



Legislation Text

File #: 18-1407, **Version:** 1

Community Development Services, Planning and Building Department, recommending the Board adopt and authorize the Chair to sign Resolution **197-2018**, which decertifies specific limited components of the Final Program Environmental Impact Report (FEIR) for the Targeted General Plan Amendment and Zoning Ordinance Update (TGPA/ZOU) as follows: only as to (a) the responses to comments O-1-54 to O-1-58, O-1-62, O-1-70, I-37-14, I-37-16, I-37-23, and I-37-24; and, (b) the Executive Summary Section ES.5 (Potential Areas of Controversy/Issues to be Resolved). The court affirmed the sufficiency of the TGPA/ZOU planning and regulatory documents.

FUNDING: N/A

DISCUSSION / BACKGROUND

On December 15, 2015, the Board of Supervisors adopted Resolution 195-2015, Certifying the Final Program EIR for the TGPA/ZOU.

On April 25, 2018, the El Dorado County Superior Court held a hearing in Department 9 on the case entitled *Rural Communities United v. El Dorado County Board of Supervisors (Case No. PC-20160024)*. The Honorable Judge Stracener made a tentative ruling in which the Court ordered partial decertification of the Final Program EIR for the TGPA/ZOU only to the responses to comments O-1-54 to O-1-58, O-1-62, O-1-70, I-37-14, I-37-16, I-37-23, and I-37-24 (in the FEIR Chapter 9, Responses to Comments), and the portion of the FEIR [Executive Summary Section ES.5 (Potential Areas of Controversy/Issues to be Resolved)] related to the disagreement between the California Board of Forestry and Fire Protection and the County concerning the project and the requirements to comply with Government Code, Sections 65302(G)(1) and 65302(G)(3)(C); and otherwise rejected all of Petitioner's claims.

On May 16, 2018, the El Dorado County Superior Court issued its final Ruling Following Oral Argument and adopted its tentative ruling as the final ruling with minor modifications and corrections and a few additional comments/rulings on some of the oral arguments made at the hearing.

On July 25, 2018, the Court signed and filed a formal judgment that did not change any of the provisions of the final Ruling Following Oral Argument and issued a writ of mandamus. The writ directs the County to (a) partially decertify the EIR only as it relates to the specific responses to comment numbers O-1-54 to O-1-58, O-1-62, O-1-70, I-37-14, I-37-16, I-37-23, and I-37-24, and, (b) partially decertify the portion of the EIR [Executive Summary Section ES.5 (Potential Areas of Controversy/Issues to be Resolved)] related to the disagreement between the California Board of Forestry and Fire Protection and the County concerning the project and the requirements to comply with Government Code Sections 65302(g)(1) and 65302(g)(3)(c).

The proposed action today is in response to the directions in the writ. The remaining portions of the EIR remain certified. All other actions the Board took on December 15, 2015 remain in effect.

The writ also directs the County to refrain from further certification and approvals concerning the

above-cited responses to comments and disagreement between the California Board of Forestry and Fire Protection until the County complies with the requirements to provide sufficient responses to the comments, fairly presents the disagreement between the California Board of Forestry and Fire Protection and the County in the body of the EIR, and explains in the body of the EIR why the County declined to accept the California Board of Forestry and Fire Protection's suggestions.

Staff will return to the Board with a request to certify new responses to the specific comment numbers identified in the writ and the explanation of the disagreement between the California Board of Forestry and Fire Protection and the County. The County will return to the Court with the new responses to demonstrate compliance with the writ.

Staff will continue to review all discretionary applications during this period for consistency with the writ. Applications deemed to conflict with the writ will be continued off-calendar or not scheduled for public hearings until the County has complied with the Court's decision. Discretionary applications consistent with the writ will be processed normally.

ALTERNATIVES

N/A

OTHER DEPARTMENT / AGENCY INVOLVEMENT

Chief Administrative Office, County Counsel

FINANCIAL IMPACT

There is no financial impact associated with this agenda item.

CLERK OF THE BOARD FOLLOW UP ACTIONS

1) Provide fully executed copies of the Resolution to the Planning and Building Department.

STRATEGIC PLAN COMPONENT

Good Governance

CONTACT

Roger Trout, Director

Community Development Services, Planning and Building Department