



EL DORADO COUNTY

TGPA/ZOU FEIR ADDENDUM

Supporting Documentation

The following pages are excerpts from Chapter 9 (Responses to Comments) of the TGPA/ZOU Final Environmental Impact Report (FEIR) posted on the County website at:

<https://www.edcgov.us/government/longrangeplanning/landuse/supportingdocuments/feirdoc2015/documents/TGPA-ZOU-FEIR-Chapter-9-Complete-Dec-2015.pdf>

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BOARD OF FORESTRY AND FIRE PROTECTION

P.O. Box 944246
SACRAMENTO, CA 94244-2460
Website: www.bof.fire.ca.gov
(916) 653-8007



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PLANNING DEPARTMENT

El Dorado County Community Development Agency
Long Range Planning
Attention: Shawna Purvines
2850 Fairlane Court
Placerville, CA 9566

July 17, 2014

RE: Targeted General Plan Amendment and Zoning Ordinance Update; SCH #2012052074

Dear Ms. Purvines:

The California State Board of Forestry and Fire Protection (Board) would like to issue comment on the scope and contents of the Targeted General Plan Amendment and Zoning Ordinance Update, specifically the Public Health, Safety, and Noise Element, and its accompanying Draft Environmental Impact Report.

S-5-1

This updated Public Health, Safety, and Noise Element is missing key information mandated in Government Code §65302(g)(1) and 65302(g)(3). See bolded/italicized language below.

§65302(g)(1) reads:

A safety element for the protection of the community from any unreasonable risks associated with the effects of seismically induced surface rupture, ground shaking, ground failure, tsunami, seiche, and dam failure; slope instability leading to mudslides and landslides; subsidence; liquefaction; and other seismic hazards identified pursuant to Chapter 7.8 (commencing with Section 2690) of Division 2 of the Public Resources Code, and other geologic hazards known to the legislative body; flooding; and wildland and urban fires. ***The safety element shall include mapping of known seismic and other geologic hazards. It shall also address evacuation routes, military installations, peakload water supply requirements, and minimum road widths and clearances around structures, as those items relate to identified fire and geologic hazards.***

S-5-2

§65302(g)(3):

Upon the next revision of the housing element on or after January 1, 2014, the safety element shall be reviewed and updated as necessary to address the risk of fire for land classified as state responsibility areas, as defined in Section 4102 of the Public Resources Code, and land classified as very high fire hazard severity zones, as defined in Section 51177. This review shall consider the advice included in the Office of Planning and Research's most recent publication of "Fire Hazard Planning, General Technical Advice Series" and shall also include all of the following:

S-5-3

(A) Information regarding fire hazards, including, but not limited to, all of the following:

- (i) Fire hazard severity zone maps available from the Department of Forestry and Fire Protection.**
- (ii) Any historical data on wildfires available from local agencies or a reference to where the data can be found.**
- (iii) Information about wildfire hazard areas that may be available from the United States Geological Survey.**
- (iv) General location and distribution of existing and planned uses of land in very high fire hazard severity zones and in state responsibility areas...**
- (v) Local, state, and federal agencies with responsibility for fire protection, including special districts and local offices of emergency services.**

(B) A set of goals, policies, and objectives based on the information identified pursuant to subparagraph (A) for the protection of the community from the unreasonable risk of wildfire.

(C) A set of feasible implementation measures designed to carry out the goals, policies, and objectives based on the information identified pursuant to subparagraph (B) including, but not limited to, all of the following:

- (i) Avoiding or minimizing the wildfire hazards associated with new uses of land.**
- (ii) Locating, when feasible, new essential public facilities outside of high fire risk areas...**
- (iii) Designing adequate infrastructure if a new development is located in a state responsibility area or in a very high fire hazard severity zone, including safe access for emergency response vehicles, visible street signs, and water supplies for structural fire suppression.**
- (iv) Working cooperatively with public agencies with responsibility for fire protection.**

(D) If a city or county has adopted a fire safety plan or document separate from the general plan, an attachment of, or reference to, a city or county's adopted fire safety plan or document that fulfills commensurate goals and objectives and contains information required pursuant to this paragraph.

This updated Public Health, Safety, and Noise Element should include:

- Fire hazard severity maps
- Historical information about wildfires in the planning area
- A discussion of planned and existing land uses in or near very high fire hazard severity zones and/or state responsibility areas (SRA)
- Implementation measures as described above in §65302(g)(3)(C)

In particular, the Board of Forestry and Fire Protection is concerned about plans to provide for adequate ingress and egress to developed land in high or very high fire hazard severity zones (H/VHFHSZ), as

S-5-3
Cont.

S-5-4

S-5-5

well as changes in land use designations that may support population growth in those zones. The expansion of Commercial uses into Community Regions and Rural Centers, the increase in density in residential or mix-use land use designations, and the overall emphasis on expanded development and more intense residential use in the Targeted General Plan will put more residents into high or very high fire hazard severity zones.

S-5-5
Cont.

Although the DEIR states, on page 3-2 "...none of the proposed changes in the General Plan policy or Zoning Ordinance regulations would substantively change projected population, change the amount of housing designated in the General Plan, or expand areas to be developed..." the Board would like to express concern that fire safety is not addressed adequately for the proposed increase in allowable densities. Without updating the Public Health, Safety, and Noise Element to meet the above Government Code sections and to include fire safe mitigations for communities affected by this update, this proposed TGPA-ZOU exposes people or structures to a significant risk of loss, injury, or death from wildland fires. This is contrary to the DEIR, page 2-19 "less than significant impacts" finding on question VIII (h).

S-5-6

The Board encourages El Dorado County to continue collaboration and cooperation with the Board and CAL FIRE Amador-El Dorado Unit through the Draft EIR and TGPA-ZOU adoption process. Thank you for your work to reduce the fire risk to residential and commercial development in the County.

S-5-7

Sincerely,



Edith Hannigan
Board Consultant, SRA
edith.hannigan@bof.ca.gov
(916) 653-2928

CC: Unit Forester, Amador-El Dorado Unit
Chris Browder, Deputy Environmental Coordinator
State Clearinghouse

Incentivizing such development will not only promote growth in areas not previously developed, it will promote development types not previously allowed (i.e., it will incentivize “mixed-use” development). This equates to an increased demand on water supply and, in some areas where groundwater/septic tanks/wastewater “holding ponds” are used, contamination of surface and groundwater will likely occur. Especially in the case of commercial, industrial, research and development type projects, the contamination potential is significant.

O-1-53
CONT.

Comment 5B: Density or Intensity?

Implementation of this policy may also have the effect of increasing densities in infill properties, which can in turn impact water quality. Although Policy 2.1.4.5 states that policy changes would not amend land use designations or **increase densities**, and would “...*be consistent with the General Plan and zoning provisions applicable to the given site*,” it is unclear if this would be the case because new policies “*amend the zoning code to include a Traditional Neighborhood Design zone within Commercial and Multi-Family Land Uses*.” Plus, it is acknowledged implementation of this policy may entail the development and utilization of “...**zero-lot line, duplex with carriage house unit over garage, z-lot, bungalow, etc.**,” and that there will be a thrust to “**Develop or update, as considered necessary, applicable community plans, specific plans and design guidelines...**” And finally, one description of the policy states, “*Because it would not result in an increase in allowable development intensity, this amendment would not substantially change impacts...*”

O-1-54

Which is meant? That implementation of this policy will not impact development *density* or *intensity*, or neither? It is unclear what all of this means—or could mean. The specifics of this policy change need to be spelled out in a manner that facilitates an understanding of the scope of the impact. An accurate and complete project description is necessary to fully evaluate the project’s potential environmental impacts. (*El Dorado County Taxpayers for Quality Growth v. County of El Dorado* (App. 3 Dist. 2004) 122 Cal.App.4th 1591.)

Comment 5C: Project “Criteria” and Impact Evaluation

Because the criteria for infill sites have not been established, it is not possible to evaluate the impact of this policy. (While the impact on biological resources has been identified as “...*significant and unavoidable*,” presumably criteria could be established that are stringent enough to avoid impact at the “significant” level.)

- What analysis of the criteria/impacts have been performed to arrive at the conclusion regarding the scale of impact?
- What analysis has been performed to determine if a balance between infill and impact can be modified to reduce impact?
- What specific data/information is the impact determination based upon? An EIR must contain facts and analysis, not just the bare conclusions of the agency, and must provide sufficient detail so that those who did not participate in its preparation can understand and consider meaningfully the issues raised by the proposed project. The decision to approve a project is a nullity if based upon an EIR that does not provide the decision makers and the public with the required information about the project. (*Bakersfield Citizens for Local Control v. City of Bakersfield* (2004) 124 Cal.App.4th 1184.)

O-1-55

Comment 5D: More Policy Terminology

Terminology used within the infill policy make assessment of the impacts of policy implementation unclear. For instance, the description of policy 2.4.1.5 reads, “*This policy would...identify infill sites and opportunity areas...*” and states that implementation “...*may*

O-1-56

support the use of **mixed-use** and **“formbased”** codes.” “Opportunity areas,” “mixed use,” and “formbased codes” are not defined. This terminology must be defined to facilitate an understanding of how these elements influence project design. EIRs must be “organized and written in a manner that will be meaningful and useful to decisionmakers and to the public.” (Pub. Resources Code, sec. 21003, sub. (b).)

O-1-56
CONT.

Also, while *mixed use* and *formbased* codes are identified as elements of “policy change,” they apparently “... would not include amending the land use designations or increasing the densities currently provided for in the General Plan.” If they do not impact land use designations or densities, how do they facilitate infill projects? How do they function?

Comment 5E: Project Incentives and Streamlining

What project “incentives” are on the table? For instance, could *density bonuses* or *streamlining* be part of an “incentive” package? Analysis of this proposed policy by the public requires that these incentives be identified in the dEIR (i.e., the type and scale of incentives can define project impact; project impact can be modified by limiting/modifying project incentives.)

O-1-57

Exactly how development will be “encouraged” on vacant or underutilized parcels is not defined. The method of accomplishing this “encouragement” is important, and could equate to a significant impact in these areas.

O-1-58

Comment 5F: Impact Evaluation

The statement that “*This impact would be significant and unavoidable*” is true only to the extent that projects are allowed to proceed in a manner that is incompatible with the character of the community and the natural environment in which they are placed. Careful planning could mitigate impacts. The County cannot just leap to the conclusion that the impacts will be significant and unavoidable, and approve a statement of overriding considerations. All feasible mitigation must be adopted, and other mitigation properly found infeasible, before an agency can make a statement of overriding considerations. (*Los Angeles Unified School District v. City of Los Angeles* (1997)58 Cal.App.4th 1019.) Adopting a statement of overriding considerations does not justify certification of the EIR absent adoption of the mitigation measures. (*City of Marina v. Board of Trustees* (2006) 39 Cal.4th 341.)

O-1-59

Questions Regarding Infill

- What is the definition of “opportunity areas”?
- It is stated that this policy will “...set criteria for and identify infill sites and opportunity areas.” Who will set the criteria? Why hasn’t the criteria been established prior to the development of this project (dEIR)? How can the public adequately determine potential impacts without knowing what the “criteria” will be? Has EDC staff make impact determinations without knowing the criteria? This statement defers mitigation in the absence of a commitment to meet a clear mitigation standard. CEQA does not allow this. When approving projects that are general in nature (e.g. general plan amendment), agencies must develop and approve whatever general mitigation measures are feasible, and cannot merely defer the obligation to develop mitigation measures. (*Citizens for Quality Growth v. City of Mount Shasta* (3 Dist. 1988) 198 Cal.App.3d 433, 442.) “The CEQA process demands that mitigation measures timely be set forth, that environmental information be complete and relevant, and that environmental decisions be made in an

O-1-60

on steep slopes. Where public or private sewer service is unavailable, septic systems are integral to the development of most structures. Thus, the **placement of an effluent disposal field on slopes of 30 percent or greater is considered as part of the reasonable use determination** required for the development of parcels with slopes greater than 30 percent.”
“Septic system components may be located in areas containing slopes greater than 30 percent **where alternative locations are not feasible** or where the placement would reduce the overall disturbance of slopes.”

Revise proposed Policy 7.1.2.1 and Section 17.30.060, subsections C and D, as follows.
“Development shall be prohibited where ground disturbance would **adversely affect important habitat** through conversion or fragmentation and shall comply with the provisions of General Plan Policy 7.4.1.6 regarding avoidance of important habitats. In order to demonstrate that adverse effects on important habitat will be avoided, the development proponent shall submit an independent **Biological Resources Study**, to be prepared by a **qualified biologist**, which examines the site for important habitat...Measure CO-U. Where required by the Grading Design Manual, technical studies from **qualified professionals, such as** soils or geotechnical reports to assess the erosion potential or slope stability may be required.”

Revised Policy 7.1.2.1: “Development or disturbance of slopes over 30% shall be **restricted**. **Section 17.30.060(D): Exemptions.** **”Agricultural activities that utilize [Best Management Practices] BMPs, as recommended by the County Agricultural Commission and adopted by the Board.”**

Mitigation Measure BIO-1a: “The proposed relaxation of the prohibition on development on slopes of 30% or greater would potentially result in a significant and unavoidable impact...Mitigation Measure BIO-1a would reduce this impact, but not below the level of significance. **This would be a significant and unavoidable impact.**”

Comment 6A: Grading and Hillside Ordinances

Development on slopes $\geq 30\%$ will have a significant impact on water quality. Septic effluent will be likely to “daylight” as it travels downslope. Effluent will travel down fractured rock aquifers and—if development occurs in a high-density residential development served by private wells—effluent from residences upslope will contaminate neighborhood wells downslope. Septic effluent is also more likely to contaminate nearby surface water sources as it travels downslope into aquifers that feed surface water, or as it combines with subsurface runoff that enters streams.

O-1-61

Comment 6B: Unknown Impact

The TGPA states, “...the number, size, and habitat value of sites to which the proposed amendments might be applied cannot be known...” This does not constitute a reasonable and fair assessment of the impact. Topography maps of the county, and/or other sources of such information, could easily delineate areas of $\geq 30\%$ slope, and this information—coupled with known zoning densities, and in some cases, on-site review—would enable planners to estimate the scope of impact of development under this policy. (Remember, the project description must include “precise boundaries” of the project on a “detailed map, preferably topographic.” (See CEQA Guidelines, sec. 15125, subd. (a).) For this part of the project, that would be a map of areas of the county with private land over 30% slope.) This analysis should be done in order to provide a fair and balanced estimate of the impact policy implementation.

O-1-62

Comment 6C: Previously Undeveloped Areas

O-1-63

Comment 7A: Home Occupancy Activities and Water Quality

Allowing home occupancy activities could seriously impact water quality, especially in areas that rely on wells/septic systems. Home occupations such as auto repair businesses, hair salons, veterinary clinics, etc. utilize toxic chemicals/substances that can contaminate surface and groundwater sources. Runoff from auto repair sites, septic effluent from clinics and other home businesses can contaminate aquifers and nearby surface water.

O-1-68

Comment 7B: Resorts and Retreat Centers

Because health resorts and retreat centers will be considered home occupations in areas allowing residential uses (including "...*Agricultural, Rural Lands, Resource, Commercial and Special Purpose zones*"), criteria needs to be established for the size/function of this type of development. These criteria need to be established before the impact of such development can be accurately assessed. Because groundwater/septic would need to be relied upon to support this development in many areas, size restriction is important.

O-1-69

Questions Regarding Home Occupancy

- Since home occupancy activities will be allowed in rural regions, how will the drinking water sources of adjacent residences be protected from possible contamination by chemicals not normally associated with residential living?
- Why abolish the current system under which Special Use Permits are acquired?
- Will neighbors of those engaged in home occupations have a forum to voice concerns and objections prior to the approval of home-based businesses if the Special User Permit process/requirement is dropped?
- What recourse will residents have to "close down" a home occupation business that is "disruptive" or that contaminates adjacent well water supplies?
- Have "standards" for home occupancy activities been established? The discussion under Policy 8.2.4.2. states "...*This policy...**would establish standards, permitted uses, and requirements for permits.***" While page ES 6 states: "...**standards have been established for the use of accessory structures...**" and page 2-13 states "...**establish standards for the use of accessory structures...**" If these standards have not been developed, who will develop them? Will the public be involved? How can the impact of home occupancy activities be reasonably evaluated if the standards have not yet been developed? Why is the formulation of this mitigation being impermissibly deferred?
- How would allowing home occupations impact residential Covenants, Conditions and Restrictions (CCRs)? Would this new policy take precedence over CCRs?
- Why has no size limit been imposed on health resorts and retreat centers? Could a large "home" be built that predominantly serves as a resort or retreat and therefore "skirt" zoning ordinances?
- What are "Special Purpose" zones? Have they been defined? These zones—and the activities allowed in them—need to be described to enable an evaluation of their potential impact.

O-1-70

Topic 8: Agricultural Expansion/Zoning Changes

ES.1.2 ZOU Allowed uses in the agricultural and rural lands zones have been expanded to provide opportunities for *agricultural support, recreation, and rural commercial activities, including ranch marketing on agricultural grazing land.*

<i>Centers; RFH zoning would be "primarily located in Community Regions and Rural Centers.""</i>	I-37-13 Cont
B. <i>"Table 2.2 El Dorado County Project Description Draft EIR attached shows RFH in OS Open Space only when located within a Community Region and the Bass Lake parcel is outside the Community Region."</i> See attached map and table. (Attachment 12)	I-37-14
4. Environmental Background	
A. <i>The EID Bass Lake property is listed in the US Fish and Wildlife Service National Wetlands Inventory. There are two historic wetlands on the East side of the lake. This area is deemed to be Waters of the United States.</i> See attached map and the decoding documentation for the map. (Attachment 13)	I-37-15
B. <i>In a letter dated, June 12, 2003 from Larry L. Eng, PHD, Deputy Regional Manager, the Department of Fish and Game, to Mr. Gary Hyden, EDC Park Department, regarding the May 16, 2003 Notice of Preparation of an EIR for the proposed 41 acre Bass Lake Regional Park property which is adjacent to the EID Bass Lake property, the following comments were made.</i>	
a. <i>"Bass Lake and the surrounding shoreline, including lands within the proposed park site, are valuable habitat areas for resident and migratory bird. At least one bald eagle (haliaeetus leucocephalus) has been a frequently observed winter visitor there in recent years, and has often been observed along the shoreline near or inside of the boundaries of the proposed park. Also, Bass Lake is a valuable feeding and resting area for wintering waterfowl, including ring-necked ducks, etc."</i>	I-37-16
b. <i>"Development of ball fields, a golf course, nature interpretation facilities, a community center, pathways, and other facilities, as well as the human use, can be expected to greatly reduce resident and migratory bird use of the area.</i>	
c. <i>Besides the direct permanent removal of habitat from project construction, many of the bird species are very sensitive to human disturbances which can be expected from operation of the park. For example, the development and use of a perimeter trail has the potential to significantly affect foraging areas for birds, such as the bald eagle, great egret, and many species of water fowl."</i> (Attachment 14) Complete Letter attached.	
C. <i>Bass Lake Road Realignment Draft EIR, 1992, Appendix B, NOP Comments (now called Silver Springs Parkway) has two comment letters regarding the Bald Eagles at Bass Lake.</i>	I-37-17

American Reservoir as early as the 1850's. The attached map is a General Land Office Plat of the Township.
(Attachment 19) Historic Map Attached

I-37-21
Cont

In conclusion, we understand from an email from Shawna Purvines (email of September 24, 2013 to Ellen Van Dyke attached), the EDC Long Range Planning staff felt this property should be rezoned because when the EDC Parks and Trails Master Plan was approved it included a previous master plan for the proposed Bass Lake Regional Park (BLRP) including the EID property APN 115-400-12. The proposed BLRP, APN 115-400-02 has a proposed LUPPU zoning of RE-5 and was identified to potentially include intensive uses and amenities such as a community center, ball fields, etc. It is also in a Rural Region and parts of it adjoin Green Springs Ranch. **(Attachment 20 with map of park)**

I-37-22

An Environmental Impact Report was never completed for the proposed BLRP property and previously quoted information in this letter from the Department of Fish and Game to EDC is listed under Number 4, Environmental Background, B, and states there would have been potentially significant environmental impacts if the project had moved forward as proposed.

I-37-23

Additionally, the 2012 EDC Parks and Trails Master Plan states the proposed BLRP plans need "to be revisited taking into consideration new residential developments, local parks and road projects in the area." "More passive uses such as trails and nature may have greater value as the El Dorado Hills and Cameron Park communities are becoming more densely developed." "These types of uses would also have fewer environmental impacts and cost less to develop and maintain." (RP4) **(Attachment 21)**

I-37-24

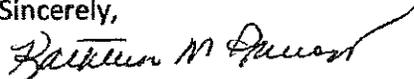
Page 57 of the EDC Parks Master Plan states "The master plan will need to be revisited before improvements for this site are implemented to reflect changes in community needs and recreation trends."

I-37-25

Bass Lake and the surrounding wetlands are much enjoyed by the residents of our area and it is a visual water amenity for us which supports a varied wildlife community as well. The EID Bass Lake property is a significant environmental and historical asset for the Bass Lake and El Dorado Hills area and should be protected with a parcel zoning of Recreational Facilities—Low Intensity (RFL) and an open space (conservation) land usage as shown in the EDHSP. I believe the facts stated in this letter support this conclusion.

I-37-26

Sincerely,



Kathleen M. Prevost
 1080 Jasmine Circle
 El Dorado Hills, CA 95762
 530 672-6836