

TO: Calaveras County Board of Supervisors

FROM: Tom Infusino, Esq.; Facilitator-Calaveras Planning Coalition (CPC)

RE: Correcting CEQA flaws in the 2016 Draft General Plan Update and DEIR

DATE: January 21, 2019

## **I. Background**

This memo summarizes solutions to fix the General Plan Update and Environmental Impact Report to comply with the California Environmental Quality Act (CEQA). This memo concludes with a one-page summary listing each of the CEQA problems associated with the General Plan Update and DEIR, followed by their solution. This summary could be used by Supervisors as a guide in discussing these issues with staff, consultants, and the public. This memo concludes that by complying with CEQA, the County can promote economic development, ensure environmental protection, support the exercise of property rights, and secure outside funding to improve local conditions. **These benefits of the general plan will only happen if the Board of Supervisors engages now to direct its staff and consultants to fix the plan and EIR.**

## **II. CEQA flaws in the General Plan Update DEIR, and their correction.**

### **A. The Draft General Plan Update Draft Environmental Impact Report does not comply with CEQA in many ways.**

In June of 2018, the Planning Department released the Draft General Plan Update Draft Environmental Impact Report. (See A1 DEIR Chapters 1-8.) As explained in comments on the DEIR from organizations, individuals, and government agencies, the DEIR is not in compliance with CEQA. (See A2 Other DEIR Comments; A3 CPC GP DEIR Comments, A4 CPC Comment Attachments; A5 Public Comments deficient GP DEIR.)

The DEIR is not in conformity with CEQA in the following ways. (A6 Summary of DEIR bad parts.)

- The Executive Summary does not list the controversies associated with the General Plan Update and EIR, nor does it highlight the instances in which the County disagrees with the recommendations of other government agencies. (A3 CPC GP DEIR Comments, pp. ES-1 to ES-3.)
- The Project Description is not clear enough to evaluate the impacts of the General Plan Update, because the language of the plan is so vague it is impossible to determine if optional policies to limit impacts will ever be applied or whether future programs to limit impacts will ever be adopted. (A3 CPC GP DEIR Comments, pp. ES-4 to ES-5; 3-2 to 3-3, 4.1-12 to 4.1-4.1-15, 4.2-6 to 4.2-9, 4.3-4 to 4.3-8, 4.9-22 to 4.9-24, 4.13-14 to 4.13-17.)

- Several of the impact analyses in the DEIR are flawed. The impact analyses for agriculture, traffic, land use, and noise each leave out of their existing setting sections impact history known to the County. (A3 CPC GP DEIR Comments, pp. 4.2-2 to 4.2-3, 4.9-1 to 4.9-5, 4.13-2 to 4.13-10; A2 Other DEIR Comments, pp. 273-274.) Also, the impact analyses for greenhouse gases, biological resources, and energy each jump to conclusions about the significance of the impacts without considering mitigation measures routinely applied in other jurisdictions to address these impacts. (A2 Other DEIR Comments, pp. 29-30 (greenhouse gases), 31-32 (biological resources), 34 (energy).)
- The Alternatives analysis is also flawed. The action alternatives revolve around different land use mapping concepts, but no actual alternative land use maps are provided in the DEIR for the public or decision makers to consider. (A3 CPC GP DEIR Comments, pp. 6-6 to 6-7.) Also, the DEIR does not consider the Valley Springs Community Plan Map prepared with the help of the Planning Department and the Calaveras Council of Governments despite a Board of Supervisor's resolution to do so. (A13 BOS Minutes of June 1, 2010, pp. 6-7.)

An alternatives analysis is supposed to look at a broad range of alternatives to reduce plan impacts and to inform decision makers and the public. This is especially true when it is in a Program EIR like the one in question. (CEQA Guidelines, secs. 15126, 15168.)

However, in this instance the alternatives analysis in the DEIR does not include policy options for ANY action alternative. (A3 CPC GP DEIR Comments, p. 6-1 to 6-2.) The only choice is between the existing (fatally flawed) General Plan and the proposed (fatally flawed) General Plan. This is despite the fact that many policy options were provided by the public over the years in the form of optional elements, draft general plan input, and scoping comments. (See sections II, B, 1 & 2 below.) No action alternative considered including the existing and proposed community plans in the General Plan Update despite the ongoing public and decision maker debate over these plans, and despite the fact that the existing community plans have feasibly mitigated many development impacts, under the current general plan. or decades. (A3 CPC GP DEIR Comments, p. 6-3 to 6-5.) Finally, the DEIR does not consider as a policy alternative the Mintier General Plan text which is the culmination of years of public input and over \$900,000 in public expenditure and which remains a central part of the public and decision maker debate over the General Plan Update. (A3 CPC GP DEIR Comments, p. 6-2 to 6-3.) Because there are over two dozen significant impacts of the plan and so many policy options were presented to reduce those impacts during the general plan update process, the failure of the DEIR to consider ANY policy option means the range of alternatives is not only insufficient, it is non-existent.

- The cumulative impact analysis neglected to consider the contribution to cumulative impacts from neighboring jurisdictions. (A3 CPC GP DEIR Comments, p. 1-5; A2 Other DEIR Comments, pp. 38-39, 228.)

- The list of unavoidable impacts is presumptuous, since the DEIR did not include explanations of why the many mitigation measures proposed by the public over the course of the General Plan Update were not feasible. (A3 CPC GP DEIR Comments, p. 1-5; A2 Other DEIR Comments, p. 40-41.) As noted above, many measures to reduce the impacts of new development under the General Plan Update were provided by agencies and the public over the years in the form of optional elements, draft general plan input, scoping comments, and community plans. (See sections II, B, 1 & 2 below.)
- Finally, and perhaps most importantly, the DEIR is deficient in its mitigation of potentially significant impacts. The DEIR improperly identifies optional policies and programs which the County has not committed to implement as mitigation for potentially significant impacts to agriculture, land use, traffic, greenhouse gas, and energy impacts. The DEIR improperly defers the development of mitigation measures to the future without specifying the performance standards to be achieved for impacts to greenhouse gases, traffic, land use, and biological resources. (A3 CPC GP DEIR Comments, pp. ES-4 to ES-5; 3-2 to 3-3, 4.1-12 to 4.1-4.1-15, 4.2-6 to 4.2-9, 4.3-4 to 4.3-8, 4.9-22 to 4.9-24, 4.13-14 to 4.13-17; A2 Other DEIR Comments, pp. 40-47, 224, 232, 235-250, 256, 264-265) It does not evaluate mitigation proposals made by agencies and the public during scoping to determine if they are feasible with regard to many impacts including cultural resources and agriculture. (A3 CPC GP DEIR Comments, pp. 4.5-3 to 4.5-5, 4.2-9; A7 CPC Scoping Comment, pp. 2.1-11 to 2.1-15, 2.2-3 to 2.2-4, 2.3-9, 2.5-2, 2.6-4 to 2.6-7, 2.7-5; A2 Other DEIR Comments, p. 235-250.) It does not explain why those mitigation proposals were not adopted.

## **B. The County can comply with CEQA.**

The county can (and by law must) do more to avoid the 25 potentially significant impacts of the General Plan Update on the built and natural environments. CEQA requires agencies to adopt feasible mitigation measures in order to substantially lessen or avoid otherwise significant environmental effects. (Pub. Resources Code, secs. 21002, 21081, subd. (a); CEQA Guidelines, secs. 15002, subd. (a)(3), 15021, subd. (a)(2), 15091, subd. (a)(1).) Fortunately, throughout the General Plan Update process, people have been providing the County with lists of mitigation options to reduce these impacts. It is simply up to the Planning Department to properly tailor these programs for Calaveras County, and for the Board of Supervisors to adopt them.

### **1. Many of the mitigation proposals come from local or regional sources.**

For a one example, adopting the mitigation suggestions of the Agriculture Coalition would reduce impacts from agricultural land conversion. (A2 Other DEIR Comments, Ag. Coalition Comments, pp. 237-250.) This would also be consistent with the general plan law requirement to adopt an open space element and plan. By taking this and other actions in producing a valid open space element, the County could be given priority for future state open-space conservation funding. (Government Code, secs. 65302 subd. (e), 65560-65565.1.)

For a second example, the mitigation measures suggested by the Central Sierra Environmental Resource Center (CSERC) would reduce impacts associated with biological resources,

greenhouse gas emissions, energy consumption, agricultural land loss, air quality, fire safety, and public services. (A2 Other DEIR Comments, pp. 2-15, 28-30, 34-36, 41-47.) This would also be consistent with the general plan law requirement to adopt a conservation element. (Government Code, sec. 65302, subd. (c).)

For a third example, adopting the historic preservation policies suggested by local experts would mitigate impacts to historic and cultural resources. (A3 CPC GP DEIR Comments, pp. 4.5-3 to 4.5-5.) This is a critical step to take now. The proposed land use designation of Historic Center will dramatically increase the development potential of commercial properties in existing communities. If historic buildings are not protected now, they are threatened with imminent destruction as land owners seek to cash in on the windfall, and investors seek to take advantage of the commercial development density increases.

For a fourth example, conforming the Circulations Element to policies in the 2017 Regional Transportation Plan developed by the Calaveras Council of Governments will reduce impacts of the plan on truck safety, traffic congestion, pedestrian safety, and open-space. (A4 CPC DEIR Comment Attachments, Traffic, 2017 RTP Letter from CPC-final, pp. 4-7.) This would also be consistent with general plan law requirements to adopt a circulation element. (Government Code, sec. 65302, subd. (b).)

For a fifth example, completing and adopting the Draft Parks and Recreation Master Plan developed by the Calaveras County Parks and Recreation Commission would mitigate recreation impacts. (A19 Draft Parks and Recreation Master Plan.) This would also be consistent with general plan law requirements to adopt an open-space element. (Government Code, secs. 65302, subd. (e), 65560-65570.)

For a sixth example, the existing community plans (that are **eliminated** as part of the proposed General Plan Update) contain many measures that have mitigated impacts for years, and could continue to do so. The proposed community plans are similarly equipped. These plans include efforts to mitigate impacts associated with aesthetics, traffic circulation, water supply, fire safety, recreation, public services, energy conservation, streams, and wildlife. (See for example, A20 Avery-Hathaway Pines community plan analysis; A21 San Andreas community plan analysis.) Because these measures also implement aspects of the proposed General Plan Update, they can be seamlessly included in the General Plan Update. In fact, they help the General Plan Update to instantly mitigate some impacts in some communities. (See for example, A22 VSCP White Paper.) Otherwise, that mitigation would have to wait for subsequent Planning Department and Board of Supervisors' actions.

For a seventh example, the optional elements developed during the General Plan Update process (but that will **not** be included in the proposed General Plan Update) include feasible measures to mitigate impacts. (A23 Policies from Optional Elements-CPC 2013.) These optional elements are the Water Element, the Energy Conservation Element, and the Economic Development Element. (A24 Draft Water Element; A25 Draft Energy Element, A26 Draft Economic Development Element.)

For an eighth example, adopting mitigation measures suggested in comments on the DEIR from the CPC would mitigate impacts related to greenhouse gases, land use, and traffic congestion. (A3 CPC GP DEIR Comments, pp. 4.3-4 to 4.3-8; 4.9-19, 4.13-11, 4.13-14, 4.13-16.)

The fact that so many different local and regional public agencies, private organizations, and individuals suggested suitable mitigation measures to reduce the impacts of the General Plan Update reflects a broad local and regional understanding and acceptance that compliance with this aspect of CEQA will promote the broader public good.

## **2. Additional mitigation proposals are suggested by the actions of outside entities.**

For example, in its comments on the DEIR, the California Department of Conservation encouraged the use of conservation easements to reduce impacts to agricultural lands. (A2 Other DEIR Comments, p. 236.)

For a second example, both the Center for Biological Diversity and the California Department of Fish and Wildlife proposed additional mitigation measures for impacts to threatened, endangered and sensitive species. (A2 Other DEIR Comments, pp. 214 - 216, 227 - 229.)

For a third example, in the attachments to its scoping comments the CPC included examples of ways that other cities and counties have reduce the environmental impacts of development. These attachments include ways to reduce impacts related to agricultural lands, air quality, biological resources, child care, conservation and open space, fire hazards, and climate change. (A8 CPC Scoping Comment Attchs.)

## **3. General Plan law and guidelines support detail and CEQA compliance.**

Compliance with CEQA by including mitigation details such as quantified objectives, numeric standards, and specific mitigation measures, is completely consistent with general plan law and guidelines. (The 2017 General Plan Guidelines are the non-binding official state guide for drafting a general plan and are prepared by the Governor’s Office of Planning and Research.) While some local commenters have suggested that the general plan should remain more vague and less specific, general plan law and guidelines suggest otherwise.

General plan law indicates that a general plan “shall consist of” ... “policies”, “objectives” and “standards.” (Government Code, sec. 65302.) “A policy is a **specific** statement that guides decision-making. It indicates a **commitment** of the local legislative body to a particular course of action.” (A27 General Plan Guidelines 2017, pdf page 393, emphasis added.) “An objective is a **specified** end, condition, or state that is an intermediate step toward attaining a goal. It should be achievable and, when possible, **measurable** and **time-specific**.” (A27 General Plan Guidelines 2017, p. 392m emphasis added.) “A standard is a rule or measure establishing a level of quality or **quantity** that must be complied with or satisfied. Standards define the abstract terms of objectives and policies with concrete **specifications**.” (A27 General Plan Guidelines 2017, p. 393, emphasis added.) Thus, the level of specificity and commitment required in CEQA mitigation is not only allowed in a general plan, it is required.

The “**specificity** and level of **detail**” in the general plan shall reflect local conditions and circumstances. (Government Code, sec. 65301, subd. (c), emphasis added.) For example, given that the fact that the vast majority of the County is a high and very high wildfire hazard area, the general plan should address wildfire risk reduction with specificity and a great level of detail.

The legal requirements of the individual elements also include a great deal of detail and specificity.

The circulation element must identify, not only the location of roads, but also the location of other public utilities, as these are also essential for future development. (Government Code, sec. 65302, subd. (b).) The conservation element “**shall identify**” rivers, creeks, streams, and riparian habitats. (Government Code, sec. 65302, subd. (d)(3), emphasis added.) The noise element shall identify noise from highways, major streets, railroads, airports, and industrial plants using noise contours. It shall use noise contours as a guide for establishing land uses to minimize the exposure of residents to excessive noise. It “shall include implementation measures and possible solutions that address existing and foreseeable noise problems.” (Government Code, sec. 65301, subd. (f).) “An implementation measure is an action, procedure, program, or technique that carries out general plan policy.” (A27 General Plan Guidelines 2017, p. 394.)

The open-space element must include an action plan “consisting of **specific programs** which the legislative body intends to pursue in implementing its open-space plan.” (Government Code, sec. 65564, emphasis added.) “If there is an agricultural land element, it must identify priority lands for conservation, establish policies and objectives to support the long-term protection of agricultural land, and establish implementation measures to achieve the policies and objectives. (Government Code, sec. 65565, subs. (a)(1)(K), (a)(2), (a)(3).)

The safety element shall identify flood hazards, flood hazard zones, Federal Emergency Management Agency (FEMA) maps, information from the Army Corps of Engineers, dam failure inundation maps, Department of Water Resources (DWR) floodplain maps, levee protection zones, historical data on flooding, and planned development in flood zones. It must develop a “set of comprehensive goals policies and objectives” to protect communities from the unreasonable risk of flooding. (Government Code, sec. 65302, subd. (g).)

The environmental justice element must include “objectives” that prioritize “improvements and programs” to reduce the health risks in disadvantaged communities, and to promote civil engagement in the public decisionmaking process. (Government Code, sec. 65302, subd. (h).)

In summary, the requirements of a general plan include a lot of specificity and detail. Thus, the CEQA requirements for specificity and detail regarding mitigation measures are completely consistent with general plan law and guidelines.

Furthermore, the General Plan Guidelines support the use of clear and mandatory policies. “For a policy to be useful as a guide to action it must be **clear and unambiguous**. Adopting broadly drawn and vague policies is poor practice. Clear policies are particularly important when it comes to judging whether or not zoning decisions, subdivisions, public works projects, etc., are

consistent with the general plan.” “It is better to adopt no policy than to adopt a policy with no backbone.” (A27 General Plan Guidelines 2017, p. 393, emphasis added.)

Finally, the General Plan Guidelines even include an entire chapter on CEQA compliance. (A27 General Plan Guidelines 2017, Chapter 10, pp. 280-288.) “The general plan EIR is a particularly useful tool for identifying measures to mitigate the cumulative effects of new development.” “Pursuant to Public Resources Code section 21081.6, the general plan must incorporate the approved mitigation measures identified in the EIR into its policies and programs.” (A27 General Plan Guidelines 2017, p. 282.) Again, the mitigation requirements of CEQA are completely consistent with the requirements for drafting a general plan.

It is no accident that the policy, objective, and implementation measure specificity and detail needed in a general plan are consistent with the specificity and detail needed in CEQA mitigation measures. Drafting a general plan is integrated with its associated CEQA review. (A27 General Plan Guidelines 2017, p. 280.)

#### **4. The County can use state and federal funding opportunities to mitigate impacts and to improve the County in the future.**

The Planning Department makes the seemingly reasonable argument that mitigation measures are infeasible due to limited County revenues. As a result of limited revenues, the staff argues that the County cannot commit to implementing such mitigation programs at any specific time, and therefore is absolved from any requirement to adopt such mitigation programs. Furthermore, because flexibility is a guiding principle of the current draft plan, making a commitment to mitigation or imposing a mitigation requirement would be inconsistent with the plan’s guiding principle. In addition, because a guiding principle of the draft plan is to be general rather than detailed, the detail required to adopt deferred mitigation measures must be avoided. (See A32, General Plan Staff Report 6-30-18, pp.6.)

However, the staff’s argument that impact mitigation is infeasible due to a lack of County revenue is flawed. The state and federal government (and some private foundations) have multiple programs to fund County efforts to reduce the significant impacts identified in the Draft General Plan Draft EIR. (See below) If the staff properly formulated the mitigation measures, and its implementation measures, the County could then identify the level of funding required to develop specified programs and to meet specified levels of achievement by a specified time. With such mitigation measures, the County would be well situated to apply for and receive funding from government and, perhaps, even private sector sources.

Under the Draft General Plan’s guiding principles calling for flexibility and lack of detail, the County need not even try to seek funding to develop specified mitigation programs which could meet specified levels of achievement by a specified time. In other words, the County has undermined any opportunity to seek the funding necessary for implementing much needed mitigation.

In summary, under the proposed plan the County is not trying to secure the revenue needed for impact mitigation programs. Instead, the County is trying to **avoid** securing the revenue needed

for these impact mitigation programs. The County is trying to **avoid** making impact mitigation programs feasible. This is the exact opposite of what the County is supposed to be doing to comply with CEQA.

**Whether you became a supervisors to make government work to solve local problems; or you became a Supervisor to help the government get out of the way of the private sector solving local problems, it is paramount that the Board of Supervisors direct its staff and consultants to abandon this pretense of helplessness.**

The really good news is that the County **can** properly formulate its mitigation measures and general plan implementation programs to identify the levels of funding it will seek. By doing so, the County can actively participate in many state and federal programs not only to mitigate the impacts of development, but also to make the County a better place.

For example, the Draft General Plan DEIR identifies potentially significant impacts to agricultural lands. However, if the general plan included an agricultural land component consistent with Government Code requirements for policy commitments, measureable objectives, and specific implementation measures, then the County would get priority in funding from the State Department of Conservation. (Government Code, sects. 65565-65565.1.) In addition, the State currently has an agricultural land conservation program funded by Cap-and-Trade revenues. (A34 SALC.) Also, the USDA has over 30 programs providing loans, grants and technical assistance to rural communities to improve their economic viability, and thereby maintain their agricultural and forest lands in future production. (A4 CPC DEIR Comment Attachments, Agriculture, USDA Loans and Grants.) These include grants for value-added producers, energy efficiency, community facilities, water supply and waste water treatment, broadband services, and workforce housing. By actively participating in these grant programs, the County can help keep Calaveras County agriculture productive and competitive in the 21<sup>st</sup> century.

For a second example, the Draft General Plan DEIR identifies significant impacts associated with roads, traffic, and with greenhouse gas emissions. However, some of these impacts could be mitigated if the County participated in the State of California's planning grant programs to promote sustainable communities and to help communities adapt transportation systems to address climate change. The identified projects could then seek funding through the Local Assistance Program. (A33 Caltrans Planning Grant Programs.)

For a third example, the Draft General Plan DEIR indicates that the County will need to expand water and wastewater infrastructure to meet the needs of new development, but does not identify where the money will come from for these expansions. The California Department of Water Resources has an Integrated Water Management Grant Program that provides bond funds to our region, including its disadvantaged communities, to maintain and improve water and sewer infrastructure. (A35 IRWM Grant Programs.) The County currently participates in this program. The General Plan Update needs to commit to continue to seek these funds to meet these needs.

For a fourth example, the Draft General Plan DEIR identifies a significant impact associated with fire safety. Cal Fire administers grant programs to improve forest health, address tree



mortality, and to promote fire safety in communities. (A36 Cal Fire Grant Programs.) The General Plan Update needs to commit to seeking these funds to meet local fire safety needs.

For a fifth example, the Draft General Plan DEIR identifies a significant impact associated with energy consumption. The California Energy Commission has financing and incentive programs to promote renewable energy production and energy conservation. (A37 Funding at the Energy Commission.) The General Plan Update needs to commit to seeking such funds to meet future local energy needs.

For a sixth example, the Draft General Plan DEIR identifies a significant impact associated with wildlife habitat loss. This could hamper future development. For example, in 2010 there were 41 development projects delayed up to 5 years waiting for project specific approvals from the Fish and Wildlife Service, in part because the County had failed to develop a program-level solution to address California Tiger Salamander habitat. (A38 2010 Project Status.) The California Department of Fish and Wildlife has many programs to fund wildlife habitat planning, management, and acquisition. (A39 Cal Fish & Wildlife Grant Programs.) The Draft General Plan needs to commit to seeking these funds to reduce these impacts. With such a program, Calaveras County can have **both** economic development and viable ecosystems. There is no need to perpetuate a false dichotomy. There is no need to deceitfully claim that we must make a choice between jobs and the environment. In Calaveras County, the environment **is** the source of our jobs in forestry, in agriculture, and in tourism. If we do not invest in our environmental future, then we are not investing in our economic future.

The Department of Labor estimates that the average American household pays \$5,700 in federal income taxes. The average Californian household pays an additional \$4,888 in state and local taxes. (A40 2018 Tax Rates by State.) Thus, the 17,713 households in Calaveras County pay a total of about \$187 million in state, federal, and local taxes each year. (A41 US Census Data for Calaveras County.) By participating in the programs noted above, Calaveras County can get back some of our state and federal tax dollars, and put them to good use in our communities.

Some have suggested that we must not participate in these programs, and thus lower our taxes. However, there is no direct connection between the tax rate we pay and our participation in these government programs. These spending programs are already in the state and federal budgets. If the money is not spent in Calaveras County, it will most likely be spent somewhere else. If it is not spent somewhere else, it will be re-allocated. Calaveras County taxpayers are NOT sent a tax rebate check, simply because Calaveras County does not participate in these programs.

People concerned with public spending are welcome to go to Sacramento and to Washington, D.C. to try to change the laws that put these programs in place, or to reduce the spending on these programs. However, as long as these state and federal programs exist, and as long as the spending is budgeted annually, there is no benefit to Calaveras County taxpayers associated with Calaveras County not participating in these programs. In fact, County participation in such programs is the **only** way that the County can secure some benefit to local residents associated with the portion of their tax payments that fund those programs. If we really care about the

welfare of local taxpayers, then we should encourage the County to participate in these state and federal programs.

### **5. Compliance with CEQA at the general plan level can facilitate both economic development and environmental protection.**

By mitigating the significant environmental impacts of development at the general plan level, the County would facilitate prompt and lawful future approvals of specific plans, subdivisions, and use permits. This is because the impact mitigation issues raised in the general plan can and do come up with regard to the discretionary approval of specific plans, subdivisions, and use permits. **Filling the gaps in the County Code with standards to mitigate development impacts both facilitates project approvals, and protects health, safety, welfare, and the environment. (A42 STARS Project Description.)** By the way, this is no accident. California planning and environmental law is integrated to achieve this result. To efficiently comply with the law, a county that adopts mitigation programs in its general plan, goes on to refine them in its zoning ordinance, apply them to development proposals, and implement them in the field.

Who benefits from such planning?

- Land owners and investors will benefit by knowing more precisely what is needed to secure project approval. Property values will increase as our communities do a better job of maintaining their infrastructure, their attractiveness, and their economies.

-New businesses will find it easier to come here and more attractive when they get here.

-Local taxpayers will benefit because the County's project review and approval mechanisms will be more efficient and more effective. The County will also have the seed money it needs to leverage state and federal grants. Thus, money that was taxed out our communities can come back to be spent on the things we need, rather than shipped to big cities and spent there.

-The County's planning staff will benefit because project applications will be easier to process.

-Neighborhood advocacy groups will benefit because their concerns regarding all these community issues will be mitigated.

-The Planning Commission and the Board of Supervisors will benefit because they will have the factual foundations they need to approve the housing and business developments that they want to approve.

In short, proceeding in this fashion will benefit many and will get the County more bang for its general plan buck.

Some have argued that such regulations and fees will impede economic development. However, there is no direct correlation between the shortness of a county code and the economic prosperity of the county. Some counties with huge economies have very long county codes filled with regulations. Regulation has not choked prosperity in these areas. Counties with short county codes and fewer regulations can be ranked very low on the scale of economic prosperity. Lack of regulation has not spurred these local economies to success.

Neither have detailed general plans or high development fees stopped economic development in the region. In 2004, El Dorado County approved a valid and detailed general plan with a commitment for traffic impact mitigation fees. In 2006, El Dorado determined that it needed to generate over \$500 million from developers to build the roads needed to serve new development. (A43 TIM Fee Report 2006, p. 20.) That put traffic impact fees in some parts of the County at over \$13,000 per house. (A44 Final TIM Fee EIR, p. 19.) Nevertheless, from 2000 to 2009, El Dorado County produced over 15,000 units of housing and 5 million square feet of non-residential/ job generating land uses. (A45 El Dorado Hills Workshop, pp. 12-13.)

Calaveras County has tried the flexible/vague regulation approach for decades. Calaveras County has avoided developing programs to fully mitigate impacts for decades. The result is a County with home values \$150,000 BELOW the statewide average. (A46 Census Bureau Quick Facts, p. 2.) It is time for the County to try to specify development standards to provide investors with financial security and existing residents with impact mitigation equity. It is time for the County to try to fully fund the infrastructure needed for economic development.

With regard to the efficacy of this approach, you do not have to take my word for it. All you have to do is look at the recommendation of one of the County's outside legal counsels on land use and CEQA. The County frequently contracts with Remy, Moose and Manley for its CEQA legal work. (A47 Remy Moose and Manley Contract.) Senior Partner, James Moose includes this approach as among the options for completing a general plan in compliance with CEQA. His guide includes an entire section entitled, "The Adoption of Stringent General Plan Language Does Provide Some Future Advantages: It Can Help to Streamline Future, Project-Specific Environmental Review." (A4 CPC DEIR Comment Attachments, Agriculture, General Plan Updates and Amendments, p. 13-15..)

CEQA has been in existence for over 45 years. Over that time, cities and counties throughout California have implemented the law. Over that time, California has grown from just under 20 million to just under 40 million of people. (A48 California Population 1970 & 2018.) California has moved up from the ninth largest economy in the world in 1991 to the fifth largest economy in the world today. (A49 Economic Data 1991 & 2018.) All the while, other California cities and counties have managed to mitigate the significant impacts of development whenever feasible. In this way, CEQA has achieved the Legislature's hope that "man and nature can exist in productive harmony to fulfill the social and economic requirements of present and future generations." (Public Resources Code, sec. 21001, subd. (e).)

The time is long overdue for Calaveras County to embrace the opportunity to implement this law in a way that promotes both economic development and environmental protection. Because of its broad scope, its long-term application, and its many potentially significant impacts, there is no more important decision of the Board of Supervisors upon which to properly apply CEQA than the General Plan Update.

## **II. List of CEQA and PRA violations (and fixes) associated with the General Plan Update and DEIR.**

### **A) The DEIR is not in conformity with CEQA in the following ways:**

- The Executive Summary does not list controversies or agency disagreements. (List them.)
- The Project Description: vague plan language makes it impossible to evaluate impacts. (Make language less vague.)
- The Impact analyses: The existing setting sections for agriculture, traffic, land use, and noise each leave out impact history known to the County. (Add the missing facts.) The impact analyses for greenhouse gases, biological resources, and energy each jump to conclusions about the significance of the impacts without considering mitigation measures. (Evaluate mitigation.)
- The Alternatives analysis: No actual alternative land use maps are provided in the DEIR. (Add the maps to EIR.) The alternatives analysis in the DEIR does not include policy options for ANY action alternative, especially policies in the community plans and the Mintier General Plan. (Evaluate the Mintier Plan and other policy options provided by the public.)
- The cumulative impact analysis neglected to consider the contribution to cumulative impacts from neighboring jurisdictions. (Consider the impacts of neighbors.)
- The list of unavoidable impacts is presumptuous, since the DEIR did not explain why the many mitigation measures proposed by the public are not feasible. (Adopt the measures.)
- The mitigation measures: The DEIR improperly identifies optional policies and programs as mitigation for impacts to agriculture, land use, traffic, greenhouse gas, and energy impacts. (Commit to mitigation measures.) The DEIR improperly defers the development of mitigation measures to the future without specifying the performance standards to be achieved for impacts to greenhouse gases, traffic, land use, and biological resources. (Specify performance standards.) The DEIR does not evaluate mitigation proposals made by agencies and the public during scoping to determine if they are feasible to reduce impacts to cultural resources and agriculture. The DEIR does not explain why those mitigation proposals were not adopted. (Adopt the measures.)