



AGENDA

CITY OF GUADALUPE PLANNING COMMISSION

Tuesday, June 17, 2008

Regular Meeting 6:00 p.m.

City Hall, Council Chambers
918 Obispo Street, Guadalupe, CA 93434

In compliance with the Americans with Disabilities Act, if you need special assistance to participate in a City meeting or other services offered by this City, please contact the City Clerk's office, (805) 356-3891. Notification of at least 72 hours prior to the meeting or time when services are needed will assist the City staff in assuring that reasonable arrangements can be made to provide accessibility to the meeting or service.

*If you wish to speak concerning any item on the agenda, please complete the Request to Speak form that is provided at the rear of the Council Chambers prior to the completion of the staff report and hand the form to the City Clerk. **Note:** Staff Reports for this agenda, as well as any materials related to items on this agenda submitted after distribution of the agenda packet, are available for inspection at the office of the City Administrator, City Hall, 918 Obispo Street, Guadalupe, California during regular business hours, 8:00 a.m. to 12:00 pm. and 1:00 p.m. to 5:00 p.m., Monday through Friday; telephone (805) 356-3891.*

MEMBERS OF THE PLANNING COMMISSION: Commissioners Monika Huntley, Carl Kraemer, Frances Romero and Chairman Alejandro Ahumada.

1. **CALL TO ORDER.**
2. **PLEDGE OF ALLEGIANCE.**
3. **ROLL CALL.** Commissioners Monika Huntley, Carl Kraemer, Frances Romero and Chairman Alejandro Ahumada.
4. **CONSENT CALENDAR.** The following routine items are presented for Planning Commission approval without discussion as a single agenda item in order to expedite the meeting. Should a Commissioner wish to discuss or disapprove an item, it must be dropped from the blanket motion of approval and considered as a separate item.

- a. Minutes of the Planning Commission meeting of April 15, 2008 to be ordered filed.
- b. Minutes of the Planning Commission meeting of May 20, 2008 to be ordered filed.

5. **COMMUNITY PARTICIPATION FORUM.**

Each person will be limited to a discussion of 3 minutes. Pursuant to provisions of the Brown Act, no action may be taken on these matters unless they are listed on the agenda, or unless certain emergency or special circumstances exist. The Planning Commission may direct Staff to investigate and/or schedule certain matters for consideration at a future Planning Commission meeting.

6. **CONSIDERATION OF IMPLEMENTING A DEVELOPMENT PLAN PROCESS.**

That the Planning Commission discuss the implementation of a Development Plan Process for certain new development projects and additions and consider recommending that the City Council direct the initiation of work on such a process.

- a. Written Staff Report (Rob Mullane)
- b. Planning Commission discussion and consideration
- c. It is Recommended that the Planning Commission discuss the implementation of Development Plan Process and direct staff to transmit any Commission recommendations on such a process to the City Council.

7. **PLANNING COMMISSION WORKSHOP # 6 :ENVIRONMENTAL ISSUES.**

That the Planning Commission conduct training workshop covering # 6 in the Planning Commissioner's Handbook: Environmental Issues.

- a. Written Staff Report (Rob Mullane)
- b. Planning Commission discussion and consideration.
- c. It is Recommended that the Planning Commission conduct training workshop covering # 6 in the Planning Commissioner's Handbook.

8. **FUTURE AGENDA ITEMS.**

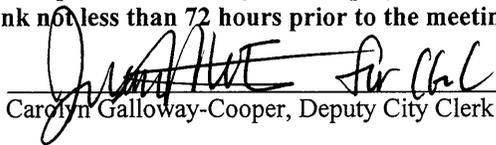
- a. **Review of Sign Regulations**

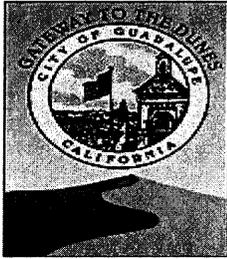
9. **ANNOUNCEMENTS.**

10. **ADJOURNMENT.**

I hereby certify under penalty of perjury under the laws of the State of California that the foregoing Agenda was posted at the City Hall display case, the Water Department, the City Clerk's office, and Rabobank not less than 72 hours prior to the meeting. Dated this 13th day of June, 2008.

By:


Carolyn Galloway-Cooper, Deputy City Clerk



AGENDA

CITY OF GUADALUPE PLANNING COMMISSION

Tuesday, April 15, 2008

Regular Meeting 6:00 p.m.

City Hall, Council Chambers
918 Obispo Street, Guadalupe, CA 93434

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MEMBERS OF THE PLANNING COMMISSION: Commissioners Monika Huntley, Carl Kraemer, Frances Romero and Chairman Alejandro Ahumada.

1. **CALL TO ORDER.** 6:02 pm by Chair Ahumada
2. **PLEDGE OF ALLEGIANCE.**
3. **ROLL CALL.** Present: Commissioners Monika Huntley, Carl Kraemer, and Chairman Alejandro Ahumada. Absent: Commissioner Frances Romero. One vacancy.
4. **CONSENT CALENDAR.** The following routine items are presented for Planning Commission approval without discussion as a single agenda item in order to expedite the meeting. Should a Commissioner Member wish to discuss or disapprove an item, it must be dropped from the blanket motion of approval and considered as a separate item.
 - a. **Minutes** for the Planning Commission regular meeting of March 18, 2008 to be ordered filed.

Motion to Approve consent agenda (Kramer/Huntley)
Vote: 3-0, Motion Approved

5. **COMMUNITY PARTICIPATION FORUM.**

Each person will be limited to a discussion of 3 minutes. Pursuant to provisions of the Brown Act, no action may be taken on these matters unless they are listed on the agenda, or unless certain emergency or special circumstances exist. The Planning Commission may direct Staff to investigate and/or schedule certain matters for consideration at a future Planning Commission meeting.

Speaker #1: George Alvarez, noting that he intends to apply for the Planning Commission vacancy. Mr. Alvarez also commented on the planning procedures, which he thinks are moving in a positive direction, but noted concerns with the follow-up on code enforcement complaints. He noted an unresolved code enforcement complaint regarding a property on Pioneer Street. Mr. Alvarez requested to know what follow-up procedures are in place and in what time frame.

City Planner Mullane was asked by the Commission to look into these procedures and report back.

6. **PLANNING COMMISSION WORKSHOP # 4 :THE PLANNING FRAMEWORK.**
That the Planning Commission conduct workshop # 4: The Planning Framework.

- a. Written Staff Report (Rob Mullane)
- b. Planning Commission discussion and consideration.
- c. It is Recommended that the Planning Commission conduct workshop # 4: The Planning Framework.

City Planner Mullane presented the staff report, gave an overview of the handbook chapter, and fielded questions from the Commission, once the discussion began.

Speaker #1: George Alvarez, noting a parking shed on 11th Street where there is an on-going dust problem. Mr. Alvarez inquired if a CUP was required for this development. Mr. Alvarez also requested an update on the Ruiz soil stockpile, and whether any CUP application was submitted. He noted that better transparency is needed for planning decisions.

Following speaker remarks the Planning Commission continued discussing and completed the workshop on the Planning Framework.

7. **GUADALUPE PLANT LIST.** That the Planning Commission receive an update on revision to the lists of Plants Suitable for Guadalupe. This is an informational item, no action other than receipt of the report is required.

- a. Written Staff Report (Rob Mullane)
- b. Planning Commission discussion and consideration.
- c. It is Recommended that the Planning Commission receive an update on revision to the list of Plants Suitable for Guadalupe.

City Planner Mullane presented the staff report, gave a brief overview of use of the approved plant list, and noted that this item was brought to the Commission as an informational item. No action was required or taken other than receipt of the report and plant list by the Commission.

8. **PLANNING DIRECTOR'S REPORT.** That the Planning Commission receive the Planning Director's Report.

City Planner Mullane noted that the City Council approved a new Planning Application fee schedule at their April 8, 2008 meeting and that the new fee schedule uses an actual cost deposit based system for most applications.

Mr. Mullane noted that the Council conducted first reading of an Ordinance to implement a Design Review Process on April 8th.

Mr. Mullane also reported that the poor condition of the sidewalk at 4851 Tenth Street was brought to the attention of the City Administrator and City Public Works Staff. The City is evaluating options for addressing this sidewalk segment.

9. **FUTURE AGENDA ITEMS.**

Commissioner Kraemer noted that there are many historical buildings in the City, but that none of these are registered. He noted that the City could compile and maintain a list of historical buildings and encouraged staff to include the following buildings: the Buddhist Church on Oliviera Street, the small jail, the Talaugon landmark, the Centennial, the Big Yellow House, and Masatani's.

10. **ANNOUNCEMENTS.**

Commissioner Huntley reminded the audience to spay and neuter their pets.

11. **ADJOURNMENT.**

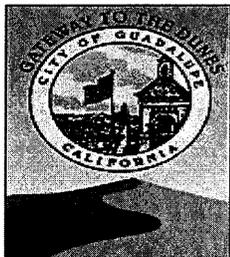
The Chair adjourned the meeting at 7:40 pm.

Submitted by:

Affirmed by:

Planning Commission Secretary

Alejandro Ahumada, Chairman



MINUTES

CITY OF GUADALUPE PLANNING COMMISSION

Tuesday, May 20, 2008

Regular Meeting 6:00 p.m.

City Hall, Council Chambers
918 Obispo Street, Guadalupe, CA 93434

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MEMBERS OF THE PLANNING COMMISSION: Commissioners Monika Huntley, Carl Kraemer, Frances Romero and Chairman Alejandro Ahumada.

1. **CALL TO ORDER.** 6:05 pm by Chair Ahumada
2. **PLEDGE OF ALLEGIANCE.**
3. **ROLL CALL.** Present: Commissioners Monika Huntley, Carl Kraemer, Frances Romero and Chairman Alejandro Ahumada.
4. **CONSENT CALENDAR.** The following routine items are presented for Planning Commission approval without discussion as a single agenda item in order to expedite the meeting. Should a Commissioner Member wish to discuss or disapprove an item, it must be dropped from the blanket motion of approval and considered as a separate item.

No items. City Planner Rob Mullane noted that the minutes of the April 15, 2008 would be placed on the agenda for the June meeting.

5. **COMMUNITY PARTICIPATION FORUM.**

Each person will be limited to a discussion of 3 minutes. Pursuant to provisions of the Brown Act, no action may be taken on these matters unless they are listed on the agenda, or unless certain emergency or special circumstances exist. The Planning Commission may direct Staff to investigate and/or schedule certain matters for consideration at a future Planning Commission meeting.

Speaker #1: George Alvarez, regarding the long length of time it took for a zoning violation complaint that he filed to be resolved. Complaint lodged on December 5, 2007, and letter to responsible party sent May 5th. Mr. Alvarez also noted that additional fertilizer tanks were recently installed on the SimPlot property and questioned why this did not come to the Planning Commission for a Conditional Use Permit.

City Planner Mullane noted that additions and new structures on Industrially zoned parcels do not need a Conditional Use Permit nor Planning Commission review. Such projects are processed with a staff-reviewed Zoning Clearance; however most would also require a Design Review Permit, now that this process has been implemented. Mr. Mullane also offered to update the Commission regularly on the issuance of Zoning Clearances.

The Planning Commission requested such updates on Zoning Clearances, and discussed whether issues other than design ought to be considered by the Commission, rather than having these addressed through a Zoning Clearance. Mr. Mullane noted that the review process could be made discretionary through the requirement of a Development Plan, but that this would require the Zoning Code to be amended and would need City Council approval. The Planning Commission requested that the Development Plan process be discussed as a regular item on a future agenda, so that they can make a recommendation to the City Council on whether such a process should be initiated.

6. **AMENDMENT TO PROHIBITION ON PARKING OF VEHICLES WITHIN PORTIONS OF THE FRONT YARD.** That the Planning Commission receive a presentation from Staff; conduct a public hearing; and consider Resolution # PC 2008-____, recommending that the City Council approve an Amendment to Section 18.060.035 of the City's Zoning Code that prohibits parking on portions of front yards in residential areas.

- a. Written Staff Report (Rob Mullane).
- b. Conduct a Public Hearing;
- c. Planning Commission discussion and consideration;
- d. It is Recommended that the Planning Commission receive a presentation from staff, conduct a public hearing, and consider resolution # PC 2008-____, recommending that the City Council approve an Amendment to Section 18.060.035 of the City's Zoning Code that prohibits parking on portions of front yards in residential areas.

City Planner Mullane presented the staff report and distributed color copies of examples in the City where residential driveways are unpaved. The Chair opened the public hearing and closed

the hearing, seeing no speakers. Commissioner Romero requested that a list of residential properties that currently have unpaved driveways be compiled, and include this with the Commission's Resolution recommending this amendment. Mr. Mullane noted that this inventory would be done and then included with the Resolution.

Motion to Approve Resolution # PC 2008-____, as revised (including the inventory of properties as an attachment to the resolution): Romero/Huntley

Vote: 4-0, motion passed.

7. **PLANNING COMMISSION WORKSHOP # 5 : HOUSING LAW AND POLICIES.** That the Planning Commission conduct workshop # 5: Housing Law and Policies.

- a. Written Staff Report (Rob Mullane)
- b. Planning Commission discussion and consideration.
- c. It is Recommended that the Planning Commission conduct workshop # 5: Housing Law and Policies.

City Planner Mullane presented the staff report, gave an overview of the handbook chapter, and fielded questions from the Commission.

8. **PLANNING DIRECTOR'S REPORT.** That the Planning Commission receive the Planning Director's Report.

City Planner Mullane updated the Commission on recent City Council actions related to Planning. This included an update on the DJ Farms Revised Specific Plan and the extension of the Planning Commission appointment period for another 30 days at the 5/14/08 City Council meeting. Mr. Mullane also announced that the Planning Department issued a Zoning Clearance for a temporary AT&T cellular tower on City property at Central Park on 10th Street.

The Commission requested an update on the Ruiz soil stockpile, and Mr. Mullane noted that no CUP application to retain the stockpile had been submitted and that the zoning violation remains and that the 90-day period for action had expired. The Commission noted its desire to have the violation resolved.

9. **FUTURE AGENDA ITEMS.**

Consideration of a Development Plan Process (as noted above in Item #5)

10. **ANNOUNCEMENTS.**

Commissioner Romero noted that there will be Memorial Day Services Monday at the cemetery. Commissioner Huntley reminded all present to spay and neuter their pets and that the feral dog and cat population is a problem that can be controlled.

11. **ADJOURNMENT.**

The Chair adjourned the meeting at 7:55 pm.

Submitted by:

Affirmed by:

Planning Commission Secretary

Alejandro Ahumada, Chairman

REPORT TO THE PLANNING COMMISSION
June 17, 2008

151
Prepared By:
Rob Mullane, City Planner

151
Approved By:
Carolyn Galloway-Cooper

SUBJECT: Consideration of Implementation of a Development Plan Process

EXECUTIVE SUMMARY:

This item is to allow Planning Commission discussion on whether a Development Plan process is needed for certain commercial development. A Development Plan permit process would upshift the permitting requirements for certain developments from a staff-issued Zoning Clearance to a new discretionary permit likely under the discretion of the Planning Commission.

There are benefits and drawbacks to setting up such a process, and staff will introduce these issues for Commission discussion. Should the Commission decide that such a process would be beneficial, staff should be directed to convey the Commission's support for implementing this process to the City Council. The Council would then consider the Commission's recommendation and direct staff accordingly.

RECOMMENDATION:

- 1) Receive a presentation from staff.
- 2) Allow for Planning Commission discussion and questions and answers
- 3) Consider a Motion in support of recommending that the City Council direct the implementation of a Development Plan process.

BACKGROUND:

At the May 20, 2008 Planning Commission meeting, the Commission requested that a discussion on the possible implementation of a Development Plan process be scheduled for a future agenda item. Staff has placed this item on this evening's agenda in accordance with the Commission's direction on May 20th.

DISCUSSION:

The City of Guadalupe's Zoning Code is set up to have most new commercial developments and additions subject to a Zoning Clearance, which is a staff-processed and issued planning permit. Because of the City's recently adopted Design Review Permit

requirements, the majority of these projects would, however, receive Planning Commission review of the design. The Planning Commission's purview and discretion in reviewing such project is limited to design issues, which are often a main issue of concern to the City, but would not cover non-design issues. Other issues that a Design Review process would place under the consideration of the Planning Commission include land use compatibility, risk of upset, traffic impacts or concerns, and protection of environmental resources. The Planning Commission, or the Zoning Administrator, would have to make certain findings regarding the project's consistency with City goals, policies, and standards before approving the project.

Benefits

The main benefit to the City would be the enhancement of environmental review. Zoning Clearances are ministerial (staff-level, non-discretionary) actions that are statutorily exempt from CEQA. Upshifting the permit review authority to the Planning Commission or Zoning Administrator would remove this statutory exemption and would require either a Categorical Exemption to be identified, or a Negative Declaration or Environmental Impact Report to be prepared and processed.

Along with CEQA review would be enhanced public review, for a public hearing on any pending Development Plan application would be required. Noticing of nearby property owners prior to any action on the Development Plan would also be required.

Drawbacks

The CEQA review requirements and public hearing requirements would tend to increase permit processing costs, the time required to secure final approvals, and would also introduce uncertainties in project feasibility that are not present in the Zoning Clearance process. In some cases, processing costs and time requirements would be substantially increased, such that would be applicants would be deterred from proceeding with a project.

It was for these reasons that the City Council advised against a Development Plan process in the fall of 2007 when the Planning Department's work plan was discussed. The City Council expressed support for a simpler, less costly process that still provided enhanced review, and staff responded by bringing forth the Design Review Process.

Applicability

Should a Development Plan process go forward, the Commission may want to provide input at this time regarding which types of projects would require a Development Plan. In many jurisdictions, Development Plans are required not only for commercial development, but also for multi-family residential projects, public works projects, and development on park properties. Typically, Development Plan regulations provide for minor additions and minor new buildings to be exempt. Staff would appreciate any early feedback on such issues.

ALTERNATIVES:

The Planning Commission, after discussing the pros and cons of implementing a Development Plan process, could decide that a Development Plan process is not needed, or is not needed at this time. If such a course is desired, the Commission could either:

1. consider a Motion to table the item, or
2. consider a Motion for staff to transmit a communication to the City Council indicating a lack of Commission support for implementing a Development Plan permit process.

AGENDA ITEM:

REPORT TO THE PLANNING COMMISSION

June 17, 2008

151

Prepared By:
Rob Mullane, City Planner

151

Approved By:
Carolyn Galloway-Cooper

SUBJECT: Planning Commission Workshop #6: Environmental Issues

EXECUTIVE SUMMARY:

This is six in a series of workshops for the Planning Commission. This workshop will provide an overview of The Planning Framework: the sixth chapter of the *Planning Commissioner's Handbook*, a resource produced by the League of California Cities.

This series of workshops uses the Planning Commissioner's Handbook as a guide for content. The goal of these workshops is to increase each Commissioner's comfort level with the role and responsibilities of the Planning Commission.

RECOMMENDATION:

- 1) Receive a presentation from staff
- 2) Allow for questions and answers on topics presented by staff

BACKGROUND:

The provision of workshops or trainings for the Planning Commission has been a desire of City Management, City Council, and the Planning Commission. Such workshops are valuable all Commissioners, whether new to the Commission or not, as a review of key concepts or to introduce new changes to City procedures, regulations, and State law.

This workshop series started at the September 18, 2007 Planning Commission meeting, with subsequent workshops on October 16, 2007, January 15, 2008, April 15, 2008, and May 20, 2008. This workshop, like previous workshops, is intended to allow a free discussion of the concepts and issues presented.

DISCUSSION:

This workshop focuses on the topics covered in Section 6 of the *Planning Commissioner's Handbook*. Section 6 covers Environmental Issues, which include:

- Environmental Justice
- Protection of Farmland and Open Space
- Endangered Species Laws

- The California Coastal Act
- Regulations Pertaining to Protection of Wetlands, Water Quality, and Air Quality
- Energy Conservation and Green Building Concepts, and
- Hazardous Materials Regulations and Redevelopment of Brownfields

The Commission previously received copies of the Planning Commissioner's Handbook, and having these handbooks at the meeting will be helpful to follow along with the staff presentation. For the benefit of the public, Chapter 6 of the handbook is included as Attachment 1 to this staff report.

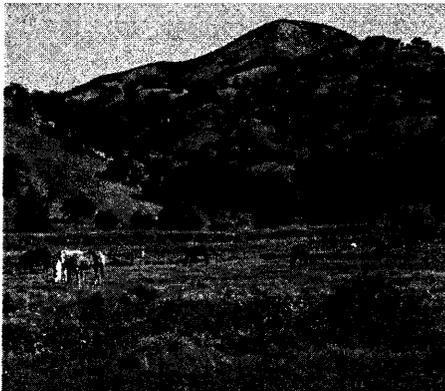
ATTACHMENTS:

1. Excerpt of Planning Commissioner's Handbook: Chapter 6

AGENDA ITEM:

ATTACHMENT 1

**EXCERPT OF THE PLANNING COMMISSIONER'S
HANDBOOK: CHAPTER 6**



SECTION 6

Environmental Issues

GROWTH MANAGEMENT67

ENVIRONMENTAL JUSTICE68

FARMLAND PROTECTION69

OPEN SPACE70

ENDANGERED SPECIES LAWS71

COASTAL ACT72

WATER QUALITY73

WETLANDS74

AIR QUALITY74

ENERGY75

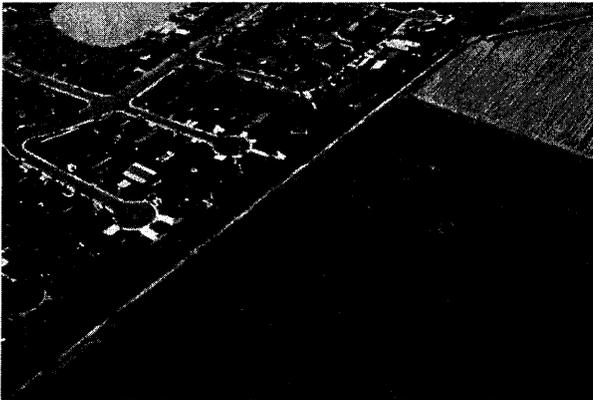
GREEN BUILDING76

BROWNFIELDS78

HAZARDOUS MATERIALS79

SECTION 6

Environmental Issues



GROWTH MANAGEMENT

Part of your role as a planning commissioner is to balance the need for new development with the protection of the environment. This is often referred to as growth management. Growth management doesn't mean "no growth." Halting all development is undesirable—and probably impossible—for most California cities and counties. The state's population is projected to increase by nearly 50 percent (or 18 million) in the next 25 years, and state housing laws require each city and county to plan for its fair share of new housing to support this growing population. (See Section 5, page 56). Population growth also means that new businesses will be needed in order for communities to remain economically viable.

The question for local officials is how to accommodate their community's share of growth in a way that satisfies competing demands for housing, economic development, and environmental protection. Exactly

what constitutes a sound growth management policy will vary with each community. Growth management will incorporate most of the tools already addressed in Section 4 of this Handbook, but will use them in a way that limits the size of the urban footprint:

- **Urban Growth Boundaries.** Urban growth boundaries (UGBs) confine growth to a designated zone. The zone usually contains enough land to accommodate projected growth for 15 to 20 years. Generally, the zoning ordinance should be changed to encourage higher densities within the growth area.
- **Infrastructure Limitations.** Infrastructure controls limit "leapfrog" development patterns by requiring that new development occur within or directly adjacent to areas already served by existing public services and facilities, like roads, schools, water, and sewage disposal.
- **Infill & Increased Densities.** Taking advantage of empty lots within already urbanized areas and building at increased densities both help decrease the need to expand into undeveloped land—sometimes called "greenfields."
- **Revised Building and Development Standards.** Your local building and development standards may be set up in favor of the "suburban ideal"—single-family detached homes. Revised policies can encourage more compact development by limiting the width of streets, allowing for smaller or zero lot-line setbacks, encouraging two-story floor plans, and relaxing development standards for renovations.

URBAN GROWTH AND SERVICE BOUNDARIES

Typical considerations for establishing an urban growth boundary include:

- **Amount of Land Within Boundary.** The amount of land needed to accommodate future growth will be influenced by projected population and business growth, and the desired densities of new projects.
- **Protected Areas.** Valuable farmland or open space is often left outside of the line to limit development opportunities.
- **Interjurisdictional Cooperation.** One city's urban growth boundary probably does not mean much if the county or neighboring cities are not committed to the same principles.
- **Consistency.** The general plan and the zoning ordinance may have to be revised to reflect the new boundary.
- **Periodic Review.** Periodic reviews can provide data on the effectiveness of the boundary as a planning tool.

- **Building Caps.** Building caps manage growth by limiting the number of residential building permits that a local agency may issue each year. However, this approach may only push growth into neighboring communities without encouraging more compact growth patterns. In addition, building caps do not necessarily influence the type of growth that occurs. In other words, sprawling growth may continue under a building cap, but at a slower pace.

Critics of growth management often warn that it can drive up land and housing prices by limiting the supply of developable land. Adopting strategies designed to maintain an adequate supply of affordable housing within an urban growth boundary will offset this criticism. At a minimum, the extent to which growth controls affect housing opportunities will need to be addressed when the state Department of Housing and Community Development reviews your jurisdiction's housing element.

ENVIRONMENTAL JUSTICE

Environmental justice is the fair treatment and meaningful involvement of all people—regardless of race, color, ethnicity, or socioeconomic group—in the development, implementation, and enforcement of environmental laws.¹ The environmental justice movement grew out of a recognition that low-income

and minority populations are often disproportionately exposed to high levels of environmental contaminants due to the proximity of their homes to freeways, landfills, incinerators, industrial areas, hazardous waste facilities, and other pollution sources. As a result, these groups are more likely to suffer the ill effects of pollution, such as asthma and even learning disabilities.

Historically, land use decisions have disproportionately impacted some of these communities through:

- Unequal enforcement of environmental and civil rights laws.
- Faulty assumptions by government agencies and private entities in calculating and assessing risks.
- Discriminatory zoning and land use practices.
- Exclusionary policies and practices that limit meaningful participation by low-income residents and people of color in governmental processes.
- Limited access to environmental benefits, such as access to parks and open space.

Fair treatment and meaningful public involvement are the cornerstones of environmental justice programs. "*Fair treatment*" means that no group should bear a disproportionate share of the negative environmental consequences resulting from industrial, municipal, and commercial operations. "*Meaningful involvement*" means that all residents should have an equal opportunity to

¹ Cal. Gov't Code § 65040.12.

BALANCING GROWTH AND WATER SUPPLY

Local agencies must take into account the extent to which long term water supplies can keep pace with new growth.² State law requires agencies to conduct a water assessment when certain types of developments are proposed, including:

- 500 new housing units
- 500,000 square feet of retail
- 250,000 square feet of office space
- 650,000 square feet of business park use or a mixed-use project with any combination equal to the scale noted above.

This assessment should be included in the environmental review (CEQA) process. If there is not adequate water to reliably supply the project (meaning that water will be available even during multiple dry years after accounting for all future demands), new water sources need to be identified. In some instances (such as subdivisions of 500 or more units or where total connections increase by at least 10 percent), local agencies must obtain written verification from a water provider that a reliable water supply is available.³ There are some exceptions for certain infill and affordable housing projects.

participate in decisions that will affect the community's environment and health. Such decisions should be made in a way that the public's contribution can influence the regulatory agency's decision; the concerns of all participants involved are considered in the decision-making process; and decision-makers seek out and facilitate the involvement of those potentially affected.

Local agencies can pursue environmental justice on two fronts. First, they can ensure that current decisions are made with the goal of environmental justice in mind to prevent future problems. Second, they can work to correct past environmental injustices. A number of agencies have incorporated environmental justice goals and policies in the general plan, either as a single element or throughout all elements. A few local governments have developed environmental justice grant programs to help remedy existing environmental injustices.



For More Information

For information on incorporating environmental justice in the general plan, consult the *General Plan Guidelines* (Governor's Office of Planning and Research, 2003).

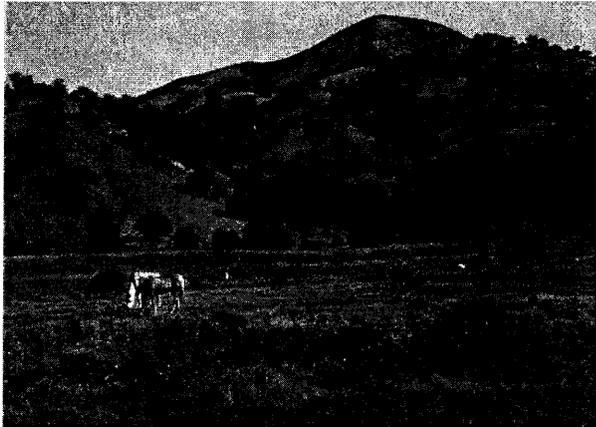
FARMLAND PROTECTION

Protection of farmland is another important growth management issue. California leads the nation in agricultural production, yet many communities have grown so fast that local agriculture has disappeared. The most effective farmland protection tool is an effective growth management plan. Most of the tools discussed in Section 4 can be used to protect farmland. However, there are a number of other effective tools:

- **Agricultural Element in the General Plan.** Many communities have adopted an agricultural element in their general plan to provide support for local agriculture. By doing so they require the other elements of the plan to be consistent with local agricultural policies.
- **Agricultural Zoning.** Many communities use large-lot zoning as a means to protect agriculture. When using this strategy, it is important to assure that the minimum lot size is sufficient to sustain a viable agricultural operation. The ideal lot size will vary depending on soil type, climate, and farming practice. In many areas of the state, minimum parcel size may need to be 50 to 80 acres. In ranching communities, the required acreage might be much higher. If the minimum lot size is set too low, the zoning is likely to

² See Cal. Water Code §§ 10631, 10656, 10910-10915.

³ Cal. Gov't Code § 66473.7.



create “hobby” farms that will produce little benefit to the local agricultural economy.

- **Buffers & Right-to-Farm Ordinances.** Residential and agricultural uses of property are often incompatible. Agriculture is noisy and smelly. In addition, farms near urban areas suffer increased trespassing, theft, and vandalism. Keeping large buffers—sometimes 1000 to 2000 feet—between farms and residential areas will limit conflicts. Most counties and several cities have adopted “right-to-farm” ordinances that either attempt to limit the extent that residents can seek to stop typical farm activities that they might perceive as nuisances or provide notice and complaint procedures when such activities occur.
- **Conservation Easements.** State funds have recently become available to purchase conservation easements on farmland. Basically, the farmer sells the right to develop the land to a conservation group, guaranteeing that the land will not be developed (and presumably will stay in agriculture). This is the same



For More Information

For more information on farmland protection, see the *Farmland Protection Action Guide: 24 Strategies for California*, available at www.ilsg.org/farmland.

idea underlying “transfer of development right” programs.

- **Williamson Act and Farm Security Zones.** The state’s Williamson Act and Farm Security Zone programs provide farmers tax breaks for keeping their land in productive agriculture for periods of 10 and 20 years. In return, the land is valued for tax purposes at its agricultural value instead of its market value. The state then makes subvention payments to local agencies to compensate them for lost property tax revenues.

OPEN SPACE

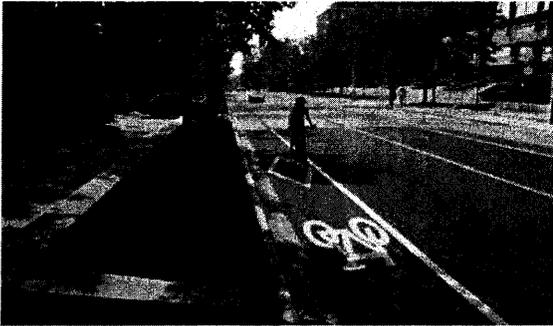
Parks and open space play an increasingly important role in maintaining a healthful and interesting urban environment. In addition to protecting scenic, recreational, and environmental resources, they can promote public health and safety when they are located on flood plains, fire zones, steep slopes, or unstable soils, thus ensuring that such areas remain undeveloped. Many consider the preservation of open space to be as vital to the psychological, physiological, and economic well-being of individuals and communities as any other duty of a public agency.

The open space and conservation elements in the general plan are the basis for open space planning. These elements—which are often combined due to their overlapping nature—should provide a comprehensive plan for the long-range preservation of important local resources. These may include sites with outstanding scenic, historic, and cultural value; areas suited for park and recreation purposes; thus ensuring that such areas remain undeveloped, and areas that link major recreation and open space reservations, like utility easements, riverbanks, trails, and scenic highway corridors.⁴ The open space element must also contain an “action program” that describes specific programs for conserving open space.⁵ Areas desirable for open space conservation should be indicated on the land use map in the general plan as potentially suitable for recreational activities.

Sometimes looking at the open space element by itself is not enough. It may also be worthwhile to take a look at the circulation, transportation, and related elements.

⁴ See Cal. Gov’t Code § 65560.

⁵ See Cal. Gov’t Code §§ 65564; 65302(a).



Often, the goals and policies in other elements of the general plan may not directly affect open space, but they may place important resources at risk. Alternatively, other opportunities to preserve open space may exist if your community is involved in developing a Habitat Conservation Plan. Habitat Conservation Plans often focus on preserving and connecting existing open space to protect endangered and threatened plants and animals.

Another issue that often arises is finding funds necessary to purchase and maintain open space. In some cases—like on steep hillsides and flood plains—open space can be sufficiently protected through regulation alone. However, when public access is also desired, agencies may have to obtain property interests or fund operation and maintenance costs. A number of sources—like development impact fees, bond funds, and state and private conservation grants—may be available. Another source is the Quimby Act⁶—a section of the Subdivision Map Act—that authorizes local agencies to require that a certain amount of parkland (usually determined by a formula) be dedicated to a public agency as a condition of tentative map applications. Some communities have also adopted special parcel taxes to protect nearby lands, although these taxes are subject to the voter approval requirements of Proposition 218.



For More Information

For more information on protecting open space, consult *A Local Official's Guide to Open Space Acquisition*, available at www.ilsg.org/openspace.

ENDANGERED SPECIES LAWS

Endangered species laws receive a lot of attention, particularly in rural areas. The endangered species issue is particularly important in California because the state is home to 275 endangered plants and animals—more than any other state except Hawaii. Two laws govern the protection of endangered species, one federal (the federal Endangered Species Act, or “ESA”) and one state (the California Endangered Species Act, or “CESA”)⁷ The two laws are not necessarily congruous. A species protected under state law may or may not be protected under federal law.

The key element of both the state and federal laws is the listing of species as either *protected* or *endangered*. Once listed, a species is entitled to certain protections, the most significant of which is the prohibition against any “take” (killing) or “harm” (injuring animals or disturbing habitat) without a permit from either the National Fish and Wildlife Service (federally listed species) or the state Department of Fish and Game (state-listed species). In the case of salmon or other ocean-dwelling fish that spawn in rivers, permission is necessary from the National Marine Fisheries Service (NMFS).

“Take” permits may be issued subject to a habitat conservation plan (HCP) under federal law or a Section 2081 permit under state law. In the early days of the federal Endangered Species Act, habitat conservation plans were designed for each listed species. However, since the habitats of many species overlap, it has become standard practice to develop Multiple Species Habitat Plans—also called Natural Communities Conservation Plans under state law—that address multiple species at once.

Local agencies play a key role in the development of habitat conservation plans. Without local agency involvement, individual landowners seeking to develop their land would have to file individual protection plans. This would require each landowner to hire a biologist and undergo the scrutiny of government regulators. Local agency involvement streamlines this process by developing plans covering a large area or region. Large-scale plans are better able to preserve sensitive habitat and channel development to less sensitive areas.

⁶ Cal. Gov't Code § 66477.

⁷ See 16 U.S.C. §§ 1531 and following (federal Endangered Species Act), Cal. Fish & Game Code §§ 2050 and following (California Endangered Species Act).



For More Information

For more information about federal and state endangered species laws, see *A Local Official's Guide to Habitat Conservation Laws* at www.ilsg.org/habitat.

Developing an area-wide plan, however, can be highly contentious, particularly if the plan limits development on certain properties. The process can focus landowner frustration on local government. Many local agencies have found that proactive public outreach strategies, such as extensive stakeholder involvement, are essential in gaining community acceptance of area-wide species protection plans.

COASTAL ACT

Development in the state's renowned coastal areas is governed by the Coastal Act⁸, which empowers the California Coastal Commission to regulate all development in the "coastal zone." (The exception to this is the San Francisco Bay Area, where the San Francisco Bay Conservation and Development Commission governs development). The coastal zone is generally defined as the area that extends 1000 yards inland from the mean high tide line of the sea. The boundary can extend even further in estuarine areas.

The cornerstones of the Coastal Act are to preserve public access to the sea and shoreline and to encourage public participation in the development of coastal resources. The Act encourages the balancing of recreational and industrial uses of coastal resources and reconciles the conflicting nature of these goals by declaring that they be resolved in a manner that provides the greatest protection of significant coastal resources.

Any person who wishes to undertake any development in the coastal zone must first obtain a "coastal development permit." The Coastal Commission delegates authority to issue coastal development permits

to local agencies that have an approved "local coastal program" (LCP). Each of the 73 cities and counties in the coastal zone must prepare an LCP for the agency's portion of the coastal zone for review and certification by the Coastal Commission. The purpose of this procedure is to ensure that LCPs reflect local issues and concerns while simultaneously meeting the statewide goals of the Coastal Act.

Getting an LCP approved by the Coastal Commission is not always easy. An LCP usually consists of two parts—a land use plan (similar to a specific plan for the coastal area) and the implementing zoning ordinances. These two elements can be submitted for approval at the same time or in two stages. The Coastal Commission will approve an LCP upon determining that it achieves the basic goals of the Coastal Act. The Coastal Commission will reject the LCP if it finds a "substantial issue" as to its conformity with the policies of the Coastal Act. If a substantial issue is found, the Coastal Commission must hold a public hearing.

Even after an LCP has been approved, the Coastal Commission retains a degree of control over development in the coastal zone. For example, the Coastal Commission must review each certified LCP at least once every five years to evaluate its effectiveness in implementing the Coastal Act.

Additionally, the Coastal Commission retains appeal jurisdiction (meaning it can overturn local decisions) for projects located between the sea and the first public road paralleling the sea or 300 feet from the beach, whichever is greater. The Coastal Commission retains similar authority over properties located on coastal bluffs or near estuaries. Either the applicant or someone who communicated a viewpoint (by speaking or writing) during the application process may appeal. The appeal must allege that the development does not conform to the standards of the LCP or the public access policies of the Coastal Act.

WATER QUALITY

Water quality regulations protect local wetlands, streams, rivers, drinking water, and the overall health of the community. The most basic goal of these regulations is to prevent runoff—such as from rain—from picking up silt, oils, toxic metals, road grime, animal wastes, lawn fertilizers, farm chemicals, and other pollutants before draining into natural watercourses.

As a planning commissioner, you will be considering water quality issues in terms of whether a specific project includes all possible actions to minimize polluted runoff. For example, since construction sites are a major source of water sediments that upset stream and river environments, developers are often required to place sod barriers around storm drains to limit sediment discharge.

The federal Clean Water Act prohibits the discharge of any pollutant—anything that alters natural water quality—into any surface water without a permit.⁹ The Act establishes two strategies to this end. The first requires the use of “best available technologies” (BATs) and “best management practices” (BMPs) to minimize the amount of pollution that flows away from any one site. These approaches can be used to either prevent the discharge of a pollutant into a water system or require treatment of a pollutant before it reaches the system. Prevention is usually preferred because it costs less than treatment. The second strategy relies on determining the amount of pollution that can be released into surface waters without adversely affecting their beneficial uses.

The Clean Water Act also distinguishes “point sources” and “nonpoint sources” of pollution. A point source is a confined or discrete conveyance, like a drainage pipe. A nonpoint source is anything else that discharges into surface water. Examples include runoff from agricultural operations or roads. As you might suspect, it is generally easier to identify and regulate point sources of pollution than nonpoint sources—and the law has recognized that fact by setting separate planning standards for each.

In California, the Clean Water Act is enforced by the State Water Resources Control Board (SWRCB), which in turn divides the state into nine geographic areas

governed by Regional Water Quality Control Boards (RWQCBs). Each regional board serves a specific watershed and must develop a Basin Plan and a Watershed Management Initiative to guide regional watershed priorities. There are several mechanisms that these agencies use to control the discharge of pollutants:

- **National Pollutant Discharge Elimination System (NPDES).** The NPDES system prohibits all point source discharges into any body of water (which in California includes groundwater) without a permit.¹⁰ The permit system allows for the imposition of best practices to minimize pollution discharge and assure that the discharge will not violate state water quality standards. These standards may change to reflect improvements in technology and management practices.
- **Stormwater Drainage Systems.** Storm runoff usually begins as a nonpoint source, but flows into point sources as storm drainage systems collect it. Accordingly, storm systems (except those in very rural areas) require NPDES permits. To obtain a permit, local agencies must reduce pollutants to the *maximum extent practicable*¹¹ by implementing a stormwater management plan. The management plan must specify what best management practices (BMPs) will be used to address certain program areas. The program areas include public education and outreach, illicit discharge detection and elimination, construction and post-construction, and good housekeeping for municipal operations. In general, municipalities with a population over 100,000 are required to conduct chemical monitoring, but smaller municipalities are not.



For More Information

The State Water Resources Control Board has developed a useful Model Urban Runoff Program. See www.swrcb.ca.gov/stormwtr/murp.html.

⁹ 33 U.S.C. §§ 1342, 1344.

¹⁰ 33 U.S.C. § 1344.

¹¹ This is the performance standard specified in Section 402(p) of the Clean Water Act, 33 U.S.C. 1342(p).

- **Publicly Owned Treatment Works (POTWs).** There is a separate set of standards for publicly owned water treatment works. One of the reasons for the separate standards is to assure that direct discharge requirements are not compromised by industry's use of a publicly owned sewage treatment works. Often, contaminants must be pretreated by businesses before they can enter a public water treatment system.
- **Nonpoint Source Management Plans.** The state must develop a nonpoint source management plan, which serves a particularly important role in many coastal areas where nonpoint sources have been identified as a major source of degradation in coastal waters. The State Water Resources Control Board and the Coastal Commission have identified approximately 60 nonpoint source pollution management measures, many of which address nonpoint source pollution resulting from development.

In addition, the state sets a total maximum daily load (TMDL) pollutant standard for certain bodies of water. The state first identifies how each body of water will be used—such as for drinking water, recreation, or supporting aquatic life—and sets appropriate quality standards. Lakes, rivers, and streams that are too polluted to serve their designated use even with technology-based effluent limitations¹² are defined as “impaired.” For each of these water bodies, the state calculates a TMDL, which is the total amount of pollutant the water body can tolerate, plus a margin of safety, and still meet water quality standards.¹³

The TMDL accounts for all sources of pollutant (point and nonpoint) and sets numeric targets that will ensure recovery of the impaired body. Once TMDLs are set, the state must allocate the TMDL among all the sources contributing that pollutant to the watershed, including municipal wastewater, stormwater discharges, industrial sources, and nonpoint sources like agricultural runoff. The TMDL strategy in California relies on an adaptive process that matches management capabilities with scientific understanding. It also relies heavily on engaging the public and cultivating an understanding of watershed issues. Once established, TMDLs must be incorporated into the water quality plans (basin plans)

formulated by the regional boards and the NPDES permits issued in the watershed.

WETLANDS

In addition to water quality regulations, the Clean Water Act prohibits the filling and dredging of wetlands without a permit issued by the Army Corps of Engineers.¹⁴ The filling of a wetland is a common issue encountered by many planning commissioners. Fill comprises any material used to replace an aquatic area with dry land or raise the bottom elevation of a water body. This means that the scope of wetland protections extends to mechanized land-clearing activities—like grading—that result in a redeposit of soil in wetland areas.

The Clean Water Act grants the U.S. Environmental Protection Agency (EPA) authority over wetlands that are designated as “special aquatic sites.” The EPA has developed a set of special standards that must be applied by the Corps of Engineers before it can approve a permit. The most significant of these is that the project cannot be approved when a practical and less environmentally adverse alternative exists (like changing the location of the project or the type of fill material). To the extent that damage cannot be avoided, the applicant must compensate for lost wetlands (often by restoring or upgrading degraded wetlands onsite or elsewhere).

Whether the Corps of Engineers grants such a permit will not be a direct concern of yours as a planning commissioner. To the extent that an individual project seeks to fill or dredge a wetland area, local agencies usually require the developer to obtain all the necessary permits from the Corps of Engineers (which may even involve compliance with the National Environmental Policy Act) before the application can be deemed complete. However, you do not have to approve a project just because a landowner has received such a permit.

AIR QUALITY

California has seven of the ten metropolitan areas in the country with the worst air quality. So-called mobile sources of pollution remain a major problem. Cars produce about half of the state's air pollution. Trucks,

¹² 33 U.S.C. § 1313(d).

¹³ 33 U.S.C. § 1313(d)(1)(c).

¹⁴ 33 U.S.C. § 1344, 33 C.F.R. 323.4(c).

¹⁵ See 42 U.S.C. §§ 7401 and following.

buses, and trains make up another 10 percent. Although cars run much more cleanly today than they did in the past, their sheer number, coupled with increases in miles driven, make cleaning the air a difficult challenge.

Air quality is regulated through a complex system of federal, state, and local laws. The federal Clean Air Act requires the U.S. Environmental Protection Agency to set minimum air quality standards that all state and local programs must meet (called National Ambient Air Quality Standards or “NAAQS”) for carbon monoxide, ozone, fine particulate matter (PM10), nitrogen dioxide, sulfur dioxide, and lead, among others.¹⁵

At the state level, responsibility for regulating air pollution is divided between the California Air Resources Board (ARB) and local and regional air pollution control districts (APCDs) and air quality management districts (AQMDs). The ARB prepares the State Implementation Plan (SIP) that describes the control measures the state will use to attain national standards. The state plan consists of emission standards for motor vehicles and consumer products. In addition, the ARB is responsible for oversight of state and local air pollution control programs, which are developed and implemented by 35 local air districts throughout the state. In metropolitan areas, the district board is usually made up of appointed local officials from around the region. In smaller areas, the county board of supervisors often serves as the air quality district board.

One of the primary responsibilities of local air districts is to adopt a local air quality plan, which forms the blueprint for how national air quality standards will be attained in the area. The goal of each plan is to achieve a five percent annual reduction in pollutants over each three-year attainment period. In addition, the local district must prepare attainment plans for each pollutant in the area that exceeds federal standards. Failure to meet these goals may result in loss of federal transportation funding.

Local air districts also implement plans to reduce the number of vehicle trips and the total miles traveled by motor vehicle. These measures often include ridesharing and parking buy-back programs. Attainment plans for areas designated as moderate, serious, severe, or extreme



non-attainment areas must make provisions for the regulation of emissions from “indirect sources.”¹⁶ These include any facility or road that attracts or may attract vehicles.¹⁷ Each district’s attainment plan, once adopted by the governing board, is transmitted to the Air Resources Board for approval and then included in the State Implementation Plan.

As a planning commissioner, you will not be directly involved in air quality regulation. However, your decisions will have an impact to the extent that they support viable transportation alternatives to the automobile. Although most communities have been planned around the automobile, several strategies can help reverse this trend:

- Encourage mixed-use development that is compact, and bicycle- and pedestrian-friendly.
- Encourage commercial developments to include bicycle parking and changing facilities for cyclists.
- Ensure that large developments include bicycle paths or lanes to make cycling to work or for errands a viable and safe option.

ENERGY

How far people have to travel between home, work, and daily errands; how homes are sited; and how buildings are designed have a tremendous impact on the consumption of electricity, natural gas, and motor fuels. Lowering a community’s energy consumption can save money, protect the environment, and improve air quality. Two areas where these issues arise during your

¹⁶ Cal. Health & Safety Code §§ 40716(a), 40918-40920.5.

¹⁷ 42 U.S.C. § 7410(a)(5)(c).

service as a planning commissioner are transportation and community design:

- **Transportation.** Transportation is responsible for approximately 46 percent of all energy used in California, much higher than the national average. Strategies aimed at lowering automobile usage can thus be extremely effective at reducing a community's energy consumption. Policies that are bicycle- and pedestrian-friendly and that support mixed-use development, transit-oriented development, and more compact development will all have energy payoffs.
- **Community Design.** Community design is another area in which there are numerous opportunities for energy conservation. The Solar Rights Act of 1978 already requires that new subdivisions provide, to the extent feasible, future opportunities for natural heating and cooling and directs local agencies to deny permits

to applicants who do not meet this requirement.¹⁸ Local agencies can take advantage of natural heating and cooling by considering solar access issues early during subdivision review. Staff should review existing regulations, like setback or height limits, to ensure that they do not interfere with solar access opportunities. In addition, the amount of pavement, the number and types of trees, street widths, and numerous other design features also impact overall community energy consumption. Small changes in these areas can have tremendous energy payoffs.

GREEN BUILDING

Communities are increasingly asking that public and private buildings be constructed using "green" building techniques. Green building involves using energy, water, building materials, and land more efficiently. It also results in healthier indoor environments with cleaner

CONNECTING LAND USE PLANNING AND ENERGY CONSERVATION

- **Encourage Efficient Building Construction.** How homes, offices, and other buildings are constructed can have a major impact on energy use. California already has minimum energy performance standards for new residential and commercial construction. Local planners and building inspectors enforce these standards at the local level. However, local agencies may choose to impose stricter standards than the state minimums.
- **Point Out Alternatives During the Design Review Process.** Communities can help developers comply with and exceed local and state requirements by providing assistance during various phases of the development process. For example, staff can suggest simple techniques to increase solar access, like moving garages, modifying street or home orientation, and staggering building placement on lots. Or, they may suggest the use of daylight as a means to reduce electricity use in new commercial buildings.
- **Adopt an Energy Policy or an Energy Element in the General Plan.** To promote energy efficiency, some agencies have adopted an energy element in

their general plan.¹⁹ Individual ordinances implement the policies. An energy element ensures conformity between energy issues and other plan elements. Another option is to adopt a local energy policy to direct each agency department to implement in-house energy management programs or to evaluate the potential of alternative energy sources.

- **Promote Conservation.** Communities may wish to adopt regulations promoting energy conservation. Before passing a new regulation, however, it is important to evaluate the cost effectiveness and to review existing ordinances and building codes to make them consistent with energy objectives. For example, requiring solar heating for all new swimming pools is not always the most cost-effective approach since in some areas swimming pool covers are equally effective.
- **Provide Incentives.** Voluntary incentives designed to encourage energy conservation can be effective. For example, some cities waive or reduce building permit fees or give density bonuses for exceeding state building standards.

¹⁸ Cal. Civ. Code § 714.

¹⁹ For tips on creating an energy element, refer to the *General Plan Guidelines* (Governor's Office of Planning and Research, 2003).



For More Information

The *Energy Aware Planning Guide I* and the *Energy Aware Planning Guide II: Energy Facilities*, published by the California Energy Commission, are excellent resources on ways local agencies can promote energy conservation. They are available at www.energy.ca.gov/reports/energy_aware_guide.html.

air, fewer toxins, and more natural light. Green building reduces the overall impact of a development project on the environment and can also reduce long-term costs for building owners and for taxpayers.

Some techniques involved in green building include:

- Siting buildings to take advantage of natural heating and cooling and to encourage access by walking, bicycling, and mass transit.
- Using existing landscaping and natural features where possible and landscaping with plants with low water and pesticide needs.
- Incorporating energy efficiency measures (see Energy section on page 75).
- Using construction materials that are sustainably harvested, of recycled content and recyclable, durable, and locally produced.
- Using dimensional planning and other material efficiency strategies. These strategies reduce the amount of building materials needed and cut construction costs. One example is designing rooms on 4-foot multiples to conform to standard-sized wallboard and plywood sheets.
- Reusing and recycling construction and demolition materials. For example, using inert demolition materials as a base course for a parking lot keeps materials out of landfills and costs less.

- Designing with adequate space to facilitate recycling collection and to incorporate a solid waste management program that prevents waste generation.
- Designing for dual plumbing to use recycled water for toilet flushing or a gray water system that recovers rainwater or other nonpotable water for site irrigation.
- Minimizing wastewater by using ultra low-flush toilets, low-flow showerheads, and other water-conserving fixtures.
- Improving indoor air quality through a variety of methods, such as the use of construction materials and interior finish products with zero or low emissions.

Green building often costs more up front than traditional building methods, but over the life of a building is generally less expensive. Savings include lower energy costs and operating expenses, improved occupant health and productivity (office buildings), and reduced pollution and landfill.

A number of communities in California and across the country have developed programs to encourage green building in private development projects. Some communities offer technical assistance, grants, streamlined permitting, and other incentives. In a few cases, communities are requiring private developers to meet certain green building standards. Many local agencies have also committed to using green building techniques in new public buildings.



For More Information

For more information on green building and how communities are encouraging its use, check out the following resources:

- California Integrated Waste Management Board, www.ciwmb.ca.gov/greenbuilding
- U.S. Green Building Council, www.usgbc.org
- U.S. Department of Energy, www.sustainable.doe.gov/buildings/gbintro.shtml

BROWNFIELDS

"Brownfields" are abandoned, idled, or underutilized industrial or commercial properties where redevelopment is complicated by perceived or real contamination that can add time, cost, and uncertainty to a redevelopment project. While generally located in urban areas and in older suburbs, brownfields may also be present in rural communities in the form of closed lumber mills, abandoned mines, and similar facilities.

Brownfields range in size from hundreds of acres to small lots. Most have only low to medium levels of contamination, although often this cannot be determined before performing an environmental assessment. Some are not contaminated at all but are merely perceived as such due to a previous use. Proper clean-up is critical for contaminated sites, but such clean-up should not be viewed as a reason not to develop the site at all. Contamination can affect the community even if the site remains undeveloped.

Redeveloping brownfields can play a critical role in revitalizing a community by removing environmental hazards and relieving pressure on "greenfield" (open space and farmland) development. For local agencies, brownfield development also returns productive property to the tax rolls, stimulates the local economy and creates jobs. In addition, to the extent that the area is revitalized, the project can reverse negative perceptions about crime, safety and community health.

Developing brownfields can be complicated. The laws in this area—such as the federal Superfund law—impose strict clean-up requirements on owners, even when a previous owner actually caused the contamination. As a result, many developers are reluctant to purchase brownfield properties. There are a number of additional challenges to redeveloping brownfield sites:

- **Infrastructure.** Many brownfields are served by aging or obsolete infrastructure that must be upgraded, expanded, or replaced for development to be viable.
- **Liability concerns.** Under California law, liability for contamination attaches to current and past property owners, regardless of who actually contaminated the site. This has made many developers unwilling to



For More Information

For more information on brownfield development, see:

- California Center for Land Recycling, www.cclr.org
- National Governor's Association Center for Best Practices, www.nga.org/center
- U.S. Environmental Protection Agency's Brownfields Technology Support Center, www.brownfieldstsc.org
- International City County Management Association, www.icma.org

purchase sites that may have some level of contamination.

- **Uncertainty.** Assessing a brownfield to determine what, if any, contamination exists can be costly. It is often difficult to determine ahead of time how much an assessment will cost and often the assessment is more costly and time-consuming than the clean-up itself.
- **Regulatory Requirements.** The complicated array of federal, state, and local laws that come into play when redeveloping a brownfield are often more than developers want to take on.
- **Financing.** Many banks are less willing to finance brownfield projects because of the perceived risks. When financing can be obtained, it is often at terms that are more onerous than they would be for a greenfield project.
- **Neighbors.** Brownfield sites are generally surrounded by other development, which means more neighbors and more potential opposition. The possibility of conflict over a proposed project is often enough to keep developers away.

However, none of these challenges is insurmountable. Both the federal and state governments have focused in recent years on making it easier to redevelop brownfields while still ensuring that such sites are properly cleaned and are safe for the community. This attention has

resulted in changes in laws and regulations, such as grants, low-interest loans, and tax incentive and extended financial protections to lenders involved with brownfield redevelopment. As a result, more and more communities are experiencing success at redeveloping brownfields and in turn developing more vibrant, livable communities.

Local governments can take an active role in redeveloping brownfield properties in a variety of ways. They can match potential businesses and developers with reuse sites. Local governments can coordinate funding, assume some financial responsibility for site remediation costs, offer incentives, and serve as links between private developers and state/federal environmental regulatory agencies. Some local governments have publicly acquired brownfield properties and handled the redevelopment on their own.

HAZARDOUS MATERIALS

The use and transportation of hazardous materials raises serious safety concerns. Many commercial, agricultural, and industrial operations engage in the transportation, storage, generation, or disposal of hazardous materials. Some facilities may have the potential for leaking hazardous materials into the local groundwater. Others may impact a local wastewater treatment system or the capacity of local law enforcement and fire departments to respond to hazardous materials spills or incidents.

What qualifies as a hazardous material is defined by various state and federal agencies. As a rough guideline, a material is hazardous if it is corrosive, explosive, oxidic, flammable, or poisonous. Careful planning can reduce the risk these materials pose to the community. In evaluating project proposals, you should assess whether they involve materials that are hazardous to humans, animals, or the environment. Other local planning considerations might include:

- **Hazardous Material Inventory.** A good starting point for minimizing risk related to hazardous materials is to create an inventory of businesses, sites, and transportation routes where hazardous materials are an issue. Disclosure ordinances, as they are called, vary in administrative procedures, financing schemes, and degree of public access to data (for homeland security

reasons), but they provide a good foundation upon which to build a local hazardous materials management program. Most counties maintain hazardous material inventories under the state's Unified Hazardous Waste and Hazardous Materials Management Regulatory Program.²⁰ This is known as the "unified program." State law requires counties to become certified unified program agencies (CUPAs) to implement the program. Cities have the option of applying to be designated a CUPA.

- **Siting.** As a planning commissioner, you are most likely to encounter hazardous materials issues in the context of siting facilities and transportation routes. Facilities that may involve hazardous materials should not be sited close to residential areas, hospitals, or schools.²¹ Safe transportation or truck routes that limit residential exposure are also important considerations. In many instances, these decisions will be based on a number of project-specific characteristics, like the type of chemical or material at issue, wind direction, types of neighboring uses, and whether a material can be disposed of on-site or will need to be transported away from the site. Local agencies can be assured of receiving such information as part of project applications by requiring that applicants disclose whether hazardous materials will be present on the property.²²
- **Local Permit Requirements.** Not all businesses that use hazardous materials—such as laboratories, printing facilities, and electronics manufacturing—need to apply for a development permit. In some cases, they merely move into existing buildings that were not necessarily designed with hazardous materials in mind. To ensure that businesses involving hazardous materials do not go unnoticed, many communities require such businesses to apply for a hazardous materials permit, which helps the local agency keep track of where dangerous materials are being used, processed, and transported.
- **Transportation.** Transportation of hazardous materials is largely regulated by state and federal law. Local authority is limited to setting truck routes and hours of use. In reviewing proposed plans for new

²⁰ Cal. Health & Safety Code §§ 25404 and following.

²¹ Cal. Health & Safety Code § 42301.6.

²² See Cal. Gov't Code § 65850.2.

²³ Cal. Pub. Res. Code §§ 40000 and following.

commercial or industrial projects, planners may recommend new truck routes if existing ones are not adequate.

- **Solid Waste.** Local agencies must adopt plans for the reduction, recycling, and reuse of solid waste.²³ These plans generally include elements that address where and how hazardous wastes can be disposed of separate from the general waste stream. City plans should be consistent with the county solid waste plan. Reasonable zoning controls may be imposed on hazardous waste facilities, so long as such regulations do not totally prohibit such facilities.
- **Emergency Response.** Complete prevention of all hazardous material spills or incidents is impossible.

Each community should have a hazardous materials emergency response plan that specifies the responsibilities of local law enforcement, fire, and other public safety personnel and that coordinate city resources with county personnel, the California Highway Patrol, regional water quality boards, and industry resources. These plans can help you analyze the extent to which current systems can address the needs of proposed projects, and the extent to which an applicant may need to develop on-site safety procedures to minimize risks.

Most hazardous materials issues will be addressed during the environmental review process.

HAZARDOUS MATERIALS CHECKLIST

The following are some hazardous materials issues to consider when reviewing proposed developments:

- How will any hazardous waste generated at the proposed facility be disposed of?
- Will hazardous waste be transported to an off-site treatment facility or disposed of onsite?
- If hazardous waste will be disposed of onsite, by what method?
- Have the types of hazardous materials that will be generated, transported, stored, or disposed of in the proposed development been fully identified?
- Are the potential hazards adequately addressed and mitigated in environmental documents?
- Are hazardous sites disproportionately located within or near low-income areas or neighborhoods that have a high percentage of minorities?
- Are protective measures and education programs in place to assure that untreated hazardous materials will not be disposed of through the sewage or wastewater treatment system?
- How will hazardous materials be transported and what is the safest route?
- How does the proposed project impact the community's emergency response capabilities?
- What added costs will the project impose on law enforcement and fire departments?