



CALAVERAS COUNTY BOARD OF SUPERVISORS AGENDA SUBMITTAL

Short Name/Subject General Plan	Board Meeting Date July 30, 2019	Agenda Number 5
Dept: Planning Contact: Peter Maurer Phone: (209) 754-6394	Supervisory District Number Countywide	Regular Agenda
Published Notice Required? Yes Public Hearing Required? Yes		Estimated Time: 5 hours
Type of Document? Action Item PowerPoint Presentation Included? Yes Budget Transfer Included (Must be signed by Auditor)? No Complete Agreement Required? No Position Allocation Change? No		

RECOMMENDATION:

Conduct a public hearing, deliberate and make a tentative decision regarding certifying the Environmental Impact Report and adopting the Calaveras County General Plan; Defer action on a final decision and direct staff to prepare appropriate findings and resolution consistent with the tentative decision to be brought back at a subsequent meeting for final approval.

DISCUSSION/SUMMARY:

Background

On June 27, 2019 the Planning Commission, after several weeks of hearings and editing, adopted a resolution recommending that the Board of Supervisors certify the Environmental Impact Report (EIR) and adopt the General Plan.

Every county and city in the state of California is required to have a general plan. It is the principal land use planning document and is intended to be the basis for policy and land use decisions by County staff, the Planning Commission and the Board of Supervisors. The current general plan was adopted in 1996 and subsequently amended through policy changes, land use designation changes, and regular updates to the Housing Element. In 2006 the Board of Supervisors decided to undergo a comprehensive re-write of the plan.

State law mandates that the general plan contain a statement of development policies, and diagrams and text setting forth objectives, principles, standards and plan proposals. It must address, at a minimum, land use, circulation, housing, open space, conservation, noise, safety, and environmental justice. A county may add additional sections, referred to as "elements", and may combine elements as deemed appropriate by the local jurisdiction. The draft Calaveras County General Plan contains nine elements: Land Use, Circulation, Housing, Resource Production, Conservation and Open Space, Noise, Safety, Public Facilities and Services, and Community Planning.

The State Legislature is regularly modifying the required components of general plans, with a recent addition of Environmental Justice. Although suggested as a separate element, the discussion of environmental justice may be incorporated into another element. For this plan update it is addressed in the Public Facilities and Services element.

The County has worked on this update for more than a dozen years. It has gone through several consultants, numerous staff and department head changes, and changes to the makeup of the Board and Planning Commission. This draft plan is a result of input over those years through Board and Commission study sessions, many community workshops, input from consultants, and staff review and analysis. It is a compromise document, as most general plans are. It attempts to address the social, economic, and environmental concerns facing the county, balancing the needs of its citizens to provide housing, jobs, public services and protecting the attributes that make Calaveras County attractive to live, visit, and work in.

In 2014 a Public Review Draft General Plan was made available for public and agency review and comment. Workshops were held in several communities throughout the county to provide information regarding the draft plan and to solicit public comments. Revisions were made based on those comments, and the revised plan was submitted to the Planning Commission for its review. Hearings were held over a period of 15 months in 2015 and 2016. The Commission revised the plan as a result of those hearings and forwarded a recommended draft plan to the Board of Supervisors. The Board accepted this draft as the “project description” for the preparation of the draft environmental impact report (DEIR).

Environmental Impact Report/CEQA

Draft EIR

Adoption of a general plan is a “project” under the California Environmental Quality Act (CEQA) thus requiring the analysis of potential environmental effects of the project. This analysis is contained in the EIR. A Notice of Preparation (NOP) was released in order to notify the public that the County intended to prepare an EIR, requesting comments from the public and public agencies regarding issues that should be addressed in the EIR. Once the time period for the NOP ended, the County, working with its consultant, Raney Planning and Management, analyzed the potential impacts and identified if those impacts were significant, which impacts could be avoided or minimized through the adoption of mitigation measures, and which would remain significant even after mitigation measures were applied. This analysis was included in the DEIR which was circulated for public comment between June 28, 2018 and August 13, 2018. The DEIR and Final EIR (FEIR) were previously distributed to the Board and are available on the Planning Department’s website at: <http://planning.calaverasgov.us/GP-Update>.

Alternatives

In addition to an analysis of significant impacts and identification of mitigation measures, an EIR must also look at alternatives to the project that could reduce impacts, as well as comparing the proposed project to doing nothing, i.e. the “no project” alternative. CEQA requires that the EIR review a reasonable range of project alternatives, provide a comparative analysis of the alternatives, and identify the environmentally superior alternative. Besides the no project alternative, the EIR considered two others, labeled the “DOF Projections Alternative”, and a “Rural Character Protection Alternative.” An alternative that results in fewer significant impacts should be adopted by the County unless it finds that the alternative is infeasible or does not meet the policy objectives of the County.

The DOF projection alternative limited the amount of residential growth that would be allowed under the general plan to the approximately 9,000 new residents in the unincorporated area by 2035 that the State Department of Finance projected for the county in 2015. (Note that in 2019 the projections are for only 3,100 residents by 2040.) No land use map was created to identify where the reductions in density would be made, but a generalized analysis of the impacts of a lower potential population growth potential was done.

The rural character alternative kept the amount of growth the same as proposed in the project description (the draft general plan recommended by the Planning Commission in 2016) but concentrated growth in the community areas, reducing lands designated as Rural Transition as a means to redirect growth away from the rural areas. As with the DOF projections alternative, an actual land use map was not prepared to reflect this alternative, but it was analyzed at a conceptual level comparing potential impacts against the project description. The DEIR found that the DOF projection analysis would be environmentally superior to the other alternatives. The alternatives are discussed in Chapter 6 of the DEIR.

The Planning Commission recommended that the Board adopt the proposed draft general plan, rather than an alternative. One of the difficulties that the County has in implementing either of the alternatives is the existing land use pattern. The Rural Transition designation is used in areas where five- to 10-acre lots already exist. These were created many years ago, and the creation of those lots cannot be undone. While it may be possible to reduce some densities in the rural areas as suggested by the Rural Character Protection Alternative, there are few such areas that don't already have existing parcels. For that reason it is unlikely that a significant decrease in the potential number of parcels would materialize as a result of such a change.

Similarly, the DOF projection alternative relies on reductions in density in the rural areas that would be difficult to achieve, again due to the existing lotting patterns in the county. Reductions would have to occur in the community areas to realize a much lower growth potential, which would conflict with the objectives of the plan such as providing economic growth, cost-effective provision of public services, and maintaining transportation connectivity. Accepting or rejecting an alternative will be discussed in the decision-making process, below.

Final EIR

Upon completion of the public comment period for the DEIR, the County and its consultants began the preparation of the Final EIR (FEIR). The FEIR consists of written responses to the comments, changes made to the DEIR as a result of comments, including recommended changes to the general plan, and a mitigation monitoring and reporting program. The bulk of the FEIR consists of the responses to comments and was made available to the public and posted on the Planning Department's website in early April.

Chapter 3 of the FEIR identifies all of the changes to the DEIR resulting from comments. In some cases these are clarifications of the text but some are mitigation measures in the form of new or revised policies and implementation measures. If the County finds that there are significant impacts that cannot be mitigated to a less than significant level, it must articulate the reasons that the project (in this case adoption of the general plan) should be approved despite those impacts. Reasons could be that there are other County interests, such as economic development or providing housing, that override the environmental impacts. These are articulated in statements of overriding consideration, which will be part of the final findings document that will be prepared after direction is given to staff by the Board of Supervisors. Findings of fact must be prepared for each environmental impact identified in the EIR. For this general plan EIR, the County must make one or more of the following findings:

- Changes in the project have been made, including adoption of mitigation measures to avoid or substantially reduce the impact.
- Specific economic, social, legal, technical, or other considerations make mitigation or alternatives infeasible.

Certification

Prior to adoption of the general plan, the County must certify that the EIR was completed in compliance with CEQA, that the EIR was reviewed and considered by the decision-making body, and that the EIR represents the independent judgement and analysis of the County. In reviewing the adequacy of EIRs and whether the lead agency has complied with CEQA requirements, the courts do not hold an agency to a standard of absolute perfection, but rather if the EIR shows that an agency has made an objective, good-faith effort at full disclosure. Disagreement among experts regarding the conclusions reached in the EIR is acceptable and exhaustive treatment of issues is not required. Minor technical defects in an EIR are also not fatal. The scope of judicial review extends to the EIR's sufficiency as an informative document for the decisions makers and the public.

The EIR, therefore, is not intended to dictate what the decision on a project should be. It is intended to be informative, ensuring that the public and the decision making body has been apprised of the environmental effects of a project, how they can be minimized, and identifying alternatives to the project that could lessen the impacts. The DEIR identifies a number of potential impacts, and a determination was made whether an impact would be less-than-significant, can become less-than-significant with the application of mitigation, or would be significant and unavoidable, with or without mitigation measures being applied.

In the case of a general plan, the project is considered self-mitigating, in that the mitigation measures are incorporated into the plan document itself as changes to policies or new policies or implementation measures. With that in mind, the DEIR recommends that modification of the plan policies be made to include the mitigation measures. Because this is a programmatic EIR, covering a range of potential projects that might occur under the general plan in the future, many of the mitigation measures identify actions that will need to occur in the future, based on the specific projects that may be proposed. It is not possible at this time to identify every future project that could be proposed, nor the specific impacts that could occur for such projects. Therefore, the measures identify things the County or an applicant will need to do in the future to minimize or avoid the impacts when the development activity is approved.

The Board's responsibility with regard to the CEQA analysis is to determine the adequacy of the analysis and the feasibility of identified measures and alternatives. Where feasible, the measures and/or an alternative should be adopted and incorporated into the plan. But where an alternative or mitigation measure would change the fundamental policy objectives of the plan, or is otherwise infeasible, the County may find that the impact is significant and unavoidable. Again, the general purpose of the EIR is to provide sufficient information and analysis of the potential impacts of the proposed general plan to allow the Board to make an informed decision.

There may be calls for recirculation of the EIR based on new information. Recirculation is required if "significant new information" is added to the EIR after the close of public comments on the DEIR. Under the CEQA Guidelines, recirculation is required when new information identifies a new significant environmental impact, a substantial increase in the severity of a significant impact, a feasible alternative or mitigation measure considerably different from others previously analyzed that would lessen the impacts but was not adopted, or that the DEIR was so fundamentally inadequate or conclusory in nature that meaningful public review and comment were precluded. Staff does not believe that any of these circumstances exist, and does not recommend that recirculation be required.

Some changes have been made to the EIR following release of the FEIR. These are a result of further review by staff and/or the consultant to correct minor errors and revisions to the

mitigation measures resulting from the deliberations by the Planning Commission and public input. These changes are shown in an errata, which is provided as an attachment to this report.

General Plan Changes

A number of changes have been made to the draft general plan released in 2016 that are now a part of the Planning Commission's recommended draft. Some of these are a result of mitigation measures identified in the EIR, others were suggested to the Planning Commission by staff in response to state law, and still others were made by the Commission through its deliberation in May and June. The Commission modified several of the identified mitigation measures from the EIR but have maintained the intent and effectiveness of the mitigation. The final Planning Commission Recommended Draft General Plan was distributed previously and is available on the Planning Department's website, along with a "redlined" version showing underlined text for new provisions and strike-through text where language was deleted from the 2016 draft plan: <http://planning.calaverasgov.us/GP-Update>.

Several changes to the land use map were also made to reflect previous decisions by the County on zoning amendment applications, lot line adjustments, Williamson Act contracts, and revisiting a few areas based on existing parcelization. None of the recommended changes would increase density or the intensity of uses and therefore would not increase any of the potential environmental impacts identified in the EIR, necessitating recirculation.

Listed below are some of the more significant revisions made by the Commission.

Introduction

- Added guidelines for using the plan
- Clarified the non-conforming use provisions

Land Use

- Updated population figures noting that population projections from the Department of Finance has reduced growth over the next twenty years from 9000 to 3100
- Modified land use map to reflect changes mentioned above
- Added policy language reflecting intent of the "Future Specific Plan" land use designation
- Added policy language regarding community participation
- Added policy language regarding expansion of Community Areas

Resource Production

- Added implementation addressing farmland mapping and mitigating conversion of resource production land

Conservation and Open Space

- Several policies and implementation measures added to protect natural resources including:
 - Special status species
 - Oak woodlands
 - Invasive species
 - Native vegetation in landscaping
 - Streams and wetlands/riparian corridors
 - Upland habitat
 - Wildlife road crossings
 - Bat roosting

- Added policy language regarding air quality and greenhouse gasses including:
 - GHG reduction plan
 - Emission reduction
 - Air quality guidelines and buffers
 - Asbestos
 - Odors
 - Woody biomass
 - Wood burning appliances
- Added guidance on biological evaluations for development projects
- Added policy language regarding scenic highways
- Added policy language regarding parks and recreation funding
- Added policy language regarding historic resources

Noise

- Clarified language describing noise measurement
- Added policy language regarding vibrations

Safety

- Added policy language regarding fire hazard zones

Public Facilities and Services

- Added discussion and polices regarding environmental justice as required by CGC §65302(h)
- Added policy language regarding considering the environmental sensitivity of sites for public facilities
- Clarified policy language regarding exceptions to requirements for public water and wastewater disposal
- Added policy language regarding health care services

Community Planning

- Added text to clarify the intent of the Community Planning Element
- Added general goals and policies regarding community plans
- Identified all Community Areas, not just those with community plans incorporated into the element
- Added maps showing the boundaries of the Community Areas

The Board has set aside two full days of hearings on July 30 and 31, with the potential for a third day on August 14, 2019 if necessary. If more hearings are needed, additional days will be added. Rule 21 of the Board Rules and Procedures allows the Board to close a public hearing, announce a tentative decision, and defer its action on a final decision to a subsequent meeting to allow preparation of appropriate findings, etc. Consistent with this rule and upon completion of public testimony and Board deliberation, staff is requesting that direction be given to prepare the necessary findings to support the tentative action directed by the Board. This will be a lengthy document, requiring several weeks of work from Planning staff, County Counsel, the County's consultants, and outside counsel. A resolution will then be brought forward at a future meeting for final adoption.

FINANCING:

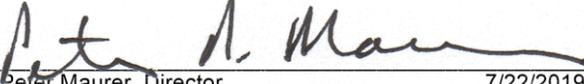
The County has spent several hundred thousand dollars over a period of thirteen years developing this general plan update. Costs include consultant fees for preparation of early drafts of the plan and preparation of the EIR, outside legal counsel support, and staff time. The

costs of preparation can be recovered through fees, which were built into the recent Planning Department fee update. Adoption of the plan will not result in any subsequent direct costs, although a number of implementation measures will result in unknown future costs to the County. As implementation of the plan gets underway, costs of the programs will be assessed and incorporated into future budgets.

ALTERNATIVES:

The Board of Supervisors may adopt the plan as recommended by the Planning Commission, make modifications to the plan, or refer the plan back to staff and the Commission for major revisions.

APPROVED BY:

 Peter Maurer, Director	7/22/2019	 Albert Alt, County Administrative Officer	7/23/2019
 Diane Severud, Deputy Clerk of the Board of Supervisors	7/23/2019	 Megan Stedfeld, County Counsel	7/25/2019