

To: The Calaveras County Planning Commission  
From: Muriel Zeller, 2640 Stagecoach Drive, Valley Springs, CA 95252  
Regarding: Discussion of Conservation Easements and the Zoning Code Update at the April 10, 2024 Planning Commission Meeting  
Date: May 23, 2024

*Via Email*

Honorable Commissioners,

Thank you for discussing the relevance of conservation easements to the draft Zoning Code update based upon the comment letters from Tom Infusino and me. Tom was able to join the April 10 meeting via Zoom, and I was able to later watch that portion of the meeting that concerned itself with conservation easements. Based on the excerpt I watched, I'm sorry to say that you seem to have missed the point of creating a CE zone as part of the Zoning Code update.

**1) A Conservation Easement overlay would facilitate implementation of the County's open-space plan and give the Board of Supervisors more control over the placement of conservation easements.**

The intent of creating a CE zone or CE overlay is to facilitate the implementation of the county's open-space plan and the plan's mandatory update in less than two years (see Government Code Section 65565.5 (a) below). As I wrote in my April 8 comment letter, "Such an easement overlay would also help to prioritize land for conservation as the state legislature wants to assure that cities and counties recognize that open-space land is a limited and valuable resource which must be conserved wherever possible (Government Code Section 65562 (a))."

The state wants the county to recognize that open space is "limited and valuable" in the county's mandatory open-space plan and identify the open space which is a priority for conservation in the open-space plan. Identifying existing conservation easements would certainly facilitate that process, because land adjacent to protected land is often prioritized for conservation to create larger blocks of connected habitat, migration corridors, protected watersheds, agricultural preserves, etc. The California Conservation Easement Database estimates there are 25,500 acres under conservation easements in Calaveras County. Knowing where nearly 30,000 acres of permanently protected land is located would certainly facilitate land use planning for a county that is primarily made up of open space.

In addition, a comprehensive and statutorily compliant open-space plan would actually give planners and the Board of Supervisors more discretion over the placement and creation of perpetual conservation easements. Land that has been identified by the supervisors as a priority for conservation as part of the local open-space plan would be more likely to attract funding sources. Conservation easements are being increasingly funded by state grants which require a letter of support from the local governing body. In short, conservation easements would be a tool in local land use planning.

In order to facilitate mitigation for development that causes a loss of open space, a conservation easement overlay would be practical and could even present opportunities for the stacking of conservation easements. For example, a property with an agricultural conservation easement could potentially have an oak woodland conservation easement “stacked” on top of it.

**2) When updating the Zoning Map, please apply the open space zone and/or the environmental protection overlay to conservation easements.**

Interim Planning Director Mauer expressed in the February 11, 2021 Planning Commission Staff Report (2020-065 Comprehensive Zoning Map Update) when he was the full-time director that conservation easements should be zoned as open space. Specifically, he wrote, “Another general change suggested in the comment letters is that land constrained by a conservation easement be rezoned to reflect these easements. The County currently does not have an open space zone, except for lands under a Williamson Act contract for the specific purpose of protecting open space. Once the open space zone is created, it would be appropriate to change the zoning for such parcels to this new zone, along with amending the general plan to reflect these easements. But since the constraints of the easement apply regardless of the zone it does not seem necessary at this time. Staff would recommend that the exercise be undertaken in the future, and correct the land use map and the zoning for these lands at the same time.” The future is now.

In response to Commissioner Laddish, Director Maurer elaborated on his staff report comments during the February 2021 meeting. He agreed there should be an open space/conservation easement overlay. He mentioned he had recently tried to get the board of supervisors to make open-space planning a priority, but “the board didn’t jump on it.” Specifically, in January 2021, he had suggested to the supervisors “that before creating the [open space] zone we need to look at an overall plan, identify what we have out there... You might consider adding open space planning to the programs that

the department should be working on.” Of course, they did not, as he said, “jump on it.”

If you defer adding conservation easements to the open space zone, doing a conservation easement overlay or otherwise accounting for conservation easements on the zoning map until the open-space plan update in 2026, then it will just cost the taxpayers more money and create more work for staff, which seemed to be a major concern at the April 10, 2024, meeting. All conservation easements in California are officially filed with the relevant County Recorder’s office and are public records data, so the information is readily available to staff.

**3) Please begin the process for updating the open space plan by January 1, 2026.**

*Government Code Section 65565.5 (a): Every city and county shall review and update its local open-space plan by January 1, 2026. **The update shall include plans and an action program, as required by Section 65564, that address all of the following:***

*(1) Access to open space for all residents in a manner that considers social, economic, and racial equity, correlated with the environmental justice element or environmental justice policies in the general plan, as applicable.*

*(2) Climate resilience and other co-benefits of open space, correlated with the safety element.*

*(3) Rewilding opportunities, correlated with the land use element.*

*(b) For purposes of this section, “rewilding opportunities” may include, but are not limited to, the following:*

*(1) Opportunities to preserve, enhance, and expand an integrated network of open space to support beneficial uses, such as habitat, recreation, natural resources, historic and tribal resources, water management, and aesthetics.*

*(2) Establishing a natural communities conservation plan to provide for coordinated mitigation of the impacts of new development.*

According to Government Code Section 65560 (g), “Local open-space plan” means the open-space element of a county or city general plan adopted by the board or council, either as the local open-space plan or as the interim local open-space plan adopted pursuant to Section 65563,” and according to Section 65563 (b) the open-space plan shall contain the following: “...a description of the methods by which open-space resources will be inventoried and conservation measures determined.”

The state Civil Code (Section 815.1) has determined that the purpose of a conservation easement “is to retain land predominantly in its natural, scenic,

historical, agricultural, forested, or open-space condition.” Land under a perpetual conservation easement is, without question, an open-space resource. What better way to inventory conservation easements than to simply zone and map them as such?

Since the County is now statutorily required to update the open-space plan please consider using this opportunity to also amend the plan to rectify all its deficiencies. I have remarked on the inadequacy of the County’s open-space plan in previous comments. Please send out the Request for Proposals for the open-space plan update to the best available consultants as soon as possible.

**4) You are not alone when it comes to open space planning.**

You may not realize that your open-space plan should identify, “All public agencies with responsibility for preservation of agricultural land within the jurisdiction, including resource conservation districts established pursuant to Division 9 (commencing with Section 9001) of the Public Resources Code (65565 (a) (1) (H).” So you don’t have to do this alone. There are government agencies, non-profit organizations, and university programs willing to help.

Thank you for your time and consideration, and thank you for your service to the community.

Sincerely,

Muriel Zeller

cc:

Peter Mauer, Calaveras County Interim Planning Director

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Julie Moss-Lewis, Calaveras Deputy County Counsel

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Megan Fiske, Community Action Project Outreach Coordinator

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Chris Wright, Mother Lode Land Trust

Calaveras County Resource Conservation District