

**EL DORADO COUNTY DEVELOPMENT SERVICES
PLANNING COMMISSION
STAFF REPORT**



Agenda of: May 22, 2008
Item No.: 9.
Staff: Peter Maurer

FILE NUMBER: A07-0011/Z08-0012

APPLICANT: El Dorado County

REQUEST: Amendment to General Plan Policy 2.2.5.20 and Zoning Ordinance §17.22.330

ENVIRONMENTAL DOCUMENT: Addendum to the General Plan EIR

SUMMARY RECOMMENDATION: Forward recommendation to Board of Supervisors to adopt the proposed policy and ordinance amendment.

BACKGROUND

On June 19, 2007 the Board of Supervisors directed staff to prepare an amendment to Policy 2.2.5.20 that would consider relief for certain single family dwellings, based on size and other considerations. This policy currently requires that all building permits and grading permits be reviewed for consistency with the General Plan. In response to that direction, staff has prepared the proposed amendment, raising the threshold from 120 square feet of building area to 4,000 square feet of building area or 20,000 square feet of disturbed area. The purpose is to limit review of single family dwelling building permits to only the very largest houses, or those projects that disturb a large area of ground. The proposed amendment is as follows:

Policy 2.2.5.20 All non-residential development, all subdivisions, residential development on existing legal lots involving any structure greater than ~~120~~ 4,000 square feet in size or requiring a grading permit for which land disturbance of an area of 20,000 square feet or more occurs, and all development located on lands identified as Important Biological Corridor (-IBC) on the Land Use Diagram, Figure LU-1, shall be permitted only upon a finding that the development is consistent with this General Plan and the requirements of all applicable County ordinances, policies, and regulations. For projects that do not require approval of the Planning Commission or Board of Supervisors, this

requirement shall be satisfied by information supplied by the applicant demonstrating compliance. All building permits shall be consistent with the land uses described in the land use designation established for the site, as provided in Policy 2.2.1.2 and set forth on Figure LU-1.

The proposed final additional sentence is to ensure basic consistency with land use until such time as the zoning map is updated to conform to the General Plan.

Policy 2.2.5.20 was adopted as a mitigation measure [Measure 5.1-3(a)] in the 2004 General Plan Environmental Impact Report (EIR) to address several impacts that would result as a consequence of approval of ministerial permits on existing lots until various implementation measures were put in place. A review process was established by urgency ordinance in March 2005. This ordinance was extended twice until becoming permanent in 2006 when it was codified as Section 17.22.330 et seq. An interactive checklist was developed and made available to the public on-line to identify potential inconsistencies with applicable general plan policies. Staff or a member of the public is able to enter an assessor's parcel number into the computer, and a list of responses and prompts to policy concerns is supplied based on GIS data. These responses include whether the site is near a mine or landfill, has slopes of 30 percent or more, is adjacent to streams for which setbacks may apply, is located in an airport overflight area or asbestos review area, and other similar site-specific concerns addressed in the General Plan. Provisions have been made for review by the Planning Commission if the policy restrictions preclude reasonable use of the land.

Since adoption of the urgency ordinance that established the General Plan consistency checklist procedure in March 2005, the County has received and reviewed approximately 1200 single family building permit applications. Of those, Permit Center staff estimates that about thirty percent required modifications to the plans to conform to general plan consistency requirements that were not otherwise addressed through existing code provisions.

STAFF ANALYSIS

Mitigation Measure 5.1-3(a) provides partial mitigation for 14 different impacts resulting from development allowed under the 2004 General Plan. Additional mitigation was also identified in the EIR. Many of these measures are in place currently or there are ordinances or other programs being developed by the county to implement them. Attached is a spread sheet identifying each impact for which this policy was adopted as mitigation, along with descriptions of additional or alternative measures (Attachment 2).

These 14 impacts that this measure was intended to mitigate, with a brief explanation of the existing or anticipated standards that apply to ministerial projects, are listed below:

- a. Land Use Incompatibility – Standards exist in the zoning code that provide setbacks, height limitations, and separation of incompatible uses. However, the EIR identified that the code does allow some uses that could be incompatible, especially certain non-residential uses. This is intended to be addressed in the updated ordinance. The proposed amendment will only affect residential structures on existing legal lots, which typically do not create the incompatibilities identified in the EIR;
- b. Farmland Protection – Sec. 17.06.150 (special setbacks for agricultural protection) contain provisions for agricultural setbacks and these are applied regardless of this policy. Additionally, administrative relief provisions (Resolution 079-2007) were recently adopted by the Board;
- c. Scenic Impacts – No existing provisions exist in code or resolution except for the requirement to underground all utilities. The Zoning Ordinance update and scenic highway ordinance is anticipated to address this issue in the future;
- d. Light and Glare – Sec. 17.14.170 (outdoor lighting) adequately addresses lighting impacts, and is applicable to all development projects;
- e. Level of Service – All projects are subject to Traffic Impact Mitigation fees, which provide funding for road improvements necessary to offset impacts to roads;
- f. Water Demand and Shortages – Either a meter award letter is required or a builder must provide well information to the satisfaction of the Environmental Management Department;
- g. Flood Hazard/Dam Failure Inundation (DFI) – Chapter 17.25 (flood damage prevention) adequately addresses flooding but does not cover DFI. As discussed below, a disclosure statement could be provided with applicable permits to identify the DFI hazard;
- h. Asbestos – The existing dust mitigation and asbestos review process established by the Air Quality Management District (AQMD) and Building Services adequately addresses asbestos;
- i. Fire Hazards – All permits are subject to PRC 4291 requirements;
- j. Landslide and Avalanche Hazards – A geotechnical report is required with every building permit. Few if any building sites are located in avalanche hazard zones. All of these are within the Lake Tahoe Basin where all permits are also reviewed by the Tahoe Regional Planning Agency (TRPA). West slope avalanche hazard areas are located on national forest lands. Policy 6.3.2.3 requires the establishment of an avalanche hazard zone, which will further regulate the potential hazard;
- k. Erosion – The grading ordinance (Chapter 15.14) applies to all soil disturbance of 10,000 sq. ft. or more. Additionally all permits are subject to Regional Water Quality Control Board erosion control measures during the rainy season. Violations are subject to notice of correction and compliance procedures;
- l. Mining Compatibility – Notice is provided to builders adjacent to existing mines. No buffers are required at this time. The Zoning Ordinance update is anticipated to include setbacks from existing mine sites;
- m. Air Quality – AQMD has adopted numerous rules regulating toxic air emissions. Single family dwelling permits are not a source of significant toxic releases. Locational issues based on zoning compatibility, i.e. placement of residential uses adjacent to potential hazards, will be reviewed with the zoning ordinance update;
- n. Cultural Resources – Cultural resources are not presently addressed with ministerial

permits unless the checklist shows the site to be already listed.

In addition to the impacts identified in the EIR, the consistency checklist also addresses the issue areas listed below. These environmental impacts were not identified as being mitigated by Policy 2.2.5.20.

- a. Aviation Noise and Hazards – Airport noise and hazards are covered under Chapter 17.38 (Airport Safety Districts) with the requirements of providing aviation and noise easements and limitations on building heights and density within the approach zones included in the CLUP;
- b. Solid Waste and Recycling – The checklist provides for notification if a building site is within ¼ mile, but there are no restrictions on development;
- c. Hazardous Materials – The checklist provides notice if a site is listed by the Environmental Management Dept. as a known contaminated site. Since there are no regulatory requirements for contaminated sites, this can be replaced by a simple notification procedure administered administratively through the building permit process;
- d. Water Resource/Stream Setback – The checklist identifies if a stream or other body of water is located on the site. Setbacks are required by General Plan Policy 7.3.3.4. These setbacks will be incorporated into the new Zoning Ordinance and will still be applied to any building site in the Important Biological Corridor (IBC) overlay area as identified on the General Plan land use diagram;
- e. Oak Canopy Protection – The permit process requires identification of oak canopy coverage with retention/replacement provisions applicable under Policy 7.4.4.4. The Oak Woodland Management Plan (OWMP) is expected to be adopted by April 2008. Mitigation of impacts to oak woodlands will still be applicable to single family dwelling permits within the IBC overlay.

As shown on Attachment 2, most of the impacts identified in the General Plan EIR are reduced by multiple mitigation measures. Three impacts have not been fully addressed by the checklist format. These are risk of hazards from flooding due to dam failure, visual impacts to scenic highways and from ridgeline development, and the impact to cultural resources from ministerial projects (building permits).

Restrictions on development in the Dam Failure Inundation (DFI) zone only apply to the creation of new parcels. Warning of this hazard could be improved by providing an advisory statement as a routine practice with building permits (along with the current notices for contaminated sites and locations near a waste site) to advise property owners of the potential hazard. This would be an administrative action and does not require an ordinance amendment.

Visual impact policies apply to existing and future scenic highways and ridgeline development. Most development that will have a potentially significant impact will be discretionary, with the creation of new roads and lots. There is little that can be done, given the reasonable use provisions of the plan, to limit the construction of residences in visually sensitive locations. This may be further mitigated when a new scenic highway ordinance is adopted. The large building threshold may limit the impact by requiring the review of such houses built on ridgelines. Since

there are no ministerial type standards that can be applied with permits under the present checklist system, the proposed amendment would not create any increase in impacts.

The issue of cultural resources remains problematic. The mitigation measure and Policy 7.5.1.6 requires that the County review ministerial projects in accordance with CEQA standards for cultural resources, which essentially makes a building permit discretionary. There are no routine standards that can be applied ministerially to a permit if it disturbs cultural resources. A cultural resource analysis that identifies artifacts or other resources on the site of a permit application could result in a redesign of the project. This essentially makes the permit discretionary. This concern notwithstanding, many existing lots that are subject to this policy were created by subdivisions or parcel maps over the past three decades where cultural resource studies were required at the tentative map stage, and any avoidance or other mitigation was required at that time. Based on County Assessor's records, of the approximately 11,000 vacant residential lots in the county, 60 percent were created since the time that cultural resource studies were required, and mitigation of any impacts were imposed at the map stage. These are the maps also most likely to be built upon, since the others are either more remote or are otherwise less desirable as home sites. No additional mitigation would be required.

In addition to the impacts identified in the EIR as described above, the checklist also provides notice if a stream is located on or adjacent to a parcel on which a building permit application has been filed. The applicant is then responsible for meeting the setback identified in Policy 7.3.3.4. Until the code is amended so this becomes a standard applicable to all building permits, this amendment would result in applicants outside of the IBC areas avoiding this requirement except with the very large homes. However, Mitigation Measure 5.1-3(a) was not adopted to address this impact, so the adoption of the proposed amendment would not result in a reduction of the mitigation measure's effectiveness than that identified in the EIR.

Similarly, oak woodland habitat impacts are reviewed with building permit applications as a result of this policy, even though it too, was not identified as an impact mitigated by this specific measure. There is no GIS data available on a site specific basis to determine the level of impact on a site, so the checklist simply reminds applicants that they must provide that information with the building permit application. The County is in the process of adopting the OWMP, which may be in place by the time this amendment is considered by the Board of Supervisors. Upon adoption, sufficient mitigation for that impact will be in place to offset the impacts to oak woodlands. Additionally, Policy 7.4.5.2 requires the adoption of an oak ordinance. While the raising of the threshold for building permit review may result in additional tree removal, staff has found that most property owners and builders want to retain as many oaks as possible on the site, since they add value to the home site. Furthermore, by retaining the requirement that review and mitigation be applied within the IBC areas, development within the more important habitat areas will continue to be reviewed. While the small scale loss of oaks from individual permits will have an incremental effect on fragmentation of woodlands, it will not reach the level of woodland habitat loss of larger subdivision and non-residential development. That type of development will still be subject to the retention and replacement requirements of Policy 7.4.4.4.

Ordinance Amendment

The provisions of the urgency ordinance adopted to implement Policy 2.2.5.20 were added to Chapter 17.22 of the County Code. Section 17.22.330, addressing the site plan review process for General Plan consistency reviewed is proposed to be amended to reflect the proposed policy amendment. The changes are shown in Attachment 4.

ENVIRONMENTAL REVIEW

Staff has prepared an addendum to the 2004 General Plan Environmental Impact Report, pursuant to 14 C.C.R. §15164 (State CEQA Guidelines). The proposed amendment would not result in new or more significant environmental effects than discussed in the General Plan EIR, nor have new mitigation measures been identified that would further reduce the impacts previously identified. Please refer to Attachment 3 for review of the addendum.

RECOMMENDATION

Forward a recommendation to the Board of Supervisors to approve the addendum to the certified Environmental Impact Report for the 2004 General Plan (SCH#2001082030) and adopt A07-0011, an amendment to Policy 2.2.5.20 as follows, and amend §17.22.330 of the El Dorado County Code as provided in Attachment 4, based on the findings contained in Attachment 1:

All non-residential development, all subdivisions, residential development on existing legal lots involving any structure greater than ~~120~~ 4,000 square feet in size or requiring a grading permit for which land disturbance of an area of 20,000 square feet or more occurs, and all development located on lands identified as Important Biological Corridor (-IBC) on the Land Use Diagram, Figure LU-1, shall be permitted only upon a finding that the development is consistent with this General Plan and the requirements of all applicable County ordinances, policies, and regulations. For projects that do not require approval of the Planning Commission or Board of Supervisors, this requirement shall be satisfied by information supplied by the applicant demonstrating compliance. All building permits shall be consistent with the land uses described in the land use designation established for the site, as provided in Policy 2.2.1.2 and set forth on Figure LU-1.

SUPPORT INFORMATION

Attachments:

Attachment 1	Findings
Attachment 2	Mitigation Measures Applicable to Policy 2.2.5.20
Attachment 3	Addendum to 2004 General Plan EIR
Attachment 4	Draft Ordinance Amendment to Chapter 17.22

ATTACHMENT 1 FINDINGS FOR APPROVAL

File Number A07-0011/Z08-0012

Based on the review and analysis of this project by staff and affected agencies, and supported by discussion in the staff report and evidence in the record, the following findings can be made:

1. The proposed change to Policy 2.2.5.20 and §17.22.330 is not a substantial change and does not require substantial changes to the previous EIR because there are no new significant environmental effects and no substantial increases in the severity of previously identified significant effects. Changes in the severity of the impacts will not increase for most impacts, as described in the addendum and in the staff report. Changes will be minimal for impacts to scenic resources, safety due to flood hazards, land use compatibility by locating near mining operations, and cultural resources.
2. Substantial changes to the previous EIR are not required due to the lack of new significant environmental effects or a substantial increase in the severity of previously identified significant effects. Development which has occurred under the 2004 General Plan since adoption has been consistent with the plan, and as described in the addendum, the impacts of build-out of the remainder of the plan will not significantly increase as a result of the amendment.
3. An addendum to the 2004 General Plan EIR is appropriate for compliance with CEQA, pursuant to 14 CCR §15164, based on the following:
4. No new significant effects have been identified as a result of the proposed amendment to Policy 2.2.5.20 and §17.22.330 than those analyzed in the 2004 General Plan EIR, as discussed in the addendum and staff report.
 - a. As discussed in the addendum and staff report, each of the significant effects examined in the EIR and addressed by mitigation measure 5.1-3(a) will not be substantially more severe than shown in the previous EIR;
 - b. No mitigation measures or alternatives previously found not to be feasible would in fact be feasible and would substantially reduce one or more significant effects of the project; and
 - c. No mitigation measures or alternative that are considerably different from those analyzed in the previous EIR have been identified that would substantially reduce one or more significant effects on the environment.

Attachment 2 - Mitigation Measures Applicable to Policy 2.2.5.20

Impact	Description	Level of Significance	Alternative Mitigation	Description of Alt. Mit.	Status of Alt. Mit
5.1-3	Creation of substantial land use incompatibility	S-LS	5.1-3(b)	Require development projects to be designed and located in a manner that avoids adjacent incompatible land uses	Policy 2.2.5.21 adopted; Implementation measure LU-D (Zoning Ord. update) in process
			5.1-3(d)	Establish compatibility criteria for siting of public facilities	Policy 2.2.5.22 adopted; 65401 process required for all public projects; no change in mitigation
5.2-1	Potential for conversion of important farmland...	S-SU	5.2-1(b)	See MM 5.1.3(b) above	See above
			5.2-1(c)	Identify acceptable mitigation for loss of agricultural land	Policy 8.1.3.4 adopted; applies only to discretionary projects; no change in mitigation
			5.2-1(d)	Provide additional protection of agricultural use	Policy 8.1.3.2 and 8.1.4.1 adopted; no change in mitigation
			5.2-1(e)	Provide adequate agricultural setbacks	Policy 8.2.2.5 adopted; Ag setback ordinance in place; no change in mitigation
			5.2-1(f)	Require agricultural fencing on adjacent residential property	Policy 8.2.2.6 adopted; fencing standard in place for new residential parcels; no change in mitigation
5.3-1	Degredation of scenic vistas and scenic resources	S-LS	5.3-1(b)	Protect views from scenic corridors	Policy 2.6.1.3 adopted; applies to discretionary projects; Scenic Corridor Ord. not yet enacted
			5.3-1(c)	Extend limitations on ridgeline development within scenic corridors to include all development	Policy 2.6.1.5 adopted; no scenic standards or criteria yet established
			5.3-1(d)	Nominate SR 49 for scenic highway designation	Nomination not yet made; lack of designation could affect MM 5.3-1(b) and (c)
5.3-3	Creation of new sources of substantial light or glare	S-LS	5.3-3(b)	Consider lighting design features to reduce effects of nighttime lighting	Revised policy 2.2.8.1 adopted; existing lighting ordinance (Sec. 17.14.170) implements this policy; no change in mitigation
5.4-3	Short term unacceptable LOS	S-SU	5.4-3(a)	Modify concurrency and tax revenue policies...	IM TC-B has been implemented to update the TIM fee; no change in mitigation
5.5-1	Increased water demand and increased water shortages	S-SU	5.5-1(b)	Ensure that surface water supplies are adequate and physically available before any new development occurs	Policy 5.2.1.9 adopted; water supply requirements are in place for final maps and building permits; no change in mitigation
			5.5-1(c)	Support water conservation and recycling projects	Does not apply to ministerial permits; no change in mitigation
5.8-6	Risk of exposure to flood hazards	S-SU	5.8-6(b)	Prohibit creation of new parcels and development of existing parcels that are entirely within dam failure inundation areas	Policies 6.4.1.4 and 6.4.1.5 adopted; existing Flood Hazard protection ord. limits new structures in flood zone but does not cover DFI areas
5.8-9	Public exposure to asbestos	S-SU	5.8-9(b)	Strengthen naturally occurring asbestos and dust protection standards	Policy 6.4.1.1 adopted; system in place through NOA ordinance that applies special dust control measures on all permits within NOA review area
			5.8-9(c)	Provide disclosure on all NOA properties	Policy 6.3.1.2 adopted; disclosure already required by state law; all sites flagged on LMIS
			5.8-9(d)	Conduct annual reporting regarding asbestos	Policy 6.3.1.3 has been implemented with annual reporting to the Board done by EMD; web page devoted to public information on asbestos
5.8-10	Increased potential for fire incidents and hazards	S-SU	5.8-10(b)	Preclude development in areas of high wildland fire hazard	Policy 6.2.2.2 precludes such development unless approved by CDF and local fire district
5.9-2	Increased development in areas susceptible to landslide and avalanche hazard	S-LS	5.9-2(b)	Require geologic analysis in areas prone to geological or seismic hazards	Policy 6.3.2.5 requires analysis of geologic hazards for new development of habitable structures; a geotech report is required with every building permit and subdivision
5.9-4	Additional development that could affect the rate or extent of erosion	S-LS	5.9-4(b)	Restrict development on steep slopes	Policy 7.1.2.1 prohibits disturbance on slopes 30% or greater; interim guidelines have been established that apply to existing lots
			5.9-4(c)	Apply erosion control measures to agricultural grading	An agricultural permit process is to be established through Policy 7.1.2.1 and IM CO-D
5.9-6	Issues of land use compatibility with mining operations	S-LS	5.9-6(b)	Establish buffers between new development and mining operations	Policy 7.2.2.3 requires that a buffer be established - to be included in the updated zoning ordinance
			5.9-6(c)	Require 20 acre minimum parcels sizes	Policy 7.2.2.1 requires a 20-acre minimum parcel adjacent to or within -MR overlay designations
5.11-3	Toxic air emissions	S-SU	5.11-3(b)	See MM 5.1.3(b) above	See above
			5.11-3(c)	Use updated recommendations to analyze and mitigate potential air quality impacts	Policy 6.7.7.1 requires the County AQMD to use the most recent version of the <i>Guide to Air Quality Assessment</i>
			5.11-3(d)	Adopt new policy for facilities housing sensitive receptors	Policy 6.7.6.2 requires new projects with sensitive receptors to be sited away from significant sources of air pollution
5.13-1	Destruction or alteration of prehistoric and historic sites	S-LS	5.13-1(b)	Treat significant resources in accordance with CEQA standards	Policy 7.5.1.6 requires review of ministerial projects in accordance with CEQA standards
			5.13-1(c)	Adopt cultural resources ordinance	Policy 7.5.1.1 requires adoption of said ordinance; not yet completed
			5.13-1(d)	Define historic design control districts	Policy 7.5.2.2 requires establishment of districts; not yet completed
			5.13-1(e)	Prohibit significant alteration or destruction of NRHP/CRHR-listed properties	Policy 7.5.2.4 prohibits such alteration; process previously established to review any demolition or renovation without first review for historic preservation

**ATTACHMENT 3
EL DORADO COUNTY
ADDENDUM TO THE 2004 GENERAL PLAN ENVIRONMENTAL IMPACT
REPORT FOR AN AMENDMENT TO POLICY 2.2.5.20**

Introduction

This document is an Addendum to the Final Environmental Impact Report (EIR) for the 2004 El Dorado County General Plan (General Plan). The El Dorado County Board of Supervisors certified the Final EIR in August 2004. This addendum has been prepared in accordance with 14 C.C.R. §15164 to address a proposed amendment to Policy 2.2.5.20 of the Land Use Element of the General Plan. This section states that the lead agency shall prepare an addendum to a previously certified EIR if some changes are necessary but none of the conditions described in §15162 calling for preparation of a subsequent EIR has occurred.

Section 15162 provides a subsequent EIR must be prepared only if one or more of the following occurs:

1. Substantial changes are proposed in the project which will require major revisions of the previous EIR due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects;
2. Substantial changes occur with respect to the circumstances under which the project is undertaken which will require major revision of the previous EIR due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects; or
3. New information of substantial importance, which was not known and could not have been known at the time the previous EIR was certified shows any of the following:
 - a. The project will have one or more significant effects not discussed in the previous EIR;
 - b. Significant effects previously examined will be substantially more severe than shown in the previous EIR;
 - c. Mitigation measures or alternatives previously found not to be feasible would in fact be feasible and would substantially reduce one or more significant effects of the project but the project proponents decline to adopt the mitigation measure or alternative; or
 - d. Mitigation measures or alternatives that are considerably different from those analyzed in the previous EIR would substantially reduce one or more significant effects on the environment, but the project proponents decline to adopt the mitigation measure or alternative.

As discussed in detail below, the proposed policy amendment would not result in new or more significant environmental effects that were not disclosed in the General Plan EIR. No new mitigation measures been identified that could further reduce the impacts

previously identified. As a result, these revisions do not fall within any of the categories requiring a subsequent EIR as provided by 14 CCR § 15162 and, therefore, are appropriately discussed via this addendum.

Proposed Text Amendment

All non-residential development, all subdivisions, residential development on existing legal lots involving any structure greater than ~~120~~ 4,000 square feet in size or requiring a grading permit for which land disturbance of an area of 20,000 square feet or more occurs, and all development located on lands identified as Important Biological Corridor (-IBC) on the Land Use Diagram, Figure LU-1, shall be permitted only upon a finding that the development is consistent with this General Plan and the requirements of all applicable County ordinances, policies, and regulations. For projects that do not require approval of the Planning Commission or Board of Supervisors, this requirement shall be satisfied by information supplied by the applicant demonstrating compliance. All building permits shall be consistent with the land uses described in the land use designation established for the site, as provided in Policy 2.2.1.2 and set forth on Figure LU-1.

Implementation of Policy 2.2.5.20/Mitigation Measure 5.1-3(a) (from 2004 General Plan Final EIR, Exhibit B – CEQA Findings of Fact, Page 47)

Mitigation Measure 5.1-3(a) reads as follows:

New Policy 2.2.5.20: Development involving any structure greater than 120 square feet in size or requiring a grading permit shall be permitted only upon a finding that the development is consistent with this General Plan and the requirements of all applicable County ordinances, policies, and regulations. For projects that do not require the approval of the Planning Commission or Board of Supervisors this requirement shall be satisfied by information supplied by the applicant demonstrating compliance.

New Implementation Measure LU-C: Establish performance standards to be included in the Zoning Ordinance to allow applicants for ministerial projects to demonstrate compliance with General Plan policies and with other applicable County ordinances, policies, and regulations. Until such time as these standards are developed, the Planning Director shall review information submitted by the applicant to ascertain compliance. The review shall include, but not be limited to: (1) the effects of the proposed project on biological resources, cultural resources, geology and soils, agriculture, visual, noise, and air quality; (2) the project's compliance with the concurrency requirements of the General Plan pertaining to traffic infrastructure and the availability of water and other services; (3) risks of exposure to hazardous materials and conditions as a result of site development; and (4) a determination as to whether the project is exempt from review under the California Environmental Quality Act. In lieu of requiring

detailed resource assessments as part of initial applications, the Planning Director may establish a program for preliminary site inspections by qualified professionals employed or retained by the County to determine the need (if any) for specific resource evaluations required to complete this review.

This measure was implemented by the adoption of Urgency Ordinance No. 4666, which created a review process for all building permits for structures of 120 square feet or more, and all grading permits. That ordinance was extended twice by the adoption of Ordinances No. 4669 and 4690. The provisions of this ordinance were made permanent by adoption of Ordinance No. 4720 in March, 2007. The procedures established through this ordinance require review of the following criteria:

- Aviation and Noise Hazards – Review of proximity to airports and associated noise from overflight areas
- Solid Waste and Recycling Facilities – Review for proximity to the landfill and waste handling facilities
- Scenic Corridors – Provides notice if site is within a designated scenic corridor
- Hazardous Materials – Identifies known hazardous waste sites
- Mineral Resources – Locates mines and determines if project is adjacent to same
- Agricultural and Timber Setbacks – Determines if the special setbacks to protect agriculture and timber operation would apply
- Preservation of Cultural Resources – Identifies if recorded cultural resources are located on the site
- Asbestos – Identifies if the site is in the asbestos review area
- Conservation of Water Resources – Identifies if streams or other mapped water resources are located on the site
- Soil Conservation – Identifies if slopes exceed 30%
- Forest and Woodland Resources – Provides notice that oak tree canopy protection requirements may apply based on percentage of property with canopy coverage

Review of Impacts and Mitigation Measures from the 2004 El Dorado County General Plan Environmental Impact Report

The following discussion is a review of the impacts and mitigation measures that were adopted to determine the degree to which modification of Policy 2.2.5.20 would change the efficacy of the mitigation identified in the EIR.

Impact 5.1-3 – Creation of substantial land use incompatibility

This impact was significant, but became less than significant after the identified mitigation measures were applied. Alternative Mitigation 5.1-3(b) requires that development projects be designed to avoid incompatible uses (Policy 2.2.5.21) and is intended to be implemented through the update to the zoning ordinance (Implementation Measure [IM] LU-D). This measure is still being implemented, but will provide specific

design standards and lists of permitted uses within the various zone districts to assure compatibility.

An additional measure, 5.1-3(d), requires public facilities to be sited and designed to avoid incompatibilities (Policy 2.2.5.21). This currently occurs with the review of capital improvement projects and plans through the Government Code Section 65401 process and review by the Planning Commission.

Elimination of the General Plan consistency review for smaller ministerial projects would not substantially increase the potential for incompatible uses to be located next to each other. The General Plan does not provide a list of incompatible uses on which to base a determination that a proposed use would be consistent with adjacent uses. The policy, as amended, would still require consistency with the uses identified in the land use designations of Policy 2.2.1.2, and any permit or use must still be consistent with the underlying general plan designation.

The County finds that the elimination of the consistency review for projects under 4,000 square feet of building area or 20,000 square feet of soil disturbance will not result in any greater degree of land use incompatibility than is potentially possible under existing circumstances. There is no new or increased impact regarding land use compatibility as a result of the proposed amendment.

Impact 5.2-1 – Potential for conversion of important farmland

This impact was considered significant and unavoidable after measure 5.1-3(a) and other measures were adopted. These other measures include Measure 5.1-3(b), which requires that discretionary projects avoid incompatibility. With farmland, the proximity of higher density residential has the potential to limit agricultural operations, leading to the eventual loss of productivity. This is addressed through the agricultural setback ordinance [MM 5.2-1(e)], minimum parcel size and review by the Agricultural Commission [MM 5.2-(d)], and fencing requirements [MM 5.2-1(f)]. These existing standards are already applied to ministerial and discretionary permits, through application of §17.06.050, §17.14.155.C and Chapter 17.13 of the County Code, therefore the proposed amendment does not raise any new impacts or increase the severity of the impacts identified in the EIR.

The current review of ministerial permits for General Plan consistency does not provide any greater protection from the conversion of farmland, and its elimination will not alter the level of protection. Five additional mitigation measures were adopted to address this impact. Furthermore, the vast majority of ministerial permits are for single family homes or additions on existing parcels, which are compatible and permitted by right on agricultural land. Other, existing programs such as minimum parcel size and agricultural setbacks provide more effective mitigation.

Impact 5.3-1 – Degradation of scenic vistas and scenic resources

This impact was found to be less than significant after mitigation was applied. Mitigation Measure 5.3-1(d) directs the County to nominate State Route 49 as a state scenic highway for those lengths that qualify. Although this has not been done yet, the potential designation will not directly effect the ministerial review provisions of Policy 2.2.5.20. Furthermore, Highway 49 is already considered a County-designated scenic highway, and Policy 2.6.1.1 which directs the County to adopt a scenic highway ordinance will provide similar protection of scenic resources and provide standards by which ministerial permits can be reviewed against.

Because there are no specific standards in the General Plan for scenic view protection, the current consistency review process does not address scenic vistas. Three other mitigation measures also addressed this impact. These include measure 5.3-1(b) (Policy 2.6.1.3) that requires that discretionary development be reviewed for its impact on views from specified important vistas, and 5.3-1(c) (Policy 2.6.1.5) that directs the County to review ridgeline development and consider methods of reducing the impact. Provisions addressing these issues will be included in the updated zoning ordinance. However, the proposed amendment to Policy 2.2.5.20 will not raise any new impacts or increase the severity of the impact to scenic resources.

Impact 5.3-3 – Creation of new sources of substantial light or glare

This impact was found to be less than significant after mitigation. In addition to measure 5.1-3(a), Measure 5.3-3(b) (Policy 2.8.1.1) directs the County to adopt standards to reduce excess nighttime light and glare.

The County has previously adopted an outdoor lighting ordinance (Section 17.14.170 of the El Dorado County Code). This applies to all ministerial and discretionary development and already implements this measure. These measures have been fully implemented and apply regardless of the General Plan consistency review process of Policy 2.2.5.20. Changes to that policy will not reduce the effectiveness of the mitigation of the impact of light and glare.

Impact 5.4-3 – Short term unacceptable level of service (LOS)

The General Plan EIR identified this impact as significant and unavoidable after feasible mitigation measures were implemented. Existing policies in the Transportation and Circulation Element already provide certain exemptions for individual single family residential building permits. Policy 2.2.5.20 does not preclude the issuance of building permits or grading permits for single family dwelling construction due to short term LOS impacts. However, all development, both ministerial and discretionary, are subject to the payment of Traffic Impact Mitigation (TIM) fees, which have been updated since the adoption of the 2004 General Plan, as required by Implementation Measure TC-B. The proposed modification of Policy 2.2.5.20 would not alter the collection of TIM fees to

offset traffic impacts associated with the new development, nor would it worsen the short term decreases in LOS.

Impact 5.5-1 – Increased water demand and increased water shortages

The General Plan EIR identified this impact as significant and unavoidable after feasible mitigation measures were implemented. In addition to measure 5.1-3(a), two other measures were identified to reduce this impact. Measure 5.5-1(b) (Policy 5.2.1.9) requires assurances that the water purveyor has adequate supplies to serve proposed development. Measure 5.5-1(c) encourages the use of water conservation and recycling projects. Both of these provide additional mitigation. The County also requires an annual report of water supplies and demand from each of the water providers in the County.

The County requires that any new residence or non-residential use present a meter award letter or similar assurance from the water purveyor that demonstrates that there is sufficient water supply to serve the development. Without such assurance, the County will not issue a permit. The proposed amendment would not change this requirement, therefore, there would be no change in the level of mitigation if Policy 2.2.5.20 is amended as proposed.

Impact 5.8-6 – Risk of exposure to flood hazards

The EIR identified this impact as significant and unavoidable after mitigation. Plan Policy 2.9.1.6 states that the policies will not be implemented in a way that would result in a taking of private land. The existing mitigation measures allow for development of land within the flood zone that meet specified building standards, and prohibits creation of new lots in both zones unless there is suitable area outside of the hazard areas for all necessary structures and septic systems. In addition, Policies 6.4.2.1 and 6.4.2.2 direct the County to amend the zoning code to identify the DFI zone and prohibit construction of high occupancy structures within them. Such structures require discretionary approval, therefore, the proposed modification will not significantly reduce the level of mitigation that was identified in the EIR and adopted by the County. Additionally, the County can implement a notification process to advise property owners and builders of the hazard. This can be done as an administrative procedure without requiring an ordinance or policy amendment. By providing the notice there would be no reduction in the effectiveness of the mitigation as identified in the EIR.

All building permits are reviewed for compliance with Chapter 17.25, the Flood Damage Prevention Ordinance, which prohibits construction in a flood zone without meeting standards set forth in the ordinance as established by the Federal Emergency Management Agency. This ordinance, however, does not address building sites within the dam failure inundation area. Additional mitigation measure 5.8-6(b) (Policies 6.4.1.4 & 6.4.1.2) prohibit the creation of new parcels fully within either the flood zone or dam failure inundation (DFI) zone and require the designation of a building area for new lots partially within either zone.

Impact 5.8-9 – Public exposure to asbestos

The General Plan identified this impact as significant and unavoidable. In addition to measure 5.3-1(a) there are three other measures applied to reduce the impact. Each of these have been adopted and implemented. The erosion and sediment control ordinance has been amended as required by Policy 6.3.1.1 [MM 5.8-9(b)] to address control of dust containing asbestos fibers. The County has developed a system independent of the General Plan consistency review that flags all permit applications on lands in the asbestos review area and routes them through the Environmental Management Department/Air Quality Management District. Specific dust control measures limiting the potential for exposures are required by AQMD Rule #223-2. The rule also requires a warning to be posted on site. All property in the Naturally Occurring Asbestos (NOA) review area is also subject to a disclosure statement as required by state law (CA Civil Code §2079) [MM 5.8-9(c)]. Reporting on NOA issues is provided to the Board of Supervisors regularly by the Environmental Management Department pursuant to measure 5.8-9(d) (Policy 6.3.1.3).

All of these programs operate independently of the General Plan consistency review process of Policy 2.2.5.20, therefore the proposed amendment would not lessen the mitigation measures identified in the EIR.

Impact 5.8-10 – Increased potential for fire incidents and hazards

The General Plan identified this impact as significant and unavoidable. In addition to measure 5.3-1(a) there was one other measure applied to reduce the impact. Policy 6.2.2.2 [MM5.8-10(b)] precludes development in high fire hazard areas unless approved by the fire district and CDF. PRC §4291 (fire safe regulations) apply to all projects, including ministerial permits. Projects are reviewed for consistency and no permit may be issued unless approved by fire authorities. This occurs with or without the consistency review, therefore, the proposed amendment would not lessen the mitigation identified in the EIR.

Impact 5.9-2 – Increased development in areas susceptible to landslide and avalanche hazard

This impact was identified as less than significant after mitigation. In addition to measure 5.1-3(a), this impact was also mitigated by requiring geologic analysis in areas prone to geological or seismic hazards [MM 5.9-2(b)]. Policy 6.3.2.5 requires such analysis with development of new habitable structures. A geotechnical report is required with the submittal of building permits and subdivision maps. This is required independently of the General Plan consistency review process, so the proposed amendment would not reduce the level of mitigation or worsen the impacts.

Impact 5.9-4 – Increase in rate or extent of erosion

Two measures, in addition to measure 5.1-3(a), were identified to reduce the erosion impact to less than significant. Policy 7.1.2.1 [MM5.9-4(b)] prohibits disturbance on slopes 30% or steeper. The Grading Ordinance (Ord. No. 4719) was adopted on March 13, 2007, which prohibits such grading except under the exemption provided in the adopted policy. The grading ordinance applies to all building permits and earth movement of more than 10,000 square feet of surface area. The County has adopted interim standards to allow for reasonable use of existing legal lots and to provide access across steep slopes. These standards further reduce the potential for erosion on steep slopes. Additionally, with every building permit, the County requires erosion control measures to be in place by October 15 of every year and remain in place through the month of May to lessen run-off from seasonal rains. Inspectors ensure such measures are in place and code enforcement actions may result, in order to assure compliance. These measures correspond with the requirements of the Regional Water Quality Control Board standards. The grading ordinance and standard erosion control measures applied to building permits adequately mitigate the impact of grading, and the proposed amendment would not lessen the mitigation identified in the EIR.

An additional measure is to create an agricultural permit process to apply BMPs. Since agricultural uses are exempt from the General Plan consistency review, there would be no change to this requirement as a result of the proposed amendment, nor would the impact of erosion from agricultural grading be changed.

Impact 5.9-6 – Land use compatibility with mining operations

The General Plan EIR identified this impact as less than significant after mitigation. In addition to the consistency review, two other measures were applied. Measure 5.9-6(c) (Policy 7.2.2.1) requires a minimum of 20-acre parcels within or adjacent to lands within the Mineral Resources Overlay designation or adjacent to existing mines outside of those overlay districts. The creation of new parcels is discretionary, therefore, the proposed amendment would not reduce this mitigation in any way.

The second measure [MM5.9-6(b)], adopted as Policy 7.2.2.3, requires buffers be established to separate non-mining uses from existing mining operations. This is intended to be included in the update to the zoning ordinance as required by Implementation Measure CO-A, Part D. Because the General Plan did not establish a specific setback distance, there is no standard to apply to building permit applications at this time. The on-line data provided to an applicant at the time of a permit application simply identifies that a parcel is adjacent to a mine in order to give the owner notice that he or she may be impacted by noise, dust, and other effects from the mining operation. This notice will continue to be provided as a part of the permit process, therefore, the proposed amendment would not reduce the mitigation from that identified in the EIR and there would be no increased impact.

Impact 5.11-3 – Toxic air emissions

This impact was identified as significant and unavoidable after four measures were applied. In addition to MM5.1-3(a), measure 5-1.3(b) requires developments be designed and sited to avoid incompatible land uses. This is typically done through zoning and the discretionary review process of special use permits and planned developments. No standards exist within the General Plan that could be applied on a ministerial basis, therefore, the proposed amendment would not lessen the mitigation from this measure.

Measure 5.11-3(c) directs the County Air Quality Management District (AQMD) to utilize the most updated version of the *Guide to Air Quality Assessment* (Policy 6.7.7.1). This applies to discretionary development applications and County projects, therefore, the proposed amendment would not change the application of this policy. Impacts from individual single family dwelling construction do not typically reach the threshold for significance for air impacts. Therefore, the adoption of the proposed amendment would not result in increased impacts from toxic air emissions.

Policy 6.7.6.2 [MM5.11-3(d)] requires that new facilities with sensitive receptors, including residential subdivision, schools, playgrounds, hospitals, and other uses, be sited away from significant sources of air pollution. All discretionary development projects are routed to AQMD for comment during the early review process, including subdivisions and most other sensitive uses. AQMD maintains a list of all toxic emission sources, but does not differentiate between significant sources and minor emitters such as back-up generators. Public school districts are required to be notified of any pollution source within one quarter mile of a proposed school. Sufficient safeguards are currently in place to prevent sensitive receptors from being placed too close to significant sources of air pollution. The proposed amendment would not increase the severity of the impact when all of the mitigation measures and existing procedures are considered.

Impact 5.13-1 – Destruction or alteration of prehistoric and historic sites

The General Plan EIR identified this impact as less than significant after mitigation measures were applied. Four additional measures were adopted. Measure 5.13-1(c) (Policy 7.5.1.1) directs the County to adopt a cultural resources ordinance that would apply to the review of discretionary projects. Measure 5.13-1(d) (Policy 7.5.2.2) requires the establishment of historic design control districts. This would be applicable to commercial and multifamily projects only. Although these have not yet been accomplished, the change in the threshold for review of ministerial projects would not lessen the mitigation provided by these measures.

Policy 7.5.2.4 [MM5.13-1(e)] prohibits the alteration or destruction of state or federally listed historic sites. The County has established a procedure for review of any demolition or renovation permit to determine if the structure is historic. If listed, the procedures established with the listing are applied. If not listed, the permit is referred to the County Museum for documentation and recommendation prior to issuance of the permit. This

process operates independently of the consistency review process, therefore the proposed amendment would not reduce the effectiveness of this measure.

Measure 5.13-1(b) (Policy 7.5.1.6) requires review of ministerial projects to determine if significant resources exist, and then treated in accordance with CEQA standards. This policy is intended to be implemented by the adoption of a cultural resources preservation ordinance (Implementation Measure CO-Q.) Until such time as the ordinance is adopted that includes standards applicable to single family building permits, there are no standards that can be applied on a ministerial basis, and the proposed amendment will not increase the environmental effect on cultural resources.

Based on staff's analysis of the existing Environmental Impact Report in light of the proposed changes, the application of CEQA Section 15164 is appropriate and no further environmental analysis is required.

ATTACHMENT 4 – DRAFT ORDINANCE AMENDMENT

CHAPTER 17.22 – LAND USE PERMIT PROCEDURES

IV. SITE PLAN REVIEW

17.22.300 Purpose. The purpose of this subchapter is to provide for the review and approval of development projects consistent with the provisions of this Title, where review is required or necessary to ensure compliance with adopted County standards, to provide appropriate on-site design of parking, circulation, building location, landscaping and lighting, and to protect the public health, safety and welfare. (Ord. 4589 §§2, 5, 2001) The purpose is also to demonstrate consistency with the General Plan pursuant to General Plan Policy 2.2.5.20.

17.22.310 Approval Authority. The Development Services Director or his designee shall have approval authority of original jurisdiction for site plan review. The approval of a site plan review application shall be considered a ministerial permit pursuant to CEQA. (Ord. 4589 §§2, 5, 2001)

17.22.320 Standards and Requirements. Standards for site plan review shall be those established pursuant to Chapters 17.06, 17.14, 17.16, 17.18, the applicable zone district provisions, and any other standards or requirements adopted by El Dorado County by ordinance or resolution. (Ord. 4589 §§2, 5, 2001)

17.22.325 General Plan Consistency Requirements. Standards for demonstrating consistency with the General Plan pursuant to General Plan Policy 2.2.5.20 will be on a form established by the Development Services Department.

17.22.330 Applicability of General Plan Consistency Requirements. Requirements for General Plan consistency shall apply to:

- A. All building permits for new structures, as defined in the General Plan, greater than ~~120~~ 4,000 square feet, including additions to existing structures.
- B. Building Permits or other permits that require a grading permit for which land disturbance of an area of 20,000 square feet or more occurs.
- C. All development, as defined in the General Plan, located on lands identified as Important Biological Corridor (-IBC) on the Land Use Diagram, Figure LU-1.
- D. Non-residential development.

17.22.335 Inapplicability. The General Plan Consistency requirements are not applicable to any of the following:

- A. Any permits that require a finding of consistency with the 2004 General Plan pursuant to other provisions of state law or local ordinances.
- B. Any permits issued in accordance with an approved development agreement to the extent the development agreement prevents the application of policies of the

2004 General Plan.

17.22.340 General Plan Consistency Options. If proposed development does not conform to General Plan policies pursuant to the site plan review as set forth above, no permit shall be issued for the development unless:

- A. The applicant modifies the application to eliminate any inconsistencies identified.
- B. The applicant applies for and is granted a planned development application after discretionary review and CEQA analysis. The planned development application is hereby authorized whether or not a planned development is otherwise required by ordinance and would not require a rezone to add the planned development combining zone, but in all other respects, the planned development application will be processed in accordance with Section 17.04, and any appeals will be processed in accordance with Section 17.22.220.
- C. Reasonable use of the property would otherwise be denied, as determined by the Development Services Director.