

MEMORANDUM

MEMO DATE: March 18, 2010

TO: EDC Board of Supervisors

FROM: Economic Development Advisory Committee ("EDAC")
Regulatory Reform Subcommittee ("Subcommittee")

BOS DATE: March 22, 2010

SUBJECT: Status Report of EDAC Regulatory Reform Subcommittee Re:
Fire Safe Regulations and Fire Code
Draft Land Development Manual (LDM)
Draft Highway Design Manual (HDM)
Community Design Process
Draft Zoning Ordinance
Future Assignments

EDAC and the Subcommittee appreciate the opportunity to provide an EDAC Regulatory Reform Subcommittee status report to the EDC Board of Supervisors (BOS). *A binder with supplemental material which provides more extensive information on various aspects of this status report is attached but it is not necessary to review the material prior to the Board presentation on Monday March 22, 2010. The material is only provided as background and noted as an attachment in the following report.* **This presentation will be first of a regular process of feedback between EDAC and the BOS as EDAC continues working on its assigned tasks. EDAC is not asking the Board to take action on any item, only to provide feedback as deemed necessary to ensure EDAC is on the right track with the Board's intent.**

BACKGROUND

In May 2009, the Board of Supervisors convened an 11-member Economic Development Advisory Committee (EDAC) tasked with assisting the Chief Administrative Office and other Departments in the implementation of top economic development priorities. One such priority being:

"Recommend ways to reform and improve regulatory processes relating to business in order to foster the spirit of cooperation, understanding and consensus between government and business, including a specific review of the General Plan and continue with existing County regulations and procedures to eliminate contradictory, unneeded requirements, and to narrow the scope of government to only those regulations that are necessary to the common good and that do not usurp the right of the individual to make responsible and creative choices."

To this end, an EDAC Regulatory Reform Subcommittee was formed specifically to review the county's land entitlement processes. To date the Subcommittee has held over 35 weekly meetings with the participation of private-business experts from various fields, as well as EDC Department and Agency staff and have reviewed existing and new regulations and ordinances, the 2004 General Plan, Fire Safe Regulations and the Fire Code, draft Land Development Manual (LDM) which replaces the existing Design Improvement Standards Manual (DISM), draft Highway Design Manual (HDM), the Community ID/Design Ordinance/process and the draft Zoning Ordinance.

FIRE ISSUES – LOCAL/STATE REGULATIONS

In February, 2008 the BOS ratified by adoption regulatory recommendations from EDC Fire Districts. The EDAC Subcommittee subsequently cited local Fire Regulations as a major constraint to economic development locally. Fire Safe Regulations, the 2007 California Fire Code, and the relationship between the two and their effect on land use policy in the County, came into question.

Fire: Regulatory Review:

The Subcommittee identified two fundamental questions:

- “What are the regulations that have been adopted by the State that must be enforced by El Dorado County?”
- “Who has the authority to adopt other, more restrictive, regulations?”

The Subcommittee reached the following conclusions:

1. The County is *required to enforce fire protection standards adopted by the State*, specifically the *non-building standards* found in Title 14 (Fire Safe Regulations) and the *building standards* found in Title 24 (2007 California Fire Code).
2. The County *has exclusive authority to regulate design of subdivisions* including fire roads and access requirements, subject to the compliance with the standards adopted by the State.
3. In 2008, the local Fire Protection Districts amended the 2007 California Fire Code (“CFC”) and adopted portions of the CFC that were **not** adopted by the State. The County *was not required to adopt or ratify these local amendments.*
4. The local Fire District amendments incorporated non-building standards into the building standards code and delegated regulatory authority to themselves, in conflict with the County’s exclusive authority to regulate subdivision design.

(A copy of two memorandums prepared by the Subcommittee are included as **Attachment 1** which is a 6 page summary and **Attachment 2 and Attachment 3** which treats these issues in greater detail)

The non-building standards adopted by the local Fire Districts are generally more restrictive than the standards found in the Fire Safe Regulations that the County has enforced for many years. In effect, EDC is attempting to reconcile two conflicting sets of regulations for the same subject matter. Further complicating all is fact that EDC is close to adopting the LDM/HDM which further imbeds those local Fire District regulations into the LDM/HDM. EDAC and the Subcommittee believe that the substance of the local Fire District amendments to the Fire Code should **not** be imbedded into the LDM and HDM until the Board of Supervisors considers the policy implications. Thus we believe this issue requires attention from the Board at the earliest opportunity.

LAND DEVELOPMENT MANUAL (LDM)

In July 2009, the Subcommittee began reviewing staff’s Land Development Manual (LDM) as an update to the current Design Improvement Standards Manual (DISM). The intent of the LDM is to supplant the existing DISM once adopted by the Board of Supervisors.

The Subcommittee held numerous meetings on specific topics contained within the LDM including: Wells & Septic Systems, Wetlands/Environmental, CEQA/EDC current issues, Grading, Subdivision Design, Road Design/Standard Plans, review of Shall vs. Should requirements, and how the proposed LDM would affect the delivery of Mixed Use Development/Traditional Neighborhood Designs.

Subcommittee review and recommendations were developed with participation of local experts from each area of expertise. A key tool in comprehending the numerous and detailed standards contained in the Draft LDM was the development of a prototypical **Standards and Source Document Matrix (Attachment 4)** to highlight each “shall” statement and cross reference the underlying source document dictating the standard (where

applicable). The Matrix also identified areas of concern or factors to consider when developing the intent of the LDM, and suggested recommendations as appropriate.

On January 28, 2010 the Subcommittee participated in an LDM and HDM discussion with Staff and the EDC Planning Commission (**EDAC report dated January 21, 2010 included as Attachment 5**). The Matrix concept was received positively by the Planning Commission and they have in turn forwarded the concept on to your Board for additional feedback through your regular channels.

During the course of the LDM review, twelve (12) policy issues became apparent and they too were presented to the Planning Commission at the January 28, 2010 meeting. Of the twelve, the Planning Commission recommended the Board provide direction on the following five policies:

- Policy Issue # 1 – Grading without a Project
- Policy Issue # 2 – 50 cubic yard grading threshold
- Policy Issue # 4 – Sidewalks
- Policy Issue # 10 – Fire Code
- Policy Issue # 12 – Design Waiver / Design Alternative

Policy Issues 1, 2 and 4 may be deferred for future discussion and appropriate CEQA review.

In addition to the Policy issues, the Planning Commission sought BOS input on the EDAC proposal to reduce design waivers by allowing alternative design solutions.

For background purposes, the first page (Section 1.1 – Purpose) of the LDM states:

“ALL discretionary land development projects *shall* conform to the standards of design and improvements as specified in the County Design Manuals and applicable El Dorado County (County) Ordinances.

Any request to deviate from these standards shall be submitted to the County for a determination if an exception or exemption can be applied. Throughout this manual, exceptions and exemptions are described (where they exist). If neither an exception nor an exemption can be applied, the applicant may apply for a Design Waiver as part of the permit application.”

Given the level of criteria in the LDM, the list of Design Waivers is expected to dramatically increase. Design Waivers create the perception that a project is “non-compliant” with the County’s stated design goals and requirements, when in fact the requirements are assumed to work for each and every project without any regard to the project’s unique shape, configuration, natural features, or design intent, or when a design alternative can achieve the same practical effect.

The BOS has expressed a desire to reduce the number of Design Waivers coming before them, so the Subcommittee developed modified language for LDM Section 1.1 “Purpose” and Section 1.6 “Design Waivers” to provide added flexibility to allow for alternative design solutions that would achieve the **same practical effect** as the standards suggested in the LDM. Staff also suggested revising the design standards for a Design Waiver and perhaps changing the name to a “Design Alternative”. The “Design Alternative” approach would be available where a project does not literally comply with the criteria in the LDM, but where an alternative approach achieves the same practical effect or meets the intent of the LDM. For a more detailed discussion of these concepts, please refer to EDAC’s memo to the Planning Commissioners as **Attachment 5**.

HIGHWAY DESIGN MANUAL (HDM)
aka Streets, Highways and Local Roads Design Manual

EDAC Regulatory Reform Subcommittee began initial review of the HDM as part of the LDM process. The initial reaction to the HDM was that it was too much like a Caltrans manual, and not enough like the old blue book (DISM). The immediate concern was that small local roadways would need to be designed as if they were State highways.

After several meetings with staff, the Subcommittee identified numerous issues and came to some overriding conclusions. Key examples of such issues include:

- 1) The HDM was intended to cover all publicly owned or maintained roads under one set of design guidelines - a "one size fits all" approach.
- 2) The definition of a publicly maintained roadway was difficult to pin down. For example, is a Zone of Benefit (ZOB)-maintained road subject to the HDM if not taken in fee by the County?
- 3) Are HOA-private roads subject to the HDM because it could one day revert to the County if the HOA fails?
- 4) Staff appears to prefer that the EDC roadways *all* be designed to Caltrans standards, with minor local exceptions and additions to Caltrans's design procedures. For larger roadways such as highways and arterial roads, even some major two lane roads in Community Regions, this type of design manual would be reasonable (El Dorado Hills Blvd for example).

However, for many major two-lane roads, local roads, and private streets, EDAC would prefer to see a design standard from the current DISM continue to be utilized.

As a result of initial discussions the Subcommittee presented a simplified version (see **Attachment 6**) for Staff's consideration in potentially restructuring the HDM to incorporate a modified "DISM" into the HDM. Staff has supported finding a way to simplify the design of lower-tier roadways in recent meetings, and a few different methods have been considered for implementation (options 1, 2 or 3 below).

The Subcommittee prefers either:

- 1) two separate manuals, one for the upper-tier roads and one for the lower-tier roads; or
- 2) one HDM with two distinct sections to address each of the roadway tiers.

Staff to date has moved towards:

- 3) an HDM that incorporates text to make specific exceptions for lower-tier roadways

Currently, Staff and Subcommittee are scheduled to meet on March 25, 2010 to discuss the feasibility of Staff's initially preferred method (#3 above).

COMMUNITY DESIGN

As part of the Mixed Use Ordinance discussions before the Board, it was agreed EDAC would assist in developing a format for mixed use project design control. After three public meetings, EDAC developed a conceptual draft format (**Attachment 7**) considered to be consistent with General Plan Policy 2.4.1.2 which directs the County to develop community design guidelines as planning staff and funds are available. The intent of the proposed Community Identity format is to initially limit the community design guidelines to Commercial and Multi-Family designated land within each community.

The draft format provides that an advisory committee be formed by the Board of Supervisors for each community. That committee will recommend the community boundaries to the Board.

After the Board sets the community boundaries, that committee will seek assistance from volunteer design professionals, engineers, landscape professionals, historical societies, business and community planning groups in preparing for a community workshop or Charrette. The committee will also evaluate available resources to hold a community workshop and what additional resources may be required.

After the committee has completed these tasks, it would report to the Board. The report may include a request for County funding and/or staff assistance. To reduce staff time and cost, the advisory committee should make every effort to obtain pro-bono assistance from local professionals. However, since outside funding is generally only available to government entities, it is expected staff assistance in applying for these grants will be required.

Funding sources which may be able to assist with the development of community design guidelines normally are offered on a competitive basis and impose specific restrictions. Cal Trans' Community-Based Transportation Planning grants and some CDBG funds are the two funding programs that support projects that coordinate transportation and land-use projects by encouraging community involvement and partnership. Other opportunities may become available depending on the desired outcome of the community.

The draft conceptual format has been provided to County Staff. They have provided feedback and shared the need to prioritize this effort in consideration with all the other General Plan Implementation issues and current budget constraints.

ZONING

EDAC has the first known update of the EDC Zoning Maps and Text which is currently under review.

NEXT STEPS / WHERE ARE WE HEADING?

It is expected that during the next year, EDAC will continue to work with County Staff as they complete the zoning ordinance review and then focus on the General Plan 5 year review/update issues which may include, but not be limited to: MUD II, Density Bonus, PD, SB 375, AB 32, INRMP, Ag District Expansions, Community Region changes (including Pollock Pines/Camino to Rural Center), fee structures, intersection commercial, etc.

In addition, EDAC Regulatory Reform may examine the most economical approach to General Plan Implementation Measures along with other tasks that may be assigned by the BOS.

