

From: Tom Infusino, Facilitator, Calaveras Planning Coalition

To: Calaveras County Board of Supervisors

Re: Please amend the Zoning Ordinance Update on By-Right Special Events in the A1 and AP Zones.

Date: 6/17/24

I. Recommendations

- A) Carefully study the zoning map and the by-right Special Events in the A1 (Agriculture) and AP (Agriculture Preserve) zones in the four isolated areas discussed below: East of Rail Road Flat/Sheep Ranch Road, the District 2 Interior, the San Andreas to City of Angels Corridor, and the Hogan Reservoir to Highway 4 Rangeland.
- B) Consider ways to limit fire-prone and accident-prone uses to reduce wildfire fire and other emergency risks in the most isolated areas where fire risk is high, where roads are poor and where emergency response times are long.
- C) Consider amending Section 17.25.190 Special Events, subsection B((1)(a), to read as follows,
 - 1. A1 and AP Zones. Special events are allowed as a secondary use to an on-site farm as defined in Section 52262 of the Food and Agricultural Code provided no more than three percent of the total land or 10 acres, whichever is less, is used subject to the following permit requirements:
 - a. Up to 12 special events may be held in a calendar year as a permitted use **at a site on a two-lane paved road and within 6 miles of an operating fire station. A special event on a more isolated site requires a special event permit.**

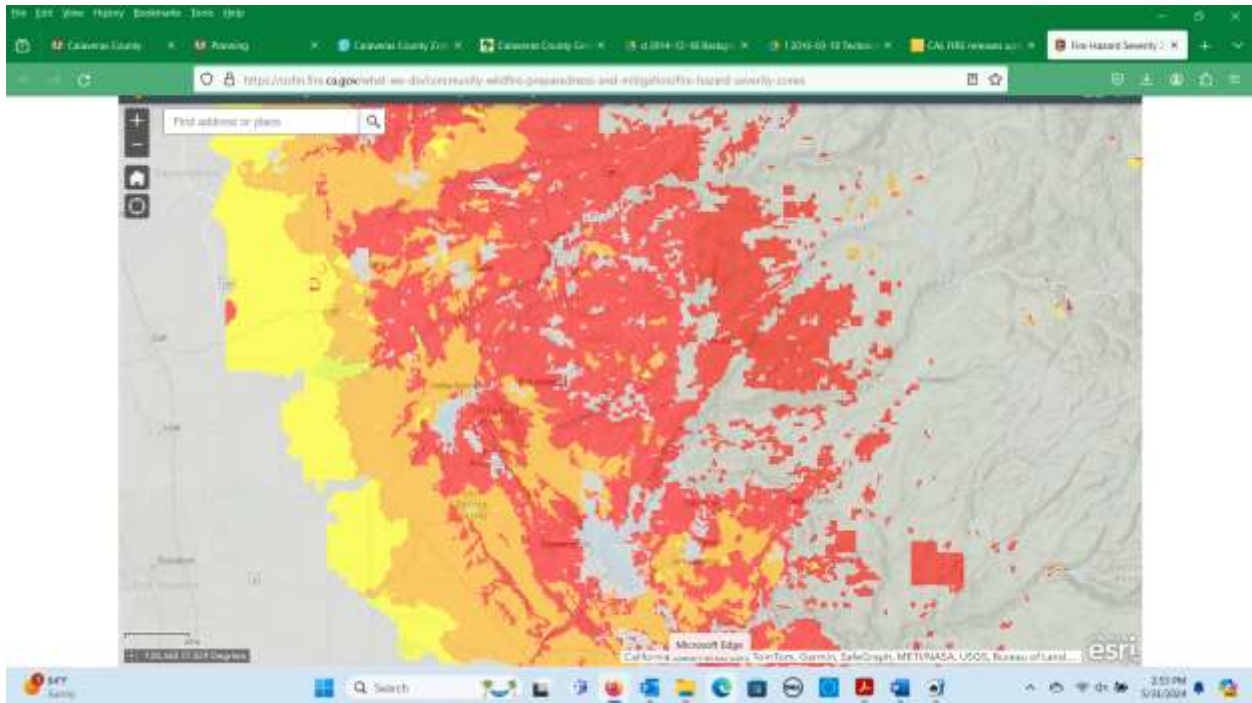
II. Background and Analysis

We at the CPC appreciate very much the work the Planning Commission did reviewing the text and the map of the Zoning Ordinance Update from October 2023 through June of 2024. One remaining problem is that by-right Special Events are inappropriately creating an unreasonable risk of harm to life and property. We believe that one simple change to the code is all that is needed to address this issue.

A) It is time to allow hazardous by-right uses only in places prepared to respond to emergencies.

1) By-Right Special Events compromise fire safety and emergency response.

The current zoning ordinance and the draft Zoning Ordinance Update allow by-right public events on lands that are too fire prone, too isolated from emergency response, and difficult to evacuate. This results in an unreasonable risk of harm to life and property from wildfire. We are all familiar with the high and very high fire risk that blankets Calaveras County. The State's 2024 Fire Hazard Severity Map below depicts very high risk areas in red, high risk areas in amber and moderate risk areas in yellow.



2) By-right Special Events create unreasonable risks of loss of life and property due to wildfires, because many parcels are too fire prone, too isolated from emergency services, and too difficult to evacuate.

Our concern is that in the A1 and AP zones special public events are allowed 12 times per year by-right as long as all the people and vehicles fit on 10 acres or 3% of the land, whichever is less (for example 4.8 acres for a 160-acre parcel and 9.6 acres for a 320-acre parcel). That could be hundreds of people every Saturday 12 weeks of summer. (Woodstock averaged 600 people an acre.) Or, that could be six Saturdays in May and June and another six Saturdays in September and October. Anticipated land uses at such events include alcohol consumption and open flames.

One complication of a public event is that it invites out-of-town tourists to an unfamiliar area with unfamiliar risks. For example, urban dwellers used to outdoor concerts on daily-watered lawns adjacent to paved parking lots may not know to avoid parking on the dry grass or dropping a cigarette on a Calaveras agricultural land parcel. They may be used to concerts where Rock Med personnel are on site to provide first aid for serious injuries. They may be unaware of the distance and time it takes to get medical assistance in Calaveras County to or from an agricultural land parcel. They are used to driving home from concerts at night on paved and fully illuminated highways with incredibly detailed directional and safety signage. They may not be prepared to drive home on dark gravel roads without directional or safety signage.

A further complication is that there is actually a spectrum of parcels currently zoned A1 and AP. On one end of the spectrum is the kind of A1 parcel on a paved, two-lane, road near a fire station and medical clinic. The A1 parcels at the end of Gold Strike Road outside of San Andreas are an example of such a location.

In the middle of the spectrum are parcels dominated by overgrown brush, along one-lane paved roads, distant from fire stations. The parcel depicted below is on Jesus Maria Road amid the overgrown brush and snags of the Butte Fire Burn Scar, 25 minutes from the Moke Hill Fire Station and over 30 minutes from the Central Calaveras 1 Fire Station. Would any of you care to give a fire starting on this land a 30-minute head start before you began to put it out!

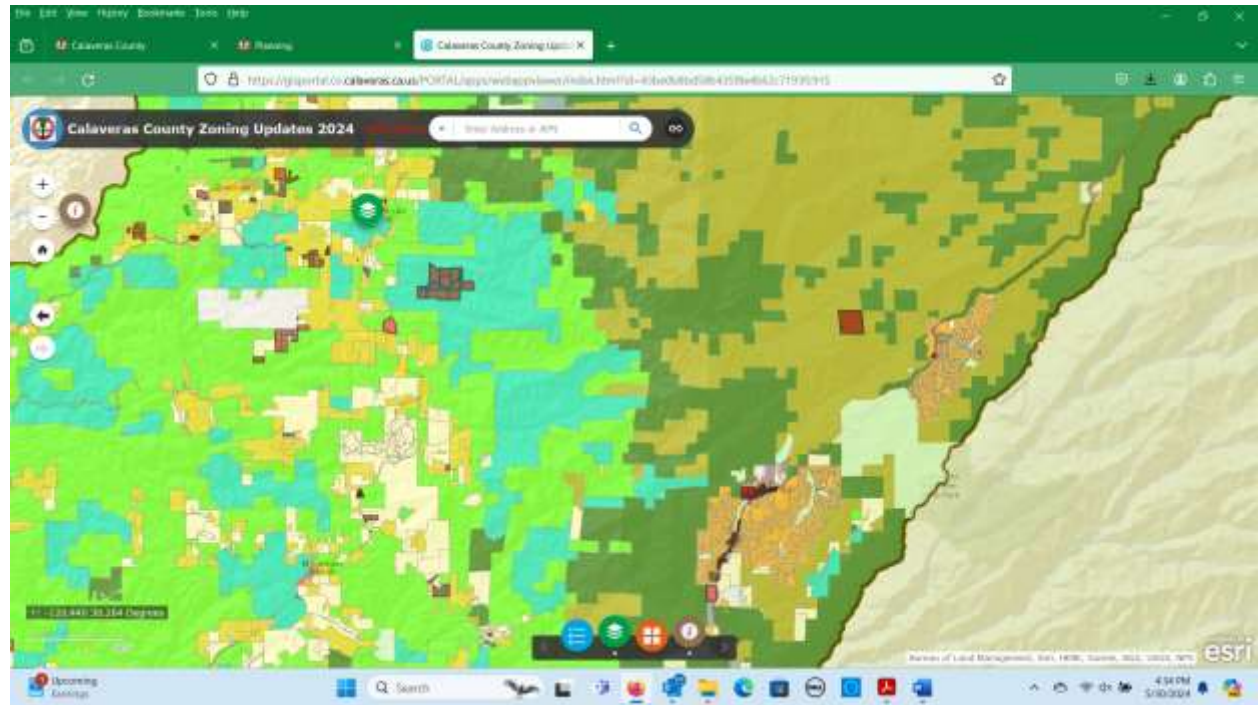


On the other end of the spectrum is the kind of A1 parcel that is on a one-lane gravel road, with no shoulder and few pull-outs, half an hour or more from the nearest fire station. The parcel depicted below is on the gravel part of Hogan Dam Road, 20 minutes from the southern end of Hogan Reservoir.

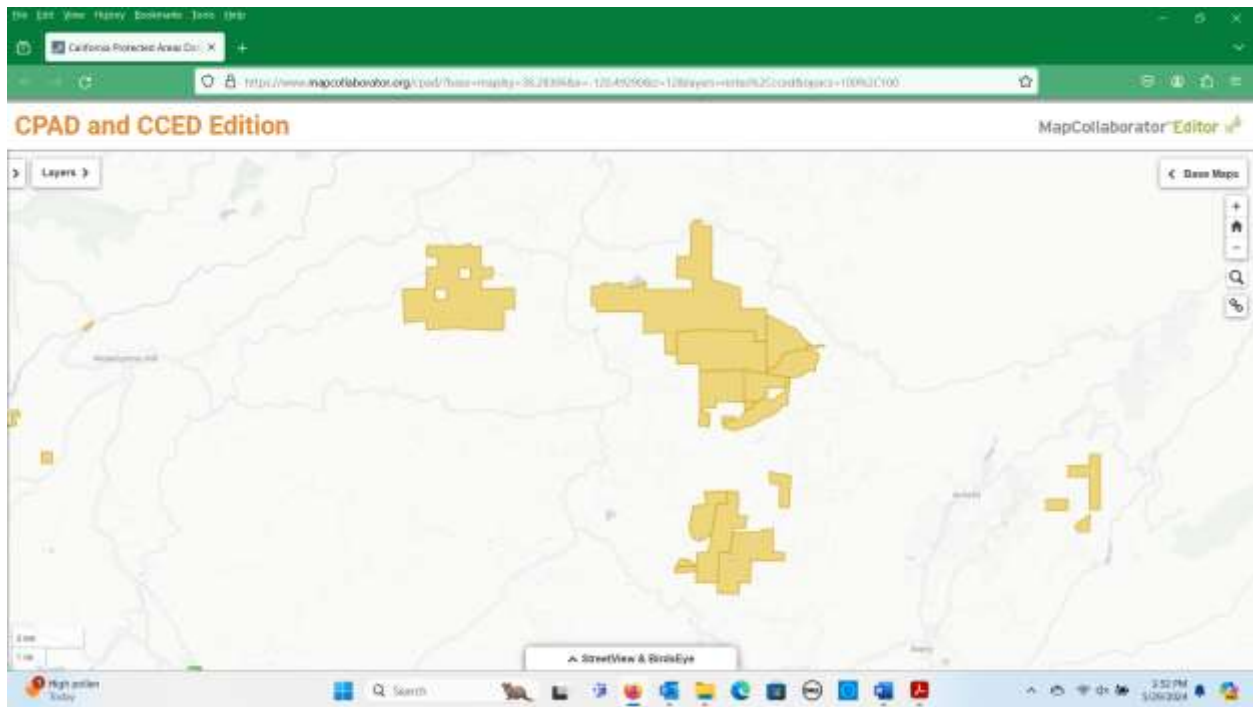


If we are going to allow for large public events (like concerts) with large numbers of people, then we need to allow these uses in places where emergency personnel can efficiently respond and on roads that can accommodate effective evacuation of lots of people and effective ingress of emergency vehicles. Unfortunately, the Zoning Code and Map Update does not limit these by-right uses to such parcels but allows them on thousands of acres of unsuitable parcels.

- 3) The CPC has concerns about how these fire and injury prone uses are allowed in four areas.**
 - a) The Area East of Rail Road Flat/Sheep Ranch Road.**



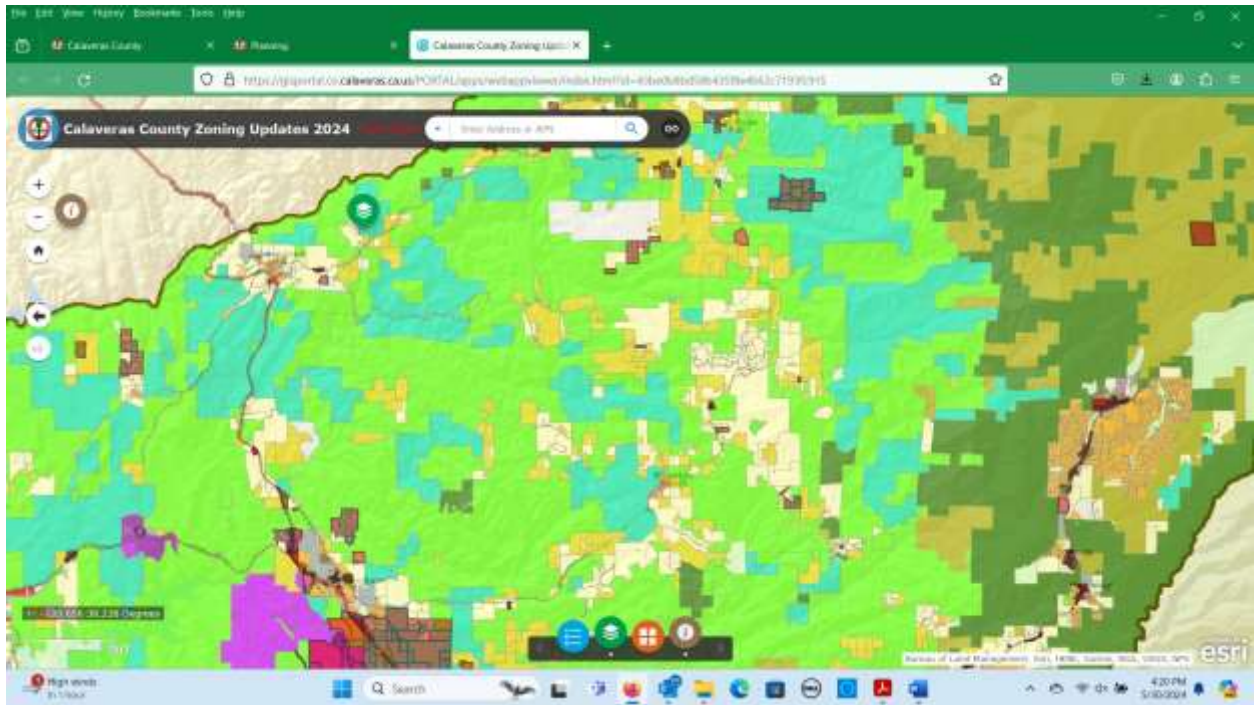
This area is home to the Rail Road Flat deer herd. As depicted on the map above there is substantial public land adjacent to this area (colored dark green). As depicted on the map below in gold, the California Department of Fish and Wildlife also has conservation easements on thousands of acres of private land in this area.



Nevertheless, these lands float like islands in a sea of isolated A1 (light green) and AP (blue green) lands. A dry season fire started here is likely to be spread east and west by diurnal winds. Where fuel levels are

high due to overgrown brush and/or tree mortality, a fire could easily spread to the upcountry public lands and TPZ lands. For example, the Caldor Fire started in Grizzly Flats in El Dorado County, roared up the Cosumnes River canyon and resisted east-west containment until it hit the unforested alpine slopes beyond Silver Lake. Do we really want to put these important wildlife habitat and natural resource lands at risk for the sake of some outdoor concerts?

b) The District 2 Interior.



The communities of Supervisor District 2 are well served by volunteer fire departments and by the California Department of Forestry and Fire Protection stations.

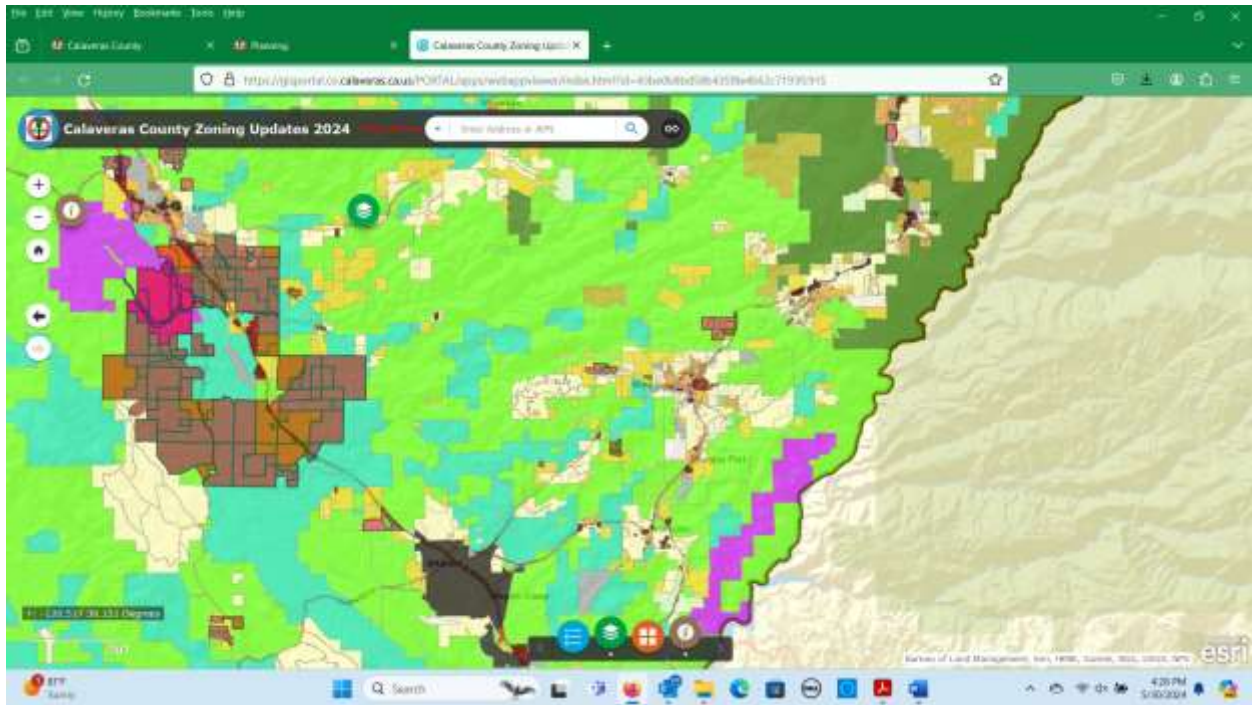


However, the real challenge comes in the interior areas of District 2 outside of the community centers.



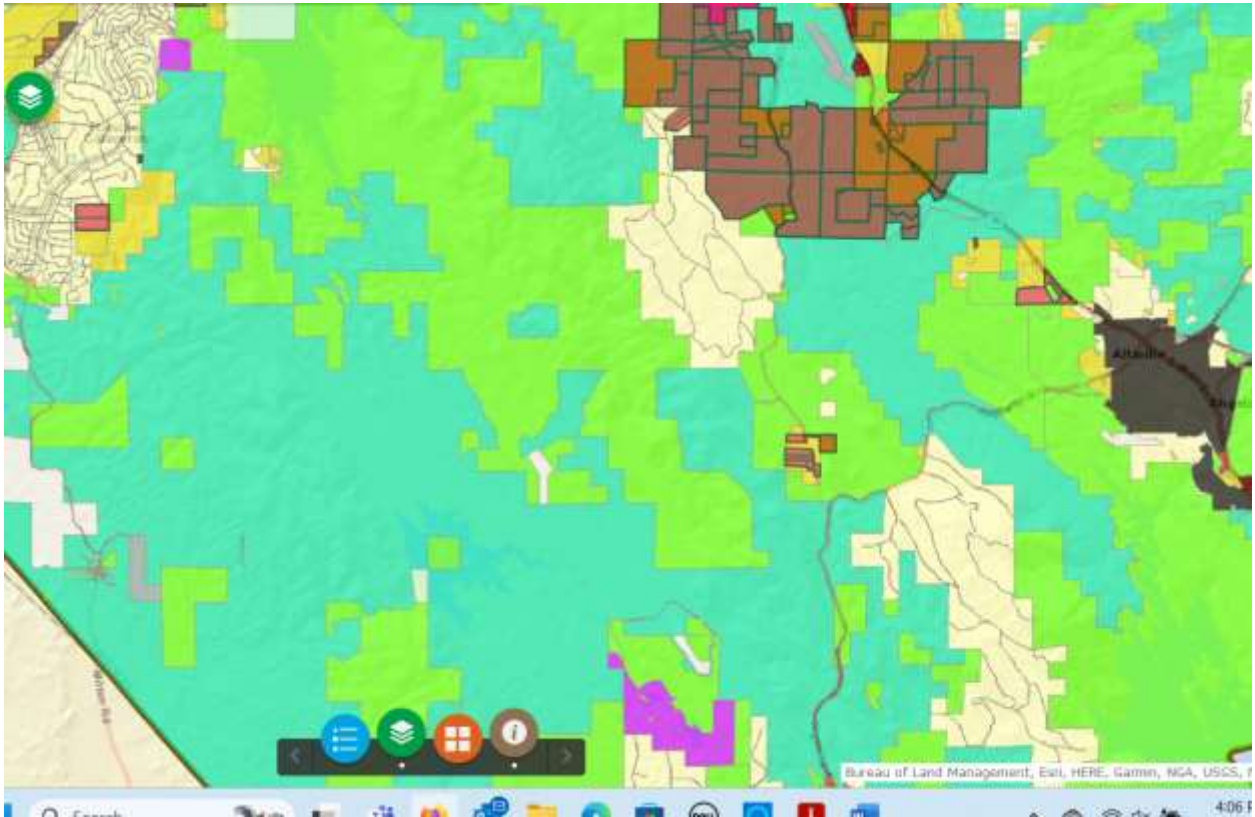
For example, as pictured above, Jesus Maria Road crosses the interior of District 2 where the Butte Fire roared through in 2015. Now the snags in that area are surrounded by overgrown brush. It is not uncommon for a second fire to follow and burn such areas. For example, the Complex Fire in Tuolumne County was followed by the Rim Fire. The Cleveland Fire in El Dorado County in 1992 was followed by the King Fire. While the road is newly paved, it remains only one lane with no shoulders and a few small “pull-outs” (i.e. at driveways and intersections). Yet A1 and AP zoned lands are on both sides of the road as far as 30 minutes from the nearest fire station. Do we really want to risk lighting up this landscape for the sake of a public concert?

c) The San Andreas to City of Angels Corridor.



Again, our concern is the degree to which a fire started on more isolated A1 and AP lands could be responded to and stopped before it grew too large and threatened communities. We will leave it for you to assess the degree to which fire departments from San Andreas, Murphys, Copperopolis and the City of Angels would be sufficient to respond to a fire on the A1 or AP lands in this region while they awaited the mutual assistance crews from more distant jurisdictions.

d) The Hogan Reservoir to Highway 4 Rangeland.



As you can see from the map above, this area from Bear Mountain to the County's Western border is dominated by A1 (light green) and AP (blue green) lands. As you can see from the photo below, this area is rangeland and oak woodland. It is dry at the end of May when this photo was taken (May 30, 2024), and will remain so for months (into October).

Hogan Dam Road from Valley Springs to Silver Rapids Road is a paved two-lane road. The road beyond that is one lane, resulting in slower speeds and difficulty passing oncoming traffic. At the end of Hogan Reservoir, the road turns to gravel, cutting speeds in half. This gravel road goes through Salt Springs Valley and joins up with Hunt Road. We are very fortunate that the fire in this area in June was put out promptly.



e) Don't invite people to Calaveras County to do unwise things in unsafe places.

We hope that we can continue to rely upon the personal restraint of current land owners to use their land responsibly. However, by zoning the land for by-right large-scale public events, you are advertising to the world that people can buy these lands to do these activities. You are giving the exact wrong signal to the marketplace. You are enticing unwise people to come to Calaveras County to do unwise things in unsafe places. You have a chance to correct this mistake. Please do so.

f) Fire risk has changed since the 2005-2006 Ag. Zoning effort.

In 2005 and 2006, the County worked to amend the zoning ordinance for agricultural lands. The group working on the ordinance developed the ordinance language, and also outlined a safety checklist for people considering by-right events. While the ordinance was passed, the safety checklist got lost in the shuffle.

Back in 2006 when the ordinance was passed, the largest local fire in recent memory was the Old Gulch Fire. It was under 18,000 acres and 170 structures were destroyed. We now know that fires can be much worse. In 2015, the Butte fire burned 70,000 acres and destroyed over 900 structures across the counties of Amador and Calaveras. It was over three times bigger than the Old Gulch Fire. In 2021, the Dixie fire burned for two months and consumed over 960,000 acres. It was 13 times bigger than the

Butte Fire. Given this change in circumstances, a minor change in the zoning ordinance to improve fire safety is not a lot to ask.

g) Other counties are updating their Special Event ordinances to address fire safety.

Other counties are doing just at: updating their special event ordinances for fire safety. Attached are the ordinances from Placer County and Nevada County.

h) The County has been repeatedly warned about increasing wildfire danger.

Throughout the updates of its general plan, zoning code, and zoning map, Calaveras County has been repeatedly warned of the dangers of wildfire and has been informed of the steps to take to reduce those dangers to reasonable levels.

Early in the General Plan Update process, CCWD explained that it is financially infeasible to extend public water lines to low density development. The lack of available firefighting water can severely limit firefighting efforts in isolated areas.

The LAFCO Municipal Service Review indicated fire stations serving some communities in the High and Very High Wildfire Risk category had poor response times, limited equipment, and insufficient funding to serve districts covering between 100 and 200 square miles accessed by marginal roadways.

CAL Fire completed an analysis of the 2014 draft safety element's treatment of fire safety across nine separate categories. Calaveras County's draft safety element was deficient in all nine categories.

In 2015, the Butte Fire burned over 70,000 acres and destroyed over 500 homes in the Counties of Amador and Calaveras.

Other California counties have had even worse fires. The Camp Fire showed that insufficiently maintained evacuation routes in forested landscapes can result in people being incinerated in their vehicles. East of Highway 49 Calaveras County has such a forested landscape. The Tubbs Fire showed how incredibly fast a windblown fire can spread across the rangeland between communities. West of Highway 49 Calaveras County has such rangeland.

Fire insurance carriers are leaving California in general and leaving Calaveras County specifically. The market is telling us that we are not doing enough to make the County fire safe. You can do something about that now.

This year CAL Fire came out with a new fire risk map for Calaveras County showing greater risks than the prior map in some areas. Some on the Board of Supervisors noted the adverse effect it will have on insurance rates and insurance availability. If you want to reduce insurance rates and improve insurance availability, then do things to reduce the unreasonable risk of loss of property to wildfires, like locating ignition sources where the fire departments can get to them in time to put out a fire before it consumes a community.

Earlier this year, Ebbetts Pass fire officials testified before the Planning Commission about how difficult it would be to respond to a distant residential fire in the TPZ and how limited their ability is to safely and efficiently transport wounded people to a suitable medical clinic or hospital.

Given all of the warnings you have received, it seems prudent to make a minor adjustment to the Zoning Ordinance Update at this time.

III. Rebuttal to arguments for delaying action.

A) Address fire risk today to get ahead of the January 1, 2026 deadline.

Delay is not really feasible. The State requires an open space element in part to protect public safety. Open space uses can be limited to reduce ignitions. Open space fuel loads can be managed to reduce fire risk. Open space lands may contain fire breaks. Open space lands can provide access to emergency water for firefighting. State law now requires the County to update its open space element in coordination with its safety element in 2025. By addressing the aforementioned fire safety issues related to zoning this year, the County will avoid having to address them again next year.

B) There was plenty of public outreach regarding the ZOU.

Staff objected that more public outreach and participation needs to happen before making a change to the by-right events allowed on A1 and AP parcels. We do not believe that will make a difference.

Both the County and the CPC got the word out about the ZOU. There were notices on the County and the CPC website. The County and the CPC sent emails to interested parties. The CPC participated in months of meetings on the ZOU subject. Even when extra effort was made to get input on individual changes, only a few other people would show up to participate. It is just not easy to get people excited about editing a 270-page document. We even had a hard time getting some Planning Commissioners to show up.

Nevertheless, the Planning Commission did not postpone other urgent changes to the zoning code based upon meeting attendance. The Planning Commission made changes to the code regarding adult themed businesses, accommodations for the disabled, outdoor lighting, development setbacks from agricultural land (and many others) regardless of the number of people who were affected by the changes but not in the room. In all these instances the Planning Commission acted because it was NOT the Board's direction to Planning Staff and the Planning Commission to ignore urgent issues simply because potentially interested people fail to attend the Planning Commission meeting.

C) One size does not fit all.

One problem with the Zoning Map is that it is trying to fit too few zoning categories across tens of thousands of acres of lands that are very different. A fire-risky use that would be reasonable to allow on a parcel that is on the main road, and very near the fire department is not reasonable at the end of a long dirt road where the response time is over 30 minutes. The lands grouped into one zone are just too different. A1 and AP lands may be grasslands on the County's western border, brush fields in the Butte Fire Burn Scar, or forested lands to the east. When it comes to land use regulation in the A1 and AP lands in Calaveras County, one size simply does not fit all.

D) Special event permits give the County the opportunity to ensure that applicants for land uses are taking appropriate steps to reduce the risk of loss of life and property due to wildfire.

Requiring a special event permit at a cost of \$100 is not the same as the denial of a use. We expect that as a result of the permit review process many applications for uses will be conditioned and approved. (See attached permit and instructions.)

So, what are the benefits of a permit process over a by-right use? Permit applications can be reviewed by the County Fire Marshal to ensure that the circumstances for the use and conditions on the use protect private property, public safety, and emergency responders. The permits can include periodic monitoring and reporting of compliance with conditions, and periodic review, reauthorization, or termination of the permit if needed. Permits allow emergency responders to keep track of potentially dangerous uses so they can be prepared to safely and effectively respond to an emergency. By right uses do not afford the County these same opportunities to protect the public or emergency responders.

E) Governments routinely make controversial decisions.

One justification we keep hearing from Planning Staff and the Planning Commission for avoiding issues during the ZOU is that the issue is controversial and that you should not bog down this once-in-four-decades update of the ZOU with controversial issues. Government is often called upon to make controversial decisions balancing personal freedom and public safety. In times of war people are conscripted into the military to protect the safety of our nation. In Calaveras County, during criminal trials every week the court sentences people to lose their freedom for months or years in order to keep the public safe from criminal activity. Controversial decisions involving personal freedom and public safety are an inherent part of governing. In these circumstances, not making a decision to resolve an urgent issue now may be the most controversial decision of all.

Finally, we are not convinced that this is a controversial decision. If updating the special event codes for fire safety is so controversial, why is it happening in other counties? If requiring a use permit for a special public event is so controversial in Calaveras County, why are such permits required in other zones?

F) Land Zoned for by-right uses must be suitable for by-right uses.

The Zoning Ordinance and Map Update is not just fine as it is. A zoning code should reasonably define which activities can be done by-right and which activities should include conditions to protect public health, safety, and welfare. However, that is not enough. It is also incumbent upon a jurisdiction to ensure that those zoning categories are properly applied to parcels on the landscape so that the by-right uses do not unnecessarily adversely affect public health, safety and welfare.

While a Zoning Ordinance Map must be consistent with the General Plan Land Use Designation, these are not identical and redundant maps. They have two very distinct purposes.

The Land Use Designation Map in the General Plan identifies the general uses that the land may become suited for at some time during the life of the plan: twenty or more years. It is very likely that the land may not be suitable for all of the most dense and intense uses in the designation at the time of general plan adoption. Nevertheless, the land is suitable for some use in the designation, and it is conceivable that it may become suitable for additional uses with the extension of roads, water lines, power lines and other utilities and services.

The Zoning Map identifies the uses to which a parcel is suitable NOW. The parcel should be suitable for all of the allowed by-right uses NOW. The parcel may be suitable for additional uses after compliance with specified conditions in a use permit. If a by-right and unconditioned use is not suitable for a parcel now, then the parcel is not properly zoned.

The problem with the draft zoning map is that a couple of zoning categories (A1 and AP) are being applied to allow by-right uses on lands that at this time are not suitable for those uses.

G) The circumstances cry out for Board action.

The wildfire conditions on the landscape are degrading as we speak. Your time to avoid the loss of lives and property to wildfires is running out. This is not the time for delay. This is a time screaming out for prompt action.



June 10, 2024 Fire near New Hogan Reservoir.