

Court decision could derail county General Plan update

The Valley Springs News / July 1, 2020

A recent court decision against San Diego County adds further support to the Calaveras Planning Coalition's 145-page legal case against the 2019 Calaveras County general plan.

"We are pleased that the courts continue to protect the health, safety, and well-being of citizens by ensuring that local governments follow the law," said Community Action Project Co-Chair and founding Coalition member Joyce Techel.

In *Golden Door Properties, LLC v. County of San Diego*, the Fourth District Court of Appeal concluded that San Diego County's 2018 Climate Action Plan made three of the same legal mistakes that the Planning Coalition alleges Calaveras County made in adopting the 2019 General Plan Update., according to the Calaveras Planning Coalition. Namely, the California Environmental Quality Act (CEQA) is violated when measures to mitigate for environmental impacts are not enforceable, when environmental impact mitigation is deferred without clear performance standards, and when the range of policy alternatives evaluated is too narrow.

On Dec. 9, 2019, the Calaveras Planning Coalition filed suit against the Board of Supervisor's November 2019 approval of the GPU, which was 13 long years in the making.

"I think a lot of people don't realize that the California Environmental Quality Act is enforced through litigation or the threat of litigation. So, the Planning Coalition had no choice but to sue the county to enforce the law," said long-time CPC member Muriel Zeller. "This isn't something we wanted to do. We felt we were obligated to do it."

The CPC is a federation of regional and local organizations, community groups, and concerned individuals who promote public participation in land use and resource planning to ensure a healthy human, natural, and economic environment now and in the future. The CPC is part of the Community Action Project whose mission is to protect and improve the natural and built environments in Calaveras County by empowering people to claim their rights and participate in local government.

Inspired by a recent court decision, CPC participant Marti Crane stated, "For years it seemed as if we were pulling the planning wagon uphill – with no wheels. But little by little others, including the courts, are stepping up to help."

CPC member Sue Holper agreed that an inspirational court case "nourishes our ability to persist."

In regard to violations of CEQA, the CPC complaint alleged that while Calaveras County made many promises to reduce the GPU's two dozen significant environmental impacts including increases in wildfire risk, traffic congestion, and noise, those promises were not enforceable. In its decision on *Golden Door Properties*, the court ruled that San Diego County's mitigation measures were unlawful, because they were not enforceable.

The CPC also alleged that Calaveras County's promises to reduce impacts in the future did not include specified impacts reduction targets for the county to achieve by a specified time. Thus,

any negligible level of impact reduction, including no impact reduction at all, would be consistent with their promise. In its decision on Golden Door Properties, the court ruled that San Diego County's promise to reduce impacts in the future was unlawful because it "lacks performance standards to ensure the mitigation goal will be achieved."

In its suit, The CPC noted that Calaveras County refused to evaluate any policy alternatives in the environmental impact report for the general plan update. Given the broad spectrum of public testimony on what should be in the GPU, this refusal was shocking. In its June 12, 2020, decision on Golden Door Properties the court ruled that San Diego County had made a mistake in not considering a broader range of alternatives in the EIR for its 2018 Climate Action Plan.

In addition to alleging that the GPU's environmental impact report was in violation of CEQA, the CPC complaint also alleged that the GPU indefinitely deferred taking action on key general plan issues that were identified by local residents in 2008. Those key issues included level of service standards for water and sewer, traffic and emergency service impact fees for new development, and open space zoning. In addition, the complaint alleged that the board violated the law by rescinding the community plans for Valley Springs, Arnold, Murphys/Douglas Flat and Avery/Hathaway Pines.

The Calaveras County Board of Supervisors held a closed door session to discuss the GPU litigation on Tuesday, June 23.