

LAND USE and the GENERAL PLAN

A LANDWATCH BEST POLICIES GUIDEBOOK

About LandWatch Monterey County	2
Acknowledgements	3
Introduction	4
How This Guidebook is Organized	6
Protecting Property Rights	8
Affordable Housing	11
Preserving Agricultural Land	23
Stopping Sprawl	32
Natural Resource Protection	39
Transportation and Transit	42
Water and Land Use	49
Permit Process Reform	51
Conclusion	58
Endnotes and References	60

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ABOUT LANDWATCH MONTEREY COUNTY

LandWatch Monterey County is a nonprofit membership organization, founded in 1997. LandWatch works to build better communities by promoting and inspiring sound land use legislation at the city, county, and regional levels, through grassroots community action.

LandWatch members believe that the way we use the land will have a major impact on our economy, on our environment, and on social equity. The land use policies that guide our growth will determine our future.

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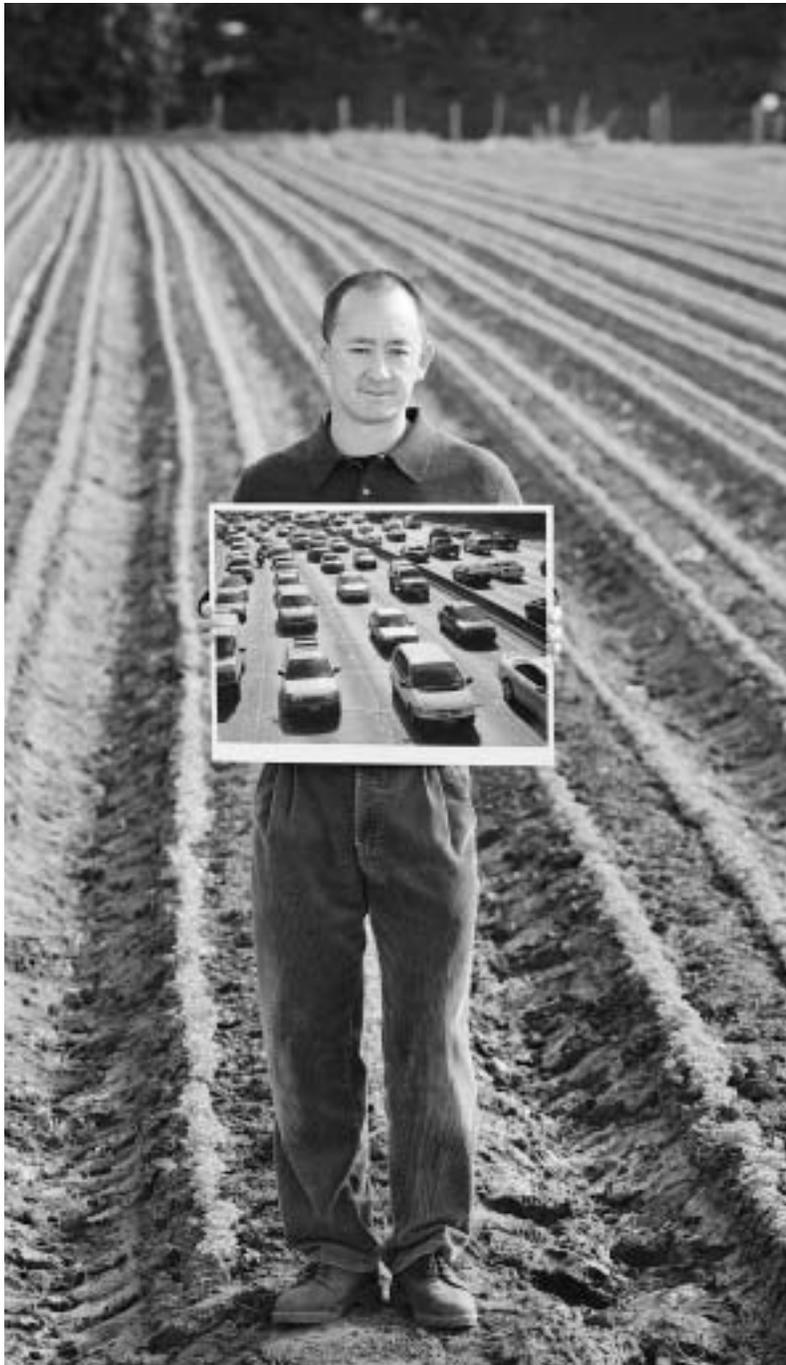
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INTRODUCTION



This guidebook is based on the idea that we, as a community, can choose the kind of future we want.

Not everyone approaches planning in exactly this way.

Many people think that our future is largely beyond our control, and that ongoing trends will inevitably take us in the direction they are already going. In this way of thinking, planning is done by making projections and extrapolations of what is currently happening, and then preparing to manage and react to the current trends. For instance, if population is currently growing at 3% per year, which has been common in Monterey County, California, then we can assume that future population will double within the next 25 years.¹ (If Monterey County has 400,000 residents in the year 2000, which is what the census tells us, then the county will have 800,000 residents in the year 2025. Similar projections are made to estimate future air pollution, traffic congestion, and groundwater overdraft.

A lot of planning is based on exactly this kind of thinking. And it does make some sense. If the future were truly inevitable, then the main purpose of land use planning should be to accommodate what our projections tell us. Planning ahead for what is inevitable certainly makes much more sense than waiting passively for the future to arrive, and to do so unprepared.

The planning decisions we make today affect what happens in the future.

But the future is not inevitable. The planning decisions we make today affect what happens in the future. Recognizing that our future is shaped by what we do leads to another way of thinking about planning. The assumption in this guidebook is that nothing is inevitable. Human beings have the gift of freedom, which means that we can choose what we want to do. We can choose individually, and we can make choices as a community. Above all, we can choose to make changes in what we are doing, and that means that the future depends on our choices, and not on some inevitable trend, or on what is happening now.

Good land use planning should be based on and reflect a community choice about what we want to happen, and what we want the future of our community to be.

This guidebook provides examples of how we can make community choices that will change the future, and achieve important economic, environmental, and social equity goals. The guidebook is based in large part on the circumstances prevailing in Monterey County, California. Most of the policies discussed, however, can be used throughout California, and in other parts of the nation.

Making choices is not always easy. Almost always, there will be differences of opinion about what choices the community ought to make, and there are often good arguments on all sides. When a

community makes choices, it is not, usually, possible to please everyone. That's one of the things that makes choice so difficult. In our democratic system of government, the process assumes there will be disagreement, debate and discussion — even vigorous debate and discussion — but that in the end, the community will make a decision and a choice about what to do, and what direction to go.

When a community is willing to make difficult decisions, and then follow through on them, the community can change the future. This guidebook is dedicated to that kind of community planning, to the proposition that our land use policies should be based on and reflect a community choice about what we want our future to be.

Because we are free to choose, difficult as it sometimes is, the democratic process of self-government can defy the trends, and help us achieve the kind of communities we want.

HOW THIS GUIDEBOOK IS ORGANIZED

This guidebook is a tool for informed citizen participation in the land use planning process. It presents suggested land use policies representing innovative and creative methods to address the most significant planning problems facing local communities today. If the policies presented in this guidebook are adopted as part of local city and county General Plans, they will have the effect of changing the future of the local communities that adopt them.



In California, every city and county must have a comprehensive, internally consistent General Plan that addresses all of the major planning issues that face the community.² The General Plan is the basis for all land use planning at the local level. It is sometimes called the “Constitution” of land use. The General Plan establishes the foundation policies that guide the future growth and development of the community. Every

project approval, every zoning decision, and all of the subsidiary land use laws and policies of the community must be consistent with the local General Plan. That is why the General Plan is so powerful and important. Once a policy choice is made at the General Plan level, all implementing decisions must be consistent with that General Plan policy. The land use policies outlined in this guidebook, if adopted as part of a local General Plan, will require our local governments, and each of us individually, to act in new and different ways, and thus to change current trends.

Each section of this guidebook is devoted to a specific land use planning issue, and we focus on the toughest and most difficult issues, not the easy ones. In each case, the guidebook first outlines the problem that the suggested policy is seeking to address, and then discusses the approach recommended to address the problem.

Second, and most importantly, the guidebook suggests a specific policy, with specific wording, in each of the policy areas covered. The exact wording used in the General Plan makes a big difference. The General Plan is a legal document. If a General Plan statement is vague, or has internal contradictions, or if it is fuzzy, ambiguous, or unclear, it will probably fail to achieve what it is supposed to do. In fact, this is a common fault. Making policy means making choices, and that isn't easy. If it is

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possible to avoid hard choices, we often do so, which is why General Plan policies often come down squarely on both sides of whatever issue they are trying to address. That is the biggest mistake made in most General Plans. A policy that tries to say two different things at the same time, so that more people can agree on the policy, isn't really a policy at all. Providing for flexibility in General Plan policies may make it easier to get consensus, but policies that are vague, ambiguous, or internally contradictory will never change the future.

Finally, in each section, the guidebook discusses some of the pros and cons of each suggested policy approach. Usually, there are good arguments on all sides of almost every issue, and this guidebook tries to provide at least a brief outline of the arguments that might be made on both sides, with respect to each suggested policy.

In the end, the decision about whether or not to adopt one of these suggested policies is a matter of community choice. Making those choices is what self-government is all about. We only change the future when we do make real choices, and then stick to those choices and implement them. This guidebook suggests some choices we might make to address some of the most pressing problems confronting our communities today.



PROTECTING PROPERTY RIGHTS

The Problem

A community General Plan will be effective precisely to the degree that it establishes specific and enforceable policies. By its very nature, the local General Plan represents a community choice about future growth and development, and about how that development should be directed. Individuals within the community, and property owners particularly, may be profoundly affected by the policy choices that the community makes.

It is important, of course, to make certain that the choices made in a community General Plan don't violate private property rights. Usually, they don't. However, the authority of the community is not unlimited. It is important for the community to remind itself that it must respect private property rights. Perhaps even more to the point, it is important for property owners to be assured that the community will respect their rights, and that nothing in the community General Plan is intended to take those property rights in violation of the Constitution.

During the debate, discussion, and deliberation that precedes adoption of a community General Plan, it is quite common for property owners and others who don't like a particular policy to allege that the policy is unconstitutional, and that it takes private property rights without just compensation. Again, that complaint is usually not justified. State law, the

Constitution, and the courts have given communities broad authority to plan for their own future. Part of that broad authority is the right to direct how private property will be used and developed.³

Nonetheless, despite the broad authority that a community has to plan for its own future, the only way truly to test whether a particular policy is constitutional is to have the community adopt it, enforce it, and then let the courts decide. That's not something that most local governments want to entertain, and strong and repeated claims that a particular policy is unconstitutional may sometimes be enough to convince local government officials not to enact the policy — even if it might have great benefits for the community, in terms of its long-term planning goals. In those circumstances, the community is the loser.

An Approach to Addressing the Problem

Both to remind itself of the constitutional limits under which it operates, and to insulate itself from claims that a particular General Plan policy is unconstitutional, the local community should include a strong policy, right at the beginning of its General Plan, assuring property owners that none of the adopted policies in the General Plan will ever be allowed to take private property rights without compensation.

State law, the Constitution, and the courts have given communities broad authority to plan for their own future.

Recommended Policy

Protect Private Property Rights — Neither the implementation of this General Plan, nor any of its Elements, shall constitute an unconstitutional taking of property or property rights, and the General Plan and its Elements shall not deprive any landowner of any vested right to develop his or her property. This General Plan shall be interpreted so as to be consistent with all federal and state laws, rules, and regulations governing the use of real property.

Any landowner who believes that the application of any policy within the General Plan has resulted in an unconstitutional taking of his or her private property may file a claim with the local government, specifying the basis for the claim. The local government may, based on such claim, amend any of the policies contained within the General Plan, to avoid any unconstitutional taking of private property. When it does so, it shall act only pursuant to a finding, based on substantial evidence in the administrative record, and without substantial evidence to the contrary, that the policy complained of does, in fact, constitute an unconstitutional taking of a landowner's property. Any such amendment to a policy contained within the General Plan shall be made only to the minimum extent necessary to avoid such an unconstitutional taking.

Discussion

By including this policy in the General Plan, local government officials can feel comfortable about doing what they think is best for the community. This policy will assure property owners that their private property rights will be protected, and it will assure local government officials that they can enact what they believe are best available land use policies for their community, without the need to fear that long and costly litigation is the only way to eliminate policies that may later prove to go beyond their authority.



AFFORDABLE HOUSING

The Problem

In Monterey County, and in many other places in the state and nation, adequate, affordable housing can simply not be obtained by a large and growing percentage of the individuals and families who live or work in the community.⁴ The results are tragic, both individually and for the community as a whole.

A lack of affordable housing leads to overcrowded, substandard, and unsafe housing conditions, and to a whole host of associated public safety and social problems. High housing costs drain the scarce financial resources of average and below average income families, so that spending on food, health care, and other essentials is compromised. Long commutes, to find lower-cost housing, undermine family and community stability. Such long commutes cause both environmental damage and lead to traffic congestion. Addressing the traffic congestion generated by the long commutes requires costly new investments in transportation infrastructure, and this diverts investment from more positive uses. Finally, high housing costs make it increasingly difficult to attract and retain good employees, in both the public and private sectors.

Unfortunately, the affordable housing problem is systemic. It is related most directly to how resources are allocated within the society at large, and is not easily



addressed through land use policy. Historically, individuals and families have been expected to take personal responsibility for finding housing, and it has been assumed that the private housing market, responding to demand, will be able to make housing available to persons at all income levels who need housing. That has simply not happened, and is not currently happening, and there is no reason to believe that increased production of private market housing can help us produce our way out of the housing crisis faced by average and below average income persons.

There are at least two reasons that increasing the production of private market housing doesn't automatically address the affordable housing problem in a place like Monterey County. First, it is virtually impossible for the private market to produce new housing in Monterey County

that can be rented or sold at a price that a family with an average or below average income can afford. The cost to produce private market housing includes: (1) land cost; (2) cost of materials; (3) labor costs; (4) cost of required infrastructure; (5) financing costs, and (6) profit. Even when these costs are minimized, by building smaller units at higher densities, and including only basic amenities, it is often not possible to construct a house in Monterey County that is affordable by a family with an average or below average income.

The market for housing constructed in Monterey County includes potential renters and buyers from outside the county, and especially from the Silicon Valley. Housing prices in the Silicon Valley are even higher than housing prices in Monterey County, and Silicon Valley jobs pay more. Thus, when new housing is constructed in Monterey County, it is not affordable to people who work in Monterey County, but may be affordable to people who work in the Silicon Valley. A strategy based on building large amounts of private market housing, to drive down prices by increasing supply, will simply not produce housing affordable to individuals and families who currently live in or work in Monterey County. Instead, the new housing produced will be purchased or rented by persons with higher incomes, who earn those incomes outside the county, and who can therefore outbid local residents.

The powerful negative effect of this imbalance is the economic expulsion of needed middle-income wage earners from local communities, and an influx of long distance commuters, who cannot provide the connection and vitality that a

community derives from residents who live and work locally.

The “simple” solution to the affordable housing crisis, getting out of the way of the builders, and letting them build lots of new homes, will not result in more affordable housing for Monterey County’s working families.

An Approach to Addressing the Problem

A threefold approach, based on sound land use policy, can help address the affordable housing problem. This threefold approach is not a true “solution,” because to “solve” the affordable housing problem, the imbalance between incomes and the cost of housing would have to be addressed more directly. Either incomes would have to be raised, or housing costs would have to be fully subsidized. That is beyond what land use policy can do at the local level. Further, land use policy applies prospectively, to what will be done in the future. The existing situation is largely left untouched by land use policy.

These disclaimers having been made, a set of strong General Plan policies in favor of affordable housing can do a great deal to address the affordable housing problem, as new growth and development occurs over time. Three key provisions are needed:

- First, a General Plan requirement that all new development contribute to addressing the community’s affordable housing problem.
- Second, a planning decision to increase the ratio of “medium” and “high” density

development, relative to “low” density development, to help reduce land costs on a per unit basis, and thus to reduce the price at which housing will be sold.

■ Finally, an affirmative requirement to offer new housing first to persons who live and work in the jurisdiction in which the housing is constructed.

If these policies were part of a community’s General Plan, then almost all development approvals would contain a condition that would help the community with its affordable housing problem. In other words, the suggested General Plan policies take seriously the idea that our affordable housing problem is a kind of community crisis. In a crisis, we are all expected to pitch in to help. That’s what these suggested policies provide. The affordable housing problem in Monterey County affects every aspect of community life, including business and industry. It makes sense to mobilize community resources, as growth and development occur, to mitigate the affordable housing problem that so centrally affects us as individuals, and as a community.

The policies suggested here would have a number of positive results. They would result in the construction, over time, of a significant amount of housing affordable to persons with average or below average incomes, and that housing would be permanently protected as affordable. The policies would also bring new resources into the effort to provide affordable housing. In some jurisdictions (in the unincorporated portions of Monterey County and in the City of Salinas, for example), new residential developments are already required to contribute

to affordable housing. The suggested policies would increase that requirement, and extend it to new commercial and industrial developments. This feature of the suggested policy would help address what planners call the jobs-housing balance. When new jobs are produced, new housing should be produced as well. The fact that the Silicon Valley does not even come close to approaching a jobs-housing balance shows what goes wrong when this precept of good planning is ignored.⁵

Recommended Policies

The following policies, when included within a city or county General Plan, will significantly increase the amount of affordable housing produced, as new growth and development occur:

1. A Policy Commitment To Affordable Housing — The lack of adequate affordable housing within the community is causing extremely serious economic, public safety, social, and environmental problems. These problems constitute a community crisis, and absent the policies established within this General Plan, new commercial and residential developments within the community will make these problems worse. It is critically important for the public health, safety, and welfare that all new developments within the community help provide additional housing opportunities for persons who live and work in the community, and particularly for those persons with very low, low, or moderate incomes.



2. “Affordable Housing” Defined — “Affordable housing” for persons and families with “very low incomes” shall be defined as housing that is capable of purchase or rental by persons or families with incomes at or below 50% of the median income in this community, with the understanding that a person or family with a very low income should not be required to use more than 30% of that income to meet housing needs.

“Affordable housing” for persons and families with “low incomes” shall be defined as housing that is capable of purchase or rental by persons or families with incomes from 50% to 80% of the median income in this community, with the understanding that a person or family with a low income should not be required to use more than 30% of that income to meet housing needs.

“Affordable housing” for persons and families with “moderate” incomes shall be defined as housing that is capable of purchase or rental by persons or families with incomes from 80% to 120% of the median income in this community, with the understanding that a person or family with a moderate income should not be required to use more than 30% of that income to meet housing needs.

In all cases, when housing is constructed within the community as “affordable housing,” such housing will be capable of purchase or rental by persons of very low, low, or moderate incomes, and will be permanently protected for sale or rental to persons and families with very low, low, or moderate incomes, through deed restrictions or other equivalent and effective methods.

3. An “Inclusionary” Requirement For New Residential Developments —

Within all new residential subdivisions or residential housing developments of twelve or more units, an affordable housing requirement shall be imposed as a condition of project approval: 10% of the housing units constructed shall be capable of purchase or rental by persons or families with very low incomes; 15% of the housing units constructed shall be capable of purchase or rental by persons or families with low incomes; and 15% of the housing units constructed shall be capable of purchase or rental by persons or families with moderate incomes. All such housing shall truly be “inclusionary,” and shall

be constructed within each individual development. No offsite transfer of such inclusionary units shall be permitted. All inclusionary affordable housing shall be built either prior to or concurrently with the market-rate housing built within the residential subdivision or residential housing development, and all such inclusionary housing shall be permanently protected for sale or rental to persons and families with very low, low, or moderate incomes, through deed restrictions or other equivalent and effective methods. The community shall provide density bonuses and other incentives to assist developers in meeting the inclusionary requirements established by this policy. In residential subdivisions or residential housing developments of from two to eleven units, the community may require the developer to make a contribution to the community's affordable housing fund, in lieu of actual construction of inclusionary housing units.

4. New Jobs And New Housing Go Together — When newly constructed professional office, industrial, or commercial facilities create 50 or more new jobs, the employers utilizing these new facilities shall be required to help provide, directly or indirectly, new, permanently affordable living quarters, to help meet the housing demand generated by the new jobs.

5. Establish Minimum Density Requirements — The Land Use Classification System established within the General Plan shall provide for minimum as well as maximum densities

within each of the Residential Land Use Designations. The minimum density for the Residential Low Density Land Use Designation shall be 6.5 DU/Net Acre. The minimum density for the Residential Medium Density Land Use Designation shall be 11.75 DU/Net Acre. The minimum density for the Residential High Density Land Use Designation shall be 16.75 DU/Net Acre.

6. More Land For Medium and Higher Density Development — Of all those lands designated for residential development within the community:

- No more than 40% shall be designated for low-density residential development.
- 40% or more shall be designated for medium-density development; and
- 20% or more shall be designated for high-density residential development.

The Land Use Map included within the General Plan shall reflect these designations.

7. Ensure A Range of Housing Types — New residential developments shall include a mix of low-density, medium density, and high-density units, and shall provide housing opportunities for all income levels.

8. “Mixed Use” Developments To Increase Housing Opportunities — New commercial and professional office developments shall incorporate

residential housing opportunities on site. Existing commercial and professional office developments shall be encouraged to redevelop and reconfigure uses to incorporate new residential housing opportunities. Notwithstanding this policy, the government may make a finding, with respect to a specific proposed new commercial or professional office development, that it would be inappropriate to require on site residential housing in a proposed new commercial or professional office development, because of the unsuitability of the area or the development for residential development; in that case, the government may require equivalent residential housing to be constructed at an offsite location.

9. Design Housing To Meet Community Needs — Every new residential development of fifteen or more units, when constructed at either Medium or High Density, shall incorporate all of the following design features:

- On site recreational facilities, appropriately sized to serve the needs of the residents of the development.
- Except for developments exclusively designed for residents who will be fifty-five years of age or older, on site childcare facilities, or the provision within the development of one or more units specifically designed to accommodate family day care, including necessary outdoor space, and appropriately sized to serve the needs of the residents of the development.

- Indoor space, including simple kitchen and restroom facilities, to accommodate educational, social service, and similar programs, and appropriately sized to serve the needs of the residents of the development.

10. First Right To Rent or Purchase— The government shall establish, maintain, and administer a list of persons who live in or who work in the community, and who are interested in renting or purchasing new housing to be constructed in the community. The government shall give written notice to everyone on this list whenever a new housing development of five or more units is proposed, and is set for public hearing.

When residential housing developments are approved within the community, or within any area proposed to be annexed to the community, it shall be a condition of approval that the new residential units constructed shall first be offered for rental or sale to individuals who currently live in or work in the community, and who have indicated their interest in renting or purchasing new housing constructed in the community by having their names placed upon the list maintained by the government.

Discussion

Recommended Policy #1 makes a strong, affirmative commitment to affordable housing. Adoption of a local General Plan is a legislative act. If a County Board of Supervisors or City Council makes a finding that it is necessary for the public health, safety and welfare to increase the amount of affordable housing produced within the community, that finding will provide strong legal support for all the specific General Plan provisions and other actions that are aimed at achieving the desired result. There really isn't any good argument against including this language in a local General Plan, if the community does, in fact, confront the kind of affordable housing crisis that faces all of the communities of Monterey County, and that is all too common throughout California.

Recommended Policy #2 defines "affordability," and makes certain that when the community imposes affordable housing requirements on new development, those requirements really will benefit the individuals and families who face the most difficult housing situations. The definitions of "very low," "low," and "moderate" income included in the recommended policy are based on California state law requirements. They are flexible, and change over time as the local median income changes. This recommended policy, however, goes beyond state law, because it says that when a residential structure is explicitly built to meet an affordable housing requirement that housing unit must remain permanently affordable.

This provision for the permanent protection of affordability requirements is usually implemented by resale restrictions that are

included on the deed to the residential unit, so that as future sales occur, they must be made to persons who are in the same affordability category as the original or previous purchaser. The advantages of a permanent affordability requirement are clear. Whatever happens in the general housing market (and incredible price increases have occurred, and continue to occur in Monterey County, and in many other places) the price of a designated affordable housing unit will be buffered, and will increase only as fast as the median income of the community increases.

There are at least two possible disadvantages of this kind of permanent affordability requirement. First, the government will need to institute some administrative mechanism to ensure that the affordability requirements are actually followed over time. Second, purchasers of affordable units will not be able to benefit as much, personally, from price increases in the housing market as they would be able to benefit if the affordable requirements were not permanent. A lower-income family will not make as much profit when they sell their affordable home as a person will make who sells a market rate home. On the other hand, the very low, low, or moderate income new purchaser of the affordable unit will get the benefit of being able to purchase a home they could not otherwise afford, and the community will have the benefit of building up a long term supply of truly affordable housing. Without a requirement for permanent affordability, affordable housing will give rise to windfall benefits for the purchasers who acquire it at the affordable, price, and who then sell it,

later, at the market price. And, of course, without a requirement for permanent affordability, the long-term community benefit of maintaining housing affordability will be lost.

Recommended Policy #3, requiring the construction of inclusionary housing, provides the best, simplest, and most straightforward way to insure that more affordable housing is built in a community. This policy is effective because it makes the construction of such inclusionary housing a condition of approval for all new housing developments. Building an inclusionary requirement into the General Plan gives that requirement both power and legitimacy. When such an inclusionary requirement is implemented, genuinely affordable housing is actually built as market rate housing is built. Nothing could be clearer. Establishing an inclusionary requirement represents a declaration by the community that a certain share of all new housing (the specified inclusionary percentage) absolutely will be made available for individuals and families with very low, low, and moderate incomes.

Developers almost always argue against inclusionary requirements, especially ambitious ones like those contained in Recommended Policy #3. Usually, the developers claim that such requirements will raise the cost of all the market rate housing that they build, or they say that the requirements will make it impossible to build any housing at all. In fact, these claims are almost always greatly exaggerated.

By definition, market rate housing is sold for the highest price that the developer can get for the house. That market price is determined by the conditions of supply and demand in the market area, and if a developer's costs go up, the developer is generally not able to pass on these costs to a market rate purchaser, because that market price is already set at the highest price that buyers are willing or able to pay.



Adding an inclusionary housing requirement, as called for in Recommended Policy #3, does increase the developer's costs, but the developer is not able to raise the prices of the non-inclusionary homes to compensate, since the developer is already selling these homes at the highest price that the market will bear. What does happen, then, when an inclusionary requirement is imposed? Either the developer will reduce his or her profit to compensate (unlikely), or will not build the housing development at all (possible but unlikely if there is a strong market demand for new housing), or will find a way to offset the new costs imposed by the inclusionary requirement by reducing some other cost.

The latter is what almost always occurs, and the cost that gets reduced is the cost of the land, which is the most "variable" and "negotiable" factor in the total cost of producing housing. In Monterey County, as an example, agricultural land, or land not designated for urban development, is currently priced at about \$20,000 per acre. Land designated for urban development is worth about \$200,000 per acre. In typical developments, the landowner and the developer split the increased value that

comes with project approval; that split is negotiated between the landowner and the developer.

When the local government adds an inclusionary requirement, the cost to the developer goes up, and this new cost is then factored into the price that the developer is willing to pay the landowner. The landowner's profit goes down to compensate for the new cost. What an inclusionary requirement actually does is to make certain that the public gets some of the benefit from the increased value created by the public itself, when its elected representatives vote to approve a housing development that would not have been possible without their approval.



It is clear why those involved in the development process don't like inclusionary requirements, but it's also clear why such requirements are fair and workable. Without the public action that redesignates land to permit development, the value of the land is significantly less than it becomes once the public has granted the development approval. Since it is action by local government that increases the value of the land on which the development is to take place, the effect of the inclusionary requirement is to make sure that part of that increased value is then used for a public benefit, namely, to provide permanently affordable housing.

In Monterey County, the Community Housing Improvement Systems and Planning Association, Inc. (CHISPA) is a respected nonprofit housing developer. CHISPA believes that the 40% inclusionary

requirement called for in Recommended Policy #3 is achievable.⁶ That figure may be different in different jurisdictions, but whatever the percentage ultimately adopted, a strong inclusionary housing requirement in the local General Plan is the best and most straightforward way to address the affordable housing crisis confronting our local communities.

Recommended Policy #4 is simple. When significant new business development occurs in the community, new jobs are created, and a new burden is placed on the local housing market. This policy says, with great flexibility, that business needs to do something to help offset that burden, as the new jobs are created.

Businesses, of course, say that they won't go to locations that aren't cost-effective for them, and of course this is true. However, businesses absolutely need adequate housing in the community in which they are located, to be able to attract and retain qualified employees. A business that wants someone else to pay all the costs associated with meeting the business need for adequate housing may not be "community effective."

Recommended Policy #4 allows lots of flexibility for a community to set the right requirements, and properly to balance business cost-effectiveness with "community effectiveness." The important thing is that Recommended Policy #4 establishes the basic principle that new jobs and new housing have to go together. It is more and more recognized that achieving a proper jobs

housing balance is critically important for the long-term economic, social, and environmental health of a community and region. This policy builds this good planning principle right into the local General Plan.

Recommended Policy #5 establishes minimum density requirements for each land use classification. This is an important policy. Higher densities mean more housing units per acre, and that means reduced land costs per unit. Higher densities almost always translate into more affordable housing.

Typically, a local General Plan establishes only maximum and not minimum densities for each land use classification. This means that an area designated for higher density (and more affordable) housing may actually be built at a lower density. Recommended Policy #5 helps avoid that result, and ensures that areas planned for medium and higher-density housing are actually built at these densities, so that affordable housing opportunities are not lost.

The specific densities established for each land use classification might well be different in different communities. The important point of Recommended Policy #5 is to establish minimum densities within each residential land use classification, to preserve housing options for lower income individuals and families.



Recommended Policy #6 makes a community commitment to higher density development, so that future development will use land more efficiently, and maximize housing opportunities for persons and families of very low, low, and moderate incomes who currently live and work in the community.

Absent a local commitment to higher density development, the market always seeks to maximize low-density residential development (the typical single-family subdivision) because that kind of development is the most profitable for the developers. In Monterey County, and in many other parts of California, no family with even a moderate income (up to 120% of the median income in the community) can afford to purchase a new single-family residence at the current market price. Persons who are employed in the nearby Silicon Valley, where incomes are higher, can outbid local residents, and do so, with respect to new single-family development.

Recommended Policy #6, which must be reflected in the specific land use map for the General Plan, makes a commitment to set aside land for housing that will be affordable to the individuals and families who currently live and work in the community. If that commitment is made, future developments will have to reflect that policy decision.

Arguments against higher density housing usually revolve around fears that higher density developments will lead to social problems, or that such housing is somehow of a lesser quality. Clearly, poorly designed high-density apartments are usually not desirable places to live, and when whole neighborhoods are comprised of such high density dwelling units, social problems do often result. Well-designed developments at higher densities, however, are in fact excellent places to live, and are more and more desirable to the general housing market.⁷ This is particularly true when they contain built in park, recreation, and social service support space, and when these higher-density housing units are not segregated, but are mixed in with lower density developments, so that people with a range of income levels live within the same neighborhood. This kind of development is what is meant by the “New Urbanism,” and “Traditional Neighborhood Design,” which insists that a full range of housing types and densities be included in each neighborhood. The best planning for the future of our communities requires this approach.⁸



Recommended Policies #7, #8, and #9 are designed to make sure that the higher densities specified in Recommended Policies #5 and #6 do contain built in park,

recreation, and social service support space, and in fact produce healthy, vital neighborhoods. All of these policies must be adopted together.

Recommended Policy #10 gives priority to persons who live or work in the community for the rental or purchase of new housing constructed in the community. Even more, this recommended policy seeks to involve local residents in the review and approval process, so that persons from the community who are interested in buying or renting housing can comment on whether a proposed development will meet their needs. Recommended Policy #10 does require the local government to implement and maintain a list, and this certainly carries a local cost. On the other hand, this policy, in the local General Plan, will reconnect current residents with the development process, so that they begin to have a stake in future development, rather than feeling that they are being overwhelmed by housing developments that don't benefit them, and about which they were not consulted.



PRESERVING AGRICULTURAL LAND

The Problem

In places like Monterey County, California, preserving agricultural land for agricultural use is a matter of basic economics. Agriculture is Monterey County's largest single industry. Gross revenues from agricultural production in Monterey County were over \$3 billion dollars in 2001.⁹ That is approximately 10% of the total agricultural revenues produced in the entire State of California.

Each acre of agricultural land in Monterey County produces, on the average, more than \$12,000 per year in gross revenues.¹⁰ Public costs are small. When agricultural land is converted to urban uses, the jobs and revenues associated with that land disappear, and public costs increase. From a community economic perspective, converting agricultural land to other uses is usually a losing proposition.

In areas like the Silicon Valley, if someone proposed knocking down the factories and businesses that produce wealth, and building shopping centers and subdivisions instead, everyone would object. Local government permission would be withheld. In Monterey County, however (and in other agricultural areas), the community is often willing to allow a landowner to pave over and convert the land that generates agricultural wealth, because it is not necessarily clear that this is what is happening, as agricultural land is developed.



In Monterey County, between 1984 and 2000, 2,363 acres of prime agricultural land were converted to nonagricultural uses.¹¹ That means that the local economy is now foregoing \$28,000,000 each year that it formerly received from agricultural production on those lands. No rigorous cost benefit analysis has been done, to determine the net effect of this kind of land conversion on the local economy, but it is commonly understood that most residential uses generate many more costs than benefits for local communities. The fact that this process is probably not economically beneficial from the community perspective can be seen by examining community debt. Most new debt is incurred to provide the services required by new residential growth. In Salinas, Monterey County's largest city, where large amounts of agricultural land have been converted to residential subdivisions, community debt went from zero in 1984 to \$150,000,000 in the year 2000.

**REQUIRED ACRES
FOR EACH 1000
NEW RESIDENTS¹²**

Monterey County
159

San Benito County
109

Santa Cruz County
40

Not only has Monterey County been permitting a significant conversion of agricultural land to other uses, it has not made efficient use of the agricultural land it has converted. In 1984, each 1,000 persons residing in Monterey County required 134 acres of land. By 1996, 159 acres of land were being converted to urban uses for each 1,000 people added to the county's population. Nearby counties are more efficient. In San Benito County, subject to the same kind of growth pressures experienced by Monterey County, each 1,000 new residents consume only 109 acres of land. In Santa Cruz County, which grew much faster than Monterey County during the 1986 to 1994 period, only 40 acres of land were needed for each 1,000 new people.

Current projections are that Monterey County's population will grow by 137,000 persons by the year 2020.¹³ If those projections prove correct, and land use efficiency trends don't change, then the 137,000 people added to the population by 2020 will require the conversion of 21,782 acres of land. Most of this land will be land that is currently in agricultural production. By 2020, the local economy will be foregoing \$217,820,000 in agricultural revenues each year. This demonstrates why preserving agricultural land is essentially an economic issue.

If, in fact, the conversion of agricultural land to non-agricultural uses is a losing proposition for the community, then why is it permitted? The easy answer is that agricultural land is often converted to non-agricultural uses because the landowner asks the local government to permit the conversion. It's that simple, and it is also obvious why an agricultural landowner will

often ask the local government to permit the conversion of his or her land. Good agricultural land is currently selling in Monterey County for about \$20,000 per acre. If a landowner gets local government permission to convert that land, then the value of the land will be about \$200,000 per acre. The value of the land increases by about ten times, just because local officials vote to change its designation! While the conversion of agricultural land may be an economic loser for the community, the landowner who is permitted to make that conversion almost always walks away as a major winner, in terms of his or her individual economic situation.

Absent a strong policy commitment to agricultural land preservation, the conversion of agricultural land advances in a three-step process:

1. When demand for urban uses is high, as it is when growth pressures start impinging on a formerly rural area, various persons will begin proposing non-agricultural uses for productive agricultural lands. Promoters and developers of auto malls, hotels, golf courses, resorts, shopping centers, and subdivisions will make the case that there is a "need" or demand for all these things, and will be seeking land to construct them, because these new, non-agricultural uses will be economically productive for the promoters.

2. Agricultural landowners, approached by the promoters, will find that they can increase the value of their agricultural land by about ten times by gaining local government approval for its conversion to one of these new uses. They will then ask

the local government to allow them to convert their land, and will point out the positive economic gains that will be forthcoming. Of course, the positive economic gains will be particularly forthcoming for the developers and landowners.

3. Local officials, responding to the request of the local landowner, will often say, “yes” to an agricultural landowner’s request to convert his or her agricultural land. The local officials, and the community at large, may not notice the lost productive value of the agricultural land. Agricultural land may seem “vacant,” and the proposed new developments will seem more productive economically. Certainly the conversion will be good for the landowner as an individual, and the conversion and development of agricultural land may also increase gross revenues (though not necessarily net revenues) within the community. The assumption that the conversion of agricultural land will end up being good for the community will not be tested, and the land will be converted without any rigorous investigation of what the long-term effects will be on the local economy. Bit by bit, as local officials say “yes” to individual requests to convert agricultural land, the productive basis of the agricultural economy will be compromised, and a formerly agricultural area will be transformed, with net costs that make the community worse off, not better off, economically.

Another factor, not to be minimized, is the growing conflict that occurs between agricultural and non-agricultural uses, as residential and other developments impinge on areas that used to be dedicated exclusively

to farming. The more agricultural land that is converted to non-agricultural use, the greater the conflicts, and the more difficult it is for a farmer to continue to practice farming on his or her land. The more difficult it becomes to farm, of course, the greater the inducement for farmers to seek to convert their own agricultural land, and to get out of agriculture.

An Approach to Addressing the Problem

In this section of the guidebook, different policies are recommended for county and city governments. This is because the roles of city and county governments are different. Typically, commercially productive agricultural land is located in the unincorporated portions of a county, outside city limits. This is certainly true in Monterey County. To preserve this agricultural land, county government must adopt and enforce policies that apply to agricultural lands in the unincorporated areas under county jurisdiction.

The policies recommended below for adoption by county government seek to bolster a “right to farm,” but focus mainly on requirements to maintain the use of agricultural land in agriculture, and to prevent the development or division of commercially productive agricultural land. The subdivision of commercially productive agricultural land is almost always a prelude to subsequent development, so maintaining existing parcel sizes is an important way to maintain the commercial viability of agriculture. In adopting the recommended policies, county government will be making

a choice, on behalf of the community, to favor a particular economic use of land (the continued agricultural use of the land) over other uses. It is important that this choice be recognized for what it is, a decision by the community that the overall community good requires maintaining agricultural uses on the designated lands.

While such county policies are necessary, they are not sufficient. The conversion of agricultural land typically takes place by annexation to a city, and the land is subsequently developed within the city. Therefore, it is also important for each city located near commercially productive agricultural land to adopt and enforce its own agricultural land preservation policies. The policies recommended for enactment by city governments focus on a restriction on the city, as opposed to a restriction on the landowner. If agricultural land is annexed to a city, it is appropriate for that land to be developed for non-agricultural uses. The basic rule is that “what is municipal ought to be urban, and vice versa.” Thus, to help preserve and protect commercially productive agricultural lands for agricultural use, the most important thing that a city can do is to leave such agricultural lands outside the city limits, and to insure that any uses inside the city do not impose operational or other burdens on the agricultural lands outside its borders.

The Local Agency Formation Commission (LAFCO) established in each county determines whether or not an annexation to a city will be permitted (and thus whether agricultural land will be converted for urban uses within that city). LAFCO is a state agency, although composed of locally elected

officials.¹⁴ A LAFCO may adopt agricultural land preservation policies, and working to have such policies adopted at the LAFCO level is well worth the effort for those who wish to preserve agricultural land. LAFCOs, however, do not have General Plans, and since this guidebook focuses on General Plan policies, no specific policies for LAFCO are suggested here. Local LAFCOs almost always pay attention to the General Plan policies adopted by the cities and the county within their jurisdiction, so enactment of the policies recommended in this guidebook may have a beneficial impact on the decisions of the local LAFCO.

Recommended Policies for County General Plans

The following policies, when included in a County General Plan, will provide significant protection for agricultural land, and will help prevent its inappropriate division and development:

1. Agricultural Lands Shall Be Conserved For Agricultural Use — Lands that are economically productive when used for agriculture shall be designated as “Agriculture” on the General Plan Land Use Map, and shall be protected and conserved for agricultural use. No non-agricultural uses shall be permitted on such lands.

2. The Subdivision of Agricultural Lands Shall Be Discouraged — Lands designated for “Agriculture” shall not be subdivided. Notwithstanding the foregoing, the creation of new parcels, and the reorganization and resub-

division of existing parcels and/or lots of record, may be permitted when they achieve one or more of the following:

- The creation of larger, contiguous agriculturally viable parcels from smaller parcels, especially when coupled with the creation of agricultural easements or the application of other techniques to provide permanent protection for commercially productive agricultural lands, including grazing lands, and to support the economic viability of the county’s agricultural industry, including grazing.
- The creation of a parcel for transfer, sale, or donation to a federal, state, or local governmental agency, or to a nonprofit group, that will conserve and protect such parcel for agricultural use on a permanent basis.

3. Agricultural Buffer Setbacks¹⁵ — An agricultural buffer setback shall be required on all property adjacent to land designated for “Agriculture” on the General Plan Land Use Map. The purpose of the agricultural buffer setback is to prevent or minimize potential conflicts between either existing or future commercial agricultural uses and habitable land uses. The County finds that a requirement for such agricultural buffer setback is necessary to protect the public health, safety, and welfare.

The agricultural buffer setback required by this General Plan is designed to provide a physical barrier to noise, dust, odor, and other effects which may be a result of normal commercial agricultural operations such as plowing, discing, harvesting, spraying, or the application of agricultural chemicals, or animal rearing.

All development for habitable uses within 200 feet of the property line of any parcel containing land designated as “Agriculture” on the General Plan Land Use Map, including any subdivision of such land, shall provide and maintain a 200 foot agricultural buffer setback between the adjacent commercial agricultural land and all non-agricultural uses involving habitable spaces, including dwellings, habitable accessory structures and additions thereto, and commercial, industrial, recreational, or institutional structures, and their outdoor areas designed for public parking and intensive human use. In addition, such development may be further required to provide supplementary vegetative screening or other physical barriers as appropriate.

Notwithstanding these requirements, an agricultural buffer setback distance of less than 200 feet may be established for subdivision developments involving habitable uses on proposed parcels adjacent to lands designated as “Agriculture” on the General Plan Land Use Map if one or more of the following special circumstances exist:

- Significant topographic differences exist between the agricultural and non-agricultural uses, which minimize or eliminate the need for a 200-foot setback; or
- Permanent substantial vegetation exists, permanently protected by policies in this General Plan from any diminishment or change; or
- Other physical barriers exist between the agricultural and non-agricultural uses

which minimize or eliminate the need for a 200 foot setback; or

- The imposition of the 200 foot agricultural buffer setback would, in a definable manner, hinder infill development or the development of a cohesive neighborhood, or otherwise create a project incompatible with the character and setting of the existing surrounding residential development; and
- The approving body finds that the proposed reduction of the agricultural buffer setback will not hinder or adversely affect the agricultural use of the commercial agricultural lands located within 200 feet of the proposed development.

In addition, an agricultural buffer setback distance of less than 200 feet may be established for developments involving habitable uses on existing parcels of record when the imposition of a 200 foot agricultural buffer setback would preclude building on a parcel of record as of the effective date of this General Plan. In this case a lesser buffer setback distance may be permitted, provided that the maximum possible setback distance is required, coupled with a requirement for a physical barrier (e.g., solid fencing and/or vegetative screening) to provide the maximum buffering possible, consistent with the objective of permitting building on a parcel of record

4. Maintaining The Right To Farm — Agricultural uses shall be promoted and protected on all lands designated as “Agriculture” on the General Plan Land Use Map. Any person who is a seller of real property located adjacent to land

designated as “Agriculture” on the General Plan Land Use Map, and any person who acts as an agent for a seller of such property, shall provide the following disclosure to any and all prospective purchasers:

- The property to be sold is located adjacent to or in the vicinity of land designated as “Agriculture” on the Land Use Map found in the County General Plan, and agricultural uses will be promoted and protected on such land. Residents of the property to be sold may be subject to inconvenience or discomfort arising from the use of agricultural chemicals, including herbicides, insecticides and fertilizers, and from the pursuit of agricultural operations, including but not limited to plowing, spraying, discing, pruning, harvesting, and animal rearing, all of which occasionally generate dust, smoke, noise, and odor. The County has imposed a requirement for a 200-foot agricultural buffer setback on the property to be sold, to separate agricultural parcels and non-agricultural uses involving habitable spaces to help mitigate these potential conflicts. Any development on the property to be sold must provide a buffer and setback as required by the County General Plan and its implementing ordinances. The County has established agriculture as a priority use on productive agricultural lands, and residents of adjacent property should be prepared to accept any inconvenience or discomfort that may be caused by normal, necessary farm operations.

The following statement shall be included in any deposit receipt for the purchase of real property adjacent to land designated as “Agriculture” on the General Plan Land Use Map, and shall be included in any deed conveying the property:

■ The subject property is located adjacent to or in the vicinity of land designated as “Agriculture” on the Land Use Map found in the County General Plan, and agricultural uses will be promoted and protected on such land. Residents of the property to be sold may be subject to inconvenience or discomfort arising from the use of agricultural chemicals, including herbicides, insecticides and fertilizers, and from the pursuit of agricultural operations, including but not limited to plowing, spraying, discing, pruning, harvesting, and animal rearing, all of which occasionally generate dust, smoke, noise, and odor. The County has imposed a requirement for a 200-foot agricultural buffer setback on the property to be sold, to separate agricultural parcels and non-agricultural uses involving habitable spaces to help mitigate these potential conflicts. Any development on this property must provide a buffer and setback as required by the County General Plan and its implementing ordinances. The County has established agriculture as a priority use on productive agricultural lands, and residents of adjacent property should be prepared to accept any inconvenience or discomfort that may be caused by normal, necessary farm operations.

Recommended Policies for City General Plans

Recommended Policy #3, providing for agricultural buffer setbacks, should be included in a city’s General Plan, if commercially productive agricultural land is located adjacent to the city. In addition, the following policies, when included in a city General Plan, will provide significant protection for agricultural land, and will help prevent its inappropriate development:

5. No Utility Extensions Into Agricultural Land — The city shall not extend sewer or water services into or across any lands designated for “Agriculture,” or used for commercial agricultural purposes, whether such lands are inside or outside the city.

6. Establish An Agricultural Land Protection Boundary — An Agricultural Land Protection Boundary is hereby established. All of the areas located within the Agricultural Land Protection Boundary may be developed, consistent with the provisions of this General Plan. Lands with the following designations on the Land Use Map, whether located inside or outside the city, are hereby determined to be within the Agricultural Land Protection Boundary: Residential, Retail, Arterial Frontage, Office, Business Park, Mixed Use, General Commercial/Light Industrial, General Industrial, Parks, Public/Semipublic, and Open Space. All areas designated for “Agriculture” on the Land Use Map, or lands outside the city not designated for any of the above listed uses, when such lands are currently being used for commercial

agriculture, are hereby determined to be outside the Agricultural Land Protection Boundary.

Until December 31, 2025, no new development other than public parks and open space uses (including agricultural uses) shall be permitted outside the Agricultural Land Protection Boundary. For the purpose of this policy, open space uses are those uses defined in Government Code Section 65560, as that section of law exists on December 31, 2002.

Discussion

Recommended Policies #1 and #2 go together. Policy #1 makes a specific commitment to the protection and conservation of commercially productive agricultural land. If a county is serious about maintaining the foundations of its local agricultural economy, such a clear policy statement is essential. Without a strong policy commitment to maintaining agricultural land in agricultural use, individual property owners and developers will legitimately assume that the county is willing to entertain proposals for the conversion of such lands. Where growth pressures are significant, as they are in Monterey County, individual landowners will have many opportunities to convert their agricultural lands, and thus to increase their value. To avoid the “piecemeal” destruction of the agricultural land base, it’s important for the General Plan to include a clear policy commitment to the conservation of agricultural land.

Just as it is important to conserve agricultural lands for agricultural use, it is important to prevent the subdivision of such lands, except when a subdivision would actually support the continued use of the land for agriculture. That’s the objective of Recommended Policy #2. Dividing larger parcels into smaller parcels tends to make them less viable for commercial agricultural use, especially over the long run, so if the county wants to maintain a commitment to agriculture, it should make a commitment to retaining current parcel sizes.

Landowners often argue that they have a right to development, and that to restrict the use of their lands violates the Constitution. This is not legally true. The Constitution does not guarantee landowners that they will always enjoy a profit from their land, or that they will be able to maximize their profit. It only says that the public cannot act to deprive property owners of all the economic value of their land. As we have seen, commercially productive agricultural land has significant economic value, so a local government is almost never found to have “taken” the land, by requiring it to remain in agricultural use.

In addition to the appeal to let the owners of agricultural land maximize their individual benefit, landowners often say that agriculture is a dynamic business, and that the General Plan should therefore provide “flexibility.” While there is no doubt that commercial agriculture is dynamic, Recommended Policies #1 and #2 don’t constrain flexibility for agriculture. The only flexibility they constrain is the flexibility to convert agricultural land to non-agricultural uses. Again, if it makes sense for the

community to make a long-term commitment to agriculture, then the General Plan needs to have strong policies stating that commitment, because it will usually make economic sense for individual landowners to convert specific parcels of agricultural land to other uses. Without a strong General Plan commitment to the protection and conservation of agricultural land, the community is likely to lose its agricultural industry on a piecemeal basis. This in fact has been the pattern throughout California, in Los Angeles County, Orange County, Ventura County, and Santa Clara County. Where urban pressures are great, agriculture will be replaced, absent a strong community commitment to protect agricultural land.

Just as Recommended Policies #1 and #2 go together, so do Recommended Policies #3 and #4. These policies are aimed at supporting agriculture as an industry, and giving it protection against adjacent or nearby urban uses. The Agricultural Buffer Setbacks established by Recommended Policy #3 make non-agricultural uses responsible for providing a buffer against adjacent agriculture. The buffer, it needs to be emphasized, is maintained on the non-agricultural land. The Right to Farm provisions in Recommended Policy #4 give another kind of protection to farmers, and help prevent nuisance lawsuits and complaints to local public officials. Conflicts between agricultural and urban uses are probably inevitable, whenever urban and agricultural uses are found in the same general vicinity. This is another good reason, in fact, to protect agricultural lands for exclusive agricultural use. But where those

conflicts do exist, as they do in many agricultural areas, these recommended policies put the community squarely on the side of agriculture.

Recommended Policies #5 and #6 are policies intended for adoption by cities. While it is possible to pursue agricultural uses within cities, this is the opposite of what ought to be the case. Cities are for urban development. The unincorporated area that is often called “the county,” is where agriculture should be located, and where it needs the kind of protections outlined in Recommended Policies #1-#4. Cities, however, can help protect agriculture located outside the city limits by refusing to extend urban water and sewer services into or across agricultural land. Such services, when they are extended, pave the way for future urban development. Cities that want to protect surrounding agricultural land need to make sure that they don’t undermine its continued agricultural use.

Recommended Policy #6 is of critical importance. The policy is intended to contain urban growth within the existing city limits, or to those areas specifically set aside by the city for future urban expansion. All other areas, if they are productive agricultural lands, should be protected and conserved. County policies need to do that, since the lands are in the unincorporated area. The city, though, by adopting Recommended Policy #6 as part of the city General Plan, can help ensure that annexations to the city by adjacent property owners don’t undermine efforts to protect and conserve agricultural land.

STOPPING SPRAWL



The Problem

Sprawl comes in at least two flavors. In those unincorporated areas outside of cities, sprawl happens when county governments allow disconnected, individual subdivisions, or commercial, industrial, or other developments. This kind of rural sprawl is typical in Monterey County, and is found throughout California.

The land use powers of county government are the same as those of city government. Nothing currently prevents a county government from approving an urban development out in the middle of a rural area. And of course, individual property owners often make the request. Without strong policies to tell them not to, County Boards of Supervisors have traditionally reacted to proposals on an individual basis, and the cumulative impact has been a kind of rural sprawl. Disconnected subdivisions, industrial facilities, shopping centers, and

other developments are found scattered throughout the unincorporated area. This scattered development effect has set precedents for continued development, and the result is a worst of both worlds pattern. Rural developments often don't have access to the kind of services they need, and can't afford to provide them. Adequate fire protection and law enforcement is simply not available. Water, and sewer facilities may be inadequate, too. Schools, libraries, hospitals, and even needed commercial services are far away. The amenities of urban life aren't there, but the areas aren't genuinely rural either. The kind of truly rural environment that prevailed in the past has been lost, with the incursion of the sprawling developments that have invaded the territory.

The second flavor of sprawl is associated with cities. These sprawling developments are "in" the cities, but not really "of" them. The positive part about city life is that

homes, services, and activities are all close together. Things are going on in cities, and you can get there. You can get there by walking. This, at least, is the urban ideal. It used to be the urban reality. In typical urban subdivisions today, much of the connectedness that characterizes a genuine city is lost. Modern urban subdivisions are anti-pedestrian and auto-dependent, and are typified by a monoculture of low-density, single-family dwellings separated from all the other things that go along with urban life. They use land inefficiently, and sprawl out from their edges into adjacent agricultural land and open space. This kind of sprawl also achieves the worst of both worlds. Urban amenities are not really available to the residential neighborhoods, and the peace, quiet, and beauty that motivates people to move to the suburbs isn't really present, either.

An Approach to Addressing the Problem

The best way to attack the phenomenon of rural sprawl is to have counties become committed to maintaining rural areas as rural, directing future growth and development into existing cities, or into those unincorporated areas that can provide the services and activities that go along with an urban level of development. When this approach is followed, existing lots of record in the unincorporated county permit those in search of rural lifestyles to find property to build a genuinely rural home. New subdivisions, however, instead of contributing to future rural sprawl, are directed to city or community areas where services can be provided in a cost-effective manner.

For cities, the prescription for sprawl is to draw a line around their sprawling tendencies, by adopting an Urban Growth Boundary. The Urban Growth Boundary directs new development into the existing city, and into those areas specifically designated for urban growth. Within the city, infill and mixed-use developments help revitalize and redevelop the city neighborhoods that tend to get left behind as typical single-family subdivisions are built on the outskirts. If the city has decided that new growth areas are necessary, the application of Traditional Neighborhood Design principles to these new growth areas will prevent future areas of residential monoculture, and will ensure that new residential areas are not only more efficient in their use of land, but include all the advantages that cities are supposed to provide.

Recommended Policies

1. Counties Will Direct Growth To Cities And Existing Urban Areas —

The County will preserve a distinction between urban areas and rural areas within the county. "Urban areas" include all the incorporated cities within the county, and those mapped "Community Areas" which have existing public water and sewer systems, a balanced mix of land uses, diverse housing types, and public amenities. Other areas in the county are "rural."

Further subdivision and urban-level development is appropriate within mapped "Community Areas." All such

development shall be consistent with the policies of this General Plan.

Further subdivision and urban-level development are not appropriate within the rural areas of the county. Development in rural areas will be permitted on existing parcels and lots of record, consistent with the policies of this General Plan. The subdivision of land and the creation of new parcels within rural areas shall not be permitted, except as outlined below.

The creation of new parcels, lot line adjustments, and the clustering, reorganization, and resubdivision of existing parcels and/or lots of record may be permitted in rural areas when one or more of the following purposes will be achieved:

- Clustered development that transfers or reduces the actual potential for development on existing parcels and/or lots of record, and that achieves greater permanent conservation and habitat protection than could be achieved without such development, may be permitted.
- The creation of large, contiguous agriculturally viable parcels from fractured smaller parcels may be permitted, especially when coupled with the creation of agricultural easements or the application of other techniques to provide permanent protection for viable agricultural lands, including grazing lands, and to support the economic viability of the county's agricultural industry, including grazing.

- Density transfers to more suitable building areas both within and outside identified conservation areas, when the density transfer achieves greater permanent conservation and habitat protection than could be achieved without such development, may be permitted.

- The creation of larger parcels from a series of smaller parcels and/or lots of record for transfer/sale/donation to conservation groups may be permitted.

- The creation of larger parcels from a series of smaller parcels and/or lots of record for transfer/sale/donation to a federal, state, or local agency for parks, open space, or conservation purposes may be permitted.

- The creation of a larger parcel from a series of smaller parcels and/or lots of record where the new parcel has a high concentration of sensitive habitats, and the creation of the parcel results in greater permanent conservation and habitat protection than could be achieved without such development, may be permitted.

- The creation of a new parcel that could be sold to generate income for the purchase of resource-rich/sensitive lands, when the creation of the new parcel will demonstrably result in greater permanent conservation and habitat protection than could be achieved without such development, may be permitted.

- The creation of a new parcel that could be used for conservation banking, when the creation of the new parcel will

demonstrably result in greater permanent conservation and habitat protection than could be achieved without such development, may be permitted.

2. Cities Will Establish An Urban Growth Boundary — To provide for orderly growth and development patterns, an Urban Growth Boundary is established for the city. The Urban Growth Boundary is depicted on the General Plan Land Use Map.

(Note: The Urban Growth Boundary as mapped should include within the boundary the existing city limits, and all lands specifically designated by the city for future growth, over the next 20-year period. All other lands should be outside the Urban Growth Boundary.)

Until December 31, 2025, no new development other than public parks and open space uses (including agricultural uses) shall be permitted outside the Urban Growth Boundary delineated the General Plan Land Use Map. For the purpose of this policy, open space uses are those uses defined in Government Code section 65560, as that section of law exists on December 31, 2002.

To comply with any applicable state law relating to the provision of housing for all economic segments of the community, the city may amend the Urban Growth Boundary designated on the General Plan Land Use Map in order to accommodate lands to be designated for affordable housing, provided that no more than 10 acres of land may be brought within the

Urban Growth Boundary for this purpose in any one calendar year. Such amendment may be adopted only if, based on substantial evidence, the city makes each of the following findings:

- That the land to be included within the Urban Growth Boundary is immediately adjacent to an area where development already exists, and that specific evidence in the administrative record relating to the amendment demonstrates that the city has adequate capacity to accommodate the proposed development and to provide adequate public services for the proposed development; and
- That the proposed development will consist of housing primarily for low, very low, or moderate income persons, and that effective restrictions will maintain the housing as available to such persons in perpetuity; and
- That there is no existing residentially designated land available within the Urban Growth Boundary to accommodate the proposed low, very low, or moderate income housing development; and
- That it is not reasonably feasible to accommodate the proposed development by redesignating lands within the Urban Growth Boundary for low, very low, or moderate income housing;
- The proposed development is necessary to comply with state law requirements for provision of housing to persons of low, very low, or moderate income.

3. Cities Will Employ “Traditional Neighborhood Design” Principles¹⁶ —

Development within new growth areas annexed to the city shall be consistent with the principles of traditional neighborhood development design set forth in the policies below:

- New developments within each new growth area shall be made up of one or more neighborhoods. Each neighborhood shall transition from an urban neighborhood center to the edge of a collector roadway.

- Each neighborhood center shall be defined by and shall be required to have the following urban characteristics:

A civic or public open space such as a plaza or green shall be located in the neighborhood center.

Retail space, office space, commercial services, and residential uses shall be located in the neighborhood center, often in multi-use buildings.

Public and semi-public uses should also be located in the neighborhood center.

Streets in the neighborhood center shall be thoroughly interconnected with the surrounding street system to provide easy, multiple accesses for cars, pedestrians, and bicycles.

- Each neighborhood or group of neighborhoods within each future growth area shall provide for a mix of housing, workplaces, retail, commercial services, and public/semi-public uses, including schools and libraries, and shall include land designated for public parks/recreation.

- Development within each new growth area shall be consistent with the following policies:

- The outer edge of development in each neighborhood shall generally not be more than 15 minutes walk from the neighborhood center.

- The average housing densities within blocks shall decrease from neighborhood center to neighborhood edge.

- The neighborhood edge shall be bordered either by a natural corridor, a landscaped buffer adjacent to arterials, or the edge of a pedestrian-friendly roadway; sound walls should not be allowed.

- Residential developments in new growth areas shall achieve a required average density of at least 9 units per net residential developable acre by including a wide range of low-density, high-density, and medium-density units. The required average density will not be achieved solely through an exclusive mix of low-density and high-density units. At least 40% of the housing units in new residential developments shall be of housing types that fall within the range of 7-14 units per net residential developable acre.

- Residential developers shall be encouraged to design new residential developments with as many discreet lot sizes and housing types as is feasible, in the interest of offering a greater number of choices across the broad range of housing prices. Several lot sizes and housing types within each block shall be encouraged, to provide variety and texture within the block, as well as throughout each neighborhood. Clustering a large

group of any single housing type in several large blocks shall be avoided.

- Open spaces, schools, parks and other natural amenities shall be fronted by streets or public spaces, and shall not be privatized behind backyards.

- “Gated” communities shall not be permitted.

- The street network within each new growth area shall have the following characteristics:

Traffic shall be channeled from major arterials around groups of neighborhoods on collector roadways.

Collector roadways may be used to channel traffic to, but not through, neighborhood commercial centers.

- Individual blocks should generally average less than 600 feet in length and less than 1800 feet in perimeter, measured at the right of way line.

- Each neighborhood shall be connected in as many locations as possible to collector roadways, to diffuse, distribute, and calm the traffic as it leaves and enters the residential neighborhood.

- Cul-de-sacs shall be avoided unless natural terrain conditions demand them.

- The street network shall be thoroughly interconnected.

- Streets in the neighborhood commercial center shall have parking on both sides. Head in and angle parking is preferred in the commercial center with a maximum of two 12-foot travel lanes.

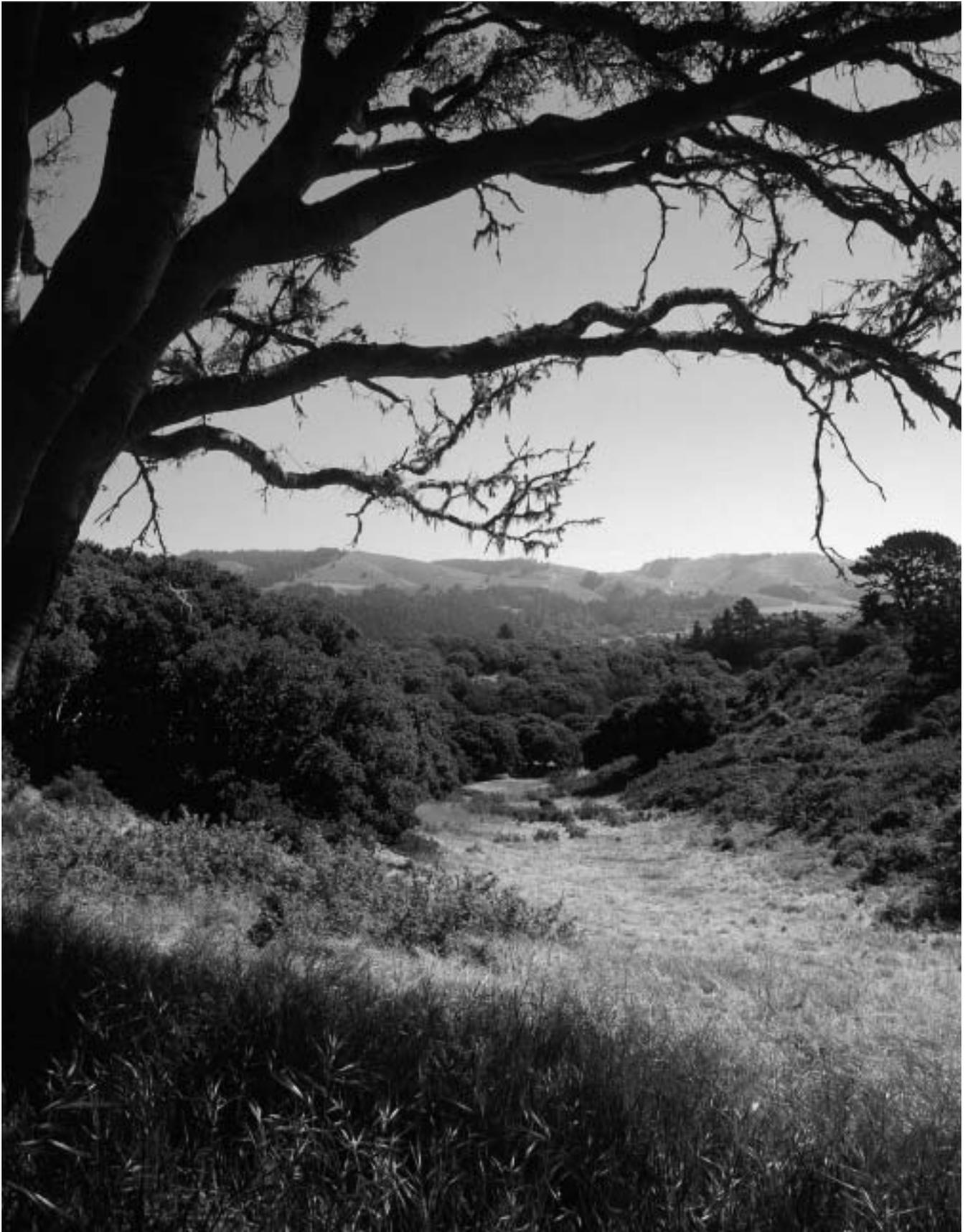
- In order to slow traffic, standard residential streets shall be no more than 32 feet wide.

- Rear alleys shall be strongly encouraged. Rear alleys must be paved and landscaped and must be maintained by a landscape and lighting district, or comparable, permanent financing mechanism.

Discussion

The arguments against the kind of design and development requirements outlined in this section of the guidebook boil down to an argument that a local government ought not to be making these kind of decisions, and that letting individuals and the market decide what sort of growth to pursue will always be best. The answer to this argument is easy: if you like what’s happening now, there’s no need to change. Current, market-

driven development patterns are producing ever more unlivable places, and ever less affordable communities. The time for some genuine “community planning” has definitely arrived, and the result will be communities that are stronger economically, more respectful of the environment, and that help revitalize and sustain our social and community life.



NATURAL RESOURCE PROTECTION

The Problem

Growth and development place significant pressures on the natural systems that ultimately make all life possible. The kind of “best policies” outlined in the preceding sections of this guidebook, steering new growth towards existing urban areas, and areas where infrastructure can be made available in a cost-effective manner, are almost always the kind of planning policies that give the best possible protection to our natural resources, as well.

Good general policies, however, are not enough. Specific policies are needed to address the specific impacts that human activities can have on sensitive natural systems.

An Approach to Addressing the Problem

In this guidebook, we recommend policies that rely, as little as possible, on the need for studies and reviews by consultants and experts. The best policy approach is simply to prevent development or other activities that might injure important natural resources. That’s the approach outlined in this section, focusing on sensitive habitats, and on the problems caused by erosion, one of the most underrated, but important, impacts to our natural resources.

Recommended Policies:

1. Protect Sensitive Habitats¹⁷ — Sensitive habitat areas shall be protected from impacts that may damage or degrade them. Sensitive habitat areas include all of the following:

- Areas of special biological significance as identified by the State Water Resources Control Board.
- Areas that provide habitat for locally unique biotic species or communities, including but not limited to oak woodlands, coastal scrub, maritime chaparral, indigenous Ponderosa Pine and indigenous Monterey Pine and ancient forests.
- Areas that provide habitat for species of special concern as listed by the California Department of Fish and Game in the Special Animals list, Natural Diversity Database.
- Areas that provide habitat for rare or endangered species that meet the definition of Section 15380 of the California Environmental Quality Act guidelines.
- Areas that provide habitat for rare, endangered or threatened species as designated by the State Fish and Game Commission, United States Fish and Wildlife Service or California Native Plant Society.

- Areas adjacent to essential habitats of rare, endangered or threatened species.

- Nearshore reefs, rocky intertidal areas, seacaves, islets, offshore rocks, kelp beds, marine mammal hauling grounds, sandy beaches, shorebird roosting, resting and nesting areas, cliff nesting areas and marine, wild life or educational and research reserves.

- Dune plant habitats.

- All lakes, wetlands, estuaries, lagoons, streams and rivers.

- Riparian corridors, and areas of riparian vegetation and riparian woodland.

No grading, filling, land clearance or land disturbance, use of a toxic material, timber harvesting, land subdivision, or any other development or construction activity shall take place within any sensitive habitat area.

Notwithstanding the foregoing, such activities may be permitted when the application of this policy would make an existing parcel unusable. In that case, disturbance of the sensitive habitat area shall be minimized, and any permitted activity shall be carried out under the following conditions:

- All development shall mitigate significant environmental impacts.

- Dedication of an open space or conservation easement or an equivalent measure shall be required, as necessary, to protect the portion of a sensitive habitat that is undisturbed by the permitted development activity, or to protect a sensitive habitat on an adjacent parcel.

- Restoration of any area that is a degraded sensitive habitat or has caused or is causing the degradation of a sensitive habitat shall be required, provided that any restoration required shall be commensurate with the scale of the proposed development.

In addition, the following activities are exempt from this policy:

- The continuance of any preexisting non-agricultural use, provided that such use has not lapsed for a period of one year or more. This exemption shall include a change of uses, if the changed uses do not significantly increase the degree of encroachment into or impact on the sensitive habitat, as determined by the local government.

- The continuance of any pre-existing agricultural use, provided that such use has been exercised within the last five years.

- All activities listed in the California Food and Agricultural Code pursuant to the control and eradication of a pest as defined in Section 5006, Food and Agriculture Code, as required or authorized by the County Agricultural Commissioner.

- Drainage, erosion control, or habitat restoration measures required as a condition of a project permitted by the local government.

The local government may require the preparation of any biological or other studies necessary to carry out and implement the provisions of this section.

2. Minimize Land Disturbance and Erosion — It is the policy of this local government to eliminate and prevent conditions of accelerated erosion that have led to, or could lead to, degradation of water quality, loss of fish habitat, damage to property, loss of topsoil and vegetation, disruption of water supply, and increased danger from flooding. Therefore, the density and design of all new development shall be planned to be consistent with the characteristics and constraints of the site on which that development is carried out.

Structures on slopes that would normally require major grading shall utilize pole, step, or other foundations that do not require major grading.

New parcels shall not be created that will:

- Require building or construction on slopes exceeding 30 percent; or
- Require new access roads and driveways to cross slopes exceeding 30 percent; or

- Require cuts and fills greater than ten feet in height for distances greater than 50 feet or 10 percent of the new roadway length, whichever is greater.

For any project, access roads and driveways shall not cross slopes greater than 30 percent and cuts and fills shall not exceed 10 feet. Variances may be granted if a route across steep slopes will result in less environmental damage than all alternative routes, or if no other alternative exists.

Streams or drainage courses shall not be obstructed or disturbed except for approved road crossings, unless disturbance of a drainage course will improve overall site design.

Land clearing shall be kept to a minimum. Vegetation removal shall be limited to that amount necessary for building, access, and construction. Land clearing activities shall be mitigated to avoid erosion.

Discussion

The advantages of the policies outlined in this section of the guidebook are clear. Development and other human activities are simply directed away from areas that are particularly sensitive. Where land disturbance and erosion are concerned, the policies are built on the precautionary principle. The standards established can be expected, in virtually every case, to protect the important environmental values that are put at risk by human activity.

The strength of this approach, however, is also its weakness. Because the policies outlined give the greatest possible protection to the natural environment, they may constrain human activities that could be accomplished in an environmentally protective manner. Humans always seem to believe that their projects and proposals are worthy ones, and of course often they are. The best way to protect natural resources, however, is simply to leave alone, to the greatest degree possible, those areas of particular environmental sensitivity.

TRANSPORTATION AND TRANSIT

The Problem

Transportation and traffic problems are epidemic, found everywhere in the state. They are generally caused by and are associated with the sprawling, auto-dependent patterns of growth that have characterized California development over the last fifty years. Such transportation and traffic problems are particularly associated with the lack of a jobs-housing balance. When desirable and affordable housing is not available nearby to major centers of employment, workers must commute. Often, California workers are commuting up to two hours each day, and sometimes more. The economic, environmental and social costs are horrendous.

As an example, consider the Santa Clara County - Monterey County commute. An increasing number of persons are now commuting on a daily basis from their job in Santa Clara County (popularly known as the "Silicon Valley") to a home in Monterey County. That is happening because only one new home is being built in the Silicon Valley for every six new jobs created there. Affordable housing for Silicon Valley workers is now being found in Salinas, and in other cities in the Salinas Valley. Those daily commutes can be forty, fifty, sixty, or even seventy miles, one way. Growing traffic jams on Highway 101, which links Santa Clara County to Monterey County, demonstrate the phenomenon.

Traffic jams on Highway One, and on Highway 68, that runs between the City of Monterey and the City of Salinas, demonstrate that the same kind of commuting patterns exist within Monterey County. Persons with jobs on the Monterey Peninsula are finding their housing in Salinas, or in one of the other Salinas Valley cities, and the commute patterns set up are causing enormous transportation and traffic problems.

An Approach to Addressing the Problem

It is not possible to build our way out of our transportation and traffic problems by constructing new roads. Neither the state nor local governments can afford the new roads that would be necessary to eliminate traffic congestion. Furthermore, building new road capacity often proves counterproductive. The new capacity leads to induced demand that actually increases traffic bottlenecks, because trips previously diverted due to congestion begin to occur once capacity is increased. A clogged, four-lane freeway is widened. Brief relief ensues. Then, new traffic seeks to make use of the increased capacity, and soon there's a clogged, six-lane freeway, with even more people stuck in the jam.

Changing land use development patterns is the best antidote to the traffic and transportation problems experienced

It is not possible to build our way out of traffic congestion.



throughout the state. Increased transit use, for instance, definitely depends on having adequate densities in residential areas. Unfortunately, past patterns of development cannot be changed overnight. That means that the transportation and traffic problems associated with those flawed patterns of past development will take a long time to eliminate. That's the "bad news." There is no quick and easy solution to our transportation and traffic problems. The "good news," however, is that better land use practices, simple to implement, can start making a difference immediately, and can provide real and significant change over time.

What follows is a listing of simple techniques that local governments can use to help solve transportation and traffic problems through better land use design. This list is excerpted from a comprehensive and extremely useful guide published by the San Diego Air Pollution Control District:¹⁸

- Encourage greater mixing of land uses to reduce vehicle trips.

- Encourage the development of pedestrian-oriented communities.
- Establish one or more central business cores for high-density and mixed use development.
- Encourage the location of large employment or shopping centers in major bus and transit corridors, and within walking distance of planned or existing transit stations.
- Preserve and enhance existing neighborhoods and commercial districts.
- Encourage infill and neighborhood revitalization projects within urban residential areas.
- Provide public facilities and subsidize development fees to attract investment to older areas exhibiting high transit ridership.
- Encourage subdivision designs that are integrated with existing or planned parks, libraries, schools, and other public facilities within walking distance of residential uses.



- Encourage developers to design project sites that increase the convenience, safety, and comfort of people who walk, bicycle, or take transit.
- Encourage all development projects prepared within 2000 feet of an existing or planned light rail, transit, commuter rail, express bus, or transit corridor to incorporate site design measures that enhance access to the transit system.
- Review all plans for subdivision streets and lots, commercial sites, public facilities, and multifamily residences to identify design changes to improve access by transit, bicycles, and walking.

- Ensure that new commercial developments include convenient, comfortable, and safe pedestrian and bicycle connections to adjacent properties.
- Specify site design and roadway features to enhance pedestrian and bicycle access to transit.
- Ensure that upgrades to existing roads include bicycle and pedestrian improvements where appropriate.
- Require new major activity centers, office, and commercial developments to provide secure bicycle storage and bicycle parking facilities.

Techniques like those listed above, coupled with strong General Plan policies to reduce urban sprawl, and with housing policies that give preference to local residents first when new housing is constructed, will have a significant and positive effect on transportation and traffic problems. In addition, local governments should impose a concurrency requirement on major new developments, requiring that adequate transportation capacity be in place before they're built. This policy will help make certain that existing traffic problems are not made worse. Finally, when new roads are constructed, full mitigations must be provided, to make sure that new roads don't unintentionally become the stimulus for destructive, further growth, and the conversion of economically productive agricultural land.

Recommended Policies

1. **The local government shall compile and maintain a “list of alternative transportation strategies.”** This list shall include project and community design standards and techniques that have been demonstrated in the local community, or in other jurisdictions, to be effective in achieving any of the following objectives:

- Reducing automobile use, and especially reducing single vehicle automobile trips.
- Encouraging and supporting the use of transit.
- Encouraging the use of bicycles and walking, for recreational purposes and as a primary mode of transportation.

The list of alternative transportation strategies maintained by the local government shall be updated and revised on an annual basis, to add additional standards and techniques that have been demonstrated, within the local community, or in other jurisdictions, to be effective in achieving the above objectives.

All residential, commercial, industrial, and office developments within the local community shall utilize and incorporate all applicable techniques from the list of alternative transportation strategies. If the local government finds that a technique on the list is not applicable to a particular development project, that finding must be supported by one or more facts found

in the administrative record. The utilization and incorporation of the applicable standards and techniques into the development shall be made a condition of project approval.

2. **When an application is filed for a residential, commercial, industrial, or office development within the local community, the local transportation agency and the local transit agency shall promptly be provided with a copy of the plans and specifications, and shall be requested to recommend changes or conditions that can achieve any of the following objectives:**

- Reducing automobile use, and especially reducing single vehicle automobile trips.
- Encouraging and supporting the use of transit.
- Encouraging the use of bicycles and walking, for recreational purposes and as a primary mode of transportation.

Recommendations from the transportation agency and the transit agency shall be incorporated into the project, and shall be made conditions of project approval, unless the local government determines that the recommendations would be ineffective in achieving one or more of the above objectives, or that the benefits provided by imposing the requirement would be disproportionately small, compared to the cost or difficulty of implementing or carrying out the requirement.



3. It is the policy of this community to require new residential, commercial, industrial, or office developments to mitigate any transportation impacts caused by the development.

If a proposed development would cause any road segment or intersection identified in the Circulation Element of the General Plan to experience an unacceptable level of service, or if the development would cause additional traffic impacts on any such road segment or intersection already experiencing an unacceptable level of service, the project shall not be approved; provided, however, that the project may be approved, despite the above, if all the following are accomplished:

- (a) A transportation or traffic mitigation measure is identified that will eliminate the unacceptable level of service on all affected road segments and intersections;
- (b) The installation, construction, or completion of that transportation or

traffic mitigation measure is made a condition of project approval; and

- (c) The identified transportation or traffic mitigation measure is actually constructed prior to or concurrently with construction of the project.

4. When any transportation facility is proposed, including any new expressway, highway, freeway, road, or street, and the proposed transportation facility would be constructed adjacent to or through land that this General Plan has designated for commercial agricultural use, it shall be a condition of project approval that prior to construction of the transportation facility a permanent agricultural land conservation easement shall be granted to a nonprofit or governmental agency; the conservation easement shall cover all those parcels containing agricultural land which are immediately adjacent to the proposed transportation facility, and shall require that such lands be maintained in permanent agricultural use.

Discussion

Recommended Policies #1 and #2 are similar in their intention and effect. They require the local government to incorporate alternative transportation strategies into every project constructed within the jurisdiction. Over time, as development proceeds, that commitment to a new and different set of transportation strategies will help create a future that is truly different from the present.

The argument against such requirements, of course, is mainly that current development patterns don't match up, so that these new, alternative requirements won't have much immediate effect. Strictly speaking, that's probably true. The question for the local community, however, is whether it wants to continue to support and advance transportation strategies based on the automobile, when it is clear that those strategies are ever more counter-productive. As indicated earlier, there is not going to be an easy or quick exit from our past commitment to the automobile, but to move in a new direction, the community has to begin somewhere.

Recommended Policy #3 imposes a concurrency requirement. It requires necessary transportation infrastructure to be in place prior to or concurrently with the construction of any development project that is going to cause negative transportation impacts. The argument against this policy is that it promotes a "no growth" approach. Without a policy like this, though, the cumulative impacts from continued development will cause unacceptable conditions of congestion and gridlock to get even worse.

Finally, Recommended Policy #4 seeks to mitigate the effects of new roads. Constructing new roads, actually, is not usually the best solution for transportation problems. The best solution is to find ways to reduce automobile use, and to use existing transportation facilities more efficiently. Nonetheless, during the expected twenty-year lifespan of a local General Plan, a new road may well be built, and in Monterey County, and in many other communities throughout California, it's quite likely that such a new road will be built right through prime farmland. Recommended Policy #4 makes sure that the only land sacrificed for a new road is the land actually used for the road itself. Without a policy like this, new roads almost inevitably mean the loss of all the agricultural lands through which they're built. While purchasing the easement called for by Recommended Policy #4 will cost money, the cost of an agricultural easement will be a lot less than the cost of acquiring land for the road itself. Where a community believes that it's in its best interest to preserve its prime agricultural land, this Recommended Policy advances that objective.



WATER AND LAND USE

The Problem

In Monterey County, and in many other parts of California, adequate, long-term, and sustainable water supplies are not available to serve new development. Nonetheless, it is not uncommon for new developments to be proposed and approved anyway. This is particularly true when proposed developments can obtain their water supply from groundwater sources, since abundant water may be immediately available, even though the aquifer that produces the water is in an overdraft condition.

When developments are approved without an adequate, long-term, and sustainable water supply, immediate problems may be caused to other water users and property owners. In the case of groundwater, continued pumping of overdrafted aquifers lowers the water table, increases pumping costs, and may dry up adjacent wells. Pumping of overdrafted aquifers may also cause surface settling, and significant damage to both public and private structures. In coastal areas, pumping overdrafted aquifers causes seawater intrusion. In the long run, approving developments that don't have a sustainable water supply puts individual and community investments in jeopardy.

An Approach to Addressing the Problem

A simple, but strict, General Plan policy can help address the problem. The approach recommended here for local implementation is much like the recently adopted state policy, applicable to larger subdivisions throughout California. New developments will be required to demonstrate the availability of an adequate, long-term, and sustainable water supply. When a project proponent can't demonstrate such a water supply, his or her proposed project will not be approved.

Because property owners have a right to use the groundwater underneath their own land, they often think the only important question is whether they can produce water from their own property. In fact, it is important that the overall state of the groundwater aquifer be examined, whenever groundwater is relied upon to support a proposed development. Although a well pump test may demonstrate that the amount of water needed for the specific project can be produced out of a well located on the property, if that water comes from an overdrafted aquifer, the supply may not be either long term or sustainable. In fact, by definition it will not be. Water supply issues need to be examined and analyzed from a community perspective, not simply an individual perspective.



Recommended Policies

1. Sustainable Water Supply Required—

No residential subdivision, or any agricultural, industrial, or commercial development project shall be approved without a specific finding, supported by facts in the administrative record, that an adequate, long-term, and sustainable water supply is available to serve the project. A water supply shall not be considered “sustainable” if the water proposed to be supplied comes from a groundwater aquifer in which ground-water overdraft conditions exist.

2. Prohibition of Hauled Water —

No development project shall be approved that relies on bulk hauled water supplies.

Discussion

Recommended Policy #1 is simple, but strict. As presented here, it does not apply to the construction of single-family homes on existing lots of record. Recommended Policy #2 is needed to make sure that “creative” project proponents do not claim that a “sustainable” water supply can be shown by their commitment to purchase bulk water and truck it in.

PERMIT PROCESS REFORM

The Problem

In almost every city and county in California, the permit process causes significant problems for both developers and the public. Those proposing a development usually complain about the cost, time, and uncertainty of the permit process. Such complaints are often justified. From the public perspective, the permit process often provides only the illusion of genuine public participation.

Here's how the process generally works, in most cities and counties throughout the state:

- An applicant comes into the planning department, and asks for an application to carry out a proposed project. This project can be virtually anything. No proposals are rejected, even those completely inconsistent with the current General Plan.
- The planning staff reviews what the applicant has submitted, and lets the applicant know of the many different “issues” involved in the proposal, and of the many permits that may be necessary. The more issues, the more permits. If the proposal is inconsistent with the General Plan, the staff tells the applicant that he or she will have to apply to amend the General Plan, in addition to applying for all of the different permits that may be required.



- Based on the staff's initial review, the applicant pays for a number of “studies” required to show whether or not the proposed project will meet the standards of the General Plan and the zoning ordinances. Typically, a project may require archeological studies, a study to evaluate any historic resources on the property, geological studies, rare and endangered plant surveys, studies to determine if endangered animal species make use of the property, hydrological studies, a septic suitability test, and a pump test to demonstrate water supply. This is by no means an exhaustive list.
- If the staff has made a tentative determination that the project might have a significant impact on the environment, the studies noted above will ordinarily be done

in connection with the preparation of a draft Environmental Impact Report (EIR). However, many planning departments seek to minimize the use of EIRs, and the process previously described often takes place without the benefit of the public review that is involved when a full EIR is required.

- It will be possible to carry out some of the studies previously listed only at certain times of the year (for instance, the rare and endangered species surveys that may be required). Some of the studies will involve an initial determination, and then a peer review by another expert. Of course, that takes more time. The applicant pays for all of this.

- After the results of the studies come in, and they are often done sequentially, not concurrently, the planning staff may tell the applicant that the project as initially proposed has “problems,” based on the results of the studies. The applicant will then be encouraged to redesign the project, to eliminate or mitigate the problems identified. The planning staff tells the applicant that if he or she does not do that, the project will almost certainly be denied. The applicant does redesign the project, and of course, the applicant pays for the work of the architects and engineers involved in that redesign. The redesign also takes more time.

- Until all the required studies are in, and the project is redesigned, if necessary, the applicant does yet not have a “complete application.” Many months, and even years, may be involved in getting the materials assembled for a complete application. Many thousands of dollars, or even hundreds of thousands of dollars, may be spent by the applicant to develop the materials needed for a complete application.

- Meanwhile, although the applicant has been working with the planning staff during this extended period, and has been spending all the money required by the process, the public may well have received little, if any, official notice. Unless neighbors or other interested persons are particularly energetic and vigilant (and this is largely true even when an EIR is required), no one may know about the project except the applicant and the planning staff.

- When all the studies are done, and the application is complete, the planning staff will set the application for a public hearing, and will provide public notice at that time. Usually, the public will get something like two weeks’ notice of the hearing, even though the applicant has been working with the planning staff for a year or more.

- At the hearing, the planning staff will almost always recommend approval of the project. This is particularly true if the applicant has redesigned the project at the suggestion of the planning staff. The hearing body will hear from the applicant that he has spent X months or years in the process, and X thousands or hundreds of thousands of dollars, and that he has done everything that the staff asked.

- The neighbors and other interested persons will express their opinions at the public hearing, and if they are opposed to the project they will say why. They may have very good reasons. They will be reacting, however, to a project that has been in the works for a long period, and will be opposing a project on which the applicant has spent a large amount of money (at the specific request and direction of the planning staff). The decisionmakers may feel that the

opponents are “unfair,” or “too late.” While it is true that the opponents may only have gotten two weeks’ actual notice, and would have voiced their concerns earlier, had they known about the project, the difficult situation of the applicant remains, and the decisionmakers do sympathize. Who can blame them?

■ If the decisionmakers approve the project, and it’s fair to say that most projects that go through the process to this point are approved, those opposing the project believe that the fix was in, and that the staff acted as an advocate for the applicant, instead of giving a fair evaluation. They feel that their local government has let them down. Thinking about it from the perspective of members of the public, who can blame them?

■ On the other hand, when an applicant applies for approval of his or her proposed project, the applicant is in the position of asking for permission. The applicant has no right to an approval. The permits requested are almost always fully discretionary, and the decisionmakers may decide that the opponents are correct in their objections. If they do, they will turn down the applicant, even though he or she has just spent X months or years and X thousands or hundreds of thousands of dollars going through the process. If the project is denied, after the applicant has done everything that the staff asked, the applicant is probably going to feel betrayed by the denial. And who can blame the applicant for that?

An Approach to Addressing the Problem

This description of the permit process is somewhat oversimplified, but is essentially accurate. This really is the land use approval process in most places in California. It is a mammoth problem for everyone involved. No reasonable person could blame anyone for being dissatisfied with this kind of a system.

There are three basic flaws in the typical land use approval process. First, the local government will entertain any application, even an application that is completely inconsistent with its own General Plan. Second, the typical process won’t give an applicant a “yes” or “no” answer until extensive and costly studies are done. Third, the public is not able to become involved until too late in the process.

There are things that can be done to make the permit process work better, and to address the three flaws just outlined. First, local governments can decide not to process project applications that are inconsistent with the adopted General Plan. That’s an easy, understandable, and important improvement. It is more difficult to address the second problem, and to reduce or eliminate the need for costly studies prior to a project decision. In some cases, however, the local government can set standards that will allow decisions to be made without the need for specialized, property-specific investigations. General Plan policies can be configured to make the need for such studies the exception, rather than the rule. In particular, it may be possible to give applicants a “no” answer without the need



for costly studies. If the answer is going to be “no,” anyway, and the local government can make that determination without the need to spend the applicant’s money, the applicant will be better off. Finally, it is possible to involve the public in the process at an earlier time. This actually has advantages for project applicants, as well as for the public in general.

In other sections of this guidebook, it was possible to recommend very specific General Plan language. In this section, that is more difficult, because the recommendations made here are about “procedures.” Every

local government will need to accomplish these recommendations in its own way. The suggested procedures, however, if properly incorporated into the local General Plan, and into the ordinances that implement the General Plan, can help bring greater certainty to the permit process, and can reduce both the time and expense involved. These procedures will also increase genuine public participation.

Recommended Policies

1. General Plan Amendments Separated From Project Applications —

Project applications shall not be processed or considered concurrently with proposed amendments to the General Plan. Applications for projects that are inconsistent with the community’s General Plan shall be rejected, or summarily denied.

The General Plan shall be reviewed on a comprehensive basis every five years, on a schedule consistent with the review and update of the General Plan Housing Element required by state law.

Any property owner or other person wishing to suggest a change in the General Plan, including a change affecting a specific property, may submit a request for such change at any time. All such requests shall be considered in connection with the next scheduled comprehensive General Plan review. If the preparation of an Environmental Impact Report is required in connection with the review

Good land use planning should be based on and reflect a community choice about what we want to happen, and what we want the future of our community to be.

of any request submitted by a property owner, for a change affecting his or her own specific property, the property owner shall pay for all costs involved in that environmental review.

2. Early Public Involvement Encouraged

— It is the policy of this community to involve the public in the review of proposed development projects at an early stage, so that concerns and questions can be addressed early in the process. As soon as an application is received for any proposed development project that will require a public hearing (whether the application is deemed complete at that point, or not), a notice of the filing of the application shall immediately be provided to all those persons who would ultimately be entitled to receive notice of such public hearing, including any person who has made a written request to be notified. The notice of the filing of the application shall outline the procedures and timelines that will be followed in connection with the processing of the application, and will inform those receiving the notice of their right to obtain copies of all materials relating to the application, and will provide a telephone number and/or an email address for a staff contact person who can respond to inquiries about the application. In addition, the community shall publish, each week, a display

advertisement in a newspaper of general circulation within the community, providing a list of all such proposed development projects, and explaining how additional information on these projects may be obtained.

3. General Plan Standards Should Provide Certainty

— It is an objective of this General Plan to minimize the need for project applicants to pay for studies by outside experts and consultants, in order to provide information by which their project applications may be evaluated. Therefore, to the greatest degree possible, the standards established in the General Plan shall incorporate specific requirements by which development proposals will be judged. Proposals inconsistent with such General Plan standards and requirements shall be denied.

When it is not possible properly to evaluate a development application without the information provided through one or more studies prepared by an outside expert or consultant, such studies will only be required after a determination has made that the project application is apparently consistent with all the standards and requirements in the General Plan for which a study is not required.

Discussion

The policies recommended here separate project applications from requests to amend the General Plan. This takes the General Plan seriously, as a real statement of what the community wants. Proposals that are inconsistent with the community's adopted General Plan are denied. That seems more than reasonable, but it is also reasonable to have the community consider possible changes to its General Plan, including suggestions for changes from individual property owners. Recommended Policy #1 requires a comprehensive review of the General Plan every five years. Any property owner can request a change affecting his or her specific property, but the decision on whether to make that change, or not, will be made on the basis of a policy review of its desirability, not in connection with an individual project application. Better decisions are almost certain to result. The recommended five-year review schedule recognizes a state law requirement that the General Plan Housing Element must be reviewed and updated every five years. Since a General Plan must, by law, be "internally consistent," this is the right time to make policy level changes that will be properly integrated into an internally consistent General Plan.

Recommended Policy #2 seeks to involve the public early in the process. The provisions requiring early notice will involve some costs, and will also result in the need for planning staff to respond to inquiries at an earlier point than under current procedures. The effect of these recommended policies will be to provide

neighbors and other interested persons with a timely indication that a project is being proposed. This means that concerns and questions are likely to be raised early, not at the last moment, and better decisions will result. The chance of an applicant being surprised by neighborhood concerns, late in the process, will be eliminated. Thus, these procedures are a kind of "insurance policy" for applicants, making it much more likely that a project applicant will find out what project opponents think right from the beginning, rather than finding out only later, after the applicant has spent a great deal of time and money pursuing a proposal that may have very significant opposition.

Recommended Policy #3, which must be elaborated upon in the actual General Plan, outlines a way to provide increased certainty to project applicants and the public alike, and to reduce processing costs for applicants. There are great advantages to such a process. Certainty can only be achieved, however, by establishing some rather hard and fast standards and policies at the outset, so it's possible to give either a "yes" or "no" answer (where that is appropriate) without the need for costly and time-consuming studies. The problem with this approach, from an applicant's point of view, is that it will sometimes deny the applicant the right to make the case for his or her project proposal.

The fact that a proposal doesn't meet a specified General Plan standard won't necessarily seem like a good reason to deny a project, as far as the applicant is concerned. Maybe that General Plan standard should

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be changed! Why isn't the applicant allowed to show that changing the General Plan would be better for the community? Under the procedures currently employed in most communities, an applicant is given that right, but with the problematic results outlined earlier.

Neighbors and members of the public may also be dissatisfied with a system that provides greater certainty, if the policies that provide certainty do so by giving what amounts to pre-approval to certain proposals. In order to expedite proposals for medium and higher density housing, for instance, entitlements to certain minimum densities may be established in the local General Plan. This guidebook recommends exactly that. Where such minimum densities are established, neighbors can no longer effectively argue that the density of a proposed project should be reduced. In fact, reducing the density of a proposed housing project is one of the most common outcomes when a new subdivision or multi-family project is considered in the typical planning process. The decision makers may be sympathetic with the project applicant, who has spent so much time and money getting to the decision point. On the other hand, they don't want to disregard the concerns of the project opponents. Therefore, they make a compromise in which they approve the project, but at a lower density. There is a good chance that everyone will be upset with this outcome,

and will be right to be upset, even though it's a common one. The applicant may win only an illusory victory, since the project might not work economically at the lower density. The opponents will end up with a project they opposed. The public will experience a reduction of housing opportunities that would have been made available had the densities permitted in the General Plan actually been granted.

As in every other area of land use policy, there are definitely pros and cons to the approach recommended here. When a community is willing to make its decisions on a policy basis, however, rather than deferring the tough choices to the project level, the permit process will be faster; it will cost less; and there will be more certainty for all involved. That is the basic lesson of permit process reform. Good policies help reform the process, making it better for everyone.

CONCLUSION

How we use and develop land has a major impact on the future of our communities. In many communities, the most important land use decisions tend to be made at the project or individual level. The future of the community is shaped by countless individual decisions, added up. When land use decisions are made in that way, the overall result may not be best for the community as a whole.

A local General Plan represents a set of decisions made at a “policy” level. Since the law requires that project level land use decisions be consistent with the policies of the local General Plan, it really is possible for a community to shape the future it wants by adopting the right General Plan policies.

The purpose of this guidebook has been to outline some policies that can help local communities benefit the local economy, protect the natural environment, and increase social equity. These policies are called “best policies” because they provide clear and definite direction for the individual and project level decisions. Unless General Plan policies actually represent a community decision, made by the community at the policy level, and unless General Plan policies provide clear direction to those who will be making project level decisions later on, the policies will not be effective in achieving the results they aim for.

Consider these two possible policy statements:

First Statement

Because commercial agriculture is this community’s major industry, and promoting and preserving agriculture is crucial for the future economic and social health of the community, it is the policy of this community to protect agricultural land, whenever feasible, consistent with the community’s need to provide social, economic, and housing opportunities for its residents.

Second Statement

This General Plan designates lands that are economically productive when used for agriculture. These designated lands shall be protected and conserved for agricultural use. No non-agricultural uses shall be permitted on such lands.

When our land use policies reflect a community choice about what we want our future to be, we can make that future happen the way we want.

As a matter of General Plan policy, only the second statement will prevent the conversion of agricultural lands. Only the second policy statement actually requires that commercially productive agricultural land be preserved. The first statement, while it notes why the community wants to preserve agricultural land, actually allows decision makers at the “project” level to make an individual decision every time the conversion of agricultural land is proposed, and to decide against preserving the specific land that is the subject of each individual decision. Over time, there will be lots of reasons to make individual exceptions to the basic goal of saving agricultural land, and the ultimate result of these individual decisions, added up, will probably not be the best achievable protection and promotion of agriculture.

The first statement, in fact, does not really represent a policy decision. It outlines important policy considerations, but then lets project level decision makers balance the concern about agricultural land preservation with other community concerns. The critical decisions, in other words, get made at the project level, not at the policy level.

Balancing concerns about agricultural land preservation with the need to allocate land for other purposes is critical for the community, but the best way to do that is to make the fundamental decisions at the policy level. If a community wants to make

lands available for industrial development, parks and recreation, housing, and other community needs, then where and how to do that needs to be part of the deliberation and discussion leading up to the decision about what exactly the General Plan should say. A General Plan that is serious about protecting and preserving agricultural land must contain a policy that says that the lands that are ultimately designated for agriculture will remain in agricultural use. Without such a legally effective statement, the General Plan will not act to shape the future, and the future of agriculture in the community will be totally dependent on individual decisions made on the project level.

In all of the policy areas reviewed in this guidebook, the principle is the same. A General Plan can help create the future that the community wants, but it can only do that if the community decides what it wants as a matter of policy, and then incorporates that policy into its General Plan. More than any specific recommendation, this guidebook will have achieved its purpose if its readers understand that basic lesson.

Our communities really should be shaped by choice, not chance. This guidebook has been dedicated to that proposition, and to the demonstrable truth that when our land use policies reflect a community choice about what we want our future to be, we can make that future happen the way we want.

ENDNOTES AND REFERENCES

Introduction

1. The “Rule of Seventy” is a simple way to calculate doubling times. Divide the rate of change into the number seventy. The result is the number of years it will take to double whatever is being measured (presuming that the rate of change remains constant). If population is growing at 3% per year, the population will double in 23.3 years (70 divided by 3).

How This Guidebook Is Organized

2. California State law requires each city and county to have General Plan, containing seven required elements:

- (1) a “land use” element,
- (2) a “circulation” element,
- (3) a “housing” element,
- (4) a “conservation” element,
- (5) an “open space” element,
- (6) a “noise” element, and
- (7) a “safety” element.

See California Government Code Section 65302. Local communities may also include other elements, at their option. The code sections relating to the General Plan begin at Government Code Section 65300. Access to all of the California Codes can be obtained on the World Wide Web at: <<http://www.leginfo.ca.gov/calaw.html>>

Protecting Property Rights

3. Many legal decisions, law review articles, and books discuss the “takings clause” found in the Fifth Amendment to the United States Constitution. LandWatch Monterey County has published a short pamphlet that provides a good introduction. It’s entitled, “A Handbook for the Community: Land Use Planning and the Takings Clause.” Contact LandWatch for a copy.

More information is available from the Georgetown Environmental Law and Policy Institute (GELPI). Their website provides updated information on regulatory takings issues. <<http://www.law.georgetown.edu/gelpi>>

Affordable Housing

4. Monterey County housing statistics are available from the Housing Authority of the County of Monterey. <<http://www.hamonterey.org/>>

5. Between 1992 and 2001, Silicon Valley gained over six times more jobs (334,000) than housing units (50,100). Jobs grew 33% during this period, compared to a 7% increase in housing units. Joint Venture: Silicon Valley Network, Inc., “Joint Venture’s 2002 Index of Silicon Valley” (San Jose: 2002), 21. <www.jointventure.org>

6. Letter from Alfred Diaz-Infante, President and CEO of the Community Housing Improvement Systems and Planning Association, Inc. (CHISPA) addressed to Ms. Sharon Parsons, Chairperson Monterey County Planning Commission, May 1, 2002.

7. See Tom Jones, William Pettus, AIA, Michael Pyatok, FAIA, *Good Neighbors: Affordable Family Housing* (New York: McGraw-Hill, 1995).

8. Information on “Traditional Neighborhood Design” is available from Congress For The New Urbanism. <<http://www.cnu.org/>>

Well-designed, higher density housing that can help achieve affordability objectives is pictured and described in:

James W. Wentling, AIA and Lloyd W. Bookout, eds., *Density By Design* (Washington, DC: The Urban Land Institute, 1988).

Steven Fader, *Density By Design: New Directions in Residential Development*, 2nd ed. (Washington, DC: The Urban Land Institute, 2000).

The City Design Center, College of Architecture and the Arts, University of Illinois at Chicago, maintains a helpful website of affordable housing best practices, *Design Matters* <<http://www.uic.edu/aa/cdc/AHDC/website/>>

More information on housing affordability is available from the California State Department of Housing and Community Development (HCD). The HCD website is a good resource <<http://www.hcd.ca.gov/hpd/>>

Preserving Agricultural Land

9. Eric Lauritzen, Monterey County Agricultural Commissioner, *Monterey County Crop Report, 2001* (Salinas, CA: 2002), 25.

10. The California State Department of Conservation carries out a biennial assessment of acres devoted to agriculture, as part of their Farmland Mapping Program. Their latest report for Monterey County indicates that 239,335 acres of “important farmland” existed within Monterey County at the end of the year 2000. This acreage produced crops with a gross agricultural value of over \$3 billion dollars in 2001. \$3,000,000,000 divided by 239,335 equals a per acre production value of over \$12,500 per acre. <<http://www.consrv.ca.gov/DLRP/fmmp/index.htm>>

11. The Land Use Conversion Tables from the California State Department of Conservation Farmland Mapping Program show a cumulative loss of “prime” agricultural land in Monterey County of 2,363 acres from 1984 to the year 2000. Tables showing the figures for the years 1994 to 2000 are available online, Ibid. Figures obtained from the Department of Conservation for the years 1984 to 1992 are summarized in LandWatch Monterey County, *State of Monterey County, 1999* (Monterey, 2000), 31.

12. *State of Monterey County, 1999*, Ibid., 35.

13. The Association of Monterey Bay Area Governments has projected that the population of Monterey County will be 536,609 in the year 2020. Summary Tables are available online <<http://www.ambag.org/popchart.html>>

14. The state law establishing Local Agency Formation Commissions is known as the “Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000,” *California Government Code*, Section 56000 ff. See Endnote 2 for a reference to the internet address for all California Codes.

15. Santa Cruz County has adopted agricultural buffer setback requirements equivalent to Recommended Policy #3. *Santa Cruz County Code*, Title 16, Section 16.50.095 <<http://ordlink.com/codes/santacruzco/index.htm>>

Two books that provide a helpful discussion of agricultural land conservation efforts throughout the nation are:

Tom Daniels and Deborah Bowers, *Holding Our Ground: Protecting America’s Farms and Farmland* (Washington, DC: Island Press, 1997).

Saving American Farmland: What Works (Washington, DC: American Farmland Trust, 1997).

Stopping Sprawl

16. Design principles very similar to those contained in Recommended Policy #3 were incorporated into the General Plan adopted by the City of Salinas on September 17, 2002.

A number of books provide helpful information on land use policies that can help stop sprawl:

Judith Kunofsky, Ph.D and M. Thomas Jacobson, *Tools For The Greenbelt* (San Francisco: People For Open Space, 1985).

F. Kaid Benfield, Jutka Terris, Nancy Vorsanger, *Solving Sprawl: Models of Smart Growth in Communities Across America* (Washington, DC: Natural Resources Defense Council, 2001).

Peter Calthorpe and William Fulton, *The Regional City* (Washington, DC: Island Press, 2001).

David Bollier, *How Smart Growth Can Stop Sprawl: A Briefing Guide For Funders* (Washington, DC: Essential Books, 1998).

Rick Pruetz, *Putting Transfer of Development Rights to Work in California* (Point Arena, CA: Solano Press, 1993).

The Sprawl Watch Clearinghouse provides up to the minute information on policies relating to urban sprawl.
<<http://www.sprawlwatch.org/>>

Very helpful information on policies affecting land use can often be located through the *Policy Scan* website, maintained by the Environmental Policy Center, a California nonprofit.
<<http://www.policyscan.net/home.html>>

Natural Resource Protection

17. Santa Cruz County has adopted requirements equivalent to Recommended Policy #1. *Santa Cruz County Code*, Title 16, Chapter 16.32 <<http://ordlink.com/codes/santacruzco/index.htm>>

18. San Diego Air Pollution Control District, "Tools For Reducing Vehicle Trips Through Land Use Design" (San Diego, January 1968).

General Reference

