

EDC faces lawsuit over general plan/zoning update

By Joann Eisenbrandt

PLACERVILLE – Rural Communities United, an El Dorado County unincorporated citizens group, filed a lawsuit Jan. 13 in El Dorado County Superior Court asking the court to void the Board of Supervisors' Dec. 15 approval of the **Targeted General Plan Amendment/Zoning Ordinance update** and certification of its environmental impact report.

The base of the lawsuit is because of “violations of zoning law, general plan law, the California Environmental Quality Act (CEQA), and constitutional protections for procedural due process, substantive due process, and equal protection.”

This is not a surprise to those involved.

RCU's attorney, Tom Infusino, had threatened as much at the board's Nov. 10 meeting where the plan's components were laid out and discussed.

The TGPA/ZOU is the product of more than a decade of planning and includes amendments to the county's 2004 General Plan as well as a comprehensive revision of the Zoning Ordinance that implements that plan's land use policies. Views on where it will lead the county have varied widely throughout the process, with some seeing it as embodying changes needed to accommodate El Dorado County's inevitable growth and others seeing it as a “developer-driven” roadmap to a proliferation of high density land uses that will destroy the county's rural character.

District 2 Supervisor Shiva Frentzen was the only board member to vote against approval of the plan's major components.

RCU believes its concerns, written comments, and input at public meetings during the TGPA/ZOU process have been largely ignored. The lawsuit contends that the group has “met the requirement that it exhaust administrative remedies prior to filing this action,” as is required by CEQA law.

The lawsuit alleges that the TGPA/ZOU EIR does not adequately describe the project or properly examine its adverse environmental impacts as required by CEQA, does not adequately analyze the other alternatives to the project outlined in the EIR, offers insufficient or unclear mitigation measures to these impacts, was approved by the board with inadequate notice to many of the property owners of the 37,000 parcels rezoned under the zoning ordinance update, is inconsistent with provisions of the 2004 General Plan and the El Dorado Hills Specific Plan, does not adequately address the plan’s cumulative impacts or account for the regional impacts on traffic congestion, fire danger and wildlife habitat. RCU contends in the lawsuit that the EIR was not an objective document, but was conceived and engineered, “to promote a project rather than to inform the decision-making process.”

The county board clerk’s office confirmed that the lawsuit was served on the board this week. *Lake Tahoe News* reached out to individual supervisors for comments, but did not receive any response. Creighton Avila, a principal analyst in the CAO’s office, responded on behalf of the county, saying, “We are aware of it, but we do not comment on ongoing litigation.”

The board and then-County Counsel Robyn Truitt Drivon clearly indicated the county’s view of the adequacy of the TGPA/ZOU and its accompanying EIR during the Nov. 10 board meeting at which it was presented. At that time, Drivon told the board, “I have been reviewing this for the last year. I have talked to staff and consultants and I am confident in the product being brought forward. It meets legal sufficiency ... Everything brought to you at this point is as thorough and vetted as possible.”

District 1 Supervisor Ron Mikulaco, now chairman of the board, responded at that same meeting to concerns from RCU members and other members of the public by saying, "Our General Plan says we are a rural county but along with that certain things have to occur like growth and infrastructure and policies to deal with them. I met with RCU ... their attorney says they're going to sue us (but) I don't comment on litigation. ... The California Supreme Court says local governments have an implied duty to keep their General Plans current. I've heard comments from the public that we're doing this as a conspiracy, some nefarious thing, but this is required."

Ellen Van D yke of Rural Communities United told *Lake Tahoe News* after the lawsuit had been filed, "We have been participating in the planning process for this project for the last three years. Some of us remained hopeful up until that very last day when the supervisors gave their final approval. This lawsuit was truly a last resort for us. The process is completely and utterly broken when well-informed well-intentioned citizenry can be so entirely disregarded by their elected officials. We're confident we are on the right side of this issue, but just sorry we have to go there."