El Dorado County Elections Code Section 9111 Report

Initiative 5- Retain El Dorado County's Current Zoning and Rural Assets

Prepared at the direction of the Board of Supervisor's

Date: November 19, 2014

1) Introduction

This report evaluates potential impacts of the proposed initiative titled "Retain El Dorado County's current Zoning and Rural Assets" (Initiative 5, full Initiative language as Appendix A) as requested by the El Dorado County Board of Supervisor's (Board) at its October 28, 2014 Board meeting. At the referenced meeting the Board had a discussion on additional information for consideration regarding the potential impacts of Initiative 5.

When an initiative is circulated and qualifies for the ballot, Section 9111 of the California Elections Code authorizes a County Board of Supervisors to request a report regarding the potential impacts of the initiative prior to deciding whether to adopt the initiative in the form of a County ordinance or to place the initiative on the ballot for the next statewide election for the purpose enabling the people of El Dorado County to vote on the initiative, as provided in Elections Code Section 9118. Section 9111 is reproduced in full as Appendix B.

2) Scope and Assumptions

Pursuant to direction from the El Dorado County Board of Supervisors, this report addresses Initiative 5's (Initiative) potential impacts on the following (as provided in the California Elections Code Section 9111):

> *(1) Its fiscal impact.*
> *(2) Its impact on the internal consistency of the county's general and specific plans, including the housing element, the consistency between planning and zoning, and the limitations on county actions under Section 65008 of the Government Code and Chapters 4.2 (commencing with Section 65913) and 4.3 (commencing with Section 65915) of Division 1 of Title 7 of the Government Code.*
> *(3) Its impact on the use of land, the impact on the availability and location of housing, and the ability of the county to meet its regional housing needs.*
> *(4) Its impact on funding for infrastructure of all types, including, but not limited to, transportation, schools, parks, and open space. The report may also discuss whether the measure would be likely to result in increased infrastructure costs or savings, including the costs of infrastructure maintenance, to current residents and businesses.*
> *(5) Its impact on the community's ability to attract and retain business and employment.*
> *(6) Its impact on the uses of vacant parcels of land.*
> *(7) Its impact on agricultural lands, open space, traffic congestion, existing business districts, and developed areas designated for revitalization.*

This overview addresses only the proposed Initiative language as submitted by the Initiative proponents. It is important to note that the overview is presented at a limited depth due to several constraints, including the complex and widespread nature of the Initiative language, and the short time available for overview work. Adoption of the Initiative may necessitate revisions to the General Plan's overall strategies, concepts and objectives, or revisions to individual goals, objectives, and policies in each

Element. For example, the proposed water policy related revisions may be directly or indirectly be found inconsistent with some of the other 29 General Plan policies related to water supply. These inconsistencies could span between other elements of the General Plan, the Zoning Ordinance, Specific Plans, the General Plan Housing Element and California Government Code. It is unknown whether such revisions would be relatively minor in nature or be significant enough to require a comprehensive General Plan update.

The analysis included in this report assumes that the Initiative is either approved by the Board or adopted by the voters and implemented as proposed. The Initiative, if adopted or approved, would likely require an in-depth legal analysis to help determine if any constitutional limitations would constrain a portion or portions of the proposed Initiative. Additionally this report highlights many unanswered questions that would need to be further considered and analyzed during the implementation phase should the Board adopt or voters approve the Initiative.

3) Description of Initiative

The El Dorado County General Plan provides for long range direction and policy for land use within El Dorado County. The Land Use Element describes, and maps, the numerous land use designations assigned to all land within El Dorado County. Those land use designations identify the areas suitable for certain uses and limits the density and intensity of those uses. The Zoning Ordinance establishes various districts within the County. Each parcel of land is assigned to a district, which governs the uses that may take place and types of buildings that may be erected on that parcel.

The zoning classification assigned to a given parcel of land must be consistent with the General Plan land use designation assigned to that parcel. Where land use designations are inconsistent with current zoning, the initiative would require that the County amend the land use designation to match existing zoning. The initiative would also require that future decisions for land use changes be based on the land use compatibility matrix attached to the initiative.

General Plan Policy 8.1.3.1 generally requires that parcels created next to agriculturally zoned lands be at least l 0 acres. Policy 8.1.3.2 generally requires that agriculturally-incompatible uses adjacent to agriculturally zoned lands provide a minimum setback of 200 feet from the agriculturally zoned land. Policy 8.4.1.2 generally requires a setback of at least 200 feet on parcels adjacent to lands identified as timber production lands designated Natural Resource and/or lands zoned Timberland Production Zone. The initiative would revise Policy 8.1.3.2 to provide that administrative relief from the setback requirements may only be granted by the Agricultural Commission. The initiative also seeks to restore Policies 8.1.3.1 and 8.4.1.2 to their original language from 2004.

"Mixed use development" is a type of development that combines various uses (such as office, commercial, institutional, and residential) in a single project. General Plan Policies 2.1.1.3, 2.1.2.5, and 2.2.1.2 allow mixed use development on parcels designated as Commercial, with maximum residential densities of sixteen dwelling units per acre in Community Regions and four dwelling units per acre in

Rural Centers. The initiative seeks to restore those policies to the language in place when the 2004 General Plan was adopted.

General Plan Policy 5.2.1.3 requires that all medium-density residential, high-density residential, multifamily residential, commercial, industrial, and research and development projects in Rural Centers connect to either a public water system or an approved private water system. The initiative would require that such projects connect to a public water system. General Plan Policy 5.2.1.14 requires the County to collect and make available information on water supply and demand. The initiative would require that such information recognize the water needs of existing unimproved parcels. The initiative would also delete Policy 5.2.1.7, which, in times of declared water shortages, provides priority to approving affordable housing and non-residential development projects.

The initiative provides that it is not applicable within the jurisdiction of the Tahoe Regional Planning Agency and the City of Placerville and that its policies are to remain in impact indefinitely unless amended by voter approval.

4) Potential Impacts of the Initiative

The potential impacts of the proposed Initiative are broken down and combined into relevant sections according to their content. These sections are: Land Use, Water Supply, Cultural and Historic Resources, and Agriculture and Forestry. Further, sub-section numbers are tied to the called out revisions within the proposed Initiative. Where appropriate and differentiation in interpretation was identified, each numbered sub-section was further broken down by letter.

A. Land Use Related Changes

1. *"Where a Land use designation is inconsistent with current zoning, the Land use designation shall be amended to match existing zoning."*

The direct impact associated with implementing the proposed language would be to bring Land Use designations into compliance with the existing Zoning Ordinance. A direct impact would be to gain compliance between allowable uses on land parcels throughout the County, however the process for doing so is in opposition to the California Government Code, California Supreme Court Rulings and industry standard practices.

Government Code 65860(c) states "in the event that a zoning ordinance becomes inconsistent with a general plan by reason of amendment to the plan, or to any element of the plan, the zoning ordinance shall be amended within a reasonable time so that it is consistent with the general plan as amended". Further, the California Supreme Court has stated that "the Planning and Zoning Law does not contemplate that general plans will be amended to conform to zoning ordinances. The tail does not wag the dog. The general plan is the charter to which the ordinance must conform." (Longtin's California Land Use, Section 2.42 (2009 Supp.); Lesher Communications, Inc. v. City of Walnut Creek, 52 Cal 3d 531 (1990)). Contrary to these authorities, the Initiative proposes to gain consistency between the General

Plan and Zoning Ordinance by amending the General Plan. Such an approach could have unintended consequences.

The General Plan prioritized growth within areas that have existing major roads and infrastructure, including the availability of public water and sewer services. An indirect impact of amending the General Plan Land Use designations to conform to the existing Zoning Ordinance could be to convert a significant number of acres of land designated in the General Plan as Agricultural and Natural Resources to other higher intensity uses, increase Residential and Commercial intensities in rural areas, and create inconsistencies with the adopted Housing Element of the General Plan. Higher densities in rural areas were not planned for nor analyzed in the 2004 General Plan.

Currently there are multiple Land Use Designations that could be found consistent with an existing zone per General Plan Table 2-4 (General Plan Land Use Designation and Zoning District Consistency Matrix). The Initiative language does not provide clarity as to which Land Use designation should be applied. To implement this action, the Board would need to exercise discretion which likely require environmental review under the California Environmental Quality Act (CEQA).

2. *"Future decisions for land use changes shall be based on the land use compatibility matrix attached."*

County of El Dorado Land Use Compatibility Matrix

Future Land Use Compatibility Matrix	Multi-Family Residential	High Density Residential	Medium Density Residential	Low-Density Residential	Rural Residential	Agricultural Lands	Natural Resource	Commercial	Research & Development	Industrial	Open Space	Public Facilities	Tourist Recreational
Multi-Family Residential	✓												
High Density Residential	∇	✓											
Medium Density Residential	⊘	∇	✓										
Low-Density Residential	⊘	⊘	∇	✓									
Rural Residential	⊘	⊘	∇	✓	✓								
Agricultural Lands	⊘	⊘	∇	∇	✓	✓							
Natural Resource	⊘	⊘	⊘	∇	∇	✓	✓						
Commercial	∇	∇	⊘	⊘	∇	∇	∇	✓					
Research & Development	⊘	⊘	⊘	⊘	⊘	∇	∇	✓	✓				
Industrial	∇	∇	⊘	⊘	⊘	∇	∇	∇	∇	✓			
Open Space	∇	∇	∇	✓	✓	✓	✓	∇	∇	∇	✓		
Public Facilities	∇	∇	∇	∇	∇	∇	∇	∇	∇	∇	∇	✓	
Tourist Recreational	⊘	⊘	⊘	∇	✓	∇	∇	✓	∇	∇	✓	∇	✓

Legend
✓ Compatible
∇ Questionable (Compatible only if impacts can be properly mitigated)
⊘ Incompatible

Compatible = both uses are compatible

Questionable = only one use is compatible but can be allowed if properly mitigated

For changes in Land use which creates questionable use, mitigation in Rural Residential, Agricultural Lands, Natural Resources and Tourist Recreational shall be determined by the Agricultural Commission

Incompatible = change in land use is not allowed, neither use is compatible with each other

The direct impacts associated with implementing the proposed "land use compatibility matrix" is unclear and would require further interpretation prior to implementation. Traditionally a compatibility matrix includes one axis with land use designations and an opposing axis with Zoning Ordinance designations. It appears that both axes are General Plan land use designations based on matching the existing 13 designations as identified in the General Plan.

Further clarity is needed to read how the matrix is intended to be delivered. It is unclear if the use listed in the left column is the existing land use designation or if the use in the left column is what land use designation is being considered to be changed to. It is also unclear whether the matrix is intended to be read/applied from the top to bottom or from the left to right. For example, if the matrix is read from left to right, the only use "compatible" with "Commercial" is "Commercial". However, if read from top to bottom, uses "compatible" with "Commercial" include "Commercial", "Research and Development" and "Tourist Recreational".

Additionally it is unclear how to interpret the blank boxes that are not indicated as "Compatible", "Questionable", or "Incompatible". A footnote also indicates that a "Questionable" use means "only one use is compatible but can be allowed if properly mitigated". "Proper mitigation" is not defined and would need to be determined prior to implementing the matrix.

Further clarity is needed to determine if the proposed matrix would interact with, and either be superior or inferior to, existing land use compatibility matrices identified within the General Plan. An example of such a matrix is the "General Plan Land Use Designation and Zoning District Consistency Matrix" (Table 2-4).

Barring clarity on the concerns as identified above, it is almost impossible to determine the impact of implementing the proposed matrix on "Its impact on the community's ability to attract and retain business and employment".

4. ***"The Mixed Use Policies 2.1.1.3, 2.1.2.5, 2.2.1.2 and Table 2-2 of Policy 2.2.1.3 shall be restored to 'original' language in the 2004 El Dorado County General Plan:"***

a. ***Policy 2.1.1.3: "Mixed use developments which combine commercial, research and development, and residential uses ~~in~~ on a single ~~project~~ parcel are permissible and encouraged within Community Regions~~.~~, provided the commercial use is the primary and dominant use of the land. Within Community Regions, the mixed-uses may occur vertically ~~and/or horizontally~~. In mixed -use projects, the maximum residential density shall be ~~16~~10 dwelling units per acre within Community Regions. ~~The residential component of a mixed use project may include a full range of single and/or multi family design concepts.~~"***

b. Policy 2.1.2.5: "Mixed use developments which combine commercial and residential uses ~~in~~ on a single ~~project~~ parcel are permissible and encouraged within Rural Centers~~.,~~ provided the commercial use is the primary and dominant use of the land. Within Rural Centers, the mixed uses may occur either vertically ~~and/or horizontally~~. The maximum residential density shall be four dwelling units per acre in Rural Centers in mixed use areas~~. The residential component of a mixed use project may include a full range of single and/or multi family design concepts.~~''

c. Policy 2.2.1.2: "Commercial (C): The purpose of this land use category is to provide a full range of commercial retail, office, and service uses to serve the residents, businesses, and visitors of El Dorado County. Mixed use development of commercial lands within Community Regions and Rural Centers which combine commercial and residential uses shall be permitted provided the commercial activity is the primary and dominant use of the parcel. The residential component of the project shall only be

implemented following or concurrent with the commercial component. ~~Commercially designated parcels shall not be developed with a residential use as the sole use of the parcel unless the residential use is either (1) a community care facility as described in goal HO-4 or (2) part of an approved mixed use development as allowed by Policy 2.1.1.3 and 2.1.2.5.~~ Except for Community Care Facilities described in Objective 4.1.2, developments in which residential usage is the sole or primary use shall be prohibited on commercially designated lands. Numerous zone districts shall be utilized to direct specific categories of commercial uses to the appropriate areas of the County. Except as provided in Policy 2.2.2.3, this designation is considered appropriate only within Community Regions and Rural Centers."

d. Table 2-2 of Policy 2.2.1.3:*

Land Use Designation	Units Per Acre	Persons Per Housing Unit	Persons Per Acre
Commercial	10/4 (2)	2.8	28/11.2
Research and Development	10/4 (2)	2.8	28/11.2
(2) Maximum of 10 units per acre in Community Regions; maximum of 4 units per acre in Rural Centers.			

*Note: The above table only includes changes to the mixed use portion of the table. These changes only impacted the allowable units per acre for both Commercial and Research and Development Land Use Designations from 16 units per acre to 10 units per acre each within Community Regions and the Persons Per Housing Unit for the Commercial Land Use Designation from 2.3/2.8 to 2.8.

Several elements of the General Plan allows for and encourages mixed-used development as discussed in the Land Use, Housing, Public Services & Utilities, and the Health, Safety and Noise elements. Mixed-use development allows for projects to incorporate a range and variety of uses within a single development site, for example, retail, residential and business. Current policy allows for projects to:

- Develop a mix of uses either vertically and/or horizontally while subject to compliance with other applicable County development standards (e.g. height, setbacks, floor area ratio, parking, landscaping, architecture, etc),
- Construct up to 16 units per acre to achieve development feasibility and unit affordability, and
- Provide an alternative to apartments by allowing for a full range of single and/or multifamily design concepts both vertically and horizontally.

Further The General Plan encourages mixed-use developments as a means to best achieving General Plan Objectives (General Plan page 6-7) including but not limited to:

- Developing a strong diversified and sustainable local economy,
- Accommodating the County's fair share of regional growth projections and affordable housing required by State law,
- Concentrating and directing urban growth where infrastructure is present and/or can be more feasibly provided, and

- Encouraging infill development that more efficiently utilizes existing infrastructure and minimizes land use conflicts.

The direct impact associated with the proposed initiative language would be to revert back to the original language included in Policy 2.1.1.3, 2.1.2.5, 2.2.1.2, and Table 2-2 of Policy 2.2.1.3 (as identified in strikeout/underline format above). These changes include adding in language requiring "commercial use" to be the "primary and dominant use" for mixed-use development in both Community Regions and Rural Centers. This language was struck during a December 2009 General Plan amendment in an attempt to eliminate ambiguity in determining "primary and dominant use" and expand opportunities for mixed-use development. By reverting back to the original language, the Board would likely need to make such a determination to eliminate this ambiguity.

An additional revision would be to reduce the allowable residential density for mixed use projects within Community Regions from 16 to 10 dwelling units per acre. A supplemental change would be to remove the horizontal development option for mixed-use development projects, along with reducing mixed-use project scopes to one parcel versus a project area. A direct impact of making such revisions would reduce mixed-use residential intensities and eliminate the horizontal development option. An indirect impact would likely be to restrict the County's ability to satisfy requirements of State Law and the General Plan Housing Element. These requirements include; providing housing that meets the needs of existing and future residents in all income categories; recognizing and meeting the housing needs of special groups of county residents including seniors, agricultural employees, and the disabled through the development of a variety of housing; and reducing the overall number of residential units allowed within mixed use projects. An additional indirect impact could be restricting the County's ability to better utilize many of the County's vacant infill sites where much of the necessary road, utilities and infrastructure are already in place by limiting the project to a single parcel instead of an infill/project area.

7. "Policy 2.6.1.1, to establish a scenic corridor and vista point regulations based on local community participation, shall be implemented prior to any future discretionary projects being allowed in the scenic vistas or resource points listed in Table 5.3-1 and Exhibit 5.3-1 of the El Dorado County General Plan Draft Environmental Impact Report."

A direct impact of the proposed initiative language would be to eliminate discretionary approval for projects identified as being within scenic vistas or as resource points. Implementing this proposed requirement would necessitate the County prepare a Scenic Corridor Ordinance. The Board has deferred preparation of such an ordinance until completion of the Zoning Ordinance Update. The process for adopting such an ordinance would likely entail holding numerous public outreach meetings and Board/Planning Commission workshops to address a multitude of potential concerns. Additionally environmental review under CEQA would likely be required, which is often staff and resource intensive.

An indirect impact would be the requirement to decipher what is meant by "discretionary projects" which traditionally could mean any project requiring exercising judgment or deliberation versus a

ministerial project where the public agency merely has to determine whether there has been conformity with applicable statutes, ordinances, or regulations. As such, discretionary projects could include a wide array of projects that are more major in nature (such as zone changes, General Plan Amendments, approval of specific plans, granting of variances, major special use permits, etc.) to those more minor in nature (such as design review for overall design, appearance and quality of materials; minor special use permits such as a drive-up teller at an allowed-by-right bank, etc.). Such projects would be reviewed for approval, depending on the approval type, by the Board, Planning Commission, Agriculture Commission, and/or the Director of Planning.

An additional indirect impact of prohibiting any discretionary projects within the specified areas could be the delay, or rendering cost-prohibitive, of the use or enhancement of relevant commercially-zoned parcels. Creating a historical overlay or additional approval conditions for older building would add further permit requirements, thereby adding to the cost of business startup or expansion.
A supplemental indirect impact could include a negative impact on construction jobs associated with prohibiting discretionary projects, particularly sub-sectors of the construction industry involved with single-family residential development or other discretionary construction projects. This impact could be fairly widespread throughout the County or more concentrated in nature, depending on how geographically expansive the Scenic Corridor Ordinance would be.

B. <u>Water Supply Related Changes</u>

6. a. ***"In order to ensure an ongoing balance between water supply and demand in El Dorado County the following water policies shall be implemented prior to any new discretionary projects shall be allowed: 5.2.1.1, 5.2.1.14 (as modified), 5.2.3.3 and 5.2.3.6."***

"Policy 5.2.1.1 The El Dorado County Water Agency shall support a County-wide water resources development and management program which is coordinated with water purveyors and is consistent with the demands generated by the General Plan land use map"

"Policy 5.2.3.3 The County shall develop and maintain a map and database of private well water production and other appropriate information"

"Policy 5.2.3.6 The County shall assess and analyze the well data gained since the permit process started in 1990. Such data should be used to identify areas of likely groundwater supply limitations. At the completion of this analysis period, the County should determine if the General Plan uses within the areas of water supply limitation are compatible with identifiable supply limitations and modify the General Plan uses, if necessary."

Policies 5.2.1.1, 5.2.3.3 and 5.2.3.6 are included above for reference. Modified policy 5.2.1.14 is included below. Per the requirements established in Policy 5.2.1.1, the El Dorado County Water Agency has supported a County-wide water resources and management program by adopting a water management plan in December 2007 with a West Slope update in 2014. Additionally, the County maintains a data

base of water wells drilled in the County in accordance with Policy 5.2.3.3. In accordance with Policy 5.2.3.6, the County reviews areas of the County for specific information when a land use planning project is dependent upon ground water.

A direct impact associated with implementing the proposed language would be to include implementing additional General Plan water policy requirements prior to approving any discretionary projects. While the County currently addresses the identified policies as identified above (along with the discussion regarding the proposed revision to Policy 5.2.1.14 below), if such efforts were deemed inadequate in addressing the intent of each policy the proposed initiative requirement would not allow approval for new discretionary projects. As previously referenced in the discussion in part 7 above, discretionary approval would need to be clearly defined prior to implementation. Additional indirect impacts identified in the aforementioned discussion section could prevail but on a County-wide level due to the proposed requirements not being geographically specific.

When combined, the proposed water related revisions could constrain the County's ability to meet its regional housing needs by reducing development potential of project and parcel sites to those that do not require discretionary approval. This impact could reduce available project sites to meet State housing requirements as identified in the General Plan's Housing Element.

b. ***"The following water supply policies shall be modified as follows: Policy 5.2.1.3 - All medium-density residential, high density residential, multifamily residential, commercial, industrial and research and development projects shall be required to connect to public water systems when located within Community Regions and ~~to either a public water system or to an approved private water systems in~~ Rural Centers."***

The direct impact associated with implementing the proposed policy revisions would be to require medium-density residential, high density residential, multifamily residential, commercial, industrial, and research and development to connect to public water systems in Rural Center versus private water systems (such as water wells or storage tanks). An indirect impact associated with such a requirement could be limiting the feasibility of development within Rural Centers if a public water system is not currently in place. Constructing or extending such a system would likely be cost prohibitive and not financially practicable for a single applicant to construct as a requisite for future development. Further, the cost of constructing or extending such a system to a Rural Center from a County or water purveyor perspective would likely be cost prohibitive as well.

Further indirect impacts could include limiting development potential in Rural Centers that do not have a public water system for housing affordable to moderate income households and below. This impact could reduce available project sites to meet State housing requirements as identified in the General Plan's Housing Element.

Long term impacts of implementing such language could result in a potential loss of revenue-generating land uses affecting jobs, property tax and sales tax revenues due to development constraints within

Rural Centers. For example, new employment-generating projects (e.g. new retail, office, restaurant uses, etc.) in Rural Centers may be constrained or even curtailed based on the availability of public water systems.

"Policy 5.2.1.4 - Rezoning, discretionary development and subdivision approvals ~~in Community Regions or other areas~~ dependent on public water supply shall be subject to the availability of a permanent and reliable water supply necessary for all uses including fire prevention."

The direct impact of implementing the proposed initiative language is to expand the approval process to include "discretionary development" that would be subject to availability of a permanent and reliable water supply, along with removing Community Regions and "other areas" as geographic constraints for such a requirement. Additionally fire prevention water needs would be added as a component of water analysis for projects that require rezoning, discretionary development and/or subdivision approvals.

Current Policy 5.2.1.2 requires "An adequate quantity and quality of water for all uses, including fire protection, shall be provided for with discretionary development." Therefore, the proposed language would simply restate what is currently included in a separate water policy for discretionary development. An indirect impact associated with the proposed language could be additional applicant costs associated with analysis work to determine water supply "necessary for all uses including fire protection" associated with projects subject to rezoning and/or subdivision.

"Policy 5.2.1.14 - The County, in cooperation with the Water Agency and water purveyors, shall collect and make available information on water supply and demand, which includes recognizing the water needs of existing unimproved parcels."

The County has met the intent of Policy 5.2.1.14 in working with the Water Agency and purveyors in collecting and making available information on water supply and demand. The direct impact associated with the proposed language is to include "recognizing the water needs of existing unimproved parcels" regarding water supply and demand. Both the aforementioned December 2007 and West Slope update in 2014 Water Management Plans include water demand projections for allowable land uses identified in the General Plan. These plans also include projected increases in dwelling units and employee/commercial projections at "build out". It is unclear if additional requirements would need to be met, however making a determination on what is meant by "recognizing" could provide further clarification on such requirements. For example, if the intent of such language is a full analysis on each "existing unimproved parcels" on a parcel by parcel basis, this process would likely require significant staff time and resources to complete.

c. And the following water supply policies shall be deleted, 5.2.1.6 and 5.2.1.7.

~~Policy 5.2.1.6 - Priority shall be given to discretionary developments that are infill or where there is an efficient expansion of the water supply delivery system.~~

~~Policy 5.2.1.7 - In times of declared water shortages, the Board of Supervisors shall give priority within the affected water districts to approving affordable housing and non-residential development projects.~~

An indirect impact associated with deleting Policies 5.2.1.6 and 5.2.1.7 could be to prevent the County from implementing State-mandated water supply prioritization for affordable housing. The impacts of doing so could prove to be inconsistent with both the General Plan Housing Element and State law (Government Code 65589.7).

C. <u>Cultural and Historic Resources Related Changes</u>

5.a. ***"Cultural and Historical Resource Policies 2.4.1.2(A) and (E), 7.5.1.1. 7.5.1.5, 7.5.2.1, 7.5.2.2 (A), and 7.5.2.6 (as modified) shall be implemented prior to any discretionary projects or demolition of buildings over 100 years old shall be allowed."***

The direct impact associated with the implementing the proposed language for Policy 2.4.1.2 would be requiring the County to create community design guidelines specific to each community in concert with community members to identify qualities and features unique to the community. Specifically the language includes implementing subsections of this policy relating to (A) historic preservation and (E) compatible architectural design. Further direct impacts include requiring the County to establish a Cultural Resources Ordinance to provide a broad regulatory framework for the mitigation of impacts on cultural resources. Subsequently a Cultural Resources Preservation Commission would need to be formed that includes a number of duties outlined within Policy 7.5.1.5. Further, implementing Policy 7.5.2.1 would require creation of Historic Design Control Districts (HDCD) for areas, places, sites, structures, or uses which have specific historical significance. Policy 7.5.2.2 (A) continues with requiring the County to develop design guidelines for each HDCD that are compatible with National Housing Preservation Act Historic District Standards. The aforementioned requirements under the proposed initiative language, along with the revised Policy 7.5.2.6 as identified below, would need to be implemented prior to the County approving discretionary projects or demolition of buildings over 100 years old.

Indirect impacts associated with the proposed language partially revolve around impacts previously outlined regarding "discretionary projects". Further impacts could be identified as the initiative language is not geographically specific, so a broad interpretation would include eliminating approval for all discretionary projects prior to the County implementing the identified policies. By preventing such approvals, the County could see long term impacts resulting in a potential loss of revenue-generating land uses affecting jobs, property tax and sales tax revenues.

Creating and implementing a Cultural Resources Ordinance, community design guidelines (currently being addressed through a Community Planning Guidelines manual) and Historic Design Control Districts would be both staff and resource intensive. This process would likely require reprioritizing the implementation of General Plan policies, require environmental review under CEQA, and entail holding numerous public outreach meetings and Board/Planning Commission workshops to address a multitude of potential concerns.

b. ***"Policy 7.5.2.6 shall be modified as follows: The County, in cooperation with the State, shall identify the viewshed of Coloma State Park and establish guidelines to be used for development within the viewshed. ~~In addition, the County shall continue to support the relocation of State Route 49 to bypass the Park in order to protect its visual and physical integrity.~~"***

The direct impact associated with implementing the proposed initiative language would be to eliminate language indicating County support for the relocation of State Route 49 to bypass Coloma State Park. A Board decision would likely be needed to identify the type of support that could or would be sought if the initiative is adopted by the Board or approved by voters.

D. <u>Agriculture and Forestry Related Changes</u>

3.a. ***"The General Plan Policy Interpretations for Policies 8.1.3.2 and 8.4.1.2 (resolution 079-2007) and criteria for 8.1.3.1 shall be deleted."***

The proposed initiative language would delete Resolution 079-2007 relating to interpreting General Plan Policies 8.1.3.2 and 8.4.1.2 that are intended to implement Objective 8.1.3 "Protection of Agricultural Lands". In June 2007 the Board adopted Resolution 079-2007 to provide criteria and procedures for "administrative relief" from agricultural setbacks to address necessary relief in all circumstances when the setback (up to 200') caused unnecessary hardship to adjacent landowners. This resolution was adopted as the criteria to balance the protection of agricultural lands and the individual property rights on lands adjacent to agriculture. The ongoing Targeted General Plan Amendment-Zoning Ordinance Update (TGPA-ZOU) process would incorporate the interpretation in the resolution directly in to the General Plan and Zoning Ordinance. It is unclear what the proposed initiative language refers to with "…criteria for 8.1.3.1 shall be deleted."

A direct impact associated with rescission of Resolution 079-2007 would be to no longer allow for administrative relief at the staff level; only the Agricultural Commission would be allowed to grant such relief. Since the resolution also defines incompatible uses, criteria for administrative relief, and fees for administrative relief, rescission of the resolution would require the Board to adopt a definition of incompatible uses, criteria for administrative relief, and fees for administrative relief into the Zoning Ordinance.

b. ***"Policies 8.1.3.1 and 8.4.1.2 shall be restored to the original language in the 2004 General Plan"***

General Plan Policies 8.1.3.1 and 8.4.1.2, both relating to setback requirements, have not changed since the General Plan was adopted in 2004. Therefore the proposed initiative language would have no impact on the existing policies.

c. ***"and Policy 8.1.3.2 shall be amended as follows:***

Agriculturally incompatible uses adjacent to agricultural zoned lands shall provide a minimum setback of 200 feet from the boundary of agriculturally zoned lands.

~~Agriculturally incompatible uses adjacent to agriculturally zoned land outside of designated Agricultural Districts shall provide a minimum setback of 200 feet on parcels 10 acres or larger.~~

The implementing ordinance shall contain provisions for Administrative relief, which shall only be given through the Agricultural Commission, to these setbacks, where appropriate, and may impose larger setbacks where needed to protect agricultural resources.

Incompatible uses and fees for administrative relief shall be defined in the zoning ordinance."

The direct impact of the proposed initiative language would be to expand the 200 foot setback requirement to all agriculturally incompatible uses adjacent to agricultural zoned lands, including those on parcels of less than 10 acres and within Agricultural Districts. In impact this practice would likely increase the number of parcels to which the 200 foot agricultural set back would apply. Further, the setback expansion would provide for greater protection for sensitive uses adjacent to agricultural parcels less than 10 acres outside of Agricultural Districts, and for agricultural uses on parcels less than 10 acres from being subject to complaints from adjacent uses.

5) Next Steps

Pursuant to Elections Code section 9116 once the report is presented to the Board of Supervisors the Board shall either adopt the proposed ordinance within 10 days or order the election.

Appendix A

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NOTICE OF INTENTION TO CIRCULATE PETITION

Notice is hereby given by the persons whose names appear hereon of their intention to circulate the petition within the County of El Dorado to restore the purpose of zoning, which is to segregate uses that are incompatible and to implement the policies which will preserve the rural character of the county. The preparation of a ballot title and summary by the County Counsel is hereby requested. A statement of the reasons of the proposed action as contemplated in the petition is as follows:

Initiative to retain El Dorado County's current zoning and rural assets

The Board of Supervisors and Planning Commission have continued to ignore, change, re-interpret or "amend" the parts of the General Plan that were promised to the public as protections. All elements of a General Plan have equal weight under the law. Therefore in order for the 2004 El Dorado County General Plan's purpose, custom, culture and economic stability, statement of vision, assumptions, strategies, concepts, objectives, and implementation measures to be valid the county shall develop a thorough inventory, protection and management program, in order to conserve, protect, and manage the County's abundant natural resources for economic benefits now and for the future consistent with the General Plan.

Initiative Measure to be Submitted Directly to the Voters

[Insert County Counsel's title and summary]

The 2004 El Dorado County General Plan is hereby amended or policies listed shall be implemented, prior to any future discretionary project being allowed, approved or adopted, as follows and shall remain in effect indefinitely unless amended by voter approval: (deletions are shown as ~~strikeouts~~, additions are shown as underlined)

1. Where a Land use designation is inconsistent with current zoning, the Land use designation shall be amended to match existing zoning.

2. Future decisions for land use changes shall be based on the land use compatibility matrix attached.

3. The General Plan Policy Interpretations for Policies 8.1.3.2 and 8.4.1.2 (resolution No. 079-2007) and criteria for 8.1.3.1 shall be deleted. Policies 8.1.3.1 and 8.4.1.2 shall be restored to the original language in the 2004 General Plan and Policy 8.1.3.2 shall be amended as follows:

   Agriculturally incompatible uses adjacent to agricultural zoned lands shall provide a minimum setback of 200 feet from the boundary of agriculturally zoned lands.

   ~~Agriculturally incompatible uses adjacent to agriculturally zoned land outside of designated Agricultural Districts shall provide a minimum setback of 200 feet on parcels 10 acres or larger.~~

   The implementing ordinance shall contain provisions for Administrative relief, which shall only be given through the Agricultural Commission, to these setbacks, where appropriate, and may impose larger setbacks where needed to protect agricultural resources.

   Incompatible uses and fees for administrative relief shall be defined in the zoning ordinance.

4. The Mixed Use Policies 2.1.1.3, 2.1.2.5, 2.2.1.2 and Table 2-2 of Policy 2.2.1.3 shall be restored to the original language in the 2004 El Dorado County General Plan.

5. Cultural and Historical Resource Policies 2.4.1.2 (A) and (E), 7.5.1.1, 7.5.1.4, 7.5.1.5, 7.5.2.1, 7.5.2.2 (A), and 7.5.2.6 (as modified) shall be implemented prior to any new discretionary projects or demolition of buildings over 100 years old shall be allowed. Policy 7.5.2.6 shall be modified as follows: The County, in cooperation with the State, shall identify the viewshed of Coloma State Park and establish guidelines to be used for development within the viewshed. ~~In addition, the County shall continue to support the relocation of State Route 49 to bypass the Park in order to protect its visual and physical integrity.~~

6. In order to ensure an ongoing balance between water supply and demand in El Dorado County the following water policies shall be implemented prior to any new discretionary projects shall be allowed: 5.2.1.1, 5.2.1.14 (as modified), 5.2.3.3 and 5.2.3.6.

   The following water supply policies shall be modified as follows:
   Policy 5.2.1.3 - All medium-density residential, high-density residential, multifamily residential, commercial, industrial and research and development projects shall be required to connect to public water systems when located within Community Regions and ~~to either a public water system or to an approved private water systems in~~ Rural Centers.
   Policy 5.2.1.4 - Rezoning, discretionary development and subdivision approvals ~~in Community Regions or other areas~~ dependent on public water supply shall be subject to the availability of a permanent and reliable water supply necessary for all uses including fire prevention.
   Policy 5.2.1.14 - The County, in cooperation with the Water Agency and water purveyors, shall collect and make available information on water supply and demand, which includes recognizing the water needs of existing unimproved parcels.

   And the following water supply policies shall be deleted, 5.2.1.6 and 5.2.1.7.

7. Policy 2.6.1.1, to establish scenic corridor and vista point regulations based on local community participation, shall be implemented prior to any future discretionary projects being allowed in the scenic vistas or resource points listed in Table 5.3-1 and Exhibit 5.3-1 of the El Dorado County General Plan Draft Environmental Impact Report.

IMPLEMENTATION:

- This measure is not applicable within the jurisdictions of the Tahoe Regional Planning Agency and the City of Placerville.
- This measure shall take effect upon certification of election results.
- If any provision of this measure is for any reason held to be invalid, the remaining provisions shall remain in full force and effect.

Proponents

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Laurel Stroud
Residents Involved in Positive Planning (RIPP)
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County of El Dorado Land Use Compatibility Matrix

Future Land Use Compatibility Matrix	Multi-Family Residential	High Density Residential	Medium Density Residential	Low-Density Residential	Rural Residential	Agricultural Lands	Natural Resource	Commercial	Research & Development	Industrial	Open Space	Public Facilities	Tourist Recreational
Multi-Family Residential	✓												
High Density Residential	▽	✓											
Medium Density Residential	⊘	▽	✓										
Low-Density Residential	⊘	⊘	▽	✓									
Rural Residential	⊘	⊘	▽	✓	✓								
Agricultural Lands	⊘	⊘	▽	▽	✓	✓							
Natural Resource	⊘	⊘	⊘	▽	▽	✓	✓						
Commercial	▽	▽	⊘	⊘	▽	▽	▽	✓					
Research & Development	⊘	⊘	⊘	⊘	⊘	▽	▽	✓	✓				
Industrial	▽	▽	⊘	⊘	⊘	▽	▽	▽	▽	✓			
Open Space	▽	▽	▽	✓	✓	✓	✓	▽	▽	▽	✓		
Public Facilities	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	▽	✓	
Tourist Recreational	⊘	⊘	⊘	▽	✓	▽	▽	✓	▽	▽	✓	▽	✓

Legend
✓ Compatible
▽ Questionable (Compatible only if impacts can be properly mitigated)
⊘ Incompatible

Compatible = both uses are compatible

Questionable = only one use is compatible but can be allowed if properly mitigated

For changes in Land use which creates questionable use, mitigation in Rural Residential, Agricultural Lands, Natural Resources and Tourist Recreational shall be determined by the Agricultural Commission

Incompatible = change in land use is not allowed, neither use is compatible with each other

California Elections Code §9111

§9111. Report from county agencies on effect of proposed initiative measure

(a) During the circulation of the petition or before taking either action described in subdivisions (a) and (b) of Section 9116, or Section 9118, the board of supervisors may refer the proposed initiative measure to any county agency or agencies for a report on any or all of the following:

(1) Its fiscal impact.

(2) Its effect on the internal consistency of the county's general and specific plans, including the housing element, the consistency between planning and zoning, and the limitations on county actions under Section 65008 of the Government Code and Chapters 4.2 (commencing with Section 65913) and 4.3 (commencing with Section 65915) of Division 1 of Title 7 of the Government Code.

(3) Its effect on the use of land, the impact on the availability and location of housing, and the ability of the county to meet its regional housing needs.

(4) Its impact on funding for infrastructure of all types, including, but not limited to, transportation, schools, parks, and open space. The report may also discuss whether the measure would be likely to result in increased infrastructure costs or savings, including the costs of infrastructure maintenance, to current residents and businesses.

(5) Its impact on the community's ability to attract and retain business and employment.

(6) Its impact on the uses of vacant parcels of land.

(7) Its impact on agricultural lands, open space, traffic congestion, existing business districts, and developed areas designated for revitalization.

(8) Any other matters the board of supervisors request to be in the report.

(b) The report shall be presented to the board of supervisors within the time prescribed by the board of supervisors, but no later than 30 days after the county elections official certifies to the board of supervisors the sufficiency of the petition.

Source: http://www.leginfo.ca.gov/