Land Use Planning – just add water

WATER IN THE WEST

STANFORD WOODS INSTITUTE FOR THE ENVIRONMENT

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Land Use Planning Context

- What's in the planner's toolbox?
- Basic legal considerations; the limits of land use authority
- The "ingredients" – influences that shape the plan
- How planning decisions are made – who decides and who has a voice?
- How does groundwater seep into the planning process?

The Planner's Toolbox – state planning law

- Every City and County must have a comprehensive general plan
- 7 mandatory general plan "elements" – land use, circulation, housing, safety, conservation, noise, and open space
- General plan must be internally consistent
- Must consult with water agencies and suppliers (Govt. Code §65302(d)); must use Urban Water Master Plan (if any) as source document (§65302.2)

The Planner's Toolbox – the general plan

- The general plan is a policy document that guides future development
- The "constitution for land use" for cities and counties
- City or county land use decisions must be consistent with their general plan
  - Consistency not typically required for decisions by other governmental entities, e.g., school districts & tribes
- Requires adoption by the legislative body after a public hearing, typically includes an extensive public process

The Planner's Toolbox – zoning and subdivision map act

- Zoning provides the police power to regulate the use of land and intensity of development; must be consistent with the general plan
- Establishes permitted (ministerial) and conditional (discretionary) land uses
- Subdivision Map Act (Govt. Code §66410 *et seq*) governs all divisions of land
  - Results in lots with certain entitlements
  - Verification of water supply required for large subdivisions (SB 221)

The Planner's Toolbox – CEQA

- Applies to discretionary land use decisions, *including plan adoption*
- Requires identification and disclosure of potentially significant environmental impacts
- Requires lead agency to mitigate to extent *feasible*
- From CEQA Guidelines: *Would the project substantially deplete groundwater supplies or interfere substantially with groundwater recharge such that there would be a net deficit in aquifer volume or a lowering of the local groundwater table level?*

Legal Constraints – limits on local land use authority

- Takings – U.S. Constitution prohibits taking private property without compensation
  - Land use regulation can be a *taking* if it deprives private property of all economic value
- Nexus and rough proportionality – Requirements must be related to impacts of the project and roughly proportional to the magnitude of the impact
- By-right development vs. conditional development

Key inputs to the planning process

- Three Es – economy, environment and equity
- Geography
  - Natural resources, climate, regional location, transportation infrastructure (including air & water), urban, rural or suburban
- Demographics
- Community values & priorities
- Important to balance the benefits and the burdens

Political context for planning

- Planning process is intended to be very public
  - Public hearings required for all major decisions
  - Workshops and active outreach are now the norm
- Who decides?
  - Advisory bodies (e.g., planning commission)
  - Legislative body (city council or board of supervisors)
  - Legislative actions (plan adoption or zoning) subject to referendum
- Stakeholders and interests play a huge role
  - Balance and community values

Where does groundwater seep into the planning process?

- Water supply issues are one of many inputs to the planning process
  - Mandatory consultation and UWMPs
  - Water supply assessments (SB 610) and verification of water supply (SB 221)
- Often no public water supplier for groundwater
- Must be addressed in CEQA process (if applicable!)
  - Both programmatic (plan-level) and project specific
- Some counties including Water Elements in their general plans

Sonoma County Water Resources Element – groundwater objectives

- Conserve, enhance and manage groundwater resources on a sustainable basis
- Develop a scientifically based program to collect groundwater data
- Encourage new groundwater recharge opportunities and protect existing recharge areas
- Increase the County's technical capacity and expertise on groundwater issues

Key Groundwater Challenges for Planners

- Information on groundwater supply often limited
- Wells often controlled by individual property owners, not a public water supplier
  - Permitting for new wells typically does not address cumulative impact to groundwater supply
- Thresholds for SB 610 and SB 221 are very high; most development projects not subject to requirements
- Agricultural cultivation, a major water-intensive land use, is typically allowed by-right