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Motion to Dismiss Planning Coalition's Case Against General Plan is Granted

On Friday morning July 11, Judge David M. Sanders granted Calaveras County's motion to dismiss with prejudice the case brought by the Calaveras Planning Coalition (CPC) on December 9, 2019 against the Calaveras County Board of Supervisors' approval of the General Plan Update (GPU) on November 12, 2019.

The case was not decided on the merits of the Coalition's allegations, but rather on the Coalition's perceived failure to meet a deadline. CPC attorney Tom Infusino said, "Without this case coming to a conclusion on the merits, investments in economic growth, residential development and resource conservation that require discretionary approval from the County are at risk of being challenged based on flaws in the General Plan."

The County asked for the dismissal on the grounds that the CPC was not diligent in compiling the administrative record necessary to bring the case to trial within the statutorily mandated period of five and a half years. The judge granted the County's request even though the County failed to cooperate and provide the CPC access to their General Plan records for a period of 17 consecutive months.

On behalf of the County, attorney Christopher Stiles wrote, "Petitioner's dillydallying is the opposite of diligence," even though Stiles had previously acknowledged the CPC's diligence in multiple requests for extensions of time.

“Obviously, we’re disappointed,” said Joyce Techel, Community Action Project (CAP) Governing Committee Co-Chair, “but the real losers here are the people of Calaveras County, because the flaws in the General Plan remain, and those flaws have the potential to adversely impact people’s lives and livelihoods.”

During the Friday hearing, Infusino highlighted just some of the tasks completed, the hours spent, and the expenses incurred as the CPC prepared an administrative record that spanned 13 years.

In addition to taking 13 years, the GPU process was unevenly led by seven separate planning directors and resulted in a discarded draft plan in 2012, fired consultants, money wasted, and public controversy. The lack of continuity in leadership and flawed institutional memory not only prolonged the GPU but also made compiling an administrative record a Herculean task.

In his closing remarks on behalf of the CPC, Mr. Infusino said, ‘Over the last two decades, we have secured many of the benefits of land use planning for our beloved neighbors, friends, and family members. This litigation was only one of our tools for improving Calaveras County planning. We will continue to use other tools to improve County planning in the future.’

However, as Infusino had previously maintained in written arguments, without a decision on the merits of the CPC case, “Ongoing flaws in the General Plan Update will continue to cast a shadow of invalidity over the County’s subsequent discretionary land use approvals.”

As the primary program of CAP since 2006, the CPC has been a volunteer-driven grassroots advocacy group promoting sustainable land use planning to protect the region’s rural character. Its 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.

Over the last five years, the CPC actively participated in the update of the zoning map, the comprehensive update of the zoning ordinance, the approval of the community plan update for Valley Springs, and the adoption of the first Copperopolis Community Plan. The CPC also participated in the County’s drafting of Greenhouse Gas Reduction Measures that await approval by the Board of Supervisors.

The CPC is currently doing an assessment of the County’s Open-Space Plan which is due to be updated by January 1, 2026. As part of the Open-Space Plan update, the CPC will encourage the County to improve wildfire safety and climate change resilience and to identify priority lands for conservation.

Infusino noted, "Some County representatives have come to graciously embrace members of the public as planning partners and not adversaries. We thank the Planning Department staff, Planning Commissioners and others who have done so."