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Edcgov.us Mail - Alliance for Responsible Planning Letter re: TGPA/ZOU and FEIR (August 27, 2015)

PC 8/27/15
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7 pages



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Alliance for Responsible Planning Letter re: TGPA/ZOU and FEIR (August 27, 2015)

Site Admin <alliance4responsibleplanning@gmail.com>

Wed, Aug 26, 2015 at 1:56 PM

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Attached is a letter from Alliance for Responsible Planning concerning the issues on Thursday's Planning Commission Agenda. Thank you for considering our comments.

Very truly yours;

Alliance for Responsible Planning

 **Final EDCARP 08 25 15 ltr to PC re TGPA ZOU.pdf**
584K

Alliance for Responsible Planning

August 25, 2015

El Dorado County Planning Commission
2850 Fair Lane Court, Building "C"
Placerville, California 95667

Re: August 27, 2015 – Agenda Item #11-0356 – Version 16
Targeted General Plan Amendment and Zoning Ordinance Update (TGPA/ZOU);
Final Environmental Impact Report (FEIR)

Honorable Planning Commissioners,

Over the past four years, the Planning Commission ("Commission") has conducted extensive public hearings and has heard many, many hours of public testimony. The Commission has been instrumental in refining the issues and shaping the project that now awaits your recommendation to the Board of Supervisors. Rather than rehash old issues, our comments are focused on responses to some of the "global" myths and misinformation concerning the TGPA/ZOU, and issues previously "flagged" by the Commission.

1. Statements suggesting that the TGPA/ZOU is responsible for 38 "significant and unavoidable environmental effects" are disingenuous and misleading.

CEQA requires the County to analyze the environmental effects of the TGPA/ZOU "project" as measured against existing conditions. CEQA does not allow an analysis to look solely at the incremental effect of a change in policy. (For example, a hypothetical change in maximum density from five to eight units per acre must analyze the effects of eight units per acre, not just the three additional units per acre.) Consequently, the FEIR considers the effects of the **2004 General Plan plus any changes proposed or policies implemented through the TGPA/ZOU**. Thus, many of the significant environmental effects identified are impacts that relate to the 2004 General Plan and are not unique to or caused by the TGPA/ZOU. ***In other words, if the Board should decide to reject the TGPA/ZOU in its entirety, roughly 90% of the significant effects identified in this FEIR would remain as significant impacts under the 2004 General Plan.***

The FEIR also includes analysis of issues not required to be considered at the time of the 2004 GP EIR (i.e., GHG emissions), and has concluded that impacts found to be "Less Than Significant" in 2004 were actually "Significant and Unmitigated", even though the impact is not increased or different under TGPA/ZOU.

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Alliance for Responsible Planning is a California nonprofit public benefit corporation

11-0356 Public Comment
PC Rcvd 08-26-15

We support a discussion of the environmental effects of the proposed changes in a manner that allows the Commission and Board of Supervisors to weigh the advantages and disadvantages of the TGPA/ZOU. The implication in remarks by members of the public that 38 significant effects can be avoided by rejecting the TGPA/ZOU does not advance that discussion in any helpful way.

2. The ZOU does not increase development potential, it implements the General Plan as required by the General Plan and state law.

The 2004 General Plan provides that, within one year of adoption, the County's Zoning Ordinance will be updated to ensure consistency between the General Plan and zoning. This requirement applies both to Zoning Policies and Zoning Maps. The ZOU is now almost 10 years overdue.

State law requires zoning to be consistent with the General Plan, and further requires that a zoning ordinance that becomes inconsistent by reason of adoption of a new or amended General Plan must be updated within a reasonable period of time (Government Code § 85680).

Each parcel of land in the county is assigned a General Plan Land Use Designation. The land use designations for residential uses establish the allowable density range. Medium Density Residential (MDR), for example is defined as one dwelling unit per one to five acres. The Zoning Ordinance implements policies of the General Plan, by establishing allowed uses and development standards, including lot size and other criteria such as setbacks and building height.

Each land use designation has one or more zones that are considered "consistent". MDR, for example, defines R1A, R2A, R3A and RE-5 as consistent with the land use. Achieving "consistent" zoning does not mean to zone at the maximum density (smallest parcel size). In fact rule sets approved by the Board of Supervisors in 2012 for the ZOU generally provide that rezones for consistency will be applied at the low end of the density ranges. In the case of MDR, for example, "consistent" zoning is R3A (three acre lots) inside Community Regions with sewer, and RE-5 (five acre lots) in Rural Centers.

It is occasionally argued that General Plan Policy 2.2.5.6 allows the county to keep inconsistent zoning in place until such time as infrastructure is available to serve development. However, Policy 2.2.5.6 is not a "loophole" that exempts the County from the consistency

provisions of the General Plan and state law. Moreover, no effort has been made to identify the “infrastructure” that is supposedly lacking or deficient.

In fact, **substantial evidence in the record supports the conclusion that infrastructure is generally available** to serve future development. Most commercial, industrial and 75% of future residential development is planned for Community Regions with access to sewer infrastructure. Growth planned in Rural Centers and Rural Regions is restricted to uses with more limited infrastructure requirements, often served by wells (or public water) and septic systems. The travel demand model indicates that adequate levels of service can be maintained and water purveyors, including EID, indicate that sufficient supplies are available to serve development through the General Plan horizon. Before a new development project is approved, the applicant must demonstrate that adequate levels of infrastructure are available or can be provided.

3. State law and the General Plan provide ample protections to ensure that necessary infrastructure is provided to serve new development.

In the isolated circumstances where infrastructure is locally or regionally deficient, such as a sewer line that is near capacity, General Plan Policy 2.2.5.7 provides the solution:

“Policy 2.2.5.7. Where a zoning district applied to [a] given land is consistent with the General Plan land use designation, the County reserves the right to deny development plans providing for permitted uses where adequate findings for approval (including adequate public facilities and services) cannot be made.”

The state Subdivision Map Act and Policy 2.2.5.7 provide that, if infrastructure is not currently in place to serve a proposed development, the development may be conditioned to construct or pay for construction of the necessary infrastructure. These conditions of approval must be satisfied before a project can be implemented. If the infrastructure cannot be feasibly provided because of physical, environmental or economic constraints, the County can deny development plans, even if the zoning is consistent with the General Plan land use designation.

4. 30% Open Space Alternative Compliance in HDR (R1 Zoning).

In 2008, the Board of Supervisors initiated a General Plan amendment to the 30% open space policy (ROI) to provide greater flexibility to achieve General Plan goals to provide housing affordable to moderate income households. Two years earlier, the Commission had adopted a

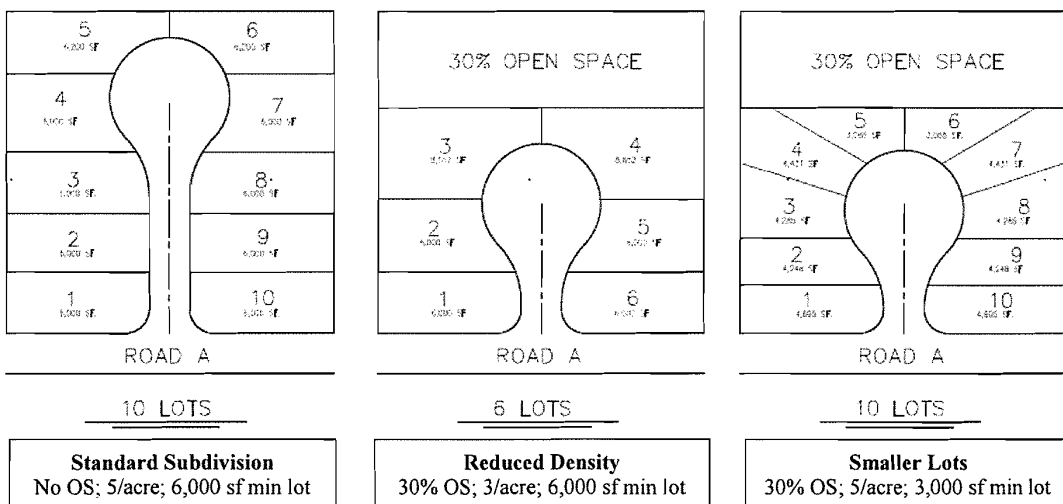
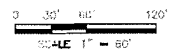
similar ROI to address the same problem. The Board's ROI was folded into the TGPA/ZOU in 2011 to save the cost of separate EIRs.

The General Plan establishes one to five units per acre as the allowable density range for High Density Residential (HDR). The zone designation to implement the "high end" of the density range (5 units per acre) is R1, which allows lot sizes of about 6,000 minimum. However, policies mandating that 30% of the site be retained in open space, combined with the typical 25-35% of the site dedicated to roads and infrastructure, leave very little land for residential building sites. Assuming 30% open space and 30% for roads, drainage and utilities, only 40% of each acre is available for residential lots.

The exhibit graphic below depicts three alternative "project" designs to illustrate the issue. The sites are identical in size (about 2 acres) in size, and there are three variables: a "standard subdivision" without common open space, a "reduced density" alternative where the 6,000 sq. ft. minimum lot size is maintained, but the total number of lots is reduced, and a "smaller lot" alternative where lot sizes are reduced to maintain the 5/acre density. The "reduced density" alternative yields only about 3 lots per acre and the "smaller lot" alternative produces lots that average a little over 4,000 square feet.

EXHIBIT
 G.P. POLICY 2.2.5.4 & 2.2.3.1
 IMPLEMENTATION
SCALE: 1" = 60' AUGUST, 2015

Conceptual Project Design Alternatives
 (Site Size = Approximately 2 acres)



The General Plan has established the density range for HDR at up to 5 units per acre. We believe this issue boils down to the question of what that housing will look like. Will it be on lots 4,000 sq. ft. or smaller, or lots closer to 6,000 sq. ft. in size with a community pool, tennis court, or tot lot?

Very few new developments have been approved outside the Specific Plans since the 2004 General Plan was adopted, and most of these have provided lots of ½ acre or larger. Only a handful of new homes affordable to moderate income families have been built since 2004. The lack of lots at the higher end of the HDR density range has likely contributed to the failure to meet this demand.

We support the change to the 30% open space contained in the TGPA/ZOU, because it would provide alternatives and give the Commission and Board of Supervisors greater flexibility to approve projects that meet General Plan goals. **We do not support the Commission's 2014 tentative recommendation to revise the TGPA/ZOU policy to require all higher density (R1) projects in HDR to set aside 30% open space.** That tentative recommendation would defeat the purpose of the revision and deprive the Commission and the Board of Supervisors of the flexibility needed to facilitate housing for moderate income households.

5. Infeasibility of Agricultural/Rural Lands Impact Mitigations.

The Agricultural Commission has recommended that certain of the proposed Mitigation Measures in the FEIR be modified or rejected in their entirety. We understand that their recommendation is based on concerns that the mitigation measures proposed either: 1) defeat the purpose of the change, in this case the protection and promotion of agriculture, agricultural support services and rural commerce in appropriate locations in the County; or 2) are infeasible to implement from an economic or operational perspective.

If the Commission concurs that these Mitigation Measures should be modified or rejected, we recommend you incorporate findings to support your recommendation.

Last, but certainly not least, El Dorado County's Long Range Planning staff, DOT staff and others, have worked diligently to respond to inquiries from the public, and direction from the

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Commission and the Board of Supervisors to bring the TGPA/ZOU and FEIR to this point. These dedicated individuals have often been unfairly criticized and maligned for doing what they are asked to do and for doing it well and effectively. We would not have arrived at this point today without their contributions; we thank them for their hard work and persistence.

Thank you for considering our input on these important issues.

Very truly yours;

ALLIANCE FOR RESPONSIBLE PLANNING
(Sent via email; original to follow)

ARP/rlk