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TO: Planning Commission

Agenda of: January 13, 2011

FROM: Peter N. Maurer, Principal Planner

Item No.: 10

DATE: December 29, 2010

RE: Zoning Ordinance Update

Background:

This memo is intended to provide an overview of the Zoning Ordinance update and to provide a framework for discussion as we work through each article of the draft ordinance. This should assist the Commission when we begin public hearings on the document later in 2011 and proposals are made to revise the draft. Informed decisions can then be made based on a full understanding of the draft ordinance.

The presentations to be made by staff to the Commission will include a discussion of how the ordinance is organized, what any significant changes are, and why those changes were made. Staff has included as attachments information previously provided to the Commission as the update was undertaken in 2007. The newer members of the Commission have not seen these previously, and they are important background documents. They serve to some degree as the basis for many of the changes that will be recommended. These documents include a flow chart tracking how the process has developed (Exhibit A), a review of implementation measures from the General Plan and how they are addressed in the plan (Exhibit B), and a review of problems associated with the current ordinance and how staff proposes to address those issues in the update (Exhibit C).

Organization:

While the document may look fundamentally different than the existing Title 17, most of the provisions are the same or very similar. It is intended to be organized in a way that is more user-friendly and that clearly articulates what uses are permitted in each zone. It is also intended to provide an appropriate degree of flexibility, as few things in planning and zoning are necessarily black and white.

Some of the structural changes are the use of tables and matrices to identify permitted uses and development standards, the order of the chapters going from permitted uses to development

standards to regulations and the permitting process, and cross references to other sections of the code for easier referral to other applicable requirements. Each of these will be discussed more thoroughly as the individual articles are reviewed.

Purpose of Zoning Ordinance Update:

The primary purpose of this update is to bring the existing zoning, both the ordinance text and the zoning maps, into conformance with the General Plan. This was listed as the primary implementation measure in almost every element of the Plan. The zones must conform to the land use designations, but also there are numerous policy requirements that necessitate new or revised provisions in the ordinance. As we work through each Article, staff will identify which provisions of the draft ordinance are there as a result of a General Plan policy.

In addition to General Plan consistency and policy directives, the ordinance also needed to be updated to comply with new state and federal mandates. Some of these have been addressed earlier, such as WECS, to meet mandated timeline requirements. Others have been incorporated into the draft. These will be identified as they are discussed during the course of the review.

The third reason for changes is to address existing deficiencies in the ordinance. These include inconsistencies between current provisions, outdated terminology, issues that are not addressed but effect day-to-day operations of the department, and other similar concerns expressed by the Board, the Commission, applicants, and the general public. And as discussed above, the changes are meant to make the ordinance easier to use.

Article 1

Article 1 sets the basic format and framework for the rest of the ordinance. The purpose of this article is to set the ground rules and legal support for the entire ordinance. It establishes the facts for which findings can be made for adoption, and the legal framework to address questions of interpretation, process, and authority. This includes General Plan consistency, avoidance of land use conflicts, and implementing General Plan policies and programs. The latter includes the need for economic development, agricultural and natural resource protection, ensuring adequate services and infrastructure, and the provision of housing to meet the needs of the County.

The ordinance then outlines the responsibilities of various parties such as staff and hearing bodies, how the ordinance is to be interpreted, the applicability of the ordinance, some basic legal provisions, and then identifies each of the different zones.

Significant Changes:

Article 1 contains two significant differences between it and the current code. One is a clear set of interpretation rules (See Sections 17.10.030.C and 17.10.050). These sections set forth basic rules, which are now being used, but are not actually part of any adopted ordinance or resolution, and how the County is to address anomalies and other unique situations where the ordinance may not be clear. Section 17.10.050 establishes a process to document any interpretations and an appeal process for any director decisions.

The second provision is a set of rules on how existing land uses and projects in process will be handled when the ordinance is adopted (Section 17.10.040.C). While there is a large body of case law and statute that addresses some of the issues that arise when rules and regulations change, this section is intended to clearly state in one place how the County will handle such projects.

Article 2

Article 2 is one of three articles that form the guts of the ordinance. This is the article that identifies what land uses are permitted in what zone, what type of permit may be required, and what the basic development standards are for each zone. The other two articles are 3 and 4, which are the general development standards and the specific use regulations, both of which will be reviewed at subsequent meetings.

Framework:

Article 2 begins with general provisions stating how to use the ordinance and matrices. It discusses the definitions contained in the glossary (Article 8), describes the permit requirements and refers to Article 5 (Permit Processing) which contains more detail on the permit process, describes how the matrices are cross-referenced with Article 4 (Specific Use Requirements), and provides a means to consider similar uses not listed in the matrix, giving the Director and Commission authority to interpret the code. The bulk of the article is the use matrices and development standards tables. The article is divided into chapters, each addressing a group of similar zones. There are six such chapters, with the groups being Agricultural, Commercial, Industrial, Residential, Special Purpose, and Combining zones.

The reason that staff is recommending the matrix format is that it provides a very quick way to identify what uses are permitted in any given zone, consistency between the use types, a means to compare the zones, and an easier ability to add new zones or use types as the ordinance is amended in the future.

Significant Changes:

Agricultural and Resource Zones:

The goal of Planning Services was to only modify the provisions of the code where it was necessary to conform to the general plan, be consistent with state law, address existing conflicts or inconsistencies with the current zoning ordinance, or simplify the ordinance to make it easier to use. One of the latter changes was combining several zones where there was little or no difference in the permitted uses. One such example where this was done is in Chapter 17.21, Agricultural and Resource uses. The SA-10 zone has been merged with the PA, Planned Agricultural zone. The permitted uses were identical with the only difference being the minimum parcel size. Since PA already had lot size designator (PA-20, PA-30) we have added PA-10 to replace SA-10. This will not affect the uses or development standards on any lands currently zoned SA-10.

Another significant change covered in Chapter 17.21 is the elimination of the RA (Residential Agricultural) zones. These are to be replaced by two new zones, FR, Forest Resources and RL, Rural Lands. The reason staff proposes to eliminate the RA zone is that it has caused confusion in the past as to what its purpose is. It is primarily applied to the rural regions in the county, some of which is timber land, grazing land, or simply the more remote land that is not suitable for grazing, horticulture, or timber production. Some of the current issues associated with the RA zones are the application of agricultural setbacks, residential development in areas of limited public services and utilities, and conflicts between resource-based uses (mining, timber, agriculture) and adjacent residences.

The FR zone is intended to identify non-TPZ land that is suitable for timber production, but that would not have the same restrictions or tax benefits of TPZ. Residential use would be permitted by right, as it currently is in the RA zones, but the stated purpose would be to allow resource extraction activities. It would generally be applied to land above 3000' in elevation as well as National Forest lands. The RL zone would be applied generally to land below 3000'. This zone also would permit residential, agricultural, and timber uses, but not focus on any specific use. Staff is working with the Agriculture Department to identify those RA-zoned land that are in active agriculture that could be zoned PA to ensure that productive agricultural lands are protected.

A third new agriculture and resource zone is proposed to be AG, Agricultural Grazing. This is intended to support the implementation of Measures AF-D and AF-E of the General Plan. However, it is only being set up as a place-holder at this time, with no land zoned AG. That would only occur after the County has completed the analysis and implementation of those measures as set forth in the Agriculture and Forestry Element.

Commercial Zones:

In Chapter 17.22, Commercial Zones, the only significant change is the merging of CP, Planned Commercial, into the C, Commercial zone. Currently, the uses are identical, with the only difference being that the Planning Director must review and approve the site plan for any new use in the CP zone. This is an unnecessary process, and usually superseded by a Planned Development or Design Review process.

Industrial Zones:

Chapter 17.23 includes the industrial and research and development zones. The I, Industrial and R&D, Research and Development zones remain unchanged. Included in the matrix is the I-PL, Industrial-Platted Lands, a new combining zone that identifies the rural lands designated Industrial in the General Plan. The industrial uses there are limited, focusing on resource-based activities to support the surrounding agriculture, timber or mining uses.

Residential Zones:

There are three significant changes in Chapter 17.24, Residential zones. One is the combining of the R2, Limited Multifamily and RM, Multifamily zones into a single zone, RM Multi-unit

Residential. We have changed the reference from family to unit to address case law that limits the ability of cities and counties to restrict housing to families. The single multi-unit zone provides a density consistent with the General Plan land use designation range of 5-24 units per acre.

The second change is combining RE-5 and RE-10 into a single zone for the purpose of the use matrix and development standards table. The RE, Residential Estate zone will still have the 5 or 10-acre minimum lot size designator, but the uses are identical, as they are in the current code. The RE zone is also clearly identified as a residential zone as its primary purpose, although agricultural uses will still be permitted as it is today.

The other change is the addition of the NS, Neighborhood Services zone, as required by Policy 2.2.5.8. The zone is created, but it has not been applied to any site on the draft updated zoning maps. This zone, as provided in the General Plan, would permit limited commercial and service uses in residentially-designated areas to serve that specific neighborhood. As new subdivision development occurs, these sites will be identified and zoned at that time.

Special Purpose Zones:

Staff has grouped all of the other zones into a chapter, Chapter 17.25, Special Purpose Zones. These include TC, Transportation Corridor, OS, Open Space, and RFH and RFL, Recreational Facilities (High- and Low-Intensity). Changes include removal of residential use from OS and the splitting of the RF zone into the two different categories. The latter change was done to differentiate between higher intensity recreational uses, such as marinas and commercial recreation uses, versus more passive activities such as camping and public parks. The elimination of residential uses in the OS zone was done to reflect the real purpose of this zone, which has been to set aside the land for habitat, agriculture, watershed, or other non-consumptive purposes.

Eliminated zones:

In addition to the zones discussed above, the following zones are proposed to be eliminated from the ordinance:

- MP, Mobilehome Park
- MR, Mineral Resource
- RT, Tourist Residential
- CN, Conservation

Two of these, the MP and MR zones have been converted to combining zones, which will be discussed below. The sites with the RT zone, which only exist in a couple of locations in Pollock Pines and Meyers, have been changed to RM or C, depending on the land use designation. None of the sites actually have tourist accommodations, but are either vacant or developed with residential uses. And there is no land zoned CN, so there did not seem to be any reason to retain that zone.

Combining Zones:

DSD is proposing to have thirteen combining (also known as overlay) zones. Four of these already exist. They are:

Planned Development -PD (Chapter 17.28) – This is provided as a separate chapter due to its complexity. The process and findings necessary for approval have been rewritten to clarify the intent of the ordinance. New provisions have been added to address condominium conversions, density bonus provisions of the General Plan for open space dedication, affordable housing bonus provisions, and descriptions of common versus public benefits. Staff is working on a General Plan amendment that may revise the 30% open space provisions, which could result in modifications to the draft ordinance if the amendment is adopted prior to final approval of the ordinance update.

Community Design Review -DC (17.27.040) – Provisions for the establishment of new design review districts and design guidelines have been added. Advisory committee requirements have been placed in Article 6. The draft eliminates separate provisions for Sierra Design Review Districts as each community will develop its own distinct design guidelines. Historic Design Review provisions are placed in a separate section.

Historic Design Review -DH (17.27.070) – This is established as a placeholder pending development of new Historic Design Guidelines. However, provisions may be added prior to final adoption based on recent actions in Diamond Springs and El Dorado to establish an Historic Design Review District for those two communities.

Airport Safety -AA (17.27.020) – This is similar to the current code, but incorporates specific standards from each airport community land use plan (CLUP). The CLUPs are referenced in the existing ordinance, but an applicant needs to look in that document as well to fully understand what the development requirements are for lands affected by the airport. By including these provisions the process for review should be simplified.

Below is a listing of the new combining zones and the reason they have been created:

Avalanche Hazard -AV (17.27.030) – This is a requirement of the General Plan, and will identify those areas where the potential for avalanche is high. Development restrictions and safety standards would be imposed on new construction in such areas. They are limited to a few locations in the Tahoe Basin and along Highway 50 near Echo Summit.

Dam Failure Inundation, -DFI (17.27.050) – Another requirement of the General Plan, this zone would provide similar standards as above for areas subject to inundation in the event of a dam failure.

Ecological Preserve, -EP (17.27.060) – The purpose of the -EP zone would be to implement the rare plant fee program and potential future programs which may develop out of the INRMP. In this latter function it serves as a place-holder.

Mobile/Manufactured Home Park, -MP (17.27.080) – The MP combining zone is proposed to replace MP as a base zone. Combining it with a base residential zone that establishes densities will more accurately reflect the density that is prescribed in the General Plan, and should be more flexible in providing opportunities for mobile home parks as a housing alternative in the County. Development standards for mobile home parks are included, as well as provisions for coordinating with the California Department of Housing and Community Development, which also regulates mobile home parks.

Noise Contour, -NC (17.27.090) – This is a placeholder for when the County develops a comprehensive noise ordinance as required by Implementation Measure HS-I. This includes the application of standards to ministerial projects where there are significant existing noise sources such as highways. This is proposed to be deferred and taken up as a separate ordinance.

Platted Lands, -PL (17.27.100) – The -PL zone is intended to implement the PL overlay designation of the General Plan.

Scenic Corridor Design Review, -DS (17.27.110) – This is a placeholder for the implementation of General Plan policies related to scenic highways.

Tahoe Basin, -T (17.27.120) – The Tahoe Basin combining zone is intended to replace the separate Tahoe zones in the current code. Although there are a number of separate zones, such as TR1, Tahoe One-Family Residential and TC, Tahoe Commercial, they are identical to the corresponding zone on the west slope. The -T combining zone would recognize the additional requirements of development in the Tahoe Basin, but the base zone would have the same permitted uses and development standards as elsewhere in the County.

Mineral Resources, -MR (Ch. 17.29) – Like the -MP zone, staff proposes to convert the MR base zone to a combining zone. The purpose of this is to identify appropriate mineral resources and operating mines in the county and to utilize the base zone for other uses for mineral resource lands that do not have operating mines and for future reclamation requirements. SMARA requirements and Measure A provisions have also been incorporated into this section.

Conclusion

No action is to be taken with this or the other upcoming workshops on the draft ordinance. The purpose is to provide a more detailed description of the draft document and an opportunity for the Commission to ask questions of staff to develop a fuller understanding of the ordinance. The plan is to work through Articles 1 and 2, and begin Article 3 at the next meeting. But if we are unable to complete the review, we can pick up where we left off and continue as needed, working out way through the ordinance over the next several months.

Attachments:

- Exhibit A.....Flowchart: Steps in the Preparation of the Updated El Dorado County Code
- Exhibit B.....General Plan Implementation through Zoning Update – December 10, 2007
- Exhibit C.....Recommendations on Existing Zoning Code Problems – Updated November 15, 2007