

ORDINANCE NO.

**ORDINANCE ESTABLISHING A REQUIREMENT
FOR AN ANALYSIS OF GENERAL PLAN CONSISTENCY
ON THE ISSUANCE OF BUILDING AND GRADING PERMITS**

**THE BOARD OF SUPERVISORS OF THE COUNTY OF EL DORADO DOES
ORDAIN AS FOLLOWS:**

Section 1. Findings

A. On July 19, 2004, the Board of Supervisors adopted the 2004 El Dorado County General Plan: A Plan for Managed Growth and Open Roads; A Plan for Quality Neighborhoods and Traffic Relief (2004 General Plan).

B. On March 8, 2005, the voters of El Dorado County confirmed by referendum said plan.

C. The 2004 General Plan Environmental Impact Report identified numerous potentially significant impacts that could be mitigated by instituting a ministerial review process for certain classes of building and grading permits not otherwise subject to a determination of consistency with the General Plan to ensure conformance with General Plan policies. This mitigation measure is embodied in Policy 2.2.5.20 of the Land Use Element of the 2004 General Plan.

D. The mitigation measures direct the County of El Dorado to prepare standards applicable to building and grading permits to be contained within the Zoning Ordinance (Title 17) of the El Dorado County Code.

E. The County's Zoning Ordinance will be revised to implement the 2004 General Plan. Staff has commenced work on such revisions. Such revisions to the Zoning Ordinance have been delayed until the resolution of the Sacramento Superior Court writ of mandate issued by that court on July 19, 1999 in the case of El Dorado County Taxpayers for Quality Growth, et al. v. El Dorado County Board of Supervisors.

F. On April 16, 2006, the El Dorado County Board of Supervisors entered into a settlement agreement with the plaintiffs on the General Plan lawsuit.

G. In any event, the revisions to the Zoning Ordinance will be extensive and will require a substantial amount of time to complete.

H. In order to avoid environmental impacts identified in the 2004 General Plan Environmental Impact Report, and to ensure that substantial development does not occur prior to adoption of revisions to the zoning ordinance that are inconsistent with the 2004 General Plan and the revised zoning ordinance, it is necessary to review certain classes of building and grading permits for consistency with the 2004 General Plan.

I. It is the intent of the Board of Supervisors to develop a procedure to determine whether such projects present inconsistencies with the 2004 General Plan pending adoption of a zoning ordinance revised to implement the 2004 General Plan.

J. It is the Board of Supervisors intent to provide additional options for development in order to balance economic and environmental general plan goals and policies through the Planned Development process.

K. It is the Board of Supervisors intent to implement the “reasonable use” provisions of the General Plan as well as Policy 2.2.5.1 that states “Existing legal lots of record with a lot size less than the minimum areas indicated by the designation on General Plan land use map shall be permitted to develop at a density of at least one dwelling unit per lot provided that minimum health and safety requirements are met.”

Section 2. Modification of the Site Plan Review process

A. In accordance with the authority granted to the County of El Dorado under Government Code Section 65860, the issuance of building permits and grading permits to which this Ordinance is made applicable by Section 3 below, shall satisfy the General Plan Consistency Review as part of the site plan review process in section 17.22 of the County Code, as modified in Exhibit A.

Section 3. Applicability.

A. Subject to Section 3.B below, this ordinance shall apply to all of the following permits:

1. Building permits for new construction of structures, as defined in the 2004 General Plan, greater than 120 square feet, including additions to existing structures.
2. Building permits or other permits for development that require a grading permit.

B. The provisions of this ordinance shall not apply to any of the following:

1. Any permits that would require a finding of consistency with the General Plan pursuant to other provisions of state law or local ordinances.
2. 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.

Section 4. Consistency Review Process and Standards.

A. County staff, under the direction of the Director of Development Services, shall prepare a policy compliance checklist as part of the site plan review process, outlining the required information to be submitted by an applicant. Said checklist may be amended from time to time as new standards are developed. The purpose of the checklist is to

allow for a ministerial review to determine whether the proposed project is consistent with new policies of the 2004 General Plan that are not reflected in the current Zoning Ordinance or other building regulations.

B. All applications for development subject to this Ordinance under Section 3, above, shall include a policy compliance checklist completed by the applicant.

C. Staff shall review the completed checklist against adopted General Plan standards and determine, prior to issuance of any development permit, if the proposed development complies with the applicable General Plan policies. If the proposed development is found to conform to the applicable policies, the reviewing authority shall make a record of its findings to be retained with the permit information. Such permits may be issued subject to compliance with all other applicable provisions of law. If a proposed development is found to be inconsistent with any policy, the applicant shall be advised of the determination and shall be afforded an opportunity to revise the proposed development to attain consistency or, if appropriate, seek discretionary review as set forth below.

D. Development shall be deemed to conform to the applicable General Plan policies if the checklist:

1. Does not reflect any inconsistency with quantified, objective standards of the 2004 General Plan identified on the checklist; and
2. Does not reveal any condition of the subject property that might render the proposed development inconsistent with policies of the 2004 General Plan.

E. If a proposed development does not conform to General Plan policies pursuant to the checklist review as set forth above, no permit shall be issued for the development unless:

1. The applicant modifies the application to eliminate any inconsistencies identified;
2. 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.

Section 5. Compliance with California Environmental Quality Act.

The Board of Supervisors finds that this ordinance is not subject to the California Environmental Quality Act (“CEQA”) pursuant to Sections 15060(c)(2) (the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment) and 16060(c)(3) (the activity is not a project as defined in section 15378) of

the CEQA Guidelines (Title 14, Chapter 3 of the California Code of Regulations), because it has no potential for resulting in physical changes to the environment, directly or indirectly. Further, this Ordinance is intended to implement mitigation measures identified in the 2004 General Plan Environmental Impact Report and will have a positive, beneficial effect on the physical environment.

Section 6. Severability.

If any provision of this Ordinance or the application thereof to any person or circumstance is held invalid, the remainder of the ordinance, including the application of such part or provision to other persons or circumstances shall not be affected thereby and shall continue in full force and effect. To this end, provisions of this Ordinance are severable. The Board of Supervisors hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause, or phrase hereof irrespective of the fact that any one or more sections, subsections, subdivisions, paragraphs, sentences, clauses, or phrases be held unconstitutional, invalid, or unenforceable.

Section 7. Effective Date.

This ordinance shall become effective _____, 2007.

PASSED AND ADOPTED by the Board of Supervisors of the County of El Dorado at a regular meeting of said Board, held on the ____ day of _____, 2007, by the following vote of said Board:

ATTEST
CINDY KECK
Clerk of the Board of Supervisors
By _____
Deputy Clerk

Ayes:
Noes:
Absent:

Chairman, Board of Supervisors

I CERTIFY THAT:
THE FOREGOING INSTRUMENT IS A CORRECT COPY OF THE ORIGINAL ON FILE IN THIS OFFICE

Date _____
ATTEST: CINDY KECK, Clerk of the Board of Supervisors
of the County of El Dorado, State of California.

By _____
Deputy Clerk