

COALITION MEMBERS:

San Diego County Farm Bureau
San Diego Association of REALTORS®
North San Diego County Association of REALTORS®
East San Diego County Association of REALTORS®
Building Industry Association of San Diego County
"Save Our Rural Economy" (SORE)
San Diego Regional Chamber of Commerce
San Diego North Economic Development Council
Alliance for Habitat Conservation
San Diego Regional Economic Development Corporation

COUNTY GENERAL PLAN UPDATE

STAKEHOLDER COALITION WHITE PAPER

EXECUTIVE SUMMARY

The members of our coalition share common goals and interests in the County's future. We have participated in a twelve year process to develop the County's new General Plan, seeing it as a means to ensure that San Diego County will be a vibrant place to live and do business for decades to come. Unfortunately, the Draft General Plan Update is fatally flawed in its current form.

Our White Paper lays out these fatal flaws with the General Plan Update and provides solutions that will reinforce the General Plan Guiding Principles and resolve the imbalances and flaws in the proposed Plan. Our solutions can be summarized as follows:

- ❖ **Protect Landowner Equity.** Elimination of the severe downzoning will eliminate the need for cumbersome, unviable equity mechanisms.
- ❖ **Revise General Plan Land Use Policies** to allow flexibility on future GPA's and extension of services to respond to changing circumstances and needs throughout the life of the Plan.
- ❖ **Revise Land Use Policies** to ensure that the General Plan governs Community Plans and resolve the inconsistencies that are developing in draft Community Plans.
- ❖ **Complete the Implementing Regulations and Ordinances**, including the provisions necessary to allow Conservation Subdivisions, alternative septic systems/advanced treatment units, and refinement of steep slope regulations.

If this General Plan moves forward in its current form, rural communities will be left with little economic opportunity. Rural land owners will see their property values cut by 80% or more. New job opportunities will not materialize and new housing will be severely constrained, condemning rural residents to long, increasingly expensive commutes and a lack of housing and shopping choices. The loss of land value will increasingly constrain the ability of agricultural operators to use the equity in their property to finance operations, harming agriculture, a key economic driver, in the rural communities. Fire protection, schools and public services will suffer with the evaporation of the tax base in these communities.

Our White Paper outlines our concerns in more detail and provides a framework of solutions to address these fatal flaws in the proposed General Plan Update. While not minor, these changes can be done within the framework of the existing EIR project alternatives and much of the work product that the County has already produced for the General Plan Update can be utilized and retained.

We are optimistic that these fatal flaws can still be rectified before this process is concluded. We will continue to work with the County and all the various stakeholders toward a successful outcome for the County's General Plan Update. We firmly believe that all reasonable parties involved share our goals of protecting landowner equity and meeting the requirements of state law while still achieving the plan's land use and environmental objectives.

PREFACE

For the past twelve years, our organizations have actively participated in the County's General Plan Update process. We have approached the process with an open mind and a willingness to work cooperatively with the various stakeholders involved to address the core issues identified by the process including population growth and housing, community character, rural preservation, farming and industry, and environmental protection. Since its inception, the General Plan Update was presented as a "rooftop-based" plan that would identify and assure the planned density yields. It was the County's key argument in response to the approximately 40,000-unit downzone that staff has been proposing since the inception of the process in 1998.

From the beginning, as invested stakeholders, we have opposed this severe downzoning. We have stated consistently the need for the General Plan to be adopted as a "complete package" of effective implementing tools; and we have insisted that the General Plan guiding principles and land use policies must be consistently applied throughout the County and direct the Community Plans. Community Plans should not be allowed to "trump", interpret, or negate the policies of the General Plan.

To our frustration, none of these key elements of our support has been addressed. With little basis in planning principles, large swaths of the County are proposed for severe downzoning, a downzoning that is arbitrary and excessive and will result in regressive economic impacts to rural communities. Many property owners would lose 80% or more of their value.

The General Plan land use policies vest clear veto authority to Community Plans on key elements of the General Plan project description, including accommodations for new housing and conservation-oriented/compact development projects. And after twelve years of discussion, the implementing tools still remain conceptual or undeveloped and fundamentally dependent upon Community Planning Group acceptance. We find this lack of progress on our core issues untenable. **Therefore, we cannot support the General Plan in its current form and we will not support the General Plan without resolution of all of these core issues.**

“GENERAL PLAN UPDATE FATAL FLAWS”

SEVERE DOWNZONING WILL HARM RURAL COMMUNITIES

Downzoning Lacks Planning Validity

The Draft General Plan proposes a severe downzone of approximately 400,000 acres of privately-owned land in the unincorporated area. An additional 220,000 acres of privately-owned Forest Conservation Initiative and “General Ag” lands are also targeted for downzoning. Lands east of the County Water Authority Boundary, where more than 70% of the land is already in public ownership, would be particularly hard hit. Much of the land being downzoned would lose 80% or more of its value. Most of these lands reside in the County’s rural communities and support viable agricultural and ranching operations which would be wiped out by the devaluation of the land supporting these uses. This loss of property value in rural communities and the resulting evaporation of private investment potential will cause significant economic harm to these communities, leaving them with little or no viable economic future and placing significant strain on County taxpayers to support a continuing need for fire, school, emergency and other services in these communities.

This severe downzoning reflects the same downzoning scheme proposed by Propositions B and A, a scheme that was soundly defeated in 1998 and again in 2004. The environmental protections already in place (CEQA, the Resource Protection Ordinance, the Groundwater Ordinance, Fire Access Regulations, the Multiple Species Conservation Program, etc.), enable the County to achieve its environmental and rural preservation objectives without the need for downzoning. There is no justification for the economic harm that will occur to individual landowners and residents of our rural communities if this downzoning is approved.

THE GENERAL PLAN MUST GUIDE COMMUNITY PLANS

Key General Plan Policies Defer their Applicability to Community Plans

Policies that are key to implementing the General Plan Guiding Principles, core elements of the General Plan project description, fatally defer their applicability and implementation to Community Plans. Throughout the document the language “when consistent with the Community Plan” is used to preface the application of individual land use policies. In essence, these policies, which are fundamental to implementing the General Plan, are contingent upon Community Planning Group acceptance, interpretation and application (i.e., inclusion in their Community Plans). This leaves the General Plan project description (i.e., the Guiding Principles), which is built around these policies, in question, jeopardizing the viability of the General Plan as a “Project.”

Examples of these policies include LU-1.10 (Density Allocation), LU-3.2 (Mix of Housing Units), LU-3.3 (Complete Neighborhoods), LU-6.4 (Conservation Subdivisions), LU-9.2 (Village Land Use Designations), LU-9.8 (Village Connectivity), and LU-9.12 (Achieving Planned Densities).

For example, Policy LU-9.12 has been significantly weakened in the latest draft, now stating "In villages, *encourage* future residential development to achieve planned densities..." changed from "*ensure that* future residential development..." The policy is backing away from the County's fundamental Housing Element requirement to ensure that housing needs are met. The policy also backs away from the Guiding Principles of the GPU, the goal of concentrating development in existing villages with capacity and services.

These policies are fundamental elements of the project description that lack resolve or can only be implemented if Community Plans allow them to be. Hence, the General Plan "project" is indefinite with its implementation at the discretion of local Community Planning Groups, many of whom have stated emphatic opposition to these policies. Community Plan Updates currently underway are already prohibiting or restricting these policies, diluting the stated General Plan vision and intent.

GENERAL PLAN POLICIES ARE OVERLY RESTRICTIVE

Restrictive Policies make the General Plan Inflexible

Several policies in the Draft General Plan Land Use Element restrict communities' ability to accommodate both residential and non-residential uses in areas identified for growth. Policy LU-1.2 of the Draft Land Use Element prevents General Plan Amendments of Semi-Rural designations to Village designations or Rural designations to Semi-Rural designations unless they are part of a comprehensive General Plan Update. This serves as a *de facto* development limit line as comprehensive GPU's occur every 20 years or more. It ties the hands of future Boards of Supervisors and locks into place a rigid, inflexible plan with no ability to adapt to changing land use needs over time.

This "no growth" policy LU-1.2 is reinforced by policy LU-14.4 which prohibits the extension of sewer service beyond the disproportionately small areas identified for village uses and prohibits the extension of sewer district boundaries. LU-1.4 identifies "leap frog" development as village development outside of established Villages and outside of established water and sewer service boundaries. These policies will prevent the accommodation of a variety of housing types in communities and force the creation of more low density rural estate housing to meet the County's housing needs. They serve as artificial growth control boundaries on growing communities and they are in direct conflict with basic planning and environmental principles. Communities can and should be allowed to grow outward responsibly.

If implemented, these policies will leave the County's General Plan deficient in its ability to meet its Housing Element requirements, specifically the requirement to accommodate a variety of housing types and timely plan for an adequate supply of housing to meet future needs.

IMPLEMENTING TOOLS ARE KEY TO SUCCESSFUL IMPLEMENTATION

The Implementing Tools Remain a Mirage

From the outset, all of the various stakeholders, including the environmental community, have stated that the General Plan must be adopted as a "complete package," including the implementing tools critical to our support such as conservation subdivisions (conservation-oriented project design/compact development), alternative septic systems/advanced treatment units, and the refinement of road standards and RPO steep slope restrictions. To date, only the road standard changes have been implemented. The other implementing tools are either ill-defined, burdened with contingencies, or non-existent. **We cannot support the General Plan Update without these tools being definitive and adopted concurrently with the GPU.**

CONSERVATION SUBDIVISION PROGRAM

The Conservation Subdivision Program is intended to implement the core General Plan Guiding Principle of compact development. It is critical to the support of our coalition as well as the environmental community and the resource agencies (CDFG & USFWS). In direct conflict with this principle however, the General Plan gives wide latitude and deference to the Community Plans on whether and how the Conservation Subdivision Program can be implemented. In essence, it is at the discretion and acceptance of individual Community Planning Groups (CPG's).



Policy LU-6.3 states clearly that conservation-oriented project design (i.e., "conservation subdivisions" or compact development) will be permitted "*when appropriate and consistent with the Community Plan.*" This policy includes a disclaimer stating "approval of conservation-oriented projects is not guaranteed by-right but shall be allowed to process if consistent with the applicable minimum lot sizes, design guidelines and regulations." This

policy is easily negated by Community Plans that discourage or prohibit conservation subdivisions.

In fact, several draft Community Plans include lot size standards and rural subdivision design conditions that effectively preclude the use of the Conservation Subdivision Program. For example:

Descanso: "Discourage Clustered Development Projects and Conservation Subdivisions within the community of Descanso."

Crest/Dehesa/Harbinson Canyon/Granite Hills: "Restrict development with residential clustering from utilizing lots less than one acre net, while requiring the development to provide imported water."

Fallbrook: "Require a minimum lot of one gross acre in the Semi-Rural and Rural Lands Categories."

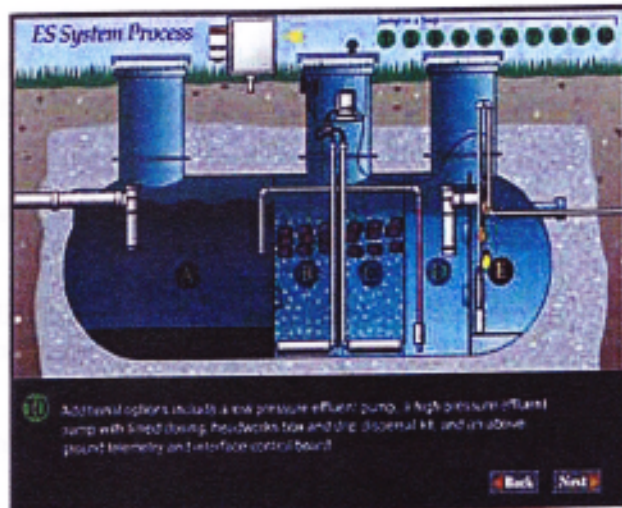
Rather than resolving these inconsistencies and establishing clear guidelines and rules, the Draft Zoning Ordinance revisions to implement the Conservation Subdivision Program maintain the current overly-restrictive minimum lot size requirements and steep slope encroachment provisions. The changes also tie the use of conservation subdivisions to Community Plans. Section 81.401 (r) (2) states that *"Development shall be consolidated to the maximum extent permitted by County Regulations and the applicable Community Plan."*

The General Plan's provisions for conservation subdivisions are tenuous at best. This core deficiency in the Plan is further compounded by a mandate to cluster on rural lands, leaving a rural landowner in an untenable situation, stuck between a requirement to use the Conservation Subdivision Program and a community plan that restricts or prohibits conservation subdivisions. In summary, the Conservation Subdivision Program effectively requires landowners with rural lands to cluster development irrespective of community opposition, requires them to give away up to 95% * of their property for habitat conservation, and requires them to fund the management of the land that they are required to give away.

** As currently written in the Conservation Subdivision Program.*

ALTERNATIVE SEPTIC SYSTEMS (PRE-TREATMENT & ADVANCED TREATMENT UNITS)

Conservation-oriented project design will require the use of alternative septic systems, or advanced treatment units as they are otherwise known, yet after twelve years of discussion, these systems, a far superior alternative to conventional systems both technologically and environmentally, remain unavailable for use in San Diego County. They were identified as an important implementing tool for the General Plan early in the process but the County has not pursued changes to the region's Basin Plan with the San Diego Regional Water Quality Control Board that would provide for their use County-wide.



Alternative septic systems can be used in a broader range of geologic and topographic conditions. They also release substantially fewer nitrates and other contaminants into the ground, thereby requiring much smaller leach fields, making them suitable for smaller lots and reducing environmental impacts. These systems which have been in use for more than thirty years in other parts of the country and around the world are ideal for smaller rural lots without access to sewer or package treatment plants.

The lack of provisions in the County for these systems is a major concern to our coalition. The establishment of this key implementing tool is essential to the successful implementation of the GPU. The Implementation Plan must be revised to clearly delineate a program to allow the use of these systems.

STEEP SLOPE STANDARDS

At the outset, the General Plan Update was described as a "rooftop-based" plan. The General Plan was to eliminate the slope-dependent land use designations and refine the steep slope standards in the Resource Protection Ordinance so that projects would be allowed greater flexibility in impacting slopes in an effort to preserve the more environmentally sensitive areas of the property. The draft Zoning Ordinance amendments make a modest attempt to provide this



added flexibility, however, the proposed changes lack clarity as to how they will be implemented and whether the typical conservation-oriented project will be able to avail itself of these more flexible steep slope standards. Revisions that encourage good overall project design rather than strict formulaic slope avoidance regimens should be incorporated into the draft Zoning Ordinance. Community Plans should not be allowed to override this design flexibility.

DRAFT COMMUNITY PLANS ARE ALREADY DEVIATING FROM GENERAL PLAN GUIDING PRINCIPLES

Draft Community Plan Updates Currently Underway Justify Our Concerns

Several draft Community Plans limit minimum lot size to 50% of that allowed by the land use designation in Rural Lands. For example, land designated 1 du/40 acres would be limited to a minimum lot size of 20 acres. Several Community Plans, including Bonsall, Alpine, San Deguito, Valle de Oro, and Ramona all include a policy that any clustered project must be compatible with "community character", a subjective and variable term. Valley Center is proposing minimum lot sizes in their Semi-Rural land use designations that will preclude clustering in rural lands.

Central Mountain and Boulevard state that clustering and conservation subdivisions are to be discouraged, with Boulevard imposing a minimum lot size of 8 acres in the Semi-Rural category and 16 acres in the Rural category. Lot sizes smaller than that allowed by application of the designated density are allowed only when compatible with community character. North Mountain requires lot sizes larger than 8 acres outside of the Rural Village.

Several Community Plans are limiting density in their village areas to 15 du/acre, half the density required under Housing Element Law to meet affordable/entry-level housing needs. A number of areas identified for upzoning as part of the General Plan Update are now being scaled back to their original (current) designations at the request of Community Planning Groups, eliminating any semblance of smart growth planning. **The General Plan Update policies, land use map, and the various draft Community Plans are deviating fundamentally from the guiding principles of the General Plan.**

"THE SOLUTION"

It is critically important that these issues be resolved by the Board of Supervisors before this process is allowed to continue any further. The Board should give explicit direction to staff to return with specific resolutions of the issues identified in this paper. We recommend the following resolutions:

1. PROTECT LANDOWNER EQUITY, ELIMINATE SEVERE DOWNZONING

The severe downzoning proposed with the General Plan Update must be eliminated. Instead, Rural Lands proposed for downzoning should retain their current zoning or be designated at 1 du/10 acres or 1 du/20 acres based on their proximity to village areas and services. Semi-Rural Lands proposed for downzoning should also retain their current zoning when services are available or accessible.

The issue of the severe downzoning has persisted since the inception of the process 12 years ago. Recently, staff has informed stakeholders that removing the severe density downzoning would require a recirculation of the EIR and, consequently, cannot be considered by reason of a previously imposed "Fall 2010 deadline" requiring that the GPU be presented to the Board for final consideration/action by the Fall of 2010. Staff has further indicated that a recirculation of the EIR will take up to 2 years and cost an additional two million dollars. Our Coalition has determined and asserts that the severe downzoning can be eliminated within the framework of the existing EIR project alternatives. If proper consideration of these key issues does require a recirculation of the EIR, we believe these issues can be satisfactorily resolved much more quickly and at significantly less expense than indicated by staff.

All those involved in the GPU process want to see it brought to conclusion. However, we believe that in order for the GPU to be done right, the foregoing issues must be addressed and getting it right is much more important than the time, inconvenience, and additional expense associated with a recirculation of the EIR. **It is clear that a specific directive from the Board of Supervisors to staff to address this issue is necessary.**

2. THE GENERAL PLAN MUST GOVERN COMMUNITY PLANS

All references in the General Plan policy framework stating *"when consistent"* or *"when compatible with the Community Plan"* must be removed in order for the General Plan policy framework to properly govern Community Plans. The original language in Policy LU-9.12 should be restored to "ensure" that village development meets planned densities. Otherwise, the General Plan Update "Project" is in jeopardy of not being implemented as proposed because Community Plans can dictate whether and how individual policies are applied and the policy

framework does not reinforce but instead backs away from the Guiding Principles. The General Plan should further clarify that in the event of an inconsistency on a policy matter between the General Plan and Community Plans, the General Plan shall govern.

3. REVISE OVERLY RESTRICTIVE GENERAL PLAN POLICIES

Revise the overly restrictive policies, including policies LU-1.2, LU1.4, and LU-14.4, to ensure that the County can meet its housing and employment growth responsibilities, to create a land use environment that can adapt with time to changing needs, and to leave intact the land use authority of future Boards of Supervisors.

4. CREATE VIABLE IMPLEMENTING TOOLS

The Conservation Subdivision Program must be allowed by-right and it cannot be weakened or made irrelevant by arbitrary minimum lot size standards or overridden by or subject to Community Plan contingencies. The statement in Policy LU-6.3 “when appropriate and consistent with the Community Plan” must be removed and the disclaimer accompanying this policy must be removed as well.

Additionally, the draft Zoning Ordinance amendments are not adequate to effectively implement the Conservation Subdivision Program. The draft amendments do not provide the necessary flexibility to encroach upon steep slopes in an effort to preserve the environmentally sensitive areas of the property and the amendments are inextricably linked to Community Plan contingencies that effectively preclude the use of conservation subdivisions. Preservation requirements must be limited to a maximum of 75% of the sensitive resources. Management of any preserve land outside of a Pre-Approved Mitigation Area (PAMA) shall not be required or shall be done by the County at their expense. Management of preserve land within an **adopted** PAMA should be done in accordance with the MSCP.

General Plan Policy LU-6.3 must clearly state that conservation-oriented project design (i.e., conservation subdivisions) will be permitted “by right” and that all community plans must conform to this requirement. The Zoning Ordinance revisions must reinforce this provision and provide for the regulatory flexibility on lot sizes and steep slopes necessary to effectively implement conservation subdivisions.

The County must also implement the regulations necessary and seek the necessary amendments to the region’s Basin Plan from the San Diego Regional Water Quality Control Board to allow the use of alternative septic systems/advanced treatment units throughout the County before the General Plan is adopted. Without these systems available for use, the plan will simply not

work because the plan will fail to provide for adequate housing and meet its environmental and rural preservation goals.

5. RESOLVE INCONSISTENCIES IN DRAFT COMMUNITY PLANS

Revise the draft Community Plans to eliminate restrictions on clustering and mandatory minimum lot sizes. Restore the upzoning that was originally proposed with the General Plan Update land use map and revise Community Plan policies to ensure compliance with the General Plan Update and state law. The Community Plans need to be revised at the same time the General Plan is to correct the inconsistencies and deviations that moot the most important elements of the General Plan Project.

CONCLUSION

In conclusion, the Draft General Plan Update leaves major policy issues that have lingered since the outset of the process unresolved. Rural landowner equity must be protected. The General Plan must serve as the guiding document for Community Plans on all policy issues, large and small. Certain overly restrictive policies in the draft Plan must be revised to meet the requirements of state law. The implementing tools must be adopted in conjunction with the General Plan Update. And lastly, the deviations and inconsistencies already arising in draft Community Plans must be resolved.

This White Paper outlines these fatal flaws and provides a framework of solutions to address them. While not minor, these changes can be done within the framework of the existing EIR project alternatives and much of the work product that the County has already produced for the General Plan Update can be utilized and retained.

We remain hopeful that this process can still be salvaged, despite the lack of resolution on these core issues for so long. **In light of the stated "Fall 2010 deadline," it is clear that specific direction by the Board of Supervisors on resolution of these issues is required.** We will continue to work cooperatively with the County and all the various stakeholders as we firmly believe that all reasonable parties involved share our goals of protecting landowner equity and meeting the requirements of state law while still achieving the plan's land use and environmental objectives.