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***Protecting our rural environment by promoting citizen participation
in sustainable land use planning since 2006***

1/25/21

**RE: General Plan Implementation Work Program and Priorities – On Your 1/26/21
Agenda**

Dear Board of Supervisors:

Thank you for the opportunity to comment on the implementation of the 2019 General Plan Update (GPU).

As you know, the CPC is a group of community organizations and individuals who want a healthy and sustainable future for Calaveras County. We believe that public participation is critical to a successful planning process. United behind eleven land use and development principles, we seek to balance the conservation of local agricultural, natural and historic resources, with the need to provide jobs, housing, safety, and services.

In summary, we encourage the County to complete implementation of the priority measures selected by the Board of Supervisors last year. We encourage the County to substantially increase its efforts to secure funding from outside agencies to assist with these implementation efforts. We encourage the County to complete a long-term work program paced to promptly implement the 2019 General Plan Update.

Below we provide more detailed comments.

I. 2020 General Plan Work Program and 2021 Priorities.

A) The County completed some implementation tasks in 2020.

On January 21, 2020 the Board of Supervisors identified 12 priority items for implementation, but did not provide a timeline for completing each or all of the 12 tasks. The CPC supported many of the priority items. (See Attachment 5.) Now, the Board of Supervisors is preparing for its second annual implementation priority hearing.

As pointed out in your current staff report, some progress was made on the implementation priorities in 2020 despite the inconveniences associated with the COVID-19 pandemic. The County approved a Valley Springs Community Plan. The County hired a consulting firm to complete the update of the Zoning Code. While this task may take some time, it could complete many of the general plan implementation measures. The Planning Department and the County's GIS staff completed a draft Zoning Map to conform to the parts of the Land Use Element of the 2019 General Plan Update. However, this draft map uses the outdated existing zoning categories. As a result, it does not effectively implement key aspects of the 2019 General Plan Update, nor does it correct general plan flaws regarding land conservation. Thus a more refined effort is likely following completion of the zoning ordinance update.

B) The County made little progress and even backslid on other efforts to implement the 2019 General Plan Update.

On the other hand, some priority implementation tasks remain incomplete. For example, consultants have yet to be hired to update the RIM and benefit basin fees. Drafting of the oak woodland mitigation program has not begun. The County continues to be unable to provide accurate Williamson Act and conservation easement data to the State's Farmland Mapping Project. Drafting of the mitigation program for the conversion of resource production land has not begun.

Finally, the County approved a project (with another 1,000 units of housing) that is not consistent with the 2019 General Plan Update, but merely implements the long obsolete 1986 General Plan. It approved this project in Copperopolis, where the County has continued to fail to adopt a community plan throughout the first two decades of the 21st century. This was a huge step backward.

C) Please adopt a flexible implementation schedule that takes advantage of available funding opportunities.

Attached we provide a flexible implementation schedule for the County to consider. (Attachment 6.) This schedule sets a minimum pace for implementation, but provides great flexibility with regard to which items are a priority. Those priorities can be changed by the Board of Supervisors during its annual implementation priority setting meeting.

In Attachment 7 we have identified funding opportunities that may assist the County in some general plan implementation efforts. Particularly noteworthy are the many funding opportunities in the California Climate Investments Program for agricultural land conservation easements, clean vehicle fleets, as well as fire prevention and preparedness. We hope that County's upcoming Greenhouse Gas Reduction Plan will seek to take advantage of these funding opportunities. There are certainly other funding opportunities we have yet to locate. The Board may wish to change the order of the implementation measures to take advantage of these current funding opportunities.

Please adopt some version of an implementation plan and participate in the available funding programs so that the people of Calaveras County can reap the traffic safety, water security,

emergency response, and resource conservation benefits that the County's general plan claims it intends to provide. We at the CPC believe that the people of Calaveras County are worthy of these benefits. We at the CPC believe that the hard earned State and Federal taxes of the people of Calaveras County allocated to these State and Federal programs should come back to Calaveras County to meet serious local needs.

II. Background

A) The County must provide clear guidance so project proposals can conform to the 2019 General Plan Update.

General Plan implementation is so important that the General Plan Guidelines produced by the Governor's Office of Planning and Research include an entire chapter on implementation. Implementation is critical because all discretionary approvals by the County of new land use and infrastructure projects must be consistent with the General Plan Update. To be consistent, a project must be in harmony with the 2019 General Plan Update. To be in harmony with the 2019 General Plan, a project must advance the policies in the general plan without impeding their implementation. A project approval is invalid if it conflicts with a fundamental, specific, and mandatory policy or implementation measure of the 2019 General Plan Update. (See End Note 1.) A project approval is invalid if it has a nexus to a legal inadequacy of the 2019 General Plan. (See End Note 2.)

Therefore, to promote economic development and the other societal goals identified in the 2019 General Plan Update, it is essential for the County to give clear guidance to all on just how to conform their housing, commercial, industrial, infrastructure, and non-profit endeavors to conform to the 2019 General Plan Update. As one Supervisor put it, people need a "clear path" toward valid project approval.

B) The 2019 General Plan Update deferred providing clear guidance.

This prompt guidance is especially critical in Calaveras County, because the general plan shied away from providing such clear guidance, and instead routinely deferred identifying the key information needed for project compliance with the plan. The completion of over 120 implementation measures was deferred.

49 such implementation measures call for identifying development requirements on a project-by-project basis, at the time of project review by the Planning Department, the Planning Commission, and the Board of Supervisors. (Attachment 1-List of Project Specific Evaluations.). From A to Z these studies range from agricultural land impacts, bat roosting impacts, community plan review, greenhouse gas emissions, invasive species control, level of service thresholds, maintenance and improvement coordination for roads, oak woodlands, preservation of historic resources, public water and sewer availability, riparian corridors, scenic highway protections, undergrounding utilities, to upland habitats and wildlife road crossings. They deal with specific and fundamental general plan issues including circulation, conservation, and public facilities. Thus, to conform to the 2019 GPU, the applicant for a discretionary project

must first complete the relevant analyses. (See End Note 3) The remaining implementation measures defer identifying practices, procedures, or standards **indefinitely**. They have no priority or deadline for implementation.

Furthermore, some Supervisors recognized that while the 2019 General Plan Update made progress, it also left much room for improvement. Some Supervisors indicated a willingness to make additional progress by correcting flaws in the 2019 General Plan Update.

C) Slow general plan implementation places a barrier in front of both development and conservation.

The County's inaction or slow action in general plan implementation and correction places a barrier in front of those in the private, public, and non-profit sectors who seek to collaborate with the County to implement the plan in good faith. The County's inaction or slow action retards the opportunities for the exercise of private property rights, and for the advancement other County interests in traffic safety, water security, emergency response, and resource conservation.

D) Calaveras County has not adopted a general plan implementation plan.

To facilitate general plan update implementation, in some places the general plan updates were accompanied by corresponding implementation plans that identified the priority of implementation measures and the pace for their adoption. (See Attachments 2 and 3) The CPC repeatedly encouraged the County to do the same. This is because so many of the implementation measures deferred in the 2019 GPU were left over from those not implemented under the 1996 general plan. We did not want to see critical implementation measures that affect people's daily lives deferred for another 20 or more years.

Unlike those nearby jurisdictions, Calaveras County adopted the 2019 General Plan Update **without** a corresponding implementation plan. Instead, the priority of implementation was deferred until annual meetings of the Board of Supervisors. One reason stated for this was that the County wished to have the implementation flexibility to take advantage of funding opportunities as they arose at the local, regional, state and federal levels. (Of course, nothing about an implementation plan is so inflexible as to prevent the County from taking advantage of such opportunities.)

III. Progress depends on promptly completing the Zoning Ordinance update, the County Code update, and other 2019 GPU Implementation Programs.

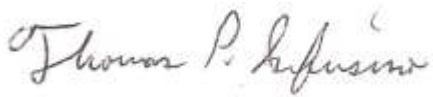
It will be far easier for all parties concerned when the Zoning Ordinance, the County Code, and other 2019 GPU implementation programs are completed and properly incorporated into the development application and review process. At that point, developers will not have to guess how to make their projects conform to the 2019 GPU, as the instructions for doing so will be codified or otherwise documented. Projects will be processed faster, because so many of the projects will automatically include the improvements to meet codified standards. Community members will not have to advocate for as many of their interests on each project, because more standards will be in place and uniformly applied to projects. Planning Commissioners and Supervisors will have fewer controversial issues to address regarding projects.

We at the CPC again request that the County seek and secure available state and federal funding to assist in these general plan implementation tasks, and to hire sufficient long-range planning staff to promptly implement the 2019 General Plan Update. (For a prior request see Attachment 4.)

We again request that, if the County continues to use consultants for this work, then please make the draft work of these consultants available for public review, so that we can be assured that they are working for the best interests of all the taxpayers of Calaveras County, rather than merely for the interests of their other private sector clients. (See Attachment 5.)

We realize that some of the Supervisors and some of their constituents believe that small and passive local government best serves economic development and private property right interests. However, this is an instance when prompt government action serves both public and private interests

Sincerely,



cc. Planning Commissioners, Planning Director

End Notes

(1) (Government Code, sec.66473.5, *Families Unafraid To Uphold Rural El Dorado County v. County of El Dorado* (1998) 64 Cal.App.4th 1332 [Court orders County to rescind project approval not consistent with mandatory, fundamental, and specific policies in the general plan], *Napa Citizens for Honest Government v. Napa County Board of Supervisors* (2001) 91 Cal.App.4th 342 [Court ruled that a specific plan was invalid because of inconsistency with general plan's traffic goals and policies], *Endangered Habitats League, Inc. v. County of Orange* (2005) 131 Cal.App.4th 777 [Court overturned project approvals due to their inconsistency with mandatory requirements of a general plan and specific plan].)

(2) See *Neighborhood Action Group v. County of Calaveras* (1984) 156 Cal.App.3d 1176; *Garat v. City of Riverside* (1991) 2 Cal.App.4th 259.

(3) While the CPC repeatedly asked for clearer guidance in the 2019 General Plan Update to avoid the late-discovered burdens of these analyses and mitigation measures, the Planning Commission and the Board of Supervisors at the time refused to consider our suggestions.

Attachments

Attachment 1 – List of Project Specific Evaluations

Attachment 2 - GPU Implementation Plan excerpts from Sacramento.

Attachment 3 – GPU Implementation Plan from Amador County.

Attachment 4 – GPU Needs Implementation Staff

Attachment 5 – CPC Press Release re GPU implementation hearing of 1/21/20.

Attachment 6 - Flexible plan for 2019 General Plan Implementation

Attachment 7 – Funding Programs for Implementing the General Plan Update.