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Biological Resources Workshop; Agenda Item 22; File# 12-1203--October 7, 2014 BOS Meeting

1 message

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Mon, Oct 6, 2014 at 3:30 PM

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Supervisors & Jim Mitrisin—

I have attached a document (1) that includes my comments regarding Agenda Item #22 of the October 7, 2014, Board of Supervisor's meeting (Biological Resources Policy Development, File #12-1203).

Jim, please submit my document into the public record.

One question before I close: Would it be possible for County staff to release meeting materials a week or so earlier for issues covered on the "TIME ALLOCATION" portion of the calendar—instead of on the Friday before a Tuesday meeting? It is very difficult for the public to participate when the timeframe is that short.

Thank you all.

Cheryl Langley

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To: Board of Supervisors

Norma Santiago, Chair, District 5

Ron Mikulaco, District 1

Shiva Frentzen, District 2

Brian Veerkamp, District 3

Ron Briggs, District 4

Date: October 6, 2014

Subject: Biological Resources Workshop of October 7, 2014, File # 12-1203; Agenda Item # 22

Board of Supervisors:

I have the following comments regarding the staff response to information requested by the Board of Supervisors during the July 28, 2014, Biological Resources Workshop (as presented in the October 7, 2014, correspondence prepared by David Defanti).

Public and Private Open Space

- I believe the request for a number defining the amount of protected public and private lands in El Dorado County (EDC) was prepared in response to public comment to the effect that there is “plenty” of protected land in EDC. The commenter asked, essentially, why there was a need to protect more. While it is true EDC has a good deal of “protected” land, it is also clear that **quantity** is not the only element to consider here. **Type** and **quality** of protected land matters, too. For instance, from the map of *Open Space and Public Lands* (6B; 10/7/2014) it appears as though it is likely most of the land is dominated by coniferous forest. Wildlife has specific requirements; many (most) wildlife depend upon specific plant communities/host plants/habitats to survive. If specific requirements are not met, wildlife numbers decline. (For instance, a blue oak/gray pine woodland will support an entirely different assortment of wildlife than coniferous forests.) In addition, degraded environments will support a less diverse, healthy wildlife population. It is not enough to set aside land within a specific ecological zone and say that it is “enough.” Land set-asides need to include a variety of healthy, established woodlands and intact habitats.
- **As an aside—but related to this issue:** While it is tempting to respond to the recent fires in EDC by promoting policies that remove underbrush and “ladder fuels,” the habitat created by understory is critical for the survival of many wildlife species. Care needs to be taken to establish a balance between fire safety and wildlife protection.

In addition, a statement was made during the July 28, 2014, workshop that live oak trees—because of their resilience (likelihood to sprout from the root system after being cut)—probably need not be protected to the same degree as valley oak, blue oak, etc. While it is tempting to view tree value in terms of resilience and rate of growth, it is important to understand that every type of tree supports different species—from specific bird, reptile and insect species, to different mosses and lichen (which in turn support wildlife). Each tree species supports an entire, distinct “community” in and of itself. Eliminating live oak or gray pine from woodlands impacts the value of the woodland in terms of its ability to support a viable wildlife population.

This “misunderstanding” of the role of woodland components is also most likely the basis for the “push” to protect **oak tree canopy** rather than **oak woodlands**. Oak woodlands include other important tree/shrub/etc., species that make up a whole, healthy plant community capable of supporting a diverse wildlife population. When oak tree *canopy* protection is given priority over oak *woodland* protection, individual trees are saved, but the woodland is likely degraded to the point that it cannot sustain existing wildlife populations.

Development Scenario Examples

- Long Range Planning staff indicated development projects on properties with oak trees “...will be constrained if [they] can move forward at all,” and “[s]ome proposed projects can move forward, but only with a proposed development, and only by using a highly clustered development style to avoid trees...” This discussion was the result of a request from development interests (George Carpenter, Winn Communities; Kirk Bone, Parker Development) that an “interim policy” be established that would allow development to continue under less restrictive measures than currently exist under Policy 7.4.4.4 Option A (relative to the removal of oak trees).

There are at least a couple of problems with this request for interim measures:

- Mr. Carpenter must have understood the constraints oak trees posed to the development of his property (at Green Valley Road and Francisco Drive) prior to purchase of the property. Now he is stepping forward to ask the County to solve his “problem,” to make profitable his land speculation activities. The County is under no obligation to do so.
- If interim policies are to be established, they must be subject to public review and evaluation under the California Environmental Quality Act (CEQA). Until a balanced policy is established through this process, only projects that meet current constraints should be eligible for approval. It is preferable—and necessary—to establish a finalized, balanced biological resources policy.

Relationship of the Biological Policy Review and Other Land Use Projects

- Who determined (and how was it determined) “...the Biological Policy Update project...is found to have independent utility under CEQA” and that, therefore, policies that mitigate the impact of development need not be coupled with implementation of development policies (specifically those supported under the Targeted General Plan Amendment/Zoning Ordinance Update [TGPA/ZOU])? Biological Resource policies *must* be established prior to the approval of development proposals. After all, are mitigation measures really “severable” from sources of adverse impact? Mitigation measures need to be fashioned *in concert* with defined impacts, and mitigation *must* be in place prior to implementation of policies geared to accommodate development proposals. Saying that the TGPA/ZOU and Biological Resource policies are “*independent projects with independent outcomes*” is counterintuitive, and will lead to serious, otherwise avoidable irreversible impacts.
- Using the rationale that “[b]oth budget and staff limitations preclude the County from preparing and adopting all of the items identified in the Implementation Plan at the same time” for the delay in adopting biological mitigations policies in combination with development policies is remarkable. Staff/budget restrictions should mean it will simply take more time to do the job correctly.

- A similar rationale for not completing the Biological Resources mitigation strategies in concert with the TGPA/ZOU development policies was presented in the September 20, 2012, Options Report. Long Range Planning staff justifies leaving the analysis/inclusion of biological resource mitigation measures out of the TGPA/ZOU dEIR by saying:

“...the EIR for the [TGPA/ZOU] is already growing in size and needs to be completed to implement many other important General Plan policies and Board direction. Adding to this analysis would potentially delay that process and make it more complex. The General Plan’s biological policies appear to be severable from the larger [TGPA/ZOU] process...and do not directly correlate to other policies.”

Because projects become “large,” “complex,” and “time consuming” does not justify doing a job that does not satisfy basic project needs/requirements. Biological resource mitigations *must* be in place in a timely manner so they can accomplish the goals for which they are intended. There needs to be a *balanced* approach to economic development/environmental protections, one that can only be accomplished when the two parts are fashioned together. And, unless a prudent, balanced approach is developed, the County will be stuck in the limbo of working under a succession of “interim policies” promoted by development interests. Needless to say, while policies developed under such circumstances may or may not serve the interests of the community at large, they most certainly will work to the detriment of all that is thought to represent “good planning.”

Project Applicant Designed Mitigation Program (and Success Documentation)

- Policy Option 1 of the options presented in the Dudek “Scenario Comparison” (Item 6C; 10/7/14) includes an approach in which the project applicant is responsible for developing the mitigation strategy for their own project, and for documenting its success. This is to be followed by verification of compliance (and adequacy of mitigation) by County staff. It is difficult to imagine why this would ever be an appropriate approach to mitigation development. Developer prescribed mitigations—biased or not—would certainly be suspect (knowing that economic considerations are likely to weigh heavily on any development/mitigation approach), and County staff may or may not be qualified to make the determinations necessary to evaluate the plan, and plan compliance. (Is EDC going to hire staff with the expertise necessary to perform habitat impact assessments?)

In closing, I urge the Board to give careful consideration to the options presented by Dudek, and to insist that Biological Resource mitigation measures be developed and adopted prior to implementing the development policies of the TGPA/ZOU. (I assume all options will still be “on the table” as project alternatives in the Biological Resources EIR—correct?) I also ask that you not approve/adopt interim development measures. However, if interim measures are to be considered/developed, I urge you to proceed in a manner that enables the public to understand what County management intends to accomplish through these interim policies, and what “price” residents are expected to pay for those choices. Thus, any interim policies must be developed under the CEQA process in full public view.

Thank you for the opportunity to comment on the Biological Review Policy. I look forward to future discussions.

cc: David Defanti, Assistant Director, Community Development Agency, Long Range Planning
Jim Mitrisin, Clerk of the Board