

MEMORANDUM

TO: Rebecca L. Willis, AICP, Planning Director
FROM: Jim Harnish, Principal
DATE: October 11, 2011
SUBJECT: Calaveras County General Plan Update – Project Status Update

Dear Rebecca:

I think I have reached a fairly clear understanding about where we are with the General Plan Update project. Since our meeting late last month, I have been giving some thought as to how we can bring the project to a successful conclusion by producing a Policy Document that is fiscally responsible and politically acceptable **without going through a major re-write**. There are several impediments standing in our way of accomplishing this goal. First, let me summarize what I know about the status of the project.

The County has administrative drafts of nine elements for review, which together comprise a complete Administrative Draft Policy Document. Five of the nine elements (Land Use; Public Facilities and Services; Natural Resources; Scenic, Recreational, and Cultural Resources; and Health and Safety) were prepared by Mintier Harnish. The other four elements (Water, Economic Development, Energy, and Transportation and Circulation) were prepared through separate processes which I summarize below. The status of the nine elements is as follows:

- **Land Use Element.** Mintier Harnish completed the administrative draft element February 2011 and submitted it to the County for review. We are waiting for staff comments to prepare the public review draft. The County (Dave Pastizzo) was in the process of preparing a Land Use Diagram based on the Preferred Alternative selected by the Board on April 20, 2010. We understood Dave was trying to complete the diagram before he left County employment. **We have not seen a draft Land Use Diagram and do not know its status.**
- **Public Facilities and Services Element.** Mintier Harnish completed the administrative draft element December 2010 and submitted it to the County for review. We are waiting for staff comments to prepare the public review draft.
- **Natural Resources Element.** Mintier Harnish completed the administrative draft element February 2011 and submitted it to the County for review. We are waiting for staff comments to prepare the public review draft. Note that this element (as well as some others) incorporates policies recommended by **the “trees, rocks, and grass” folks**. Based on direction from County staff, we did not include all group recommendations verbatim. Source tags at the end of the policies identify the policy source.

- **Scenic, Recreational, and Cultural Resources Element.** Mintier Harnish completed the administrative draft element December 2010 and submitted it to the County for review. We are waiting for staff comments to prepare the public review draft.
- **Health and Safety Element.** Mintier Harnish completed the administrative draft element February 2011. We are waiting for staff comments to prepare the public review draft.
- **Economic Development Element.** Applied Development Economics (ADE), a subcontractor to Mintier Harnish, drafted this element under direction from an economic development group, which involved at least two members of the Board of Supervisors. Funding, direction, and content of this element were provided outside the Mintier Harnish contract and budget. According to ADE, the element received widespread support of the group and Board members. Mintier Harnish formatted the administrative draft element February 2011 and submitted it to the County for review. We received comments from County staff June 2011. The extensive comments recommended major changes to the element. The comments represent a substantial change from earlier County staff direction and raise concerns about the potential reaction of the group and Board members, as well as out-of-scope work. We are waiting for the outcome of further discussions with County staff to determine how to proceed.
- **Water Element.** This element was prepared under agreements, funding, and direction separate from the Mintier Harnish agreement with the County. The element was prepared through a facilitated, collaborative process directed and funded by the Calaveras County Water District. Mintier Harnish formatted the administrative draft element February 2011 and submitted it to the County for review. We received comments from County staff June 2011. The extensive comments recommended major changes to the element. The comments represent a substantial change from earlier County staff direction and raise concerns about the reaction of committee and Board members, as well as out-of-scope work. We are waiting for the outcome of further discussions with County staff to determine how to proceed.
- **Transportation and Circulation Element.** This element was funded by a grant from the Calaveras COG and prepared by LSC under the direction of the Calaveras County Department of Public Works (DPW). Mintier Harnish formatted the element. LCS submitted the seventh draft of the element to DPW in May 2011. (Note: Due to the excessive number of drafts of this element, LCS is significantly over budget and has little remaining budget to work on the EIR). **County staff is responsible for preparation of the Circulation Diagram.** Mintier Harnish has not reviewed a draft Circulation Diagram.
- **Energy Element.** This element was prepared under a separate agreement and funding through the Sierra Business Council (SBC). Mintier Harnish formatted this element and submitted it to the County February 2011. We are waiting for staff comments to prepare the public review draft. We understand County staff had concerns about the content of the element and had been working with SBC staff to make revisions. We do not know the current status of the element.

That summarizes what we know about the status of the Policy Document. We also know that the County (Dave Pastizzo) prepared the Preferred Alternative land use map with input from Mintier Harnish. The County used UPlan to model the alternative. Fehr & Peers and LSC then used that work to conduct traffic modeling for the Circulation Diagram and, ultimately, the EIR. Mintier Harnish does not have a digital file of the results of the UPlan modeling; however, we have contacted LSC and Fehr & Peers to try to locate the model. **We understand from Gordon Shaw (LSC) that there are significant problems with the results because UPlan is a scenario comparison tool and is not specifically intended to be used to develop a land use diagram. We will need to address this concern in the near future.**

So where do we go from here? I see four significant issues that need to be addressed: minimum requirements for a legally adequate, politically acceptable General Plan; making substantial changes to elements that have been vetted through a public, collaborative process; resolving problems created using the UPlan model to prepare the land use diagram; and addressing the inadequate remaining consultant budget.

When we last talked, you expressed concern that the Policy Document, as written, was likely to create a significant amount of opposition and criticism. The negative response was likely to be based on several issues, including the mandatory language (“should” vs. “shall”), policies that went beyond Board responsibilities or control, policies and programs with funding implications that could not be fulfilled by the County, and politically volatile subjects such as climate change, sustainability, and property rights. I understand all of those concerns and am more than willing to work with you to make substantial changes to the Policy Document to reduce, to the extent possible, controversial language or policies in the plan. I suggested that the next step was for you and your staff to go through the draft policies and recommend revisions using “track changes.” Mintier Harnish will then review the proposed changes, “accept” the changes we don’t need to discuss, and highlight the changes we think are problematic (e.g., policies needed to mitigate environmental impacts). I think this will address many County staff concerns.

Four of the nine elements (Economic Development, Water, Energy, and Transportation and Circulation) have a somewhat different status than the other five and can or must be approached differently. As described above, the Economic Development and Water Elements were each separately developed through an extensive public, collaborative process funded by organizations other than the County. Neither element is required by State law. These are the only elements for which County staff has provided extensive comments to Mintier Harnish. The changes suggested by the comments would fundamentally change the content of the elements and require substantial re-working by us.

One approach in the short term is to drop those elements from consideration in the initial adoption of the General Plan and bring them back at a later date. The potential downside here is a negative response from those involved in the funding and preparation of the elements, including Board members. I wouldn’t take this approach without first getting informal feedback from Board members. The second option is for the County to do modest edits to make the policies less stringent and qualify them as far as County responsibilities and available funding. This is my suggested approach. The third option is to make the edits recommended by County staff. I wouldn’t recommend doing this without informal feedback from Board members. If this approach is taken, we would also have to discuss budget implications for Mintier Harnish work since I believe that the substantial re-write recommended by staff reflects a change in direction that we received from staff previously.

The Energy Element is in a category by itself. It was, as we understand, funded and drafted by the Sierra Business Council. It was not created through public collaboration. I also understand that County staff has had problems with the content. I suggest staff suspend work on this element and consider it through a separate process later.

The Circulation Element has been developed through a collaboration of the Calaveras COG, the County DPW, and LSC. The element is on its seventh draft. This is a mandatory element and must be included in the General Plan. However, LSC is significantly over budget and cannot do any more work on it

unless the budget is amended. Mintier Harnish has not seen the last three drafts of the element. I suggest the County Planning Department staff coordinate with the Department of Public Works to make any needed revisions to the element and return it to us for inclusion in the Public Review Draft Policy Document.

Both the Land Use and Circulation Diagrams were being prepared by County staff. These both need to be completed. Gordon Shaw at LSC has indicated that there may be some significant problems with both diagrams because of the UPlan model assumption and outputs. I think the resolution of this issue requires discussion between County staff and the consultant team.

Finally, all of this has significant time and budget implications. Even in the best of circumstances our remaining budget is insufficient to complete the project as originally anticipated. Earlier this year we had extensive discussions with County staff about the budget. We agreed to complete the project even though the budget was insufficient. County staff agreed to assume some of the responsibilities under the work program to help ease the budget burden on Mintier Harnish. While I understood staff was in agreement with this approach, I do not know whether the Board agreed. However, it is now clear to me that even if staff assumes a greater role in the project, Mintier Harnish and LSC will be required to undertake more out-of-scope, unbudgeted responsibilities to get this project completed. Spending most of today preparing this memo is but one small example of this problem. I am committed to seeing this project to completion, but I cannot take on even more out-of-scope work without compensation.

It is clear to me that the County needs more help, not less, from the consultant team. The Land Use and Circulation Diagrams are languishing. The Transportation and Circulation Element may need even more work. The traffic modeling results may need to be substantially re-worked. When the General Plan finally hits the streets, a great many more public meetings will likely be required given your anticipation of public controversy. And that controversy is likely to find its way into EIR comments requiring increased costs for the Final EIR (recently Amador County had to add \$180,000 to the General Plan EIR budget to respond to public comments). Since January, the last time we invoiced the County on the project, we have accumulated \$27,638 in unbilled charges on the project. We need to have a serious conversation about the project budget.

I believe your next step should be to meet with the CAO and County Counsel to discuss the issues I've raised in this memo. Once you have sorted through the issues, I'd like to meet with you to talk about a strategy that works for County staff and the Board. I'd be happy to discuss this with you any time.