

**A QUICK GUIDE TO  
THE GENERAL PLAN AND ITS CONTENTS  
WITH  
PARTICULAR ATTENTION  
TO THE OPEN SPACE ELEMENT**

**A CNPS CONSERVATION PRIMER**

**FIRST DRAFT**

**9/02**

## ACCESSING THE PLAN

Your General Plan and Area Sub-Plans will be at local libraries, and at the County or City Government seat. Those agencies may also have a web page with the documents available for download. There are also statewide web sources, such as CERES.

Go to <<http://ceres.ca.gov/planning/genplan/>> You can search by County or by Keyword

I tried San Luis Obispo, and got:

Seismic Safety Element, Templeton Community Design Plan, Land Use and Circulation Element, Shandon/Carrizo Area Plan, Land Use and Circulation Element, Huasna-Lopez Area Plan, Land Use and Circulation Element, Offshore Energy Element, Noise Element, Part I - Policy Document, Annual Resource Summary Report, Land Use Element and Circulation Element, San Luis Obispo County General Plan: Land Use and Circulation Elements - Framework for Planning (Inland), Open Space Plan, Transportation Plan, Safety Element, Housing Element, Energy Element, South County Area Plan, San Luis Bay Area Plan, Framework for Planning, Inland Area, Nacimiento Area Plan, Las Pilitas Planning Area, El Pomar/Estrella Planning Area, Adelaida Area Plan, Salinas River Area Plan, Los Padres Area Plan, The Land Use Element, Los Ranchos/Edna Village Specific Plan, Environment Plan of County of San Luis Obispo County General Plan, Land Use Element, Circulation Element

You will note that there are “Elements” which are major blocks of the overall plan, there “Area Plans” which focus on geographic regions, but which have to conform to the plan in its entirety, and there are broad “principles” such as the Land Use Element that form the basic framework of the plan itself.

So I click on one of these, and the Berkeley Digital Library comes up. They have scanned every page, so that you get a picture of each page as you click on it... guarantees the original “look” but very time consuming. They also give you the option of downloading a text-only output of an Optical Character Reader Scan (OCR), which will not give complete spelling accuracy, will print pictures as text garbage, but is generally good enough to load into your word processor to allow word searches on whatever you are looking for. You can also get into County environmental documents by searching on titles at <<http://elib.cs.berkeley.edu/docs/query.shtml>>. A word of caution- check the dates to make sure that CERES is showing a currently valid document... you should to get a date from CERES and also call up the local Planning Department and ask.

## ELEMENTS OF A GENERAL PLAN

A General Plan has certain Mandated Elements . CHECK OUT  
<[http://ceres.ca.gov/planning/genplan/gp\\_chapter3.html](http://ceres.ca.gov/planning/genplan/gp_chapter3.html)>

They are: Circulation, Conservation, Housing, Land Use, Noise, Open Space, Safety

All of these, except maybe noise, may have to be addressed at one time or another if the goal is to protect a certain block of land from development or use likely to destroy or damage a native plant population. **Most of the language that might be used to directly address CNPS interests is to be found in the Open Space Element, and not in the Conservation Element.** We will take a quick look at the conservation element later on.

The following was downloaded from the site mentioned above, and then I have chopped it down a lot. I recommend you visit that URL and read the whole thing!. This is what CERES has to say about the Open Space Element.

## OPEN SPACE ELEMENT

### BACKGROUND

The Legislature added the requirement for an openspace element to state law in 1970, with compliance required by December 31, 1973. Along with the housing element, the openspace element has a clear statutory intent (see Government Code Sections 65561 and 65562) and, next to land use, is broadest in scope (see the first paragraph of Government Code Section 65563 and subdivision (b) of Government Code Section 65560). Because of this breadth, open space issues overlap those of several other elements.

For instance, the land use element's issues of agriculture, natural resources, recreation, enjoyment of scenic beauty and (to a certain extent) public grounds are covered by open space provisions. "Open space for the preservation of natural resources" and "open space used for the managed production of resources" encompass the concerns of the conservation element. "Open space for public health and safety" covers issues similar to those found in the safety element.

The Open Space Element has equal weight with the other Elements

### PERTINENT CALIFORNIA CODE SECTIONS

Government Code Section 65560: (a) "Local openspace plan" is the openspace element of a county or city general plan adopted by the board or council, either as the local openspace plan or as the interim local openspace plan adopted pursuant to Section 65563.

(b) "Openspace land" is any parcel or area of land or water which is essentially unimproved and devoted to an openspace use as defined in this section, and which is designated on a local, regional or state openspace plan as any of the following:

(1) Open space for the preservation of natural resources including, but not limited to, areas required for the preservation of plant and animal life, including habitat for fish and wildlife species; areas required for ecologic and other scientific study purposes; rivers, streams, bays and estuaries; and coastal beaches, lake shores, banks of rivers and streams, and watershed lands. (CNPS note that saving land as habitat falls under this section):

(2) Open space used for the managed production of resources, including but not limited to, forest lands, rangeland, agricultural lands and areas of economic importance for the production of food or fiber; areas required for recharge of ground water basins; bays, estuaries, marshes, rivers and streams which are important for the management of commercial fisheries; and areas containing major mineral deposits, including those in short supply. (CNPS note that saving land as habitat for commercial species may or may not be in CNPS interest, falls under this section. Saving a spawning area might save a wetland plant. However in the case *No Oil, Inc. v. City of Los Angeles* (1988) 196 Cal.App.3d 223, a producing oil field was included as open space, as it was a produced resource. For this reason, CNPS should review uses allowed in "open space" in the Land Use part of the General Plan):

(3) Open space for outdoor recreation, including but not limited to, areas of outstanding scenic, historic and cultural value; areas particularly suited for park and recreation purposes, including access to lake shores, beaches, and rivers and streams; and areas which serve as links between major recreation and openspace reservations, including utility easements, banks of rivers and streams, trails, and scenic highway corridors. (CNPS note that this may produce the greatest conflicts, as many think of open space as recreational space, and will not recognize the concept of "unused space". This feeling may run deep in county government circles as well.)

(4) Open space for public health and safety, including, but not limited to, areas which require special management or regulation because of hazardous or special conditions such as earthquake fault zones, unstable soil areas, flood plains, watersheds, areas presenting high risks, areas required for the protection of water quality and water reservoirs and areas required for the protection and enhancement of air quality. (CNPS note that this can be very useful in preserving large blocks of habitat, such as watershed lands around the Bay Area).

Government Code Section 65561: The Legislature finds and declares as follows:

(a) That the preservation of openspace land.... is necessary not only for the maintenance of the economy of the state, but also for the assurance of the continued availability of land for the production of food and fiber, for the enjoyment of scenic beauty, for recreation and for the use of natural resources.

(b) That discouraging premature and unnecessary conversion of openspace land to urban uses is a matter of public interest and will be of benefit to urban dwellers because it will discourage noncontiguous development patterns which unnecessarily increase the costs of community services to community residents. **(CNPS here is your anti-sprawl language)**

(c) That the anticipated increase in the population of the state demands that cities, counties, and the state at the earliest possible date make definite plans for the preservation of valuable openspace land and take positive action to carry out such plans by the adoption and strict administration of laws, ordinances, rules and regulations as authorized by this chapter or by other appropriate methods. **(CNPS here is your “needs” language)**

(d) That in order to assure that the interest of all its people are met in the orderly growth and development of the state and the preservation and conservation of its resources, it is necessary to provide for the development by the state, regional agencies, counties and cities, including charter cities, of statewide coordinated plans for the conservation and preservation of openspace lands. **(CNPS here is your “coordination” language, and as far as I know, there isn’t much coordination going on)**

(e) That for these reasons this article is necessary for the promotion of the general welfare and for the protection of the public interest in openspace land. **(CNPS here is your “value of the commons” language)**

Government Code Section 65562: It is the intent of the Legislature in enacting this article:

(a) To assure that cities and counties recognize that openspace land is a limited and valuable resource which must be conserved wherever possible. (CNPS: wherever is a weak word, but might be of use in an argument)

(b) To assure that every city and county will prepare and carry out openspace plans which, along with state and regional open-space plans, will accomplish the objectives of a comprehensive openspace program. (CNPS: This might be an object of local inquiry.. does your County or City ‘Coordinate’? Bet not!)

Government Code Section 65563: On or before December 31, 1973, every city and county shall prepare, adopt and submit to the Secretary of the Resources Agency a local openspace plan for the comprehensive and longrange preservation and conservation of openspace land within its jurisdiction . . . .

Government Code Section 65564: Every local openspace plan shall contain an action program consisting of specific programs which the legislative body intends to pursue in implementing its open-space plan.

Government Code Section 65566: Any action by a county or city by which openspace land or any interest therein is acquired or disposed of or its use restricted or regulated, whether or not pursuant to this part, must be consistent with the local open-space plan.

Government Code Section 65567: No building permit may be issued, no subdivision map approved, and no openspace zoning ordinance adopted, unless the proposed construction, subdivision or ordinance is consistent with the local openspace plan.

Public Resources Code Section 5076: In developing the openspace element of a general plan as specified in subdivision (e) of Section 65302 of the Government Code, every city and county shall consider demands for trail oriented recreational use and shall consider such demands in developing specific openspace programs. Further, every city, county, and district shall consider the feasibility of integrating its trail routes with appropriate segments of the state system.

Government Code Section 65303: The general plan may . . . address any other subjects which, in the judgment of the legislative body, relate to the physical development of the county or city.

#### FROM CERES: IDEAS FOR DATA AND ANALYSIS

The following are suggested topics for the data collection and analysis necessary for the development of open space policies. Overlap with other Elements of the General Plan are shown as (CO) Conservation, (LU) Land Use.

#### **Open Space for the Preservation of Natural Resources**

**Inventory of natural vegetation, fish and wildlife and their habitats, including rare and endangered species (Map) (CO, LU) and-** Inventory of plants, natural communities and special animals using the California Department of Fish and Game's "Natural Diversity Data Base" and "Wildlife Habitat Relationships Program." (CNPS must make sure that planners know of plant populations, and also have some concept of the value of vegetation. Don't come in cold and protest a development on the basis of uncommon vegetation and expect to be heard unless you have done a fair amount of education of planners on the issue. I would suggest preparing a White Paper on County Vegetation and Non-listed Species and sitting down with County Planners in a non-crisis driven basis)

- Inventory of existing and proposed areas for ecologic and other scientific study, of oak woodlands, all wetlands and riparian areas (CNPS might add this into a White Paper, see last para)

#### **Open Space for Resource Management**

Inventory of forest resources (LU, CO) that would include a description of the type, location, amount, and ownership of forests with a value for commercial timber production, wildlife protection, recreation, watershed, protection, aesthetics, and other purposes (map), Timberland Production Zoning (map), inventory of agricultural resources, including rangeland (LU, CO), identification of the location, amount, and ownership of land in agricultural production (map). (CNPS notes commercial forests may also provide habitat for many native plants, and CNPS may wish to oppose conversion to row crops or housing)

Inventory of soil resources (CO) by Storie Index or the U.S. Soil Conservation Service's Land Capability Classification system, and erodability. (CNPS notes that this is vital in the prioritization of farmlands for protection, and is often a driving force that directs development to other areas...which may not be in CNPS interests. This argument showed up in the City of Merced General Plan, where development was to be moved into a vernal pool area and away from Prime Agricultural soils).

Inventory of ground water recharge areas, water bodies that are important for the management of commercial fisheries (LU, CO), location of mineral resource areas, classified and designated by the State Mining and Geology Board under the Surface Mining and Reclamation Act

#### **Open Space for Outdoor Recreation**

Inventory and analysis of other areas of outstanding scenic beauty (LU), inventory and analysis of historic and cultural resources, including archaeological sites and historically and architecturally significant structures, assessment of the demand for public and private parks and recreational facilities and an inventory of areas particularly suited to parks and recreational purposes (LU), description of the type, location, and size of existing public (federal, state, regional, and local) and private parks and recreational facilities, assessment of present and future demands for parks and recreational facilities, identification of highways of scenic significance, inventory of points of public access to lake

shores, beaches, rivers and streams (map) (LU), inventory of recreational trails and areas and an assessment of the demand for them (LU). (CNPS: Be aware of these issues in terms of possible leverage into the protection of a plant resource, or risk of diversion of a recreational use onto a plant resource)

### **Open Space for Public Health and Safety**

Geological Safety: (CNPS: issues on geology usually will not be of interest, except where setbacks and avoidance areas around geologic hazards may be used as plant habitat. For example, bluff-top coastal plant resources may be protected through erosion-driven building setback requirements. Serpentine may become building avoidance use due to asbestos content, thus saving serpentine endemics).

Identification of floodprone areas: (LU, CO, S) (CNPS notes that this may serve to protect some flood-dependent plants and riparian corridors).

## CONSERVATION ELEMENT

(CNPS: As noted above, this Element does not directly contain the language for the protection of non-commercial plant resources, but watershed protection may force land use changes that protect native flora). The Element's content (§ 65302 (d)) addresses "the conservation, development, and utilization of natural resources including water and its hydraulic force, forests, soils, rivers and other waters, harbors, fisheries, wildlife, minerals, and other natural resources." It may also cover (1) The reclamation of land and waters; (2) Prevention and control of the pollution of streams and other waters; (3) Regulation of the use of land in stream channels and other areas required for the accomplishment of the conservation plan; (4) Prevention, control, and correction of the erosion of soils, beaches, and shores; (5) Protection of watersheds; (6) The location, quantity and quality of the rock, sand and gravel resources; and (7) Flood control.

Protection of watersheds may be related to issues such as forest cover, and soil erosion on steep slopes, and have been used frequently in land use decisions on the North Coast. On the other hand, land use priorities may rank a gravel mine very high if there is no commercial aggregate available in a market area, and that might override plant conservation. This may become a significant issue where a rare plant overlies an equally rare commodity, such as the Ione flora overlying uncommon refractory clays and sands. The State Geologist may have produced a map of mineral resources "of statewide or regional significance" that will carry a lot of weight in land use planning. Mining activity is covered by the State Mining and Reclamation Act, which requires that mines have "Reclamation Plans" that may not require full restoration of local flora. Similarly, canals, reservoirs, groundwater recharge facilities and other such water conservation engineering may conflict with native plant protection.

## LAND USE ELEMENT

§ 65302 (a) requires a land use element "which designates the proposed general distribution and general location and extent of the uses of the land for housing, business, industry, open space, including agriculture, natural resources, recreation, and enjoyment of scenic beauty, education, public buildings and grounds, solid and liquid waste disposal facilities, and other categories of public and private uses of land. The land use element shall include a statement of the standards of population density and building intensity recommended for the various districts and other territory covered by the plan. The land use element shall identify areas covered by the plan which are subject to flooding and shall be reviewed annually with respect to those areas. The land use element shall designate, in a land use category that provides for timber production, those parcels of real property zoned for timberland production pursuant to the California Timberland Productivity Act of 1982, Chapter 6.7 (commencing with Section 51100) of Part 1 of Division 1 of Title 5"

This element is the most important, and in most counties is the field on which most planning and development battles are fought. Often there will be an overall County-wide document, and then a series of more detailed Area

Plans that provide special planning standards that are suited to the locale. It is the Land Use Element that will drive the Zoning Ordinances, which define the allowable uses and development conditions and therefore have the force of law and regulation. CNPS must be aware of the plant resources within a planning area, so that land use might be guided toward having the most minimal impact.

#### CIRCULATION ELEMENT

§ 65302 (b) requires “a circulation element consisting of the general location and extent of existing and proposed major thoroughfares, transportation routes, terminals, and other local public utilities and facilities, all correlated with the land use element of the plan.”

This element has to key into the Land Use and Housing Elements, in that transportation should be scaled to serve development, but not to drive development. For an example, a new road may open up hard-to-access areas, shorten commute times, and therefore drive development into hitherto undeveloped areas. If CNPS feels there is a nexus between transportation and resultant development with the likelihood that conservation goals will be impacted, then it is a legitimate concern.

#### HOUSING ELEMENT

§ 65302 (c) requires an analysis of housing needs in the planning area, such as the availability of farm worker housing, low income housing etc. There are conflicts between counties that are near their limits regarding resources such as water, and demand from the state that all counties bear a share of anticipated statewide population growth. This is one of the most contentious areas of the General Plan.

#### SAFETY ELEMENT

§ 65302 (g) requires “a safety element for the protection of the community from any unreasonable risks associated with the effects of seismically induced surface rupture, ground shaking, ground failure, tsunami, seiche, and dam failure; slope instability leading to mudslides and landslides; subsidence, liquefaction and other seismic hazards identified pursuant to Chapter 7.8 (commencing with Section 2690) of the Public Resources Code, and other geologic hazards known to the legislative body; flooding; and wild land and urban fires. The safety element shall include mapping of known seismic and other geologic hazards. It shall also address evacuation routes, peakload water supply requirements, and minimum road widths and clearances around structures, as those items relate to identified fire and geologic hazards. Prior to the periodic review of its general plan and prior to preparing or revising its safety element, each city and county shall consult the Division of Mines and Geology of the Department of Conservation and the Office of Emergency Services for the purpose of including information known by and available to the department and the office required by this subdivision. To the extent that a county's safety element is sufficiently detailed and contains appropriate policies and programs for adoption by a city, a city may adopt that portion of the county's safety element that pertains to the city's planning area in satisfaction of the requirement imposed by this subdivision.”

CNPS may find that plants may be conserved in locations where development has been impacted by hazards, and therefore should review any hazards maps within the plan. However, if a plant population and a geologic hazard have to be avoided on the same parcel, leaving almost no land for development, the plant population may be at the greatest risk and in need of vigorous defense.

## **SPECIFIC PLANS OR AREA PLANS**

As noted above, specific areas get more detailed Specific Plans or Area Plans which define what is, and what is not allowed, in a particular area. These have to agree with the General Plan, and a Specific Plan cannot be modified to conflict with the General Plan. These will set the Zoning Ordinances, which define the height, design, and other site-plan factors for buildings, and the uses to which they may be put. In coastal counties, part of the General Plan will be a Local Coastal Plan that will reflect the requirements of the Coastal Act, and part will be an “Inland Element” that will often be more permissive in its land use allowances.