

#1 11/12/15 PUBLIC COMMENT  
SECTION 3 T6PA ZOU  
L. PARLIN.

11-10-15 Comment on Commercial Rezoning Incompatibilities in TGPA/ZOU , submitted by Lori Parlin

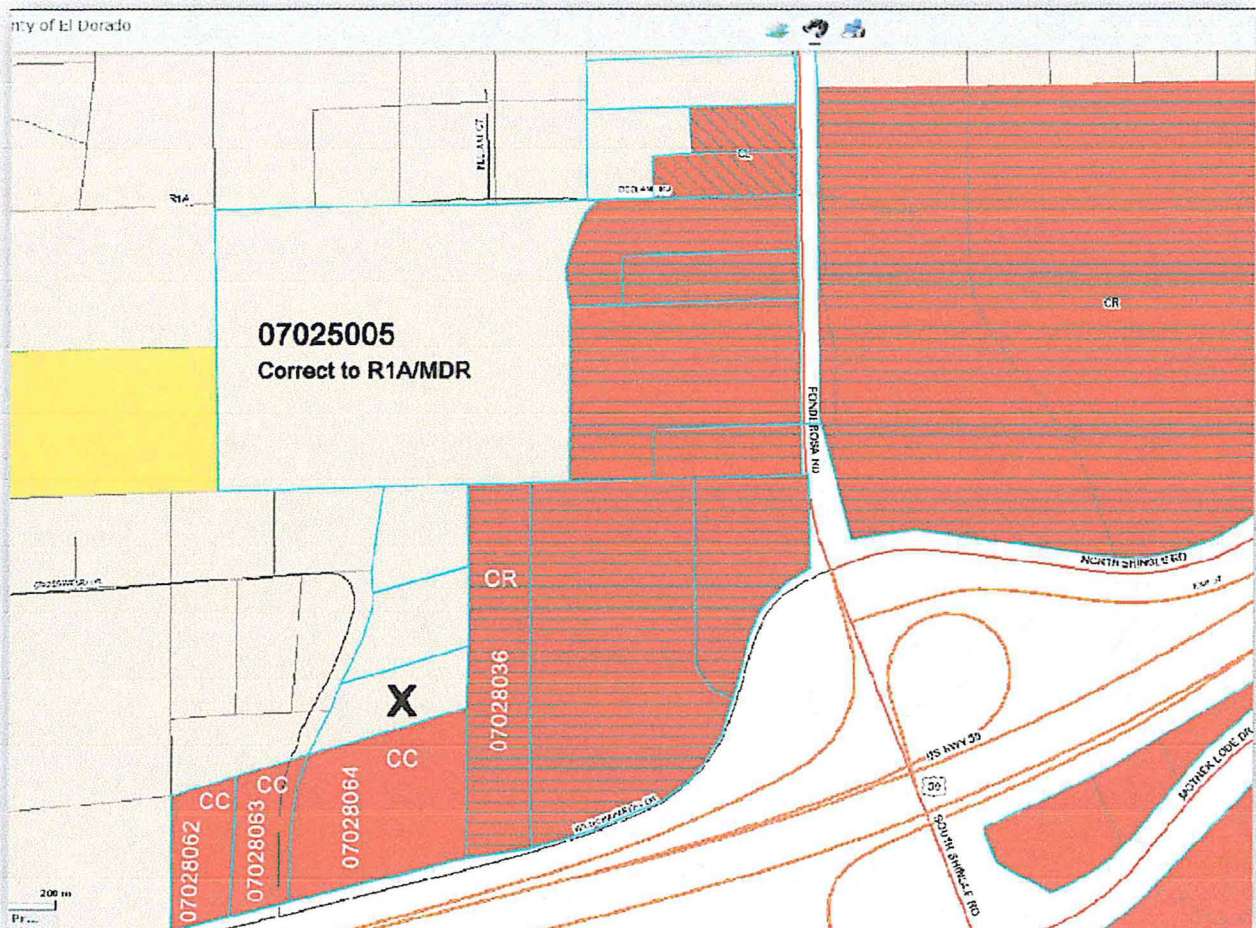
The new proposed Commercial Zone Districts are being implemented in such a way that they are creating incompatibilities with adjacent properties. The rezones are also causing inconsistencies because the proposed zones do not match what is on the ground. The fact that these proposed zoning changes were done without consulting or notifying the adjacent property owners, nor the neighborhood at large, makes this entire process suspect and gives the impression of back door deals. How many other instances of these unnotified changes are in the TGPZ/ZOU? Staff has not done their due diligence to make the public fully aware of the impacts of this project and the FEIR should be rejected.

We should be implementing the General Plan that we **have** before adding or changing its policies.

**GOAL 2.4: EXISTING COMMUNITY IDENTITY**

Maintain and enhance the character of existing rural and urban communities, emphasizing both the natural setting and built design elements which contribute to the quality of life, economic health, and community pride of County residents.

These rezones in Shingle Springs are in direct conflict with the community's Existing Community Identity.



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**Therefore, I request that all commercial parcels adjacent to residential parcels be rezoned with the two compatible zones: Commercial Professional Office and Commercial Light**

**Specifically, the parcels listed below be changed to Commercial Zones that are compatible with adjacent residential parcels as follows:**

07028062 and 07028063 - CPO (Commercial, Professional Office) - Reasoning: These parcels currently have a Planned Development for an office complex and CPO is compatible with residential uses

07028064 - CL (Commercial Limited) - Reasoning: This parcel currently has Special Use Permit that is allowing a use that is incompatible with residential neighborhoods. When Kniesel's outgrows this facility and moves, having the CL zoning will ensure that a compatible business moves in.

07028036 - CL (Commercial Limited) - Reasoning: This parcel is currently occupied with a public storage facility, which is a low impact commercial use and has been compatible with the residential neighborhood. If this business were ever to leave, the neighborhood would benefit from compatibility of a new business in the Commercial Limited category.

### **Proposed Commercial Zones**

1. **Commercial, Professional Office (CPO).** The CPO, Professional Office Commercial Zone is intended to regulate the development of land suitable for professional, administrative, and business offices and offices mixed with low to high intensity residential uses. It is intended that this zone be utilized as a transition between residential areas and higher intensity commercial uses by creating an environment which is compatible with surrounding residential uses while providing adequate economic incentive for development of such office space. Retail sales that are incidental to the primary office uses in this zone, are allowed subject to the provisions of the Ordinance.

2. **Commercial, Limited (CL).** The CL, Limited Commercial Zone, designates areas suitable for lower intensity retail sales, office and service needs of the surrounding area while minimizing conflicts with the residential uses and outside traffic into the area. Mixed use development compatible with surrounding uses would also be appropriate.

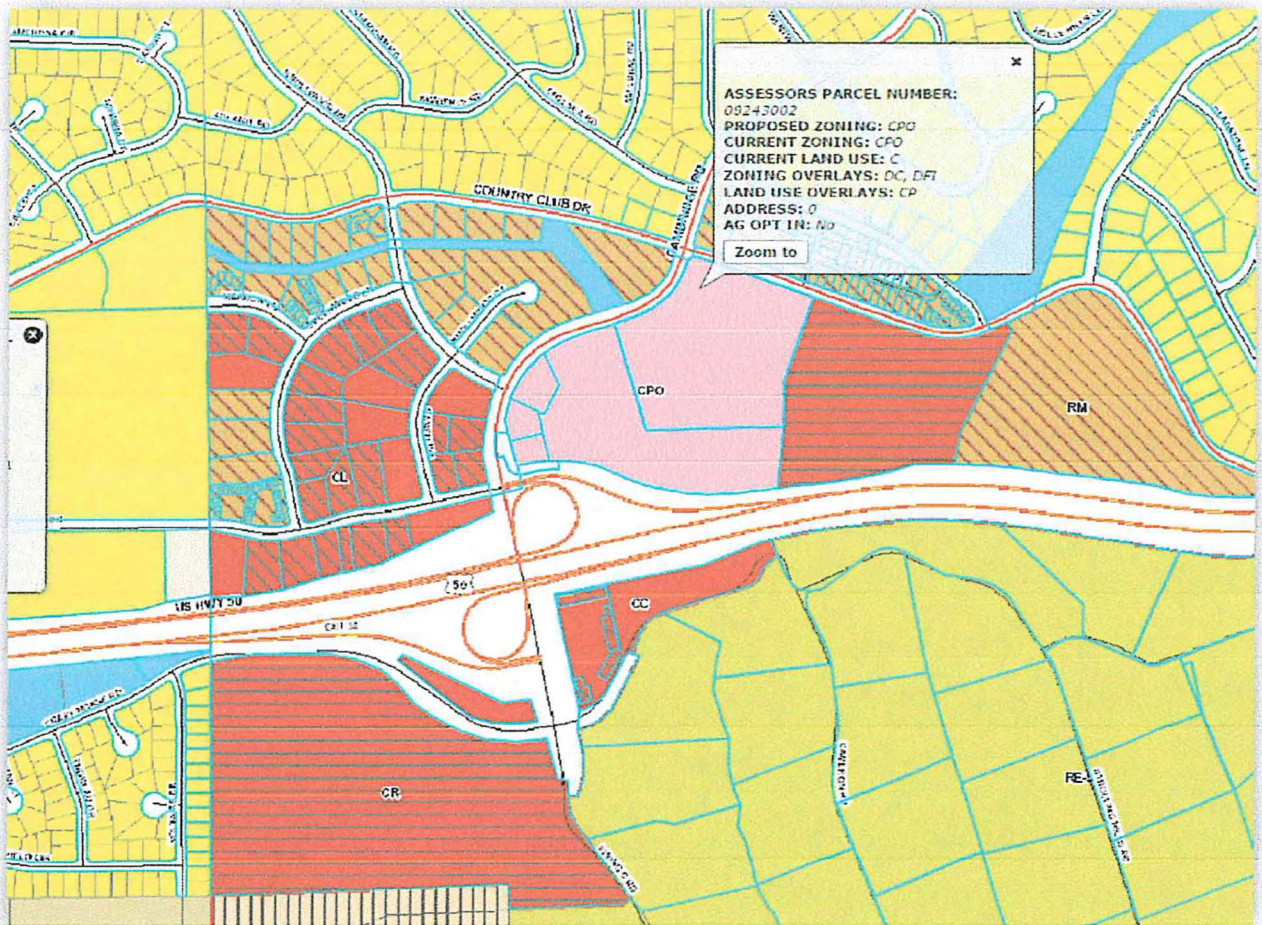
4. **Commercial, Community (CC).** The CC, Community Commercial Zone, provides for the retail sales, office, and service needs of the residents residing within the surrounding community and accommodates the commercial and service needs of visitors to the County. Mixed use development compatible with General Plan densities is appropriate in this zone.

5. **Commercial, Regional (CR).** The CR, Regional Commercial Zone, provides for large-scale retail services for a regional trade area. The CR zone applies to regional shopping centers that serve a market beyond the community and are located along arterials and at major intersections that provide convenient automobile access. Residential uses are generally inappropriate in the CR zone.

**Arbitrary Application of Proposed New Commercial Zones**

The County's online interactive LUPPU map ([http://gem.edcgov.us/zoning\\_luppu/](http://gem.edcgov.us/zoning_luppu/)) shows that the criteria for the rezones was applied arbitrarily and without consistency. Some areas follow the criteria while others don't. Are these new zones the reason that staff and the Board of Supervisors has been denying the Shingle Springs community its request to shrink its Community Region Boundary for the past 3 years? If there was a process that allowed for input as to when the criteria was followed, the community of Shingle Springs was left out of that process and we would like the opportunity to correct that.

For an example of inconsistency, why wasn't this entire Commercial area of Cameron Park rezoned to a Commercial Region as it was in Shingle Springs?



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Here is the criteria that was used but not consistently followed:

General Plan Policy 2.2.1.2 Commercial (C); Density of 10 dwelling units per acre as part of a mixed used development project, appropriate only within Community Regions and Rural Centers			
C	R1A, R2A, R3A, and RE-5 (outside Ag District)		Further Review
C	Tourist Recreational		RF-H
C	All Zones	Parcel (or the aggregate acreage of adjacent parcels) is less than 3 acres	CL
C		Parcel (or the aggregate acreage of adjacent parcels) is $\geq$ 3 acres but less than 10 acres	CC
C		Parcel (or the aggregate acreage of adjacent parcels) is greater than 10 acres and located in CR	CR
C		Within or adjoining (I) Industrial areas	CG

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ROI 183-2011 #12

**Proposed Mapping Criteria for Analysis**  
**May 25, 2012**

A	B	C	D
Land Use Designation	Current Zone	Parcel Size & Criteria	<u>Analyzed</u> for the propose of the EIR at this Zone
C		Commercial Planned Office	CPO
C		Mainstreet areas for downtown Camino, Georgetown, El Dorado, Diamond Springs	CM

Issue Resolution for Prompt Implementation  
I) Introduction

Throughout the TGPA/ZOU the public has raised a number of concerns regarding the project and its environmental impact report. Many of these objections are policy concerns that can only be resolved by the Board of Supervisors, but *once the EIR is adopted, the time for resolution outside of the courts is over*. Many of the issues raised along with proposed solutions are listed in the attached 'Issue Resolution' list.

Resolving these issues has at least two benefits. First, the more issues that are resolved, the more parts of the TGPA/ZOU that will be implemented promptly without legal challenge. Second, if enough of these issues are resolved, the TGPA/ZOU may avoid being subject to legal challenge in its entirety.

Below is a proposed process for adopting portions of the TGPA/ZOU. Some portions of the TGPA/ZOU are without objection and may be approved promptly, without change, and without the need to certify an environmental impact report or adopt a statement of overriding considerations. Other parts may be approved at multiple later dates after issue resolution meetings, revision, and additional public review. The procedure below is designed to meet as many of the TGPA/ZOU goals as possible without objection or legal challenge. But to do so requires *delaying certification of the EIR until issues can be resolved to a less objectionable level*, and only truly irreconcilable differences can be identified.

II) Procedure to Resolve Outstanding Issues

1. **Approve only the portions of the TGPA/ZOU without public objections or significant impacts (no EIR required).**  
Possible sections to approve via neg dec or CEQA exemption:
  - Landscaping and Irrigation Standards
  - Outdoor Lighting standards
  - Mobile Home Park Design Standards
  - Research and Development Zone Design
  - Parking and Loading Standards
2. **Pursue issue resolution and identify portions of the TGPA/ZOU for approval that have no impacts.**  
Perhaps with revisions & with no additional impact, changes could be pursued with the regular quarterly amendments, or with a mitigated neg dec.
  - a modified HOO
  - agricultural exemptions
  - the CRB alternative
  - ROI revisions that have evolved since 2011
3. **Amend the EIR to address the remaining TGPA/ZOU issues that will have been made unobjectionable through issue resolution, and move forward with certification & approval.**  
Substantial portions of the Final EIR will be salvaged, and many policies will have been moved forward. Only the irreconcilable differences will remain, and the County will have ensured as much of the project is approved as possible without legal challenge.
4. **Unresolved issues that remain will require Statement of Overriding Consideration in order to certify the amended EIR, but there won't be 38 significant & unavoidable impacts.**  
Advantage to this process is that portions of the TGPA/ZOU can move forward; the whole of the TGPA/ZOU will not be tied up in litigation, which is exactly what will happen if the EIR gets certified.

By way of contrast, if the entire TGPA/ZOU is adopted in November 2015, the bulk of the TGPA/ZOU will be bogged down in litigation for three or more years, more parts of it will be challenged, and more legal vulnerabilities will remain. This will substantially delay implementation of the TGPA/ZOU.

# Issue Resolution

aka: TGPA/ZOU Salvage

Issue	Possible resolution
<b>Home Occupations</b>	
Allowing too broad a spectrum of Home Occupations that will impact communities.	Narrow the spectrum of Home Occupations based upon 1. what we have learned from past experience, 2. what other similarly rural Counties allow
Allowing too many home occupations on a parcel or in a neighborhood	1. Place some reasonable limits to avoid the conversion of a residential area into a commercial area without the necessary infrastructure or design standards (e.g. limit traffic, limit the number of employees allowed by right 2. develop different standards for rural areas where no other office/commercial designations exist, and community regions where office/commercial zoning is available 3. consider aesthetic impacts on neighboring parcels
Relying on mitigation and enforcement mechanisms that have already proven ineffective for noise and odor impacts	Narrow the spectrum of home occupations to limit noise and odor impacts offsite
Neighbors are excluded from the approval process as so many impacting uses are allowed by right	Reduce the spectrum of 'uses allowed by right' to apply to those without offsite impacts; and/or include the public in the permit approval process for uses with impacts on the neighborhood.
<b>Land Use concerns</b>	
The project description includes an unwritten infill policy	Draft the policy so that it can be reviewed by the people and the Supervisors and evaluated in the EIR.
There are conflicting policies regarding the circumstances that require public sewers for development	Clarify when public sewers are required- revise the policies to eliminate conflict
TGPA/ZOU changes conflict with the direction in the 2004 General Plan, and with the mitigation relied upon by the court to approve the 2004 plan	Do not change the 2004 General Plan provisions, and the Zoning Ordinance provisions, in a manner that exacerbates the impacts of development, or ignores the due process rights of neighboring property owners
Smaller riparian zones and additional uses allowed in riparian zones allowed by Zoning Administrator without public notice or comment, and with no finding, and with no performance standard	1. Restore minimum zones identified in the 2004 General Plan, limit uses to those that do not interfere with the purposes of the riparian zones (water quality, drainage, flooding, migratory corridor protection, wetlands protection, and state land sovereignty) 3. notify adjacent property owners that share the protected area 2. condition approval upon proof of sign-off or compliance with requirements of the regional, state and federal agencies with jurisdiction

# Issue Resolution

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Issue	Possible resolution
Blanket rezoning is excessive & does not minimize zone changes as directed	Acknowledge the 2004 General Plan's approach of establishing land use designation categories that identify the maximum range of intensity of development for an area, of allowing less intense uses and larger parcels within those designations pending the arrival of necessary infrastructure and the application of impact mitigation programs, and increasing the zoned intensity of uses and amount of development when the infrastructure and mitigation standards are met
Lack of documented review of zoning map changes for conformity with General Plan provisions (re roads, slope, biological corridors, etc.), beyond the Land Use Designation map. The zoning map is changing uses and densities before the general plan mitigation programs are in place to evaluate the suitability of the uses and densities.	Restore the General Plan performance-based approach to rezoning to higher intensity land uses; and adopt the remaining general plan mitigation programs (including the protections for biological resources and scenic corridors) prior to rezoning; then (if desired) increase land use density and intensity by rezoning lands that comply with general plan and zoning performance standards [beware – exaggerating expected development can dilutes the fees needed for road improvements].)
A few community region boundary lines are not what communities asked for or were promised	Review <u>all</u> Community Region Boundary lines for possible changes
Administrative Permit provisions do not respect the constitutional due process rights of neighboring property owners and those interested in resource protection.	Go back to special use permits; or provide neighbors and interested parties notice and opportunity to be heard before the Zoning Administrator prior to permit approval, and establish standards or criteria for the Zoning Administrator to apply in making decisions, and provide notice of the Zoning Administrator decision and public appeal rights to neighbors and interested parties.
Failure to provide an appeal hearing for the general plan amendment and the zoning map changes	Hold an appeal hearing before approving the TGPA/ZOU, or begin the conflict resolution process outlined in this document to address outstanding issues, or address the issue in detailed settlement talks after the litigation is filed
Traffic impact analysis & trip generation potential of land uses	
Refusal to provide two directional LOS breakdown on roads	Update traffic model to utilize the two directional traffic data (already collected by the County!) on roads for the TGPA/ZOU EIR, and use the results to target places to reduce the trip generation potential of land uses.
Failure to provide LOS at interchanges and intersections	Update the traffic model to compute the LOS at interchanges and intersections for the TGPA/ZOU EIR, and use the results to target places to reduce the trip generation potential of land uses.
Failure to provide cumulative impacts with proposed future developments	Calculate future cumulative traffic using the densities from proposed developments. Then use the results to identify places to reduce trip generation potential of land uses.

# Issue Resolution

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Issue	Possible resolution
Unsupported job creation estimates and commuter trip reductions	Quantitatively evaluate the effects of different job creation estimates and commuter trip reduction targets (including past and current levels) on traffic and impact mitigation. Then use the results to identify places to reduce trip generation potential of land uses
Lack of correlation of salary potential of created job to housing costs, resulting in underestimation of commuter trips	Adjust the analysis in item above traffic related items to account for this problem
Failure to implement Measure Y to balance land use approvals with road capacity	Use the analyses in the above to reduce the trip generation potential of land uses and to bring the County into compliance with Measure Y
Inconsistency between the land use and circulation elements	Use the results of the analyses in the above traffic related items to correlate the land use designations with the road and highway network at all dates and times.
The Zoning Ordinance is not a reasonable accommodation of competing regional interests	Ensure that the zoning ordinance and maps, their baseline assumptions, and their future implementation, are consistent with code provisions limiting development on dead end roads, with Caltrans plans for local highways, with implementation of complete streets laws, with state and regional air quality plans, and with state and regional plans for reducing greenhouse gases.
No critical review of traffic model <u>inputs</u> and results	Establish a traffic committee so that a panel of residents who experience the actual traffic conditions can give these traffic analyses the review they deserve before erroneous reports become the bases for bad land use decisions.
Groundwater supply and quality	
Failure to agree to a groundwater management plan to regulate groundwater use.	Complete a groundwater inventory and management plan and use it in making land use designation and zoning decisions; and use available well, soil and rainfall data in making land use designation and zoning decisions; and avoid reliance on the 4-hour blow out test alone by adding a 12 to 24 hour pumping test prior to parcel creation
Failure to limit water polluting activities on slopes over 25% to meet state requirements	Restrict water polluting activities to sites sloped less than 25%.
Failure to conform to state standards for on-site wastewater treatment	Apply state setback and other standards for on-site wastewater treatment.
Development not connected to public water and sewer may be allowed in community regions	Requirement development in community regions to connect to EID surface water and sewer
Failure to limit hazardous groundwater polluting uses where there are no treatment facilities	Reject land use policies/zoning that jeopardize groundwater quality via septic tank use and hazardous waste disposal from industrial, commercial, and recreational facilities in areas without treatment facilities



# Issue Resolution

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Issue	Possible resolution
Not implementing existing storm water pollution prevention requirements.	Properly fund and direct County enforcement authorities; and/or create a CEQA implementation department and commission to oversee mitigation implementation; or hire private implementation monitors to do the work and report results online
<b>Agriculture and Timberland</b>	
Conversion to "compatible" uses without impact mitigation.	Redefine compatible uses and clarify when mitigation requirements will be applied; or modify mitigation exemptions; or monitor results of a pilot project for specific time; and/or limit total conversion acres over a specific time
Providing Ag. and Timber preserves with "underlying zoning" without mitigation	Clarify when mitigation will be applied.
Exclusion of Agricultural Land from the Agricultural District	County should allow another "opt in" opportunity in five years or so; 2. use an "opt-out" system
Incompatible uses within the "holes" created in the Agricultural District have the potential to compromise neighboring agricultural operations.	Create conditions or standards, or use limitations for development within the holes in the Ag. District to avoid conflicts with neighboring agricultural operations
Agricultural District "Islands" may abuse environmental impact exemptions for agriculture prior to conversion to residential uses	Inventory environmental assets of the islands prior to designation, and use existing environmental baseline for future environmental reviews; and/or create special conditions for issuing permits in these areas for infrastructure development
<b>Problems related to the TGPA/ZOU</b>	
<b>Controversies not listed in EIR</b>	
Piecemealing with biological resources program, the scenic corridor program, and the sign ordinance	1. Use the old sign ordinance until the scenic corridor program and biological resources program are completed; 2. modify the new sign ordinance as needed to fit with the scenic corridor program, then use the results to influence the appropriate land uses and densities for rezones, 3. update the TGPA/ZOU EIR to reflect the cumulative impacts prior to certification, and then move forward with the biological resources program, the scenic corridor program, and modified sign ordinance
Aspects of the project that may have significant impacts are not listed in the project description. Scope of Rezone and changes to Zoning Ordinance not disclosed	Produce a more comprehensive list of the TGPA changes relative to the ZOU, and produce a more comprehensive and accurate list of the Zoning Ordinance changes and their effects; produce a more user-friendly comparison of the zoning map changes, and note the zoning changes that are not in strict conformity to the published zoning protocol
Aesthetic standards not considered an environmental issue	Acknowledge that aesthetic impacts are evaluated under CEQA and revise the EIR accordingly

# Issue Resolution

aka: TGPA/ZOU Salvage

Issue	Possible resolution
Project objectives are too narrowly described and interpreted to allow for reasonable alternatives	Note the impact reductions associated with the TGPA/ZOU as modified by the conflict resolution process, and acknowledge that the resulting TGPA/ZOU alternative is consistent with the original objectives
Alternatives not evaluated quantitatively.	Quantitatively compare the impacts of the TGPA/ZOU as proposed to the TGPA/ZOU as modified by the conflict resolution process
Inadequate cumulative impact analysis. No cumulative analysis of reducing Ag. setbacks and providing an Ag. categorical exemption for the noise ordinance	Evaluate cumulative traffic impacts as suggested above [C-3], Restore Ag. setbacks or evaluate cumulative impacts
Project and EIR Contradictions are not addressed in responses to comments	Admit the contradictions and modify the project and/or the EIR to eliminate the contradictions
Improper use of tiering to avoid both plan and project level environmental review	Do not claim that impacts will be addressed in project level CEQA reviews when the uses are allowed by right and are not subject to project level CEQA review
The CEQA findings and the Statement of Overriding Considerations are not supported by substantial evidence in the record	Modify the findings and SOC prior to certification of the EIR
<b>Problems with CEQA Implementation</b>	
Not implementing the 2004 General Plan mitigation programs in order and by deadlines prior to major zoning and land use changes	Complete the 2004 General Plan mitigation programs and then apply them when reviewing specific plans, rezones, subdivisions, and use permits; and avoid approving any specific plans, rezones, subdivisions, and use permits in the interim that will interfere with the successful implementation of these programs
The County is abandoning mitigation requirements by making too many environmentally harmful projects/uses ministerial or by right	Retain discretionary approval authority over impacting land uses, and apply mitigation measures to these approvals; clarify which reviews will receive public notifications
The County is not integrating CEQA compliance with its General Plan implementation and zoning ordinance	Complete programs in the 2004 General Plan to create countywide programs to mitigate impacts that development projects can participate in, and/or adopt agreed upon mitigation measure standards and thresholds of significance for each potentially significant impact, and adopt mitigation menus to assist developers in meeting mitigation requirements; and/or establish a CEQA Implementation Dept. and commission to review EIRs, to monitor mitigation, and to review enforcement