From: Denis Zaff
To: Public Comments@BOF
Subject: suggested modifications to PRC4290
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Dear Board of Forestry and Fire Protection,

FSR PRC4290 is in need of a major revision. The law is unclear and unbalanced in many areas. In view of a lot of confusion related to a sudden change in interpretation and enforcement of PRC4290 that is seen in Santa Clara County, here are some suggestions as to where it needs clarification and reform:

1. Grandfathering clause 1270 (b): there is no definition as to what exactly are the “conditions relating to perimeter” and “conditions relating to access”. This vagueness makes these “conditions” anyone’s guess, which makes it impossible to argue in support or otherwise. This leads to all sorts of abuse: people whose parcels should be grandfathered are denied this right and have to prove exemptions in court.

2. 4290(a) and 1270 (b) are not synchronized. In 4290(a) the regulations do not apply “to parcel or tentative **maps or other developments** approved prior to January 1, 1991"**.** Whereas in 1270(b) the scope of exemptions is narrowed only to “building construction on **a parcel that was formed from a parcel map** or tentative map” registered before Jan 1, 1991.

   While 4290(a) includes “other developments”, 1270 (b) only focuses on lots formed from parcel maps. Parcels can be formed in several different ways, and it is impractical to deny grandfathering to parcels that were formed by other legal means, e.g. deeds, which was the predominant way to form lots before Subdivision-related legislation became established in California.

3. At the minimum, definitions should include clarification on “other developments”, “conditions relating to perimeters” and “conditions relating to access”, "same practical effect".

4. “Same practical effect”: Fire Marshals/inspection authority must identify and define a list of alternate measures that will have the “same practical effect” **in every particular case** where access is not standard. The situation is worrying: many landowners are denied the right to develop their property because, say, a public road that was built 100 years ago is not fully up to a standard signed into law in 1991. This, as many argue, is a taking. It all runs contrary to the US Constitution.

5. **The law would be complete if there were a strict budget allocation attached to road improvement**. This would be a great segway into utilizing the funds allocated under Joe Biden’s recent infrastructure improvement plan. The burden to improve public infrastructure should not be placed on individual landowners - it is both financially and physically infeasible. For instance, if a SFR land-use or building permit application is filed for a project along a non-compliant road, the County or the Town must be automatically made responsible for allocating funds for improving that road

within a certain time frame. This way, small-scale private development will lead to a logical improvement of public road and fire protection infrastructure. This approach will also eliminate the current formulaic budgetary allocations, which neglect country roads, and place most funds in urban areas where most voters are concentrated. This will also make neighborhoods more likely to welcome and support new development by neighbors as with these projects an improved road infrastructure will follow.

6. **It is imperative that there be a clear distinction between compliance for small-scale and large-scale development.** A private single-family residence project on a small parcel is now subject to the same rules and regulations as a large subdivision. Large developers usually have much larger funds and technical capabilities vs. the small private landowners who want to build a home for their families. This is both unfair and impractical, and it should be addressed: the legislation should give more leeway to the small guy. State and local fire protection agencies should be required and incentivised to help and assist families who develop their own land. The agencies must be proactive in allocating consulting, technical support, budgets and resources for both the small and large-scale projects.

7. Access standards should be flexible. It is not practical to send a Type 1 Fire apparatus where only Type 3 Wildland fire apparatus is applicable. Perhaps, conditions of access could also be tied to the types of fire engine that are typically used by Fire brigades serving the area of a particular project.

8. PRC4290 should be reformulated to address “old” and “new” roads. While the rules for “old” roads should be more practical and offer more flexibility in terms of compliance, the rules for “new” roads must be contemporary. For instance, public utilities must be compelled to put electric cables, and communication infrastructure underground when a new road is built. Updating fire turnout standards to include a backup battery or a generator for nearby communication equipment would ensure that communities can be connected in times of emergencies.

9. There must be a clearly established procedure where development projects could not be stalled or denied completely based on access as the law provides for alternate measures with same practical effect. The applicants must be given a choice of complying via standard access or providing measures that have the same practical effect. As noted above, the Inspection Authority must analyze each project on a case-by-case basis and it must provide a clear way to comply through alternate measures.

Stopping or stalling development projects using FSR PRC4290 is exactly the wrong approach to increase fire safety. Cementing the status quo by limiting construction does nothing for improving fire safety.

Instead, the legislation should take advantage of the opportunity that comes with new development projects to improve fire safety of communities: when more fire protection infrastructure is added, everybody benefits.

The benefits of extra water resources, fire hydrants, fire turnouts, fire turnarounds, better fuel management, fire-safe zones around homes, new signage, new access roads, sprinkler systems, even swimming pools and ground water storage that these projects bring to communities far outweigh the fire risk that comes with everyday use of

private homes.

Best regards,
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Sent with Mixmax