

To: The Calaveras County Planning Commission
From: Muriel Zeller, 2640 Stagecoach Drive, Valley Springs, CA 95252
Regarding: Calaveras County Zoning Code Update
Date: April 8, 2024

Via Email

Honorable Commissioners,

Thank you for your tireless work on the draft Zoning Code Update, and thank you for the opportunity to offer a few more comments and observations.

Why isn't there an Overlay Zone or some kind of open space identification for Conservation Easements?

The General Plan considers conservation easements to be conservation and open space land. Under COS 3.6 in the General Plan, "Conservation easements may be acceptable means to mitigate impacts to protect wildlife habitat, wetland areas, and oak woodlands from new development. (IM COS-4D, COS 4F, COS-4H, COS-4I, COS-4K, COS-4L, COS-4N and COS-4O)." COS-4D recognizes them as mitigation for the conversion of oak woodlands, and COS-4I recognizes them as mitigation for the loss of sensitive plant communities. Wildlife habitat, wetland areas, oak woodlands, and sensitive plant habitat are all identified as open space in the General Plan. So why are conservation easements not addressed in any way in the Zoning Code Update? Wouldn't it make sense from a planning perspective to look at a map of the county and know which land would never be available for development?

How are conservation easements going to be identified? There is no map showing conservation easements in the General Plan, and The Technical Background Report seems to have vanished. Plus, its map was outdated when it was done in 2015. Conservation easements must be recorded at the county Recorder's Office, and the Assessor's Office is giving them a property tax break. It's not as if it would be a monumental task to identify them. According to the California Conservation Easement Database, there are nearly 30,000 acres protected by easements in Calaveras County, and the database is usually behind. In any case, that's a lot of land perpetually dedicated to open space uses to simply overlook in the Zoning Code.

Then there is the fact that the county is required by the state to map all conservation easements.¹ In addition, the state has found that a "conservation easement" means any limitation in a deed, will, or other instrument in the form of an easement, restriction, covenant, or condition, which is or has been executed by or on behalf of the owner of the land subject to such easement and is binding upon successive owners of such land, and the purpose of which is to retain land predominantly in its natural, scenic, historical, agricultural, forested, or open-space condition."²

On page 50 of the draft Zoning Code Update it says, "Open Space (OS) Zone. The OS Zone is intended for lands dedicated to open space purposes for managing unique, important, or significant natural and cultural resources, including undeveloped park lands, visually significant open lands, water areas, and wildlife habitat. These areas are typically set aside as permanent open space preserves and may include trails, trail heads, and other facilities for low-impact recreational or agricultural uses." Seems like conservation easements certainly fit the zone requirements. There is no public access requirement listed, and, indeed, agricultural uses would justifiably exclude such access.

A conservation easement overlay on the land use map would also identify the potential for connectivity between existing permanently protected lands including BLM and Forest Service land and coincide with California Department of Fish and Wildlife projects which are trying to identify species-specific connections between blocks of protected lands. 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."³ In addition, land that provides connection between existing protected acreage is often the best choice for mitigation purposes, for example, to mitigate for the loss of oak woodlands. In addition to mitigation, it would allow for the continued strategic protection of open space to sequester carbon and provide other valuable ecosystem services such as habitat and water quality and quantity.

Why would you bother to create a special zone for land protected from development for a mere ten years by the Williamson Act but ignore land that is protected from development forever?

¹ California Government Code Article 10.5 Open Space Lands [65560 - 65570]; Section 65565 (a) (1) (B).

² California Civil Code 815.1.

³ California Government Code Article 10.5 Open Space Lands [65560 - 65570]; Section 65562 (a).

F. Domestic Animals; RR Zones (Pages 133-134)

1. Minimum Lot Size. One acre.

2. Maximum Number. A maximum of one animal equivalent unit is allowed per acre. The animal equivalent unit per animal type is listed below.

a. Cattle, horses, donkeys, mules, burros, and similar livestock: One animal equivalent unit per animal.

There are problems with allowing, for example, five horses on a five-acre parcel with a house that will rely on a septic tank which, in turn, will have a leach field. As the US Department of Agriculture notes, "Grazing large livestock on a septic field can lead to costly damage to your septic system. Livestock, especially horses, will compact the soil in the area, which is usually higher in moisture content than surrounding grasses. The packed ground combined with large animal weights can lead to damaged drain tiles or pipes in the septic field. Additionally, there is an increased risk from pathogens in sewage that could infect the grazing animals." The homeowner has to put in a new leach field and a horse is sick or even dead. Not a happy prospect.

Now let's consider how much space the horses will actually have. The house and yard will take up about one-half acre and the leach field will have to be fenced off so the horses do not compact the dirt and damage the pipes. So by this time you have five horses left to graze what is likely closer to four acres than five unless you put in a tack room, wash rack, round pen, shade structure, and, if you have the money, an arena. So, now you have five horses left to graze maybe three acres, and it won't take long for that three acres to be overgrazed and the soil compacted. Of course, the owner will have to provide supplemental feed like hay and grain, but if you don't know enough not to throw the hay on the ground where grass doesn't grow anymore you could give your horse sand colic which might kill them. Another dead horse.

Finally, let us consider the compatibility of keeping horses in a residential development of one to five acre parcels. Horses, specifically horse manure, generate a tremendous amount of flies and odor. There are ways to combat the flies and odor. You clean up the manure or spread it (if appropriate). You can release fly parasites or use bug lights. The point is you have to be committed to caring for your horse(s) and being a good neighbor.

Five horses on five acres with a house is a lot of horses if they are to be properly cared for and the neighborhood is to live in harmony. Oh, studs should definitely be prohibited in the RR zone, especially if the owner is

inexperienced in their care and handling. Since that is impractical to determine, they should be banned.

Sadly, the size of cattle will generally pose the same problems with the leach field and ground compaction as horses. It will take some time, but, ultimately, the pasture will be overgrazed and compacted until it no longer produces decent grass, which will increase dust. Also, different breeds of cattle pose their own unique problems and risks. Consider the docile Hereford versus the more volatile Brahma. I would not want a Brahma bull living next door to me in a residential subdivision as, in my experience, they do not necessarily respect fences.

I don't know much about pigs or hogs, except that my brother raised a sow as a 4-H project but that was on 17 acres. I can't imagine five of those big sows on a five-acre "ranchette," but therein lays the problem really. A ranchette isn't a ranch. I don't begrudge the folks longing for a rural lifestyle. They should have it, but you can't pack five cows or five horses or five hogs onto five acres of rural residential land with a house, yard, outbuildings, and no irrigated pasture. It's not practical. It should be two maximum, and I only say that because horses and cows are social herd animals, and they shouldn't be alone.

I have no idea about sheep, goats, or rabbits, but everyone knows that peacocks scream like crazy, and we are still talking about the rooster wars of District 2. I would advise the Planning Commission to consult the county Agriculture Commissioner and other experts in animal husbandry.

Subtitle VI: Terms and Definitions

Definitions (Page 230)

Co-housing. Developments containing clusters of small homes generally near services, and services and including at least one common building where residents can meet, eat, gather.

I wasn't familiar with the term "co-housing," and it isn't mentioned in the General Plan or the Technical Background Report, so I looked it up. I read a few articles, and co-housing seems to be either 20 to 40 common wall or free standing single family homes grouped around some open space commonly owned by the members of the homeowners association, membership in which is mandatory. The homeowners association governs the co-housing development by consensus, not just a simple majority, and the emphasis is on community. Everyone contributes.

There is a single "common house" which the AARP website explained is "where meetings, parties and other gatherings take place." The common

house might have “community mailboxes, a kitchen, a great room with dining tables and a fireplace, a playroom, a TV room, workshop, exercise room, two guestrooms, an office, a laundry room and reading nook.” You’re not just buying a house. You’re buying a lifestyle. I refer you to Cohousing California: <https://www.calcoho.org/>. Co-housing may or may not be multi-family housing.

Not one of the articles I read described the homes as “small,” and the price depended on the size and the location just like any home. In TABLE 17.05.020: LAND USE REGULATIONS RESIDENTIAL ZONES (page 28), it appears co-housing is being promoted as housing for which the developer “may qualify for expedited review under AB 2162 (2018) and AB 101.” Co-housing is not specifically designed to provide low-income housing or provide support services. If Calaveras County wants something specific from co-housing then it needs to be spelled out and defined in the zoning code. I apologize if I missed the part where it is.

The General Plan encourages clustered development and directs standards be developed for its application, so why hasn’t the Zoning Code Update created a clustered development zone?

The General Plan has proposed “to maintain open space, conserve and promote effective use of natural resources, and preserve the rural character of the county through encouraging clustering, infill, and designing new development to conserve natural, scenic, and cultural resources (page COS-1).”

To facilitate clustered development the general plan contains the following policies and implementation measures:

- COS 3.1: To protect sensitive biological resources, new development shall use site planning techniques, including buffers and setbacks, and encourage other techniques such as clustering of development (IM COS-4B).
- LU 4.4: Encourage clustering of residential development where appropriate, based on availability of infrastructure and community character, to increase open space and housing affordability, and reduce infrastructure costs (IM LU-2A and LU-2E).
- LU-2E Innovative Techniques: Adopt standards for the application of clustered development or other innovative techniques that may provide development flexibility and minimize development impacts on resource production or other sensitive lands (Implements: Policy LU 1.2 and LU 4.4).

- Promote the use of cluster housing, density transfers, or planned development concepts that preserve open space (page 131).

It is critical that standards for the application of clustered development are codified, because clustering can easily be abused in a rural setting. Cluster development “has been criticized as a tool that promotes sprawl, just a different form of sprawl than conventional development. Such criticism is valid, and it is important to note that this tool best helps to protect open space when used in conjunction with other tools, such as Urban Growth Boundaries (<https://planningtank.com/urbanisation/cluster-development>).” Clustered development or conservation subdivision design is best applied to areas in or adjacent to community centers. Such developments could make good transition zones between the dense development of a community center and the surrounding open landscape.

In addition, many planners “believe that rural cluster housing could conflict with, rather than protect, agricultural uses. This suggests that rural clustering may make more sense as an alternative to large-lot (one to 10 acres) zoning in transitional areas where residential development is already displacing major commercial farming and forestry operations. In these circumstances, rural cluster developments can prevent open lands from being fragmented and can preserve open tracts large enough for wildlife habitat, recreation, and certain kinds of smaller-scale agriculture and forestry that are compatible with residential development. The preservation of these activities amid residential development will enhance the rural character of the area (Rural Cluster Zoning: Survey and Guidelines by Gary Pivo, Robert Small, and Charles R. Wolfe; attached).”

Clustered development is best used as a replacement for traditional subdivisions on land that is already slated for residential or commercial development. Clustered development should not be used to justify residential developments on resource production land away from community centers. As part of the current Calaveras County Zoning Code Update, please support rural clustered development zoning that prevents sprawling development on resource production land outside community planning boundaries.

Sincerely,

Muriel Zeller

Attachments: *Rural Cluster Zoning: Survey and Guidelines* by Gary Pivo, Robert Small, and Charles R. Wolfe

cc:

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