

IN THE SUPREME COURT OF THE STATE OF CALIFORNIA

CITY OF MORGAN HILL,

Plaintiff and Respondent,

v.

SHANNON BUSHEY, AS REGISTRAR
OF VOTERS, etc., et al.,

Defendants and Respondents;

RIVER PARK HOSPITALITY,

Real Party in Interest and
Petitioner;

MORGAN HILL HOTEL COALITION,

Real Party in Interest and
Respondent.

Case No. S243042

Sixth Dist. No. H043426

Santa Clara Super. Ct. No. 16-
CV-292595

SUPREME COURT
FILED

OCT 17 2017

Jorge Navarrete Clerk

Deputy

**PLAINTIFF AND RESPONDENT CITY OF MORGAN HILL'S
MOTION FOR JUDICIAL NOTICE IN SUPPORT OF OPENING
BRIEF; MEMORANDUM OF POINTS AND AUTHORITIES IN
SUPPORT THEREOF; DECLARATION OF LEGISLATIVE
INTENT SERVICES IN SUPPORT THEREOF; PROPOSED ORDER**

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**PLAINTIFF AND RESPONDENT CITY OF MORGAN HILL'S
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INTENT SERVICES IN SUPPORT THEREOF; PROPOSED ORDER**

**TO THE HONORABLE TANI CANTIL-SAKAUYE, CHIEF JUSTICE;
THE HONORABLE ASSOCIATE JUSTICES OF THE
CALIFORNIA SUPREME COURT; APPELLANT AND THEIR
ATTORNEYS OF RECORD:**

Pursuant to California Evidence Code sections 450 et seq., and California Rules of Court, Rules 8.252 and 8.520, Plaintiff and Respondent CITY OF MORGAN HILL (“the City”) respectfully moves this Court to take judicial notice of the documents listed below. Said documents are relevant in determining the correct interpretation of Government Code section 65860 (“Section 65860”). The correct interpretation of Section 65860 is material to one of the issues under review in the above-captioned matter – specifically, whether the State Legislature intended subdivision (c) of Section 65860 to provide local entities a reprieve from the requirement that all zoning ordinances must be consistent with their respective general plans if the inconsistency is due to a successful referendum of a zoning ordinance.

Exhibit A: Statutes 1971, Chapter 1446, § 12 [newly enacting Section 65860 requiring localities to make zoning ordinances compliant with respective general plans];

Exhibit B: Governor’s Chaptered Bill File for Senate Bill 594 (1973) [discussing how SB 594 would add subdivision (c) to Section 65680 and provide localities extra time to comply with new requirement to make zoning ordinances compliant with respective general plans];

Exhibit C: Amended version of Senate Bill 594 (1973), June 27, 1973 [adding subdivision (c) to Section 65680 and providing localities

extra time to comply with new requirement to make zoning ordinances compliant with respective general plans];

Exhibit D: Assembly Daily Journal, 1973-74 Regular Session, pp. 3856-3857 [red-lined version of changes made to Section 65680 by SB 594];

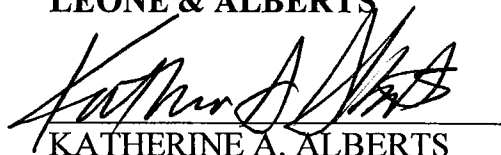
Exhibit E: California Office of Intergovernmental Management, Council on Intergovernmental Relations, Statement on Deadlines for Open Space and Conservation Element, SB 594 (May 8, 1973) [providing reasons for State Legislature affording extension to localities in SB 594];

The documents are described, and indicated, under penalty of perjury to be true and correct copies of the originals in the declaration provided by Legislative Intent Services, included herein. The documents were not presented to the trial court, nor do they relate to proceedings occurring after the order that is the subject of the appeal.

This request is based upon the instant motion; and the attached memorandum of points and authorities and declaration provided by Legislative Intent Services, included herein.

Dated: October 16, 2017

LEONE & ALBERTS



KATHERINE A. ALBERTS

Attorneys for Plaintiff and Respondent
CITY OF MORGAN HILL

**MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT
OF PLAINTIFF AND RESPONDENT CITY OF MORGAN HILL'S
MOTION FOR JUDICIAL NOTICE**

Evidence Code section 459 provides reviewing courts the same power to take judicial notice of documents as trial courts under Evidence Code sections 450 et seq. (Evid. Code § 459.) In tandem, California Rules of Court, Rules 8.252 and 8.520 provide that a court may take judicial notice of documents relevant to the issues under review. (Cal. Rules of Court, rules 8.252(a)(2)(A), 8.520(g).)

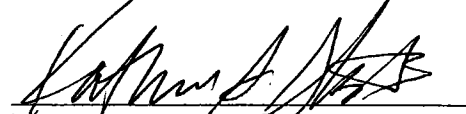
In the above captioned matter, the Court has granted review of the following issue: Can the electorate use the referendum process to challenge a municipality's zoning designation for an area, which was changed to conform to the municipality's general plan, when the result of the referendum—if successful—would leave intact the existing designation that does not conform to the amended general plan? The Sixth District Court of Appeal (the "Sixth District") below determined that the electorate could use referendum process because, in part, Government Code section 65680 ("Section 65680"), subdivision (c) provides local entities a reprieve from the requirement that all zoning ordinances must be consistent with their respective general plans when the inconsistency is the result of a referendum. The City disagrees with said interpretation. Therefore, resolution of the question presented to the Court in this matter is dependent upon a correct interpretation of Section 65680.

Legislative history is relevant to statutory interpretation. (*Big Creek Lumber Co. v. County of Santa Cruz* (2006) 38 Cal.4th 1139, 1153.) In an effort to discern legislative intent, this Court may take judicial notice of the various legislative materials underlying the enactment of a statute. (*Hale v. Southern California IPA Medical Group, Inc.* (2001) Cal.App.4th 919, 927.) Whereas Exhibits A through E are all legislative materials

concerning the original enactment of Section 65680, and its later amendment to add the subdivision (c) in question, the Court should take judicial notice of the document.

Dated: October 16, 2017

LEONE & ALBERTS

A handwritten signature in black ink, appearing to read "Katherine A. Alberts", written over a horizontal line.

KATHERINE A. ALBERTS

**Attorneys for Plaintiff and Respondent
CITY OF MORGAN HILL**

Exhibit A.pdf

Volume 2

STATUTES OF CALIFORNIA
AND DIGESTS OF MEASURES

1971

Constitution of 1879 as Amended

**General Laws, Amendments to the Codes, Resolutions,
and Constitutional Amendments passed by the
California Legislature at the**

1971 Regular Session

and the

1971 First Extraordinary Session



Compiled by
GEORGE H. MURPHY
Legislative Counsel

The people of the State of California do enact as follows:

SECTION 1. Section 7538.3 is added to the Business and Professions Code, to read:

7538.3. No person licensed as an insurance adjuster shall do any of the following:

(a) Fail to disclose his full financial interest in a contract or agreement executed by him for the adjustment of a claim prior to the execution thereof.

(b) Use any misrepresentation to solicit a contract or agreement to adjust a claim.

(c) Solicit or accept remuneration from, or have a financial interest exceeding 3 percent in, any salvage, repair, or other firm, which obtains business in connection with any claim which he has a contract or agreement to adjust.

SEC. 2. Section 7540 of the Business and Professions Code is amended to read:

7540. No licensee shall conduct a business under a fictitious or other business name unless and until he has obtained the written authorization of the bureau so to do.

The bureau shall not authorize the use of a fictitious or other business name which is so similar to that of a public officer or agency or of that used by another licensee that the public may be confused or misled thereby.

The authorization shall require, as a condition precedent to the use of any fictitious name, that the licensee comply with Chapter 5 (commencing with Section 17900) of Part 3 of Division 7.

A licensee desiring to conduct his business under more than one fictitious business name shall obtain the authorization of the bureau in the manner prescribed in this section for the use of each such name.

The licensee shall pay a fee of ten dollars (\$10) for each authorization to use an additional fictitious business name and for each change in the use of a fictitious business name. If the original license is issued in a nonfictitious name and authorization is requested to have the license reissued in a fictitious business name the licensee shall pay a fee of ten dollars (\$10) for such authorization.

CHAPTER 1446

An act to amend Sections 11510, 11511, 11526, 11535, and 11540.1 of, and to add Sections 11526.1, 11549.5, and 11549.6 to, the Business and Professions Code, and to amend Section 65860 of, to add Sections 65450.1, 65451, and 65452 to, and to repeal Section 65451 of, the Government Code, relating to land planning.

The people of the State of California do enact as follows:

SECTION 1. Section 11510 of the Business and Professions Code is amended to read:

11510. (a) "Design" refers to street alignment, grades and widths, alignment and widths of easements and rights-of-way for drainage and sanitary sewers and minimum lot area and width. "Design" also includes land to be dedicated for park or recreational purposes.

(b) "Design" also refers to such specific requirements in the plan and configuration of the entire subdivision as may be necessary or convenient to insure conformity to or implementation of applicable general or specific plans of a city or county.

SEC. 2. Section 11511 of the Business and Professions Code is amended to read:

11511. (a) "Improvement" refers to such street work and utilities to be installed, or agreed to be installed by the subdivider on the land to be used for public or private streets, highways, ways, and easements, as are necessary for the general use of the lot owners in the subdivision and local neighborhood traffic and drainage needs as a condition precedent to the approval and acceptance of the final map thereof.

(b) "Improvement" also refers to such specific improvements or types of improvements the installation of which, either by the subdivider, by public agencies, by private utilities, or by a combination thereof, is necessary or convenient to insure conformity to or implementation of applicable general or specific plans of a city or county.

SEC. 3. Section 11526 of the Business and Professions Code is amended to read:

11526. (a) The design, improvement and survey data of subdivisions and the form and content of tentative and final maps thereof, and the procedure to be followed in securing official approval are governed by the provisions of this chapter and by the additional provisions of local ordinances dealing with subdivisions, the enactment of which is required by this chapter.

(b) Local ordinances may provide a proper and reasonable fee to be collected from the subdivider for the examination of tentative and final maps.

(c) No city or county shall approve a tentative or final subdivision map unless the governing body shall find that the proposed subdivision, together with the provisions for its design and improvement, is consistent with applicable general or specific plans of the city or county.

SEC. 4. Section 11526.1 is added to the Business and Professions Code, to read:

11526.1. No city or county shall approve a final subdivision map for any land project, as defined in Section 11000.5, unless:

(a) The city or county has adopted a specific plan covering the area proposed to be included within the land project.

(b) The city or county finds that the proposed land project, together with the provisions for its design and improvement, is consistent with the specific plan for the area.

SEC. 5. Section 11535 of the Business and Professions Code is amended to read:

11535. (a) "Subdivision" refers to any real property, improved or unimproved, or portion thereof, shown on the latest equalized county assessment roll as a unit or as contiguous units, which is divided for the purpose of sale, lease, or financing, whether immediate or future, by any subdivider into five or more parcels; provided, that this chapter shall not apply to the financing or leasing of apartments, offices, stores, or similar space within an apartment building, industrial building, commercial building, or trailer park, nor shall this chapter apply to mineral, oil or gas leases. Property shall be considered as contiguous units, even if it is separated by roads, streets, utility easements, or railroad rights-of-way.

(b) Subdivision does not include any parcel or parcels of land which is divided into four or less parcels. Any conveyance of land to a governmental agency, public entity or public utility shall not be considered a division of land for purposes of computing the number of parcels.

(c) Subdivision does not include the division of any real property improved or unimproved or a portion thereof shown on the latest equalized county assessment roll as a unit or as contiguous units, which is divided for the purpose of sale, lease, or financing, whether immediate or future, if any of the following conditions prevail:

(1) The whole parcel before division contains less than five acres, each parcel created by the division abuts upon a public street or highway and no dedications or improvements are required by the governing body.

(2) Any parcel or parcels divided into lots or parcels, each of a gross area of 20 acres or more, and each of which has an approved access to a maintained public street or highway.

(3) Any parcel or parcels of land having approved access to a public street or highway which comprises part of a tract of land zoned for industrial or commercial development, and which has the approval of the governing body as to street alignments and widths.

(4) Any parcel or parcels of land divided into lots or parcels, each of a gross area of forty (40) acres or more or each of which is a quarter-quarter section or larger, or such other amount, up to 60 acres, as may be specified by local ordinances.

(d) In any case provided in subdivisions (b) or (c), a tentative map or parcel map shall be submitted to the governing body or advisory agency (in the same manner as provided in this chapter for subdivisions) for approval as to area, improvements and lot design, flood and water drainage control, and as to all requirements of this section. Within one year after

approval of the tentative map, a parcel map showing each new parcel or parcels may be filed with the recorder of the county concerned. This map shall be filed prior to sale, lease, or financing of such parcels. Conveyances may be made of parcels shown on such map by number or other such designation. Upon application an extension of the approval of the tentative map, not to exceed one year, may be granted by the governing body or advisory agency.

The governing body may require dedications or an offer of dedication by separate instrument for street opening or widening or easements. If dedications or offers of dedications are required, such dedications shall be completed prior to filing of the parcel map. An offer of dedication shall be in such terms as to be binding on the owner, his heirs, assigns or successors in interest, and shall continue until the governing body accepts or rejects such offer.

In the case of subdivision (c)(3), and in the case of subdivision (b) when local ordinance provides, the governing body may require the improvement of public or private streets, highways, ways, or easements as may be necessary for local traffic, drainage and sanitary needs.

(e) Nothing contained in this chapter shall apply to land dedicated for cemetery purposes under the Health and Safety Code of the State of California.

(f) Nothing contained in this section shall in any way modify or affect any of the provisions of Section 11000 of this code.

SEC. 6. Section 11540.1 of the Business and Professions Code is amended to read:

11540.1. Nothing in this chapter prevents the governing body of any municipality or county from regulating the division of land which is not a subdivision, provided that such regulations are not more restrictive than the requirements for a subdivision. Whenever a local ordinance requires improvements for a division of land which is not a subdivision of five or more lots, such regulations shall be limited to the dedication of right-of-way, easements, and the construction of reasonable offsite and onsite improvements for the parcels being created. The validity of any conveyance, as defined in Section 1215 of the Civil Code, made contrary to the provisions of any ordinance prescribing the area or dimensions of lots or parcels, or prohibiting the reduction in area or the separation in ownership of land, or requiring the filing of a map of any land to be divided, shall not be affected, except that any such ordinance may provide that any deed of conveyance, sale or contract to sell made contrary to the provisions of such ordinance is voidable to the extent and in the same manner provided in Section 11540.

SEC. 7. Section 11549.5 is added to the Business and Professions Code, to read:

11549.5. A governing body of a city or county shall deny approval of a final or tentative subdivision map if it makes any of the following findings:

(a) That the proposed map is not consistent with applicable general and specific plans.

(b) That the design or improvement of the proposed subdivision is not consistent with applicable general and specific plans.

(c) That the site is not physically suitable for the type of development.

(d) That the site is not physically suitable for the proposed density of development.

(e) That the design of the subdivision or the proposed improvements are likely to cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat.

(f) That the design of the subdivision or the type of improvements is likely to cause serious public health problems.

(g) That the design of the subdivision or the type of improvements will conflict with easements, acquired by the public at large, for access through or use of, property within the proposed subdivision. In this connection, the governing body may approve a map if it finds that alternate easements, for access or for use, will be provided, and that these will be substantially equivalent to ones previously acquired by the public.

This subsection shall apply only to easements of record or to easements established by judgment of a court of competent jurisdiction and no authority is hereby granted to a governing body to determine that the public at large has acquired easements for access through or use of property within the proposed subdivision.

SEC. 7.5. Section 11549.6 is added to the Business and Professions Code, to read:

11549.6. A governing body shall not deny approval of a final subdivision map pursuant to Section 11549.5 if it has previously approved a tentative map for the proposed subdivision and if it finds that the final map is in substantial compliance with the previously approved tentative map.

SEC. 8. Section 65450.1 is added to the Government Code, to read:

65450.1. A specific plan need not apply to the entire area covered by the general plan. The legislative body or the planning agency may designate areas within a city or a county for which the development of a specific plan will be necessary or convenient to the implementation of the general plan. The planning agency may, or if so directed by the legislative body shall, prepare specific plans for such areas and recommend such plans to the legislative body for adoption.

SEC. 9. Section 65451 of the Government Code is repealed.

SEC. 10. Section 65451 is added to the Government Code, to read:

65451. Such specific plans shall include all detailed regulations, conditions, programs and proposed legislation which shall be necessary or convenient for the systematic implementation of each element of the general plan listed in Section 65302, including, but not limited to, regulations, conditions, programs and proposed legislation in regard to the following:

(a) The location of housing, business, industry, open space, agriculture, recreation facilities, educational facilities, churches and related religious facilities, public buildings and grounds, solid and liquid waste disposal facilities, together with regulations establishing height, bulk and setback limits for such buildings and facilities, including the location of areas, such as flood plains or excessively steep or unstable terrain, where no building will be permitted in the absence of adequate precautionary measures being taken to reduce the level of risk to that comparable with adjoining and surrounding areas.

(b) The location and extent of existing or proposed streets and roads, their names or numbers, the tentative proposed widths with reference to prospective standards for their construction and maintenance, and the location and standards of construction, maintenance and use of all other transportation facilities, whether public or private.

(c) Standards for population density and building density, including lot size, permissible types of construction, and provisions for water supply, sewage disposal, storm water drainage and the disposal of solid waste.

(d) Standards for the conservation, development, and utilization of natural resources, including underground and surface waters, forests, vegetation and soils, rivers, creeks, and streams, and fish and wildlife resources. Such standards shall include, where applicable, procedures for flood control, for prevention and control of pollution of rivers, streams, creeks and other waters, regulation of land use in stream channels and other areas which may have a significant effect on fish, wildlife and other natural resources of the area, the prevention, control and correction of soil erosion caused by subdivision roads or any other sources, and the protection of watershed areas.

(e) The implementation of all applicable provisions of the open-space element as provided in Article 10.5 (commencing with Section 65560) of this chapter.

(f) Such other measures as may be necessary or convenient to insure the execution of the general plan.

SEC. 11. Section 65452 is added to the Government Code, to read:

65452. Such specific plans may also include all detailed regulations, conditions, programs, and proposed legislation which may be necessary or convenient for the systematic implementation of any general plan element as provided in Section 65303.

SEC. 12. Section 65860 of the Government Code is amended to read:

65860. (a) County or city zoning ordinances shall be consistent with the general plan of the county or city by January 1, 1973.

(b) Any resident or property owner within a city or a county, as the case may be, may bring an action in the superior court to enforce compliance with the provisions of subdivision (a). Any such action or proceedings shall be governed by Chapter 2 (commencing with Section 1084) of Title 1 of Part 3 of the Code of Civil Procedure. Any action or proceedings taken pursuant to the provisions of this subsection must be taken within six months of January 1, 1973, or within 90 days of the enactment of any new zoning ordinance or the amendment of any existing zoning ordinance as to said amendment or amendments.

CHAPTER 1447

An act to amend Section 631 of, and to add Section 702.5 to, the Unemployment Insurance Code, relating to unemployment insurance.

[Approved by Governor November 8, 1971. Filed with Secretary of State November 8, 1971.]

The people of the State of California do enact as follows:

SECTION 1. Section 631 of the Unemployment Insurance Code is amended to read:

631. "Employment" does not include service performed by a child under the age of 21 years in the employ of his father or mother, or service performed by an individual in the employ of his son, daughter, or spouse, except to the extent that the employer and the employee have, pursuant to Section 702.5, elected to make contributions to the Unemployment Compensation Disability Fund.

SEC. 2. Section 702.5 is added to the Unemployment Insurance Code, to read:

702.5. Any employing unit for which services that do not constitute employment under Section 631 are performed, may file with the director a written election, agreed to by both the employing unit and the individuals in its employ specified in Section 631, that all such services performed by such individuals in one or more distinct establishments or places of business shall be deemed to constitute employment by an employer for all the purposes of Part 2 (commencing with Section 2601) of this division. Upon the written approval of the election by the director, such services shall be deemed to constitute employment subject to such part from and after the date stated in the approval. Sections 704 and 707 shall apply to elections under this section.

Exhibit B.pdf

SENATE BILL NO. 594

1973-74 REGULAR SESSION

CHAPTER

120

AUTHOR Maatles

DATE RECEIVED 6/29 1973

LAST DAY TO ACT 7/11 1973

ACTION OF GOVERNOR 6/29 1973

Agency

LL

LIS - 5

PE - 1

ENROLLED BILL MEMORANDUM TO GOVERNOR		DATE	June 29, 1973
BILL NO.	SB 594	AUTHOR	Marler

Vote—Senate Unanimous

Ayes—

Noes—

Vote—Assembly Unanimous

Ayes—

Noes—

Senate Bill No. 594 extends the date for adoption of the conservation element and the open space element of city and county general plans from June 30, 1973, to December 31, 1973.

It also requires that zoning be consistent with the general plans by January 1, 1974. It would provide further that beginning on January 1, 1974, no mandatory element of a general plan may be amended more than three times per year, that hearings on zoning changes to bring the zoning into conformity with changes in general plans could not be held within two weeks of the change in the general plan, and that a zoning ordinance must be amended within a reasonable time after it becomes inconsistent with a general plan by reason of a change in the general plan.

The bill was introduced at the request of the League of California Cities.

The County Supervisors' Association supports the bill (per George Cook).

The Resources Agency recommends approval.

The Agriculture and Services Agency recommends approval.

The California Real Estate Association has no objection to approval (per a phone call from D. Gillies).

Recommendation	APPROVE	Legislative Secretary
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ENROLLED BILL REPORT

FORM 4

DEPARTMENT Housing and Community Development	AUTHOR Marler	BILL NUMBER SB 594
SUBJECT Mandatory General Plan Requirements		

SUMMARY:

Extends the date for adoption of certain mandatory elements of local general plans from June 30, 1973, to January 1, 1974.

ANALYSIS:

A. Detailed. The law now provides that certain mandatory elements of local general plans, specifically land use element, conservation element, and open space element must be part of local general plans by June 30, 1973. This bill seeks to extend that deadline until January 1, 1974.

The penalty for failing to include acceptable conservation, land use, and open space elements by local communities is the loss of ability to issue subdivision maps, building permits, as well as the loss of certain state funds. These particular general plan elements have been on the books since 1970 and all cities and counties with the exception of Los Angeles County, have adopted interim elements by the August, 1972, deadline. A recent survey by the Council of Intergovernmental Relations indicated that all cities are now proceeding towards completing those elements by the original June 30, 1973, final deadline with little difficulty.

The additional requirements for an environmental impact review statement imposed by the California Environmental Quality Act has caused a problem for many local political jurisdictions. Preparation of a state-mandated Environmental Impact Statement on general plans and the elements of the general plan usually requires 2 to 4 months to complete. The problem dealt with by this bill is additional time required to complete the EIR Statements by the June 30, 1973, deadline.

Requires, commencing January, 1974, that any zoning ordinance inconsistent with a general plan, by reason of amendment of such plan, be amended within a reasonable time to become consistent with such plan as amended.

B. Cost. None.

REASON FOR RECOMMENDED POSITION:

This department recommends that the Governor SIGN this bill. The extension of the June 30, 1973, deadline merits special consideration for the completion of Environmental Impact Reviews according to the California Environmental Quality Act.

RECOMMENDATION

SIGN

Department <i>[Signature]</i>	Date 6-29-73	Agency <i>[Signature]</i>	Date JUN 29 1973
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LEGISLATIVE INTENT SERVICE (800) 666-1917

ENROLLED BILL REPORT

AGENCY	RESOURCES	BILL NUMBER SB 594
DEPARTMENT, BOARD OR COMMISSION Resources Agency		AUTHOR Marler

SUBJECT

This bill would extend the date for adoption of the conservation element and the open space element of city and county general plans from June 30, 1973, to December 31, 1973. It would also require that zoning be consistent with the general plans by January 1, 1974. It would provide that beginning on January 1, 1974, no mandatory element of a general plan may be amended more than 3 times per year, that hearings on zoning changes to bring the zoning into conformity with changes in general plans could not be held within 2 weeks of the change in the general plan, and that a zoning ordinance must be amended within a reasonable time after it becomes inconsistent with a general plan by reason of a change in the general plan. The bill would also set a deadline of September 1, 1973, for the Council on Intergovernmental Relations to adopt the guidelines now under preparation for local general plans. This is an urgency bill.

HISTORY, SPONSORSHIP, AND RELATED BILLS

This bill is sponsored by the League of California Cities with the active participation of many individual cities and counties. The bill is similar to SB 1348 (Carpenter) which did not move beyond its first committee, and amendments were added to include provisions from AB 1864 (Kapiloff) placing restrictions on amendments to general plans. The amendments were worked out to the satisfaction of the League. The deadlines involved here were extended last year by AB 966 (Dunlap) from January 1, 1973 to June 30, 1973.

ANALYSIS

A. Specific Findings:

Cities and counties are required by existing law to adopt a conservation element and an open space element of their general plans by June 30, 1973, and to have their zoning in conformity with their general plans by the same date. Many cities and counties have reported that they will be unable to meet the deadline partly due to the need to prepare an environmental impact report as required by AB 889 (Knox) enacted last year. The Attorney General has ruled that cities and counties which do not have general plans by the deadline will not be legally empowered to issue building permits. Local governments believe that if they adopt general plans with hastily prepared environmental impact reports, the EIR's and the general plans will be voided by court action, and building permits will be frozen as a result. The extensions in the deadlines are necessary to prevent this from occurring.

The controls on amending general plans are intended to prevent changes from being pushed through quickly without an opportunity for public involvement. The provisions may increase public participation, and local governments report that they will have no serious problems with the

RECOMMENDATION:

(Continued on next page)

Sign the bill.

DEPARTMENT HEAD	DATE	AGENCY HEAD N. B. Liverman Jr.	PE - 4	197
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Specific Findings (Continued):

controls. Setting a deadline for the guidelines from the Council on Intergovernmental Relations will insure that the guidelines are available to local government in time to be helpful in developing the general plan elements.

B. Fiscal Analysis:

This bill will involve no added cost to the State. There may be an increased cost to local governments which have not yet adopted general plans or the mandatory elements. The added cost would result from doing an adequate job instead of an inadequate job or none at all by June 30, but the cost will result from the past delays by the cities and counties in meeting a responsibility which they have had for several years.

The extension may prevent substantial financial losses in the private sector which would result from the inability of local governments to grant building permits.

RECORD OF PROGRESS

Passed Senate, May 14, 1973
Ayes - 31 Noes - 0

Passed Assembly, June 28, 1973
Ayes - 69 Noes - 0

Senate Concurrence in Assembly Amendments, June 28, 1973
Ayes - 30 Noes - 0

LEGISLATIVE INTENT SERVICE (800) 666-1917



League of California Cities

"WESTERN CITY" OFFICIAL PUBLICATION



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OFFICERS

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SAM YORTY
MAYOR, LOS ANGELES

Sacramento, California 95814
June 28, 1973

Hon. Ronald Reagan
Governor, State of California
State Capitol
Sacramento, California 95814

Re: Senate Bill 594 (Marler)

Dear Governor:

As you know, under existing statutory law, cities and counties in California must adopt a conservation element, an open-space plan and an open-space zoning ordinance by June 30, 1973. On July 1, 1973, local zoning ordinances must be consistent with the local general plan. While local governmental entities throughout the state have been making a good faith effort to comply with this directive, the adoption of Assembly Bill 889 late last year, which extended the scope of the California Environmental Quality Act to require local environmental quality review of adoption of the conservation and open-space element and zoning ordinance, has made compliance with these deadlines extremely difficult. Furthermore, a number of cities and counties have indicated that in order to develop newly required general plan elements coherently, they are undertaking to re-do their entire general plan. If they were to attempt to do this prior to June 30, 1973, guidelines of the Council on Intergovernmental Relations to assist them in this preparation will not be available.

Senate Bill 594, which was introduced at the request of the League of California Cities and the County Supervisors Association of California, as well as several of their constituent members, proposes to extend the date for adoption of the conservation element, the open-space plan, and the consistent open-space zoning ordinance to December 31, 1973. It would also extend the date for

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Hon. Ronald Reagan
June 28, 1973

Page 2

general plan and zoning consistency to January 1, 1974. And it would specifically mandate CIR to adopt its guidelines for the preparation and content of all mandatory elements by September 1, 1973.

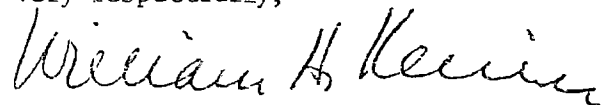
This time extension is responsive to both of the needs expressed by local entities. First, it enables them to fully comply with the letter and the spirit of the AB 889 requirements put into the California Environmental Quality Act late last year. It also enables those cities and counties that are trying to revise their entire general plan to have at least four months during which they will have available to them the CIR guidelines which were mandated as a tool to facilitate their overall general plan review.

Furthermore, as amended in the Assembly Committee on Planning and Land Use, SB 594 now also suggests some useful new procedures to the local planning process. Specifically, it prevents the indiscriminate amendment of mandatory plan elements and concurrent planning and zoning hearings at the local level. It also mandates zoning consistency within a reasonable time of planning changes. These Assembly amendments were refined to their present form by the local government representatives working with the author on the legislation.

At the hearing of this bill before the Senate Committee on Local Government, no opposition was voiced, nor was opposition voiced on the floor of the Senate which adopted SB 594 31-0. Last Monday, the Assembly Committee on Planning and Land Use reported this bill without dissenting vote. It was adopted by the Assembly on June 28 by a vote of 69-0. In its present form, SB 594 represents a reasonable and carefully drawn effort to give local entities a minimal amount of additional time which will allow them to do the job the way we think it should be done and in a manner consistent with good planning and community goal developing practices.

It is important that this legislation be signed and filed with the Secretary of State no later than June 29, 1973, in order to avoid an overlapping with existing deadline requirements. Thus, we hope and recommend that you will sign this legislation into law as soon as it reaches your desk.

Very respectfully,



William H. Keiser
Assistant Legal Counsel

WHK:pc

cc: Senator Fred Marler, Jr.
Assemblyman Eugene Chappie

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Legislative Counsel of California

GEORGE H. MURPHY

Sacramento, California
June 29, 1973

Honorable Ronald Reagan
Governor of California
Sacramento, California

Senate Bill No. 594

Dear Governor Reagan:

Pursuant to your request we have reviewed the above-numbered bill authored by Senator Marler and, in our opinion, the title and form are sufficient and the bill if approved by the Governor will be constitutional. The digest on the printed bill as adopted correctly reflects the views of this office.

Very truly yours,
George H. Murphy
Legislative Counsel

By Owen K. Kung
Principal Deputy

Copy to Honorable Fred W. Marlee, Jr.
pursuant to Joint Rule 34.

GERALD ROSS ADAMS
DAVID D. ALVES
MARTIN L. ANDERSON
CARL M. ARNOLD
CHARLES C. ASBILL
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AMENDED IN ASSEMBLY JUNE 28, 1973

AMENDED IN ASSEMBLY JUNE 27, 1973

AMENDED IN SENATE MAY 11, 1973

SENATE BILL

No. 594

Introduced by Senator Marler
(Coauthors: Assemblymen Chappie and Kapiloff)

April 2, 1973

An act to amend Sections 34211.1, 65302, 65563, 65860 and 65910 of, and to add Sections 65361 and 65862 to, the Government Code, relating to planning and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

SB 594, as amended, Marler. Planning.

Extends date for adoption of certain mandatory elements of city and county general plans and date when local zoning shall be consistent with general plan from June 30, 1973, and July 1, 1973, respectively, to December 31, 1973, and January 1, 1974.

Prohibits the amendment of any mandatory element of a general plan more than three times during any calendar year, commencing January 1, 1974, and declares such prohibition not applicable to the adoption of any new element to the general plan.

Prohibits commencing January 1, 1974, public hearings on zoning ordinances or amendments for specified purposes from being held within two weeks of the date on which a general plan or element thereof has been adopted or recommended for adoption.

Requires, commencing January 1, 1974, that any zoning ordinance inconsistent with a general plan, by reason of amendment of such plan, be amended within a reasonable time to

become consistent with such plan as amended.

Makes related and conforming changes.

Provides that neither appropriation is made nor obligation created for the reimbursement of any local agency for costs incurred by it pursuant to the act.

Provides that there are no state-mandated local costs that require reimbursement under Section 2164.3 of the Revenue and Taxation Code.

To take effect immediately, urgency statute.

Vote: $\frac{2}{3}$. Appropriation: no. Fiscal committee: no. State-mandated local program: no state funding.

The people of the State of California do enact as follows:

1 SECTION 1. Section 34211.1 of the Government Code
2 is amended to read:

3 34211.1. In connection with its responsibilities under
4 Section 34211, the council shall develop and adopt
5 guidelines for the preparation and content of the
6 mandatory elements required in city and county general
7 plans by Article 5 (commencing with Section 65300) of
8 Chapter 3 of Title 7. Such guidelines shall take into
9 account different geographic, demographic and other
10 relevant characteristics among the various cities and
11 counties. The guidelines shall be adopted as soon as
12 possible, and, in any event shall be adopted by September
13 1, 1973. For purposes of this section the guidelines
14 prepared pursuant to Section 37041 of the Health and
15 Safety Code shall be the guidelines for the housing
16 element required by Section 65302. In the event that
17 additional elements are hereafter required in city and
18 county general plans by Article 5 (commencing with
19 Section 65300) of Chapter 3 of Title 7, the council shall
20 adopt guidelines with respect to such elements within six
21 months of the effective date of legislation requiring such
22 additional elements.

23 The council may request from each state department
24 and agency, as it deems appropriate, and such
25 department or agency shall provide, technical assistance
26 in preparing the guidelines.

1 Upon adopting the guidelines, the council shall
2 transmit copies thereof to every city and county. Such
3 guidelines shall be advisory to each city and county in
4 order to provide assistance in preparing and maintaining
5 their respective general plans.

6 The council shall provide for regular review and
7 revision of the guidelines established pursuant to this
8 section.

9 Sec. 2. Section 65302 of the Government Code is
10 amended to read:

11 65302. The general plan shall consist of a statement of
12 development policies and shall include a diagram or
13 diagrams and text setting forth objectives, principles,
14 standards, and plan proposals. The plan shall include the
15 following elements:

16 (a) A land-use element which designates the proposed
17 general distribution and general location and extent of
18 the uses of the land for housing, business, industry, open
19 space, including agriculture, natural resources,
20 recreation, and enjoyment of scenic beauty, education,
21 public buildings and grounds, solid and liquid waste
22 disposal facilities, and other categories of public and
23 private uses of land. The land-use element shall include
24 a statement of the standards of population density and
25 building intensity recommended for the various districts
26 and other territory covered by the plan. The land-use
27 element shall also identify areas covered by the plan
28 which are subject to flooding and shall be reviewed
29 annually with respect to such areas.

30 (b) A circulation element consisting of the general
31 location and extent of existing and proposed major
32 thoroughfares, transportation routes, terminals, and
33 other local public utilities and facilities, all correlated
34 with the land-use element of the plan.

35 (c) A housing element, to be developed pursuant to
36 regulations established under Section 37041 of the Health
37 and Safety Code, consisting of standards and plans for the
38 improvement of housing and for provision of adequate
39 sites for housing. This element of the plan shall make
40 adequate provision for the housing needs of all economic

ENROLLED BILL REPORT

AGENCY Agriculture and Services	BILL NUMBER SB 594
DEPARTMENT, BOARD OR COMMISSION Agriculture and Services	AUTHOR Marler (co-authors Chappie & Kapiloff)

SUBJECT

Under existing law, general plans of cities and counties must contain mandatory elements and be adopted by the respective local government by June 30, 1973, and local zoning ordinances would have to comply with the general plan by July 1, 1973. This bill extends the date for adoption of certain mandatory elements of the general plan to December 31, 1973 and the local zoning ordinances adoption is extended to January 1, 1974.

Some extension is necessary because additional elements have been newly added to the required general plan as well as a need for time to modify completed general plans to accommodate the superimposed Proposition 20 (California Coastal Zone Commission Act) requirements.

BILL ANALYSIS

A. Specific Findings

This bill is necessary to allow local government time sufficient to complete general plans in a deliberate manner. It is consistent with the objectives of the state in meeting environmental requirements and responsibilities.

B. Fiscal Analysis

No fiscal impact.

RECOMMENDATION:
Sign

DEPARTMENT DIRECTOR <i>[Signature]</i>	DATE	AGENCY SECRETARY <i>[Signature]</i>	DATE
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ENROLLED BILL REPORT

FORM 4

DEPARTMENT Housing and Community Development	ASSEMBLY Marler	BILL NUMBER SB 594
SUBJECT Mandatory General Plan Requirements		

SUMMARY:

Extends the date for adoption of certain mandatory elements of local general plans from June 30, 1973, to January 1, 1974.

ANALYSIS:

A. Detailed. The law now provides that certain mandatory elements of local general plans, specifically land use element, conservation element, and open space element must be part of local general plans by June 30, 1973. This bill seeks to extend that deadline until January 1, 1974.

The penalty for failing to include acceptable conservation, land use, and open space elements by local communities is the loss of ability to issue subdivision maps, building permits, as well as the loss of certain state funds. These particular general plan elements have been on the books since 1970 and all cities and counties with the exception of Los Angeles County, have adopted interim elements by the August, 1972, deadline. A recent survey by the Council of Intergovernmental Relations indicated that all cities are now proceeding towards completing those elements by the original June 30, 1973, final deadline with little difficulty.

The additional requirements for an environmental impact review statement imposed by the California Environmental Quality Act has caused a problem for many local political jurisdictions. Preparation of a state-mandated Environmental Impact Statement on general plans and the elements of the general plan usually requires 2 to 4 months to complete. The problem dealt with by this bill is additional time required to complete the EIR Statements by the June 30, 1973, deadline.

Requires, commencing January, 1974, that any zoning ordinance inconsistent with a general plan, by reason of amendment of such plan, be amended within a reasonable time to become consistent with such plan as amended.

B. Cost. None.

REASON FOR RECOMMENDED POSITION:

This department recommends that the Governor SIGN this bill. The extension of the June 30, 1973, deadline merits special consideration for the completion of Environmental Impact Reviews according to the California Environmental Quality Act.

RECOMMENDATION

SIGN

Department <i>Frank J. O'Connell</i>	Date 6-29-73	Assembly <i>Larry J. Miller</i>	Date JUN 29 1973
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CALIFORNIA LEGISLATURE
1973-74 REGULAR SESSION

and

1973 FIRST EXTRAORDINARY SESSION

SUMMARY DIGEST

of

Statutes Enacted and Resolutions (Including Proposed
Constitutional Amendments) Adopted in 1973

and

1969-1973 Statutory Record



DARRYL R. WHITE
Secretary of the Senate

JAMES D. DRISCOLL
Chief Clerk of the Assembly

Compiled by
GEORGE H. MURPHY
Legislative Counsel

LIS-6

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LEGISLATIVE INTENT SERVICE



Ch. 116 (AB 244) MacDonald. School classified employees.

Deletes [an] authorization for [a] school district governing boards [board]*, with approval of employee personnel commission and a majority of affected employees, to establish a 10-hour day, four-day workweek for specific classes of classified employees of the district.

Ch. 117 (AB 670) Lancaster. County offices.

Requires undersheriff, rather than assistant sheriff, to assume duties of sheriff when office of sheriff is vacant. Requires assistant sheriff to assume duties of sheriff when both sheriff and undersheriff offices are vacant.

Ch. 118 (SB 180) Marler. Workmen's compensation: logging operations.

Includes within definition of "common trade or business," for purposes of group workmen's compensation insurance policies, specified operations in logging, sawmills, and related wood products operations and manufacturing operations.

To take effect immediately, urgency statute.

Ch. 119 (SB 316) Song. New cities.

Allows proceeding to incorporate area to be started by petition of 25 percent of registered voters of such area rather than landowners only. Makes related changes.

To take effect immediately, urgency statute.

Ch. 120 (SB 594) Marler. Planning.

Extends date for adoption of certain mandatory elements of city and county general plans and date when local zoning shall be consistent with general plan from June 30, 1973, and July 1, 1973, respectively, to December 31, 1973, and January 1, 1974.

Prohibits the amendment of any mandatory element of a general plan more than three times during any calendar year, commencing January 1, 1974, and declares such prohibition not applicable to the adoption of any new element to the general plan.

Prohibits, commencing January 1, 1974, public hearings on zoning ordinances or amendments for specified purposes from being held within two weeks of the date on which a general plan or element thereof has been adopted or recommended for adoption.

Requires, commencing January 1, 1974, that any zoning ordinance inconsistent with a general plan, by reason of amendment of such plan, be amended within a reasonable time to become consistent with such plan as amended.

Makes related and conforming changes.

Provides that there are no state-mandated local costs that require reimbursement under Section 2164.3 of the Revenue and Taxation Code.

To take effect immediately, urgency statute.

Ch. 121 (SB 1351) Lagomarsino. Commission for Economic Development.

Continues existence of Commission for Economic Development until January 1, 1976.

To take effect immediately, urgency statute.

Ch. 122 (AB 423) Bagley. State government.

Provides that provisions transferring boards relating to the healing arts from the Department of Consumer Affairs to the Department of Health, operative July 1, 1973, shall not become operative until July 1, 1977.

To take effect immediately, urgency statute.

Ch. 123 (AB 432) Seeley. School district boundaries.

Extends from January 1, to June 30, 1973, the date by which documents relating to certain boundary changes in a school district must be filed with government agencies for assessment and tax purposes during the 1973-74 fiscal year.

Requires a school district filing documents under this act to reimburse any other local agency for costs incurred by the agency by reason of this enactment.

To take effect immediately, urgency statute.

Exhibit C.pdf

AMENDED IN ASSEMBLY JUNE 27, 1973

AMENDED IN SENATE MAY 11, 1973

SENATE BILL
No. 594

Introduced by Senator Marler
(Coauthors: Assemblymen Chappie and Kapiloff)

April 2, 1973

An act to amend Sections 34211.1, 65302, 65563, 65860 and 65910 of, AND TO ADD SECTIONS 65361 AND 65862 TO, the Government Code, relating to planning and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

SB 594, as amended, Marler. Planning.

Extends date for adoption of certain mandatory elements of city and county general plans and date when local zoning shall be consistent with general plan from June 30, 1973, and July 1, 1973, respectively, to December 31, 1973, and January 1, 1974.

Prohibits the amendment of any mandatory element of a general plan more than three times during any calendar year, commencing January 1, 1974, and declares such prohibition not applicable to the adoption of any new element to the general plan.

Prohibits commencing January 1, 1974, public hearings on zoning ordinances or amendments for specified purposes from being held within two weeks of the date on which a general plan or element thereof has been adopted or recommended for adoption.

Requires, commencing January 1, 1974, that any zoning ordinance inconsistent with a general plan, by reason of amendment of such plan, be amended within a reasonable time to become consistent with such plan as amended.

Makes related and conforming changes.

Provides that neither appropriation is made nor obligation created for the reimbursement of any local agency for costs incurred by it pursuant to the act.

To take effect immediately, urgency statute.

Vote: %. Appropriation: no. Fiscal committee: no. State-mandated local program: no state funding.

The people of the State of California do enact as follows:

1 SECTION 1. Section 34211.1 of the Government Code
2 is amended to read:

3 34211.1. In connection with its responsibilities under
4 Section 34211, the council shall develop and adopt
5 guidelines for the preparation and content of the
6 mandatory elements required in city and county general
7 plans by Article 5 (commencing with Section 65300) of
8 Chapter 3 of Title 7. Such guidelines shall take into
9 account different geographic, demographic and other
10 relevant characteristics among the various cities and
11 counties. The guidelines shall be adopted as soon as
12 possible, and, in any event shall be adopted by September
13 1, 1973. For purposes of this section the guidelines
14 prepared pursuant to Section 37041 of the Health and
15 Safety Code shall be the guidelines for the housing
16 element required by Section 65302. In the event that
17 additional elements are hereafter required in city and
18 county general plans by Article 5 (commencing with
19 Section 65300) of Chapter 3 of Title 7, the council shall
20 adopt guidelines with respect to such elements within six
21 months of the effective date of legislation requiring such
22 additional elements.

23 The council may request from each state department
24 and agency, as it deems appropriate, and such
25 department or agency shall provide, technical assistance
26 in preparing the guidelines.

27 Upon adopting the guidelines, the council shall
28 transmit copies thereof to every city and county. Such
29 guidelines shall be advisory to each city and county in
30 order to provide assistance in preparing and maintaining

1 their respective general plans.

2 The council shall provide for regular review and
3 revision of the guidelines established pursuant to this
4 section.

5 SEC. 2. Section 65302 of the Government Code is
6 amended to read:

7 65302. The general plan shall consist of a statement of
8 development policies and shall include a diagram or
9 diagrams and text setting forth objectives, principles,
10 standards, and plan proposals. The plan shall include the
11 following elements:

12 (a) A land-use element which designates the proposed
13 general distribution and general location and extent of
14 the uses of the land for housing, business, industry, open
15 space, including agriculture, natural resources,
16 recreation, and enjoyment of scenic beauty, education,
17 public buildings and grounds, solid and liquid waste
18 disposal facilities, and other categories of public and
19 private uses of land. The land-use element shall include
20 a statement of the standards of population density and
21 building intensity recommended for the various districts
22 and other territory covered by the plan. The land-use
23 element shall also identify areas covered by the plan
24 which are subject to flooding and shall be reviewed
25 annually with respect to such areas.

26 (b) A circulation element consisting of the general
27 location and extent of existing and proposed major
28 thoroughfares, transportation routes, terminals, and
29 other local public utilities and facilities, all correlated
30 with the land-use element of the plan.

31 (c) A housing element, to be developed pursuant to
32 regulations established under Section 37041 of the Health
33 and Safety Code, consisting of standards and plans for the
34 improvement of housing and for provision of adequate
35 sites for housing. This element of the plan shall make
36 adequate provision for the housing needs of all economic
37 segments of the community.

38 (d) A conservation element for the conservation,
39 development, and utilization of natural resources
40 including water and its hydraulic force, forests, soils,

(1) Highways and freeways,
 (2) Ground rapid transit systems,
 (3) Ground facilities associated with all airports operating under a permit from the State Department of Aeronautics.

These noise contours may be expressed in any standard acoustical scale which includes both the magnitude of noise and frequency of its occurrence. The recommended scale is sound level A, as measured with A-weighting network of a standard sound level meter, with corrections added for the time duration per event and the total number of events per 24-hour period.

Noise contours shall be shown in minimum increments of five decibels and shall be continued down to 65 db(A). For regions involving hospitals, rest homes, long-term medical or mental care, or outdoor recreational areas, the contours shall be continued down to 45 db(A).

Conclusions regarding appropriate site or route selection alternatives or noise impact upon compatible land uses shall be included in the general plan.

The state, local, or private agency responsible for the construction or maintenance of such transportation facilities shall provide to the local agency producing the general plan, a statement of the present and projected noise levels of the facility, and any information which was used in the development of such levels.

(h) A scenic highway element for the development, establishment, and protection of scenic highways pursuant to the provisions of Article 2.5 (commencing with Section 260) of Chapter 2 of Division 1 of the Streets and Highways Code.

The requirements of this section shall apply to charter cities.

SEC. 3. Section 65361 is added to the Government Code, to read:

65361. No mandatory element of a general plan shall be amended more frequently than three times during any calendar year, which amendment or amendments may occur at any time as determined by the legislative body. This section shall not apply to the adoption of any

rivers and other waters, harbors, fisheries, wildlife, minerals, and other natural resources. That portion of the conservation element including waters shall be developed in coordination with any countywide water agency and with all district and city agencies which have developed, served, controlled or conserved water for any purpose for the county or city for which the plan is prepared. The conservation element may also cover:

(1) The reclamation of land and waters.
 (2) Flood control.
 (3) Prevention and control of the pollution of streams and other waters.
 (4) Regulation of the use of land in stream channels and other areas required for the accomplishment of the conservation plan.
 (5) Prevention, control, and correction of the erosion of soils, beaches, and shores.
 (6) Protection of watersheds.
 (7) The location, quantity and quality of the rock, sand and gravel resources.

The conservation element shall be prepared and adopted no later than December 31, 1973.

(e) An open-space element as provided in Article 10.5 (commencing with Section 65560) of this chapter.

(f) A seismic safety element consisting of an identification and appraisal of seismic hazards such as susceptibility to surface ruptures from faulting, to ground shaking, to ground failures, or to effects of seismically induced waves such as tsunamis and seiches.

The seismic safety element shall also include an appraisal of mudslides, landslides, and slope stability as necessary geologic hazards that must be considered simultaneously with other hazards such as possible surface ruptures from faulting, ground shaking, ground failure and seismically induced waves.

(g) A noise element in quantitative, numerical terms, showing contours of present and projected noise levels associated with all existing and proposed major transportation elements. These include but are not limited to the following:

1 county, as the case may be, may bring an action in the
 2 superior court to enforce compliance with the provisions
 3 of subdivision (a). Any such action or proceedings shall
 4 be governed by Chapter 2 (commencing with Section
 5 1084) of Title 1 of Part 3 of the Code of Civil Procedure.
 6 Any action or proceedings taken pursuant to the
 7 provisions of this subsection must be taken within six
 8 months of January 1, 1974, or within 90 days of the
 9 enactment of any new zoning ordinance or the
 10 amendment of any existing zoning ordinance as to said
 11 amendment or amendments.

12 ~~SEC. 6. Chapter 1154 of the 1973 Statutes amended~~
 13 ~~the California Environmental Quality Act of 1970 to;~~
 14 ~~among other things; require environmental review of all~~
 15 ~~discretionary projects by cities and counties which might~~
 16 ~~have a significant effect upon the environment. Such~~
 17 ~~projects may include the adoption of general plans and~~
 18 ~~general plan elements. It is the intention of this~~
 19 ~~legislation to provide an additional amount of time to~~
 20 ~~cities and counties to fully and adequately comply with~~
 21 ~~the requirements of Chapter 1154 within the time~~
 22 ~~framework of the Government Code for the adoption of~~
 23 ~~general plan elements and zoning consistency therewith.~~

24 ~~SEC. 7. Section 65860 of the Government~~
 25 ~~Code is amended to read:~~

26 65860. (a) County or city zoning ordinances shall be
 27 consistent with the general plan of the county or city by
 28 July 1, 1973 January 1, 1974. A zoning ordinance shall be
 29 consistent with a city or county general plan only if:

30 (i) The city or county has officially adopted such a
 31 plan, and
 32 (ii) The various land uses authorized by the ordinance
 33 are compatible with the objectives, policies, general land
 34 uses and programs specified in such a plan.

35 (b) Any resident or property owner within a city or a
 36 county, as the case may be, may bring an action in the
 37 superior court to enforce compliance with the provisions
 38 of subdivision (a). Any such action or proceedings shall
 39 be governed by Chapter 2 (commencing with Section
 40 1084) of Title 1 of Part 3 of the Code of Civil Procedure.

1 *element to the general plan.*

2 *SEC. 4. Section 65563 of the Government Code is*
 3 *amended to read:*

4 65563. On or before December 31, 1973, every city
 5 and county shall prepare, adopt and submit to the
 6 Secretary of the Resources Agency a local open-space
 7 plan for the comprehensive and long-range preservation
 8 and conservation of open-space land within its
 9 jurisdiction. Every city and county shall by August 31,
 10 1972, prepare, adopt and submit to the Secretary of the
 11 Resources Agency, an interim open-space plan, which
 12 shall be in effect until December 31, 1973, containing, but
 13 not limited to, the following:

14 (a) The officially adopted goals and policies which will
 15 guide the preparation and implementation of the
 16 open-space plan; and

17 (b) A program for orderly completion and adoption of
 18 the open-space plan by December 31, 1973, including a
 19 description of the methods, by which open-space
 20 resources will be inventoried and conservation measures
 21 determined.

22 ~~SEC. 4 SEC. 5. Section 65910 of the Government~~
 23 ~~Code is amended to read:~~

24 65910. Every city and county by December 31, 1973,
 25 shall prepare and adopt an open-space zoning ordinance
 26 consistent with the local open-space plan adopted
 27 pursuant to Article 10.5 (commencing with Section
 28 65560) of Chapter 3 of this title.

29 ~~SEC. 5 SEC. 6. Section 65860 of the Government~~
 30 ~~Code is amended to read:~~

31 65860. (a) County or city zoning ordinances shall be
 32 consistent with the general plan of the county or city by
 33 January 1, 1974. A zoning ordinance shall be consistent
 34 with a city or county general plan only if:

35 (i) The city or county has officially adopted such a
 36 plan, and

37 (ii) The various land uses authorized by the ordinance
 38 are compatible with the objectives, policies, general land
 39 uses and programs specified in such a plan. -

40 (b) Any resident or property owner within a city or a

1 Any action or proceedings taken pursuant to the
 2 provisions of this subsection must be taken within six
 3 months of July 1, 1973 January 1, 1974, or within 90 days
 4 of the enactment of any new zoning ordinance or the
 5 amendment of any existing zoning ordinance as to said
 6 amendment or amendments.

7 (c) In the event that a zoning ordinance becomes
 8 inconsistent with a general plan by reason of amendment
 9 to such a plan, or to any element of such a plan, such
 10 zoning ordinance shall be amended within a reasonable
 11 time so that it is consistent with the general plan as
 12 amended.

13 SEC. 8. Section 65862 is added to the Government
 14 Code, to read:

15 65862. No hearing held pursuant to Section 65854 or
 16 65856 for the purpose of bringing zoning into consistency
 17 with the general plan in the sense of Section 65860 shall
 18 be held within two weeks of the date on which a general
 19 plan, or any element thereof, has been recommended for
 20 adoption or amendment, or adopted or amended, by the
 21 planning commission or legislative body, as the case may
 22 be, pursuant to the provisions of Article 6 (commencing
 23 with Section 65350 of Chapter 3 of Title 7, when such
 24 recommendation, adoption, or amendment is the action
 25 from which inconsistency arises.

26 SEC. 9. Sections 3, 7, and 8 of this act shall become
 27 operative on January 1, 1974. Section 6 of this act shall
 28 remain in effect only until December 31, 1973.

29 SEC. 10. This act is an urgency statute necessary for
 30 the immediate preservation of the public peace, health or
 31 safety within the meaning of Article IV of the
 32 Constitution and shall go into immediate effect. The facts
 33 constituting such necessity are:

34 Postponement of the required date of adoption of these
 35 requirement elements of city and county general plans
 36 must become effective immediately in order to allow
 37 cities and counties adequate time for study and
 38 preparation of plans, including compliance with
 39 requirements of the California Environmental Quality
 40 Act of 1970, prior to their adoption.

1 SEC. 11. No appropriation is made by this act, nor is
 2 any obligation created thereby under Section 2164.3 of
 3 the Revenue and Taxation Code, for the reimbursement
 4 of any local agency for any costs that may be incurred by
 5 it in carrying on any program or performed by it by this act.
 6

O



AMENDED IN ASSEMBLY JUNE 28, 1973
AMENDED IN ASSEMBLY JUNE 27, 1973
AMENDED IN SENATE MAY 11, 1973

SENATE BILL No. 594

Introduced by Senator Marler
(Coauthors: Assemblymen Chappie and Kapiloff)

April 2, 1973

An act to amend Sections 34211.1, 65302, 65563, 65860 and 65910 of, and to add Sections 65361 and 65862 to, the Government Code, relating to planning and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

SB 594, as amended, Marler. Planning.

Extends date for adoption of certain mandatory elements of city and county general plans and date when local zoning shall be consistent with general plan from June 30, 1973, and July 1, 1973, respectively, to December 31, 1973, and January 1, 1974.

Prohibits the amendment of any mandatory element of a general plan more than three times during any calendar year, commencing January 1, 1974, and declares such prohibition not applicable to the adoption of any new element to the general plan.

Prohibits commencing January 1, 1974, public hearings on zoning ordinances or amendments for specified purposes from being held within two weeks of the date on which a general plan or element thereof has been adopted or recommended for adoption.

Requires, commencing January 1, 1974, that any zoning ordinance inconsistent with a general plan, by reason of amendment of such plan, be amended within a reasonable time to

become consistent with such plan as amended.

Makes related and conforming changes.

Provides that neither appropriation is made nor obligation created for the reimbursement of any local agency for costs incurred by it pursuant to the act.

Provides that there are no state-mandated local costs that require reimbursement under Section 2164.3 of the Revenue and Taxation Code.

To take effect immediately, urgency statute.

Vote: 2/3. Appropriation: no. Fiscal committee: no. State-mandated local program: no state funding.

The people of the State of California do enact as follows:

1 SECTION 1. Section 34211.1 of the Government Code
2 is amended to read:

3 34211.1. In connection with its responsibilities under
4 Section 34211, the council shall develop and adopt
5 guidelines for the preparation and content of the
6 mandatory elements required in city and county general
7 plans by Article 5 (commencing with Section 65300) of
8 Chapter 3 of Title 7. Such guidelines shall take into
9 account different geographic, demographic and other
10 relevant characteristics among the various cities and
11 counties. The guidelines shall be adopted as soon as
12 possible, and, in any event shall be adopted by September
13 1, 1973. For purposes of this section the guidelines
14 prepared pursuant to Section 37041 of the Health and
15 Safety Code shall be the guidelines for the housing
16 element required by Section 65302. In the event that
17 additional elements are hereafter required in city and
18 county general plans by Article 5 (commencing with
19 Section 65300) of Chapter 3 of Title 7, the council shall
20 adopt guidelines with respect to such elements within six
21 months of the effective date of legislation requiring such
22 additional elements.

23 The council may request from each state department
24 and agency, as it deems appropriate, and such
25 department or agency shall provide, technical assistance
26 in preparing the guidelines.

1 Upon adopting the guidelines, the council shall
2 transmit copies thereof to every city and county. Such
3 guidelines shall be advisory to each city and county in
4 order to provide assistance in preparing and maintaining
5 their respective general plans.

6 The council shall provide for regular review and
7 revision of the guidelines established pursuant to this
8 section.

9 SEC. 2. Section 65302 of the Government Code is
10 amended to read:

11 65302. The general plan shall consist of a statement of
12 development policies and shall include a diagram or
13 diagrams and text setting forth objectives, principles,
14 standards, and plan proposals. The plan shall include the
15 following elements:

16 (a) A land-use element which designates the proposed
17 general distribution and general location and extent of
18 the uses of the land for housing, business, industry, open
19 space, including agriculture, natural resources,
20 recreation, and enjoyment of scenic beauty, education,
21 public buildings and grounds, solid and liquid waste
22 disposal facilities, and other categories of public and
23 private uses of land. The land-use element shall include
24 a statement of the standards of population density and
25 building intensity recommended for the various districts
26 and other territory covered by the plan. The land-use
27 element shall also identify areas covered by the plan
28 which are subject to flooding and shall be reviewed
29 annually with respect to such areas.

30 (b) A circulation element consisting of the general
31 location and extent of existing and proposed major
32 thoroughfares, transportation routes, terminals, and
33 other local public utilities and facilities, all correlated
34 with the land-use element of the plan.

35 (c) A housing element, to be developed pursuant to
36 regulations established under Section 37041 of the Health
37 and Safety Code, consisting of standards and plans for the
38 improvement of housing and for provision of adequate
39 sites for housing. This element of the plan shall make
40 adequate provision for the housing needs of all economic

1 showing contours of present and projected noise levels
 2 associated with all existing and proposed major
 3 transportation elements. These include but are not
 4 limited to the following:

- 5 (1) Highways and freeways,
- 6 (2) Ground rapid transit systems,
- 7 (3) Ground facilities associated with all airports
 8 operating under a permit from the State Department of
 9 Aeronautics.

10 These noise contours may be expressed in any standard
 11 acoustical scale which includes both the magnitude of
 12 noise and frequency of its occurrence. The
 13 recommended scale is sound level A, as measured with
 14 A-weighting network of a standard sound level meter,
 15 with corrections added for the time duration per event
 16 and the total number of events per 24-hour period.

17 Noise contours shall be shown in minimum increments
 18 of five decibels and shall be continued down to 65 db(A).
 19 For regions involving hospitals, rest homes, long-term
 20 medical or mental care, or outdoor recreational areas, the
 21 contours shall be continued down to 45 db(A).
 22 Conclusions regarding appropriate site or route
 23 selection alternatives or noise impact upon compatible
 24 land uses shall be included in the general plan.

25 The state, local, or private agency responsible for the
 26 construction or maintenance of such transportation
 27 facilities shall provide to the local agency producing the
 28 general plan, a statement of the present and projected
 29 noise levels of the facility, and any information which was
 30 used in the development of such levels.

31 (h) A scenic highway element for the development,
 32 establishment, and protection of scenic highways
 33 pursuant to the provisions of Article 2.5 (commencing
 34 with Section 260) of Chapter 2 of Division 1 of the Streets
 35 and Highways Code.

36 The requirements of this section shall apply to charter
 37 cities.

38 SEC. 3. Section 65361 is added to the Government
 39 Code, to read:
 40 65361. No mandatory element of a general plan shall

1 segments of the community.

2 (d) A conservation element for the conservation,
 3 development, and utilization of natural resources
 4 including water and its hydraulic force, forests, soils,
 5 rivers and other waters, harbors, fisheries, wildlife,
 6 minerals, and other natural resources. That portion of the
 7 conservation element including waters shall be
 8 developed in coordination with any countywide water
 9 agency and with all district and city agencies which have
 10 developed, served, controlled or conserved water for any
 11 purpose for the county or city for which the plan is
 12 prepared. The conservation element may also cover:

- 13 (1) The reclamation of land and waters.
- 14 (2) Flood control.
- 15 (3) Prevention and control of the pollution of streams
 16 and other waters.
- 17 (4) Regulation of the use of land in stream channels
 18 and other areas required for the accomplishment of the
 19 conservation plan.
- 20 (5) Prevention, control, and correction of the erosion
 21 of soils, beaches, and shores.
- 22 (6) Protection of watersheds.
- 23 (7) The location, quantity and quality of the rock, sand
 24 and gravel resources.

25 The conservation element shall be prepared and
 26 adopted no later than December 31, 1973.

27 (e) An open-space element as provided in Article 10.5
 28 (commencing with Section 65560) of this chapter.
 29 (f) A seismic safety element consisting of an
 30 identification and appraisal of seismic hazards such as
 31 susceptibility to surface ruptures from faulting, to ground
 32 shaking, to ground failures, or to effects of seismically
 33 induced waves such as tsunamis and seiches.

34 The seismic safety element shall also include an
 35 appraisal of mudslides, landslides, and slope stability as
 36 necessary geologic hazards that must be considered
 37 simultaneously with other hazards such as possible
 38 surface ruptures from faulting, ground shaking, ground
 39 failure and seismically induced waves.

40 (g) A noise element in quantitative, numerical terms,

Exhibit D.pdf

CALIFORNIA LEGISLATURE

1973-74 REGULAR SESSION

ASSEMBLY DAILY JOURNAL**First Legislative Day****First Calendar Day**

IN ASSEMBLY

Assembly Chamber, Sacramento
Monday, January 8, 1973

Pursuant to the provisions of the Constitution of the State of California and the law, at the hour of 12 o'clock meridian, the 1973-74 Regular Session of the Assembly of the Legislature was called to order by James D. Driscoll, Chief Clerk of the 1972 Regular Session

In conformity with the law, the following officers were also present: Anabel Whang, Minute Clerk of the 1972 Regular Session, and Tony Beard, Sergeant at Arms of the 1972 Regular Session.

Assistant Clerk Ray Monday reading

ROLL CALL

The Chief Clerk directed the clerk to call the roll of Assemblymen-elect. The roll was called, and the following answered to their names:

Alatorre	Fong	Miller
Antonovich	Folan	Mobley
Arnett	Garcia	Monagan
Badham	Gonsalves	Montoya
Bee	Gonzales	Moretti
Beiman	Greene, Bill	Murphy
Beverly	Greene, Leroy F.	Nunzio
Boatwright	Hayden	Papan
Bond	Holoman	Powers
Briggs	Ingalls	Priolo
Brown	Johnson, Harvey	Quimby
Burke	Johnson, Ray E.	Ralph
Burton	Kaploff	Russell
Chacon	Karabian	Seelye
Chapple	Keene	Sietoty
Clue	Keyser	Stull
Collier	Knob	Thomas
Corv	Lancaster	Thurman
Crown	Lanterman	Townsend
Culien	Lewis	Vasconcellos
Davis	MacDonald	Wakefield
Deddeh	MacGillivray	Warren
Dixon	Maddy	Waxman
Duffy	McAlister	Wilson
Dunlap	McCarthy	Wood
Fenton	Meade	Zberg

Quorum of Assemblymen-elect present—78

Amendment No. 1

On page 1 of the printed measure, between lines 5 and 6, insert "WHEREAS, The Federal Bureau of Investigation, several different branches of the Department of Defense, the Federal Bureau of Explosives, the Department of Transportation, the Federal Railroad Administration, and the Alcohol, Tobacco and Firearms Division of the Treasury Department are all conducting investigations; and".

Amendment No. 2

On page 2, line 3, strike out "direct the National"; strike out lines 4 and 5; and in line 6, strike out "investigation of", and insert "require that the reports of the investigations concerning".

Amendment No. 3

On page 2, strike out line 7; and in line 8, strike out "investigation", and insert "28, 1973, include findings concerning the safety of munitions and explosives shipments through populated areas and recommendations whether such shipments should be prohibited, that all such reports".

Amendment No. 4

On page 2, line 8, strike out the comma and insert a semicolon.

Amendment No. 5

On page 2, strike out line 9; and in line 10, strike out "Congress", and insert "copies of the report of each such investigation be transmitted to the Speaker of the Assembly and the Rules Committee of the Senate, of the State of California".

Amendment No. 6

On page 2, line 12, strike out "investigation", and insert "investigations".

Resolution ordered reprinted, and to be re-referred to the Committee on Commerce and Public Utilities.

REPORTS OF STANDING COMMITTEES**Committee on Planning and Land Use**

Assembly Chamber, June 6, 1973

Mr. Speaker: The Chairman of your Committee on Planning and Land Use reports:

AB No. 1864

With author's amendments with the recommendation Amend, and re-refer to the Committee on Planning and Land Use.

PRIOLO, Chairman

SECOND READING OF BILLS—AUTHOR'S AMENDMENTS

Assembly Bill No. 1864—An act to amend Section 65860 to the Government Code, relating to planning, and declaring the urgency thereof, to take effect immediately.

Bill read second time.

Consideration of Author's Amendments

The following author's amendments, pursuant to the Assembly Rules, were read, and adopted:

Amendment No. 1

In line 1 of the title of the printed bill, strike out "Section 65860 of", and insert "Sections 65854, 65856 and 65860 of, and to add Section 65361 to,".

Amendment No. 2

On page 1, strike out line 1, and insert

"SECTION 1. Section 65361 is added to the Government Code, to read:

65361 The general plan shall not be amended more frequently than two times during any calendar year. Amendment of the general plan may occur at any time as determined by the legislative body; provided that at least 180 days shall elapse from the date on which a general plan is amended and the date on which a subsequent amendment is made.

As used in this section an "amendment" to a general plan shall include the adoption of a general plan, or any element thereof, and any change or revision in a general plan, or any element thereof.

SEC 2. Section 65854 of the Government Code is amended to read:

65854 The planning commission shall hold a public hearing on any such ordinance or amendment. Notice of the time and place of said hearing including a general explanation of the matter to be considered and including a general description of the area affected shall be given at least 10 calendar days before the hearing in the following manner:

(a) If the matter is before a county planning commission, the notice shall be published at least once in a newspaper of general circulation, published and circulated in the county, or if there is none, it shall be posted in at least three public places in the county.

(b) If the matter is before a city planning commission the notice shall be published at least once in a newspaper of general circulation, published and circulated in the city, or if there is none, it shall be posted in at least three public places in the city.

(c) In rezoning, if the matter is before a city planning commission the notice shall be published at least once in a newspaper of general circulation, published and circulated in the area to be rezoned, or if there is none, it shall be posted in at least three public places in the area to be rezoned.

In addition to notice by publication, a county or city may give notice of the hearing in such other manner as it may deem necessary or desirable.

No hearing held pursuant to this section shall be held within two weeks from the date on which a general plan, or any element thereof, has been adopted or amended pursuant to the provisions of Article 6 (commencing with Section 65350), Chapter 3, Title 7.

SEC 3. Section 65856 of the Government Code is amended to read:

65856 Upon receipt of the recommendation of the planning commission, the legislative body shall hold a public hearing, provided, however, that if the matter under consideration is an amendment to a zoning ordinance to change property from one zone to another, and the

planning commission has recommended against the adoption of such amendment, the legislative body shall not be required to take any further action thereon unless otherwise provided by ordinance or unless an interested party shall request such a hearing by filing a written request with the clerk of the legislative body within five days after the planning commission files its recommendations with the legislative body.

Notice of the time and place of said hearing shall be given in the time and manner provided for the giving of notice of the hearing by the planning commission as specified in Section 65854.

In addition to notice by publication, a county or city may give notice of the hearing in such other manner as it may deem necessary or desirable.

Any hearing may be continued from time to time.

No hearing held pursuant to this section shall be held within two weeks from the date on which a general plan, or any element thereof, has been adopted or amended pursuant to the provisions of Article 6 (commencing with Section 65350), Chapter 3, Title 7.

SEC. 4. Section 65860 of the Government Code is amended to read:
65860. (a) County or city zoning ordinances shall be consistent with *mandatory elements* of the general plan of the county or city by ~~July 1, 1973~~ *October 1, 1973*. A zoning ordinance shall be consistent with a city or county general plan only if:”.

Amendment No. 3

On page 1, strike out lines 2 to 7, inclusive; and on page 2, strike out lines 1 to 4, inclusive.

Amendment No. 4

On page 2, line 9, strike out the second period.

Amendment No. 5

On page 2, between lines 21 and 22, insert

“(c) In the event that a zoning ordinance becomes inconsistent with a general plan by reason of a revision or amendment to such a plan, or to any element of such a plan, such zoning ordinance shall be amended so that it is consistent with the general plan as amended or revised. Such an amendment to a zoning ordinance shall be made within 90 days of the revision or amendment of the general plan, or any element thereof.

Any resident or property owner within a city or a county, as the case may be, may bring an action in the superior court to enforce compliance with the provisions of this subdivision. Any such action or proceedings shall be governed by Chapter 2 (commencing with Section 1084) of Title 1 of Part 3 of the Code of Civil Procedure. Any action or proceedings taken pursuant to the provision of this subdivision shall be filed between 90 and 180 days after the date of the revision or amendment of the general plan, or element thereof.

SEC. 5. It is the intent of the Legislature in enacting this statute to establish a clear separation between the general planning and zoning processes. The Legislature finds that the adoption of a general plan is intended to provide a comprehensive long-term and general outline of projected development whereas zoning is only one means to specifically carry out a general plan. The Legislature finds that broad public par-

icipation is necessary to insure the effectiveness of the planning process and that fragmented hearings on general plan amendments discourage such participation. The Legislature further finds that concurrent exercise of general planning and zoning powers defeats such long-term goals of general planning. Therefore, it is the intent of the Legislature in enacting this statute to prohibit concurrent actions and decisions on general planning and zoning matters.

SEC. 6 No appropriation is made by this act, nor is any obligation created thereby under Section 21643 of the Revenue and Taxation Code, for the reimbursement of any local agency for any costs that may be incurred by it in carrying on any program or performing any service required to be carried on or performed by it by this act."

Amendment No. 6

On page 2, line 22, strike out "SEC. 2.", and insert "SEC. 7."

Bill ordered reprinted, and to be re-referred to the Committee on Planning and Land Use.

REPORTS OF STANDING COMMITTEES

Committee on Planning and Land Use

Assembly Chamber, June 6, 1973

Mr. Speaker: The Chairman of your Committee on Planning and Land Use reports:

AB No. 686

With author's amendments with the recommendation: Amend, and refer to the Committee on Planning and Land Use

PRIOLO, Chairman

SECOND READING OF BILLS—AUTHOR'S AMENDMENTS

Assembly Bill No. 686—An act to amend Section 11546 of the Business and Professions Code, relating to subdivisions.

Bill read second time.

Consideration of Author's Amendments

The following author's amendments, pursuant to the Assembly Rules, were read, and adopted:

Amendment No. 1

In line 1 of the title of the printed bill, after "of", insert " , and to add Section 11546 I to,".

Amendment No. 2

On page 3, line 18, after "subdivisions", insert " ; nor do they apply to condominium projects which consist of the subdivision of airspace in an existing apartment building which is more than five years old when no new dwelling units are added".

Amendment No. 3

On page 3, after line 21, insert "Sec. 2. Section 11546.1 is added to the Business and Professions Code, to read:

Exhibit E.pdf



RONALD REAGAN
GOVERNOR

State of California

GOVERNOR'S OFFICE
SACRAMENTO 95814

May 8, 1973

OFFICE OF
INTERGOVERNMENTAL
MANAGEMENT
COUNCIL ON
INTERGOVERNMENTAL
RELATIONS
1400 TENTH STREET

STATEMENT ON DEADLINES FOR
OPEN SPACE AND CONSERVATION ELEMENTS
SB 594

SENATE COMMITTEE ON LOCAL GOVERNMENT

One of the main objectives of the Council on Intergovernmental Relations is to encourage an effective planning process. Consistent with that objective the Council has been studying proposals to amend the State Planning Act. At its last regular meeting SB 594, regarding an extension of deadlines for adopting local open space and conservation plan elements, was discussed.

The Council recently completed a survey of cities and counties to determine the progress of local agencies in meeting the requirements in the State Planning Act. Additionally, the survey includes information on environmental impact review procedures and the activity of local agencies in determining the consistency of the zoning ordinance with the General Plan.

Regulations adopted by the Resources Agency pursuant to the recent amendments to the California Environmental Quality Act require the preparation of an Environmental Impact Report on the enactment

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and amendment of zoning ordinances, and the adoption of local general plans or elements thereof. The regulations adopted by the Secretary for Resources became effective April 3, 1973.

The process for adoption of the open space and conservation element changed after that date. Local agencies are now required to make an environmental assessment of the impact of the proposed plan

and hold the necessary public hearings prior to the adoption of an environmental impact report. This must be done prior to the adoption of any amendment to the General Plan, including open space and conservation. Since this process also applies to the adoption

of a local zoning ordinance, local governments have found that the time requirements of July 1, 1973, for the finding of consistency between the zoning ordinance and the general plan, produces barriers to meeting the July 1, 1973 deadline.

In almost every case sampled, it was found that local agencies need an extended period of time to comply with the requirements in the California Environmental Quality Act.

Therefore the Council recommends that the open space and conservation element deadlines as well as the finding of zoning ordinance consistency with the General Plan be postponed for 180 days (January 1, 1974). A postponement of 90 days (October 1, 1973) would be sufficient time for local agencies to meet the requirements, but it should be no less than 90 days.

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We hope this information has been of assistance to the committee. The Council supports efforts to give local jurisdictions adequate time to comply with the provisions of the State Planning Act and the California Environmental Quality Act.

Presentation made on behalf of the CIR by J. Fred Silva, Program Development Section.

SUMMARY OF FINDINGS

A SURVEY OF LOCAL PLANNING IN CALIFORNIA

I

INTRODUCTION

The purpose of this statewide survey was to determine the progress of cities and counties in meeting the requirements in the State Planning Act. Additionally, the survey included information on the development of environmental impact review procedures and the extent to which cities were determining consistency of the zoning ordinance with the general plan.

The response to the survey was ample enough to get a general overview of the local planning process. The survey was sent to all 407 cities and 58 counties in the State. Answers were received from 225 cities and 40 counties which represents 55% of the cities and 69% of the counties.

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II

SUMMARY OF FINDINGS

In general the rate of activity among cities and counties is high with respect to maintaining a general planning process. Only 1 county and 25 cities do not have a general plan. In the majority of the cases sampled the elements which are currently due or will be due shortly (housing, conservation and open space) show a relatively high degree of activity.

ELEMENTS TO THE GENERAL PLAN

The following is a summary of the data received on the completion rate of selected plan elements.

COUNTIES:

	<u>Housing</u>	<u>Conservation</u>	<u>Open Space</u>	<u>Seismic Safety</u>	<u>Scenic Highways</u>	<u>Noise</u>	<u>Safety</u>
Adopted	27-67%	11-27%	18-45%	2-5%	9-23%	1-3%	1-3%
Prepared	3-9%	3-7%	8-20%	1-3%	5-13%	0	0
In Preparation	8-20%	23-57%	14-35%	18-45%	15-38%	11-28%	13-30%
No Activity	2-5%	3-7%	0	19-48%	11-28%	28-70%	26-65%

40 responses

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CITIES:

	<u>Housing</u>	<u>Conservation</u>	<u>Open Space</u>	<u>Seismic Safety</u>	<u>Scenic Highways</u>	<u>Noise</u>	<u>Safety</u>
Adopted	86-38%	40-18%	69-31%	12-5%	15-7%	8-3%	9-4%
Prepared	28-12%	23-10%	23-10%	9-4%	6-3%	9-4%	6-3%
In Preparation	88-39%	135-60%	123-55%	88-39%	67-30%	72-32%	56-25%
No Activity	22-10%	36-16%	9-4%	114-51%	131-58%	134-60%	153-68%
Other				1	5-2%	1	

225 responses

It should be noted that the areas of greatest planning activity at this time are the open space and conservation elements due to the July 1, 1973 deadline for completion. All of the responding counties have either adopted, prepared or are preparing the open space element. At the same time, most have adopted, prepared or are working on the conservation element. The cities indicate slightly less activity in this area with all but 4% having adopted, prepared or preparing an open space element and all but 16% indicating some progress in the preparation and adopted of the conservation element.

The lack of activity in the seismic safety, scenic highway, noise and safety element may be due to two factors. First, cities and counties expressed the need for guidelines from the State in order to clarify the requirement. These four elements, amended into the planning law during the last several years give no detail on what

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should be included. The open space element requirement is prescriptive in that it defines the contents of an open space plan. The four newer elements lack specific criteria.

The second reason for the lack of activity is that the elements are not due to be completed until September 1974, one year following the adoption of guidelines by the CIR.

The CIR will be publishing guidelines for these as well as the other elements in September 1973. These guidelines should be of assistance to local agencies in developing local plans as well as providing for a framework within which local planners can develop adequate general plans under the State Planning Act.

OPEN SPACE ORDINANCES NOISE STANDARDS
AND ENVIRONMENTAL IMPACT REVIEW PROCEDURES

The survey included requests for information on open space ordinances (required as part of the localities open space program), noise standards and environmental impact report review procedures required under recent amendments to the California Environmental Quality Act. Included in this section was information on other ordinances and regulations which local agencies may have prepared and adopted which may be of use to cities and counties preparing special elements or regulations.

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COUNTIES:

	<u>Open Space</u>	<u>Noise Standards</u>	<u>Environmental Impact Review Procedures</u>
Adopted	9-23%	0	18-46%
Prepared	2-5%	2-5%	5-13%
In Preparation	18-46%	9-23%	16-41%
No Activity	10-26%	28-72%	0

CITIES:

	<u>Open Space</u>	<u>Noise Standards</u>	<u>Environmental Impact Review Procedures</u>
Adopted	24-11%	34-15%	112-50%
Prepared	5-2%	5-2%	27-12%
In Preparation	97-43%	56-25%	68-30%
No Activity	97-43%	129-58%	17-8%
Other	1		

CONSISTENCY OF THE ZONING ORDINANCE
WITH THE GENERAL PLAN

The zoning law (Chapter 4 of the Planning Act) requires county and city zoning ordinances to be consistent with the general plan of county or city by July 1, 1973. "A zoning ordinance shall be consistent with a city or county general plan only if:

- a) The city or county has officially adopted a plan, and
- b) The various land uses authorized by the ordinance are compatible with the objectives, policies, general land uses and programs specified in such a plan.



Of those responding to the survey 48% of the counties and 56% of the cities indicated that their zoning ordinances were not consistent with the general plan.

The question was asked: What problems do you anticipate in meeting the deadline for zoning consistency with the General Plan (July 1, 1973)?

The above question received a variety of comments. Out of 225 cities responding, 157 contributed comments. 57% of those responding stated they would not meet the July 1, 1973 deadline; 43% were of the opinion there would be no difficulty with the deadline.

The majority of the comments on the reason for not meeting the deadline included inadequate staff and funds to complete the requirements. The second general comment was the additional time requirement to hold public hearing on environmental impact reports on proposed General Plan amendments and zoning changes, would make the deadline impossible to meet.

The response on this question from the counties was generally the same as for cities. The sampling of the counties replying showed 50% would meet the deadline and 50% would not.

Other comments included confusion about the term "consistency", and if charter cities would be required to meet this deadline. Some charter cities felt they did not while some were unsure of their position in this regard.



The final question requested comments and suggestions for CIR to consider in developing guidelines for local plans. The response provided a general overview of the feeling among local planners. A majority of the response called for the state guidelines, emphasized by such comments as "HURRY!! We need the guidelines yesterday!"

While most called for the guidelines there were also comments regarding the use of some elements of the general plan as it applies to local communities. This was centered on the seismic safety and scenic highways, many considered these elements to be wider in scope than city level. The comment was that they should be included in the County General Plan or a Regional General Plan.

A majority of the cities felt that state mandated elements of general plans should have guidelines published at the time the legislation passed and that mandated elements should carry state revenue and staff assistance to aid the local communities in carrying out mandated functions.

The general response was vastly in favor of state help, the consensus was any help would be appreciated.

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