- ◆ **Hunting and Fishing Clubs.** Table 24-13-1. Staff recommends that “Hunting and Fishing Clubs” in Table 24-13-1 be changed from Conditionally Permitted to Permitted in the Agriculture Zone with footnote 8 (Permitted only when not requiring permanent improvement and not interfering materially with agricultural operations). This was a request from the Butte County Cattleman and Cattlewomen.
- ◆ **Animal Processing, Custom.** Table 24-19-1 Permitted Land Uses in the Residential Zones. The Land Use Committee of the Butte County Farm Bureau requested that in the Foothill Residential and Rural Residential zones, Animal Processing, Custom be changed from an Administrative Permit to a Permitted Use. This change will also remove the citation to footnote 5, which is an error. Staff concurs with this change.
- ◆ **Wholesale Nursery.** Table 24-22-1 Permitted Land Uses in the Commercial and Mixed Use Zones. Information concerning the “Wholesale Nursery” use was erroneously left off this table. Staff recommends that Wholesale Nurseries be a permitted use in the GC, NC, CC, and MU zones, and not permitted in the REC-1, REC-2 and SE zones.
- ◆ **Deer Herd Migration Overlay Zone.** Section 24-37 Deer Herd Migration Overlay Zone. The Concow/Yankee Hill Community Association requests that Section F. pertaining to the Clustering of structures and accessory structures be amended to allow all structures to be built on parcels within the deer herd overlay without the need to restrict the location of accessory structures or confine all structures within a 1-acre area within the parcel.

Staff has reviewed this request in more detail and concurs with this request. Staff recommends removing Section 24-37. F. items 2 and 3 relating to the clustering of structures and accessory structures on existing parcels. The General Plan allows and encourages clustered development projects (as provided for under Article 18 of the Second Draft Zoning Ordinance), but does not provide any policy concerning the placement of structures on existing parcels. Further, the General Plan 2030 EIR assessed impacts to the deer range at a programmatic level, meaning there was not sufficient detail to provide mitigation at a parcel-level basis.

Therefore there is no legal basis for addressing the placement of structures on existing parcels in the zoning ordinance. This would not preclude mitigations being place on individual development applications subject to project-level review under the California Environmental Quality Act (CEQA) that would identify appropriate sites for development to minimize environmental impacts (such as a subdivision map).

Staff additionally recommends the removal of Section 24-37 C. –Permit required from the Deer Herd Migration Overlay Zone. This section requires the submittal of an Administrative Permit for development of a primary structure or second dwelling unit. Staff finds that this process would be redundant to the review of a building permit and would not accomplish anything more than the review of a Building Permit.

- ◆ **Neal Road Recycling, Energy, and Waste Facility Overlay.** Section 24-43 Neal Road Recycling, Energy, and Waste Facility Overlay Zone. Under Item B. Location –Staff recommends the following re-write of this section: “The – RW Overlay zone includes the Neal Road Recycling, Energy, and Waste Facility and an area extending 2,000 linear feet in all directions from the boundary of the Neal Road Recycling, Energy, and Waste Facility. ~~Overlay Zone.~~—This provides consistency with the General Plan, which includes the Neal Road facility within the overlay.

PLANNING COMMISSION DISCUSSION ISSUES –PART 2

- ◆ **Timber Production Zone – Spring Water Collection Use.** Table 24-16-1. A request has been received from Newell E. Cumming, attorney representing landowner Dale Mancino. Mr. Cumming requests inclusion of language in the Second Draft Zoning Ordinance regarding a use to allow the collection of naturally flowing spring water in the Timber Production Zones as a permitted use. Mr. Cumming indicates that his client’s intention is to collect and transport spring water via tanker truck.

The collection of spring water and subsequent trucking off-site for commercial use is currently not accounted for under the existing or draft zoning ordinance. When a use is allowed in a zone it is usually related to the zone’s intent such as the growing and harvesting of timber in the case of the TPZ zone. Water collected and used on-site would be related to the zone’s overall intent. Mr. Cumming requests to collect water for use in off site commercial applications, such as drinking water or bottled spring water. This use is not directly related to the zones primary intent, but nonetheless could be considered through a Use Permit. Such a use may generate more impact than would ordinarily be expected. For instance, the use may impact water resources, traffic generation, biological resources and other impact areas. For this reason, it would be a project subject to review under the California

Environmental Quality Act (CEQA).

Uses that are permitted within the TPZ zone are those that are directly related to logging, timber processing, crop cultivation, and the management of forest lands for timber operations and animal grazing. Other uses that are determined to not significantly detract from the use of the property for, or inhibit, growing and harvesting timber is permitted through a conditional use permit.

It is therefore staff's recommendation that this use, if allowed by the Planning Commission, be subject to a conditional use permit. Section 24-17 E. outlines requirements for the review of use permits and minor use permits in the TPZ zone. This includes the review of the use by a Registered Professional Forester to ensure that the use will not negatively detract from the ability to grow and harvest timber and timber resources. Additionally, a "right-to-log" disclosure is required to ensure that the use may be subject to inconveniences associated with timber management and harvesting, and that such operations takes precedents over conditionally permitted uses.

Staff reviewed other zones in the Second Draft Zoning Ordinance for the application of this use. It is staff's recommendation that this use, if conditionally allowed, be limited to the Natural Resource Zones, including the TM and TPZ zones, excluding the RC zone, and all other zoning districts. While there may be an opportunity to collect naturally flowing spring water in other rural zones such as the Rural Residential or Foothill Residential zones, it would be staff's recommendation not to allow this use in residential zones.

- ◆ **Medical Offices and Clinics.** Table 24-19-1. The current Agriculture Residential zone permits Medical Offices and Clinics through a Conditional Use Permit. This use was added to the Agricultural Residential zone through action by the Board of Supervisors in 2006. Staff requests that the Planning Commission provide direction on whether this use should be extended to the Rural Residential zone under the Draft Zoning Ordinance as a conditionally permitted use.
- ◆ **Hunting and Fishing/Wholesale Nurseries –Parcel Size** (Table 24-19-1). The Concow/Yankee Hill Community Association requests that Footnote 3 pertaining to Table 34-19-1 –Permitted Land Uses in Residential Zones be changed from 5-acres to 1-acre for Hunting and Fishing Clubs and Retail and Wholesale Nurseries. Staff request that the Planning Commission provide direction on this request.

Part 3 –General Regulations

- ♦ **RECOMMENDATION:** Staff recommends that the Planning Commission recommend approval of Part 3 – General Regulations as contained within the Second Draft Zoning Ordinance, with additional recommendations set forth by staff and any additional recommendations directed by the Planning Commission.

MAJOR CHANGES –PART 3:

- ♦ **Signs** (Article 20). The definitions of various signs, which had originally been placed in Part 7, were moved into this section to provide easy reference. Various edits were made to this section to reflect Planning Commission comments and public input.

ADDITIONAL STAFF RECOMMENDATIONS –PART 3

- ♦ **Setback Requirements and Exceptions** (Article 12) Public comment was made by Robin Huffman during the September 2, 2010 Planning Commission meeting that setbacks from canyon rims be addressed in Article 12 of the zoning Ordinance –Setback Requirements and Exceptions. Butte County General Plan 2030 Policy COS-P17.2 states that Ridgeline development near scenic resources shall be limited via the adoption of specific development guidelines in order to minimize visual impacts, and Action COS-A17.1 states that the County will “Adopt development guidelines that mitigate the impacts of ridgeline development near scenic resources”.

This action is currently scheduled for implementation during the 2012/13 Fiscal Year. Staff recommends including this comment in the review and completion of this Action and amending the zoning ordinance in the future when this action is completed, but does not recommend any additional changes to the Second Draft Zoning Ordinance at this time.

(Note: due to a variety of factors including staff and resource limitations, an updated schedule for the Action Plan will be developed for the Board's consideration in the coming weeks. This will result in scheduling changes).

- ♦ **Fencing.** (Section 24-57 A 3.) Concerning the use of fencing. This section currently states that the use of barbed wire, razor wire and other similar materials is permitted only in Industrial and Agriculture zones. The Concow Yankee Hill Community Association requested that the TM, RR and FR zones be included in this list, allowing for these types of fencing, since they also allow animal grazing. Staff concurs with this request.
- ♦ **Signs** (Article 20). Staff recommends the following additional edits per public comment received from Jim Moravec, Stott Outdoor Advertising:

- Include Off-Site Billboards under Table 24-102-1 consistent with Table 24-102-2 (applicable only to General Commercial zones)
 - Correct maximum area per sign for billboards from 648 to 672 square feet.
 - Delete the word “minus” from Table 24-102-2, Footnote 3.
- ♦ **Land Use Compatibility Standards** (Article 24). Per Planning Commission direction staff reviewed the City of Oroville’s nuisance provisions. Staff’s findings are that the County has its own Property Maintenance and Abatement of Nuisances code Section (Butte County Code Section 32a.) which functions for this purpose. Staff did include an additional section (24-148) pertaining to outdoor storage in residential zones to address neighborhood concerns, particularly as set forth for the Kelly Ridge area, as provided for under public comment.

PLANNING COMMISSION DISCUSSION ISSUES –PART 3

- ♦ **Camping** (Section 24-72). The Concow/Yankee Hill Community Association requests the removal or significant increase of the camping limitations as set forth in this section. The Association indicates that a 9 day, two family/unit, limitation is insufficient to provide for summer camping trips that may last 3 months or more and may involve many family members and campsites.

This section’s limitations are taken from the existing Butte County Code Section (Section 24-260). Camping is limited to 9 days in recognition of the fact that camping is meant as a temporary use of the land, not a use that will take place for 3-months or longer periods, especially in residential zones. Additionally, campers are not permitted to connect to electrical utilities or water/sewer lines, in areas outside of an established outdoor recreation facility, campground, recreational vehicle park or hunting/fishing camp.

The Second Draft Zoning Ordinance and the existing zoning ordinance provide the opportunity to camp for 9 days in any one calendar year in most areas of the county. However, the permitting of seasonal or permanent camps with multiple campers, especially in urban and rural residential zones, would be incompatible with residential uses, which is a primary use these zones are intended to provide for and protect. The preservation of the quality of life and character of existing residential neighborhoods is one of the specific purposes of the draft zoning ordinance (Section 24-2 B.8.). Staff therefore does not support this request. Staff requests Planning Commission direction in light of this request.

♦ **Clustered Development (Article 18)**

- Incentives provided under Section 24-85 allow for an increase in project density from a 15 percent increase for 70 percent open space to a 25 percent increase for 90 percent or more open space. This is a new provision of the Draft Zoning Ordinance based upon direction from the following General Plan Policy and Action:

COS-P7.2 Clustered development patterns shall be encouraged in order to conserve habitat for protected species and biological resources.

COS-A7.1 Develop and provide incentives to developers to conserve and maintain important habitat areas and sensitive biological resources.

Staff requests that the Planning Commission review Section 24-85 A. pertaining to density incentives and provide further direction as to whether a density incentive is appropriate for clustered development and whether the incentives provided under Table 24-85-1 are appropriate.

- Staff requests Planning Commission direction concerning whether it is appropriate to allow clustering in Urban Zones (Very Low Density Residential, Low Density Residential etc.).
- Staff requests Planning Commission direction on whether it is appropriate to allow clustering in rural zones that are specifically designed in purpose to protect resources such as the Agriculture zone or Timber Mountain Zone. The Planning Commission previously indicated that 1-acre clustered lots would be inappropriate in agricultural areas (September 16, 2010 Meeting Notes).
- Under Section 24-86 B. and C. –Multiple Housing Types. Staff requests Planning Commission direction on whether it is appropriate to allow duplexes and multi-family housing in rural areas of the County. Or whether clustering should be limited to single family residential lots.

Part 4 –Supplemental Use Regulations

- ♦ **RECOMMENDATION:** Staff recommends that the Planning Commission recommend approval of Part 4 – Supplemental Use Regulations as contained within the Second Draft Zoning Ordinance, with the additional recommendations as set forth by staff and any additional recommendations directed by the Planning Commission.

MAJOR CHANGES –PART 4:

- **Accessory Structures and Uses** (Section 24-153). In response to public input concerning accessory structures and uses under the Draft Zoning Ordinance, and Planning Commission direction, staff drafted a new section and table (Table24-153-1) pertaining to Accessory Structures and Uses. The concept and strategy of permitting Accessory Uses as set forth within the Draft Zoning Ordinance was reviewed and accepted by the Board of Supervisors on April 26, 2011. This section sets-forth better direction for the treatment of accessory uses and structures, which had been lacking in the current zoning ordinance and the previous draft.

The new table provides direction on a variety of accessory uses and structures, distinguishing between rural and urban zones. The table also provides direction on uses that would be considered accessory to a primary use such as single family dwelling, and uses that would be considered accessory to a zone when no single family home is yet developed. The new section helps to define accessory structures such as workshops, sheds, storage buildings, barns, and similar structures as being permitted prior the approval of a single family dwelling in rural zones (AG, TM, FR, and RR).

- **Animal Keeping** (Section 24-155). This section is a re-write of the current zoning ordinance's section 24-255. In re-writing this section, staff consulted with the Butte County Cattleman and Cattlewomen, the Farm, Home & 4H Advisor/Cooperative Extension Office, the Agriculture Commissioner and the Butte County Public Health Department. The section was re-written to be easier to understand and use, and to be consistent with the new General Plan and Draft Zoning Ordinance.
- **Residential Generator Noise** (Section 24-168). This section was updated by including standards from the General Plan Noise Element (see Table 24-168-1 –Maximum Allowable Noise Levels). This table establishes maximum allowable noise levels on an hourly average, and maximum basis for urban and non urban areas for daytime, evening, and night time periods and replaces the previous 55-decibel standard.
- **Heavy Equipment Storage** (Section 24-170). This is a new section of the Draft Zoning Ordinance that was developed from input received during the Draft Zoning Ordinance update process. The section was developed to provide a way for private contractors to store heavy equipment on their residential property in conjunction with an off-site business. Under existing code, such contractors cannot store their equipment and must find areas with appropriate commercial or industrial zoning, often many miles away from their residences.

Since publication of the Second Draft Zoning Ordinance on July 8, 2011, Development Services staff has taken numerous calls and comments from concerned citizens who felt that this section of the draft code was intended to regulate the use of private equipment on their personal property and was inappropriately applied to rural areas of the County.

Development Services staff wishes to clarify that this section was not intended to regulate the private use of heavy equipment on individual property, only to accommodate those private contractors who have equipment used elsewhere in conjunction with a commercial business, and to ensure compatibility with surrounding residential uses in the Very Low Density Residential zone.

This section has been re-drafted, in order to focus this provision on the Very Low Density Residential (VLDR) zone. The VLDR zone has the lowest density of the Urban Zones (allowing parcels at a 1-acre size and above). Contractors living in these areas often have the space to accommodate heavy equipment storage, but currently cannot do so under the existing code.

The Accessory Use Section (Section 24-153) of the Zoning Code will be updated to allow Heavy Equipment Storage as a permitted use in all Rural Zones (Timber Mountain, Timber Production, Rural Residential, Foothill Residential, and Agriculture), allowing this use “by right” without further permit requirements.

Aside from the VLDR zone, Heavy Equipment Storage would not be allowed in any of the other Urban Zones (LDR, MDR, MHDR, HDR, and VHDR) due to the higher density of development permitted by these zones. The revised text of the re-drafted Heavy Equipment Storage section (Section 24-170) is provided as follows:

24-170 Heavy Equipment Storage in the Very Low Density Residential Zones

- A. Purpose. This section establishes minimum standards and permit requirements for the storage of heavy equipment used by individual contractors/drivers for off-site commercial jobs. This section applies to the storage of heavy equipment in the Very Low Density Residential (VLDR, VLDR 2.5) zones. Storage of heavy equipment in all other zones is set-forth under Section 24-153 –Accessory Uses and Structures. ~~all Rural Zones (RR, FR, AG, TM, TPZ).~~ Heavy equipment includes equipment with a manufacturer’s gross weight of 10,000 pounds or more. ~~carried by trailers such as graders, excavators, bulldozers, backhoes and similar equipment; heavy vehicles such as dump trucks, semi-tractor trailers, and similar equipment, and other heavy equipment that may necessitate being pulled behind a vehicle. Heavy equipment storage as used in this section means heavy equipment that is stored for one or more consecutive days during the year.~~
- B. Permits Required.

1. The storage of up to two pieces of heavy equipment in conjunction with a residence requires the approval of an Administrative Permit.
 2. The storage of ~~thee up~~ to six pieces of heavy equipment in conjunction with a residence ~~or on an undeveloped parcel~~ requires the approval of a Minor Use Permit.
- C. Standards. All Heavy Equipment Storage sites shall comply with the following standards:
1. ~~Parcel must be a minimum of 5 acres in size.~~
 2. ~~The heavy equipment and vehicle storage area shall be designated on the site plan.~~
 3. The heavy equipment and vehicle storage area may not exceed ~~is limited to~~ $\frac{1}{4}$ $\frac{1}{2}$ - acre in size where all vehicles shall be stored.
 4. The storage area shall be setback from property lines in accordance with the setbacks required for structures. ~~in the applicable zone. and maintain a 100-foot setback from all domestic wells.~~
 5. ~~No more than the permitted number of pieces of heavy equipment may be stored at any one time.~~
 6. Heavy equipment may be stored and removed on a daily basis, subject to the hours of operation of 6:00 am to 6:00 pm, Monday-Friday, and 8:00 am to 6:00 pm Saturdays, Sundays and Holidays.
 7. All vehicles shall be screened from direct view through vegetation, or approved fencing/walls or other approved means.
 8. All vehicles must be operational and ~~be in a running condition and~~ have a current license.
 9. No heavy mechanical work, ~~maintenance or service~~ is allowed. Light maintenance such as fluid changes, tire changes, and other minor repairs are permitted.
 10. Inoperative vehicles are not permitted to be stored at the site.
 11. ~~Vehicles shall be kept secure and safe from vandalism, trespass and unauthorized operation.~~
 12. Vehicles shall not idle longer than 15 minutes at the site prior to leaving or upon return.
 13. ~~An approved encroachment to a public or private right-of-way is required.~~
 14. Access roads shall be sufficient to carry the equipment without sustaining undue damage to the roads. ~~Permits issued under this section may require that only unloaded equipment be stored.~~
 15. Mud, run-off, erosion, and drainage, shall be controlled at all times and contained on-site. ~~Vehicles are not permitted to track dirt or mud onto a county or private right-of-way.~~
 16. Dust shall be mitigated during dry conditions.
 17. Storage of oil, gas, or other fluids/materials associated with the maintenance of heavy vehicles must comply with state law regulating the storage of hazardous materials. ~~is prohibited.~~
 18. Storage of construction related material such as aggregate, sand, soil or debris is prohibited.
 19. Measures shall be taken to prevent leaks and spills. Any leaks and spills shall be immediately addressed.
- D. ~~Suspension of Permit. The Zoning Administrator may suspend the approval of the Minor Use Permit or Administrative Permit for Heavy Equipment and Vehicle Storage if one of the following applies:~~

- ~~1. The site has become a detriment to the public health, safety, welfare, or character of a neighborhood, or constitutes a hazard or nuisance to pedestrian or vehicular circulation.~~
 - ~~2. It is determined that standards applicable to the Heavy Equipment Storage site have been violated.~~
- **Temporary Uses** (Section 24-171). During the review of the Draft Zoning Ordinance public input was received concerning the allowance of “House Concerts” involving the use of a private residence for a privately organized concert. Under the existing zoning ordinance this use is not addressed at all and house concerts are considered a violation of the zoning ordinance. House Concerts are permitted under the Second Draft Zoning Ordinance with the approval of a Minor Use Permit, for over 50 guests but no more than 75 guests, over 6 times per year and not exceeding 12 times per year. Festivals, outdoor concerts, circuses, carnivals and similar events have also been moved from an administrative permit process to a Minor Use Permit process. These events have the potential to impact surrounding properties and can increase impacts in to an area. A Minor Use Permit process will ensure greater review and neighbor notification of house concert locations.
 - **Winery, Olive Oil, Fruit and Nut, Micro-Brewery and Micro-Distillery Production Facilities** (Section 24-172). This section was amended to include Micro-Distillery, Brewery, and Fruit and Nut Production Facilities. Public input has been received at prior meetings concerning the allowance of Micro-Distilleries under the Draft Ordinance. The Planning Commission also directed that Fruit and Nut Production Facilities (allowing for the production of extracts, edible oils, gourmet items etc.) and Brewery Production Facilities be included in this section. Proposed Micro-Distilleries and Breweries are proposed to be limited to small-scale production, less than 15,000 cases of beer or spirits per year.

ADDITIONAL STAFF RECOMMENDATIONS –PART 4

- **Accessory Uses and Structures** (Section 24-153).
 - In accordance with the discussion concerning Heavy Equipment Storage, staff recommends that “Heavy Equipment Storage” be added (Table 24-153-1) to the uses allowed as “accessory to a single family dwelling” and “accessory to zone” categories for the Rural Zones (AG, TM, FR, RR). Staff further recommends the inclusion of the TPZ zone in this section. This would allow heavy equipment storage in these zones “by-right” with no required permit process.
 - Section 24-153 E. The Concow/Yankee Hill Community Association commented that the prohibition to not exceed a total cumulative size of 2,500 square feet for structures accessory to a zone was unrealistic. This requirement was included to reduce impacts to neighbors. The Association felt that in rural zones it is common to have a garage,

shop, barn, stables all on one property without a residence and that such a limitation would be difficult to comply with, regulate, and would encourage unsightly outside storage of materials and supplies. Staff concurs with the deletion, noting that this section already requires parcels to be 1-acre or more in size, which would by itself reduce impacts to surrounding properties and neighbors from accessory structures.

- **Alternative Energy Structures –Solar and Wind Energy –Attachment D and E** (Section 24-154). As previously discussed at the Planning Commission, additional work has been completed developing separate sections devoted to Solar Power and Wind Power. These new sections will replace the code section currently shown under the Second Draft, and are provided under **Attachment D and E**. While still in the form of the Model Ordinance, the Solar Power section will be amended by staff to be included in the Second Draft Zoning Ordinance prior to adoption. The Wind Ordinance is still currently in draft form but will also be included in the Second Draft prior to adoption. Staff requests the Planning Commission’s review of these sections and any further recommendations.
- **Home Occupations** (Section 24-159). The Concow/Yankee Hill Community Association commented that the requirement to comply with accessibility requirements of the California Building Code has the potential to be a hardship to potential home businesses and needed further clarification. This section pertains to the installation of improvements (e.g. parking, wheelchair ramps) necessary under the Americans with Disabilities Act. Section 24-159 D. 10, states that “Home Occupations shall comply with accessibility requirements of the California Building Code.” Staff provides the following amendment to this section: “Home Occupations that include employees and/or involve the public visiting the site shall comply with accessibility requirements of the California Building Code including parking and path of travel into the building”.
- **Second Units** (Section 24-169) The Concow/Yankee Hill Community Association commented that the requirement (24-169 H.) to provide architectural design and detailing, roof material, and exterior color and finish materials of a second unit to match the primary dwelling would be more appropriate in urban zones and would be inflexible for owners in rural zones, particularly if the primary dwelling was of poor quality. Staff finds that this section would be very difficult to enforce and regulate, the county does not currently have an architectural review board or guidelines and therefore reviewing building materials, paint colors and architectural design would not be possible. Staff concurs with this request, and additionally recommends deletion of Section 24-169 H.

- **Temporary Uses** (Section 24-171). Public comment has been received concerning the permitting of House Concerts under the Draft Zoning Ordinance. Commenter's request that if the section concerning House Concerts is recommended for approval, additional standards be attached to their approval, including the following:
 1. House Concerts shall be allowed only in residences that are located on publicly maintained roads.
 2. Any public use of a home relying on a septic system shall be evaluated by the Butte County Environmental Health Division to ensure the septic system is up to the demand. If the public use exceeds the limits of the septic system the applicant shall furnish portable toilets.

These two standards could be incorporated into the review process for the Minor Use Permit. The commenter's indicate that the use of public roads would help to protect neighbors on small private dirt roads and that inspection of septic systems and the provision of portable toilets would protect water quality and the environment. Staff concurs with this request and recommends that the two requirements be incorporated as standards in the Draft Zoning Ordinance for House Concerts.

- **Winery, Olive Oil, Fruit and Nut, Micro-Brewery, and Micro-Distillery Production Facilities** (Section 24-172). The definition of Brewery was erroneously left out of the Second Draft Zoning Ordinance. Staff recommends the inclusion of the definition of Brewery in Part 7, Glossary as follows:

Micro-Brewery Production Facility: A manufacturer who brews and bottles beer on the licensed premises in this State from products grown on or off-site and who produces a maximum quantity of less than 15,000 cases per year (pursuant to Section 24-172).

Part 5 – Land Use and Development Approval Procedures

- ♦ **RECOMMENDATION:** Staff recommends that the Planning Commission recommend approval of Part 5 –Land Use and Development Approval Procedures as contained within the Second Draft Zoning Ordinance, with any additional recommendations directed by the Planning Commission.

MAJOR CHANGES –PART 5:

- **Zoning Clearances** (Article 28). This article was modified to indicate that a Zoning Clearance would take place as part of a Building Permit application, and that no additional permit process would be required. It was also modified to indicate that any person may, independent of a Building Permit application apply to the Department of Development Services for a Zoning Clearance.

- **Site Development Permits** (Article 30). Section 24-207 was modified to show which projects would be subject to a Site Development Permit, instead of providing which projects are exempt. This change was made to provide greater clarity to the public, decision-makers, and staff.
- **Exceptions** (Previous Article 33). This section was deleted in its entirety. Staff reviewed the applicability of this section with consultant Design, Community & Environment. It was concluded that other existing sections of the code, including the section devoted to Non-Conforming Uses (Article 22) and Variances and Minor Variances (Article 32) sufficiently provided options for members of the public to pursue limited adjustments to development standards as provided for under this article.
- **Zoning Administrator** (Section 24-254). This section has not been modified from the previous draft. Staff notes to the Planning Commission that on April 26, 2011, the Board of Supervisors reviewed this section and approved 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, and other minor permit processes.

The Board also approved of the concept to grant the Zoning Administrator review and approval authority over Tentative Parcel Maps. Having the Zoning Administrator review and approve non-controversial parcel maps would save time and money for the applicant and reserve the efforts of the Planning Commission to more complex or controversial projects. Complex or potentially controversial Tentative Parcel Maps would be sent to the Planning Commission for review and approval. Additionally, all decisions of the Zoning Administrator would be appealable to the Planning Commission.

Staff Note: The approval of Tentative Parcel Maps by the Zoning Administrator would require an amendment to Chapter 20 of the Butte County Code having to do with subdivisions.

Part 6 – Zoning Ordinance Administration

- ◆ **RECOMMENDATION:** Staff recommends that the Planning Commission recommend approval of Part 6 – Zoning Ordinance Administration as contained within the Second Draft Zoning Ordinance, with any additional recommendations directed by the Planning Commission.

MAJOR CHANGES –PART 6:

- **Lot Line Adjustments** (Article 41). This is a new section to address the need for the modification of lot lines between adjacent parcels under the Draft Zoning Ordinance. This section allows for an exception to the minimum

parcel size required under the Zoning Ordinance by up to 10 percent of the original parcel's size or 10-acres, whichever is less, with findings provided by the Zoning Administrator that will ensure that additional parcels are not allowed to be created through the exception process, and that the resultant new property lines and existing structures will not interfere with setbacks or other requirements.

Part 7 – Definitions

- ◆ RECOMMENDATION: Staff recommends that the Planning Commission recommend approval of Part 7 –Definitions as contained within the Second Draft Zoning Ordinance, with any additional recommendations directed by the Planning Commission.

MAJOR CHANGES –PART 7:

- Numerous edits and new definitions address Planning Commission direction and public comment.

IV. NEXT STEPS

The Planning Commission's recommendations on the Second Draft Zoning Ordinance Map and Text will be scheduled for review by the Board of Supervisors in early fall. Upon review and approval by the Board, a Supplementary Environmental Impact Report (EIR) will be prepared and circulated for public comment. Once this process is completed, staff will return to the Planning Commission for hearings on the Final Zoning Ordinance, Zoning Map and EIR. We will seek the Planning Commission's final review and recommendation that will allow us to forward all documents to the Board of Supervisors for their final review and adoption.

If you have any questions, please do not hesitate to contact Principal Planner Dan Breedon (530-538-7629), Planning Manager Chuck Thistlethwaite (530-538-6572) or me (530-538-6821).

Sincerely,

Tim Snellings, Director
Butte County Department of Development Services

ATTACHMENTS:

Provided separately to the Planning Commission:

- A. July 8, 2011 Second Draft Zoning Ordinance and Map (in both "clean" and edited versions)

Attached to this Agenda Report:

- A. Public Comment and Requests on Draft Zoning Text
- B. Summary Notes from Series of Planning Commission Meetings (held August 5, 2010 through November 2, 2010)
- C. Military Airspace Overlay Zone Draft Ordinance
- D. Model Solar Ordinance
- E. Draft Wind Power Ordinance
- F. Summary Notes –Board of Supervisors April 26, 2011 Meeting.