

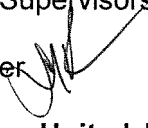


**COMMUNITY DEVELOPMENT AGENCY
LONG RANGE PLANNING DIVISION**

INTEROFFICE MEMORANDUM

Date: October 8, 2015

To: Jim Mitrisin, Clerk of the Board of Supervisors

From: Shawna Purvines, Principal Planner 

Subject: **Response to Rural Communities United Request for "Appeal" Hearing of the Planning Commission's Recommendation on the TGPA-ZOU**

Attached is the response prepared by County Counsel to Mr. Infusino's September 8, 2015 request, on behalf of Rural Communities United, to "appeal" the Planning Commission's September 2, 2015 recommendation on the County's Targeted General Plan Amendment - Zoning Ordinance Update (TGPA-ZOU) project, citing Government Code section 65354.5.

In summary, County Counsel determined that the November 2015 hearing scheduled for the Board to consider Planning Commission's recommendation on the TGPA-ZOU will satisfy any obligation that may be imposed on the County pursuant to Government Code section 65354.5. Therefore, no appeal hearing is necessary to be scheduled prior to the TGPA-ZOU public hearing scheduled for November 10, 2015 as requested by Mr. Infusino.

Mr. Infusino letter is attached to Legistar #11-0356 as "Public Comment Rcvd 09-08-15 BOS 11-10-15.pdf". This memo and attachment will also be placed in Legistar #11-0356 and will be titled "Public Comment Rcvd 10-08-15 BOS 11-10-15.pdf".

cc: Dave Defanti, Long Range Planning
KayAnn Markham, County County's Office

Attachment:
County Counsel Letter to Thomas P. Infusino; September 14, 2015

COUNTY COUNSEL
ROBYN TRUITT DRIVON

CHIEF ASS'T. COUNTY COUNSEL

PRINCIPAL ASS'T. COUNTY COUNSEL
JUDITH M. KERR

SR. DEPUTY COUNTY COUNSEL
PAULA F. FRANTZ
MICHAEL J. CICOZZI
DAVID A. LIVINGSTON

EL DORADO COUNTY
OFFICE OF
THE COUNTY COUNSEL



COUNTY GOVERNMENT
CENTER
330 FAIR LANE
PLACERVILLE, CA
95667
(530) 621-5770
FAX# (530) 621-2937

DEPUTY COUNTY COUNSEL
LESLEY B. GOMES
KATHLEEN A. MARKHAM
JANETH D. SANPEDRO
ABIGAIL L. ROSEMAN
LAUREN C. BOWERS
JOMO K. STEWART

September 14, 2015

VIA U.S. MAIL AND ELECTRONIC MAIL

Thomas P. Infusino
P.O. Box 792
Pine Grove, CA 95665
tomi@volcano.net

EL DORADO COUNTY
RECEIVED
SEP 15 2015
LONG RANGE PLANNING

Re: Rural Communities United Request for Hearing with the Board of Supervisors

Dear Mr. Infusino:

We are in receipt of your September 8, 2015, request to “appeal” the Planning Commission’s September 2, 2015, recommendation to the Board of Supervisors concerning the County’s Targeted General Plan Amendment - Zoning Ordinance Update Project (“TGPA-ZOU” or the “Project”). As you well know, the El Dorado County Planning Commission serves only in an advisory capacity to the Board of Supervisors with respect to adoption or amendment of the General Plan. (*See* EDC Ordinance Code 2.20.590(A) [reserving to the Board of Supervisors the authority to prepare, review, and adopt a general plan].) Accordingly, the Planning Commission’s action on September 2, 2015, was only an interim step toward final approval or denial of the Project by the Board of Supervisors. A hearing with the Board of Supervisors is tentatively scheduled to take place in November 2015.

Notwithstanding that the Planning Commission’s action was merely a recommendation and not a final action, you have requested an “appeal” of that action. In support of your request, you cite Government Code section 65354.5, which is intended to provide for a hearing with the legislative body when one would not otherwise occur, such as when the planning agency has final authority to amend a general plan or when the planning agency fails to forward a recommendation to the legislative body. In circumstances such as ours, where the planning agency does not have final authority and forwards a recommendation to the legislative body, section 65354.5 adds nothing as final action cannot take place without a hearing before the legislative body.

That being said, to the extent section 65354.5 provides for a hearing with the Board of Supervisors in a circumstance such as this one, as noted previously, the County will be holding a hearing with the Board of Supervisors in November 2015 for the Board to consider the Planning

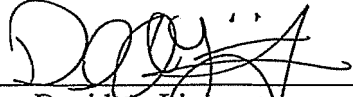
Thomas P. Infusino
September 14, 2015
Page 2

Commission's recommendation. The hearing will be properly noticed and provide an opportunity for all interested parties to be heard concerning the Project. Consequently, that hearing will satisfy any obligation that may be imposed on the County pursuant to Government Code section 65354.5.

Though you appear to be seeking a special hearing at which your clients will be afforded greater rights of participation than those of other groups or the general public, Government Code section 65354.5 imposes no such requirement. Indeed, despite your request for an "appeal" hearing, the term "appeal" is nowhere to be found in section 65354.5. At the anticipated hearing before the Board of Supervisors, your client and its constituent members will have ample opportunity to comment on the Project in the same manner as other interested parties. If, however, you would like to discuss alternative methods for presenting consolidated comments at the hearing, please do not hesitate to contact me.

Sincerely,

ROBYN TRUITT DRIVON
County Counsel

By: 

David A. Livingston
Sr. Deputy County Counsel

cc: Jim Mitrisin, Clerk of the Board of Supervisors
Dave Defanti, Long Range Planning
Kay Ann Markham, County Counsel's Office

s:\planning-29\correspondence\letter to infusino re tgpazou hearing.docx