

WILDHORSE GOLF COURSE [DAVIS]

Locals Believe that last year's development proposal will be resubmitted in somewhat altered but for the purposes of the future of the 18-hole championship golf course, in substantially the same form.

When proposed last year it was called the North Covell Creek Project. It was defined in the applicant's proposal as follows:

“North Covell Creek, LLC (the “Applicant”) proposes the development of a new residential neighborhood known as “North Covell Creek” to be located within the City of Davis (“City”) along the City’s northern-most boundary. The Project would convert the northern half of The Wildhorse Golf Club into a residential neighborhood, while retaining the lower portion of the course and transforming it into a comprehensive nine hole golf course with a clubhouse, restaurant and driving range. More specifically, the Project would convert 74.6 acres of the golf course located north of the North Covell Creek (“Creek”) into a new residential neighborhood with approximately 500 to 750 homes of varying sizes and affordability levels (“Project”), while retaining approximately 90 acres located south of the Creek as a 9-hole golf course. Additionally, the Project would retain the existing 200’ wide agricultural buffer along the Project’s north and east boundaries, would enhance the existing Wildhorse Greenbelt trail along Pole Line Road, and would add a pedestrian trail amenity north of the Creek along the Project’s southern boundary. Collectively, this would represent 25 acres of open space and trails that would surround and be integral to the Project, but which are not included in the 74.6-acre total.”

Also from the applicant's proposal was the following language acknowledging the parcel's status as a conservation easement per Section 815 of the California Civil Code:

The Project site is currently subject to a Conservation Easement (“Easement”) that covers the entirety of the Wildhorse Golf Club property (“Easement Area”). The purpose of the easement is to conserve and retain the open space character of the Easement Area, while permitting the operation of a golf course, driving range, and the installation and use of golf-related structures and improvements.

Verbatim from Sec. 815 of the Civil Code describing what conservation easements are and what their intended purpose is under California law:

815. The Legislature finds and declares that the preservation of land in its natural, scenic, agricultural, historical, forested, or open-space condition is among the most important environmental assets of California. The Legislature further finds and declares it to be the public policy and in the public interest of this state to encourage the voluntary conveyance of conservation easements to qualified nonprofit organizations.

815.1. For the purposes of this chapter, "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.

815.2. (a) A conservation easement is an interest in real property voluntarily created and freely transferable in whole or in part for the purposes stated in Section 815.1 by any lawful method for the transfer of interests in real property in this state.

(b) **A conservation easement shall be perpetual in duration.**

(c) A conservation easement shall not be deemed personal in nature and shall constitute an interest in real property notwithstanding the fact that it may be negative in character.

(d) The particular characteristics of a conservation easement shall be those granted or specified in the instrument creating or transferring the easement.

Again, from the applicant's withdrawn 2024 application:

Rationale Offered by Applicant/Developer to "Extinguish" the Conservation Easement

Recognizing the City's longstanding policy to identify and preserve open space for the benefit of the community, the Project will ensure that the City of Davis receives alternative open space to compensate for the removal of the Project site. More specifically, the applicant will either (1) identify an alternative property that the City deems to be equivalent or better and place it under a conservation easement, or (2) will pay into the City's open space fund so that the City may pool the Project-generated funds with its existing funds to obtain a more desirable open space area. The objective is to ensure that the Project results in no net loss of open space.

In addition to replacing 74.6 acres of conservation easement lands elsewhere within the City-identified priority area, the Project improves public access to open space amenities and includes a new habitat restoration and enhancement opportunity within and along North Covell Creek. Under existing conditions, though a conservation easement preserves the open space associated with the golf course, the general public is largely precluded from accessing the space unless paying to play a round of golf. The Project will include a pedestrian trail situated within a 25-foot greenbelt along the northern bank of the Creek. This aspect of the Project aligns with several City policies pertaining to the preservation of open space that serves as habitat, creates a restoration and enhancement opportunity, and provides access to allow people of all ages and backgrounds to enjoy and interact with natural landscapes.

Assertions raised by the Wildhorse Community Residents when the 2024 application later withdrawn was filed:

- The California Legislature provided for conservation easements by enacting Civil Code section 815 et seq., which states that "a conservation easement shall be perpetual in duration and that conservation easements are "binding upon successive owners of such land;"
- The Davis City Council and the electorate (through 1995's Measure R), in approving the Development Agreement for the Wildhorse Project ("Development Agreement"), chose to

protect the open space character of the Wildhorse Golf Club property through a conservation easement;

- The Conservation Easement itself states in its introductory paragraph, that the Conservation Easement was granted “for the purpose of forever conserving the open space character of the subject property;”
- The Application permits “amendments” but does not provide for “extinguishments;” and
- The City of Davis is the owner of the easement and as such, obligated to enforce it.

Implications

There are legal issues pertaining to conservation easements, state housing elements, standing, and extant case law associated with the envisaged project, the housing development approved by the voters in 1995, the local homeowner beneficiaries of the conservation easement, and the greater Davis beneficiaries of both the extant easement and the “benefits” offered by the Project. How they play out, or perhaps not play out to the degree to which those with legal standing elect to refrain from engagement, is a scenario that the California golf community needs to pay great heed to, given the fact that there are multiple golf courses that sit atop conservation easements in the state – that and the fact that so many of the pressures, arguments, and justifications for closing a viable 18-hole regulation golf course in favor of a combination of housing, a 9-hole course likely to financially flounder, and green space amenable to enjoyment by 100% as opposed to 10% of the population are the same pressures, arguments, and justifications that characterize every challenge to golf’s encumbrance of the acreage necessary to offer its recreational amenity. It’s always the land!