

Fairfax Town Planning Overview

Required by State Law

Proactively Guides Town:
2010-2030

For the Common Good

- Equity, Environment, Economy

Articulates a Collective Aspirational Vision

- Goals, Objectives, Policies & Programs
- "Homegrown" - by Citizen Committees (many years in development)
- Approved by Council (Apr 2012 & Oct 2013)

Elements work together as an Integrated Plan

- Housing (State Certified)
- Land Use, Circulation, Open Space, Conservation, Safety, Noise, Town Center (optional)

General Plan

Must conform with
General Plan

Detailed Municipal Law

- Governance, Traffic, Safety, Building Regulations ...
- New ordinances add/remove/change existing provisions

Changed by:

- Council Adoption (via resolution)
- Public Ballot Initiative
- Public Referendum (to repeal w/in 30days of adoption)

Town Code

Must conform with
Town Code

- Parking, Design, Size, height, # units ...

And Other Agencies

- Fire, water, sewer, ... requirements

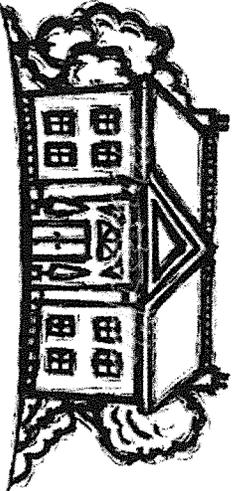
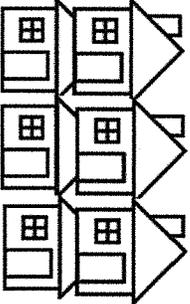
Approval Processes

- Over-the-Counter Permits, Variances, Appeals ...
- Planned Development District (PDD) Planning: Preliminary, Master, & Precise

Individual Projects

Planning Terms

- **Zoning** – A way of categorizing parcels by primary use (residential, commercial etc.)
- **Ordinance** – A law enacted by a municipal authority. Aggregated into a Town Code
- **Conditional Use Permit** – An exception which allows a property owner use of his/her land in a way not otherwise permitted by Town Code.
- **“By Right”** – Does not require a conditional use permit. All other permit requirements (parking, height, setbacks, sewer/water, etc.) still apply.
- **Affordable** – Housing costs (rent + utilities) are no more than 30% of median gross income in Marin (\$103,000 for a family of four). As defined by U.S. Dept. of Housing and Urban Development, Jan. 2012.
- **Unit** – Any type of dwelling with a separate kitchen and bathroom. (i.e., a large single family home and a small studio apartment would each be considered a unit)
- **Density** – Measured in dwelling units per acre of land (i.e., 20 units per acre)

| | |
|---|--|
|  <p>1 Unit per Acre</p> <ul style="list-style-type: none"> • 3,000 Sqft in 1 Unit • 2 Stories • 6 Bedrooms • Market rate is not affordable due to size |  <p>6 Units per Acre</p> <ul style="list-style-type: none"> • 3,000 Sqft in 6 Units (500sqft each) • 2 Stories • 6 Bedrooms • Market rate is affordable due to size |
|---|--|

**REGIONAL HOUSING NEEDS ALLOCATIONS (RHNA)
FOR
THE TOWN OF FAIRFAX 2013 HOUSING ELEMENT**

| | Extremely Low <30% | Very Low 30%–50% | Low <80% | Mod <120% | Above Mod | Number Of Units |
|-------------|-----------------------|---------------------|-------------|--------------|--------------------|--------------------|
| 1999–2006* | 6 | 6 | 7 | 19 | 26 | 64 |
| 2007–2014** | 11 | 12 | 12 | 19 | 54 | 108 |
| | | | | | Grand Total | 172 |

*Source: ABAG, 2006

**Source: ABAG, 2009



FAIRFAX 2013 HOUSING ELEMENT ACCOMODATION of RHNA

| Opportunity Sites and/or credits | Targeted Population | Affordability Ranges | Base Density (if any) | Number of Units |
|---|---------------------|-----------------------|-----------------------|------------------|
| Lutheran Church (PDD) | Seniors | 100% @ 30% to 50% AMI | 20 units / acre* | 40 |
| 10 Olema Road (PDD) | Workforce | 50% @ 30% to 50% AMI | 20 units / acre* | 22 |
| School Street Plaza (PDD) | Misc. | Moderate to above | None | 9 |
| Westside Commercial (CC) | Misc. | Moderate to above | None | 17 |
| Fair Anselm Area (CC) | Misc. | Moderate to above | None | 22 |
| Eastside Commercial (CC) | Misc. | Moderate to above | None | 14 |
| Previously zoned, or built from 1999 - 2014 | Misc. | Misc. | None | 21 27 |
| | | | | 172 Total |

* Establishing a minimum base density of 20 units / acre at these two sites (only) satisfies the state required low income or below affordability ranges: however, nothing precludes the Town from imposing additional affordability requirements on a project by project basis in each of the opportunity sites identified in the Housing Element.

What We Heard

Below is a list of all public comments from every public hearing on the adoption of Ordinance No. 778 since the March 5, 2014 Town Council meeting up to the July 2, 2014 Town Council meeting.

- Fairfax is a great, giving community
- We will need more than one community meeting
- Rents have gone up
- The character of the Town is deteriorating
- The cost of living is increasing
- 60% of the people who work in Marin commute to work
- Diversity is needed
- Can't ignore 1000 people signing the petition
- Fix it before passing the ordinance
- What is affordable housing in Marin?
- Sir Francis Drake is a residential street
- There are multiple cars per household
- The housing won't be affordable unless it is cheap
- A lawsuit is not the way to resolve the issue
- The proposed zoning protects the church
- Housing is a regional issue
- Stick to the facts
- We need reasonable housing
- People need a fair chance for housing
- 90% of the people who work in Fairfax don't live in Fairfax
- We can't pick and choose state laws
- Consider fair housing opportunities
- Don't create impediment to affordable housing
- Broaden housing opportunities
- Avoid taking extreme positions
- Recognize each other's mistakes
- The housing market is expensive in the U.S.
- Diversity is being pushed out
- We must support the General Plan
- The Fairfax public process is a model for the state
- Taking the Housing Element apart is not being responsible
- The Housing Element does create houses
- Concerned about traffic
- The Planning staff was very thorough
- This process is divisive
- I'm concerned about the legacy that we are leaving
- The Green Party promotes housing
- Slow down for public input
- No wholesale rezoning
- Rezoning multiple parcels is a new way of doing business
- Low income in Marin is \$90,500
- We are not required to have the same density as San Francisco
- Christ Lutheran Church has been a good neighbor
- We have a moral obligation to house the elderly, sick, disabled and homeless
- The potential legal risks need to be weighed
- The Housing Element will do great things for Fairfax
- A one-year moratorium will hamper the church project
- The church site has a plan
- The General Plan is an amazing document, the envy of other communities in the County
- There is a difference between what is zoned and what is built
- The Municipal Code controls the process and sets the ground rules
- It takes three years to process a project
- Allow the General Plan to treat projects on a case by case basis
- There is a two-year time limit to put funds under contract
- The Cascade Canyon School was not provided enough information
- How will the School operate during construction?
- The School is open to dialog, needs strong assurances
- The ordinance follows the policies of the General Plan, there is no reason to repeal it
- Slow down, have the workshop
- I am concerned about NIMBYism
- Support the Planning Commission recommendation

-
- The referendum does not prohibit the Church's application
 - Let each project stand on its own merits
 - 778 has flaws
 - Lay out a plan to replace 778
 - 778 born out of the Chevron application
 - 10 Olema Road has a lot of potential
 - We can thumb our noses at the state if we want to, we can do it our way
 - Pull the team back together
 - The poorest people need affordable housing
 - No housing should be built near bus routes
 - We need a balanced transportation system
 - No housing gets built for extremely low income people
 - Upzoning changes the quality of life
 - Where will people shop
 - What is "Workforce Housing"?
 - Don't use the charrette approach
 - What does affordable mean?
 - Let's have a real discussion
 - We can't start fresh when we already have something in place
 - Fairfax is not in compliance with the state regulations
 - Who gets to move into housing?
 - There is a lack of trust
 - How will you guarantee housing will be affordable?
 - Nobody can make a profit from affordable housing
 - Ordinance 778 is the best thing for the Town
 - Where will the seniors shop?
 - Not everyone is against development
 - Not everyone does or will drive
 - The need for affordable housing is paramount
 - Do we want to urbanize Fairfax?
 - 74 units across from Drake High is misinformation
 - The Planning Commission's action will affect the funding for the Church project
 - Rezoning affects the Church project's timeline
 - We shouldn't worry about ABAG funding
 - I support affordable housing, just not in Fairfax
 - The process is the most important thing
 - Fairfax is not an island
 - Hold on to the spirit of Fairfax
 - Clear the air and start over
 - Is Fairfax for sale?
 - The debate should take into consideration the surrounding communities
 - People that signed the petition didn't know what they signed
 - A lot of people don't understand the General Plan
 - The development potential totals 335 units
 - We need to live in the 21st century
 - Fairfax is the most affordable town in Marin
 - Can other parcels ask to be rezoned to PDD?
 - What about the three parcels that are already zoned PDD?
 - Who gets the density bonus?
 - Who gets second units by right?
 - HCD will push up the height limit
 - Fairfax has a Redevelopment Agency
 - People don't know about parking issues
 - We are in gridlock several times a day
 - Are there requirements for sewer lines?
 - Is there enough water?
 - There is a lack of an emergency evacuation plan
 - ABAG will come back to us
 - General Plans have not resulted in affordable housing
 - You can't force people to participate
 - Not a last minute plan
 - We did it ourselves
 - We were not motivated out of fear of losing money
 - 20 units per acre is pretty dense
 - Affordable housing is need everywhere
 - The Town has never had a legal General Plan
 - Fairfax is not a PDA

-
- How many affordable housing units are there in Fairfax?
 - If we could allow for more people who work in Town to live in Town, we could reduce vehicle trips
 - Seniors and young adults can't afford to live here
 - Seniors are less likely to have cars
 - People in apartments don't have enough parking
 - Affordable housing is a fraud
 - We should rehab existing buildings
 - What are the pros and cons of staying with ABAG?
 - I regret signing the petition
 - The petition to put the ordinance on the ballot is illegal
 - The Wall property was rezoned
 - The density of the Wall property is determined by the General Plan
 - We should reopen the General Plan to correct the zoning of the Wall property
 - 230 parcels were rezoned
 - Not having parking doesn't mean having less cars
 - Rezoning units doesn't mean that they will be built
 - We don't feel that we are being represented
 - There was no EIR
 - Nothing in the General Plan guarantees low cost housing
 - All properties went up in density
 - No fossil fuel-based development
 - We need sustainable development
 - People think that we are going to get a building like Corte Madera
 - We don't want the state to dictate
 - Open more units to make housing affordable in Fairfax
 - No way teachers or policemen can live in Fairfax
 - It is about the character of Fairfax
 - The church conducted interviews and found that senior housing was needed
 - A diverse community is far more interesting
 - The CC zone is identical to what is now downtown
 - Fairfax is the spiritual leader of Marin's environmental movement
 - Rezoning Fairfax to be more like the best of Fairfax should stay in place
 - We don't have functioning transportation
 - We need to be protective of our people
 - We should not get lost in misinformation
 - Fairfax is a hard place to build houses
 - The character of Fairfax is already changing
 - The last thing seniors give up is their cars
 - What happens if the Town pushes back against ABAG and the state?
 - What makes housing truly affordable?
 - Planning is a process
 - Get as many people involved as possible
 - Don't use facilitator
 - Find ways to draw in other people
 - Look within Fairfax for facilitator
 - I support some increased housing in downtown and periphery
 - How will housing in downtown affect downtown culture?
 - Do people want to live above bars?
 - Property owners stepped forward
 - Projects will be subject to democratic process
 - The Town has had to change since 1931
 - We are doing it our way
 - Have a map at the forum
 - Approving isn't guaranteeing
 - We need a place for young people and seniors
 - Wall property re zone was no accident
 - The Jehovah Witness parcel was unannounced
 - There is no affordable housing here
 - No Section 8 is available
 - I wish you had rent control
 - Renters don't have rights
 - No housing on toxic waste sites
 - Elder housing should be rent controlled
 - Our water is totally maxed out

-
- ABAG won't pay for water
 - Redo existing buildings
 - Bring the Housing Element into the 21st Century
 - The referendum is holding up the Church project
 - Say no to propagandists
 - There was no re zoning for the Wall property or Sky Ranch
 - it's not about low income housing
 - Developers won't do low income housing
 - Do not rescind 778 until after forum
 - Preserve the General Plan
 - A little bit denser is a good thing
 - There is unsolicited support for Peace Village
 - Talk to other Councils
 - There is no assurance that Fairfax people will be housed
 - Housing gets bid-up
 - Where did up-zoning come from?
 - Consider child care options for people who want to speak
 - We might need to use a language other than English.
 - We don't have to state address.
 - Time limit needed for speakers to allow working parents to participate.
 - There are a lot of ways to develop affordable housing and to fund it.
 - We can affiliate with outside groups.
 - Keep the tone of debate down.
 - Explain the details in plain English.
 - We have an excellent General Plan.
 - Repealing the ordinance necessary.
 - Repeal 778 because it is confusing.
 - Don't let misinformation stop you.
 - Strongly in favor of changing CH to CC.
 - What areas are designated PDD?
 - School Street might not be developed in 50 years.
 - No co-housing in this community.
 - If the Housing Element is not approved, will we lose funding?
 - Repealing 778 leaves us nowhere.
 - We need to create a new transit system in Town.
 - Not a parking problem, but a use problem.
 - Cut the wheat from the chaff.
 - Look at second units.
 - Planning is very important.
 - Need specific details from those that oppose.
 - What will replace the ordinance?
 - We should comply with state law.
 - Not as great a gap as people portray.
 - Take PDDs one at a time.
 - 1000 signatures need to be restricted.
 - Every community subject to bribe.
 - Marin is an expensive community to build in.
 - Where are the jobs?
 - Who are the stakeholders?
 - Density planned for areas with most traffic.
 - More community education needed.
 - Show where the numbers are coming from.
 - The need for senior housing is urgent.
 - Wish we had more jobs in Town.
 - Radical economic changes are happening.
 - Legal opinions need to be put in writing.
 - The word "affordable" is becoming a spin word.
 - The Council could vote to raise the height limit.
 - No one is addressing living wages.
 - Need to re establish formula store zoning.
 - What is this about?
 - Either goes on the ballot or repeal 778.
 - Will there be a one-year hold?

TOWN OF FAIRFAX 2010 – 2030 GENERAL PLAN - GOALS

Goals are statements of direction, stating where the Town is focusing efforts and attention, and toward what end.

Housing

- Goal H-1:** Housing opportunities for a range of household types and incomes (including extremely low, very low, low, moderate, and above moderate incomes-as well as for homeless families and individuals).
- Goal H-2:** Housing and programs for special needs populations; including senior, single-parent, family, work-force, and emergency homeless shelters.
- Goal H-3:** Create transit-oriented housing in the Town Center area that is less dependent on automobile travel and, thereby minimizing traffic impacts to the greatest extent possible while providing support for transit.
- Goal H-4:** Link housing and jobs in the community; including housing opportunities for Fairfax workers and public service employees.
- Goals H-5:** Sustainable Affordable Housing. Well-designed, energy-efficient, affordable housing for a diverse population at compatible scales and in the appropriate (transit supportive) locations.
- Goal H-6:** Create additional opportunities for the development of Accessory Dwelling Units.
- Goal H-7:** Create efficient procedures for monitoring housing need achievements.

Open Space

- Goal OS-1:** Protect and preserve open space lands and native biotic resources within the Fairfax Planning Area.
- Goal OS-2:** Manage, enhance, and restore open space to ensure long-term vitality and viability.
- Goal OS-3:** Preserve the sensory qualities of open space for recreational, cultural, educational, and spiritual experiences.
- Goal OS-4:** Balance the interests of public health and safety with the preservation of open space.

Conservation

- Goal CON-1:** Energy conservation and climate.
- Goal CON-2:** Air Quality.
- Goal CON-3:** Watershed and stream management.
- Goal CON-4:** Water conservation and quality.
- Goal CON-5:** Soils and vegetation.
- Goal CON-6:** Wildlife
- Goal CON-7:** Waste management.
- Goal CON-8:** Historic and cultural preservation.

Safety

- Goal S-1:** Minimize risks due to geologic hazards.
- Goal S-2:** Minimize risks due to flood hazards.
- Goal S-3:** Minimize risks due to fire hazards.
- Goal S-4:** Community preparedness.

TOWN OF FAIRFAX 2010 – 2030 GENERAL PLAN - GOALS

Goals are statements of direction, stating where the Town is focusing efforts and attention, and toward what end.

Land Use

Goal LU-1: Preserve scenic and Natural resources.

Goal LU-2: Preserve open space.

Goal LU-3: Restore natural habitats in Fairfax, including creeks and water-courses.

Goal LU-4: Minimize potential for wildfires and impacts from other natural catastrophes.

Goal LU-5: Manage future growth while preserving the area's natural resources.

Goal LU-6: Annex developed and undeveloped lands where advantageous to the Town.

Goal LU-7: Preserve community and neighborhood character.

Goal LU-8: Preserve community diversity through affordable housing opportunities primarily along transit corridors.

Goal LU-9: Preserve and restore local historic buildings, features and sites.

Circulation

Goal C-1: Maintain Sir Francis Drake as a functional regional artery.

Goal C-2: Promote the safe use of collector streets by automobiles, cyclists and pedestrians.

Goal C-3: Maintain the narrow and curving streets of Fairfax neighborhoods as part of the Town's sense of place, with flexible street standards to preserve neighborhood character.

Goal C-4: Ensure access by emergency services vehicles and public evacuation.

Goal C-5: Consider pedestrian and bicycle facilities as an integral part of a complete circulation network that provide affordable, healthful and ecological means of transportation.

Goal C-6: Promote less reliance on single-occupant vehicles.

Goal C-7: Promote a shift from conventional to new vehicle designs, including electrification of transportation.

Goal C-8: Improve circulation and safety in the downtown area.

Town Center

Goal TC-1: Develop a vision for the Town Center area of Fairfax.

Goal TC-2: Maintain and enhance the historic character of the Town Center area.

Goal TC-3: Define and implement a Plan for the Town Center area.

Goal TC-4: Actively seek out and review all available funding sources that might be used to implement the Town Center improvement program.

Noise

Goal N-1: Make land uses compatible with the noise environment.

Goal N-2: Reduce noise from traffic.

Goal N-3: Maintain the current quality of the acoustical environment.



A Citizen's Guide to PLANNING

State of California
Gray Davis, Governor

Governor's Office of
Planning and Research
Steven A. Nissen, Director

PO Box 3044
1400 Tenth Street
Sacramento, CA 95812-3044
916-445-0613

Terry Roberts, Manager
State Clearinghouse

January 2001 Edition

INTRODUCTION

This is a citizen's guide to land use planning as it is practiced in California. Its purpose is to explain, in general terms, how local communities regulate land use and to define some commonly used planning terms. The booklet covers the following topics:

State Law and Local Planning

The General Plan

Zoning

Subdivisions

Other Ordinances and Regulations

Annexation and Incorporation

The California Environmental Quality Act

A Glossary of Planning Terms

Bibliography: A Few Good Books

Cities and counties "plan" in order to identify important community issues (such as new growth, housing needs, and environmental protection), project future demand for services (such as sewer, water, roads, etc.), anticipate potential problems (such as overloaded sewer facilities or crowded roads), and establish goals and policies for directing and managing growth. Local governments use a variety of tools in the planning process including the general plan, specific plans, zoning, and the subdivision ordinance.

The examples discussed here represent common procedures or methods, but are by no means the only way of doing things. State law establishes a framework for local planning procedures, but cities and counties adopt their own unique responses to the issues they face. The reader is encouraged to consult the bibliography for more information on planning in general and to contact your local planning department for information on planning in your community.

STATE LAW AND LOCAL PLANNING

State law is the foundation for local planning in California. The California Government Code (Sections 65000 et seq.) contains many of the laws pertaining to the regulation of land uses by local governments including: the general plan requirement, specific plans, subdivisions, and zoning.

However, the State is seldom involved in local land use and development decisions; these have been delegated to the city councils and boards of supervisors of the individual cities

and counties. Local decisionmakers adopt their own sets of land use policies and regulations based upon the state laws.

Plan and Ordinances

There are currently 533 incorporated cities and counties in California. State law requires that each of these jurisdictions adopt "a comprehensive, long-term general plan for [its] physical development." This general plan is the official city or county policy regarding the location of housing, business, industry, roads, parks, and other land uses, protection of the public from noise and other environmental hazards, and conservation of natural resources. The legislative body of each city (the city council) and each county (the board of supervisors) adopts zoning, subdivision and other ordinances to regulate land uses and to carry out the policies of its general plan.

There is no requirement that adjoining cities or cities and counties have identical, or even similar, plans and ordinances. Cities and counties are distinct and independent political units. Each city, through its council and each county, through its supervisors, adopts its own general plan and development regulations. In turn, each of these governments is responsible for the planning decisions made within its jurisdiction.

Hearing Bodies

In most communities, the city council or board of supervisors has appointed one or more hearing bodies to assist them with planning matters. The titles and responsibilities of these groups vary from place-to-place, so check with your local planning department regarding regulations in your area. Here are some of the more common types of hearing bodies and their usual responsibilities:

- ***The Planning Commission:*** considers general plan and specific plan amendments, zone changes, and major subdivisions.
- ***The Zoning Adjustment Board:*** considers conditional use permits, variances, and other minor permits.
- ***Architectural Review or Design Review Board:*** reviews projects to ensure that they meet community aesthetic standards.

In some cities and counties, these bodies simply advise the legislative body on the proposals that come before them, leaving actual approval to the council or board of supervisors. More commonly, these bodies have the power to approve proposals, subject to appeal to the council or board of supervisors. These hearing bodies, however, do not have final say on matters of policy such as zone changes and general or specific plan amendments.

Hearings

State law requires that local governments hold public hearings prior to most planning actions. At the hearing, the council, board, or advisory commission will explain the proposal, consider it in light of local regulations and environmental effects, and listen to testimony from interested parties. The council, board, or commission will vote on the proposal at the conclusion of the hearing.

Depending upon each jurisdiction's local ordinance, public hearings are not always required for minor land subdivisions, architectural or design review or ordinance interpretations. The method of advertising hearings may vary. At a minimum, counties and cities must publish notice of general plan adoption and amendment in the newspaper. Notice of a proposed general plan amendment affecting allowable land uses, zone change, conditional use permit, variance, and subdivision tract is published in the newspaper and mailed to nearby property owners.

THE GENERAL PLAN

The Blueprint

The local general plan can be described as the city's or county's "blueprint" for future development. It represents the community's view of its future; a constitution made up of the goals and policies upon which the city council, board of supervisors, and planning commission will base their land use decisions. To illustrate its importance, all subdivisions, public works projects, and zoning decisions (except in charter cities other than Los Angeles) must be consistent with the general plan. If inconsistent, they must not be approved.

Long-range Emphasis

The general plan is not the same as zoning. Although both designate how land may be developed, they do so in different ways. The general plan and its diagrams have a long-term outlook, identifying the types of development that will be allowed, the spatial relationships among land uses, and the general pattern of future development. Zoning regulates present development through specific standards such as lot size, building setback, and a list of allowable uses. In counties and general law cities, the land uses shown on the general plan diagrams will usually be reflected in the local zoning maps as well. Development must not only meet the specific requirements of the zoning ordinance, but also the broader policies set forth in the local general plan.

Contents

State law requires that each city and each county adopt a general plan containing the following seven components or "elements": land use, circulation, housing, conservation, open-space, noise, and safety (Government Code Sections 65300 et seq.). At the same time, each jurisdiction is free to adopt a wide variety of additional elements covering subjects of particular interest to that jurisdiction such as recreation, urban design, or public facilities.

Most general plans consist of: (1) a written text discussing the community's goals, objectives, policies, and programs for the distribution of land use; and, (2) one or more diagrams or maps illustrating the general location of existing and future land uses. [Figure 1](#) is an example of a general plan diagram.

Each local government chooses its own general plan format. The plan may be relatively short or long, one volume or ten volumes, depending upon local needs. Some communities, such as the City of San Jose, have combined the required elements into one document and most communities have adopted plans which consolidate the elements to some extent.

State law requires that local governments make copies of their plans available to the public for reference. Copies can be sold to the public for the cost of reproduction.

Planning Issues

Although state law establishes a set of basic issues for consideration in local general plans, each city and county determines the relative importance of each issue to local planning and decides how they are to be addressed in the general plan. As a result, no two cities or counties have plans which are exactly alike in form or content. Here is a summary of the basic issues, by element:

- The *land use element* designates the general location and intensity of housing, business, industry, open space, education, public buildings and grounds, waste disposal facilities, and other land uses.

- The *circulation element* identifies the general location and extent of existing and proposed major roads, transportation routes, terminals, and public utilities and facilities. It must be correlated with the land use element.
- The *housing element* is a comprehensive assessment of current and projected housing needs for all economic segments of the community. It sets forth local housing policies and programs to implement those policies.
- The *conservation element* addresses the conservation, development, and use of natural resources including water, forests, soils, rivers, and mineral deposits.
- The *open-space element* details plans and measures for preserving open-space for natural resources, the managed production of resources, outdoor recreation, public health and safety, and the identification of agricultural land.
- The *noise element* identifies and appraises noise problems within the community and forms the basis for distributing new noise-sensitive land uses.
- The *safety element* establishes policies and programs to protect the community from risks associated with seismic, geologic, flood, and wildfire hazards.

Approving the Plan

The process of adopting or amending a general plan requires public participation. Cities and counties must hold public hearings for such proposals. Advance notice of the place and time of the hearing must be published in the newspaper or posted in the vicinity of the site proposed for change. Prior to approval, hearings will be held by the advisory body such as the planning commission. The general plan must be adopted by resolution by the legislative body of each city or county.

Community and Specific Plans

"Community plans" and "specific plans" are often used by cities and counties to plan the future of a particular area at a finer level of detail than that provided by the general plan. A community plan is a portion of the local general plan focusing on the issues pertinent to a particular area or community within the city or county. It supplements the policies of the general plan.

Specific plans describe allowable land uses, identify open space, and detail the availability of facilities and financing for a portion of the community. Specific plans must be consistent with the local general plan. A specific plan implements but is not technically a part of the general plan. In some jurisdictions, specific plans take the place of zoning. Zoning, subdivision, and public works decisions must be consistent with any applicable specific plan.

ZONING

The general plan is a long-range policy document that looks at the future of the community. A zoning ordinance is the local law that spells out the immediate, allowable uses for each piece of property within the community. In all counties, general law cities, and the city of Los Angeles, zoning must comply with the general plan. This rule does not apply to charter cities.

The purpose of zoning is to implement the policies of the general plan.

Zones

Under the concept of zoning, various kinds of land uses are grouped into general categories or "zones" such as single-family residential, multi-family residential, neighborhood commercial, light industrial, agricultural, etc. A typical zoning ordinance describes 20 or more different zones which may be applied to land within the community. Each piece of

property in the community is assigned a zone listing the kinds of uses that will be allowed on that land and setting standards such as minimum lot size, maximum building height, and minimum front yard depth. The distribution of residential, commercial, industrial, and other zones will be based on the pattern of land uses established in the community's general plan. Maps are used to keep track of the zoning for each piece of land (an example of a zoning map is shown in [Figure 2](#)).

Zoning is adopted by ordinance and carries the weight of local law. Land may be put only to those uses allowed by the applicable zoning classification. For example, if a commercial zone does not allow five-story office buildings, then no such building could be built on the lands which have been assigned that zone. A zoning ordinance has two parts: (1) a precise map or maps illustrating the distribution of zones within the community; and, (2) a text which identifies the specific land uses and development standards allowed in each zone.

Rezoning

The particular zone determines the uses to which land may be put. If a landowner proposes a use that is not allowed in the zone, the city or county could approve a rezoning (change in zone) to allow that development. The local planning commission and the city council or county board of supervisors must hold public hearings before property may be rezoned. The hearings must be advertised in advance and notice mailed directly to surrounding property owners. The council or board is not obligated to approve requests for rezoning and, except in charter cities, must deny such requests when the proposed zone conflicts with the general plan.

Overlay Zones

In addition to the zoning applied to each parcel of land, many cities and counties use "overlay zones" to further regulate development in areas of special concern. Lands in historic districts, downtowns, floodplains, near earthquake faults or on steep slopes are often subject to having additional regulations "overlain" upon the basic zoning requirements. For example, a lot that is within a single-family residential zone and also subject to a steep-slope overlay zone, must meet the development requirements of both zones when it is developed.

Prezoning

Cities may "prezone" lands located within the surrounding county in the same way that they approve zoning within the city. Prezoning is done before annexation of the land to the city in order to facilitate its transition into the city boundaries. Prezoning does not change the allowable uses of the land nor the development standards until such time as the site is officially annexed to the city. Likewise, land that has been prezoned continues to be subject to county zoning regulations until annexation is completed.

Variances

A variance is a limited waiver of development standards for a use that is otherwise permitted in that zone. The city or county may grant a variance in special cases where: (1) application of the zoning regulations would deprive property of the uses enjoyed by nearby, similarly zoned lands; and (2) restrictions have been imposed to ensure that the variance will not be a grant of special privilege. A city or county may not grant a variance that would permit a use that is not otherwise allowed in that zone (for example, a commercial use could not be approved in a residential zone by variance). Typically, variances are considered when the physical characteristics of the property make it difficult to develop. For instance, in a situation where the rear half of a lot is a steep slope, a variance might be approved to allow a house to be built closer to the street than usually allowed. Variance requests require a public hearing and neighbors are given the opportunity to testify. The local hearing body then decides whether to approve or deny the variance.

Conditional Use Permits

Most zoning ordinances identify certain land uses which do not precisely fit into existing zones, but which may be allowed upon approval of a conditional use permit (sometimes called a special use permit or a CUP). These might include community facilities (such as hospitals or schools), public buildings or grounds (such as fire stations or parks), temporary or hard-to-classify uses (such as Christmas tree sales or small engine repair), or land uses with potentially significant environmental impacts (hazardous chemical storage or a house in a floodplain). The local zoning ordinance specifies those uses for which a conditional use permit may be requested, which zones they may be requested in, and the public hearing procedure.

As with rezoning and variances, a public hearing must be held to consider a CUP. If the local planning commission or zoning board approves the use, it will usually do so subject to certain conditions being met by the permit applicant. Alternatively, it may deny uses which do not meet local standards.

SUBDIVISIONS

In general, land cannot be divided in California without local government approval. Dividing land for sale, lease or financing is regulated by local ordinances based on the State Subdivision Map Act (commencing with Government Code Section 66410). The local general plan, zoning, subdivision, and other ordinances govern the design of the subdivision, the size of its lots, and the types of improvements (street construction, sewer lines, drainage facilities, etc.). In addition, the city or county may impose a variety of fees upon the subdivision, depending upon local and regional needs, such as school impact fees, park fee, etc. Contact your local planning department for information on local requirements and procedures.

Subdivision Types

There are basically two types of subdivisions: parcel maps, which are limited to divisions resulting in fewer than five lots (with certain exceptions), and subdivision maps (also called tract maps), which apply to divisions resulting in five or more lots. Applications for both types of land divisions must be submitted to the local government for consideration in accordance with the local subdivision ordinance and the Subdivision Map Act.

Processing

Upon receiving an application for a subdivision map, the city or county staff will examine the design of the subdivision to ensure that it meets the requirements of the general plan, the zoning ordinance, and the local subdivision ordinance. A public hearing must be held prior to approval of a tentative tract map. Parcel maps may also be subject to a public hearing, depending upon the requirements of the local subdivision ordinance.

Final Approval

Approval of a tentative tract map or parcel map generally means that the subdivider will be responsible for installing improvements such as streets, drainage facilities or sewer lines to serve the subdivision. These improvements must be installed or secured by bond before the city or county will grant final approval of the map and allow the subdivision to be recorded in the county recorder's office. Lots within the subdivision cannot be sold until the map has been officially recorded. The subdivider has at least two years (and depending upon local ordinance, usually more) in which to comply with the improvement requirements, gain final administrative approval, and record the final map. Parcel map requirements may vary

dependent upon local ordinance requirements. [Figure 3](#) illustrates a typical subdivision map.

OTHER ORDINANCES AND REGULATIONS

Cities and counties often adopt other ordinances besides zoning and subdivision to protect the general health, safety, and welfare of their inhabitants. Contact your local planning department for information on the particular ordinances in effect in your area. Common types include: flood protection, historic preservation, design review, hillside development control, growth management, impact fees, traffic management, and sign control.

Local ordinances may also be adopted in response to state requirements. Examples include: Local Coastal Programs (California Coastal Act); surface mining regulations (Surface Mining and Reclamation Act); earthquake hazard standards (Alquist-Priolo Special Studies Zone Act); and hazardous material disclosure requirements. These regulations are generally based on the applicable state law.

ANNEXATION AND INCORPORATION

The LAFCO

Annexation (the addition of territory to an existing city) and incorporation (creation of a new city) are controlled by the Local Agency Formation Commission (LAFCO) established in each county by the state's Cortese-Knox-Hertzberg Act (commencing with Government Code Section 56000). The commission is made up of elected officials from the county, cities, and, in some cases, special districts. LAFCO duties include: establishing the "spheres of influence" that designate the service areas of cities and special districts; studying and approving requests for city annexations; and, studying and approving proposals for city incorporations. Below is a very general discussion of annexation and incorporation procedures. For detailed information on this complex subject, contact your county LAFCO.

Annexation

When the LAFCO receives an annexation request, it will convene a hearing to determine the worthiness of the proposal and may deny or conditionally approve the request based on the policies of the LAFCO and state law. Annexation requests which receive tentative LAFCO approval are delegated to the affected city for hearings and, if necessary, an election. Annexations which have been passed by vote of the inhabitants or which have not been defeated by protest (in cases where no election was required) must be certified by the LAFCO as to meeting all its conditions before they become final. It is the LAFCO, not the city, that is ultimately responsible for the annexation process.

Incorporation

When the formation of a new city is proposed, the LAFCO studies the economic feasibility of the proposed city, its impact on the county and special districts, and its ability to provide public services. A new city must be shown to be "revenue neutral" with regard to the tax revenues lost by the county as a result of incorporation and the cost of current services to the proposed city. If the feasibility of the proposed city cannot be shown, the LAFCO can terminate the proceedings. If the proposed city appears to be feasible, LAFCO will refer the proposal to the county board of supervisors for hearing along with a set of conditions to be met upon incorporation. If the supervisors do not receive protests from a majority of the involved voters, an election will be held among the voters within the proposed city boundaries to create the city. The voters elect the first council at the same election.

THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)

The California Environmental Quality Act (commencing with Public Resources Code Section 21000) requires local and state governments to consider the potential environmental effects of a project before deciding whether to approve it. CEQA's purpose is to disclose the potential impacts of a project, suggest methods to minimize those impacts, and discuss alternatives to the project so that decision makers will have full information upon which to base their decision. The term "project" is defined broadly in CEQA. It includes all of the actions discussed in this paper -- from annexations to zoning.

CEQA is a complex law with a great deal of subtlety and local variation. The following discussion is *extremely* general. The basic requirements and administrative framework for local governments' CEQA responsibilities are described in the *California Environmental Quality Act: Statutes and Guidelines*. For more information, readers should contact their local planning department or refer to the CEQA listings in the bibliography.

Lead Agency

The "lead agency" is responsible for seeing that environmental review is done in accordance with CEQA and that environmental analyses are prepared when necessary. The agency with the principal responsibility for issuing permits to a project (or for carrying out the project) is deemed to be the "lead agency." As lead agency, it may prepare the environmental analysis itself or it may contract for the work to be done under its direction. In practically all local planning matters (such as rezoning, conditional use permits, and specific plans) the planning department is the lead agency.

Preliminary Review

Analyzing a project's potential environmental effect is a multistep process. Many minor projects are exempt from the CEQA requirements. Typically, these include single-family homes, remodeling, accessory structures, and minor lot divisions (for a complete list refer to *California Environmental Quality Act: Statutes and Guidelines*). No environmental review is required when a project is exempt from CEQA.

When a project is subject to review under CEQA, the lead agency prepares an "initial study" to assess the potential adverse physical impacts of the proposal.

Negative Declarations and EIRs

If the initial study shows that the project will not cause a "significant" impact on the environment or when it has been revised to eliminate all such impacts, a "negative declaration" is prepared. The negative declaration describes why the project will not have a significant impact and may require that the project incorporate a number of measures (called "mitigation measures") ensuring that there will be no such impact.

If significant environmental effects are identified, then an Environmental Impact Report (EIR) must be written before the project can be considered by decision makers. An EIR discusses the proposed project, its environmental setting, its probable impacts, realistic means of reducing or eliminating those impacts, its cumulative effects, and alternatives to the project. CEQA requires that draft Negative Declarations and EIRs be made available for review by the public and other agencies prior to consideration of the project. The review period allows concerned citizens and agencies to comment on the completeness and adequacy of the environmental review prior to its completion.

When the decision making body (the city council, board of supervisors, or other board or commission) approves a project, it must certify the adequacy of the environmental review. If its decision to approve a project will result in unavoidable significant impacts, the decision making body must not only certify the EIR, but also state, in writing, its overriding reasons for granting the approval and how the impacts are to be addressed.

A Negative Declaration or an EIR is an informational document. It does not, in itself, approve or deny a project. Environmental analysis must be done as early as possible in the process of considering a project and must address the entire project. There are several different types of EIRs that may be prepared, depending upon the project. They are described in the *California Environmental Quality Act: Statutes and Guidelines*.

A GLOSSARY OF PLANNING TERMS

These are some commonly used planning terms. This list includes several terms that are not discussed in this booklet.

Board of Supervisors

A county's legislative body. Board members are elected by popular vote and are responsible for enacting ordinances, imposing taxes, making appropriations, and establishing county policy. The board adopts the general plan, zoning, and subdivision regulations.

The "Brown Act"

The Ralph M. Brown Open Meeting Act (commencing with Government Code Section 54950) requires cities and counties to provide advance public notice of hearings and meetings of their councils, boards, and other bodies. Meetings and hearings with some exceptions must be open to the public.

CEQA

The California Environmental Quality Act (commencing with Public Resources Code Section 21000). In general, CEQA requires that all private and public projects be reviewed prior to approval for their potential adverse effects upon the environment.

Charter City

A city which has been incorporated under its own charter rather than under the general laws of the state. Charter cities have broader powers to enact land use regulations than do general law cities. All of California's largest cities are charter cities.

City Council

A city's legislative body. The popularly elected city council is responsible for enacting ordinances, imposing taxes, making appropriations, establishing policy, and hiring some city officials. The council adopts the local general plan, zoning, and subdivision ordinance.

COG

Council of Governments. There are 25 COGs in California made up of elected officials from member cities and counties. COGs are regional agencies concerned primarily with transportation planning and housing; they do not directly regulate land use.

Community Plan

A portion of the local general plan that focuses on a particular area or community within the city or county. Community plans supplement the policies of the general plan.

Conditional Use Permit

Pursuant to the zoning ordinance, a conditional use permit (CUP) may authorize uses not routinely allowed on a particular site. CUPs require a public hearing and if approval is

granted, are usually subject to the fulfillment of certain conditions by the developer. Approval of a CUP is not a change in zoning.

Density Bonus

An increase in the allowable number of dwelling units granted by the city or county in return for the project's providing low- or moderate-income housing (see Government Code Section 65915).

Design Review Committee

A group appointed by the city council to consider the design and aesthetics of development within design review zoning districts.

Development Fees

Fees charged to developers or builders as a prerequisite to construction or development approval. The most common are: (1) impact fees (such as parkland acquisition fees, school facilities fees, or street construction fees) related to funding public improvements which are necessitated in part or in whole by the development; (2) connection fees (such as water line fees) to cover the cost of installing public services to the development; (3) permit fees (such as building permits, grading permits, sign permits) for the administrative costs of processing development plans; and, (4) application fees (rezoning, CUP, variance, etc.) for the administrative costs of reviewing and hearing development proposals.

Downzone

This term refers to the rezoning of land to a more restrictive or less intensive zone (for example, from multi-family residential to single-family residential or from residential to agricultural).

EIR

Environmental Impact Report. A detailed review of a proposed project, its potential adverse impacts upon the environment, measures that may avoid or reduce those impacts, and alternatives to the project.

Final Map Subdivision

Final map subdivisions (also called tract maps or major subdivisions) are land divisions which create five or more lots. They must be consistent with the general plan and are generally subject to stricter requirements than parcel maps. Such requirements may include installing road improvements, the construction of drainage and sewer facilities, parkland dedications, and more.

Floor Area Ratio

Abbreviated as FAR, this is a measure of development intensity. FAR is the ratio of the amount of floor area of a building to the amount of area of its site. For instance, a one-story building that covers an entire lot has an FAR of 1. Similarly, a one-story building that covers 1/2 of a lot has an FAR of 0.5.

General Law City

A city incorporated under and administered in accordance with the general laws of the state.

General Plan

A statement of policies, including text and diagrams setting forth objectives, principles, standards, and plan proposals, for the future physical development of the city or county (see Government Code Sections 65300 et seq.).

"Granny" Housing

Typically, this refers to a second dwelling attached to or separate from the main residence that houses one or more elderly persons. California Government Code 65852.1 enables cities and counties to approve such units in single-family neighborhoods.

use planning matters. The commission's duties and powers are established by the local legislative body and might include hearing proposals to amend the general plan or rezone land, initiating planning studies (road alignments, identification of seismic hazards, etc.), and taking action on proposed subdivisions.

Referendum

A ballot measure challenging a legislative action by the city council or county board of supervisors. When sufficient voter signatures are filed before the council or board action becomes final, the council or board must either set aside its action or call an election on the matter. Use permits, variances, and subdivisions cannot be challenged by referendum.

School Impact Fees

Proposition 13 put a limit on property taxes and thereby limited the main source of funding for new school facilities. California law allows school districts to impose fees on new developments to offset their impacts on area schools.

Setback

A minimum distance required by zoning to be maintained between two structures or between a structure and property lines.

Specific Plan

A plan addressing land use distribution, open space availability, infrastructure, and infrastructure financing for a portion of the community. Specific plans put the provisions of the local general plan into action (see Government Code Sections 65450 et seq.).

Tentative Map

The map or drawing illustrating a subdivision proposal. The city or county will approve or deny the proposed subdivision based upon the design depicted by the tentative map. A subdivision is not complete until the conditions of approval imposed upon the tentative map have been satisfied and a final map has been certified by the city or county and recorded with the county recorder.

Tract Map

See final map subdivision.

Variance

A limited waiver from the property development standards of the zoning ordinance. Variance requests are subject to public hearing, usually before a zoning administrator or board of zoning adjustment. Variances do not allow a change in land use.

Zoning

Local codes regulating the use and development of property. The zoning ordinance divides the city or county into land use districts or "zones", represented on zoning maps, and specifies the allowable uses within each of those zones. It establishes development standards for each zone, such as minimum lot size, maximum height of structures, building setbacks, and yard size.

Zoning Adjustment Board

A group appointed by the local legislative body to consider minor zoning adjustments such as conditional use permits and variances. It is empowered to conduct public hearings and to impose conditions of approval. Its decisions may be appealed to the local legislative body.

Zoning Administrator

A planning department staff member responsible for hearing minor zoning permits. Typically, the zoning administrator considers variances and conditional use permits and may interpret the provisions of the zoning ordinance when questions arise. His/her decision may be appealed to the local legislative body.

Impact Fees

See Development Fees.

Infrastructure

A general term describing public and quasi-public utilities and facilities such as roads, bridges, sewers and sewer plants, water lines, power lines, fire stations, etc.

Initial Study

Pursuant to CEQA, an analysis of a project's potential environmental effects and their relative significance. An initial study is preliminary to deciding whether to prepare a negative declaration or an EIR.

Initiative

A legislative measure which has been placed on the election ballot as a result of voter signatures. At the local level, initiatives usually propose changes or additions to the general plan and zoning ordinance. The right to initiative is guaranteed by the California Constitution.

LAFCO

Local Agency Formation Commission. The Cortese-Knox Act (commencing with Government Code Section 56000) establishes a LAFCO made up of elected officials of the county, cities, and, in some cases, special districts in each county. The 57 LAFCOs establish spheres of influence for all the cities and special districts within the county. They also consider incorporation and annexation proposals.

Mitigation Measure

The California Environmental Quality Act requires that when an adverse environmental impact or potential impact is identified, measures must be proposed that will eliminate, avoid, rectify, compensate for or reduce those environmental effects.

Negative Declaration

When a project is not exempt from CEQA and will not have a significant adverse effect upon the environment a negative declaration must be prepared. The negative declaration is an informational document that describes the reasons why the project will not have a significant effect and proposes measures to completely mitigate or avoid any possible effects.

Overlay Zone

A set of zoning requirements that is superimposed upon a base zone. Overlay zones are generally used when a particular area requires special protection (as in a historic preservation district) or has a special problem (such as steep slopes, flooding or earthquake faults). Development of land subject to overlay zoning requires compliance with the regulations of both the base and overlay zones.

Parcel Map

A minor subdivision resulting in fewer than five lots. The city or county may approve a parcel map when it meets the requirements of the general plan and all applicable ordinances. The regulations governing the filing and processing of parcel maps are found in the state Subdivision Map Act and the local subdivision ordinance.

Planned Unit Development (PUD)

Land use zoning which allows the adoption of a set of development standards that are specific to the particular project being proposed. PUD zones usually do not contain detailed development standards; these are established during the process of considering the proposals and adopted by ordinance if the project is approved.

Planning Commission

A group of residents appointed by the city council or board of supervisors to consider land

BIBLIOGRAPHY: A FEW GOOD BOOKS

The reader is encouraged to refer to the following books for a better understanding of planning in California.

California Environmental Quality Act: Statutes and Guidelines (Governor's Office of Planning and Research, Sacramento, California). *The CEQA Guidelines describe the requirements for evaluating environmental impacts. Out of print; check in the government documents section of your local library, or CERES website at ceres.ca.gov/ceqa.*

California Land Use and Planning Law, by Daniel J. Curtin Jr., (Solano Press, Pt. Arena, California), revised annually. *A look at the planning, zoning, subdivision, and environmental quality laws that is illustrated by references to numerous court cases.*

The General Plan Guidelines (Governor's Office of Planning and Research, Sacramento, California). *The Guidelines discuss local planning activities and how to write or revise a general plan.*

Growth Within Bounds: Report of the Commission on Local Governance for the 21st Century, 2000. *Recommendations on future local governance options, including LAFCO reform. Out of print; check in the government documents section of your local library, or the Commission website at www.clg21.ca.gov.*

A Guide to Planning in California, (League of Women Voters of California, Sacramento, California). *An excellent summary of the processes of local and state government.*

Guide to California Planning, by William J. Fulton (Solano Press, Point Arena, California). *A lively, well-written discussion of nearly every aspect of planning in the State.*

Open and Public: A User's Guide to The Ralph M. Brown Act, by the League of California Cities (League of California Cities, Sacramento, California), 1994. *An easy to read explanation of the state's open meeting laws and the responsibilities of local government with regard to public meetings.*

Subdivision Map Act Manual, by Daniel J. Curtin, Jr., (Solano Press, Pt. Arena, California), revised annually. *A practitioner's guide to the Map Act, including pertinent legal precedents.*