

Thomas P. Infusino, Esq.
P.O. Box 792
Pine Grove, CA 95665
(209) 295-8866
tomi@volcano.net

4/24/07

Calaveras County Board of Supervisors
Calaveras County Planning Commission
891 Mountain Ranch Road
San Andreas, CA 95249

RE: Joint BOS/PC Meeting on General Plan Process, 4/24/07 BOS Agenda Item # 15.

Dear Supervisors & Commissioners:

I am very pleased to submit these comments on behalf of the Calaveras Planning Coalition (“Coalition”). The Coalition is composed of community groups, organizations, and individuals interested in growth and planning issues in Calaveras County. The Coalition is united in its belief in the need for a comprehensive update to the Calaveras County General Plan. Further, the Coalition believes that citizen participation is the key to a successful update of the General Plan, and necessary to the update of area specific plans throughout the County.

Back in December of 2006, the County’s general plan consultants Mintier and Associates proposed to the Board of Supervisors a General Plan Update Work Program. The first phase of the work program was called “Program Initiation”, and included a “joint Board of Supervisors/Planning Commission Study Session(s).” During this Program Initiation phase, the County would develop a public participation plan, discuss the format and organization of the General Plan Update, identify needed GIS data, and develop a detailed schedule of the General Plan Update process. The Work Program included proposals for a Community Outreach Program, a General Plan Structure and Format, a GIS (Geographic Information System) Requirements Table, and a General Plan Update Schedule. (See Exhibit 1, Mintier & Associates, Calaveras County General Plan Update Work Program, 12/1/06.) The Coalition has a number of suggestions regarding these four proposals.

I) Comments on the Community Outreach Program

First, with regard to the Community Outreach Program, we support the Major Objective to “Involve a broad range of the community and stakeholders throughout the entire Update Process.” (12/1/06 Work Program, p. 4.) We are happy to see that community workshops will be held in five locations Copperopolis, San Andreas,

Murphys, Valley Springs, and West Point. (12/1/06 Work Program, p. 15.) This will be especially helpful to the communities of Copperopolis, San Andreas, Murphys, and Valley Springs as they update and streamline their Community Plans.

However, the December Work Program also indicated that the General Plan Update would “update, streamline, and incorporate” Community Plans from Arnold, Avery-Hathaway Pines, and Mokelumne Hill; as well as the Special Plans for Rancho Calaveras, Ebbetts Pass Highway, and the Calaveras County Airport. (12/1/06 Work Program, p. 5.) How does the County intend to involve these communities in the update of their Community Plans, if it does not even intend to hold workshops in these communities? Will residents be directed to gather at other specific workshop locations to provide input on their Community Plan updates?

Similarly, the December Work Program indicated that the development of Community Plans for West Point, Wilseyville, and Glencoe/Railroad Flat will be outside the scope of the General Plan Work Program. (12/1/06 Work Program, p. 5.) As you well know, this is contrary to the resolution passed by the Board on 10/16/06 directing staff to “process these plans concurrently with the Copperopolis and Valley Springs Community Plans and the associated environmental review.” (See Exhibit 2, BOS Final Minutes for 10/16/06, p. 7.) Since the inception of the General Plan Update process in January of 2006, Coalition members have repeatedly encouraged the County to leave no community behind. We again ask you to include the development of these Community Plans in the General Plan Update process.

Last year, the Coalition sent the County copies of its proposed Public Participation Plan. (See Exhibit 3, CPC Public Participation Plan.) We appreciate that some of our suggestions were incorporated into Mintier and Associate’s proposed Community Outreach Program in December 2006, and we are disappointed that some of our suggestions were merely listed as “Other Outreach Programs” for your consideration. Our plan included holding workshops in each community updating or adopting community specific language for incorporation into the General Plan Update. Our plan included the use of a public opinion survey to gather public input. Our plan emphasized the need to track community input throughout the process, and to show the people at the end of the process how their ideas were incorporated into the updated General Plan. Our plan indicated that public hearings (like this one today) should be broadly publicized well in advance, with relevant written materials available on the internet at least a week in advance. (Given the short notice and lack of availability of relevant documents prior to this hearing, it appears that the County has not yet adopted this principle.) Our plan included the use of the internet and booths at public events to distribute information. Our plan included presentations to existing community service groups. Before you decide on your Community Outreach Program, we ask you to consider incorporating these and the other important components we proposed last November.

In conclusion, I would like to note that the Coalition is committed to facilitating a General Plan Update process that includes broad public participation and that leaves no community behind. To that end, we will do our best to fill the gaps that the County may

leave in its public participation and general plan update processes. If the County cannot find the staff or the time to facilitate a meeting in a community that wants to update its community plan, Coalition volunteers will be available to facilitate the meeting. If the County does not provide information on its website, the Coalition will try to provide web access to the information. If the County cannot be at public events or community service group meetings to distribute important information, the Coalition will do so.

II) Comments on the General Plan Structure and Format

The December 2006 Work Program makes suggestions regarding the General Plan Structure and Format. (12/1/06 Work Program, pp. 17-19.)

First, it discusses options for organizing and consolidating topical elements. The Coalition would rather not engage in a debate regarding the need for optional elements, or the need to consolidate mandatory elements. Instead, the Coalition feels that the plan should include both the elements required by state law, and the chapters that provide detail on those issues critical to the future of Calaveras County. Toward that end, the Coalition has proposed a conceptual outline for the General Plan Update. (See Exhibit 4, General Plan Topics.) The outline includes the seven mandatory elements, along with topical chapters that will be included in those elements. The outline also includes some items that should be in the implementation plan for the General Plan Update. We hope that other people in the County will review our proposal and make improvements. There may be other important chapters that should be included in the General Plan Update.

As Coalition member have stated since January of 2006, we encourage the County to improve upon what other jurisdictions have done, both to solve current problems and to grasp future opportunities. This “chapters” approach was taken Nevada County. (See Exhibit 5, Page 11 of Nevada County General Plan.) For the most part, the substantive provisions of these topical chapters have been adopted in many jurisdictions in California, so Calaveras County will have a lot of good policy language to adapt to its particular needs.

Second, the Work Program discusses the “Structure of Policy Content.” We note that its sets limits of 10 goals per element, and 10 policies per goal. That means an element could have up to 100 policies. However, the Work Program goes on to limit the number of implementations to 30. The OPR Guidelines state that each policy must have a corresponding implementation measure. (2003 OPR General Plan Guidelines, p. 16.) We hope that the General Plan Update will conform to this OPR direction. However, at this time it is not clear to us how the County intends to implement 100 policies with 30 implementation measures. Perhaps the County intends that the General Plan Update will include individual implementation measures that will implement multiple policies. If that is the case, we hope that the General Plan Update will clearly indicate which implementation measures are implementing which policies.

III) Comments on the General Plan GIS Requirements

The December 2006 Work Program makes suggestions regarding the General Plan Update's GIS requirements. (12/1/06 Work Program, pp. 20 - 23.) Simply put, the December 2006 Work Program identified general plan information that could be presented in maps, and then determined if such maps were a high, medium, or low priority for incorporation into the GIS system. The Coalition is concerned that very important information was given a low priority for incorporation into the GIS system. For example, information regarding transportation right-of-ways, emergency evacuation routes, parking facilities, drainage systems, public utility facilities, schools, community centers, parks, fire stations, law enforcement stations, and hospitals were all considered low priority for incorporation into the GIS system. For future land uses to make the most efficient use of our existing infrastructure, the Coalition feels we need to have this critical information included in the GIS system. To identify areas of the County where additional infrastructure will be needed to service new development, we need this critical information included in the GIS system.

IV) Comments on the General Plan Update Schedule

The December 2006 Work Program makes suggestions regarding the General Plan Update's schedule. (12/1/06 Work Program, pp. 24 - 26.) Back in December, the Board approved the schedule that called for program initiation in to begin in January 2007, and for the General Plan Update to be complete by December of 2008. While we appreciate the Board's desire to promptly complete the General Plan Update, we also feel that the specific planning tasks must follow a proper sequence to be effective. Unfortunately, the schedule the Board adopted in December did not reflect such a proper sequence. For example, the schedule has the County completing the development of General Plan Update Alternatives prior to the County completing the Goals and Policies for the General Plan Update Project Description. That makes no sense. You can't complete an alternative until you have completed the project description. Also, both the Draft Environmental Impact Report and the Fiscal Impact Assessment are being prepared before the General Plan Goals and Policies are complete. You can't evaluate the environmental or the fiscal impacts of a general plan until the goals and policies are complete. Finally, there is no place in the schedule for completing a Social Impact Assessment, to compare the alternatives with regard to their overall impact on community wellness. The Coalition recommends that the County revise the General Plan Update schedule to more accurately reflect the time it will take to complete the necessary tasks in the proper order. It is not prudent to create unreasonable expectations that could later unjustly tarnish the actual diligence of your staff and consultants. Nor is not wise to mislead the public regarding the amount of patience they will need to extend during this General Plan Update process.

V) Comments on Processing Projects Pending Completion of the General Plan Update.

One final issue of concern to the Coalition is the processing of development projects pending completion of the General Plan Update. We have four suggestions that will help the County and project proponents work together to lawfully approve projects, without interfering with the timely adoption of the General Plan Update.

A) Land use law allows the approval of only those projects that, by themselves or in combination with other pending projects, do not foreclose future general plan options. (Committee for Responsible Planning v. City of Indian Wells (1989) 209 Cal.App.3d 1005.) Similarly, the State discourages development approvals that may interfere with implementation of the future general plan, if later found to be inconsistent with it. (Government Code, Section 65360.) Thus, every effort should be made to avoid project that necessitate major alterations to existing communities such as re-aligning highways, moving streams, expanding community boundaries, adding excess waste water treatment capacity, extending infrastructure to open space areas, etc.. To help the County meet this obligation, the project proponent should provide such evidence and argument sufficient for the County to make a valid finding of fact, supported by substantial evidence in the record, that the project (by itself or in combination with others) by its size, location, or other characteristics, would not foreclose future general plan options in the County or in the immediate community.

B) Land use law allows approvals of only those projects that are consistent with the existing general plan, and that do not have a nexus to the legally substandard aspects of the general plan. (Neighborhood Action Group v. County of Calaveras (1984) 156 Cal.App.3d 1176; Garat v. City of Riverside (1991) 2 Cal.App.4th 259.) To facilitate such approvals, the County should provide a list of the general plan inadequacies identified in the Mintier Report. (See Exhibit 6, General Plan Deficiencies.) The Project proponent should provide such evidence and argument sufficient for the County to make a valid finding of fact, supported by substantial evidence in the record, that there is no nexus between the effects of the project and the flaws in the general plan.

C) The State encourages local governments to ensure that project approvals will be consistent with the future general plan. (Government Code, Section 65361.) To help the County meet this goal, after the completion of the draft general plan update (and after the completion of the alternatives) the project proponent should provide such evidence and argument sufficient for the County to make a valid finding of fact, supported by substantial evidence in the record, that the project approval is consistent with the draft general plan update and its alternatives.

D) The State encourages local governments to allocate staff burdens so that the review of specific projects does not interfere with the prompt completion of a general plan. (Government Code, Section 65361.) We look forward to a proposal from the

Planning Department to allocate a limited number of specific staff to continue processing specific development proposals during the General Plan Update process, and to allocate other staff to focus on what must be the County's first priority: the completion of the General Plan Update.

The Calaveras Planning Coalition looks forward to participating in the next steps of the General Plan Update process.

Sincerely,

Thomas P. Infusino