

Agenda of: November 17, 2005

Item No.: 8.a.

Staff: Jason R. Hade

STAFF REPORT - REZONE

FILE NUMBER: Z05-0001/Golden Center Drive

PROPERTY OWNER: Mallard Investors

APPLICANT: Murray & Downs AIA-Architects, Inc. (Mykel Davis)

REQUEST: A zone change to rezone a small portion of the property currently zoned Limited Multifamily Residential-Planned Development (R2-PD) to Commercial-Planned Development (C-PD).

LOCATION: On the east side of Golden Center Drive, approximately 250 feet north of the intersection with Missouri Flat Road, in the Placerville Periphery area. (Exhibit A)

APN: 327-212-10

ACREAGE: 1.71 acres

GENERAL PLAN: Commercial-Planned Community (C-PC) (Exhibit B)

ZONING: Commercial-Planned Development (C-PD)
Limited Multifamily Residential-Planned Development (R2-PD)
(Exhibit C)

ENVIRONMENTAL DOCUMENT: Mitigated Negative Declaration

SUMMARY RECOMMENDATION: Recommend approval

BACKGROUND: The proposed project is located within the Missouri Flat Master Circulation and Funding Plan area as well as a previous development plan for the Missouri Flat Center (Z80-49). The 28.2 acre Missouri Flat Center Planned Development was approved in 1980 and includes the proposed project site within its boundaries. Under the previously approved development plan, the land use for the above-referenced parcel was designated as Business and Professional. The zone change request is required to rezone a small portion of the northern corner of the subject site from Limited Multifamily Residential-Planned Development (R2-PD) to Commercial-Planned

Development (C-PD) to maintain consistency with the 1996 and 2004 General Plan land use designations of Commercial for the site as well as the zoning for the remainder of the parcel. Parcel Map 33-76, in which the subject site is represented as Parcel B consisting of 1.71 acres, was recorded at the El Dorado County Recorder’s Office on November 28, 1984. However, the zoning for the subject parcels created by Parcel Map 33-76 was never revised to reflect the new parcel boundaries. Therefore, the rezone discussed above is necessary to correct this inconsistency. This application is consistent with the Missouri Flat Center development plan.

STAFF ANALYSIS

Project Description: A zone change to rezone a small portion of the property currently zoned Limited Multifamily Residential–Planned Development (R2-PD) to Commercial–Planned Development (C-PD). The remainder of the subject site is currently zoned C-PD. Anticipated site development includes two medical office buildings. A parcel map waiver has been approved to create two parcels of 1.5 and 0.21 acres from the 1.71 acre parcel.

Site Description: The project area lies at an elevation of approximately 1,200 feet. Site topography is relatively flat. Vegetation on the site consists predominantly of low-lying shrubs and heavy underbrush. Approximately seven percent of the 1.5 acre parcel is covered with tree canopy and approximately 14 percent of the 0.21 acre parcel is covered with tree canopy. Much of the site is already disturbed and includes fill on portions of the property. Fire hydrants and curb cuts are existing. Access to the site is from Golden Center Drive.

Adjacent Land Uses:

	Zoning	General Plan	Land Use/Improvements
Site	C-PD/R2-PD	C-PC	Undeveloped
North	R2-PD	MFR-PC	Senior retirement community
South	C-PD	C-PC	Professional office
East	R2A	MDR-PC	Single family residences
West	C-PD	C-PC	Undeveloped

General Plan: The 1996 and 2004 General Plans designate the subject site as Commercial–Planned Community (C-PC), which permits a full range of commercial, retail, office, and service uses to serve the residents of El Dorado County. The following General Plan policies apply to this project:

1996 and 2004 Policy 2.2.5.3: The County shall evaluate future rezoning: (1) To be based on the General Plan’s general direction as to minimum parcel size or maximum allowable density; and (2) To assess whether changes in conditions that would support a higher density or intensity zoning district. The specific criteria to be considered include; but are not limited to, the following:

1. Availability of an adequate public water source or an approved Capital Improvement Project to increase service for existing land use demands;

Discussion: An El Dorado Irrigation District (EID) Facility Improvement Letter dated February 28, 2005, states that adequate existing water and sewer facilities are available to serve the proposed project.

2. Availability and capacity of public treated water system;

Discussion: As discussed above, EID has adequate water facilities to serve the projected needs of the project.

3. Availability and capacity of public waste water treatment system;

Discussion: As discussed above, EID has adequate sewer facilities to serve the projected needs of the project.

4. Distance to and capacity of the serving elementary and high school;

Discussion: As the proposed project is a commercial use, it will not impact elementary and high school enrollment.

5. Response time from the nearest fire station handling structure fires;

Discussion: The Diamond Springs/El Dorado Fire Protection District is responsible for providing fire protection to the subject site. As such, the District has reviewed the proposal and indicated that with the required installation of additional fire hydrants and building sprinkler system, as conditioned, no response time concerns are present.

6. Distance to nearest Community Region or Rural Center;

Discussion: The project site is located within the Placerville Community Region. As proposed, the project is an in-fill commercial project surrounded by compatible land uses.

7. Erosion hazard;

Discussion: The Natural Resources Conservation Service (NRCS) has mapped soils on the subject site as Placer Diggings (*Soil Survey of El Dorado Area, California, 1974*). The *Soil Survey of El Dorado Area, California, 1974* did not indicate that the project site was located on expansive soil or prone to any erosion hazards. The project is not located in an area with significant topographic variation in slope. El Dorado County Resource Conservation District reviewed the project and had no comments on the proposed activity. Based upon this information, the impact from expansive soils or erosion hazards is less than significant.

8. *Septic and leach field capability;*

Discussion: The project will be served by EID public sewer facilities.

9. *Groundwater capability to support wells;*

Discussion: The project will be served by EID public water facilities.

10. *Critical flora and fauna habitat areas:*

Discussion: Development and division of the parcel will not have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, regulations, or by the California Department of Fish and Game or U.S. Fish and Wildlife Service. The subject parcel has no identified biological resources pursuant to the Important Biological Resources Map located in Planning Services.

11. *Important timber production areas:*

Discussion: The project is not located in or near an important timber production area.

12. *Important agricultural areas;*

Discussion: The project is not located in or near an important agricultural area.

13. *Important mineral resource areas;*

Discussion: The project will not impact an important mineral resource area.

14. *Capacity of the transportation system serving the area;*

Discussion: The El Dorado County Department of Transportation reviewed the proposal and concluded that the anticipated transportation impacts associated with this project may be fully mitigated by payment of the required traffic impact fees and potential annexation into the Community Facilities District No. 2002-01 (Missouri Flat Area) prior to the issuance of any building permits. Caltrans also reviewed the project and noted, "The project alone should not have significant traffic impacts on either US 50 or State Route 49. However, it will contribute to cumulative traffic conditions at the Missouri Flat Road Interchange, which is already operating at capacity. This project should contribute its fair share towards the reconstruction of the interchange and any interim improvements that may be needed until the interchange is reconstructed" (*Golden Center Drive Office Building Project Comments*, Katherine Eastham, Chief, Office of Transportation Planning – Southwest and East, April 25, 2005).

15. Existing land use patterns;

Discussion: The project area is surrounded by existing professional offices, medical offices, and retail uses. A senior retirement community and several single-family homes are also located near the subject site. Impacts to the residential uses are anticipated to be minimal. Staff has determined that the proposed project is consistent with existing land use patterns within the project area.

16. Proximity to perennial water course;

Discussion: The United States Department of the Interior National Wetlands Inventory Map for the project area (Placerville, CA Quadrangle, 1994) was reviewed to determine if any identified wetland or riparian habitat areas exist on or adjacent to the project site. This review indicates that there are no mapped wetlands or riparian habitat areas on or adjacent to the project.

17. Important historical/archeological sites;

Discussion: The applicant submitted a records search completed by the North Central Information Center on March 17, 2004. This records search indicated a low possibility of identifying Native American and a moderate possibility of identifying historic-period resources in the project. Based on the records search results, it was determined that an archaeological study was required. A "Cultural Resource Assessment for the Golden Center Drive Project, El Dorado County, California" was completed by Peak and Associates, Inc. on September 5, 2004. A field assessment concluded, "no prehistoric or historic resources were located within the project area" (*Cultural Resource Assessment for the Golden Center Drive Project, El Dorado County, Peak & Associates, Inc. September 5, 2004*).

18. Seismic hazards and present active faults; and

Discussion: As shown in the Division of Mines and Geology's publication Fault Rupture Hazard Zones in California, there are no Alquist-Priolo Special Studies Zones mapped in El Dorado County. The impacts from fault ruptures, seismically induced ground shaking, or seismic ground failure or liquefaction are considered to be less than significant. Any potential impact caused by locating buildings in the project area will be offset by the compliance with the Uniform Building Code earthquake standards.

19. Consistency with existing Conditions, Covenants, and Restrictions.

Discussion: The proposed project is consistent with the Missouri Flat Center Covenants, Conditions and Restrictions, as recorded at the El Dorado County Recorder's Office on November 28, 1984.

2004 Policy HO-1b: To ensure that projected housing needs can be accommodated, the County shall maintain an adequate supply of suitable sites that are properly located based on environmental constraints, community facilities, and adequate public services.

Discussion: Although affordable multi-family residential housing may be constructed within the Limited Multifamily Residential-Planned Development (R2-PD) Zone District, the small portion of the northeast corner of the subject site (approximately 25 percent) that is currently zoned R2-PD is not large enough to feasibly accommodate such a use. Furthermore, the 1996 and 2004 General Plans designate the site as having a Commercial (C) land use designation which prohibits residential uses with the exception of mixed-use projects. A multi-family residential project lacking a primary and dominant commercial use is inconsistent with the 2004 General Plan and therefore not appropriate for the project site.

2004 Policy 7.4.4.4: For all new development projects (not including agricultural cultivation and actions pursuant to an approved Fire Safe Plan necessary to protect existing structures, both of which are exempt from this policy) that would result in soil disturbance on parcels that (1) are over an acre and have at least 1 percent total canopy cover or (2) are less than an acre and have at least 10 percent total canopy cover by woodlands habitats as defined in this General Plan and determined from base line aerial photography or by site survey performed by a qualified biologist or licensed arborist, the County shall require one of two mitigation options: (1) the project applicant shall adhere to the tree canopy retention and replacement standards described below; or (2) the project applicant shall contribute to the County's Integrated Natural Resources Management Plan (INRMP) conservation fund described in policy 7.4.2.8.

Discussion: The 1.51 acre parcel contains seven percent tree canopy coverage while the 0.21 acre parcel contains 14 percent tree canopy coverage. Anticipated site development must comply with the General Plan tree canopy retention standards discussed above.

Conclusion: As outlined above, staff finds that the zone change application conforms to all applicable policies within the 1996 and 2004 General Plan.

General Plan Lawsuit: On February 5, 1999, Judge Cecily Bond of the Sacramento Superior Court acted to invalidate the Environmental Impact Report adopted for the 1996 General Plan. This invalidation restricted the County from acting on any discretionary project pending issuance of a Writ from the Court. On July 19, 1999, Judge Bond issued the Final Writ of Mandate.

Paragraph 5, sub-paragraph 3 within the Final Writ establishes that “*The Court permits the County to issue any approvals, permits, or entitlements whether or not discretionary, for **non-residential development**; provided that such approvals, permits or entitlements comply with sub-paragraph (8) below...*” Sub-paragraph 8 within the Writ establishes that the “*County cannot approve or undertake any such project unless it finds, on substantial evidence, that:*

- a. *The approval or project will not significantly impair the County's ability to adopt and implement a new General Plan after complying with CEQA.*

Discussion: The project was reviewed and a Mitigated Negative Declaration was prepared which indicated that no substantial environmental impacts would occur that could not be addressed through required included mitigation measures. Additionally, none of the issues identified in the February 5, 1999, Court ruling will be affected by this project. The County adopted the 2004 General Plan on July 19, 2004, which designates the subject parcel as Commercial. As proposed, the project is consistent with the commercial land use designation in the 2004 General Plan.

- b. *The approval or project complies with all other requirements of law.*

Discussion: The project will comply in all instances with the provisions of County Code.

- c. *The approval or project is consistent with the text and maps of the 1996 General Plan as amended through February 5 1999."*

Discussion: The project site is identified as being Commercial. The Commercial General Plan land use designation establishes areas for commercial uses. The project will not affect the use of the property for commercial uses.

Agency and Public Comments: The following agencies provided comments on the proposed project:

Pacific Gas & Electric Company (PG&E): PG&E reviewed the previously submitted proposed tentative parcel map and expressed concerns regarding the indication of a PG&E pole line crossing the property while text notes indicate the line was removed via a particular recorded instrument.

Discussion: This issue has been addressed as it was determined that the parcel split could be approved through a parcel map waiver rather than a tentative parcel map.

El Dorado Irrigation District (EID): EID reviewed the proposed project for any issues related to public water and sewer service.

Discussion: The applicant obtained an EID Facility Improvement Letter, dated February 28, 2005, addressing public sewer and water requirements. A minimum 20-foot easement will be required for any EID water or sewer lines unless otherwise noted.

El Dorado County Resource Conservation District (RCD): The District reviewed the proposed project and had no comments on the proposed activity.

Environmental Management Department, Environmental Health Division: The Environmental Health Division reviewed the proposal and commented regarding compliance with the El Dorado County Solid Waste Management Ordinance, Chapter 8.42.

Discussion: Anticipated future development will comply with El Dorado County Solid Waste Management Ordinance, Chapter 8.42.

El Dorado County Surveyor's Office: The Surveyor's Office reviewed the tentative parcel map and noted that the map was based on information from a title report that is 18 years. As such, an updated map was requested by the Surveyor's Office for further review.

Discussion: This issue has been addressed as it was determined that the parcel split could be approved through a parcel map waiver rather than a tentative parcel map.

El Dorado County Air Quality Management District: The District reviewed the *Golden Center Drive Office Buildings Air Quality Analysis Report* prepared by Foothill Associates on December 22, 2004 and concurs with its conclusions.

Discussion: Air quality mitigation measures have been developed to reduce any potentially significant air quality impacts from anticipated development to a less than significant level.

Diamond Springs/El Dorado Fire Protection District: The Diamond Springs/El Dorado Fire Protection District reviewed the project proposal and found that the project will not expose people to a significant risk of loss, injury or death involving wildland fires or wildland fires adjacent to or located in an urbanized area.

Discussion: Building and Fire Code compliance, including the installation of additional fire hydrants and sprinkler systems, will be reviewed and approved by the Diamond Springs/El Dorado Fire Protection District prior to building permit issuance and occupancy.

California Department of Transportation (Caltrans): Caltrans reviewed the project and noted, "The project alone should not have significant traffic impacts on either US 50 or State Route 49. However, it will contribute to cumulative traffic conditions at the Missouri Flat Road Interchange, which is already operating at capacity. This project should contribute its fair share towards the reconstruction of the interchange and any interim improvements that may be needed until the interchange is reconstructed."

El Dorado County Department of Transportation (DOT): DOT reviewed the proposed project concerning grading, drainage and traffic impacts.

Discussion: Applicable DOT issues will be addressed prior to building permit issuance, and occupancy.

At the time of the preparation of this report, staff had not received any comments or objections from the public. However, comments and/or objections may be raised as a result of project noticing and Planning Commission hearing.

ENVIRONMENTAL REVIEW

Staff has prepared an Initial Study (Environmental Checklist with Discussion attached) to determine if the project has a significant effect on the environment. Based on the Initial Study, staff finds that the project could have a significant effect on air quality, cultural resources, noise and utilities/service systems as a result of projected site development. However, the project has been modified to incorporate the mitigation measures identified in the Initial Study which will reduce the impacts to a level considered to be less than significant. Therefore, a Mitigated Negative Declaration has been prepared

This project is found to be de minimis (having no effect on fish and game resources). Pursuant to Resolution No. 240-93, a \$35.⁰⁰ processing fee is required by the County Recorder to file the Notice of Determination and Certificate of Fee Exemption with the State in accordance with State Legislation (California Fish and Game Code Section 711.4).

RECOMMENDATION

Staff recommends the Planning Commission take the following actions:

1. Adopt the Mitigated Negative Declaration based on the Initial Study prepared by staff;
2. Adopt the mitigation monitoring program in accordance with CEQA Guidelines, Section 15074(d), incorporated as conditions of approval; and
3. Recommend approval of Z05-0001 to the Board of Supervisors based on the findings in Attachment 2, subject to the conditions in Attachment 1.

SUPPORT INFORMATION

Attachments to Staff Report:

Attachment 1Conditions of Approval
Attachment 2Findings

Exhibit AVicinity Map
Exhibit BGeneral Plan Land Use Map
Exhibit CZoning Map
Exhibit DAssessor's Parcel Map Page
Exhibit EEnvironmental Checklist and Discussion of Impacts

ATTACHMENT 1
CONDITIONS OF APPROVAL

FILE NUMBER Z05-0001

November 17, 2005

El Dorado County Planning Services

1. The project description is as follows:

A zone change to rezone a small portion of the property currently zoned Limited Multifamily Residential – Planned Development (R2-PD) to Commercial – Planned Development (C-PD). The remainder of the subject site is currently zoned C-PD.

MITIGATION MEASURES FROM MITIGATED NEGATIVE DECLARATION

2. Project construction will involve grading and excavation operations, which will result in a temporary negative impact on air quality with regard to the release of particulate matter (PM₁₀) in the form of dust. A fugitive dust prevention and control plan and contingent asbestos hazard dust mitigation plan shall be submitted to and approved by the District prior to the commencement of project construction. Mitigation measures for the control of fugitive dust shall comply with the requirements listed in the El Dorado County Air Pollution Control District Guide to Air Quality Assessment Determining Significance of Air Quality Impacts Under the California Environmental Quality Act First Edition February 2002 document, Appendix C.1 page three through five

Monitoring: Prior to building permit issuance, the Air Quality Management District shall review and approve a Fugitive Dust Prevention and Control Plan and Contingent Asbestos Hazard Dust Mitigation Plan for the proposed project.

3. Project construction will involve road development and should adhere to District Rule 224 Cutback and Emulsified Asphalt Paving Materials and county ordinance concerning asbestos dust.

Monitoring: The Air Quality Management District shall ensure compliance with District Rule 224, regarding road development, throughout project implementation.

4. Burning of wastes that result from Land Development Clearing must be permitted through the District. Only vegetative waste material may be disposed of using an open outdoor fire.

Monitoring: Prior to the burning of wastes for land development clearing, the Air Quality Management District shall review and permit such activity.

5. The following are measures used to reduce impacts on air quality from equipment exhaust emissions during project construction:

- a. Use low-emission on-site mobile construction equipment
- b. Maintain equipment in tune per manufacture specifications
- c. Retard diesel engine injection timing by two to four degrees
- d. Use electricity from power poles rather than temporary gasoline or diesel generators.
- e. Use reformulated low-emission diesel fuel
- f. Use catalytic converters on gasoline-powered equipment
- g. Substitute electric and gasoline-powered equipment for diesel-powered equipment where feasible
- h. Do not leave inactive construction equipment idling for prolonged periods (i.e. more than two minutes)
- i. Schedule construction activities and material haul that affect traffic flow to off-peak hours
- j. Configure construction parking to minimize traffic interference
- k. Develop construction traffic management plan that includes, but is not limited to: Providing temporary traffic control during all phases of construction activities to improve traffic flow; Rerouting construction trucks off congested streets; and provide dedicated turn lanes for movement of construction trucks and equipment on- and off-site.

Monitoring: During project construction, the Air Quality Management District shall respond to any complaints regarding equipment exhaust emissions and monitor project implementation to ensure that the above-referenced measures are utilized.

6. Prior to construction/installation of any new point source emission units or non-permitted emission units (i.e. gasoline dispensing facility, boilers, internal combustion engines, etc.), authority to construct applications shall be submitted to the District. Submittal of applications shall include facility diagrams(s), equipment specifications and emission factors.

Monitoring: Prior to the construction of any new point source emission units or non-permitted emission units, an application for the construction of such facilities shall be reviewed and approved by the Air Quality Management District.

7. The project construction will involve the application of architectural coating, which shall adhere to District Rule 215 Architectural Coatings.

Monitoring: Air Quality Management District staff shall ensure that the project adheres to District Rule 215 Architectural Coatings during project implementation.

8. In the event a heritage resource or other item of historical or archaeological interest is discovered during grading and construction activities, the project proponent shall ensure that all such activities cease within 50 feet of the discovery until an archaeologist can examine the find in place and determine its significance. If the find is determined to be significant and authenticated, the archaeologist shall determine the proper method(s) for handling the

resource or item. Grading and construction activities may resume after the appropriate measures are taken or the site is determined not to be of significance.

Monitoring: The Department of Transportation (DOT) shall monitor the above-referenced activities as part of the issuance of a commercial grading permit. If deemed necessary, DOT shall issue a stop work order upon the discovery of any item of historical or archaeological interest and only allow grading activities to continue once the issue has been resolved.

9. In the event of the discovery of human remains, all work is to stop and the County coroner shall be immediately notified pursuant to Section 7050.5 of the Health and Safety Code and Section 5097.98 of the Public Resources Code. If the remains are determined to be Native American, the Coroner must contact the Native American Heritage Commission within 24 hours. The treatment and disposition of human remains shall be completed consistent with guidelines of the Native American Heritage Commission.

Monitoring: The Department of Transportation (DOT) shall monitor the above-referenced activities as part of the issuance of a commercial grading permit. If deemed necessary, DOT shall issue a stop work order upon the discovery of any human remains on the project site and only allow grading activities to continue once the issue has been resolved.

10. Grading and construction activities on the site shall be limited to daylight hours from 7:00 a.m. to 7:00 p.m. Monday through Friday, and 9:00 a.m. to 5:00 p.m. Saturday. No construction or grading activities shall take place on Sundays or holidays.

Monitoring: The Department of Transportation shall investigate any noise complaints received regarding the occurrence of grading and construction activities in violation of the mitigation measure discussed above.

11. Only equipment with properly maintained mufflers shall be used during construction.

Monitoring: The Air Quality Management District shall monitor and investigate any complaints received regarding proper equipment maintenance during project construction.

12. Construction equipment shall not idle on the property (construction site) when not in active use. All compressors and other equipment will be located as far as possible from the northwestern and western property lines of the project parcel.

Monitoring: The Air Quality Management District shall monitor and investigate any complaints received regarding proper equipment use and potential air quality impacts during project construction.

13. The applicant shall install catch basins and/or other surface drainage system Best Management Practice (BMP) surface water quality management systems within the proposed parking lot area to reduce storm water runoff water quality impacts. The property owner(s) shall be responsible for the maintenance of any installed catch basin or filter systems. As

another BMP, the property owner(s) shall perform parking lot sweeping prior to the first storm event of the season. The El Dorado County Department of Transportation shall review and approve all plans for catch basins and other proposed BMP measures on the site prior to the issuance of a commercial grading permit.

Monitoring: Prior to the issuance of a commercial grading permit, the Department of Transportation shall review and approve all plans for catch basins and other proposed BMP measures on the project site.

ATTACHMENT 2 **FINDINGS**

FILE NUMBER Z05-0001

1.0 CEQA FINDING

- 1.1 The Planning Commission has considered the Mitigated Negative Declaration together with the comments received and considered during the public hearing process. The Mitigated Negative Declaration reflects the independent judgment of the Planning Commission and has been completed in compliance with CEQA and is adequate for this proposal.
- 1.2 The Planning Commission finds that through feasible mitigation measures placed upon the project, impacts on the environment have been eliminated or substantially mitigated.
- 1.3 The documents and other materials which constitute the record of proceedings upon which this decision is based are in the custody of Planning Services at 2850 Fairlane Court, Placerville, CA.
- 1.4 Public Resources Code Section 21081.6 requires the County to adopt a reporting or monitoring program for the changes to the project which it has adopted or made a condition of approval in order to mitigate or avoid significant effects on the environment. The approved project description and conditions of approval, with their corresponding permit monitoring requirements, are hereby adopted as the monitoring program for this project. The monitoring program is designed to ensure compliance during project implementation.

2.0 ADMINISTRATIVE FINDINGS

2.1 Zone Change

- 2.1.1 In accordance with State law and pursuant to General Plan Policy 2.2.5.3, the County has evaluated the subject rezoning request based on the General Plan's general direction as to minimum parcel size or maximum allowable density and to assess whether changes in conditions are present that would support a higher density or intensity zoning district. The 19 specific criteria found within General Plan Policy 2.2.5.3 have been analyzed with regards to the above-referenced zone change request. Based on this analysis and the conclusions reached in the staff report, the Planning Commission recommends approval of the zone change request to the Board of Supervisors.

3.0 SUPERIOR COURT WRIT OF MANDATE FINDINGS

- 3.1 On February 5, 1999, Judge Cecily Bond of the Sacramento Superior Court acted to invalidate the Environmental Impact Report adopted for the 1996 General Plan. This invalidation restricted the County from acting on any discretionary project pending issuance of a Writ from the Court. On July 19, 1999, Judge Bond issued the Final Writ of Mandate.

Paragraph 5, sub-paragraph 3 within the Final Writ establishes that *“The Court permits the County to issue any approvals, permits, or entitlements whether or not discretionary, for non-residential development; provided that such approvals, permits or entitlements comply with sub-paragraph (8) below...”* Sub-paragraph 8 within the Writ establishes that the *“County cannot approve or undertake any such project unless it finds, on substantial evidence, that:*

- a. The approval or project will not significantly impair the County’s ability to adopt and implement a new General Plan after complying with CEQA.**

The project was reviewed and a Mitigated Negative Declaration was prepared which indicated that no substantial environmental impacts would occur that could not be addressed through required included mitigation measures. Additionally, none of the issues identified in the February 5, 1999, Court ruling will be affected by this project. The County adopted the 2004 General Plan on July 19, 2004 which designates the subject parcel as Commercial. As proposed, the project is consistent with the commercial land use designation in the 2004 General Plan.

- b. The approval or project complies with all other requirements of law.**

The project will comply in all instances with the provisions of County Code.

- c. The project is consistent with the text and maps of the General Plan as of February 5, 1999, and there is no evidence that the development of the site would affect issues identified in the General Plan lawsuit that could impact the County’s ability to adopt a new General Plan.**

The project site is identified as being Commercial in the 1996 General Plan as amended through February 5, 1999. The Commercial General Plan land use designation establishes areas for commercial uses. The project will not affect the use of the property for commercial uses.