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ADMINISTRATION * BUILDING * PLANNING

August 05, 2009

Hon. James F. Reilley, Presiding Judge
c/o Court Administration
Superior Court of California, County of Butte
One Court Street
Oroville, CA 95965

FILED Butte County Superior Court AUG 05 2009 Sharol Strickland Clerk By K. Modesto Deputy FILED

Re: Grand Jury Response

Dear Honorable Judge Reilley:

The following information is provided in response to the Butte County Grand Jury Report 2008/2009, specifically the wildfire and safety considerations for Butte County General Plan 2030.

The following response addresses each of the applicable findings and recommendations provided by the Grand Jury, and will provide an overview of the actions taken to date by the Butte County General Plan 2030 process to address wildfire hazard as well as to describe the process into the future up until General Plan 2030 is adopted (September 2010).

Development Services provides direct responses to Findings F1, F2, and F6, and Recommendations R1, R2, R4 and R6. Development Services does not provide responses to Findings F3, F4, F5, F7, F8, F9, F10 and Recommendations R3, R5, R7, R8, R9, and R10 because they are outside the scope of responsibility of this department.

Finding F1:

The Draft General Plan 2030 does not adequately address all fire and safety issues in the foothill areas of Butte County.

RESPONSE:

The respondent disagrees with this finding.

The Butte County General Plan 2030 (BCGP 2030) process has been underway for 36 months. However, it is important to note that there are still 13 months of this process remaining prior to scheduled adoption by the Board of Supervisors in September 2010. Comprehensive updates to General Plans are generally multi-year efforts to ensure a full measure of fact finding and public participation during the process. While much has been accomplished during this period, important reviews of the Draft General Plan 2030 document, the Draft Zoning Ordinance, and the Environmental Impact Report remain to be accomplished and are scheduled over the next year. The Grand Jury's recommendations are a valued addition to this process, especially in light of the devastating wildfires of the summer of 2008.

The BCGP 2030 process was authorized by the Board of Supervisors in September 2006. This action also authorized the creation of a Citizens Advisory Committee to help inform the process, and the hiring of Design, Community & Environment as the lead General Plan 2030 consultant. This project also includes the preparation of a new Zoning Ordinance and Environmental Impact Report (EIR).

Draft General Plans are subject to full public review and analysis under the California Environmental Quality Act. In the case of BCGP 2030, the County will be preparing an EIR to evaluate the environmental effects of this project for full review by the public as well as state, local and federal agencies.

While the BCGP 2030 document itself is still under review as an administrative draft document, much has been accomplished under the public participation process to address fire hazard and safety issues in areas of Butte County prone to wildland fire.

A. Specific Policy Guidance on Fire and Safety Issues from the Policy Alternatives Approved by the Board of Supervisors:

After a lengthy public participation process, specific Policy guidance approved by the Board of Supervisors relevant to the area of fire and safety issues is provided below. These goal and policy statements will form the basis for policy direction in BCGP 2030.

1. How should the County help to protect, maintain, promote and enhance its timber uses and resources?

    a) Encourage regulations and outreach practices that would provide for sustainable forest practices in the county. Support and cooperate with CAL FIRE in their responsibilities related to timber and forest practice laws.

    b) The County should maintain, and amend where appropriate, existing requirements under the Timber Preserve Zone to conserve and enhance timber resources, protect water quality and conservation, and improve fire safety. Work cooperatively with CAL FIRE and the State's timber resources laws and statutes.

c) Implement community wildfire protection plans and wildfire fuel load measures in coordination with the appropriate government/citizen agency and CAL FIRE.

2. How should the County maintain and improve road conditions and safe traffic flow?

   a) In consultation with the Butte County Fire Department and CAL FIRE, identify and complete roadside fuel reduction projects and maintain necessary clearance zones on critical roads for fire safety and visibility.

3. How should the General Plan address the provision of sheriff and fire service in rural areas?

   a) Educate residents about the realities of rural living and expectations regarding response times for critical services.

   b) Explore additional funding opportunities for sheriff and fire services, such as Community Facilities Districts and Community Service Agencies to fund both capital and on-going operational costs.

   c) Support expansion of volunteer services for fire and sheriff.

   d) Implement the adopted Standards of Cover for fire protection.

   e) Require defensible space, fire safe building construction, fuel management and wildfire preparedness, particularly by working in collaboration with appropriate government/citizen agencies, the Butte County Fire Department, the municipalities and State agencies, including CAL FIRE.

   f) Require defensible space and projects which remove ladder fuels to reduce the risk of wildfire.

   g) Set impact fees proportionately to the cost of providing sheriff services.

   h) Set impact fees proportionately to the cost of providing fire services.

   i) Create communities that are resistant to wildfire by reducing risks through the community wildfire protection plans and fire safe councils.

   j) Integrate State fire safe regulations (California Public Resources Code Sections 4290 and 4291) cooperatively with CAL FIRE and the Butte County Fire Department.

4. How should the County encourage the development of sustainable communities and energy-efficient and cost-savings buildings?

   a) Create fire-wise communities through building and landscape design standards.

It is important to note that the Fire and Safety related Policy statements set-forth above represent the Board approved Policy Alternatives at the conclusion of Meeting Series #5

on Goal and Policy Development. Meeting Series #7 will provide a thorough public review of the Draft BCGP 2030. Development Services staff and the BCGP 2030 consultant will use the Policy Alternatives as the foundation for developing the new General Plan. Additional policies may be needed to supplement this work and refine the overall organization of the General Plan. Further, the Policy statements related to Fire and Safety will be organized into the Health and Safety, Circulation, and Land Use Elements of the new General Plan. Information will be further organized into overall Goals, Policies and Actions.

Once a Public Draft of the BCGP 2030 document is released in September of this year, Development Services staff will schedule the Meeting Series, starting with a Public Workshop, several Citizens Advisory Committee Meetings and Study Sessions with the Planning Commission and Board of Supervisors. As a work in progress, there are still many opportunities to accept public input and make substantive changes to BCGP 2030 policy information. During Meeting Series #7, the public and decision-makers will have the opportunity to review all policy work, and make substantive recommendations and comments prior to final direction being provided by the Board of Supervisors, and final adoption, schedule for September 2010.

To date, the BCGP 2030 process has completed well over 100 public meetings as is documented on our website at http://www.buttegeneralplan.net/ebinder .

Finding F2:

At present, there is only one major evacuation route south from the Upper Ridge and no viable routes north. There is a need for an additional evacuation route from Magalia and Paradise. The upgrade of Forest Road 171, classified as a recreational access road, is not fully funded, and even after completion, will not be sufficient as an evacuation route.

RESPONSE:

The respondent partially disagrees with the finding.

The respondent agrees that there is only one major evacuation route south from the Upper Ridge and no viable routes north. However, it is premature to assume that Forest Road 171 will not be sufficient as an evacuation route in the future. The County is actively seeking funding to expand Forest Road 171 and make it a viable evacuation road.

For its part, the BCGP 2030 process has included a great deal of public discussion about fire evacuation routes. We heard directly from citizens impacted by the Humboldt and Concow fires of 2008. We have also coordinated our efforts of BCGP 2030 with Butte County Fire and Public Works departments, so there is full engagement of this

issue in our process. This information is being incorporated into the Goals, Policies and Action Plan of BCGP 2030.

Finding F6:

The development of new housing in fire-prone areas of the foothills is ongoing.

RESPONSE:

The respondent partially disagrees with the finding.

Building permits for new housing have been issued in all areas of the County on **existing parcels**. Building permits are considered to be ministerial actions, that is, if a proposed residence meets all of the requirements under Butte County Code, the permit is required to be issued. Building permits are reviewed by Butte County Fire prior to issuance and prior to final for site preparation requirements and fire safe standards for access and clearance around structures.

Subdivision applications (the creation of new parcels) on the other hand are discretionary (i.e. they may either be approved or denied by Butte County). These applications are reviewed by a number of agencies including Butte County Fire for consistency with local and state requirements. If they do not provide the required access, the Department of Development Services makes a recommendation of denial to the Planning Commission. This is the current situation if someone were to propose a subdivision of land in the Paradise Pines/Magalia area; Development Services would recommend denial since there is inadequate emergency access. The Planning Commission considers all evidence and renders a decision. Planning Commission decisions may be appealed to the Board of Supervisors for a final determination.

Mention was made specifically of up to 330 dwelling units being allowed for consideration as a part of the process of BCGP 2030 in Study Area 13. This property is currently designated for residential development by the County's existing General Plan. The fire issues (as well as other issues) are being critically assessed and must be mitigated by the applicant. They are working with Butte County Fire and other departments to accomplish this. This is still a discretionary project that will be considered ultimately by the Board of Supervisors for approval or denial.

RECOMMENDATIONS

Recommendation R1:

BCGP 2030 needs to address emergency evacuation routes and fire preparedness for the foothill areas of Butte County.

RESPONSE:

The recommendation has not yet been implemented, but will continue to be addressed through the Butte County General Plan (BCGP) 2030 process and the upcoming Public Workshop Series #7, which includes finalization of BCGP 2030.

Recommendation R2:

Review the limitation of Forest Road 171 such as traffic speeds, volumes of cars, and fire prone areas and consider other feasible evacuation routes. Additional roads for evacuation of the Upper Ridge, such as Doe Mill road, should be investigated.

RESPONSE:

The recommendation has been implemented.

The Butte County Public Works Department worked with the Butte County Association of Governments (BCAG) on reviewing the proposed Forest Highway 171 route and improvements. In addition, BCAG completed a study in 1994 entitled, *Feasibility Study of State Route 191 Extension in Butte County*, which evaluated alternate emergency routes from the upper ridge, including Doe Mill–Garland route. The study determined that the Doe Mill-Garland Road route, if developed to standards, would provide improved emergency access to the Upper Ridge.

Nonetheless, fire issues will be considered during the upcoming Public Workshop Series #7, finalization of BCGP 2030 and the Environmental Impact Report being prepared for BCGP 2030. This Planning aspect will be coordinated with the Departments of Public Works and Butte County Fire.

Recommendation R4:

BCGP2030 should address how to handle disabled vehicles on emergency evacuation routes and the use of both traffic lanes for evacuation.

RESPONSE:

This recommendation will not be implemented.

It is not appropriate for BCGP 2030 to address how to handle disabled vehicles or emergency evacuation routes and/or use both traffic lanes for evacuation. However, Community Emergency Evacuation Plans should address both of these issues.

Recommendation R6:

Put a moratorium on all multi-home development in fire prone areas until all fire safety, traffic, and emergency water supply issues are resolved.

RESPONSE:

The recommendation will not implemented because it is not reasonable.

There are systems in place to address these issues. Recent changes to Building Codes require fire resistive materials and Butte County Fire requires fire sprinklers in most home construction. Additionally, all building permit applications are reviewed by Butte County Fire prior to issuance and prior to final for Fire safe requirements. These include proper construction and fire clearance around the structure and driveway standards. Subdivisions are reviewed under the fire safe regulations for maximum cul-de-sac length and are subject to environmental review.

Development within the fire-prone areas of the foothills within Butte County is on-going under the existing General Plan. The BCGP 2030 process does not influence land development activity until it is adopted by the Board of Supervisors, which is tentatively scheduled for September of 2010. Development Services staff believes it is important to note that the Grand Jury's recommendation for a moratorium on all multi-home development in fire-prone areas would be applicable to the existing Butte County General Plan and Zoning Ordinance. While Development Services staff believes that modification to the BCGP 2030 process is not necessary due to the information set-forth under the response to Finding F1 and Recommendation R1 above, staff suggests that further participation in the on-going General Plan 2030 process would be the more appropriate way to address fire safety requirements for the citizens of Butte County.

This concludes our comments. If you have any questions, please do not hesitate to contact me.

Sincerely,

Tim Snellings
Director
Department of Development Services

Bibliography

Development Services Grand Jury Response –BCGP 2030

Information and reports that support the response to the Grand Jury are listed below along with links to appropriate web-pages. All of these documents may be viewed at buttegeneralplan.net or at the Butte County Development Services Department.

1. Butte County General Plan 2030 Guiding Principles:

http://www.buttegeneralplan.net/ebinder/2007/2007-02-13/Butte_County_2030_Guiding_Principles_Adopted.pdf

2. Butte County General Plan 2030 Briefing Book:

http://www.buttegeneralplan.net/ebinder/default.asp#2007-03-13

3. Butte County General Plan 2030 Key Issues Summary:

http://www.buttegeneralplan.net/ebinder/2007/2007-05-21-KeyIssuesSummary.pdf

4. Butte County General Plan 2030 Setting and Trends Report:

http://www.buttegeneralplan.net/products/SettingandTrends/default.asp

5. Butte County General Plan 2030 Alternatives Evaluation Report:

http://www.buttegeneralplan.net/products/aer/default.asp

6. Butte County General Plan 2030 Final Policy Alternatives Document:

http://www.buttegeneralplan.net/products/2009-02-18and19/default.asp

7. Butte County General Plan 2030 Final Land Use Map:
8. Final Transportation Alternatives:

http://www.buttegeneralplan.net/products/2009-04-23PLUA_draft3/default.asp

9. Wildfire Safety Summit, December 3, 2008:

http://www.buttegeneralplan.net/ebinder/2008/2008-12-03Wildfire_Safety_Summit.pdf