

White Paper on General Plan Amendments Related to Community Region Boundary Lines

Introduction:

Amending the General Plan is an important decision. In recognition of the role of the General Plan as a comprehensive, long-term plan for the preservation, development and enhancement of the County, and because significant financial and staff resource investment is involved in the processing of a General Plan Amendment, amendments to the General Plan should occur infrequently and with appropriate deliberation.

Within the last year, a number of large development projects totaling approximately 6,700 residential units have been submitted to the County. All share a common thread: ***none of these projects conform to the adopted land use map of the 2004 General Plan.*** Each is dependent upon County approval of a General Plan Amendment to increase the allowable density of the project site. This has raised questions of the impacts these projects may have on residents in the immediate area of the proposed projects and the County's overall long term plan for growth.

At the Board of Supervisors May 7, 2013 meeting, the question was raised on the process and ramifications of amending the General Plan Community Region boundary in Shingle Springs. The Board also asked for comparable information for all Community Region boundaries. The Board inquired about the process to hold off on any actions regarding a number of pending development applications until the Targeted General Plan Amendment and Comprehensive Zoning Ordinance Update process was complete. This "White Paper" focuses on the Community Region General Plan Amendment question. County Counsel intends to have a separate discussion with the Board on options to "hold off" processing development applications.

By providing sufficient background information, examining the purpose intended by the General Plan, and describing the processes currently available, a range of options may become evident. This paper is not intended to provide a recommendation on any particular option. This paper instead describes a set of options, including a "pros and cons" assessment, estimated costs and timing, and probable environmental documentation required. If the Board decides to go forward and amend the General Plan Community Region Boundary line for Shingle Springs or any other Community Region, a thorough quantitative analysis would be required to provide the Board with data necessary to inform a final decision.

The Board of Supervisors is the policy and decision making body for the County. The Board will consider the information within this paper, hold a workshop on June 27, 2013, receive written and verbal comments on the subject, and direct staff accordingly.

This paper is organized into seven (7) sections:

Section 1: Policy Decision Making

This section sets forth a systematic approach to policy decision making. This is important because the General Plan is a policy document. Changes to policy direction may have unintended consequences to other aspects of the General Plan.

Section 2: History

This section provides the historical context of development in the County relevant to the General Plan Community Region.

Section 3: Development Process

State laws, General Plan, Zoning, Subdivisions, and California Environmental Quality Act all play a role in understanding how development occurs in the County.

Section 4: El Dorado County General Plan 5 Year Update

This section summarizes the Board's five-year review that was completed in 2011.

Section 5: Initial planning analysis to amend Shingle Springs Community Region Boundary

This section starts an analysis using the policy decision making steps from Section 1.

Section 6: Community Region Options

This section explores options identified by the Board on May 7, 2013, as well as other potential options, based on the analysis in this paper.

Section 7: Options for Board Action

This section summarizes the options from Section 6.

Section 1: Policy Decision Making

The County General Plan is a policy document that provides direction for long term development in the County. The General Plan balances land use, economic, social and environmental goals through a land use map; the goals, objectives, and policies of the plan; and includes the integration of the General Plan Environmental Impact Report and Mitigation Measures as stated in the Findings of Fact and Adoption Resolutions.

The General Plan is amended from time to time: as directed by the Board of Supervisors on specific issues; through periodic updates necessary to remain flexible and responsive to changes; or from landowner application requests. Landowners have the right to petition the County to amend the General Plan land use map through the General Plan Amendment process, described further in Section 3.

There are many different systematic processes for policy decision making that can be used to develop good decisions. The systematic policy decision making used for this paper consists of six steps:

1. Recognize the Objectives.
2. Identify the Problem(s).
3. Gather and Organize the Facts.
4. Develop Alternatives.
5. Select the Best Solution.
6. Evaluate the effectiveness of the Solution.

Step 1: Recognizing the objective(s) is a critical first step in the policy decision making process. The General Plan: “provides for growth in an environmentally balanced manner, maintains the rural character and quality of the living environment, providing adequate infrastructure while conserving agricultural lands, forest and woodlands, and other natural resources” (2004 General Plan, Page 1). The General Plan objectives are implemented through the land use map and the specific Goals, Objectives, and Policies within the ten elements in the General Plan. In considering amendments to a General Plan, all objectives of the General Plan must be considered in order to maintain balance and understand the consequences of amendments.

Step 2: Identification of the problem(s) can be the biggest challenge to the systematic policy decision making process. There is a normal tendency to spend more time searching for an answer than determining what the specific problem is. The recognition of a problem is both the most important and most difficult step in policy decision making.

For example, in the case of the Shingle Springs area, the community has identified that there is a problem with the San Stino development application and concluded that the Community Region Boundary is the problem. However, removal of the San Stino property from the Community Region Boundary would not stop the processing of the application. It can still be processed, with the modification of the development application request to include the project within the Community

Region. If the problem is identified differently, such as the “density proposed in the project is too high,” then perhaps the County should instead assign a land use designation that provides for development with a density that is consistent with the Shingle Springs area. Removing San Stino from the Community Region may appear to solve the problem, when in fact the problem may be the proposed density of development. Note that this is an entirely different conclusion than amending the General Plan Community Region boundary. This is just an example demonstrating the importance of proper identification of a problem and is not intended to be the analysis of the problem.

Step 3: Gathering facts, data, and organizing the information is the next step in the systematic policy decision making progress. This white paper begins the process to gather and organize facts currently known to the County, but does not include technical data that would be necessary for the next steps in the process, much less reach a conclusion. More information would be expected to come out during the workshop on June 27, 2013.

Step 4: Developing Alternatives to the identified problem is just like brainstorming. It is important to generate a full range of alternatives. If the objectives are changing, or if the problem has not been clearly identified, then the alternatives provided may not be the best set of optional solutions available. In the case of the Shingle Springs Community Region, and potentially other areas of the County where Low Density Residential Land Uses are within the Community Region, the alternatives may be numerous.

For example, there may be some areas that are very appropriate for higher densities of development such as apartments, townhomes, condominiums, or senior housing. This type of development would provide moderate income housing opportunities that are identified as important objectives in the General Plan Housing Element and with the recent five-year review. Other areas may be appropriate for commercial opportunities (jobs, services, and sales tax benefits) which are also an important objective in the General Plan and the recent five-year review. This paper does not evaluate those alternatives at this very cursory planning level, but after discussing the issues, the Board may direct that further research be conducted for other alternatives. Developing a full range of alternatives allows better policy decision making. It is possible that review of the facts and a full range of alternatives results in the reassessment of the previous steps of “recognizing the objectives” and “identification of the problems.”

Step 5: Once a full range of alternatives is developed, the “Best Solution” can be identified and selected. In considering General Plan amendments, it should be understood that the General Plan reflects the County’s determination to balance all the competing goals and objectives within the General Plan. The best solution in land use decisions is not always the simplest, least costly, and most agreeable decision. In fact, land use decisions are generally imperfect and affect everyone at some level. The effectiveness of the best solution is a combination of the Board’s consensus on the matter and the extent that the people affected by the problem will accept the solution. For example, if the initial problem is identified

as a Community Region and the County removes or relocates it, should the landowner not accept the solution then the landowner may choose to amend the development application to establish the Community Region back to the original location. The “problem” was not solved. If the problem is development intensity related to surrounding land uses, the development could be redesigned in a manner that the landowner finds acceptable. This example is not intended to imply that this is the “Best Solution” for Shingle Springs. This is just part of the paper that identifies the systematic policy decision making process, using Shingle Springs as an example.

Step 6: Evaluating the effectiveness of a solution selected is an important step in the systematic policy decision making process. Once a decision is made, the County needs to review the effectiveness of the solution. Is the solution appropriate in the changing environment, including demographics, the regulatory schemes, economics, politics, and community expectations? By understanding the impact of the decisions, the policy makers receive valuable feedback for future situations that require policy decisions. General Plans are long range plans and are intended to be amended from time to time. The El Dorado County 2004 General Plan, consistent with State Law, includes a set of policies requiring regular five-year reviews to identify adjustments necessary to adapt to changes, including but not limited to changes in development patterns and state laws, and to address policies within the document potentially constraining the overall achievement of General Plan goals.

Section 2: History

This section does not purport to be a complete history of every aspect of El Dorado County that resulted in the County decisions to establish the General Plan Community Region. Although the Board has full authority on local land use decisions, there are other forces that have caused various land use decisions in the County. Many are beyond the influence of El Dorado County’s citizens, staff, and Board of Supervisors.

Early History

There were many land use planning decisions that affect us today that are based on events and decisions starting over 150 years ago. The discovery of gold and the influx of thousands of people established many of the land use patterns we see today. Census data tells us that between 1850 and 1950 the population of El Dorado County barely exceeded 20,000 people. The people of that time worked the land, such as for gold, but also for timber and agricultural pursuits. Roads established at that time tend to be many of same roads we drive today. Irrigation ditches used for both mining and agriculture thread the land, mostly unseen and unused today, but important because the El Dorado Irrigation District and Georgetown Divide Public Utility Districts began with these systems.

Census	County total Population	Percent change from previous Census
1850	20,057	
1860	20,562	2.5%
1870	10,309	-49.9%
1880	10,683	3.6%
1890	9,232	-13.6%
1900	8,986	-2.7%
1910	7,492	-16.6%
1920	6,426	-14.2%
1930	8,325	29.6%
1940	13,229	58.9%
1950	16,207	22.5%
1960	29,390	81.3%
1970	43,833	49.1%
1980	85,812	95.8%
1990	125,955	46.8%
2000	156,299	24.1%
2010	181,058	15.8%

Due to events such as the Great Depression (1930's) and World War 2 (1942 to 1945), growth in the State of California increased significantly. El Dorado County saw its share of population increases, but it did not pass the population levels of the Gold Rush until the late 1950's. Growth in the County began to be driven by development and employment in the Sacramento Valley and was generally in the western portion of the County because of proximity to Sacramento, Air Force bases, and defense industries like Aerojet-GenCorp. The other center of growth in the 1960's was in South Lake Tahoe which led to the incorporation of the City of South Lake Tahoe in 1965 and the 1969 ratification by Congress of the Bi-state Compact that created the Tahoe Regional Planning Agency. The construction of Folsom Lake in 1955 created a reliable year round water source for the El Dorado Hills area. The improvement of Highway 50 to a four lane expressway (1950 to 1970) between Sacramento and Pollock Pines/Riverton

provided significantly improved access to the central core of the County. Hydro-electric dams constructed in the Sierra Nevada for the State and federal water projects provided additional water and power necessary for development in the region.

With water, sewer, and road infrastructure problems no longer constraining growth, each census from 1970 to 2010 shows an average increase in population of 34,000 every ten years. A total of 137,000 people were added to the County in that 40 year period.

Zoning and General Plan:

The County first Zoning Ordinance was adopted in 1949 but did not cover the entire County. The first comprehensive General Plan map was adopted in 1969. Throughout the 60's and 70's the Zoning Ordinance and General Plan were constantly being expanded, updated, and revised throughout the County. The National Environmental Protection Act (NEPA) was enacted in 1969 and the California Environmental Quality Act (CEQA) in 1970. CEQA now required that Zoning Ordinance and General Plan actions be reviewed for environmental considerations. General Plans were also now required by state law, required to have seven mandatory elements, and for jurisdictions with Zoning Ordinances, were required to bring their Zoning Ordinance into consistency with the General Plan.

Between 1975 through 1985 the County General Plan was being updated through a series of Area Plans. The Area Plans included General Plan map and Zoning map, with set of policy statements and a companion Environmental Impact Report. Twenty-four (24) Area Plans were officially adopted, and where an area plan was not adopted, the 1969 General Plan was still in place. There were separate documents for the circulation element, housing element, seismic safety element, open space/conservation element, noise element, and a Long Range Land Use Plan (to the year 2000).

The Long Range Land Use plan was the first to define the County as three major concept regions: agricultural lands, urban lands, and rural residential lands. Urban lands were those lands designated (existing or future) for industrial, commercial, multifamily residential, high density residential, and medium density residential uses. Lands which were considered future urban uses were those with available public water and sewer service, located within a fire protection district, had available telephone and electrical systems, and access to the State and County road systems.

The statewide initiative, Proposition 13, passed in 1978, dramatically affected local jurisdictions' financial resources by limiting property taxes to 1 percent of the assessed property value. Many planning efforts were subsequently affected and over the next decade numerous laws were created to allow fees to be collected (primarily at time of building permit) to fund infrastructure such as parks, roads, fire departments, schools, water, sewer and other capital improvements. Cities and counties planning efforts focused on the competition for new development to improve their financial situations, especially commercial and sales tax generating development.

1996 and 2004 General Plan:

In 1989 the Board of Supervisors directed staff to initiate a comprehensive amendment to the General Plan, which was anticipated to take up to two years to complete. The County continued to operate under the Area Plans and 1969 General Plan until January 23, 1996 when the County adopted the 1996 General Plan.

Litigation was filed on this action, but since there was no injunction, the County continued to operate under the 1996 General Plan. Three years later, on February 5, 1999, the Court made a determination that the CEQA analysis was deficient for adoption of the 1996 General Plan. The County then operated under a Writ of Mandate until the adoption of the 2004 General Plan. The Writ did not permit the approval of new residential subdivisions. Development that was previously approved was not affected. On July 19, 2004 the Board adopted the 2004 General Plan with the title: "A Plan for Managed Growth and Open Roads; A Plan for Quality Neighborhoods and Traffic Relief." There was a voter referendum on the 2004 General Plan adoption, which was upheld on March 5, 2005. All outstanding General Plan litigation ended or was settled by October 2005, and the County began moving forward with implementing the plan.

In adopting the 2004 General Plan, the County prepared an Environmental Impact Report (EIR) and a range of alternatives was considered. Although 12 alternatives were analyzed in the EIR, four "equal weight" alternatives were chosen to be analyzed to a level of completeness such that any one alternative, or combination of alternatives, could be selected: 1) No Project; 2) Roadway Constrained Six Lane "Plus"; 3) Environmentally Constrained; and 4) 1996 General Plan. The adopted 2004 General Plan was based on the 1996 General Plan alternative, as modified by including most of the mitigation measures from the EIR, with some components of the Environmentally Constrained alternative as had been modified by the Planning Commission.

The Board of Supervisors adopted the General Plan through Resolution 235-2004 with specific purposes stated to limit urban uses to 12 percent of the County (8 percent on the western slope, 4 percent in the Tahoe Basin), with remaining lands for rural residential or resource related uses.

Important Ballot Measures:

Throughout California, ballot box land use measures have often been aimed at setting population limits, approving or dismissing certain land uses, and regulating density. In the 1980s and 1990s there were a number of attempted ballot box measures regarding land use and planning issues in El Dorado County. On November 20, 1984 Initiative Measure A passed as a Zoning Ordinance restriction limiting new surface mining from being within 10,000 feet from any existing residential use, church, hospital, or school uses, or lands designated or zoned for such uses. That measure is still part of the Zoning Ordinance.

On November 3, 1998, Initiative Measure Y passed, which created five new General Plan policies that required new development to fully pay its way to prevent traffic congestion from worsening in the County. The Measure was to be in effect for 10 years, when it was to be placed on the ballot for re-

adoption. In 2008, the voters did approve the Measure Y policies with some changes, all of which are part of the 2004 General Plan. The Measure Y policies, and related policies in the 2004 General Plan Circulation Element, affected the County's Traffic Impact Mitigation (TIM) fee program. In 2006, the TIM fees were significantly readjusted to address the forecast for development and related roadway needs as required by the General Plan. The County's Capital Improvement Program (CIP) has become a critical component in establishing the TIM fee and, in some respects, providing opportunities or constraints to new development. The CIP annual review allows for incremental adjustments to account for changes in traffic patterns and anticipated new development. General Plan Policy TC-Xb requires that the County compressively review the CIP program every five years to specify roadway improvements anticipated within the next 20 years, in coordination with the General Plan five-year review. The Measure Y initiative remains in the General Plan and significantly affects the County CIP and TIM fee.

Community Region Boundary:

The 2004 General Plan included the concept of delineating land in the County between three major planning and land use concept areas: Community Regions, Rural Centers, and Rural Regions. The 1996 General Plan had also included this concept which was based on the Long Range Land Use Plan originally adopted in 1969. The idea to focus growth within areas having high levels of infrastructure and community services was and is a foundation of land use planning in the County for the better part of four decades. The Community Region, Rural Center, and Rural Region concepts separate the County into areas for new development and areas where new development would be limited. In this manner, the General Plan meets goals such as those for setting aside open space and protecting agriculture, by allowing most commercial and residential development in less than 12 percent of the County. By focusing new development in limited areas of the County, the capital and operating costs of infrastructure can be optimized. One of the major issues for the General Plan was to address the projected traffic impacts from new development, especially with the additional direction from ballot initiative Measure Y. The stated goals for the General Plan included providing for sufficient opportunities for new development so that there would not be an artificial constraint created in the market that would result in increased land and housing costs. The Community Region of the General Plan identified where most development would occur as well as where most infrastructure improvements (roads, water, and sewer) would be needed.

The Community Region is described as an urban limit line and allows a range of residential land use designations. Multifamily Residential allows up to 24 units to the acre; High Density Residential allows one to five units per acre, and Medium Density Residential allows one dwelling unit per one to five acre parcel. Nonresidential development land use designations are Commercial, Research and Development, and Industrial. All of the land use designations noted above are only permitted in the Community Region and Rural Centers (although there are some exceptions). The land use designations exclusive to the Rural Regions are Natural Resources, Agricultural Lands, and Rural Residential. The Low Density Residential land use designation is primarily in the Rural Regions, but about 5,600 acres are within the Community Region to designate lands that are suitable for some level of development intensification based on future infrastructure improvements.

The urban limit line both directs growth to identified areas and helps to conserve rural areas for environmental purposes, agriculture, recreation, open space, and associated rural-commercial activities. The intent of the urban limit line is to reduce sprawl and leap-frog development. The 2004 General Plan and Environmental Impact Report analysis were based on the premise that the urban limit line would help implement these goals.

Section 3: Development Processes:

This section provides background information on processes normally associated with land use development, starting with some conceptual terms and then moving into specific land use development processes.

Ministerial vs. Discretionary:

Discretionary actions by the County are those that involve the use of discretion – the choice to approve or disapprove. Along with this concept is that discretionary decisions are often “conditional.” The County will typically “conditionally approve” a tentative map or special use permit to address an identified impact or concern. Conditions may be limited by law and there are many judicial decisions that shape the process of discretionary development review. Ministerial actions, on the other hand, are those that require no judgment or policymaking, but are clearly based on meeting a set of standards, such as a building permit. Ministerial actions also include issuance of business licenses and the “Final Map” portion of the subdivision process.

Project and CEQA:

California Environmental Quality Act (CEQA) consists of the CEQA Statutes (Public Resources Code, Division 13, Section 21000 et. seq.) and the State CEQA Guidelines (Title 14, Chapter 3, 15000-153870). The CEQA process is an environmental analysis, but also is an informational process that does not determine the outcome of any particular project. CEQA requires that all “projects” that are approved by a public agency must comply with CEQA.

The CEQA laws allow different CEQA documents to be prepared with the wide range of different projects that a public agency may be responsible for. Certain activities are not subject to CEQA such as those that do not involve the exercise of discretionary powers or will not result in a direct or reasonably foreseeable indirect physical change in the environment. General Plan amendments that affect potential development are deemed discretionary in nature and could result in foreseeable physical changes in the environment.

Some projects are determined to be “exempt” because they are listed in the CEQA Statutes or Guidelines specifically as “Exemptions.” The exemptions mean that the listed projects need no further environmental review, although there still may be situations where additional environmental review is required because of sensitive environmental circumstances.

Many discretionary projects, including General Plan Amendments, rezoning, and tentative maps are not exempt and require further environmental review. CEQA provisions state that a jurisdiction perform an Initial Study to determine what impacts are likely to occur, and subsequently, what CEQA process and documentation is necessary. Projects that do not have significant impacts follow the statutory process of documentation and filing of a “Negative Declaration” essentially stating why there is “no impact.” Other projects may have potential impacts, but the jurisdiction can determine to mitigate the impacts, in which case a “Mitigated Negative Declaration” is prepared. This means that all impacts are reduced to a level that is determined to be “less than significant.”

Where a project creates an impact that is significant, and is not mitigated to “less than significant” then CEQA provisions require an Environmental Impact Report (EIR). The EIR process has additional distinctions beyond that of the Initial Study, Negative Declaration, and Mitigated Negative Declaration. One distinction is the requirement for an alternatives analysis. The EIR is required to evaluate a reasonable range of alternatives that may reduce potential significant impacts. The alternatives analysis of the EIR is to provide decision makers and the public with more options for consideration where projects may have a significant impact.

General Plan Amendment process:

Government Code Section 65300 requires that all jurisdictions have a General Plan. Since one aspect of this paper is contemplating a General Plan amendment, it must be noted that General Plan adoption and any amendments have specific requirements for processing and public notice:

- 1) Government Code requires “opportunities for involvement of citizens, California Native American tribes, public agencies, public utility companies, and civic, education, and other community groups, through public hearings and any other means the planning agency deems appropriate.” (GC Section 65351)
- 2) Planning agencies are required to refer (for 45 day review) the General Plan amendment to any special district, schools, LAFCO, and water/sewer providers. (GC Section 65352)
- 3) Agencies are required to conduct potential consultations with California Native American tribes, which have 90 days to respond to noticing. (GC Section 65352.3)
- 4) Water Supply Assessment may be required. (GC Section 65352.5)
- 5) Planning Commission public hearing required. (GC Section 65353)
- 6) Planning Commission written recommendations are required and are provided to the legislative body (Board of Supervisors). (GC Section 65354)
- 7) Board of Supervisors public hearing required. (GC Section 65355)

Amendments are limited in frequency to four times per year, for each mandatory element. (GC Section 65358)

General Plan amendments are only initiated by the Board of Supervisors or a landowner through an application process. The Board typically starts the General Plan amendment through formal approval of a Resolution of Intention (ROI). The ROI explains the goals, objectives, and direction for the General Plan Amendment.

A landowner wishing to amend the General Plan designation is required to file a planning application. The process requires the landowner to submit information necessary to process the application, including environmental review, and requires payment of fees to cover the cost of processing the application. Usually a landowner's application includes additional requests, such as rezoning and subdivision applications, to allow a more comprehensive review. It is not required to process these applications separately, and, in fact, State law encourages combining the applications.

The approval of a General Plan Amendment is a discretionary process and subject to CEQA.

Rezoning process:

The Zoning Ordinance includes a zoning map and a zoning ordinance text document. Similar to General Plan adoption and amendments, the Board of Supervisors and landowners can initiate a zone change. The Planning Commission can also initiate rezoning pursuant to the Zoning Ordinance section 17.10. Zoning ordinances and maps are required to be consistent with the General Plan. The approval of a Zoning Amendment (rezoning) is a discretionary process and subject to CEQA.

Subdivision Map process:

The subdivision process is guided by State law (Subdivision Map Act) and the County Subdivision Ordinance (El Dorado County Code, Title 16). The process starts with a landowner submitting an application for a "tentative subdivision map." The application is reviewed by local agencies and applicable state agencies, for compliance with regulations and standards for subdivisions. The tentative map application is subject to approval by the Planning Commission or the Board of Supervisors if being processed with a rezone application. The tentative map application shows the design and layout of the proposed development at a "planning" level of detail. The number, size, and shape of lots are conceptually shown, as well as preliminary street layout, drainage plan, and initial concepts for provision of other infrastructure, such as water and sewer.

The approval of a tentative map is a discretionary process and subject to CEQA. The County has some limitations on exactions such as fees, dedications of land for parks and roads, and physical improvements. These limitations are both identified in state law (such as Quimby Act for parks) and numerous judicial decisions interpreting the state and federal laws. The terms often associated with these limitations include "nexus" and "rough proportionality." An agency can require fees and other exactions on this type of development if it can demonstrate the nexus between the exaction and the project. The exaction needs to be roughly proportional to the impacts created by the project.

Once approved, the tentative map is valid for three years but is eligible for time extensions. During that time the applicant will prepare engineered plans for lots, streets, and all other infrastructure. The plans are subject to County approval including approval by other public agencies such as fire departments and public utilities (water and sewer). Once all plans are approved and a "Final Map" is submitted to the County, the Board of Supervisors can approve the map if found to be substantially consistent with the Tentative Map. Construction of the subdivision may commence upon approval of the engineered plans, but sometimes will occur after the Board has approved the Final Map. In either event the applicant is required to post security (such as performance bonds) to ensure completion of the work.

Development Agreement:

Because of the length of time and the costs associated with attaining development approvals, a landowner may find value in entering into a contract with the County to ensure that certain entitlements or standards do not change so significantly as to jeopardize the permits. A Development Agreement can be approved by the Board of Supervisors to “vest” project approvals for up to 20 years. The Development Agreement is a mutually agreeable contract and is not subject to exaction limitations that the tentative map is. The Development Agreement is discretionary and subject to CEQA.

Specific Plan:

The Specific Plan is a development permit that has traits of a General Plan and Zoning Ordinance. It is not a tentative map, but does depict the development of land that would later be subject to tentative map applications. The Specific Plan lays out the larger planning context of an area so that the County gets a better plan and the applicant has more assurances that the plan is secure, allowing more opportunities for financing and coordination of infrastructure development. Specific Plans in El Dorado County include the Northwest El Dorado Hills (1987), El Dorado Hills (1988), Carson Creek (1996), Promontory (1997), Valley View (1998), and Bass Lake Hills (1996). The Specific Plan is discretionary and subject to CEQA.

Building Permit:

The building permit is not a discretionary permit, and is not normally subject to CEQA. It is an authority to construct a building such as a residential dwelling. A building permit is acquired by submitting a building permit application to the Development Services Division. The application is reviewed for conformance with Zoning Ordinance (locally adopted) and the Building Codes (mandated by the State Building Standards Commission).

There are fees associated with issuance of a building permit. In light of the State’s limitation on property taxes, a number of “impact” fees have been established to address a wide range of impacts on infrastructure. In El Dorado County, each school district has a “per square foot fee” on new dwellings to address the potential impact from new students. The fire districts also collect a fee to support the expansion of capital infrastructure improvements necessary to serve new development. The community services districts that provide recreational services require a park fee to expand park land and improvements. The El Dorado Irrigation District charges “hookup” fees for water and sewer connections and most of which is to fund capital improvements at water and wastewater treatment plants and the conveyance system. El Dorado County charges a Traffic Impact Mitigation (TIM) fee to fund future road improvements needed to support the new residents.

The impact fees are collected at time of building permit issuance as provided by state law, because that is when the impacts to the various agencies and districts occur. Prior to Proposition 13 in 1978, these capital improvements were funded by the higher property taxes of the time. Today, the state law establishes provisions for local agencies and districts to collect fees at time of building permit, meaning that the price of a new home reflects these impact fees. In one sense, the reduced property taxes enjoyed by homeowners today are reflected in the increased price of housing today.

Entitlements:

The term “entitlement” is used in land use to define when a landowner has a right to do something with a property. An example could be that a landowner of residentially zoned land has an entitlement to a building permit for a residence. Another example of an entitlement is when a permit approval has been issued by the County, such as for a Tentative Subdivision Map. This does not absolve the landowner of the requirement for meeting any conditions, codes, standards, or adopted fees. It does mean that if the landowner completes all adopted requirements, the result will be a new residence or other development authorized by the permit. The County could not change that entitlement, although the County has authority to rezone property or adopt new fees.

The General Plan and Zoning Ordinances may be used to interpret a landowner’s entitlements. However, this is often misunderstood, and should be clarified. As in the example noted earlier, for most landowners in El Dorado County, the basic entitlement is that if one owns a legal parcel, then one is entitled to one dwelling. It does not matter if the land is zoned for more units or the General Plan designation might allow more development. **One parcel equals one dwelling.** (Note that zoning ordinance and state law allow a 2nd unit, but for this portion of the paper, we will stick with one dwelling.) The common misunderstanding is that a landowner’s Zoning suggests the owner’s entitlement. An entitlement cannot be based on a discretionary process that the County could disapprove. If an owner has 100 acres of land zoned RE-5 and with a General Plan designation of Low Density Residential (LDR) then the owner has the ability to apply for a Tentative Subdivision Map to subdivide the land into a maximum of 20 separate parcels. **The zoning does not entitle the landowner to additional dwelling units until the subdivision is approved and complete.** The purpose of this paper is to analyze issues related to General Plan Community Regions and will be using the term “entitlement” as outlined.

Section 4: El Dorado County General Plan 5 Year Update

The General Plan contains projections for new development over an estimated 20 year timeframe, but the General Plan does not “expire” after 20 years. The 2004 General Plan includes specific policies that require a General Plan review at least every five years. This provides the County an opportunity to review the effectiveness of the policies and programs within the General Plan in a comprehensive and regular manner. It also allows the review of assumptions and goals so that changes can be considered and addressed. The County conducted its last five year review in 2011, where it determined that the plan was, for the most part, on track, but that there were four areas of concern: 1) provisions for moderate income affordable housing; 2) job creation; 3) improving retention of sales tax revenue within the County; and 4) improvement in agricultural and resource protection and economies.

As an outcome to the five-year review, the Zoning Ordinance update process incorporated a new companion program labeled “Targeted General Plan Amendments” to address the four concerns that arose from the County’s five-year review.

Resolutions 182-2011 and 184-2011 to amend the General Plan and Resolution 183-2011 to update the Zoning Ordinance were adopted by the Board of Supervisors on November 14, 2011. (Legistar File Reference 11-0356). These resolutions described the basic purpose and general direction for amending a number of very specific General Plan Policies and the Zoning Ordinance. At this time, staff and consultants are working on both and preparing a Draft Environmental Impact Report.

General Plan Policies 2.9.1.2, 2.9.1.3, and 2.9.1.4 require General Plan monitoring and review, including the potential changes to Community Region boundaries. The Board's General Plan five-year review on April 4, 2011 did not identify the need to amend the Community Region boundaries. The General Plan Resolutions of Intention does include consideration to amend these policies, but primarily to clarify timeframes for Board reviews and revisions.

Section 5: Shingle Springs Analysis

This section is designed to start the policy decision for consideration of a possible amendment to the Shingle Springs Community Region using the systematic policy decision making process from Section 1:

1. Recognize the Objectives.
2. Identify the Problem(s).
3. Gather and Organize the Facts.
4. Develop Alternatives.
5. Select the Best Solution.
6. Evaluate the effectiveness of the Solution.

The first step is to identify the objectives for the proposed amendment to determine if the proposed amendment furthers the overall objectives of the General Plan. The 2004 General Plan has 12 Objectives stated in its introduction:

1. To develop a strong diversified and sustainable local economy;
2. To foster a rural quality of life;
3. To sustain a quality environment;
4. To accommodate the County's fair share of regional growth projections and affordable housing while encouraging those activities that comprise the basis for the County's customs, culture, and economic stability;
5. To oversupply residential and non-residential land use designations in order to provide market and landowner flexibility to more feasibly accommodate the market;
6. To concentrate and direct urban growth where infrastructure is present and/or can be more feasibly provided;
7. To recognize that funding limitations for infrastructure and services will result in lower levels of service while the County improves employment and housing opportunities;

8. To conserve, protect, and manage the County's abundant natural resources for economic benefits now and for the future;
9. To encourage infill development that more efficiently utilizes existing infrastructure and minimizes land use conflicts while avoiding the premature development of non-contiguous lands where direct and life cycle costs are greater;
10. To accomplish the retention of permanent open space/natural areas on a project-by-project bases through clustering;
11. To minimize down planning and/or down zoning where feasible;
12. To improve the jobs-to-housing ratio by giving preference to the development of high technology and value added employment centers and regional retail and tourism uses;

The second step is to identify the "Problem":

On May 7, 2013, the Board directed staff to "analyze the effects of removing the Shingle Springs Community Region and all other community regions." Assuming the Board is satisfied with the depiction of the "problem" then the second step is complete. However, the problem may not be as clear in the context of the General Plan objectives. Further discussion on the objectives and identification of the problem should be considered.

Step 3 is to gather and organize the facts. This paper is only a start to the fact gathering. Additional information will be needed to proceed appropriately to the next steps.

Step 4 is to develop alternatives, Step 5 is to select the best alternative, and Step 6 is to evaluate the effectiveness of the decision. This paper creates a set of options in Section 6 and Section 7 based on the facts currently available, but does not provide any recommendations at this time.

Section 6: Options, costs, timeframes, analysis:

Board direction from May 7, 2013: "analyze the effects of removing the Shingle Springs Community Region and all other community regions." In the case of Shingle Springs, the area of concern (San Stino development application) is approximately 645 acres that is designated Low Density Residential (1 dwelling unit per 5 acres).

There is a total of 5,650 acres of Low Density Residential land uses in Community Regions of the General Plan. Approximately 1,780 acres are located west of Placerville and are candidates for higher density development because of nearby roads, water, and sewer services. Approximately 3,870 acres are in the Camino/Pollock Pines Community Region, but are limited because of narrow roads and the lack of public sewer. The General Plan anticipates that these lands would be subject to General Plan Amendment, Rezone, and Tentative Map applications that would provide the "appropriate level of analysis" and "expansion of infrastructure" required pursuant to other General Plan Policies and development processes. The decisions on these development applications would be subject to approval by the Board of Supervisors.

The impacts of removing some or all of these lands from Community Regions would need to be addressed in a County-wide General Plan analysis, because the consequence of limiting development in one area has the potential to increase development in another. This type of analysis is appropriate for the normal five-year General Plan review, such as the next one scheduled for 2016.

There are some site specific potential impacts to analyze in the removal or relocation of the Shingle Springs Community Region Boundary:

1. Groundwater impacts from future use of wells and septic systems. Public water and sewer is required for new development in Community Regions.
2. Potential development impacts due to dispersal of growth to other areas of the County, including potentially into Agricultural Districts, or environmentally sensitive areas.
3. Future use of 645 acres of Low Density Residential designated lands:
 - a. 129 five acre parcels as allowed with Low Density Residential
 - b. Additional units could be added through the Density Bonus policies of the General Plan (for affordable housing and/or dedication of open space).
 - c. Conversion to agricultural uses (grazing, orchard, vineyard, timber) and impacts on surrounding land uses.

For County wide elimination of Community Regions, the primary potential impact would be:

1. Potential development impacts due to dispersal of growth to other areas of the County, including potentially into Agricultural Districts.
2. Removal of the urban limit line could allow sprawl and leap-frog development because any landowner could then apply for higher density development applications for General Plan Amendments, Rezoning, and Tentative Maps, in areas not currently contemplated by the General Plan and General Plan EIR for urbanized uses.

Based on the information accumulated to date the following options may be considered, but they are not the only options available:

Option 1: Amending the Community Region in Shingle Springs

The Board Agenda for May 7, 2013 requested a discussion regarding the possible removal of the Community Region from Shingle Springs. The direct effect of this action requires further discussion to determine the problem. If the entire Shingle Springs Community Region is removed, then the existing General Plan land use designations of Commercial, High Density Residential, Medium Density Residential, and Multifamily Residential would be inappropriately located within the Shingle Springs area. Policy 2.2.1.1 and Table 2-1 allow those designations only within a Community Region or Rural Center. In addition, removal of the Community Region does not preclude the County or a landowner from initiating a General Plan Amendment to re-establish the Community Region at a later date. In addition, with new development primarily focused on vacant land, it is unlikely that any vacant lands near roads, water, and sewer services will remain vacant over time.

There is a wide range of alternatives within Option 1:

1. The Community Region in Shingle Springs might be relocated to remove the Low Density Residential designated lands only.
2. A Rural Center could replace the Community Region, with/or without the LDR lands included.
3. The Community Region could be removed and new “nonconforming” land uses would be labeled with the Platted Lands overlay (Policy 2.2.2.3).

In any process of removal or reduction in the Community Region area, the County would identify other areas of the County that are more suitable for future development for adequate policy and environmental analysis. The General Plan objectives, policies, and land use map intended to provide an “oversupply” of lands for projected growth. However, reduction in potential growth in one area of the County may have the unintended consequence of increasing potential growth in another portion of the County. A new analysis of projected growth and existing land use designations available for such growth may be necessary to identify the ramifications of this option, after the completing the Travel Demand Model.

In the case of Shingle Springs, the 645 acres of land designated Low Density Residential may be too large to easily find other areas of the County to replace it. Due to the County’s existing pattern of growth, there are limited opportunities to plan new growth anywhere but along the Highway 50 corridor, where there are also existing water and sewer infrastructure. The only remaining undeveloped lands in the Highway 50 corridor, west of Placerville, is the Clarksville area near El Dorado Hills, Marble Valley area, and the southern Bass Lake Hills Specific Plan area adjacent to Highway 50. All three areas are candidates for expanding the Community Region and could accommodate a range of development types, including residential. The problem is that the Clarksville area is less than 100 acres, Marble Valley is currently an approved tentative map, and the Bass Lake Hills Specific Plan was approved in 1996 and specifically identified the lands adjacent to Highway 50 as low density development to ensure a visual separation of El Dorado Hills and Cameron Park.

If Option 1 is clarified, then the Board could initiate a General Plan Amendment through a Resolution of Intention (ROI) at a future meeting. The ROI would direct County staff to start the process to amend the General Plan (See Section 3, Processes: “General Plan Amendments”). The ROI would identify what areas of the County should be considered for potential inclusion into the Community Region. This option could be assisted by consultants. Rough cost estimate: \$100,000 consultant costs and 100 hours staff time over a one year period. The cost and timing would be refined in the consultant selection process.

Option 2: Amending Community Region throughout the General Plan

This option is similar to Option 1 but may have a larger impact depending on how this option is clarified.

This option proposes to change the General Plan policies and land use map to remove all Low Density Residential from Community Regions. The potential impact is greater than Option 1, because the acreage is significantly larger (645 acres vs. 5650 acres). The potential impact is

that planned growth from these areas creates unanticipated growth in other areas, such as Clarksville, Bass Lake Hills Specific Plan, and Marble Valley. A new analysis of projected growth and existing land use designations available for such growth may be necessary to identify the ramifications of this option. For example, other areas may need to be added for consideration, such as the area south of the Valley View Specific Plan and near the old Wetsel-Oviatt lumber mill site. The area is a few miles from Highway 50, but is served by Latrobe Road. Water and sewer could be reasonably extended. It may even be suitable for recycled water service. The El Dorado Union High School District has acquired land in the area and plans a potential high school site on the west side of Latrobe road. It may be reasonable to plan the extension of the Community Region southward towards Latrobe to some degree.

This option would have somewhat higher costs and similar timing to Option 1.

Option 3: Re-designate or review land use designations for those lands currently designated Low Density Residential in Community Regions.

This option would allow the County to decide what the best designations should be for those areas currently designated Low Density Residential within Community Regions. The County would decide how much High Density Residential, Medium Density Residential, Low Density Residential, Commercial or Multifamily Residential would be assigned to each location. In this option, instead of removing or relocating the Community Region line in Shingle Springs, the County would designate the 645 acres to whatever it deemed appropriate. In this way, there is more certainty what will be developed in each part of the County. Of course, a landowner could still request a General Plan amendment, but this option provides at least some policy direction from the Board as to the County's intent for these lands. This option has the additional merit of being able to follow the systematic process for decision making in that the County could take time to review the facts (land constraints, compatibility with neighboring parcels, traffic impacts, water and sewer impacts, etc.) and develop a land use plan for the site that truly represents the County vision. Currently the land is designated Low Density Residential and it is up to the landowner to "guess" what the County might approve.

This option would cost more and take longer than other options. In one view, this is not what the County intended when it designated the lands Low Density Residential. The County intended that the landowner would provide the necessary studies, alternatives, and analysis. The current project applicant in Shingle Springs is planning to prepare an EIR which will have, by law, a range of alternatives within it. This range of alternatives is normally limited to those that provide mitigation for the anticipated project impacts, and may not provide a full range of alternatives that the systematic process for decision making would allow. In the systematic process for decision making, all potential options would be considered for evaluation, not those limited to the CEQA evaluation.

Option 3 could allow the County to independently use its resources to evaluate a full range of land use alternatives for the site. The County could determine that different properties may be best developed as:

1. Low Density Residential (LDR) (1 dwelling per 5 acres)
2. Medium Density Residential (MDR) (1 dwelling per 1 to 5 acres),
3. A combination of different land use designations,
4. Require a Specific Plan,
5. Designate it with a newly created land use designation, or
6. Potential other options based on further analysis.

If the Shingle Springs project is designated MDR, then the maximum development potential is one unit per acre, or 645 units. There are infinite alternatives to this approach because various areas of the project site could be designated any combination of MDR and LDR, as well as any other land use designation. A plan could transition development densities from north to south or east to west, or match adjacent land use designations.

If the project is designated as a Specific Plan area, then the County could also set the parameters for the Specific Plan within the General Plan. This was done with Promontory, Carson Creek, and Valley View Specific Plans. One other Specific Plan, Pilot Hill Ranch, was not approved. The General Plan could include a table of land uses and densities the County will allow and include a concept land use map. This allows more certainty of land development but allows some flexibility necessary for subdivision and project design.

If Medium Density Residential or Low Density Residential land use designations do not seem to be appropriate, then the County could create a new land use designation that allows development intensity somewhere in between. For the Shingle Springs property, a new designation of “SSDR” (Shingle Springs Density Residential) could be one dwelling unit per 2.5 acres. This could result in 258 dwelling units on the property, each on about 2 acres, and similar to development on two sides.

This Option 3 is the most costly of the options to this point because it means that the County will need to initiate the General Plan update and fund all costs associated with planning studies and CEQA analysis. The timing would likely be longer due to the complexity of planning new land use designations for the lands designated Low Density Residential.

Option 4: Stay the Course

Instead of attempting to amend some component of the General Plan, the County could choose to simply “stay the course.” In this option, the County initiated Zoning Ordinance Update and Targeted General Plan Amendment process would continue unaffected. The “Project Description” for that process has already been completed and the Draft Environmental Impact Report is under preparation. Under this option, landowners that have made applications for new development throughout the County will proceed with their development processes. Applications will be subject to CEQA review and will have Negative Declarations, Mitigated Negative Declarations, or Environmental Impact Reports

prepared. The Planning Commission and Board of Supervisors will hold hearings and determine if the projects are approved or disapproved. In many cases, the applications will be subject to conditions of approval that would exact impact fees, land dedication, and improvements to infrastructure to reduce potential impacts of the projects. In a few cases, the applicants may request a Development Agreement due to the nature of the developments. The Board would make final decisions on all applications, just as they would today.

This option has no cost or timing issues. All development applications pay for the County staff time to review and process the applications including preparation of the CEQA documentation. No County funds would be required. This option does not preclude any particular application from being made, nor does it imply that the County will approve any particular application. The Board of Supervisors has the choice to approve or disapprove the applications and will have full review by staff, affected agencies, and a CEQA document from which to base the decisions upon.

Option 4 also provides no risk to the County in keeping the General Plan legally intact. By staying the course already decided, the County can complete the Zoning Ordinance Update and Targeted General Plan amendments as identified in Resolution of Intentions 182-2011 and 184-2011 to amend the General Plan and Resolution 183-2011 to update the Zoning Ordinance as adopted by the Board of Supervisors on November 14, 2011.

Option 4 does not ignore the issues associated with new land development applications currently being processed or Low Density Residential land uses in the Community Regions. Each application will be judged on its merits and the County has its normal General Plan five-year review scheduled for 2016.

Option 5: Review applications that have General Plan Amendments for policy discussion and future actions.

Instead of attempting to process a General Plan Amendment, if the problem is the intensity of the proposed application such as the San Stino Development in Shingle Springs, then the possible option is to deny the application. The San Stino project is a combined application with a General Plan Amendment, Rezone, and Tentative Subdivision Map. The Board of Supervisors has approval authority over these types of discretionary applications. Denial of the application would not address the potential for another development application to be submitted. Denial would be very inexpensive to the County compared to other options. Such action could also be considered after normal processing of the application, review of the Environmental Impact Report, and after any revisions or mitigation measures are considered. Under normal processing scenarios, the final hearing on the project would be approximately one year away. An option might be to short cut the process and take action to deny the project earlier. Section 15270 of the CEQA Guidelines can be used to comply with CEQA when a project is rejected: "This section is intended to allow an initial screening of projects on the merits for quick disapprovals prior to the initiation of the CEQA process where the agency can determine that the project cannot be approved.

This option could be expanded to consider all applications that include a General Plan Amendment. The Development Services Division currently has thirteen applications being processed. The Board may

consider Option 5 by directing staff to return to the Board with a report of all applications that require a General Plan Amendment. The report could review potential policy issues, including conflicts with the Targeted General Plan Amendment and Zoning Ordinance Update process. Upon review and discussion, the Board may determine that some or all application(s) should continue to be processed or that some or all should be denied.

Option 6: Combine with TGPA and Zoning Ordinance update process

This option would include amendments to the Shingle Springs Community Region boundary and any other requested Community Region or Rural Center boundary amendments in the Targeted General Plan Amendment (TGPA) and Zoning Ordinance process and EIR. This option would add additional cost and time to complete the process the County has already invested significant time and funds to get to this point. The preparation of the Draft EIR for the Targeted General Plan Amendment and Zoning Ordinance is underway, and modification of that process would require a new CEQA Notice of Preparation. It would require time to properly describe the potential changes in a “project description” so that the EIR preparation can continue. This option may allow a range of General Plan issues to be addressed together, but at the cost of additional time and funds to the process underway.

Section 7: Options for Board Action

- 1) Prepare a General Plan Amendment Resolution of Intention to amend the Community Region in Shingle Springs to:
 - a. Remove Low Density Residential (LDR) from Shingle Springs
 - b. Replace the Community Region with a Rural
 - c. Remove the Community Region and designate lands that are currently designated as MFR, HDR, MDR, C and I as Platted lands
- 2) Prepare a General Plan Amendment Resolution of Intention to Amend Community Regions throughout the 2004 General Plan, including potential removal from some areas and additions to other areas.
- 3) Prepare a General Plan Amendment Resolution of Intention to re-designate land use designations for those lands currently designated Low Density Residential in Community Regions:
 - a. Designate them Low Density Residential (LDR)
 - b. Designate them Medium Density Residential (MDR)
 - c. Designate them some combination of land uses
 - d. Designate them for a Specific Plan
 - e. Create a new land use designation

- 4) "Stay the course." Continue with the Land Use Policy Programmatic Update (LUPPU) process (Targeted General Plan Amendment and Zoning Ordinance Update) unchanged; leave the General Plan Community Regions as currently adopted; continue processing project applications normally, hold future scheduled public hearings where the Board of Supervisors will approve or disapprove the project applications; and conduct the next General Plan five-year review in 2016 as planned.
- 5) Direct staff to return to the Board with a report of all applications that require a General Plan Amendment and any potential conflicts with the Targeted General Plan Amendment and Zoning Ordinance process.
- 6) Include amendments to the Shingle Springs Community Region and any other requested Community Region or Rural Center amendment in the Targeted General Plan Amendment and Zoning Ordinance process (LUPPU) and Draft EIR.