

## FROM THE PLANNING COMMISSION MINUTES OF FEBRUARY 26, 2009

### **13. WORKSHOPS**

**b. Density Bonus:** Discussion to determine if Planning Commission should recommend to Board of Supervisors to either institute a General Plan elimination of the Density Bonus or institute changes, where appropriate.

Peter Maurer presented the workshop item to the Commission. He pointed out that a while back, staff had brought to the Board of Supervisors a formal resolution to initiate a General Plan amendment to resolve some conflicts between the mandatory planned development and 30% open space requirements of the General Plan and other policies. Staff had asked the Board to consider this policy as part of the overall picture of open space and planned development and the Board had specifically removed this policy from consideration of that General Plan amendment. In the meantime, the Commission had already requested a workshop on this issue.

Commissioner MacCready stated that his concern is that the open space looks nice now, but 10 years down the road it could be a different situation as there is no maintenance of the open space and this includes the wildlife habitat.

Art Marinaccio suggested that they avoid setting aside land as open space if it is considered developable. He felt that lands should not be set aside as open space just to get the Density Bonus. Mr. Marinaccio thought that this policy has resulted in better projects and the policy should be left alone.

Paul Sayegh stated that he does not have a problem with the policy but on how it is implemented. He informed the Commission that his property borders the Alto project, which is coming before the Commission soon, and all of the projects in the Malcolm-Dixon Road area are requesting the Density Bonus. Mr. Sayegh said that when he bought his house 20 years ago, the surrounding land was RE-5, now he is having to deal with something entirely different. He suggested a checklist be used for proposed developments wanting to dedicate land to open space and some of the questions should include: (1) Will the community benefit? (2) Does the Density Bonus affect existing property owners and could the open space be used to decrease impacts? (3) Does the Density Bonus increase or decrease environmental impacts? and (4) Does the Density Bonus create a different lifestyle with the existing homeowners and the new development?

Kathy Russell/Gene Thorne & Associates, said that open space, parks, and wildlife corridors are all separate and that open space could become weed lots if there is no maintenance.

Valerie Zentner/El Dorado County Farm Bureau, supports the Density Bonus when targeted to development, but sees development going into rural regions and near agriculture. Planned Development with open space or conservation easement makes sense and unmanaged land is a problem.

Cheryl MacDougall said that it needs to be determined if open space is a loophole for the developer or a true benefit to the community.

Cindy Shaffer spoke on the differences between the two Density Bonuses (one for affordable housing and the other in the County Code). She also stated that the County is not being over-run by these types of projects and since they are discretionary, if the Board does not like it, then it does not get approved. Ms. Shaffer stressed that if the issues are with the policy, then there are enough safeguards to prevent bad projects from being approved while still allowing good projects to move forward.

Noah Briel said that the ultimate goal for Density Bonus is a community where people can walk instead of driving, as most people would walk ¼ mile. Density Bonus can build a better community and save land in the process.

Commissioner Rain said that this policy allows them to view projects on a case-by-case basis.

Vern Miller stated that he lives next to the Malcolm-Dixon properties and although he doesn't like Density Bonus, he accepts it and felt that it should be used as written to ensure it does not get abused. Mr. Miller said that he doesn't think mitigation fees for land outside of the area is right as it does not benefit the public located in the development area. He also addressed public benefit versus public availability and said that if the land is behind gates, then it is not available to the public.

Olga Sciorelli said that the General Plan 2.2.4 objective had a lot of thought put into it based on the wording and the diagrams. She stated that two projects that she recently did had open space which was not "throwaway" land. By clustering lots, it decreases the disturbance of the terrain and decreases the miles of roadway required. Ms. Sciorelli suggested trying to connect various open spaces as it has a visual benefit and also creates a buffer. She stated that the policy is working and that there have been many good projects that have come through because of this. She also reminded them that these are discretionary projects.

Commissioner Rain requested clarification on a motion made by the Board of Supervisors on October 20, 2008. County Counsel Paula Frantz explained that the Board's motion was to continue the process of Planned Development with Density Bonus with public benefit and it does not necessarily have to be accessible to the public. She stated that they were clarifying an earlier action taken on a project and that it had not been a global policy change.

No further discussion was presented.

### **Motion #1**

**Motion: Commissioner MacCready moved, seconded by Commissioner Heflin, and failed (2-2), to recommend that the Board of Supervisors initiate an amendment to the General Plan that: 1. The Density Bonus provided for in 2.2.4.1 A through C shall not apply to Rural Centers nor rural lands; 2. All Density Bonus open spaces in Community Regions shall have part of the open space developed into at least a park, picnic area, ball fields or other recreational use per to 2.2.3.1.A. These areas for the welfare of the general public shall be developed by the developer and completed prior to the finalization of the map and maintained by the Home Owners Association (HOA). In addition, an Open Space Maintenance Program for that portion that was not converted to recreation, shall be**

**submitted for approval to Planning Department before final map or some such time; 3. To compensate the developer, recommend the Board of Supervisors increase the Density Bonus from 1.5 to 1.6; 4. If the Board of Supervisors declines to change the Density Bonus as recommended above, then in 2.2.4.1. B the last sentence shall be changed to: In calculating the maximum density permitted by the General Plan Land Use Designation, the County shall exclude undevelopable lands, bodies of water such as lakes, ponds, rivers, perennial streams, and wetlands.**

**AYES: MacCready, Heflin**  
**NOES: Rain, Mathews**  
**ABSENT: Tolhurst**

Chair Mathews said that he doesn't have a problem with the Density Bonus as it can create a better project. He would suggest language that talks about public benefit and the neighbors that live in the project area. Open space can create a buffer that also provides value to the neighbors. A developer needs to review what the local public desires (open space, walking paths, etc.).

Ms. Frantz stated that this can be done through direction to staff instead of a General Plan amendment, if so desired.

Commissioner MacCready said that open space is going to be an eyesore and fire hazard, which is why he wants to put a global requirement of an Open Space Management Plan.

Commissioners Rain and Mathews said that they want to review projects on a case-by-case basis in regards to requiring an Open Space Management Plan.

Mr. Maurer indicated that they already require some type of maintenance (i.e., HOA or Fire Safe Plan) and require a review of the CC&Rs.

Chair Mathews indicated that he didn't necessarily want to initiate a General Plan Amendment, but said that if the County is asking a developer to build a better project and that developer is going to profit by that, then the focus needs to be on the immediate neighborhood first and the County second.

Mr. Maurer stated that perhaps the appropriate thing would be to continue the item to allow staff to draft language that is an interpretation of the policy, distribute it to the public and bring the comments back to the Commission to review the interpretation.

Chair Mathews clarified that the principle components of the interpretation are (1) the obvious benefit to the project; (2) the parcels that are immediately adjoining the development – since the density is being increased, they should have a benefit; and (3) County – public in general.

**Motion #2**

**Motion: Commissioner Mathews moved, seconded by Commissioner Rain, and unanimously carried (4-0), to continue the item to the March 26, 2009, meeting for consideration.**

**AYES: MacCready, Heflin, Rain, Mathews**  
**NOES: None**  
**ABSENT: Tolhurst**