

General Plan 2020
Interest Group Committee Meeting Minutes
December 16, 2003
Revised January 20, 2003

Interest Group Committee:

Al Stehly	Farm Bureau
Bruce Tabb	Environmental Development
Dan Silver	Endangered Habitats League
Dave Shibley	Save Our Land Values
Diane Coombs	Citizen Coordinate for Century 3
Eric Bowlby	Sierra Club
Jim Whalen	Alliance for Habitat Conservation
Karen Messer	Buena Vista Audubon Society
Liz Higgins	SD Association of Realtors
Matt Adams	Building Industry Association
Mike Thometz	Back Country Coalition
Phil Pryde	SD Audubon Society
Scott Thomas	American Institute of Architects
Wallace Tucker	SD Coalition for Transportation Choices

Public at Large:

Brent McDonald	Caltrans
Carol Leone	
Charlene Ayers	
Dutch Van Dierendonck	Ramona CPG
Eric Larson	Farm Bureau
Helen Gao	San Diego Union Tribune
Jan Van Dierendonck	Ramona Grasslands
Jeanne Pagett	
Lynne Baker	EHL
Mike Langs	
Parke Troutman	
Ruth Potter	
Suzanne McKenna	SD Assn of Realtors
Todd Galarneau	McMillin Companies
Tracy Morgan Hollingworth	East County Assn of Realtors

County Staff:

Karen Scarborough (DPLU, group facilitator)
Ivan Holler (DPLU)
Michelle Yip (DPLU)
Tom Harron (County Counsel)

Agenda Item I: Logistics –

a) Minutes for October 21, 2003

- Shibley moved to approve. Baker seconded. Motion passed with one abstention (Bowlby).

Agenda Item II: Equity Mechanisms Proposals –

a) Al Stehly

Handout:

**Farm Bureau Recommendations for an Equity Protection/Easement Program
in the General Plan 2020 Update**

Concept. The Equity/Easement Program is based on the premise that property owners would receive compensation for a voluntary agreement to place a permanent restrictive development easement (PRDE) on their property.

Value to the Community. Permanent protection of agricultural, open space, and habitat values of land that is entered in the easement program.

Entering the Program. A specific enrollment period would be set and reopened every three years. This is needed in order to assess the scale of participation and for a reasonable opportunity to calculate financial demands for easement acquisitions.

Property owners would voluntarily elect to permanently remove some amount of density from their property, pending a determination of the payable value of the easement. In exchange for compensation the property owners would agree to place a PRDE on their property.

All property owners would be allowed to divide their property at GP 2020 standards, unless density in excess of the GP 2020 standard is removed.

The amount of density permanently restricted would be the difference between the current General Plan designation and the GP 2020 designation up to a maximum of all density on the property.

Determining Value of Easements. An appraisal of the candidate property is made based on the allowable density of the property as it exists on the day previous to the enactment of the general plan amendments commonly referred to as the General Plan 2020 Update. A second appraisal of the property is prepared based on the value of the property with its allowable density under GP 2020, or greater density reduction if agreed to by the property owner.

The difference between the appraisals is determined to be the value of the easement. This is a modification on the California Farmland Conservancy Program that relies on appraisals of fair market value and the restricted value of property under the easement as the determination for the easement value. The modification is the fair market value is based on the property status absent the GP 2020 revision.

Points of Consideration. Not all property owners will choose to enter the program, nor will all properties experience a value loss from down zoning. In some instances the change from a parcel-size to a density-based general plan could result in increased property values on parcels that have been slated for density reductions.

Easement holders will be mutually acceptable to the farm community and the County.

Easements will not restrict agricultural uses or expansion in accordance with applicable regulations, including changes in crops.

Funding for Easements. It is likely that multiple funding strategies will have to be employed in order to guarantee sufficient funding for the purchase of easements.

Appraisals. In the easement value determination appraisals should be based on bare-ground-to-bare-ground value. This is a common practice that functions well now in the valuation of property and should not incur unreasonable expense.

- The concept is farmers are getting downzoned due to 2020 and will somehow get compensated for the loss of equity; in exchange for being compensated for the downzoning, farmers would enter into agreement of restricted development. Cannot have open enrollment because we do not know how big this program will be. After being compensated, the owner will still hold the 2020 density.
- Supports having the first run done by County staff (Assessors) with an appeal process if the owner does not agree with the appraisal.
- Not all properties will participate nor will all be affected by a loss; want easement holder to be mutually acceptable with them and the County.
- Shibley disagreed that not all properties will experience a loss of value from downzoning. Stehly gave an example of a 200-acre property with a 10-acre minimum. Due to the steepness of the terrain, it probably could get three lots but the large flat area is not good for farming and the farming area is on the steep portions of the site. If the property is downzoned to 1 du/20 ac, now the owner has the opportunity to cluster so they are not losing value.
- Shibley took issue with the specific enrollment period of three years. Stehly stated that it is enrollment and not when you get paid; the money is not going to be available in the first year or two but something can be put on the balance sheet.
- Pryde asked how this proposal differs from those in the past. Stehly replied not by much and that he has not proposed a funding mechanism.
- Bowlby asked how the clustering policy would affect the parcel given in Stehly's earlier example (200-acre property with 10-acre minimum). Stehly replied that under the minimum lot size of the general plan now and what the Initiative wants to do, it actually increases the value.
- Larson mentioned that not every property is going to decrease in value, not every downzoned property is going to lose value; it is an unknown factor. This illustrates the point that this needs to be done with an appraisal process.
- Shibley mentioned that you have to be careful of the appraisal process; it is almost easier to get project specific. Thinks that where Stehly is going is the correct way but there should not be an enrollment period due to property owner changes. Stehly replied that the enrollment period re-opens every three years.
- Tabb stated that the term "appraiser" has been used in a very broad sense and someone is going to have to learn how to do this and get up to speed.
- Tucker asked if you always go back to the pre-2020 plan when the enrollment opens every three years. Stehly replied that somewhere in there, you stop worrying about 2020; you probably will not enroll 15 years later.
- Messer questioned the enrollment re-opening. Stehly replied that it was an issue of fairness. Messer wondered how much responsibility do we have for contacting people.
- Coombs asked who would pay for the appraisals. Stehly replied that the initial appraisal would be a blanket regional appraisal done by the County tax assessors. The person appealing the appraisal during the appeals process would pay for the new appraisal. This is a fairness issue.
- Coombs asked what a program like this would do to the zone and implementation. Harron replied that all he sees Stehly doing is limiting development from what GP2020 sets out to do.
- Coombs questioned the concept of paying for a downzone. Harron replied that he does not see this as paying for a downzone; it is a conservation easement in perpetuity, paying for property interest that keeps that open space forever.

b) Dan Silver

Handout:

PRELIMINARY DISCUSSION DRAFT
December 16, 2003
Agricultural Equity Protection Program

Revenues

A reliable and adequate source of funds will need to be identified.

Eligibility criteria

1. Legitimate agricultural operation (farm or ranch)
2. Post-2020 density within a particular range, e.g., 1/10 to 1/160
3. A documented loss in value post-2020

Potential benefits

- Purchase of permanent conservation easement (allowing on-going agricultural operations)
- Purchase of a temporary (e.g., 20-year) conservation easement *combined with* a Permanently Restricted Development Easement (PRDE). The latter limits future intensity of use to the post-2020 density level. Although an exact methodology was not determined, the value of the temporary easement/PRDE would be related to the time value of the development rights not utilized during the easement period.

NOTES:

Also discussed was a parallel process for permanent conservation easements for conservation lands, but wholly at the discretion of the County.

Not yet discussed is the interface of these benefits with development using an Open Space Subdivision.

- A nexus study can be done and that would be broad based. Another way is to target those upzoned. Although we are not talking about that level of detail, we do need an adequate funding source.
- Discussed criteria for eligibility and potential benefits. The second bullet under potential benefits evolved from the concept of paying for a downplan; the environmental community opposes this concept and questions the implications to local government. A Permanently Restricted Development Easement (PRDE) is something of value and provides some appeal to landowners.
- The first option may be sufficient if there was a defined source of funding and the farmers knew, even then, there may be a need for the second additional option. Thinks the second option proposes methodological complications.
- Overall concern is the resulting map; concerned about what is happening to the map so all of this leads to a package deal. If we are not looking at the December map with refinements, then EHL is not interested in equity mechanisms or participating at this table.
- Shibley stated that this should not be just for agriculture; this needs to be a broad based program.
- Tabb agreed with Shibley. Believes there should be permanent open space easements and not temporary development restrictions. Having trouble with setting a precedent for paying for downzoning; needs to be permanent.
- Messer stated that the open space subdivision has permanent open space so what is in play is the remainder parcel; what people get is something like a Williamson Contract.
- Stehly stated that what you get out of their program is their support; saying they will support the map and sit at the table through equity mechanisms.
- Pryde understands what is trying to be done but thinks it is a bad term; if it is conservation, then it needs to be permanent.

- Harron stated that he does not see a problem with temporary easements; the way we are looking at this, we cannot do this for 20 years.
- Silver mentioned that after the 20 years, a person can develop at the post-2020 density but can never develop at a greater density; there is a deed restricting property to the post-2020 level.
- Tabb stated that we can afford to go permanent if we are creating this subset of just farmers and we can go with temporary easements if the subset is opened to more than farmers but we do not have the luxury to pay for both permanent and temporary easements for everyone downzoned.
- Silver stated that everything the government does has to have a public benefit and there is no question that farmers have a public benefit, which the government is always trying to provide for. Farmers have a particular financial need, which in essence, keep them in the “game”. Others who own land for real estate are determined by the general plan. There is no philosophical problem with picking out these interests.
- Adams was concerned with the deep philosophical discussion, which he called socialism and stated that we were engaging in a socialistic experiment. The government thinks it is necessary for downzoning; there is no economic benefit for going out there [backcountry] so we need to get off the massive downzones. We need to identify and incentivize areas for increases. The threat is fake; we are not going out there. Encouraging the group to allow us to do what we should have done in the first place – to do proper planning - to incentivize and disincentivize.
- Tucker thinks they are going there and agrees this is a socialistic experiment at the developers’ benefit. Thinks it is a big mistake to provide equity just for farmers. Thinks what Stehly has lined up is workable.
- Stehly stated that he sees the practicality in including everyone because we are trying to get support for the map. Tucker responded that the map is a placeholder; the map represents a temporary paradise (delayed growth) and would like to make it more of a permanent thing.
- Silver asked Tucker if he was supporting a program that was broader, one that included more than farmers. Tucker replied that the PRDE term is a result of trying to make everyone happy.
- Messer stated that Adams’ criticisms were legitimate. The problem with Stehly’s proposal, as presented, is that you are not getting anything for the money; people have a right to develop and then they are getting paid to lock in. Stehly replied that the fallacy in this argument is that Messer is comparing what you get in 2020 and their plan; arguing that you do not get much more. Messer asked who would not join – you get your project and then get paid.
- Thometz disagreed with Adams stating that there are builders out in the backcountry; there is development pressure in the backcountry and it is insulting for him to say there is none. The difference is that the farmers have a representative here but there are lots of people in the backcountry that will say they need protection. Scarborough asked if he was supportive of a broader plan. Thometz agreed.
- Pryde stated that Stehly’s plan should be targeted to everybody.
- Harron stated that we have the right to treat farmers differently because we see them as important.
- Shibley asked why you would assume that 20,000 people are going to apply if there are only so many new homes a year. Talking about a benefit to developers. Some people do not want to be upzoned because taxes would go up, which staff disagrees with. The point is, go where development is needed.
- Whalen noted that this is voluntary, selective, prioritizes, political, and has the potential for assisting with relief of providing infrastructure. On the negative side, the funding is unclear. What is most encouraging is that what is being heard is not different from previous sessions.
- Tabb thinks this needs to be more broad based and needs to be permanent. Other aspect of this is that the whole subject is being driven by politics – getting the map approved. We went into this program thinking it was the right thing to do and we reassessed whether this was necessary to get the map approved. This is very complicated and we do not know if it is the right or wrong thing to do.
- Silver stated that this is not a commodity program but rather site specific. Because a good argument has been made that this should not be limited to agriculture, there should be a certain fraction for non-agriculture and agriculture. Agriculture has to be people doing agriculture when 2020 is adopted. Everyone has to pass a test; if they participated in a site specific TDR, they do not get this. Also, instead of the trigger being a loss of value, say it is a loss of 25% - this restricts a number of people getting benefits to only those who deserve it most as there are limited funds. The

question is what other benefits are needed. Has not heard a negative comment about the PRDE concept. Priority is purchasing permanent easements; other things are less priority or a certain fraction can go to PRDEs and the other fraction can go to permanent.

- Coombs asked how the current government feels about creating value by doing upzones. Equity mechanisms are there so “losers” get paid then “winners” should pay.
- Bowlby supported Coombs’ statement. The public has the right to the plan’s plan for protection of resources; does not want to see us in the position where taxpayers have to pay for the plan.
- Higgins stated that if the intent of the map is to direct development to where we want it built then people who have to pay have no choice.
 - ❖ **Correction made at the January 20, 2004 meeting:** Higgins stated that if the intent of the map is to direct development to where we want it built, then people who are upgraded should not have to pay because someone else is downzoned.

Agenda Item III: Status & Next Steps –

a) Update on Project

- Holler stated that at the October 3rd Board hearing, the direction was to run different scenarios based on distributions to understand where the different impacts will occur. There is a total of seven or eight maps and essentially we will be running the existing general plan, the December Working Copy map, and any number of variations the Board has directed us to do. Unfortunately, the fire occurred part way through, which diverted department resources. We are continuing on with GIS mapping and hope to have our data to SANDAG early next year and back to the Board in the first quarter. The key thing is that we go back with a recommendation for a preferred project and use traffic modeling to make decisions.
- Shibley asked for an EIR update. Holler replied that we have done as much as we can do to get a preferred project.
- Silver asked if staff was anticipating going to the Board before or after the March election. Holler replied that we do not know when we will go back to the Board because we are giving seven or eight runs to SANDAG, which we have never done before.
- Bowlby asked if the consultant contract extension to 2005 was a result of the referrals. Holler replied that the contract was expiring this year.
- Bowlby asked if a preferred project was different from a preferred alternative. Holler replied yes; project refers to residential and alternative comes out of the CEQA process. Bowlby asked when will we get to the preferred alternative and CEQA process. Holler replied that if the Board accepts the preferred project, then we can pursue more EIR work. Bowlby asked if the EIR work was ongoing. Holler replied to the extent it can be; it is difficult to do without a distribution.
- Coombs asked about the referrals regarding a groundwater study. Holler replied that Pine Valley was where the bulk of the comments were made but we are looking at other areas. We can look at a number of updates (i.e. isopluvial maps).
- Bowlby asked about the groundwater analysis in Alternative III. Holler was unable to respond since he was not on the project during that time.

Agenda Item IV: Public Comments –

- Lyn Harris Hicks: Made appeal for incentives to encourage landowners to not follow policy of clearing habitat and coming in for a subdivision; people know if they do not clear the habitat then they would be subject to habitat preservation. There are so many ways owners can be recommenced for habitat loss. Must have permanent open space; it could be a primary goal. There seems to be many incentives and had suggestions (handout).
- Dutch Van Dierendonck: Where in the constitution does it guarantee profit or development rights? Has a problem with the concept of paying for downzoning; prejudicial against other people. Disagrees with Harron because he thinks there are many constitutional problems with this.