GUIDE TO
California Planning
SECOND EDITION

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Library of Congress Catalog Number 99-66022
ISBN 0-923956-54-9

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September 1999
Solano Press Books
P.O. Box 773 • Point Arena, California 95468
Tel (800) 931-9373 • Fax (707) 884-4109
email spbooks@solano.com
Internet www.solano.com

Printed in the United States of America
10 9 8 7 6 5 4 3

The Book at a Glance

Part One a The California Landscape . . . . page 1
Part Two a The Local Planning Process . . . . page 65
Part Three a Local Planning: Advanced Techniques and Backlash . . . . page 177
Part Four a Urban Development . . . . page 237
Part Five a Infrastructure and Infrastructure Finance . . . . page 271
Part Six a Natural Resources Protection . . . . page 313
Part Seven a Conclusion . . . . page 341
The Basic Tools

Part I: The General Plan

Although planning—that is, guiding the physical development of California's communities—is a task undertaken by myriad government agencies, private companies, and individuals, the core of this task is the planning work done by the state's 588 cities and counties. And for local governments, the day-to-day planning work is achieved mostly through the use of three well-established tools: the "general plan," a comprehensive policy document, and two sets of implementing regulations, the zoning ordinance (often called the development code) and the subdivision regulations.

Although planning involves many other documents, regulations, and implementation mechanisms, these three tools do most of the work, and no one can truly understand California's planning system without understanding what they are and how they operate. Together they create the policy foundation for local planning and the administrative regulations that carry out that policy.

The "general plan" (required by Govt. Code §65300 et seq.) is California's version of the "master" or "comprehensive" plan. It lays out the future of the city's development in general terms through a series of policy statements (in text and map form).

The "zoning ordinance" (authorized by Govt. Code §65856 et seq.) is, at least theoretically, the beast of burden for the general plan, designed to translate the general plan's broad policy statements into specific requirements of individual landowners. The zoning ordinance divides all land in the city into zones and specifies the permitted uses and required standards in each zone.
The Subdivision Map Act (Govt. Code §66410 et seq.) is a state law that establishes the procedures local governments must use when considering the subdivision of land. The Act is intended to ensure, among other things, that adequate public services will be provided to those new subdivisions.

Some overlap exists among the three tools. Generally speaking, however, they are meant to be used together to ensure the orderly development of communities in California. This chapter will focus on the general plan, while the next two chapters will discuss zoning ordinances and subdivision regulations respectively. Later chapters will discuss other tools used to shape and implement planning policy in California.

General Plans

For most of this century, the idea of a comprehensive or master plan guiding a city's future has been an elusive ideal for both planners and local policy makers. Comprehensive plans have gone through many faddish changes during that time. Some have been little more than town-sized "site plans." Others have been policy plans, offering a set of policies to guide future decision making without providing a vision of a community's physical future. And from time to time planners have grappled with the seemingly unanswerable question of whether a comprehensive plan should be a static and hard-to-change document, similar to a constitution, or a living document that can be constantly updated to respond to rapidly changing conditions.

Through all these evolutions, however, one fact has remained constant: Living or static, the comprehensive plan is supposed to be the supreme document guiding the future physical development of a community—the set of policies from which all decisions flow. This has not always been the case in California planning, of course, but over the last thirty years it has become a reality.

In succeeding decades, the master plan requirements evolved gradually toward the general plan process we know today. In 1935 the state began requiring all cities and counties to adopt master plans, making California one of the first states in the nation to require this requirement. Beginning in the 1950s, the state began requiring localities to prepare specific "elements" or sections, of the master plans, with land use and circulation—still the core of most general plans—becoming mandatory first. Finally, in 1965, the state's planning laws were reorganized. The master plan was renamed the "general plan," and localities were authorized to draw up "specific plans" to implement the general plan in specific geographical areas. This general plan may have been intended as the primary document for planning a community's future, but there was no requirement that it be enforceable. As a result land use lawyer Daniel J. Curtin, Jr., points out in his book Curb's California Land Use and Planning Law, up until 1971 state law even permitted local governments to adopt a zoning ordinance before they adopted a general plan.

In 1971, however, the state legislature passed a law requiring counties and most cities to bring their zoning ordinances and subdivision procedures into conformance with their general plans. Ironically, this law was originally drafted with the narrow purpose of controlling second-home subdivisions. Nevertheless, the "consistency law" as it is usually known, became one of the most important planning laws in California history, because it essentially reversed the legal hierarchy of the general plan and the zoning ordinance. In the past, the zoning ordinance usually had the upper hand, but today its legal function is to serve as a tool by which the general plan can be implemented. As one appellate court wrote, the consistency law "transformed the general plan from just an "interesting study" to the basic land use charter governing the direction of future land use in the local jurisdictions." (The consistency legislation applies only to counties and general law cities. But a later state law specifically required Los Angeles's zoning to be consistent with its general plan, and some legal opinions suggest that other charter cities are subject to the provisions as well. In addition, according to the state Office of Planning and Research, at least 50 of the state's 83 charter cities have local ordinances requiring consistency.)

Perhaps the best way to understand the role of the general plan is to think of it as many court rulings have done, as the "constitution."
for the future development of a community. Like the constitution, the general plan is the supreme document from which all local land use decisions must derive.

Like a constitution, it is truly general. The general plan contains a set of broad policy statements about the goals for future development of the city. But usually it does not contain specific implementation procedures. That's why the zoning ordinance and other implementation tools are needed. (Occasionally the general plan and zoning ordinance are combined into one document, but more typically the zoning ordinance is written after the general plan has been adopted.)

And like a constitution, the process of drawing up and revising a general plan creates an important forum for debate about the future of a community. Although the state does not establish a specific timetable for updating general plans, a wholesale revision typically occurs about once every ten to fifteen years—usually when the data on which the plan is based have changed, when the growth patterns facing a community have changed, or when the plan is perceived as legally vulnerable. The process of drawing up and adopting these revisions often becomes, essentially, a "constitutional convention," at which many different citizens and interest groups debate the community's future.

There is, however, one important difference between a constitution and a general plan. Unlike a constitution, a general plan is not particularly hard to change—a fact which often undermines its usefulness. General plan amendments, which are usually designed to accommodate a particular development project or tweak the plan in some specific way, are permitted four times per year under state law. But even this restriction does not reflect the plan's true fluidity. Because any number of individual changes may be grouped into a formal amendment each quarter, the plan can essentially change at any time as long as a majority of the city council or board of supervisors deems the action appropriate.

Thus, the general plan in California—though it has more teeth than it once had—often reflects the basic tension between the static and the dynamic that has characterized master-planning efforts throughout the century. On the one hand, the general plan is supposed to be a stable document providing a consistent vision for the future of the community. On the other hand, it can be easily changed for short-term political gain. By its very nature, the general plan is a document that is at once imposing and malleable.

What the General Plan Contains

General plans come in all shapes and sizes. Some are slick and colorful; others consist of little more than some typewritten text and a couple of rudimentary diagrams. But all general plans share certain characteristics.

Most important, a general plan is supposed to contain a vision of the community's future. At its best, the general plan identifies hopes and aspirations, and translates them into a set of policies laying out the community's physical development. Considering how few restraints the state imposes on general plan content, it is remarkable how rarely a general plan actually contains a thoughtful vision of its community's future.

Most will contain a preamble that includes a set of inspirational comments. But the policies that generate widespread public debate usually revolve around some quantitative measurement of the future: the eventual population, the number of housing units to be added, the amount of commercial square footage that will be permitted. Indeed, as will be discussed in more detail later, this is one of the great weaknesses of community debate about general plans—that they tend to focus on specific numbers, rather than a broader discussion of a community's future. In more general plans, remarkably little attention is given to design, quality of life, and the likely patterns of day-to-day living that will emerge as a result of the plan's policies.

Many general plans will also encompass "area plans," which are more specific versions of the general plan dealing with smaller geographical areas. Sometimes known as a community plan, an area plan has the same force of law as a general plan. (It is different, however, from a specific plan, which will be discussed in chapter 7.)

Most general plans will also include a technical background report, consisting of quantitative information about the city's demography, housing stock, economic makeup, and other aspects of the community. This information will be used as documentation to support the policy direction laid out in the general plan. Also important in shaping policy directions for the general plan are the circulation element and the soils, slopes, and seismic subsections of the safety elements, which are, or should be, the primary determinants of any limitations on the use of land and on the pattern, location, and orientation of future developments.

General Plan

- Preamble
- Technical background report
- Land use elements
- Circulation element
- Housing element
- Open-space element
- Safety element
- (Optional additional elements)

General plans are permitted four times per year under state law. But even this restriction does not reflect the plan's true fluidity.
The fact that the general plan in the constitution—like every other local land use document—does not mean it is exempt from state laws.

As one might expect given the state's general approach to land use policy, California's general plan requirements do not require that local governments accept specific policy conclusions. Nor is a city's layout, mix of uses, height limitations, character, economic development, or any number of other matters the concern of the state. Rather, local governments are required to follow certain procedures and cover certain subject areas (called "elements") in the general plan. Similarly, the state does not, generally speaking, review general plans for compliance with state law; such compliance is ensured only through litigation. (The housing element is something of an exception to both of these statements, and will be dealt with in a separate section later in this chapter.)

Under state law, every local general plan must include seven elements, or sections. These include:

- The land use element, the most basic part of the plan, which deals with such matters as population density, building intensity, and the distribution of land uses within a city or county.
- The circulation element, which must deal with all major transportation improvements. It serves as an infrastructure plan and also must be specifically "correlated" with the land use element—i.e., the infrastructure must address the development patterns expected by the land use element.
- The housing element, which must assess the need for housing for all income groups and lay out a program to meet those needs.
- The conservation element, which deals with flood control, water and air pollution, and the need to conserve natural resources such as agricultural land and endangered species.
- The open-space element, which is supposed to provide a plan for the long-term conservation of open space in the community.
- The noise element, which must identify noise problems in the community and suggest measures for noise abatement.
- The safety element, which must identify seismic, geologic, flood, and wildfire hazards, and establish policies to protect the community.

These seven elements are not etched in stone. The legislature may amend the general plan law to add or subtract required elements whenever it wants. From 1970 to 1984, for example, the state required separate elements to deal with scenic highways and seismic safety, but then folded those requirements into other elements. However, it has been more than a decade since any changes in the required elements have been made, and no further changes are likely in the near term.

Individual communities may add any other elements they wish—and most communities do. The specific set of elements will vary depending on the needs of each community, but many patterns are evident. According to recent statistics, public facilities, economic development, and community design are the most popular optional elements (see "The Most Popular Optional General Plan Elements," page 108). In Southern California, where smog is a major issue, air quality elements are common, partly because the South Coast Air Quality Management District has provided funding for local governments to implement them. Agriculture elements are increasingly popular among rural counties; nine counties have adopted ag elements since Sonoma County started the trend in 1989. Virtually any area of community concern may be addressed in a separate element, but once an element is included in the general plan, it carries the same force of law as the seven elements required by state law.

It is also permissible to combine elements, and many communities do so. Particularly popular technique is the combined land use and circulation element, because the distribution of land uses and the construction of roads and transit lines are closely related, and because state law requires that they be specifically correlated. As will be discussed later in the chapter, even if they are not combined, these two elements are often developed in tandem. Perhaps the most important legal principle is that the elements of the general plan must be consistent. Not only must the zoning ordinance and other planning documents be consistent with the general plan, the general plan's provisions must be internally consistent as well. (Under state law they are all regarded as equally important.)

The reasons for this requirement are obvious. A city council intent on pleasing all interest groups could be tempted to pass contradictory policies. For example, the city may enact an open-space plan saying that 80 percent of the city's land must be set aside for open space, and at the same time approve a housing element saying that 80 percent of the city's land must be set aside for housing.
internal consistency requirement is meant to assure that the general plan is not only visionary, but also realistic.

It is probably impossible, however, to draw up a general plan that is totally free from internal inconsistencies, meaning that most general plans are, at least theoretically, vulnerable to legal attack. Indeed, the consistency requirements—both zoning consistency and internal consistency—have been a favorite tool for builders trying to strike down growth-control initiatives.

Each element of the general plan has its own story, and a separate chapter could be written for each one. In order to describe the general plan, however, this book will only focus on two: the land use element, which often serves as the bedrock of the general plan, and the housing element, which is the only element subject to strict oversight by the state.

### The Land Use Element

Although the general plan deals with many aspects of a community and its future, perhaps its most basic job is to chart a course for the community's physical development. And for this reason the land use element is the broadest-ranging, the most important, and usually the most highly publicized aspect of the general plan.

At its core, the land use element must lay out a vision of all the buildings, roads, and public facilities in the city—not only where they are now, but where they will be in the future.

Because it looks like a map, the land use diagram often becomes the focal point of discussion. Residents can relate much more directly to the diagram than to the written text. They can identify the part of town where they live and see what the land use element calls for in that area. In many ways, this is good, because it sparks discussion and involves the residents in the process of preparing the land use element.

In some ways, however, it is not so good. The diagram and its vivid graphic elements—bright colors, geometric shapes, and so forth—might encourage residents to think that the map’s potential will be fully realized, especially if the diagram includes something they don’t like.

For this reason, it is important to note that the land use diagram is not necessarily a map, nor is it required to be by law. Unlike a zoning map, it does not have to show the impact of the city’s regulations on every single parcel of land. Rather, it is merely a graphic representation of a system of policy statements. The diagram does not show where the land use element will be located. The land use element is the broadest-ranging, the most important, and usually the most highly publicized aspect of the general plan.

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However, the land use element must discuss the specific location of certain land uses—mostly those that require the intimate involvement of public agencies. These include:

- **Recreational facilities**
- **Mineral resources**
- **High-altitude cities, timber lines**
- **Public buildings and grounds**
- **Future solid and liquid waste facilities**
- **Future solid and liquid waste facilities**

The land use element must also identify flood plains, and, in high-altitude cities, timber lines.

The reasons for these requirements should be clear. The basic role of the land use element is to lay out the general patterns of development in the community. If they have to identify the probable...
A city does not regulate the actual number of people moving in or out of it. Rather, the population density projections are translated into dwelling units per acre. Each neighborhood is assigned a "standard" in terms of dwelling units per acre (between four and eight, say, in a single-family neighborhood; 35, 50, or even more in a multi-family neighborhood). Then the locality will make some assumptions about household size—that is, how many people will live, on average, in each household. (Average household size typically runs between two and three persons, though it has been rising in some urban areas because of demographic changes.) Collectively, these standards will be used to create both the density and distribution of population called for in the land use element's broad policy statements.

Standards for building intensity are required to avoid the problem of using vague terms in drawing up land use policies. The land use element must also lay out standards for population density (how many people per square mile or a similar measurement) and building intensity (how much building space will be permitted in relation to the land area involved). Many communities deal with population density by including a projected "ultimate" population for the city or county, and perhaps even for subareas as well. A city does not regulate the actual number of people moving in or out of it. Rather, the population density projections are translated into dwelling units per acre.

Standards for density and intensity must be defined more specifically somewhere in the general plan. For example, while the diagram may earmark an area for very low-density development, a section of the land use element dealing with standards may define "very low density" to mean specifically one unit for every two acres of land.

Interaction With Other Elements

The land use element must bear a close correlation to the circulation element. Simply put, the circulation element must call for the creation of a transportation system that can handle the traffic created by the community envisioned in the land use element. Though the land use element must be consistent with other elements, the correlation with the circulation element is regarded as particularly important. It would be counterproductive to earmark an area for future development without also identifying the transportation facilities that would be required to accommodate that growth.

In practice, the land use and circulation elements will be crafted together in an iterative process. Typically, planners will draft a land use element with densities and intensities for the entire community—where jobs, housing, and shopping are likely to be located and in what quantities. Then the traffic engineers will incorporate the draft information into their statistical analysis, translating the land use patterns into a prediction of future traffic patterns.

Through this process, the traffic engineers will identify potential problem areas—roads, segments, intersections, etc.—which the planners will then use to redraft the policies in the land use element. Generally speaking, the combined land use and circulation analysis will provide decision-makers with a well-defined set of policy choices. They may have to choose among the following types of policy options:

- Expand road capacity in areas where new development is expanding
- Move new development to areas which already have excess road capacity
- Adopt policies to reduce vehicle trips or encourage drivers to use other modes of transportation
- Reduce the total amount of development permitted

There may be many other options, but these examples illustrate how the land use and circulation elements are developed together to create a coherent strategy for the future development of the community.

The land use element must also maintain a close relationship to the noise element. This requirement means that the noise contours and standards developed in the noise element must be used in the land use element to determine what the land use patterns will be. For example, if a vacant district lies next to a freeway, the land use element must recognize that freeway noise will have an impact on the adjacent land. Thus, the land use element might call for industrial buildings or warehouses on the vacant property, or else require

The circulation element must call for

The noise element must be used to

The land use element to determine what the land use patterns will be.
all property would be downzoned; they did not expect that general plan designations would be increased.)

Internal consistency. Another favorite legal strategy is to attack the general plan's internal consistency. While most plans do not contain flagrant inconsistencies, general plans are long and complex and documents and any judge is virtually certain to find an internal inconsistency if he or she looks hard enough.

The internal inconsistency argument is so fertile that both citizen groups and landowners are likely to rely on it for years to come, especially in the context of growth-related ballot measures.

Compliance with state laws. A general plan may be the supreme document from which all other local land use policies must flow, but it still must comply with state planning law. A general plan that does not contain the required seven elements in their general plans—including the many localities that have not revised their general plans since the 1970s.) Just as important, however, is the fact that a general plan may be legally vulnerable if it does not contain the standards required in state law.

Sometimes even the simplest error can lead to legal problems. In challenging the general plan for the city of Riverside, lawyers for a group of homeowners went to court to declare the city’s 1980 general plan invalid. The case was brought on the grounds that the city had failed to produce a current copy of the plan. However, the clerk was unable to produce a current copy of the plan and all its elements under one cover. Because state law requires the general plan to be readily available to the public, the lawyers made the plan's unavailability one of the causes of action in the lawsuit. And the court subsequently declared the Riverside plan invalid, partly because it was unavailable. (Gunter v. City of Riverside, 2 Cal.App.4th 259 (1991).)

Tests for an adequate general plan. In Curtin's California Land Use and Planning Law, Jr., poses several questions to determine whether a general plan is legally adequate. The list is so good that it bears reprinting here:

- Is it complete? (Seven elements)
- Is it informational, readable, and public?
- Is it internally consistent?
- Is it consistent with state policy?
- Does it cover all territory within its boundaries?
- Does it contain an action plan or implementation plan?
- Does it serve as a yardstick? Can you take an individual parcel directly to the text of the general plan?
- Does it address all locally relevant issues?
- Is it current?
- Does it contain the statutory criteria required by state law as demanded by the courts? For example:
- Does the land use element identify areas which are subject to flooding?
- Are noise contours shown for all of the listed sources of noise?
- Does it contain adequate standards of population density and building intensity?
- Does the circulation element responsibly list sources of funding for new transportation facilities?
- Is the circulation element correlated with the land use element?
- Does the general plan clearly specify allowed uses for each land use district?
- Are the density ranges specific enough to provide guidelines in making consistency findings where necessary?
- Does the housing element contain a program to conserve and improve the condition of the existing affordable housing stock?
- Are the diagrams or maps adequate? Do they show proposed land uses for the entire planning area?
- Does the land use map linked directly to the text of the general plan?
- Are the maps and text consistent?
- Does it contain an action plan or implementation plan?
- Finally, but most important, is it procedurally correct? Was it adopted properly? Did it receive proper environmental review?

Strengths and Weaknesses of the General Plan Process

In assessing the way general plans are drafted in California today, it is important to remember the legal context within which they are prepared. State law focuses heavily on public participation, the approval process, and requirements for technical analysis. But it leaves the question of each community’s vision to that community.

Some law focuses heavily on public participation, the approval process, and requirements for technical analysis, but leaves the question of a community’s vision to that community. In all, each community knows itself better than anyone else does. But by regulating some aspects of the general plan process and setting others be, the state often sets the priorities for the general plan discussion. The typical general plan process contains a great deal of discussion about densities and...
For better or worse, the general plan has changed planning in California by imposing a rational process on communities. As the history of American planning (considered in chapter 3) reveals, zoning has traditionally had a strong and somewhat independent place in the land use regulation system. Zoning performs the basic chore of dividing a community into districts and prescribing what can and cannot be built on each parcel. Euclid v. Ambler, the legal opinion on which most American land use regulations are based, upheld not a comprehensive plan nor a development code but specifically a zoning ordinance. Even communities that perform only perfunctory planning (or none at all) often have a zoning ordinance that divides the community into "use districts." In California, of course, zoning is supposed to be a tool to implement the general plan. The goals and principles of the plan are supposed to be translated into parcel-specific regulations by the zoning ordinance. And in most cities and counties, the zoning ordinance does, in fact, serve as a beast of burden for the general plan. In some places, however, the zoning ordinance remains the primary tool of land use planning, partly because it is more easily bent to meet the political needs of any given moment than the general plan can be. As the previous chapter explained, the general plan has been made much stronger over the past thirty years, and localities are finding it harder and harder to use the zoning ordinance independent of the general plan.

Chapter 7
The Basic Tools
Part 2—Zoning Ordinances and Development Codes

There have been changes in California in the planning process and the general plan by imposing a rational process on communities.