

Property Rights vs. Property Rights

Do the property rights of one limited liability corporation override the property rights of an entire community? The San Luis Obispo County Board of Supervisors will ponder this on Tuesday when it considers an appeal of the county Planning Commission's decision to deny a rock mining proposal just east of Santa Margarita.

The large-scale, industrial mining operation proposed by Las Pilitas Resources, LLC, where Highway 58 bridges the Salinas River, would introduce unacceptably invasive impacts onto residents nearby, all along its haul route and within the community of Santa Margarita.

If approved, the project will cause the loss of property values, quiet enjoyment, livability and the very historic character that makes our community unique - in short, adversely impacting the health, safety and welfare of an entire community.

The applicants dismiss the well-documented negative impacts on the community laid out in an exhaustive environmental review. With that roadblock, and unable to win approval on the project's merits, backers now make a raw political appeal based on an opinion that their overarching property rights override those of all others.

The trouble with this attitude is it disregards the property rights of everyone else, rights that co-exist with zonings and ordinances intended to provide reasonable assurance that actions on one property do not adversely affect other properties.

In truth, no absolute right (ministerial entitlement) to build a mine in this specific location has ever existed. Instead, mining applications and other uses well known to significantly impact others are considered on a case-by-case basis through a discretionary process (meaning they can be approved or denied) known as a Conditional Use Permit (CUP).

A CUP evaluates numerous factors for appropriateness for a specific location, which would have been no surprise to the applicant considering the clear and concise explanation of the process that was laid out in a March 23, 2011 letter from the Planning Department.

The applicant has a right to a fair process to determine if granting an entitlement for a specifically defined project is appropriate. That process produced a thorough and objective analysis by county planning staff, who recommended that decision makers deny the project.

Subsequently, in February of this year, the Planning Commission denied the project, based on facts and adopted planning principles. In a 3-2 vote, the majority came to a well-reasoned, pragmatic decision. However, the two dissenting commissioners were clearly not impartial, employing the same style of demagoguery the applicants hope the Board of Supervisors will blindly accept as sound land use policy.

An appeal hearing offers the project proponent another chance to pitch its well-funded campaign of misinformation to a new audience. This time, it hopes three county supervisors will be more sympathetic to the profits of a few than to the harm inflicted on the community.

This should not be a difficult decision for a Board of Supervisors that values objectivity, factual information and commitment to the communities they represent. There is no community benefit

beyond profit for a few individuals, no actual shortage of aggregate, no specific right to any entitlement, no overriding pre-approval by the state (as the applicant claims). There is no reasonable justification to trump the best interests of the community.

We urge the Board of Supervisors to uphold the Planning Commission's decision and planning staff's recommendation and deny an unnecessary, dangerous, ill-advised project that is so wrong on so many levels. All county residents, not just those with the deepest pockets, deserve accountability and representation from our Board of Supervisors.

When facts and planning principles are ignored in favor of political ideology, no SLO County backyard is exempt, leaving regular folks countywide unable to make life and investment decisions with confidence. Sure, it may only be Santa Margarita today, but the precedent set here could find its way into your community next.