



COUNTY OF SAN DIEGO

LAND USE AGENDA ITEM

BOARD OF SUPERVISORS

GREG COX
First District

DIANNE JACOB
Second District

PAM SLATER-PRICE
Third District

RON ROBERTS
Fourth District

BILL HORN
Fifth District

DATE: March 16, 2011

##

TO: Board of Supervisors

SUBJECT: COMPREHENSIVE UPDATE OF THE GENERAL PLAN; CERTIFICATION OF FINAL ENVIRONMENTAL IMPACT REPORT; AN ORDINANCE CHANGING ZONING CLASSIFICATION OF CERTAIN PROPERTY; AN ORDINANCE AMENDING THE ZONING ORDINANCE RELATED TO CONSERVATION SUBDIVISIONS; AND AN ORDINANCE AMENDING THE SUBDIVISION ORDINANCE, RESOURCE PROTECTION ORDINANCE, AND GROUNDWATER ORDINANCE RELATED TO THE GENERAL PLAN UPDATE (DISTRICT: ALL)

SUMMARY:

Overview

On February 9, 2011(1), the Board of Supervisors continued the General Plan Update hearing to March 16, 2011 to provide an opportunity for additional public review and refinement of the information in the staff report. The General Plan Update consists of a comprehensive amendment to the County's land use policies for unincorporated lands necessitated by population growth, changes in law and regulations governing land use, and various challenges to the current plan that have occurred over the years.

The General Plan Update was also considered by the Board of Supervisors on October 20, November 10, and December 8, 2010. On December 8, 2010, staff was directed to review and provide additional information on certain substantive issues that were raised and also to evaluate all property-specific requests for different land use designations under the General Plan Update. A draft report containing this information was released January 28, 2011 and was presented to the Board on February 9, 2011. This report contains responses to questions raised by the Board on February 9, 2011 and refinements to the previous staff report based on public and staff review.

Recommendation(s)

CHIEF ADMINISTRATIVE OFFICER

1. Receive this report of staff's responses to specific requests for information and review of property-specific requests, as refined as a result of public and staff review.
2. Continue the item and direct the Chief Administrative Officer to return to the Board with final General Plan Update documents at a date to be determined at today's

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hearing. |

Fiscal Impact

If the Planning Commission / Staff Recommendation (the Project) is approved by the Board, implementation of the General Plan Update will be supported by existing staff resources and programs. Funding for the existing programs is included in the Fiscal Year 2010-2011 Adopted Operational Plan. Should the Board elect to make changes to the General Plan Update, the extent and type of changes will determine the additional work required and the needed amount of staff and consultant support. A range of three potential scenarios are identified below according to the level of change to the Project:

- **Minor** - These are changes that do not conflict with the General Plan Update project objectives, do not require substantial additional analysis for environmental impacts, and do not result in new significant environmental impacts. Incorporation of minor changes into the project would mean that staff would perform edits to the necessary General Plan Update documents, amend the existing analysis in the draft Final EIR, and return to the Board. Please note that some Minor changes are considered controversial and/or would alter changes already made to the project by previous Board or Planning Commission direction. The estimated timeframe for the Minor scenario is up to 6 months with an estimated cost of up to \$200K. Staffing and funding necessary to cover this scenario is included in the Fiscal Year 2010-2011 Adopted Operational Plan.
- **Moderate** - These are changes that do not conflict with the General Plan Update project objectives but may result in additional environmental impacts and require more detailed analysis. This category also includes more substantive changes that were not considered by the Planning Commission and should be presented to them for a recommendation pursuant to State law. For Moderate changes, staff would perform edits to the necessary General Plan Update documents, amend the existing analysis in the EIR, and recirculate the EIR for public review pursuant to the California Environmental Quality Act (CEQA). Also, as required by CEQA, staff would prepare written responses to all comments received during public review and further revise the EIR as necessary. Staff would then return to the Planning Commission and then the Board of Supervisors with a revised project. The estimated timeframe for the Moderate scenario is up to 18 months with an estimated cost up to \$700K in additional staff and consultant costs, depending upon the complexity of the changes. Staffing and additional funding necessary to initiate this scenario is included in the Fiscal Year 2010-2011 Adopted Operational Plan and would

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also need to be addressed in the 2011-2012 budget.

- **Major** – These are changes not supported by the General Plan Update project objectives as currently drafted. As a result, revisions to the project objectives are assumed. If the project objectives are revised, there may need to be modifications to policies and other parts of the draft General Plan Update to ensure consistency or an entirely new General Plan Update may need to be prepared. Once the Major changes are initially drafted, it may be advantageous to present them to stakeholders, the Planning Commission, and the Board to ensure adequate public participation. Substantial changes to the EIR or a new environmental review are also anticipated for Major changes. The General Plan Update EIR is based on technical analysis and modeling for a number of issues. The analysis and modeling would likely need to be rerun for all issue areas. Pursuant to CEQA, the EIR alternatives are based on the project objectives. Therefore, in addition to modifying the EIR to address the revised project, modifications to the alternatives are also likely to be required. Once the EIR is modified, the process to present the project to the Board would follow that outlined for the Moderate changes. The estimated minimum timeframe for the Major scenario is up to 48 months with an approximate minimum cost of up to \$4 million in additional staff and consultant costs. Both the cost and time estimates for this category have the potential to be far greater depending on the level of complexity and controversy of the changes. Staffing and additional funding necessary to initiate this scenario is included in the Fiscal Year 2010-2011 Adopted Operational Plan and would also need to be addressed in the budgets for future years.

Business Impact Statement

The General Plan Update considers economic development and provides opportunities for future jobs and business development commensurate with its forecasted growth. The General Plan Update provides development opportunities to businesses by planning for commercial development near existing businesses, transportation hubs and walkable residential areas and ensuring that sufficient, safe and appropriately located circulation routes are available for residential, commercial, and industrial development as well as related public services. Economic conditions for businesses will be enhanced through the synergies that result from new development in and around business districts and revitalization of community centers.

Advisory Board Statement

The General Plan Update Steering Committee did not take an official position on this report of draft responses. However, on February 28, 2009, the Steering Committee

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supported the Draft General Plan, with the exception of recent revisions (note: the Draft General Plan has not been substantially revised since this motion was made). A copy of the minutes from this Steering Committee meeting is available at: http://www.sdcounty.ca.gov/dplu/gpupdate/docs/scminutes_022809.pdf. Also a recent survey of the Steering Committee indicated that 23 of the 26 represented groups were generally supportive of the Planning Commission/Staff Recommendation.

The General Plan Update Interest Group did not take an official position on this report. Nor did the Interest Group take an official position on the Draft General Plan; however, minutes from Interest Group meetings are available at: <http://www.sdcounty.ca.gov/dplu/gpupdate/igmins.html>.

BACKGROUND:

The General Plan Update was presented to the Board of Supervisors for consideration on October 20, 2010 and the hearing was continued to both November 10 and December 8, 2010 to allow sufficient time for all the public testimony on the project. At the end of public testimony for the December 8th hearing, the Board directed staff to respond to certain issues raised during the hearings and also to evaluate property-specific requests that were presented in public testimony or through correspondence. Draft responses and evaluations, as prepared by staff, were received by the Board on February 9, 2011 (1) and the hearing was continued to March 16, 2011 to provide an opportunity for additional public review and refinement of the information and to allow for continued coordination with stakeholders. The staff reports prepared for the October 20, 2010 and February 9, 2011 hearings are provided as Attachments A-1 and A-2, respectively.

Issues Identified by the Board for Response

At the December 8, 2010 hearing, the Board of Supervisors directed staff to prepare responses to 27 specific issues. The 27 issues are listed in a table below under four broad groupings. Draft responses were prepared for the February 9, 2011 hearing that have since been refined based on additional input from the public or additional direction from the Board. The staff responses are provided in Attachment B with changes to responses since the previous draft report shown in strikeout/underline format.

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Specific Issues Identified by Board for Additional Information

Density Reduction Related	Content Specific	Future Development and Conservation Related	Other Identified Issues
1. Purchase of Agricultural Conservation Easements (PACE) Program	8. Flexibility of Policy Language	16. Deference to Community Plans	23. Community Planning & Sponsor Group Positions
2. Transfer of Development Rights (TDR) Program	9. Future General Plan Amendments (GPAs)	17. Conservation Subdivisions - Avoidance Requirements	24. Climate Change
3. Focused Williamson Act Program Concept	10. Specific Plan Areas	18. Conservation Subdivisions - Multi-Family Building Allowance	25. Impacts to Unrecorded Subdivision Maps
4. Fiscal and Lending Impacts	11. Special Study Areas	19. Conservation Subdivisions - Design	26. Removal of Agricultural Preserve Designators
5. Groundwater Study, Water Supply, and Water Quality	12. Residential Density Determination	20. Groundwater Ordinance Lot Size Reductions	27. Mapping Clean-up Process
6. Consideration of Fire Risk	13. Fire Response/Travel Time Standards	21. Alternative Septic Systems	
7. Supplemental GIS Analysis for Existing Parcelization	14. Acceptable Level of Service for Roads	22. Open Space Lands Maintenance	
	15. Road 3A - Valley Center		

On February 9, 2011, the Board raised questions about some of the issues. Additional information has been added to the staff report in response to these questions and a summary of that information is provided below.

Summary of Information Responding to Issues Raised at February 9, 2011 Hearing

Topic	Summary of Response
<i>1. Purchase of Agriculture Conservation Easements (PACE) Program</i>	
Probability of receiving funds for PACE	Concerns were raised about the limitation on receiving funds from many of the possible outside funding sources that were identified for the PACE program. Challenges associated with program funding are described in the draft program guidelines (Attachment B, Appendix A, pages 1, 5 & 6). In addition, clarification regarding the probability of receiving outside funds has been incorporated into the issue responses (Attachment B, Page 2) and the draft program guidelines (Attachment B, Appendix A, page 8). It is recommended that the pilot phase of the program be used to determine competitiveness in obtaining external funding, interest in program participation, and other implementation details. Further, it is recommended in the draft program that an element of local funding be anticipated for the duration of the program as most other successful PACE programs involve a substantial amount of local funding. http://www.sdcounty.ca.gov/dplu/gpupdate/docs/BOS_March_2011/B_3162011_Final.pdf

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Topic	Summary of Response
<i>2. Transfer of Development Rights (TDR) Program</i>	
Identifying TDR receiving sites	<p>As proposed, the TDR Program does not include identification of receiving sites. Receiving sites would be identified in the future as additional planning work was undertaken with communities or future General Plan amendments added density to the General Plan. This was raised as a concern because identifying receiving sites can be challenging and was a major factor in staff not recommending that the County pursue a TDR Program. The difficulty in identifying receiving sites is explained more fully in Appendix B to Attachment B of the staff report and has been elaborated on in the issue responses (Attachment B, Page 5).</p> <p>http://www.sdcounty.ca.gov/dplu/gpupdate/docs/BOS_2011/B_FINAL_Appendices.pdf</p>
Restricting TDR transfers within a community	<p>The draft TDR program developed by staff provides the overall framework for allocating TDR credits and effectuating transfers. There is a great deal of flexibility for including additional constraints or criteria on transfers such as restricting transfers to within a community. The draft TDR program was developed broadly to maximize opportunities for transfers. Additional discussion has been added to the issue responses (Attachment B, Pages 5-6).</p> <p>http://www.sdcounty.ca.gov/dplu/gpupdate/docs/BOS_March_2011/B_3162011_Final.pdf</p>
Relationship of TDR value to negative property value impacts from reduced density	<p>Questions were raised regarding the relationship of TDR value to negative property value impacts from reduced density. There is no direct connection. Transferable rights or credits would be determined based on the difference between existing and proposed General Plan designations. The value of a credit would be determined at the time of transfer, based on the amount that the buyer is willing to pay for the credit. Therefore, the price will be based on the value that the credit has for the buyer, not the seller. The concept for pricing credits has been added to the issue responses (Attachment B, Pages 5-6).</p> <p>http://www.sdcounty.ca.gov/dplu/gpupdate/docs/BOS_March_2011/B_3162011_Final.pdf</p>
<i>3. Focused Williamson Act Program Concept</i>	
Fiscal loss to County due to loss in State reimbursement	<p>Questions were raised regarding the fiscal impacts to the County resulting from participation in the Williamson Act program. Additional information has been provided in Attachment B, Page 13. The County has approximately 61,000 acres under contract. The most recent estimates were that this translated to a \$1.7 million loss in property tax to the County of San Diego (an average of approximately \$28 per acre a year). When the State fully funded the Williamson Act program, the County received a reimbursement of approximately \$80,000. This additional information has been added to the issue responses (Attachment B, Page 9).</p> <p>http://www.sdcounty.ca.gov/dplu/gpupdate/docs/BOS_March_2011/B_3162011_Final.pdf</p>

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Topic	Summary of Response
Possible changes to State legislation to support a local Williamson Act program	<p>Currently, the Williamson Act provides property tax incentives for participating in the program. If the County wants additional flexibility to modify the current property tax incentive or incorporate additional tax incentives, changes to State laws are required. The likelihood of such legislation depends on a number of factors and details regarding these options have been added to Attachment B, Page 10.</p> <p>http://www.sdcounty.ca.gov/dplu/gpupdate/docs/BOS_March_2011/B_3162011_Final.pdf</p>
<i>7. Supplemental GIS Analysis for Existing Parcelization</i>	
Additional GIS analysis of lands proposed for reduced densities	<p>The staff presentation on February 9, 2011 showed that 90% of the downzoned Multiple Rural Use lands have at least one of four constraints (parcel is less than 16 acres, steep slope, sensitive biological resources, proximity to a public road). Questions were raised regarding the areas not included in this analysis. Issue #7 of the issue responses has been amended to provide additional analysis of all areas proposed for reduced densities. (Attachment B, beginning on Page 35).</p> <p>http://www.sdcounty.ca.gov/dplu/gpupdate/docs/BOS_March_2011/B_3162011_Final.pdf</p>
<i>16. Deference to Community Plans</i>	
Relationship of community plans	<p>Questions were raised regarding the relationship of the community plans to the General Plan including the level of Board control. Additional discussion on this issue has been added to Attachment B, Page 86. Community plans are part of the County's existing General Plan and are proposed to remain a part of the General Plan with the General Plan Update. Community plans are adopted and amended by the Board of Supervisors in the same manner that the General Plan is adopted and amended. A community plan is intended to provide community specific policies or information to facilitate the implementation of the General Plan given the diversity and uniqueness of the various communities that are found in the unincorporated area.</p> <p>http://www.sdcounty.ca.gov/dplu/gpupdate/docs/BOS_March_2011/B_3162011_Final.pdf</p>
Options to clarify that community plans are subordinate to the General Plan	<p>Staff was requested to present a policy and/or language to the General Plan that clarifies that community plans should be subordinate to the rest of the Plan. A new policy is provided in Attachment B under this issue on Page 87 and shown below.</p> <p><i>Relationship of Community Plans to the General Plan. Community Plans are part of the General Plan. These plans focus on a particular region or community within the overall general plan area. They are meant to refine the policies of the general plan as they apply to a smaller geographic region and provide a forum for resolving local conflicts. Community Plans must be internally consistent with General Plan goals and policies of which they are a part. They cannot undermine the policies of the General Plan. Community Plans are subject to adoption, review and amendment by the Board of Supervisors in the same manner as the General Plan.</i></p> <p>http://www.sdcounty.ca.gov/dplu/gpupdate/docs/BOS_March_2011/B_3162011_Final.pdf</p>

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Topic	Summary of Response
Community plans that address unique community character	Community plans are policy plans specifically created to address the issues, characteristics, and visions of communities within the County. Staff was requested to provide examples from community plans that portray unique situations or the unique character applicable to the community. These examples are provided at the end of Issue #16, Attachment B, beginning on Page 88. http://www.sdcounty.ca.gov/dplu/gpupdate/docs/BOS_March_2011/B_3162011_Final.pdf

Property-Specific Requests

The February 9, 2011 staff report included draft reviews for 232 property-specific requests for different designations received in written or verbal testimony during the October 20, November 10, and December 8, 2010 hearings. The report was made available for public review on January 28, 2011 and comments or corrections from the public were requested by February 18, 2011. During this time, additional community positions on the requests were collected and additional reviews for accuracy were performed by staff. The refined reviews are included in Attachment C. At the beginning of Attachment C is a summary of those reviews that were refined and a summary of the results of the reviews.

The 232 reviews cover requests received from property owners, property owner representatives, community planning groups, and other interested parties, as well as property owner referrals from prior Board hearings that were not addressed during the most recent hearings. Appendix C groups these reviews by community and a community map is provided showing the locations of the different requests. Each request is categorized based on the level of change to the General Plan Update necessary to accommodate the request using the categories of Minor, Moderate, and Major (described above under the fiscal impact section).

The following table summarizes staff's analysis of the requests by type of request and categorizes these requests according to the level of change necessary to accommodate the request. Of the **232** requests, **83** are Minor, **60** are Moderate, and **89** are Major.

Summary of Property-Specific Requests

Type of Request	Total # of Requests	Level of Change Necessary to Accommodate Request		
		Minor	Moderate	Major
Requests from Property Owners	172	45	53	74
Previous Referrals Not Raised in Recent Testimony	26	10	2	14
Requests from Non-Property Owners	34	28	5	1
Totals	232	83	60	89

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Environmental Statement

A Program EIR has been prepared pursuant to the California Environmental Quality Act (CEQA) for the General Plan Update. A Notice of Preparation (NOP) soliciting input on the scope of the EIR was first issued in 2002 and again in 2008. The Draft EIR was made available for public review in 2009. Staff has prepared responses to comments received during public review. The NOPs, EIR, comments and responses can be viewed on the project website and all are attachments to the October 20, 2010 staff report (Attachment A-1).

Linkage to the County of San Diego Strategic Plan

The General Plan Update is consistent with the County's Strategic Initiatives for Kids, the Environment, and Safe and Livable Communities by implementing goals and policies for the physical development of the unincorporated county that attempt to improve housing affordability, locate growth near infrastructure, services and jobs, assign densities based on characteristics of the land (e.g. topography, habitats, and groundwater resources), and create a model for community development.

Respectfully submitted,



SARAH E. AGHASSI
Deputy Chief Administrative Officer

ATTACHMENT(S)

Attachment A – October 20, 2009 and February 9, 2011 staff reports

Attachment B – Responses to Substantive Issues Identified by the Board

Attachment C – Property-Specific Requests Analysis

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AGENDA ITEM INFORMATION SHEET |

REQUIRES FOUR VOTES: Yes No

WRITTEN DISCLOSURE PER COUNTY CHARTER SECTION 1000.1 REQUIRED

 Yes No

PREVIOUS RELEVANT BOARD ACTIONS:

Previous actions by the Board of Supervisors are discussed in Attachment A.

BOARD POLICIES APPLICABLE:

N/A

BOARD POLICY STATEMENTS:

N/A

MANDATORY COMPLIANCE:

N/A

ORACLE AWARD NUMBER(S) AND CONTRACT AND/OR REQUISITION NUMBER(S):

N/A

ORIGINATING DEPARTMENT: Department of Planning and Land Use

OTHER CONCURRENCE(S):

Community Services Group
Finance & General Government Group
Health & Human Services Agency
Public Safety Group

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