

General Plan Consistency:

A general plan, in the universe of local land-use enactments, is at the top of the hierarchy of local government law regulating land use. Subordinate to the general plan are zoning laws that regulate the geographic allocation and allowed uses of land. Local land use and development decisions must be consistent with the applicable general plan, and thus, zoning laws must be consistent with, or conform to, the general plan of the city or county. A zoning ordinance that conflicts with a general plan is invalid at the time it is passed. In addition to the requirement that a general plan must be internally consistent, the propriety of virtually any local decision affecting land use and development depends upon consistency with the applicable general plan and its elements. *See*, 66 Cal. Jur. 3d Zoning And Other Land Controls § 48.

In concept, and later as enumerated in a Specific Plan, the town of El Dorado Hills was designed to be a golf course community. "It is planned that within this development there will be at least one and possibly two golf courses integrated in subdivision designs." (*See*, p 7 of *The Story of El Dorado Hills*, by Carl Kowall). Originally, and in accordance with the Victor Gruen Master Plan, El Dorado Hills was developed in the late 1950s around one-hundred acres of attractive recreational use land. According to Carl Kowall's account of the original formation of El Dorado Hills, Robert Trent Jones, the country's leading golf course designer was hired to design a short course on the 100 acres of recreational use land to create a town center for the new master planned community.

Build-out of the course was difficult, according to Mr. Kowall, there was a lack of topsoil, and a number of perched water tables or springs. In his book, Mr. Kowall states, "[i]t was difficult to find where the sources were, let alone how to redirect the drainage that came from them. Our solution was that every time we ran into a perched water table, we developed another small lake. At the end of the course construction, we had several such lakes, which contributed to the difficulty of play and the course's picturesque appearance." (*See*, pgs. 73-74 of *The Story of El Dorado Hills*, by Carl Kowall.)

The El Dorado Hills Specific Plan approved on July 18, 1988 echoes the golf community design policy and goals within its general policies and land use elements.

The proposed Specific Plan continues the planning tradition established for the El Dorado Hills community in the first master plan prepared in 1962. This original plan established the concept of village clusters of residential development designed to be the basis for all plans that followed. The ***integration of open space*** and residential villages, and the provision of shopping and public services and facilities to create a self-contained community, are traditional concepts embodied in the current Specific Plan.

These concepts have been carried forward through the efforts of the County, community residents, and major property owners in the area. The ability to continue and implement these concepts is significantly enhanced by a strong Specific Plan, and the continuity of quality development that can be achieved through implementation of joint public and private controls enforced by a development agreement. (*See*, Section 1.2.6 of the El Dorado Hills Specific Plan (emphasis added)).

A specific plan must be consistent with the jurisdiction's general plan (Gov. Code § 65454). In turn, zoning ordinances, subdivisions (including tentative tract and parcel maps), public works projects, ***development agreements***, and land projects (as defined in Business and Professions Code section 11004.5) **must be consistent with any applicable specific plan** (Gov. Code §§ 65455, 66473.5, 66474(a), and 65867.5). Furthermore, a special district, school district, or joint powers authority may not carry out its capital improvements program (prepared pursuant to Government Code section 65403) if the affected city or county's planning agency finds the program or any part inconsistent with a specific plan, unless the district or local agency explicitly overrules the city or county's finding (Id. at § 65403(c)).

A specific plan is required to be prepared, adopted, and amended in the same manner as a general plan. [Gov. Code, § 65453, subd. (a)]. Instead of performing an analysis of the specific plan, and justifying the proposed amendment, which would render the specific plan inconsistent with itself and the general plan, the applicant seeks to annex parcels from the El Dorado Hills Specific Plan and then create an entirely inconsistent new specific plan to insulate the zoning inconsistencies and horizontal/vertical inconsistencies those zoning ordinances create within the general plan.

The staff findings are silent as to the consistency between the new specific plan and the existing specific plan, and further are silent as to the internal inconsistencies the amendments to these two documents creates. We strongly encourage the planning commission and planning department staff to revisit its findings as to consistency and perform a complete analysis that includes the El Dorado Hills Specific Plan.

General plans must be internally consistent (must have "horizontal consistency"), and factual information presented in one element must not conflict with that presented in another element. [Gov. Code, § 65300.5; *Concerned Citizens of Calaveras County v. Board of Supervisors* (1985, 3rd Dist) 166 Cal App 3d 90, 212 Cal Rptr 273]. All subsequent land use decisions must generally be consistent with the general plan ("vertical consistency"), including those ordinances passed by initiative and referendum. [*Leshar Communications, Inc. v. City of Walnut Creek* (1990) 52 Cal 3d 531, 277 Cal Rptr 1,802 P2d 317; for discussion of vertical consistency requirement with respect to zoning, see § 14:14] Charter cities are exempt, with respect to zoning, from the vertical consistency requirement. [Gov. Code, § 65803].

The staff report cites to three cases as support for the position that the applicant's amendments, and resulting inconsistencies with the general plan, do not defeat the application itself or warrant denial of the proposed amendment. The quotes used in the staff report are taken out of context and mislead the commission and Board as to the standards applicable to analyze consistency with a general plan. Copied below is the quote from the staffing report:

State law does not require perfect conformity between a proposed project and the applicable general plan because "it is nearly, if not absolutely, impossible for a project to be in perfect conformity with each and every policy set forth in the applicable plan" (*Pfeiffer v. City of Sunnyvale City Council* [2011] 200 Cal.App.4th 1552, 1563). " 'Once a general plan is in place, it is the province of elected city officials to examine the specifics of a proposed project to determine whether it would be "in harmony" with the policies stated in the plan' " (*Spring Valley Lake Association v. City of Victorville* [2016] 248 Cal.App.4th 91, 99; see also *Sequoiah Hills Homeowners Assn. v. City of Oakland* [1993] 23 Cal.App.4th 704, 717 [requirement in Government Code Section 66473.5 of the Subdivision Map Act that a map approval must be consistent with the general plan has been interpreted to require that the map be "in agreement or harmony with" the general plan]). "A project is inconsistent with a general plan only 'if it conflicts with a general plan policy that is fundamental, mandatory, and clear' " (*Spring Valley Lake Association, supra*, 248 Cal.App.4th at p. 100 [quoting *Endangered Habitats League, Inc. v. County of Orange* (2005) 131 Cal.App.4th 777, 782, 32 Cal.Rptr.3d 177]).

The *Pfeiffer v. City of Sunnyvale City Counsel* (2011) 200 Cal.App.4th 1552 case relied upon concerned the demolition of three (3) single family homes to re-develop a commercial medical development. As articulated in the decision, the Court must review the agency's decision regarding consistency with the general plan "directly and are not bound by the trial court's conclusions. [Citations.] "A city's findings that the project is consistent with its general plan **can be reversed** only if it is based on **evidence from which no reasonable person could have reached the same conclusion**. [Citation.]" (A Local & Regional Monitor v. City of Los Angeles (1993) 16 Cal.App.4th 630, 648, 20 Cal.Rptr.2d 228.) Thus, the party challenging a city's determination of general plan consistency has the burden to show why, based on all of the evidence in the record, the determination was unreasonable. (*California Native Plant Society v. City of Rancho Cordova, supra*, 172 Cal.App.4th at p. 639, 91 Cal.Rptr.3d 571.).

Similar to the *Spring Valley Lake Association v. City of Victorville* (2016) 248 Cal.App.4th 91 case, the proposed specific plan is not consistent with the general plan and the amendments proposed render both the general and existing specific plan inconsistent and void. In *Spring Valley Walmart* sought to develop a retail store and sought an amendment to the general plan to accomplish the same. The Court held that, " 'A project is consistent with the general plan " 'if, considering **all its aspects**, it will further the **objectives and policies of the general plan and not obstruct their attainment**.' " [Citation.] A given project need not be in perfect conformity with each and every general plan policy. [Citation.] To be consistent, a subdivision development must be "**compatible with" the objectives, policies, general land uses and programs specified in the general plan.**" (*Native Plant, supra*, 172 Cal.App.4th at pp. 637-638, 91 Cal.Rptr.3d 571.)

Recently, the Supreme Court of California issued an opinion in a case very similar to the instant application. In *Orange Citizens for Parks and Recreation v. The Superior Court of Orange County* (2016) 2 Cal.5th 141, residents passed a ballot referendum that sought to nullify a general plan amendment providing that a golf course property was designated low density residential. In the relevant part, the Supreme Court opined that,

Because of its broad scope, long-range perspective, and primacy over subsidiary land use decisions, the "general plan has been aptly described as the 'constitution for all future developments' within the city or county." (citations). Accordingly, "[t]he process of drawing up and adopting these revisions often becomes, essentially, a 'constitutional convention,' at which many different citizens and interest groups debate the community's future." (*Fulton & Shigley, Guide to California Planning* (4th ed. 2012) p.118.) "During the preparation or amendment of the general plan, the planning agency shall provide opportunities for the involvement of citizens, California Native American Indian tribes, public agencies, public utility companies, and civic, education, and other community groups, through public hearings and any other means the planning agency deems appropriate." (§ 65351.)

...

Until 1971, the general plan was "just an interesting study," which did not bind local land use decisions. (citations) But now " '[t]he propriety of virtually any local decision affecting land use and development depends upon consistency with the applicable general plan and its elements.' " (*Goleta Valley, supra*, 52 Cal.3d at p. 570, 276 Cal.Rptr. 410, 801 P.2d 1161, quoting *Resource Defense Fund v. County of Santa Cruz* (1982) 133 Cal.App.3d 800, 806, 184 Cal.Rptr. 371; see §§ 65359 [requiring that specific plans be consistent with the general plan], 66473.5 [same with respect to tentative maps and parcel maps], 65860 [same with respect to zoning ordinances], 65867.5, subd. (b) [same with respect to development agreements].) "A zoning ordinance that conflicts with a general plan is invalid at the time it is passed." (citations). In addition, the general plan must be internally consistent. "Internal consistency requires that diagrams in the land use, circulation, open space, and natural resource elements reflect the written policies and programs of those elements." (*Barclay & Gray, California Land Use & Planning Law* (35th ed. 2016) p. 23.) In other words, "the requirement of consistency ... infuse[s] the concept of planned growth with the force of law." (citations). An action, program, or project is consistent with the general plan if, considering all its aspects, it will further the objectives and policies of the general plan and not obstruct their attainment. ' (Governor's Office of Planning & Research, General Plan Guidelines (2003) p. 164.)

A general plan and its specific plans have been described as a "yardstick"; one should be able to "take an individual parcel and check it against the plan and then know which uses would be permissible." (Barclay & Gray, California Land Use & Planning Law, supra, at p. 31.) "[P]ersons who seek to develop their land are entitled to know what the applicable law is at the time they apply for a building permit. City officials must be able to act pursuant to the law, and courts must be able to ascertain a law's validity and to enforce it." (Leshner, supra, 52 Cal.3d at p. 544, 277 Cal.Rptr. 1, 802 P.2d 317.) That is why cities are directed to make their general plans available to the public. (§ 65357, subd. (b).) Public access has little value if the general plan's policies are not readily discernible. (See *City of Poway v. City of San Diego* (1991) 229 Cal.App.3d 847, 862-863, 280 Cal.Rptr. 368 ["Even though the general plan is always subject to change [citation], the material in the plan *160 must have some current utility in order for the public to become informed of the current and projected land uses depicted in the plan."].) The open space designation for the Property in the 2010 General Plan did not inform the public that the Property would be subject to residential development. The City's proposed general plan amendment put its citizenry on notice that such development would be possible. In response, Orange Citizens successfully conducted a referendum campaign against the amendment. If "legislative bodies cannot nullify [the referendum] power by voting to enact a law identical to a recently rejected referendum measure," then the City cannot now do the same by means of an unreasonable "administrative correction" to its general plan undertaken " 'with intent to evade the effect of the referendum petition.'

" (Assembly v. Deukmejian (1982) 30 Cal.3d 638,678, 180 Cal.Rptr. 297,639 P.2d 939.) For the reasons above, we reverse the judgment of the Court of Appeal.

El Dorado County learned this lesson all too well in the late 80's when the Sacramento Superior Court invalidated the County's General Plan leaving its residents without a General Plan until 2004. More specifically, the Court in that instance found that changes to the El Dorado County land use maps require environmental review themselves, as opposed to environmental review of the proposed Specific Plan. Further the Superior Court held in its writ of mandate to the County that changes to a land use map, such as changing an open space designation to residential, must be supported by a finding based on substantial evidence that the changes in the land use maps did not result in a new significant environmental impact or a substantial increase in the severity of an environmental impact. Conclusory statements in a spreadsheet as to consistency with a general plan are not sufficient, and are not based on substantial evidence that the proposed changes to the County's land use map is valid.

The following table depicts the inconsistencies between the three documents, the General Plan, the El Dorado Hills Specific Plan and the proposed Central El Dorado Hills Plan:

Section	El Dorado Hills Specific Plan	General Plan	Central Specific Plan
Goals	<p>Sec. 1.3: The Specific Plan is designed to take full advantage of these attributes by creating a special community with an identity that incorporates the abundant natural amenities of open space and distant views with quality development.</p> <p>The goals of the El Dorado Hills Specific Plan include providing for the following: ...A community setting for a lifestyle that integrates leisure activities with everyday life; Development integrated with the natural environment to enhance and complement the functional and aesthetic integrity of the natural setting with a minimum of disturbance to the natural terrain, oak trees, and other natural habitat; A nonvehicular circulation network that can accommodate recreation and leisure, home-to-work, and shopping trips; An aesthetic environment for public, private, and the natural open space areas.</p>	<p>Statement of Vision: Maintain and protect the County's natural beauty and environmental quality, vegetation, air and water quality, natural landscape features, cultural resource values, and maintain the rural character and lifestyle while ensuring the economic viability critical to promoting and sustaining community identity...</p> <p>Where appropriate, encourage clustered development as an option to maintain the integrity and distinct character of individual communities, while protecting open space and promoting natural resource uses; Improve and expand local park and recreational facilities throughout the County.</p>	<p>The Specific Plan includes seven land use designations that maintain the rural and open character of the County, placing higher density and the most intensive uses adjacent to existing development with little oak canopy cover and topographic constraints. Clustering development in this manner and integrating residential land uses with retail services, employment opportunities, recreation and public facilities, and open spaces maintains a high standard of environmental quality (General Plan Goal 2.2) and protects the natural ridgeline, landscape, and aquatic features of the Plan Area (General Plan Goal 2.3). Residential land use densities range up to 24 dwelling units to the acre, consistent with the County's adopted General Plan, providing for a mixture of housing options to promote development of housing affordable to moderate income households. Housing options include custom or individually pad-graded single-family home sites, single-family detached production dwellings, townhomes, condominiums, and rental homes.</p>
General Policies	<p>Sec. 1.4.1: Large areas within the plan boundaries characterized by steep topography, expanses of tree cover, sensitive environmental or archeological features, or major recreational amenities, shall be preserved as permanent open space.</p> <p>1.4.8 The Natural Open Space Policies are to guide the preservation, management, and</p>	<p>Protection and conservation of existing communities and rural centers; creation of new sustainable communities; curtailment of urban/suburban sprawl; location and intensity of future development consistent with the availability of adequate infrastructure; and mixed and balanced uses that promote use of alternate transportation systems.</p> <p>Development within Community Regions, as with development</p>	

	<p>maintenance of these areas in their relation to adjacent land uses.</p> <p>1.4.8.1 General Policies a. The boundaries of natural open space shall blend with boundaries of the villages so as to enhance the integration of open space and developed areas.</p>	<p>elsewhere in the County, may proceed only in accordance with all applicable General Plan Policies, including those regarding infrastructure availability as set forth in the Transportation and Circulation and the Public Services and Utilities Elements. Accordingly, development in Community Regions and elsewhere will be limited in some cases until such time as adequate roadways, utilities, and other public service infrastructure become available and wildfire hazards are mitigated as required by an approved Fire Safe Plan. An appropriate range of land use designations that will distribute growth and development in a manner that maintains the rural character of the County, utilizes infrastructure in an efficient, cost-effective manner, and further the implementation of the Community Region, Rural Center, and Rural Region concept areas.</p>	
Plan Proposals	<p>1.5.1 Golf Course Community The goals of this Specific Plan envision a physically attractive community with a strong relationship to the natural surroundings. These goals will be achieved by focusing development around undisturbed open space and two potential golf courses of championship quality. Much of the residential land use is designed to relate to a special golf course-oriented environment. The golf courses and related facilities, and the extensive open space will impart a recreational character to the community which will be an integral part of the economic and social structure of El Dorado County. The expansive, landscaped character of the golf courses will lend an openness to the entire development project.</p>		
Plan Proposals	<p>The Specific Plan area is designed to be primarily a residential community that provides housing opportunities in a planned environment with ample open space and a variety of retail shopping and service activities. The housing will be a mix of residential dwellings that appeal to a variety of householders, both young and old.</p> <p>The Specific Plan will provide a lifestyle that is unique in the region. Individuals and householders will be able to select among a range and variety of housing types and settings within the broad open spaces and</p>		

	<p>hillsides of El Dorado County. It is anticipated that such a setting would appeal to those who seek a full-service community with opportunities for shopping, leisure, and employment activity, as well as those who might also enjoy daily walks and panoramic views of the open countryside.</p> <p>The El Dorado Hills Community will be distinguished from other residential areas in the rural areas of El Dorado County and, indeed, from the residential communities throughout the rest of the Sacramento region. This will be accomplished by the integration of open space and by imparting a rural ambiance with residential land use, by the establishment of cohesive architectural themes, and by the definition of the area as a community with clearly identifiable boundaries provided by open space buffers.</p>		

THIS PAGE INTENTIONALLY LEFT BLANK

Supporting Attachments

Cal. Civ. Prac. Real Property Litigation § 14:48

California Civil Practice Real Property Litigation | November 2021 Update
Elizabeth A. Smith-Chavez, Richard J. Stratton, Judge James R. Trembath

Chapter 14. Land Use and Zoning Litigation

II. Actions Respecting Planning and Zoning

A. Legal Principles

5. Judicial Review of Enactment or Decision

b. Particular Remedies


§ 14:48. Review of consistency of zoning ordinance with general plan


Summary

Generally, a county or city zoning ordinance must be consistent with its general plan. [Gov. Code, § 65860, subd. (a); for general discussion of consistency requirement, see § 14:14; for form of allegation that zoning ordinance is inconsistent with general plan, see § 14:53] Any resident or property owner within a county or city, as the case may be, may bring an action or proceeding in the superior court to enforce this requirement. [Gov. Code, § 65860, subd. (b)] The action is governed by Code Civ. Proc., §§ 1084 et seq. (writ of mandate). [Gov. Code, § 65860, subd. (b); for discussion of relief by way of ordinary mandamus, generally, see § 14:41]

No action or proceeding may be maintained pursuant to Gov. Code, § 65860 by any person unless the action is commenced and service is made on the legislative body within 90 days of the enactment of any new zoning ordinance or the amendment to an existing zoning ordinance. [Gov. Code, § 65860, subd. (b)]

The action must be taken within 90 days of the enactment of any new zoning ordinance or the amendment of any existing zoning ordinance. [Gov. Code, § 65860, subd. (b)]

This remedy is not applicable so long as the ordinance is in conformity with the general plan, even though the general plan does not conform to state statutes. [ Neighborhood Action Group v. County of Calaveras (1984) 156 Cal. App. 3d 1176, 203 Cal. Rptr. 401]

Only the general plan in effect at the time the ordinance is adopted is relevant in determining inconsistency. Further, a court is prohibited from examining the merits of an element of a general plan, since the element is the product of a legislative act. [ Hernandez v. City of Encinitas (1994, 4th Dist.) 28 Cal. App. 4th 1048, 33 Cal. Rptr. 2d 875]

The installation of a cellular facility disguised as a Eucalyptus tree occupying .014% of a dedicated park approved by the city, did not violate the city charter that required a two-thirds vote when a use changes the use or purpose of the park. The city has the discretion to determine whether a particular use would change the use or the purpose of the park. *Don't Cell Our Parks v. City of San Diego*, 21 Cal. App. 5th 338, 230 Cal. Rptr. 3d 294 (4th Dist. 2018), review denied, (June 27, 2018).

End of Document

© 2022 Thomson Reuters. No claim to original U.S. Government Works.

66 Cal. Jur. 3d Zoning And Other Land Controls § 96

California Jurisprudence 3d | May 2022 Update

Zoning And Other Land Controls

John Bourdeau, J.D.; William Lindsley, J.D.; Anne E. Melley, J.D., LL.M., of the staff of the National Legal Research Group, Inc.; Karl Oakes, J.D.; Kimberly C. Simmons, J.D.; and Mary Ellen West, J.D.

III. Planning

E. General Plans

5. Adoption or Amendment of the General Plan

c. Particular Findings, Consistency, and Environmental Review

§ 96. Environmental review of plan

[Topic Summary](#) | [Correlation Table](#) | [References](#)

West's Key Number Digest

- West's Key Number Digest, [Zoning and Planning](#) 🔑 1021, 1125, 1152

A jurisdiction's enactment or amendment of a general plan is subject to environmental review under the California Environmental Quality Act (CEQA).¹ Although not explicitly mentioned in the CEQA, general plans embody fundamental land-use decisions, which guide the future growth and development of cities and counties, and have the potential to result in ultimate physical changes in the environment. General plan adoption and amendment are therefore properly projects subject to environmental review.²

If an environmental impact report identifies one or more significant environmental effects that would be caused by the adoption or amendment of the general plan, the plan may not be approved unless one or more of the specified findings with respect to the significant effect is made.³ In particular, approval may be allowed upon finding that changes or alterations have been required in, or incorporated into, the plan which mitigate or avoid the significant environmental effects,⁴ or the changes or alterations are within the responsibility and jurisdiction of another public agency and have been, or can and should be, adopted by that other agency.⁵ Approval may also be allowed if there is a finding that the specific economic, legal, social, technological, or other considerations, including considerations for the provision of employment opportunities for highly trained workers, make infeasible the mitigation measures or alternatives identified in the environmental impact report.⁶ With respect to these significant effects, it must be found that specific overriding economic, legal, social, technological, or other benefits of the project outweigh the significant effects on the environment.⁷

Observation:

The fundamental goal of an environmental impact report is to inform decision makers and the public of any significant adverse effects a project is likely to have on the physical environment.⁸



Because policies in a general plan reflect a range of competing interests, the governmental agency must be allowed to weigh and balance the plan's policies when applying them, and it has broad discretion to construe its policies in light of the plan's purposes.⁹ However, the findings of a legislative body in adopting a general plan amendment are inadequate when the findings only address a no development alternative and find it infeasible but do not adequately disclose the reasons for such infeasibility and when alternatives other than a no development alternative are discussed in the environmental impact report but the findings of the legislative body do not address them.¹⁰

Illustrations:

The requirement that a regional shopping center expansion comply with the Building Code and with CALGreen environmentally responsible building standards did not constitute an adequate assessment of mitigation measures to address the energy impacts during construction and operation of the project as required.¹¹ A residential development project was not improperly inconsistent with the provisions of a city's general plan designed to promote the health and well-being of the community by protecting the public from the adverse effects of air pollution, noise, and other health hazards since the provisions were vague and subjective.¹²

Westlaw. © 2022 Thomson Reuters. No Claim to Orig. U.S. Govt. Works.

Footnotes

¹  [Muzzy Ranch Co. v. Solano County Airport Land Use Com'n](#), 41 Cal. 4th 372, 60 Cal. Rptr. 3d 247, 160 P.3d 116 (2007), as modified, (Sept. 12, 2007) and as modified, (Sept. 12, 2007), referring to  [Pub. Resources Code](#), §§ 21000 to 21189.57.

As to the California Environmental Quality Act, see [Cal. Jur. 3d, Pollution and Conservation Laws §§ 561 to 665](#).

²  [DeVita v. County of Napa](#), 9 Cal. 4th 763, 38 Cal. Rptr. 2d 699, 889 P.2d 1019 (1995).

³ [Pub. Resources Code](#), § 21081, subd. (a).

⁴ [Pub. Resources Code](#), § 21081, subd. (a)(1).


5 Pub. Resources Code, § 21081, subd. (a)(2).

6 Pub. Resources Code, § 21081, subd. (a)(3).


7 Pub. Resources Code, § 21081, subd. (b).

8 Bay Area Citizens v. Association of Bay Area Governments, 248 Cal. App. 4th 966, 204 Cal. Rptr. 3d 224 (1st Dist. 2016).

For full discussion of projects requiring an environmental impact report, see Cal. Jur. 3d, Pollution and Conservation Laws §§ 583 to 599.

9  East Sacramento Partnership for a Livable City v. City of Sacramento, 5 Cal. App. 5th 281, 209 Cal. Rptr. 3d 774 (3d Dist. 2016), as modified on denial of reh'g, (Dec. 6, 2016) and review denied, (Feb. 15, 2017); Jamieson v. City Council of City of Carpinteria, 204 Cal. App. 4th 755, 139 Cal. Rptr. 3d 48 (2d Dist. 2012).

For full discussion of actions and judicial review in matters governed by the California Environmental Quality Act, see Cal. Jur. 3d, Pollution and Conservation Laws §§ 641 to 665.

10  Village Laguna of Laguna Beach, Inc. v. Board of Supervisors, 134 Cal. App. 3d 1022, 185 Cal. Rptr. 41 (4th Dist. 1982).

11  California Clean Energy Committee v. City of Woodland, 225 Cal. App. 4th 173, 170 Cal. Rptr. 3d 488 (3d Dist. 2014).

12  East Sacramento Partnership for a Livable City v. City of Sacramento, 5 Cal. App. 5th 281, 209 Cal. Rptr. 3d 774 (3d Dist. 2016), as modified on denial of reh'g, (Dec. 6, 2016) and review denied, (Feb. 15, 2017).

66 Cal. Jur. 3d Zoning And Other Land Controls § 48

California Jurisprudence 3d | May 2022 Update

Zoning And Other Land Controls

John Bourdeau, J.D.; William Lindsley, J.D.; Anne E. Melley, J.D., LL.M., of the staff of the National Legal Research Group, Inc.; Karl Oakes, J.D.; Kimberly C. Simmons, J.D.; and Mary Ellen West, J.D.

III. Planning

E. General Plans

1. In General

§ 48. Relationship between general plan and zoning regulations; requisite consistency, generally

[Topic Summary](#) | [Correlation Table](#) | [References](#)

West's Key Number Digest

- West's Key Number Digest, [Zoning and Planning](#)  1000, 1001, 1015

A general plan, in the universe of local land-use enactments,¹ is at the top of the hierarchy of local government law regulating land use.² Subordinate to the general plan are zoning laws that regulate the geographic allocation and allowed uses of land.³ Local land use and development decisions must be consistent with the applicable general plan,⁴ and thus, zoning laws must be consistent with,⁵ or conform to, the general plan of the city or county.⁶ A zoning ordinance that conflicts with a general plan is invalid at the time it is passed.⁷ In particular, in addition to the requirement that a general plan must be internally consistent,⁸ the propriety of virtually any local decision affecting land use and development depends upon consistency with the applicable general plan and its elements.⁹

Observations:

While a zoning ordinance must be consistent with the general plan, its failure to be consistent does not render the general plan itself inconsistent.¹⁰

In contrast, since consistency with the local general plan is required, absence of a valid general plan, or valid relevant elements or components thereof, precludes enactment of zoning ordinances and the like.¹¹

A finding of consistency with the general plan, for a particular project, requires only that the proposed project be compatible with the objectives, policies, general land uses, and programs specified in the applicable plan, which only requires that the project be in agreement or harmony with the terms of the applicable plan.¹² Thus, a given project need not be in perfect conformity with each and every general plan policy¹³ or in rigid conformity with every detail thereof.¹⁴ In particular, a project is consistent with the general plan when, considering all its aspects, it will further the objectives and policies of the general plan and not obstruct their attainment.¹⁵

General plan internal consistency and correlation requirements do not require a city or county to limit population growth or provide traffic management measures to ensure that its transportation infrastructure can accommodate future population growth.¹⁶

CUMULATIVE SUPPLEMENT

Cases:

Small-scale development projects in neighborhood, which could be exempt from permit compliance review pursuant to neighborhood's specific plan component of city's general plan, were necessarily consistent with neighborhood land use plan when they were consistent with neighborhood's specific plan, where city planning commission had previously determined that specific plan complied with the land use plan, and specific plan was developed to ensure consistency with development standards of land use plan. [Venice Coalition to Preserve Unique Community Character v. City of Los Angeles](#), 2019 WL 141477 (Cal. App. 2d Dist. 2019).

The rule of general plan consistency is that a project must at least be compatible with the objectives and policies of the general plan. [Citizens for Positive Growth & Preservation v. City of Sacramento](#), 255 Cal. Rptr. 3d 889 (Cal. App. 3d Dist. 2019).

In determining whether a project is consistent with a general plan, the question is not whether there is a direct conflict between some mandatory provision of a general plan and some aspect of a project, but whether the project is compatible with, and does not frustrate, the general plan's goals and policies. [Holden v. City of San Diego](#), 43 Cal. App. 5th 404, 255 Cal. Rptr. 3d 873 (4th Dist. 2019).

City general plan's density designations and recommendations were not rigid and could be adjusted or modified for certain areas or sites as provided in community plans, where general plan provided that city should rely on community plans for site-specific land use and density designations and recommendations, thus incorporating community plan provisions into general plan even when such provisions varied from or modified provisions in general plan. [Holden v. City of San Diego](#), 43 Cal. App. 5th 404, 255 Cal. Rptr. 3d 873 (4th Dist. 2019).


[END OF SUPPLEMENT]

Westlaw. © 2022 Thomson Reuters. No Claim to Orig. U.S. Govt. Works.


Footnotes


¹ [DeVita v. County of Napa](#), 9 Cal. 4th 763, 38 Cal. Rptr. 2d 699, 889 P.2d 1019 (1995); [PR/JSM Rivara LLC v. Community Redevelopment Agency Of City of Los Angeles](#), 180 Cal. App. 4th 1475, 104 Cal. Rptr. 3d 52 (2d Dist. 2009); [Fonseca v. City of Gilroy](#), 148 Cal. App. 4th 1174, 56 Cal. Rptr. 3d 374 (6th Dist. 2009).


2007).

2  [DeVita v. County of Napa](#), 9 Cal. 4th 763, 38 Cal. Rptr. 2d 699, 889 P.2d 1019 (1995); [Latinos Unidos de Napa v. City of Napa](#), 221 Cal. App. 4th 192, 164 Cal. Rptr. 3d 274 (1st Dist. 2013);  [Neighborhood Action Group v. County of Calaveras](#), 156 Cal. App. 3d 1176, 203 Cal. Rptr. 401 (3d Dist. 1984).

3  [Hewlett v. Squaw Valley Ski Corp.](#), 54 Cal. App. 4th 499, 63 Cal. Rptr. 2d 118 (3d Dist. 1997).

4  [East Sacramento Partnership for a Livable City v. City of Sacramento](#), 5 Cal. App. 5th 281, 209 Cal. Rptr. 3d 774 (3d Dist. 2016), as modified on denial of reh'g, (Dec. 6, 2016) and review denied, (Feb. 15, 2017).

5  [South Orange County Wastewater Authority v. City of Dana Point](#), 196 Cal. App. 4th 1604, 127 Cal. Rptr. 3d 636 (4th Dist. 2011); [Fonseca v. City of Gilroy](#), 148 Cal. App. 4th 1174, 56 Cal. Rptr. 3d 374 (6th Dist. 2007).

6 [Fonseca v. City of Gilroy](#), 148 Cal. App. 4th 1174, 56 Cal. Rptr. 3d 374 (6th Dist. 2007);  [Hewlett v. Squaw Valley Ski Corp.](#), 54 Cal. App. 4th 499, 63 Cal. Rptr. 2d 118 (3d Dist. 1997).

For full discussion of requisite conformity of zoning to general plan, see §§ 141, 142.

7  [Clews Land and Livestock, LLC v. City of San Diego](#), 19 Cal. App. 5th 161, 227 Cal. Rptr. 3d 413 (4th Dist. 2017).

As to validity of zoning regulations and effect of invalidity, see §§ 127 to 134.

8 [Orange Citizens for Parks and Recreation v. Superior Court](#), 2 Cal. 5th 141, 211 Cal. Rptr. 3d 230, 385 P.3d 386 (Cal. 2016).

9 [Orange Citizens for Parks and Recreation v. Superior Court](#), 2 Cal. 5th 141, 211 Cal. Rptr. 3d 230, 385 P.3d 386 (Cal. 2016); [Covina Residents for Responsible Development v. City of Covina](#), 21 Cal. App. 5th 712, 230 Cal. Rptr. 3d 550 (2d Dist. 2018); [Fonseca v. City of Gilroy](#), 148 Cal. App. 4th 1174, 56 Cal. Rptr. 3d 374 (6th Dist. 2007).

For full discussion of factors determining validity of zoning regulations, generally, see §§ 135 to 147.

10  [South Orange County Wastewater Authority v. City of Dana Point](#), 196 Cal. App. 4th 1604, 127 Cal. Rptr.

3d 636 (4th Dist. 2011).

11 [San Francisco Tomorrow v. City and County of San Francisco](#), 229 Cal. App. 4th 498, 176 Cal. Rptr. 3d 430 (1st Dist. 2014), as modified, (Sept. 4, 2014) and as modified, (Sept. 5, 2014); [Fonseca v. City of Gilroy](#), 148 Cal. App. 4th 1174, 56 Cal. Rptr. 3d 374 (6th Dist. 2007).

As to the adoption or enactment of zoning regulations, generally, see §§ 232 to 245.

12 [Naraghi Lakes Neighborhood Preservation Association v. City of Modesto](#), 1 Cal. App. 5th 9, 204 Cal. Rptr. 3d 67 (5th Dist. 2016).

As to actions or proceeding challenging local zoning and planning decisions, see §§ 492 to 495; as to actions challenging validity of general plan, see §§ 496 to 504.

13  [Clover Valley Foundation v. City of Rocklin](#), 197 Cal. App. 4th 200, 128 Cal. Rptr. 3d 733 (3d Dist. 2011).

14 [Naraghi Lakes Neighborhood Preservation Association v. City of Modesto](#), 1 Cal. App. 5th 9, 204 Cal. Rptr. 3d 67 (5th Dist. 2016).

15  [Spring Valley Lake Association v. City of Victorville](#), 248 Cal. App. 4th 91, 203 Cal. Rptr. 3d 297 (4th Dist. 2016).

16 [San Francisco Tomorrow v. City and County of San Francisco](#), 229 Cal. App. 4th 498, 176 Cal. Rptr. 3d 430 (1st Dist. 2014), as modified, (Sept. 4, 2014) and as modified, (Sept. 5, 2014).