

## CHAPTER SEVEN

### Planning, Land Use and Housing

#### **Section 1: GENERAL PRINCIPLES**

General purpose local government performs the dominant role in the planning, development, conservation, and environmental processes. Within this context it is essential that the appropriate levels of responsibility at the various levels of government be understood and more clearly defined. These roles at the state, regional, county, and city level contain elements of mutual concern; however, the level of jurisdiction, the scale of the problem/issue, available funding and the beneficiaries of the effort require distinct and separate treatment.

The following policies attempt to capture these distinctions and are intended to assist government at all levels to identify its role, pick up its share of the responsibility, and refrain from interfering with the details of how other agencies carry out their responsibility.

The housing needs throughout the state, lack of revenue, and controversial planning law in the area of housing have resulted in the need for new focus on housing planning law. Housing principles are identified and included under a separate heading in this section.

Counties are charged with comprehensive planning for future growth, the management of natural resources and the provision of a variety of public services both within the unincorporated and incorporated areas.

Although Agriculture and Natural Resources are in this Platform as a separate chapter, there is a correlation between Planning and Land Use, and Agriculture and Natural Resources (Chapter III). These two chapters are to be viewed together on matters where the subject material warrants.

Additionally, climate change and the release of greenhouse gases (GHGs) into the atmosphere have the potential to dramatically impact our environment, land use, public health, and our economy. Due to the overarching nature of climate change issues this chapter should also be viewed in conjunction with Chapter XV, which outlines CSAC's climate change policy.

Counties have and must retain a primary responsibility for basic land use decisions.

Counties are cognizant of the need for resource conservation and development, maintaining our economic and social well being, protecting the environment and guiding orderly population growth and property development.

Counties are responsible for preparing plans and implementing programs to address land use, transportation, housing, open space, conservation, air quality, water distribution and quality, solid waste, and liquid waste, among other issues.

Counties play a major role in facilitating inter-jurisdictional cooperation between all levels of government in order to achieve the balanced attainment of these objectives.

Counties must have sufficient funding from state sources to meet state mandated planning programs.

Counties define local planning needs based on local conditions and constraints.

## **Section 2: THE COUNTY ROLE IN LAND USE**

### **A. General Plans and Development**

Counties should protect vital resources and sensitive environments from overuse and exploitation. General and specific plans are policy documents that are adopted, administered, and implemented at the local level. State guidelines can serve as standards to insure uniformity of method and procedure, but should not mandate substantive or policy content.

State requirements for general plan adoption should be limited to major planning issues and general plan mandates should include the preparation of planning elements only as they pertain to each individual county. Zoning and other implementation techniques should be a logical consequence to well thought out and locally certified plans. Counties support a general plan judicial review process which first requires exhaustion of remedies before the Board of Supervisors, with judicial review confined to a reasonable statute of limitations and limited to matters directly related to the initial hearing record. Counties also support retaining the current judicial standard whereby the courts defer to the judgment of the local agency when that judgment is supported by substantial evidence in the record.

Land use and development problems and their solutions differ from one area to another and require careful analysis, evaluation, and appraisal at the local government level. Local government is the best level of government to equitably, economically and effectively solve such problems. Further, it is important that other public agencies, (e.g. federal, state, regional, cities, schools, special districts, etc.) participate in the local general planning process to avoid conflicts with future local decisions that are consistent with the general plan.

Policy development and implementation should include meaningful public participation, full disclosure and wide dissemination in advance of adoption.

## **B. Public Facilities and Service**

Within the framework of the general plan, counties should protect the integrity and efficiency of newly developing unincorporated areas and urban cores by prohibiting fringe area development, which would require services and compete with existing infrastructure. Counties should accept responsibility for community services in newly developing unincorporated areas where no other appropriate entity exists.

In the absence of feasible incorporation, County Service Areas or Community Service Districts are appropriate entities to provide needed services for urbanizing areas. They work against proliferation of single purpose districts, allow counties to charge the actual user for the service, permit direct control by the Board of Supervisors, and set the basis of reformation of multi-purpose districts.

County authority to require land and/or in-lieu fees to provide public facilities in the amount needed to serve new development must be protected.

## **C. Environmental Analysis**

The environmental review process under the California Environmental Quality Act (CEQA) provides essential information to be constructively used in local decision-making processes. Unfortunately, the CEQA process is too often used as a legal tool to delay or stop reasonable development projects.

The CEQA process and requirements should be simplified wherever possible including the preparation of master environmental documents and use of tiered EIRs and negative declarations, including Climate Action Plans and associated environmental impact reports for tiering under CEQA. The length of environmental reports should be minimized without impairing the quality. Further,

other public agencies (federal, state, regional, affected local jurisdictions, special districts, etc.) should participate in the environmental review process for plans and projects in order to provide a thorough review and analysis up front and avoid conflicts in future discretionary actions.

Counties should continue to assume lead agency roles where projects are proposed in unincorporated territory requiring discretionary action by the county and other jurisdictions.

CEQA documents should include economic and social data when applicable; however, this data should not be made mandatory.

#### **D. Coastal Development**

Preservation, protection, and enhancement of the California coastline is the planning responsibility of each county and city with shoreline within its boundaries. Planning regulation and control of land use are the implementation tools of county government whenever a resource is used or threatened.

Counties within the coastal zone are also subject to the California Coastal Act which is implemented via cooperative agreements between the California Coastal Commission and counties and cities. Most development in the coastal zone requires a coastal development permit issued by local agencies with a certified Local Coastal Plan or by the Commission in the absence of a cooperative agreement. LCPs link statewide coastal policies to local planning efforts in an attempt to protect the quality and environment of California's coastline.

Counties are committed to preserve and provide access to the coast and support where appropriate beach activities, boating activities, and other recreational uses in developing and implementing precise coastal plans and appropriate zoning. Comprehensive plans should also include preservation of open space, development of commercial and recreational small craft harbor facilities, camping facilities, and commercial and industrial uses.

Local jurisdictions must have the statutory and legal authority to implement coastline programs. Statewide efforts related to the California coastline must respect local land use authority. The State should collaboratively and cooperatively work with counties and cities to ensure decisions do not erode local control and decision-making. The State, counties, and cities should mutually encourage, seek, and support efforts to streamline, improve, and modernize coastal development permit and local coastal planning processes, without compromising or undermining

the original intent and tenets of these laws. Counties support measures to streamline the process for approving and amending Local Coastal Plans. Measures should re-prioritize Commission staff and resources to the early scoping phase of any proposed amendment, to help identify key issues early on. Measures should identify standard timelines for each stage of the amendment process and develop specific procedures/mechanisms for adhering to those timelines, and should also require clearly identified reasons for any extensions requested by Commission staff. Counties support legislative funding options that will enhance efficiency and accountability in the local coastal planning process.

### **E. Open Space Lands**

Counties support open space policy that sets forth the local government's intent to preserve open space lands and ensures that local government will be responsible for conserving natural resources and developing and implementing open space plans and programs.

In order for counties to fully implement open space plans, it will be necessary to have:

1. Additional revenues for local open space acquisition programs, such as the subvention funds formerly provided by the Williamson Act.
2. Reimbursement to local agencies for property tax losses.
3. Greater use of land exchange powers for transfer of development rights.
4. Protection of current agricultural production lands through the purchasing of development rights.

In some cases, open space easements should be created and used by local jurisdictions to implement open space programs, like the Williamson Act program. Timber preserve zones and timber harvesting rules should enhance protection of this long-term renewable resource.

### **F. Healthy Communities**

Counties support policies and programs that aid in the development of healthy communities which are designed to provide opportunities for people of all ages and abilities to engage in routine daily physical activity. This encompasses promoting active living via bicycle- and pedestrian-oriented design, mixed-use development, providing recreation facilities, and siting schools in walkable communities.

## **G. Environmental Justice**

Counties support policies and programs that ensure environmental justice--or the fair treatment of people of all races, cultures, and incomes with respect to the development, adoption, implementation, and enforcement of environmental laws, regulations, and policies--by providing information and raising awareness on a number of environmental issues, such as air quality, water quality, noise and heavy industrial uses. Counties also support environmental justice by providing sufficient services and infrastructure; protecting and conserving open space, natural and resource areas, and making them accessible; preventing and minimizing pollution impacts; and facilitating stakeholder participation in planning efforts.

### **Section 3: STATE ROLE IN LAND USE**

Local government recognizes that state government has a legitimate interest in proper land use planning and utilization of those lands which are of critical statewide concern. The state interest shall be statutorily and precisely defined and strictly limited to those lands designated to be critical statewide concern in concert with attainable and specified state goals and policies.

The state's participation in land use decisions in those designated areas shall be strictly limited to insuring the defined state interest is protected at the local level. Any regulatory activity necessary to protect the state's interest, as defined in statute, shall be carried out by local government.

Counties enforcement procedures for violations of zoning and building ordinances should not be hampered by State established maximum fines that in some cases do not serve as a deterrent and are merely incorporated into the cost of doing business.

In determining those lands of crucial statewide concern, a mechanism should be created which ensures significant local involvement through a meaningful state/local relationship. The state should prepare a statewide plan that reconciles the conflicts between the various state plans and objectives in order to provide local governments with greater certainty in areas of statewide concern. This is not intended to expand the State's authority over land use decisions; rather it should clarify the state's intent in relation to capital projects of statewide significance.

Climate change is a programmatic issue of statewide concern that requires a clear understanding of the roles and responsibilities of each level of government as well as the state's interest in land use decisions to ensure statewide climate change goals are met. Population growth in the state is inevitable, thus climate change strategies

will affect land use decisions in order to accommodate and mitigate the expected growth in the state. Local government, as the chief land use decision-maker and integral part of the housing planning process, must have a clearly defined role and be supported with the resources to achieve the State's climate change goals.

Adequate financial resources shall be provided, before a state-mandate is activated, to insure local government has the ability to carry out state-mandated planning requirements.

#### **Section 4: REGIONAL GOVERNMENTS**

Counties support voluntary participation within regional agencies as appropriate to resolve regional problems throughout the State. Regional approaches to planning and resolution to issues that cross jurisdictional boundaries are increasingly important. While California's growth rate has slowed since the boom in the 1980's, the State will still see significant population gains over the next 50-years with the total population projected to reach 52.7 million by 2060. Within that same time frame, 13 counties will have one million or more residents and six of those counties will have a population of two million or more residents.

Regional agencies in California play an important role in the allocation of regional housing need numbers, programming of Federal and State transportation dollars, in addressing air quality non-attainment problems, and climate change to name a few. Regional collaboration remains important to address issues associated with growth in California, such as revenue equity issues, service responsibilities, a seamless and efficient transportation network, reducing GHGs and tackling climate change, job creation, housing, agricultural and resource protection, and open space designation. The passage of SB 375 in 2008 and the preparation of regional Sustainable Communities Strategies in most of the State's regions elevate the importance of regional collaboration. Regional agencies must make genuine and substantive efforts to include local governments in their regional planning efforts.

While planning at the regional scale is increasingly important, land use decisions shall remain the exclusive province of cities and counties based on state planning and zoning law and the police powers granted to them under the State Constitution. Further, cities and counties are responsible for a vast infrastructure system, which requires that cities and counties continue to receive direct allocations of revenues to maintain, operate and expand a variety of public facilities and buildings under their jurisdiction. As an example, cities and counties own and operate 82 percent of the state's publically maintained road miles, thus must retain direct allocations

of transportation dollars to address the needs of this critical network and protect the public's existing investment.

Regional approaches to tax sharing and other financial agreements are appropriate and often necessary to address service needs of future populations; however, cities and counties must maintain financial independence and continue to receive discretionary and program dollars directly. Counties support voluntary revenue-sharing agreements for existing revenues at the regional level, and any mandated revenue sharing must be limited to new revenues.

Regional agencies must consider financial incentives for cities and counties that have resource areas or farmland instead of (or in addition to) high growth areas. For example, such incentives should address transportation investments for the preservation and safety of city and county road systems, farm to market transportation, and interconnectivity transportation needs.

Regional agencies should also consider financial assistance to address countywide service responsibilities in counties that contribute towards the GHG emissions reductions targets by implementing policies for growth to occur within their cities and existing urbanized areas.

## **Section 5: SPECIAL DISTRICTS**

In recent years, Local Agency Formation Commissions (LAFCOs) have been generally successful at regulating incorporations, annexations, and the formation of new special districts. However, the state has a legacy of a large number of independent special districts that leads to fragmentation of local government. There are many fully justified districts that properly serve the purpose for which they were created. However, there are districts whose existence is no longer "defensible." Nothing is served by rhetorically attacking "fragmentation." LAFCOs should retain the authority to evaluate special districts to test their value to the community for whom they were initially formed to serve and identify those districts that no longer serve the purposes for which they were created.

## **Section 6: HOUSING**

Housing is an important element of economic development and essential for the health and well being of our communities. The responsibility to meet the state's housing needs must be borne by all levels of government and the private sector. CSAC supports a role by the state Department of Housing and Community Development that focuses on assisting local governments in financing efforts and



advising them on planning policies--both of which strive to meet the state's housing needs. HCD's role should focus on facilitating the production of housing, rather than an onerous and unpredictable housing element compliance process that detracts from local governments' efforts to seek funding and actually facilitate housing production. Counties support the following principles in relation to housing:

1. Reform housing element law. Existing housing element law must be streamlined and simplified. A greater emphasis should be placed on obtaining financing and enabling production, rather than the overly-detailed data analysis now required under state law. A sweeping reform of the current requirements should be undertaken. Housing element reform should provide local governments with the flexibility and creativity to adopt local housing elements, comprehensive housing assistance strategies, and other local plans and programs that will be effective in their communities. Reform should conserve state and local resources by promoting predictable HCD review consistent with statutory requirements including transparent standards that are uniformly applied and includes timelines for comment periods and decision-making.
2. Identify and generate a variety of permanent financing resources and subsidy mechanisms for affordable housing, including a statewide permanent source for affordable housing. These sources need to be developed to address California's housing needs, particularly with the reduction of federal and state contributions in recent years. The elimination of redevelopment in 2012 redirected most public funds previously dedicated to affordable housing development and preservation, as it ended all future receipts of affordable housing set-aside funds, as well as recapturing many millions of dollars in housing funds that had been received in prior years and were being held for affordable housing projects some of which are already in progress and many of which were being planned for the next few years.

The need for new affordable housing units exceeds the number of new units for which financing and subsidies will be available each year. Therefore, additional funding is necessary to insure (a) production of new subsidized units, and (b) adequate funds for housing subsidies to households. Policies should be established to encourage continued flow of capital to market rate ownership housing in order to assure an adequate supply of low-cost, low-down payment mortgage financing for qualified buyers. In addition, a need exists to educate the private building and financial communities on the opportunities that exist with the affordable housing submarket so as to encourage new investments.

3. Restructure local government funding to support housing affordability. The current property and sales tax systems in California are not supportive of housing development and work against housing affordability because housing is not viewed as a "fiscal winner" by local governments as they make land use and policy decisions. Local government finance should be restructured at the state level to improve the attractiveness and feasibility of affordable housing development at the local level. At a minimum, there should be better mechanisms to allow and encourage local governments to share tax revenues.
4. Promote a full range of housing in all communities. Local governments, builders, the real estate industry, financial institutions and other concerned stakeholders should recognize their joint opportunities to encourage a full range of housing and should work together to achieve this goal. This will require a cooperative effort from the beginning of the planning and approval process as well as creatively applying incentives and development standards, minimizing regulations and generating adequate financing. Using this approach, housing will become more affordable and available to all income groups.
5. Establish federal and state tax incentives for the provision of affordable housing. The tax codes and financial industry regulations need to be revised to provide stimulus to produce affordable housing, particularly for median, low and very low-income households.

These principles must be taken as a whole, recognizing the importance of their interdependence. These principles provide a comprehensive approach to address the production of housing, recognizing the role of counties, which is to encourage and facilitate the production of housing. They should not be misinterpreted to hold counties responsible for the actual production of housing; instead they should recognize the need for various interests to cooperatively strive to provide affordable housing that is accessible and available to meet the needs of California residents at all income levels and in all geographic areas.