

# The Local "General Plan" in California

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Nearly half a century ago the California Legislature gave each city and county the option of adopting a "master plan" (under present law now called a "general plan"<sup>1</sup>). Despite the enabling authority, most California city and county general plans have come into being only in the past few years.

By "general plan" is meant, briefly, ". . . [A] long-term general outline of project development. . . ."<sup>2</sup> A more complex definition is proposed by T. J. Kent, Jr.:

The general plan is the official statement of a municipal legislative body which sets forth its major policies concerning desirable future physical development; the published general-plan document must include a single, unified general physical design for the community, and it must attempt to clarify the relationships between physical-development policies and social and economic goals.<sup>3</sup>

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1. Many states use the term "master plan" or "comprehensive development plan;" the British use "development plan."

2. Haar, *In Accordance with a Comprehensive Plan*, 68 HARV. L. REV. 1154 (1954).

3. T. J. Kent, *THE URBAN GENERAL PLAN* 18 (1964) [hereinafter cited as *THE URBAN GENERAL PLAN*].

In theory and frequently in practice, the local general plan is a guideline for municipal zoning, subdivision, capital improvement and other decisions directly affecting the physical character of the community; Kent's definition indicates the possible economic and sociological effects of a plan.

Hoping to obtain some helpful current data and local opinion concerning California's general plans, I submitted, in the summer of 1971, a questionnaire to the planning directors of most California counties and of all cities of more than 20,000 population. The references, below, to "the survey" allude to the responses to the questionnaire. I acknowledge with appreciation the helpful prompt and conscientious responses of the directors.

## I. THE MANDATE

The California Government Code requires each county and city to adopt a "comprehensive long-range general plan,"<sup>4</sup> the purpose of which is to serve as a guide for physical development, conservation of open space and efficient expenditure of local capital improvement and planning funds.<sup>5</sup> The mandate does not apply to a charter city except to the extent the charter, or an ordinance, of such city assumes the obligation.<sup>6</sup>

The first enabling act authorizing (but not requiring) cities and counties to adopt local general plans was passed in 1927.<sup>7</sup> In 1929, the adoption of plans was made mandatory for cities or counties establishing planning commissions as an instrumentality in aid of zoning decisions.<sup>8</sup>

The nexus between a mandatory general plan and a planning commission seems curious until one realizes that, at the time, it was pretty well accepted that the general plan should be created, nurtured and utilized by the independent, non-political citizen planning commission, not by the legislative body (city council or county supervisors); the insulation of the plan from local legislative control was probably prompted by the belief—no longer held—that the councilmen and supervisors were not sufficiently competent or technically trained to devise and maintain a general plan.<sup>9</sup> Aside

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4. CAL. GOV'T CODE § 65300 (West 1966).

5. CAL. GOV'T CODE § 65400 (West 1971).

6. CAL. GOV'T CODE § 65700 (West 1966).

7. CAL. STAT. 1927, ch. 874 § 4.

8. CAL. STAT. 1929, ch. 838 § 4.

9. THE URBAN GENERAL PLAN, *supra* note 3, at 54. The concept of the planning commission-general plan relationship was embodied in the Stan-

from the unreasonableness of the belief, the insulation of the general plan from the legislators presents, as we shall see, the question of improper delegation of legislative power.

Twenty years after the first enabling act, in 1947, the Legislature made it mandatory for each county to adopt a general plan.<sup>10</sup>

The Government Code provisions referred to at the beginning of this section were adopted in 1965.<sup>11</sup>

State law does not establish any deadline for the adoption by local governments of general plans and it is clear that the local government may proceed with normal zoning functions prior to or pending the adoption of a general plan.<sup>12</sup> Nor are there any provisions concerning penalties or sanctions against the city or county which does not adopt a general plan; such lack of enforcement tools tends to make general plan adoption a matter of local option and lends support to Professor Milner's opinion that compulsory planning is almost unexplored in this country.<sup>13</sup>

The following table, compiled from the survey, shows the numbers of city and county general plans that were adopted in the respective years:<sup>14</sup>

<u>Year</u>	<u>Counties</u>	<u>Cities</u>
1934		1
1945		1
1947	1	
1948		1
1954		2
1955		1
1956		2

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standard City Planning Enabling Act prepared in 1928 by a committee appointed by then Secretary of Commerce Herbert Hoover.

10. CAL. STAT. 1947, ch. 807 §§ 10, 35.

11. CAL. GOV'T CODE § 65300 (West 1966).

12. *Ayres v. City Council of Los Angeles*, 34 Cal. 2d 31, 207 P.2d 1 (1949).

13. James B. Milner, *The Development Plan and Master Plan*, in LAW AND LAND 48 (C. Haar ed. 1964). [hereinafter cited as *The Development Plan*].

14. Many jurisdictions, prior to adopting Gov't Code § 65300 general plans, had comprehensive zoning plans which were sometimes called "general" or "master" plans. Where a city has no general plan, the comprehensive zoning ordinance will be treated, for many purposes, as the general plan. *Hein v. City of Daly City*, 165 Cal. App. 2d 401, 405, 332 P.2d 120, 123 (1958).

<u>Year</u>	<u>Counties</u>	<u>Cities</u>
1957	2	1
1958		5
1959	2	3
1960	2	4
1961	1	6
1962		2
1963	4	5
1964		7
1965	7	8
1966	2	8
1967	4	11
1968		5
1969	4	2
1970		4
1971		2

The survey indicates that four cities which do not have general plans are currently in the process of developing them.

While the survey indicates a fairly even pace of general plan adoption since the late 1950's, somewhat more activity has occurred from the middle 1960's. From the statistics and voluntary comment generated by the survey I conclude that planning commissions and legislative bodies (county boards of supervisors and city councils) have to some extent felt the burden of the mandate and have honored their state-imposed obligation. In addition to the mandate, there are several very practical benefits for the local government which is possessed of a general plan—the availability of Federal assistance programs (most of which require the applicant government to have a general plan), greater control over annexations and other local planning specifics,<sup>15</sup> a basis of judicial validation of zoning actions which are consistent with the general plan,<sup>16</sup> and—lest we forget—proper guidance for county and city development. These and other virtues of a general plan together with planners' support of the planning process (someone once remarked that planners would prefer hell with a master plan to heaven without one), rather than statutory mandate, may explain the generation of local general plans in California.

## II. THE SUBSTANCE OF GENERAL PLANS

The effectiveness of any local general plan will depend, in part, upon its substance and content. The municipality directly controls the content of its general plan and can do a good, poor or medio-

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15. CALIFORNIA ZONING PRACTICE 30 (1969).

16. O'Loane v. O'Rourke 231 Cal. App. 2d 774, 782, 42 Cal. Rptr. 283, 287 (1965).

cre job with respect to plan substance; the extent of the municipality's implementation of, and compliance with, the plan are all important to its utility. Nonetheless, the requirements as to general plan content set forth in the enabling statute offer persuasive guidelines and discloses the spirit of the law.

Whatever the specifics of the general plan, the code enjoins that it be "comprehensive". T. J. Kent, Jr., in connection with *urban* general plans, argues that "comprehensive" means, (i) dealing with all of the essential physical elements of the city-wide environment, (ii) taking into account development trends around the city and (iii) relating the plan ". . . [T]o the social and economic forces it proposes to accommodate and that are themselves bound to be affected by the scheme for physical development expressed in the plan."<sup>17</sup> He notes that the plan should be "comprehensive" in the sense that private land as well as public facilities, and all districts of the city as well as problem areas, should be included. Kent remarks that "comprehensive" should not mean either the treating of *all* physical factors without regard to significance, or a detailed blueprint of only a particular factor.<sup>18</sup>

The enabling statute requires, and planners usually urge, that general plans be "long term". Do those words contemplate a plan-span of ten years, twenty years, fifty years or, perhaps, different time spans for different elements of the plan?

Alfred Bettman, a pioneer in American planning, argued that ". . . [T]he plan should be designed for a considerable period in the future, twenty-five to fifty years."<sup>19</sup> While the survey did not examine current California practice in respect to the plan-span, there are undoubtedly general plans which look forward to, perhaps 1990 or 2000. There is, to some, magic in the "Year 2000 Plan" or "Third Millennium Plan".

Mr. Kent believes that ". . . [T]he general plan will usually have a dominant time scale of twenty to thirty years."<sup>20</sup> However, he emphasizes that some elements (*i.e.* water supply, sewerage disposal,

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17. THE URBAN GENERAL PLAN, *supra* note 3, at 98.

18. *Id.* at 100.

19. Speech before the Twentieth Annual National Conference on City Planning, *supra* note 3, at 30.

20. THE URBAN GENERAL PLAN, *supra* note 3, at 98.

greenbelts) are subject to longer judgments and, in any event, the capacity to predict is a limiting factor.<sup>21</sup>

I confess appreciation for William H. Whyte's statement about the capacity to municipally plan for the future:

It is difficult enough to look ten years ahead, and for the life of me I do not see how anyone can hope to say with an exactitude how people are going to be living some thirty-five years hence. Computer technology may make it more fun to try but it is not going to give us the gift of prophecy previously withheld.<sup>22</sup>

Perhaps the response is that the general plan should not be concerned with "exactitude". Nonetheless, I wonder if modern changes in technology, mores, standards, motivations—even the increase in the rate of change—do not argue that planners should shorten their sights. Professor Milner comments that there is a view to the effect that in planning ". . . [W]e cannot produce anything *reliable* or *durable* that also has *precision*."<sup>23</sup> (Emphasis added) The view may be pessimistic, but it reminds us that, as the plan-span lengthens, those characteristics become even less the realities we desire.

The survey produced one voluntary comment questioning whether a shorter range—approximately five years—for general plans would not produce a better tool. The City of Los Angeles has a 50-year "conceptual framework", but both citywide plans and community plans (of which there are 70) are developed on a 20-year basis with five-year reviews. Such a process may give the advantages of both the long-range and short-range perspective without the disadvantages of either.

Government Code § 65302<sup>24</sup> specifies the general plan *elements* (with objectives, principles, standards and proposals) which shall be set forth by diagram and text. Without making a detailed analysis, the specifics are:

1. *Land use element*: Location and extent of land uses (housing, business, industry, open space, agriculture, natural resources, education, public facilities, waste disposal and other building intensity; flood areas.

2. *Circulation element*: Thoroughfares, terminals and utilities.

3. *Housing element*: Standards and plans for housing improvement; adequate provisions for housing needs of all economic segments.

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21. *Id.*

22. William H. Whyte, *THE LAST LANDSCAPE* 5 (1970).

23. *The Development Plan*, *supra* note 8, at 47.

24. CAL. GOV'T CODE § 65302 (West 1971).

4. *Conservation element*: Conservation, development and utilization of natural resources; water conservation shall be coordinated with other agencies concerned with water; the conservation element may cover reclamation, flood control, pollution control, erosion prevention, watershed protection, inventory of sand and aggregates, and open space element.

The next code section designates *optional* general plan elements;<sup>25</sup> many are elaborations of the required elements. However, certain additional elements are introduced: Recreation, elimination of substandard housing, redevelopment of slums, community design (consisting of subdivision standards and principles, and designs for community development), safety (from fire and geologic hazards). The section ends with an omnibus provision permitting the city or county to deal with any other relevant subjects.

In 1970 the legislature added Government Code § 65660,<sup>26</sup> which requires that each city and county adopt, by June 30, 1972, ". . . [A] local open-space plan for the comprehensive and long range preservation and conservation of open-space land within its jurisdiction." The effect of the legislation is to add a mandatory element to the local jurisdiction's general plan. The survey disclosed that 67% of the cities and 57% of the counties believe they will comply with the requirement; 13% of the cities and 12% of the counties do not believe they will complete the work within the required time; 20% of the cities and 31% of the counties were equivocal in their responses.

The enabling statute,<sup>27</sup> by the nature of the subject and the fact that local governments must perform the actual plan work, should be but a *guideline* for local governments. The local government will respond to a number of influences (apart from the Government Code) in devising a general plan, including requirements of Federal and other fund-granting agencies, peculiar local problems, the sociological and economic biases, bents and ambitions of the legislative body and of the affected citizens. Voluntary comments respecting the Government Code elements were received, in the survey, from two planning directors. One criticized that

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25. CAL. GOV'T CODE § 65303 (West 1971).

26. CAL. GOV'T CODE § 65660 (West 1966).

27. CAL. GOV'T CODE §§ 65302, 65303, 65660.

there was a tendency to make *mandatory* elements which should be *optional*. The second comment was to the effect that the importance of a particular element depended upon the character and problems of the locality being planned. The writer illustrated the point by stating that the conservation element had, to an intensely urbanized area, "different or lesser" meaning than other elements.

The California law implies that the general plan will discuss, if not provide, some details for the financing of schools, public buildings, roads, parks and other facilities contemplated by the general plan to be created by the public sector of the community. Some American statutes are express: In Indiana, the local general plan may include a "long-range financial program of governmental expenditures in order that such development program may be carried out. . . ."28 While a strong Code recommendation for municipal capital improvement expenditure is not likely to influence either the taxpayers or the city councils, it would be at least a small part of public conditioning to the idea that such expenditures must be made.

A determination of substantive validity of local general plans would require expert analysis of each plan and a thorough understanding of the area to which the plan applied. That being impossible, the survey asked for opinions as to elements (or sub-elements) which were adequately dealt with, and as to those which were inadequately dealt with or excluded completely. The following table shows the latter:

<u>Cities</u>	<u>Element Inadequately Dealt with</u>	<u>Counties</u>
66	Elimination substandard dwellings	27
68	Fire and geologic hazard safety	28
65	Conservation	23
60	Redevelopment blighted areas	29
50	Housing	20
44	Open space	19
43	Transportation	19
39	Public buildings	28
26	Public services	24
15	Recreation	7
7	Land-use distribution	5
5	Circulation	5

Elimination of substandard housing, hazard safety, conservation and blight area redevelopment are the elements most needing more or better general plan treatment.

The housing and redevelopment elements are closely related and should perhaps be considered as parts of the same problem. The

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28. IND. STATS. ANN. § 53-735 (1951).



California disasters of the past few years involving floods, brush and forest fires and earthquakes have sharpened our focus on the element of hazard safety. While organized conservation forces have been active for many years, only in the past decade has the movement taken on a widespread grassroots character; the conservation implications are being raised in many, if not most, planning and zoning decisions.

Apparently the county plans have about the same deficiencies as the city plans, and the respective orders of frequency are roughly the same (the greatest divergence is with respect to "public buildings;" it ranks third among county, and eighth among city deficiencies).

Land-use, and the expectations and objectives of people living and working outside of a city's geographical limits, will have some effect on the future development within the city. Where cities, once miles apart, expand toward each other there will arise interaction between the forces operating as to each. Demographers predict that a megalopolis along the California coast, from the Mexican border to some point north of San Francisco, will exist by the year 2000; as that occurs—or even before it occurs—the general plans of the cities and counties must account for the interacting forces of, and in, other jurisdictions. In a word, we must consider the capacity of local general plans to adapt to *regional* planning, and whether the enabling statute properly encourages such adaptation. At the risk of a small digression, the status of regional planning should be considered.

Regional planning in this country is embryonic at best, and California practice is no exception. The State Office of Planning is largely advisory.<sup>29</sup> An Office of Planning and Research "in the Governnor's office" has been given broad and vaguely-worded powers for the creation and coordination of plans relating to environment quality; the Office expressly has no ". . . [D]irect operating or regulatory powers over land use, public works, or other state, regional, or local projects or programs."<sup>30</sup> Regional Planning Districts<sup>31</sup> may be established by voluntary action of cities and

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29. CAL. GOV'T CODE § 65012 (West 1966).

30. CAL. GOV'T CODE § 65030 (West 1970).

31. CAL. GOV'T CODE § 65060 (West 1966).

counties; the Districts' basic functions are to prepare regional plans and to facilitate harmonious local planning by receiving all local general plans, zoning ordinances, subdivision maps, etc. Two or more counties may voluntarily form a "planning district" having the principal functions of district planning, giving advice to local governments, coordinating research, encouraging local government cooperation and the like.<sup>32</sup> While all of the agencies contemplated by the cited statutes have planning authority and capacity, the lack of formal, legal control over both local governments and landowners renders the agencies ineffective in land-use control and of dubious effect in land-use planning.

A possible mechanism for achieving effective regional planning is the Joint Powers Act.<sup>33</sup> Under the Act, the Association of Bay Area Governments (ABAG) was established to initiate regional planning in those cities and counties which are adjacent to San Francisco Bay. The Joint Powers Act was used, rather than the regional enabling statutes described above, in an attempt to achieve complete local autonomy.<sup>34</sup>

Three specific regional planning organizations possessed of relatively effective regulatory power have been created: Metropolitan Transportation Commission,<sup>35</sup> San Francisco Bay Conservation and Development Commission,<sup>36</sup> and California Tahoe Regional Planning

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32. CAL. GOV'T CODE § 66100 (West 1966).

33. CAL. GOV'T CODE §§ 6500-78 (West 1966).

34. ABAG at present is a voluntary organization with members free to ignore its recommendations, or to completely withdraw from the Association at any time. Thus, ABAG does not include all cities and counties in such a way as to insure orderly regional cooperation. The only practical means of enforcement available to ABAG is its recognized control of disbursement of federal funds to local government projects, however, this is a very limited control at best. The major problem in ABAG's functions is the still strong parochialism among its members. This, accompanied with the lack of local power to enforce its decisions, leaves ABAG in a tenuous position in regard to implementation of regional planning.

35. CAL. GOV'T CODE § 66500 (West 1966). The Metropolitan Transportation Commission functions to coordinate San Francisco Bay Area transportation plans and projects of federal, state and local public agencies. The Commission acts in an advisory capacity to the local public agencies by providing a comprehensive regional transportation plan for the region. Such a regional plan is to be adopted by June 30, 1973, and is to take into consideration the ecological, economic, and social impact of existing and future regional transportation systems (i.e. bay bridges, interstate highway system, California freeway system). The Commission also is the reviewing agency for requests made by local governments for state or federal aid. The Commission has the power to reject any funding requests for projects which do not correspond to the regional transportation plan.

36. CAL. GOV'T CODE § 66600 (West 1970). The San Francisco Bay Conservation and Development Commission was initiated to prepare a comprehensive and enforceable plan for the conservation of the water of the bay

Agency.<sup>37</sup> True regional planning and land-use control for the California coastal strip are proposed, as of this writing, by several bills before the Legislature.<sup>38</sup> Another regional planning bill before the Legislature is an attempt to bring San Diego County under a single cohesive planning agency.<sup>39</sup>

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and the development of its shoreline. Its object is to preserve the bay from piecemeal filling by surrounding communities. The Commission treats the entire bay as a single unit, having the power to issue or deny permits for local projects. While the Commission is obligated to consider the master plans of the cities and counties surrounding the bay in formulation of its own plan (CAL. GOV'T CODE § 66603), it has been given significant regulatory powers of its own. In *People ex rel. San Francisco Bay Conservation and Development Commission v. Town of Emeryville*, 69 Cal. 2d 533, 446 P.2d 790, 72 Cal. Rptr. 790 (1968), the court stated that the communities surrounding the bay will have to abide by the Commission's decision to grant or deny filling permits in accord with its regional planning function, thus reinforcing the Commission's regulatory powers.

37. CAL. GOV'T CODE § 67000 (West 1970). The California Tahoe Regional Planning Agency (CTRPA) is part of a bi-state organization (CAL. GOV'T CODE § 67040), with broad powers to develop and enforce a plan of development in the Lake Tahoe Basin. The organization is to prepare a regional plan which includes land uses, transportation, conservation, recreation, and public services. The Agency is to adopt necessary ordinances and policies to effectuate the regional plan, and is empowered to initiate legal action as a means of enforcement. However, the regional plan is only to effect matter of a regional nature, leaving to local agencies the enactment and enforcement of specific local regulations.

38. Generally, the proposals call for dividing the coastal strip into several North-South regions, each under a regional coastal zone conservation commission, the development of a coastal zone plan within a specified number of years. The plan is to be consistent with civil conservation objectives and will contain elements relating to land-use, transportation, conservation, public access, recreation, etc. During the planning period development in the coastal zone can occur only pursuant to the permit of the regional commission.

39. AB 3050, *as amended*, REG. SESS. (1971). The pending bill (AB 3050) provides that on its adoption the San Diego Regional Council will automatically become established in San Diego County as the legislative and governing body for county-wide planning. The Council will have powers of review over local planning and may withhold or apply funds in assistance of local agencies as it sees fit. The Council will also have the power to adopt development ordinances in order to implement its regional plans or recommendations. The local agencies are to comply with the rules and regulations so prescribed by the Council board.

The legislative rationale of the bill seems based on the idea that any regional plan for physical, economic, social and environmental matters need be in a single geographic and governmental jurisdiction in order to achieve a unified and coordinated decision making process. The power to effectuate this purpose will be vested in the Regional Council, not as an attempt to create an added level of government, but in order to coordinate

The local general plan enabling law makes a modest attempt to point the cities and counties in the direction of recognizing operative forces from without the jurisdiction. Government Code §65300<sup>40</sup> requires the general plan to provide for development of land outside of the planning jurisdiction if such outside land "bears relation" to the planning. Such a statement provides precious little guidance to the local planner; however, if he reads the code sections relating to state, regional and district planning he will perhaps be induced to take a more geographically broadened view of his own general plan. One California case, *County of Santa Clara v. Curtner*,<sup>41</sup> directly comments on extraterritorial planning, holding it to be a valid exercise of municipal power and effective for at least the limited purpose involved in the case.

Government Code §65305<sup>42</sup> requires that each city and county which is considering a general plan or element thereof to refer the same, for information and comment, to abutting cities and counties. The injunction is directory, not mandatory. Government Code §65360,<sup>43</sup> also directory, requires the adopted general plans of abutting cities and counties to be sent to each other. Permission is then granted reciprocally, in developing general plans, to incorporate those plans of the respective cities and counties.

The survey sought to determine whether city general plans properly take into account adjacent lands in other jurisdictions. Planning directors of 91% of the cities polled opined in the affirmative; the remainder, negatively.

### III. FORMULATION AND ADOPTION OF THE PLAN

Suppose a city foresees that there will be future efforts and pressures for the subdividing and other development of a hitherto undeveloped region of the municipality. It desires to create a plan for the region prior to the inception of the development and, indeed, prior to any municipal zoning or other action which will immediately precede or be a part of such development. Can it declare a moratorium on development in order to preserve the status quo while the general plan is being formulated? Government Code § 65858<sup>44</sup> provides that:

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existing governmental agencies, and thus, to preserve maximum local autonomy.

40. CAL. GOV'T CODE § 65300 (West 1966).

41. 245 Cal. App. 2d 730, 54 Cal. Rptr. 257 (1966).

42. CAL. GOV'T CODE § 65305 (West 1970).

43. CAL. GOV'T CODE § 65360 (West 1966).

44. CAL. GOV'T CODE § 65858 (West 1970).

. . . [T]he legislative body, to protect the public safety, health and welfare, may adopt as an urgency measure an interim ordinance prohibiting any uses which may be in conflict with a contemplated zoning proposal which the legislative body, planning commission or the planning department is considering or studying or intends to study within a reasonable time.

While the section is a *zoning* enablement, not part of the *planning* code provisions, it would seem to follow that it could be used preliminarily to master planning, on the assumption that *zoning* proposals, as implements to the general plan, either exist or will be forthcoming. Local interim "stop-gap" or "incubation" ordinances of the type described in the Section 65858 are valid.<sup>45</sup>

This California statute, like many American enabling acts, does not emphasize the investigation, surveying or inventorying of existing uses and conditions as a necessary preliminary to planning. Even the Standard City Planning Enabling Act<sup>46</sup> has only a brief and general injunction on the subject. The principal modern British statute<sup>47</sup> lays heavy emphasis on the survey; Milner points out that it may be impractical in making onerous demands, that survey data of questionable accuracy may be relied upon, and that the survey data (which may be an aid to developers and others) is not required to be made public.<sup>48</sup> Professor Milner recognizes that preliminary surveying and studying may exist despite the absence of authority for it in the enabling statutes, but that absence, together with the fact that our ". . . [P]lanning agencies are quite obviously more zealous about land-use control than about land-use planning. . . ." makes him ". . . [S]uspect the worse. . . ."<sup>49</sup> ("the worse" being, presumably, inadequate or no preliminary surveying). The common sense view is that planners are neither unintelligent nor illogical, that ordinary reason would call for preliminary study, and that the nexus between factual survey and the plan is so necessary and close that the separate em-

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45. *Miller v. Board of Public Works*, 195 Cal. 477, 234 P. 381 (1925); *Hunter v. Adams* 180 Cal. App. 2d 511, 4 Cal. Rptr. 776 (1960); The section must be used to maintain status quo and not to permit a land-use otherwise prohibited, *Silvera v. The City of South Lake Tahoe*, 3 Cal. App. 3rd 554, 83 Cal. Rptr. 698 (1970).

46. U.S. DEF'T OF COMMERCE, *A Standard City Planning Enabling Act* (Washington, D.C., rev. ed. 1928).

47. TOWN AND COUNTRY PLANNING ACT OF 1947, 10-11 Geo. 6, c. 51, § 5(1).

48. *The Development Plan*, *supra* note 8, at 53.

49. *Id.* at 52.

phasis given by the British to the former is unwarranted.<sup>50</sup> The Southern California general plans with which I am familiar were prepared only after expensive, time-consuming and comprehensive studies.

In Professor Haar's fascinating "The Master Plan: An Inquiry in Dialogue Form,"<sup>51</sup> Attorney Aecus, representing a landowner seeking zone reclassification different than that prescribed by the Master Plan of the City of Lawnfield, and the City's Director of Planning, Mr. Beauvil, debate the fundamental issues concerning the role of the public and the role of the legislative body in the formulation of master or general plans. In part:

*Mr. Aecus:* Has this Master Plan or any of its amendments ever been approved formally by the City Council?

*Mr. Beauvil:* No. Approval of the plan by the Council is not required.

*Mr. Aecus:* Wouldn't you, Mr. Beauvil, agree that it might be a better arrangement if the City Council adopted the Master Plan and amended it in accordance with the procedures for adopting ordinances?

*Mr. Beauvil:* No. I think that such a procedure would hamstring planning. The plan is a dynamic thing, and must be so, because the city is dynamic. Small events occurring today cast tremendous shadows over tomorrow. We must be able to accommodate the plan to meet them as we go along, and at the same time, we must be able to improve it as we detect shortcomings.

*Mr. Aecus:* Why were the citizens of this community not allowed to voice their own opinions as to (the) objectives (of the Master Plan)?

*Mr. Beauvil:* Because it is very difficult to get cogent or meaningful answers in this situation.

*Mr. Aecus:* Do you mean that the man on the street doesn't have any views on the subject, or can't agree on them?

*Mr. Beauvil:* In part, both. The citizen has all the characteristics of a consumer. Few consumers wanted electric frying pans or ball point pens before they were placed on the market. These wants were inert, in a sense; they came to exist only because the product became available. In the same way, if the citizen is asked to think about the future of the community he generally confines his attentions to the piecemeal removal of inconveniences and within the framework of the community as it is now.

*Mr. Aecus:* Are you suggesting then that someone must set his objectives for him?

*Mr. Beauvil:* I only suggest that this is one of the functions of the planning process: the indication of new and bolder possibilities, and their objectification, if you will, in concrete and dramatic form so that your man in the street will have something concrete to think about.

*Mr. Aecus:* The choice of objectives, however, was determined by yourself or by the Commission?

*Mr. Beauvil:* True.

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50. Charles M. Haar, *Comparisons and Contracts*, LAW AND LAND 256 (C. Haar ed. 1964).

51. Charles M. Haar, LAND USE PLANNING 730 (1959).

*Mr. Aeucus:* We lawyers have an expression to cover a case in which the judge states the "facts" in such a way that the outcome becomes "inevitable." Doesn't it seem to you that it would be more in the spirit of the political philosophy of this country if your Commission had derived its objectives from what the residents of this city really wanted out of their Master Plan?

The quoted dialogue points up entirely different positions with respect to the issues of (i) whether the public should be involved in the development of the general plan and (ii) whether the adoption of the general plan should be considered a legislative act to be accomplished by the legislative body. Mr. Beauvil's positions are those which the early planners held. Mr. Aeucus argues for the modern views.

Planning and the implementation of planning restrict public and private action, in some cases prohibiting actions desired to be taken by the landowner, in other instances forcing or inducing actions the landowner would prefer not to take. Concerning public action restrictions, the citizens are entitled to speak of the commitments their local government makes in the general plan. Concerning private action restrictions, adherence to democratic precepts suggests that affected individuals have a voice in devising the restrictions. An adopted general plan can constitute a standard for the expectations held by citizens for future land-use, character of the community and quality of living; understanding present expectations is desirable and can best be achieved by involving the public. Involving the public in the plan-creation process can awaken people to the need for planning, induce support for a general plan and create a force perhaps useful in obtaining proper compliance with, and review and implementation of, a general plan.

The Government Code requires that (i) the city or county planning commission hold a public, noticed hearing before approving a general plan or part thereof or amendment thereto and (ii) the city or county legislative body hold a similar hearing before adopting the commission-approved plan, part or amendment.<sup>52</sup> The cited sections prescribe the method of giving public notice, and allow the local governments to utilize additional methods, if they so desire. Many jurisdictions seek to encourage public participation in the hearings with newspaper and other coverage.

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52. CAL. GOV'T CODE §§ 65351, 65353 (West 1970).

Of far more practical importance is Government Code §65304,<sup>53</sup> which requires that, during the formulation of the general plan, the planning commission or other planning agency

. . . [C]onsult and advise with public officials and agencies, public utility companies, civic, educational, professional and other organizations, and citizens generally to the end that maximum coordination of plans may be secured and properly located sites for all public purposes may be indicated on the general plan.

Many cities and counties encourage and help establish citizens' planning groups, in addition to consulting with chambers of commerce, realtors associations, building contractors associations, school interest groups, etc. If the city or county is small, perhaps only one such group will be created; if the jurisdiction is large, a "community planning group" for each definable community or area within the jurisdiction may be created. The jurisdiction will attempt to have active, knowledgeable and influential citizens join the group. The objectives of the planning government in encouraging and working with the citizens' group are (i) compliance with the democratic idea of citizen participation, (ii) obtaining of public views on questions to which the general plan will address itself and (iii) public acceptance of the concepts and proposals of the particular general plan; dissidents to the general plan tend to see, in connection with the third objective, the citizens' group as a sounding board and rubberstamp for pet, peculiar, unreasonable and radical ideas of the planning department.

Occasionally, the city or county engaging in planning will desire that the citizens' group have permanent standing, apparently with the view that they should react to proposed implementation measures and even to subsequent applications for reclassification, special use permits and other zoning relief; where this occurs the president or other officer of the citizens' group appears at zoning hearings and testifies for or against the specific applications. The City of San Diego has, I believe, followed this scheme about as far as any municipality: the "groups" (there are 19) are "organizations;" many are incorporated; they have a semi-official status; they have even formed a type of central federation among themselves! Some local critics of the San Diego experience (usually my professional brethren whose causes have been opposed by the organizations) see the community planning organizations as illegitimate organs of government exercising political clout instead of sweet reason. The limits of time, space and topic do not permit a close ex-

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53. CAL. GOV'T CODE § 65304 (1966).



amination of what I believe to be a pattern and process unique to San Diego.

Certain characteristics and tendencies can be expected in a citizens' group organized to aid in the formulation of a general plan:

1. Its interest will not be as narrow as that, of say, a chamber of commerce or realty board; if there is any singleness of direction to its interest it will tend to be residentially oriented.

2. Its input to the planning process will tend to relate to specific land-use problems, like the widening of this-or-that street, the installation of traffic control signals at a particular intersection, whether a specific parcel of land should be classified R-2, R-3, R-4 or whatever.

3. It will accept the data, projections and generalized proposals for the future given to it by the local planning department. The acceptance is not predicated on stupidity or lack of interest, but upon lack of the expertise necessary to make meaningful responses to the department's material and ideas.

4. Its members tend to lose interest and cease to engage in the study and dialogue, especially if the planning process is a lengthy one. The organization then becomes the creature of a small coterie whose individual interests and concerns assume greater proportions in the position statements made by the organization. That is not to say that the statements may not coincide with the public view, merely that we have less assurance that the coincidence exists.

The foregoing comments perhaps best apply to smaller cities and counties—20,000 to 300,000 population. In larger jurisdictions the organization, management and utilization of popular input is a more sophisticated and complex task. The experience of the City of Los Angeles is interesting as an academic matter, and may provide a hint or two for officials of much smaller jurisdictions.<sup>54</sup>

In 1967, 120 volunteers called "Viewpointers" went through a discussion leader training program. The Viewpointers spoke to

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54. I am indebted to Mr. Calvin S. Hamilton, Director of Planning of the City of Los Angeles for an outline of his remarks on public participation in plan formulation, given in July, 1971, at the Urban Studies Institute at Long Beach State College.

various groups, thereby informing citizens of the general plan program and obtaining, through questionnaires, the ideas held by interested members of the public. Many existing civic groups formulated statements of the goals and made other recommendations.

A "Goals Council" of 52 prominent citizens, appointed by councilmen, the mayor, the League of California Cities and county supervisors, met over a two and one-half year period. The council surveyed discussion papers, citizen questionnaires, reports of Viewpointers and other comments indicating the views of both citizens and organizations. The Council decided it did not have sufficient data and so formed itself into ten subcommittees (including Transportation, Ghettos, Barrios, Education, Open Space, Pollution and Employment). The subcommittees gathered information in any manner they chose and submitted reports to the Planning Department in early 1969. The Goals Council prepared for publication, in the early part of 1970, a summary of the subcommittees' reports.

The citizen groups, particularly conservation and ecology groups, were well organized and articulated at the Planning Commission hearings concerning the general plan. The Planning Director's analysis is, first, that the input of the citizens did have a marked effect on the ultimate content of the general plan and, second, that citizen involvement aided the planning department by giving it a better understanding of the city helping in the definitions of positions and prompting the adoption and implementation of better plans.

It is interesting to note that Government Code §65304,<sup>55</sup> directs that the citizen advice will be secured only with respect to "maximum coordination of plans" and "properly located sites for all public purposes." Obviously, and I think properly, those jurisdictions which seek and utilize citizen input do so with the end in mind of obtaining information on the whole host of topics which relate to the objectives and proposals to be incorporated in the general plan.

The survey asked whether community or citizens groups were organized and/or utilized for the formulation of the local general plan. The response indicates that only 84% of the cities and only 79% of the counties utilized such citizens groups. In light of the language of Government Code §65304, it is possible that the cities and counties who responded negatively have been derelict in not following the injunction of the enabling act.

The survey requested opinions from those jurisdictions which

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55. CAL. GOV'T CODE § 65304 (West 1970).

utilized organized citizen input as to its effectiveness, and requested that the opinion be in terms of a choice between "None," "Some," or "Substantial." Forty-nine percent of the cities which indicated use of organized citizen input opined that there was "some" effectiveness; 51% opined that it was "substantial." Similar results were obtained from the counties, being 48% and 52% respectively.

While one may be less than always ebullient at the results of encouraging public input into the general plan formulation process, it is clear that Mr. Beauvil lost, in California, the debate on that issue. How have we reacted to the second issue, concerning whether general plans should be adopted as an ordinance by the legislative body or as some kind of technical document by the planning commission?

The enabling code sections are replete with requirements and phraseology indicating the legislative will respecting local adoption of general plans. The legislative body of the local government shall adopt the plan.<sup>56</sup> It is stated that the planning commission is to have an approving function, as opposed to an *adopting* function.<sup>57</sup> The plan is to be endorsed to show that it has been adopted by the legislative body.<sup>58</sup> On the other hand, Government Code §65357<sup>59</sup> requires that the adoption shall be by resolution of the legislative body, and it can be argued that the *resolution* process indicates administration character, while the *ordinance* process denotes legislative character.

*O'Loane v. O'Rourke*<sup>60</sup> faced squarely the question of the inherent character of local general plan adoption. The City Council of the City of Commerce adopted, by resolution, a general plan. A proper petition purportedly signed by a requisite number of electors was submitted to the city, asking that the council either repeal the resolution or submit the question of plan adoption to the electorate. The city refused to hold a referendum election, arguing that general plan adoption was an administrative and executive act, not a legislative act. The court disagreed, hold-

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56. CAL. GOV'T CODE §§ 65300, 65301 (West 1970).

57. CAL. GOV'T CODE § 65351 (West 1966).

58. CAL. GOV'T CODE § 65360 (West 1966).

59. CAL. GOV'T CODE § 65357 (West 1966).

60. *O'Loane v. O'Rourke*, 231 Cal. App. 2d 774, 782, 42 Cal. Rptr. 283, 287 (1965).

ing that (i) the essential test of legislative character is the declaration of permanent policy or public purpose, (ii) the general plan represented a new, permanent and general policy and declaration of public purpose, (iii) no useful purpose would be served by preventing the exercise of the democratic referendum process. Professor Haar's statement on the subject was quoted:

In the past, the fear that legislative adoption and amendment might prove overly cumbersome has caused most planners to advise excluding the local legislature from such direct participation at the planning level. Yet it would seem that only where the master plan is not to have any legal effect on private property rights could it be left entirely to the planning commission. For if it is to be the standard whereby the validity of subsequent regulation is judged, leaving it entirely to the planners would in effect give them conclusive control over the legislature in the zoning area.<sup>61</sup>

The survey disclosed that out of 77 city plans considered, only four were submitted to the direct will of the voters. Of 27 county plans surveyed, two were submitted to the voters. Whether the infrequency of resort to the electorate is because of public disinterest or public satisfaction with legislatively adopted general plans is not known; in any event, the legislative character of adoption is well established in this state.

#### IV. REVIEW AND AMENDMENT OF GENERAL PLANS

The review of general plans is desirable from three standpoints:

1. Many jurisdictions adopt a general plan on an element-by-element basis. Thus, one year a "land-use" element may be formulated and adopted; the next year, a "circulation" element; in a later year perhaps a "conservation" or "recreation element" may be adopted. Presumably the jurisdiction adopts element plans in the order of need and importance. Regular review of the element plans, and of the long-term adoptive process itself, is desirable in order for the jurisdiction to determine what element or elements should next be dealt with, and to induce it to begin needed element plan formulation. Kent is highly critical of element-by-element plan adoption, characterizing it as "piecemeal" and as one of the worst features of American city-planning practice in the period of 1930 to 1950. His alternative is the adoption of a general plan as a whole, but in preliminary form, to be followed by a fully developed plan after the completion of careful subsequent studies.<sup>62</sup>

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61. Haar, *In Accordance with a Comprehensive Plan*, 68 HARV. L. REV. 1154, at 1175 (1955).

62. THE URBAN GENERAL PLAN, *supra* note 3, at 40.

2. The general plan is flexible—not in the sense that sometimes it should be followed and sometimes it should not—but in the sense that it will change as changes in standards, ideas and facts change.<sup>63</sup> Technological advance, new or different forces and pressures on the community, or even the realization of past misinterpretation of fact require both the capacity and opportunity to amend the plan.

3. The proper implementation of general plans is at least as large a task as the plan formulation itself. An adequate means to determine and correct deficiencies in implementation is to review the general plan in light of the existing implementing tools currently utilized by the jurisdiction.

The state law<sup>64</sup> requires the local planning agency to “. . . [R]ender an annual report to the legislative body on the status of the plan and progress in its application.” While the quoted language may be construed to apply only to the *implementation* aspect of general plan review, it is, in fact, broad enough to encompass both the *additional planning* and *revision* aspects.

Consistent review of the general plan will also serve to create and maintain public interest in the plan; more important, by periodic discussion of the general plan before and with councilmen and supervisors it can be hoped that they will become more aware of the prominent influence which the general plan should have to the ongoing development of the community.

Believing that regular plan review has inherent benefits, which are independent of the results of such review, the survey asked whether the jurisdiction has a specific policy of reviewing the general plan on a yearly or other periodic basis. Only 46% of the cities and 21% of the counties answered the question in the affirmative.

The survey attempted to determine the extent to which jurisdictions were engaged in, or expected to be engaged in, additional general plan formulation, revision and implementation studies. It appears that some 30 cities are, or expect to be, engaged in the review effort; however, it is difficult to determine with any degree of precision the specific objectives of the present and forth-

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63. Haar, *The Master Plan: An Impermanent Constitution*, 20 HARV. L. REV. 353, 397 (1955).

64. CAL. GOV'T CODE § 65400(b) (West 1970).

coming reviews. One is tempted to conclude that, in fact, additional planning, revision and implementation will be considered.

The immediate conclusion gathered from the survey is that several elements of the general plan appear in the forefront of revision and amendment processes being presently undertaken. Of those cities indicating they are engaged in revising and amending their general plan, 30% state that a housing element is being added, with 23% adding an open space element. In response to the question of which existing general plan elements needed implementation by new ordinances, policy statements, etc., 40% of the cities mentioned above stated the land-use element needed implementation, while 27% mentioned housing, and 17% conservation, recreation and open space. Since other elements were mentioned by only one or two responding cities it seems safe to say that the elements above are those most prominent in present general plan revisions and amendments.

## V. IMPLEMENTATION OF THE GENERAL PLAN

To this point we have considered the number and content of local general plans, the role of the public and the legislature in its formulation and adoption, and the process of review and amendment. If the general plan is to mean more than colorful diagrams and mere words, it must be executed, not merely executory. The general plan, being principally a statement of goals, objectives and policies, is not self-executing. Putting the plan into meaningful effect demands implementation, and the basic force for implementation is government control, influence and action in one form or another. The basic force may be direct, obvious and of prominent effect, as in the case of a city subdivision ordinance or an amendment to the zoning ordinance regulating billboards. It may be of seemingly indirect implementing effect as when city officials attempt to get a small research laboratory to move into a particular section of the community. The basic force will be manifested in the day-to-day decisions of the legislative body respecting zoning applications, capital expenditures and a host of other matters.

There are reasons to believe the implementation will not be as successful as we may desire. Our tradition of applying only the *minimum* government control sufficient to accomplish a given goal or to solve a particular problem cannot, standing by itself, be criticized. But perhaps our equally traditional emphasis on individual freedom of action causes us to misgauge the degree or nature of the control necessary to achieve the desired ends.<sup>65</sup> Haar, in com-

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65. Professor Haar notes that even the rigid and ruthless controls avail-

paring British and American land planning and control, emphasizes that our law (at least compared to that of a unitary form of government) is less centralized at its source, with the result that the laws of multiple jurisdictions must be consulted.<sup>66</sup>

Further, ease of implementation may depend on the inherent nature of the general plan to be implemented, for it would seem that the task of implementation would be more difficult where the goal to be achieved is a *choice between foreseen feasible alternatives* rather than a *prediction of that which will most probably occur*.

We must recognize that implementation, in the final analysis, will be determined by the legislative body, and that its decisions are frequently motivated by *political* considerations; the voluntary comment, in the survey, of one of the planning directors is pertinent:

Implementing the land-use portion of the plan has been most difficult. There has always been a political resistance to the rezoning of properties to accomplish greater conformity with the plan unless property owner applies for it. A legislative body may thoroughly approve of a general plan but fail to effectuate any of it. Political expediency somehow must be thwarted in the public interest.

In connection with implementation, consideration should be given to its *time* relationship to planning; San Diego Zoning Case No. 60-71-10, heard and determined by the City Council on August 19, 1971, provides a starting point for the discussion:

A 40,000 acre sector of the City, called the "North City," is largely undeveloped; the City's current general plan does not purport to establish goals or proposals for it. While it has been thought that most of North City would not be developed until after 1985, there have been clear recent signs that subdivision and rezoning applications in North City would be forthcoming. Present zone classification for most of North City is Interim Agricultural. On June 8, 1971, the City Council, at a "workshop" with the Planning Commission, voted

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able to a dictatorship are far from effective; he cites the experience of the Soviet Union; Charles M. Haar, *Comparisons and Contracts*, LAW AND LAND 246 (C. Haar ed. 1964). Mikhail Posokhim, Moscow's chief architect, recently announced a 20-year urban plan, the chief goals of which are restricted population, preservation of historic structures, park land development and prevention of air and other pollution; Los Angeles Times, August 21, 1971, Part One, at 1, col. 1.

66. Haar, *supra* note 65.

to direct the Planning Department to commence master planning of North City, with emphasis on the creation of several largely self-sufficient "new towns." A subsidiary of a large national corporation desired to move its corporate headquarters from Los Angeles to a 25-acre site within North City. It applied for Commercial Office zoning for the site. The Planning Department recommended denial, arguing that rezoning would be premature implementation of a plan-yet-to-come and would constrain and limit the forthcoming planning effort. The Planning Commission recommended denial of the application. At the City Council Hearing (i) major business organizations urged the reclassification, citing the national stature of the applicant, the number of jobs to be created and the non-polluting character of the business, (ii) the representative of the AFL-CIO urged the reclassification, (iii) an official of the affected school district urged the reclassification, citing the need for commercial-industrial tax base and (iv) the City Manager (who is not a planner) commented in favor of the reclassification. The Council permitted drawings and plans of the contemplated office facility to be presented. The argument was advanced that (i) each "new town" would need job-creating facilities, (ii) the applicant was proposing the first of these facilities, (iii) perhaps the proposed land use would, in later fact, be the use indicated by the forthcoming master plan.

The Council reclassified the site to Commercial Office Zone. Admittedly, the pressures under which the Council acted were strong. Some community benefits are likely to follow from the contemplated land-use. But what about the effect of the land-use on the planning process about to be undertaken? The 25-acre office facility at which, reasonably, 750 people can be employed will become the dominant factor in planning thousands of acres around it. The planner is almost always faced with existing land-uses and other conditions which constrain his capacity to make choices between viable alternatives; the sheet of paper upon which his plan will be drawn is rarely white and unblemished at the beginning. But to purposely mark the paper before it even gets to the planner's desk—to *implement-then-plan*—is to nullify the planning process. The degree of nullification may be large or small; the added misfortune is that we cannot, at the moment of premature implementation, tell.

It seems axiomatic that one should first plan, then implement. Professor Haar comments that establishing the plan first and instituting controls (*i.e.*, implementations) later may lead to an attitude that *conformity* to the plan is an end in itself and to an undesirable



rigidity in the administration in the land-use controls.<sup>67</sup> I suggest that such conformity may be a desirable end if a particular general plan is a proper one.

Perhaps the decision in Case No. 60-71-10 represents confusion about the relationship between *planning* and *zoning*. Many cities had zoning ordinances, maps and districts before they had general or master plans. The zoning controls were detailed and comprehensive geographically and in the sense that they dealt with a wide range of land-uses and development standards (area coverage, height, setbacks, etc.); a city's zoning controls were a *plan*, albeit a zoning plan. Oft-cited cases emphasized local plans as being "comprehensive," "carefully considered" or "systematic."<sup>68</sup> Under these circumstances it is understandable that councilmen and planning commissioners would equate *zoning* to *planning*. Kent ascribes the confusion between planning and zoning to the inclusion in the 1928 Standard City Planning Enabling Act of a recommendation that a general plan should include a zoning plan for the control of the height, area, block, location and use of building and premises.<sup>69</sup>

The state zoning legislation<sup>70</sup> emphasizes that its purpose is to provide for county and city adoption and administration of zoning controls "as well as to *implement* such general plan as may be in effect in any such county or city" (emphasis added). Notwithstanding such an implementation relationship, no city or county is required to adopt a general plan prior to the adoption of a zoning ordinance.<sup>71</sup>

There has been criticism that the different genesis, functioning and administration of subdivision controls and zoning controls impedes successful use of planned residential development<sup>72</sup>; since use of the planned residential development concept may be an important proposal in an urban general plan, the impediment may have serious consequences on the implementation of the resi-

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67. *Id.* at 260.

68. *Miller v. The Board of Public Works*, 195 Cal. 477, 234 P. 381 (1925); *Wilkins v. San Bernardino*, 29 Cal. 2d 332, 175 P.2d 542 (1946).

69. *THE URBAN GENERAL PLAN*, *supra* note 3, at 38.

70. CAL. GOV'T CODE § 65800 (West 1966).

71. CAL. GOV'T CODE 65860 (West 1970).

72. Babcock, *An Introduction to the Model Enabling Act For Planned Residential Development*, 114 PENN. L. REV. 136, 137.

dential portion of the general plan land-use element. The enabling legislation for zoning regulations, Government Code § 65800, *et seq.*, shows clearly the nexus, noted above, to zoning. But the administration of subdivision control is given to local jurisdictions in Business and Professions Code §11500, *et seq.*, and the implementing relationship between planning and subdivision control is not made clear. Generally speaking, zoning control is treated as a legislative matter, while subdivision control is dealt with administratively, and the suggestion has been made that this distinction should be eliminated.<sup>73</sup>

The state law contains provisions permitting each local government to adopt such regulations, programs and legislation as may be required for the systematic execution of its general plan.<sup>74</sup> Such regulations, program and legislation are referred to as "specific plans;" specific plans may include zoning controls as well as "such other measures as may be required to insure the execution of the general plan." While such language is broad enough to be described in the implementing mechanism, it is not clear that it is intended to include, for instance, a city or county subdivision ordinance.

The availability of public funds will have a marked impact on the implementation of general plans. Many of the goals and objectives of the plan, such as elements dealing with parks, open space, conservation, recreation, transport, circulation, public facilities and the like, can be properly attained only if the municipality or other government provides capital improvements related to those elements. School financing in California and elsewhere is already critically deficient and it is difficult to see where we will get the money for adequate community redevelopment and elimination of substandard housing. The survey attempted to determine whether city and county capital improvement expenditures are for the purposes, in the amounts and at the times either contemplated or impliedly required by the relevant general plans. Only 47% of the city planning directors opined in the affirmative. The statistic for the counties is even more dismal: Only three of 24 responding county planning directors believed the capital improvement expenditure programs of their counties was adequate. One suspects that finance directors faced with budgetary problems, and councilmen and supervisors faced with tax rate determinations, would have been less pessimistic. Even so, the conclusion must be that we are not devoting sufficient amounts of our resources to implementing local general plans.

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73. *Id.*

74. CAL. GOV'T CODE § 65450 (West 1966).

The real test of whether a general plan will be, as Professor Haar puts it, a prophecy of the future or a legal control, or simply a letter to an unheeding world,<sup>75</sup> is the day-by-day application of the plan by local legislative bodies and administrative officials. The apparent element deficiencies in substance, political motivations to local legislative action, the confusion between planning and zoning and possible inadequate capital improvement expenditure programs leaves one pessimistic as to the day-by-day effectiveness of general plans.

Hopefully, with respect to some human events and actions, the best of prophets of the future is not the past nor even, perhaps, the present. *O'Loane v. O'Roarke* constitutes not only California's best judicial analysis of the content and philosophy of the local general plan but is prophetic in estimating its effect and usefulness. The court sees the general plan as a force which will affect property rights and market values. It will be a standard, together with those of due process, for the interpretation of zoning controls. Activities between the adopting municipality and other public agencies will be determined by the plan. In a word, the court contemplates that the general plan will become a constitution for all future developments within the municipality.<sup>76</sup>

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75. Charles M. Haar, *Comparisons and Contrasts*, LAW AND LAND 246 (C. Haar ed. 1964).

76. *Supra* note 16 at 783.