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JOHN K. VAN DE KAMP  
Attorney General

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OPINION	:	No. 83-804
	:	
of	:	<u>MARCH 7, 1984</u>
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JOHN K. VAN DE KAMP	:	
Attorney General	:	
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RODNEY O. LILYQUIST	:	
Deputy Attorney General	:	
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THE HONORABLE ROBERT PRESLEY, MEMBER, CALIFORNIA  
STATE SENATE, has requested an opinion on the following question:

Is a parcel specific map required for the land use element of a general plan  
adopted by a city or county?

CONCLUSION

A parcel specific map is not required for the land use element of a general  
plan adopted by a city or county.

## ANALYSIS

Section 65302 of the Government Code<sup>1</sup> states:

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

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

"....."

The question presented for analysis is whether a parcel specific map<sup>2</sup> is necessary to meet the requirements of section 65302, subdivision (a). We conclude that it is not; rather, a diagram of general locations illustrating the policies of the plan is sufficient.

Each city and county in California is required to prepare a general plan to "serve as a pattern and guide for the orderly physical growth and development and the preservation and conservation of open space land of the county or city and as a basis for the efficient expenditure of its funds relating to the subjects of the general plan." (§ 65401, subd. (a); see generally *Selby Realty Co. v. City of San Buenaventura* (1973) 10 Cal.3d 110, 120; *City of Los Angeles v. State of California* (1982) 138 Cal.App.3d 526, 533; *Sierra Club v. Board of Supervisors* (1981) 126 Cal.App.3d 875, 880-881; *Friends of "B" Street v. City of Hayward* (1980) 106 Cal.App.3d 988, 997; *City of Santa Ana v. City of Garden Grove* (1979) 100 Cal.App.3d 521, 532; *Mountain Defense League v. Board of Supervisors* (1977) 65 Cal.App.3d 723, 732; Cal Zoning Practice (Cont. Ed. Bar 1969), § 2.23, p. 31, hereafter cited "C.E.B."; Diener, *Defining and Implementing Local Plan--Land Use*

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<sup>1</sup> All references hereafter to the Government Code are by section number only.

<sup>2</sup> A parcel specific map would be one in which precise boundaries delineate individually owned parcels of land as well as the use or uses authorized by the general plan for each parcel.

*Consistency in California* (1978) 7 Ecology L.Q. 753, 754-756, hereafter cited "Diener"; Comment, *Selby Realty Co. v. City of Buenaventura: How General is the General Plan?* (1974) 26 Hastings L.J. 614, 616, hereafter cited "Selby"; Comment, "Zoning Shall be Consistent With the General Plan"—*A Help or a Hindrance to Planning* (1973) 10 San Diego L.Rev. 901, 902, hereafter cited "Zoning"; Perry, *The Local "General Plan" in California* (1971) 9 San Diego L.Rev. 1, 1-2, 7, hereafter cited "Perry.")

A general plan has nine mandatory elements: land use, circulation, housing, conservation, open-space, seismic safety, noise, scenic highways, and safety. (§ 65302; see *Twain Harte Homeowners Assn. v. County of Tuolumne* (1982) 138 Cal.App.3d 664, 671; *City of Los Angeles v. State of California*, *supra*, 138 Cal.App.3d 526, 530; *Camp v. Board of Supervisors* (1981) 123 Cal.App.3d 334, 348; *Friends of "B" Street v. City of Hayward*, *supra*, 106 Cal.App.3d 988, 998.)

Various governmental decisions, such as the enactment of zoning ordinances, approval of subdivision maps, and issuance of building permits, must be consistent with the provisions of the applicable general plan. (See §§ 65567, 65860, 66473.5, 66474; *City of Los Angeles v. State of California*, *supra*, 138 Cal.App.3d 526, 531, 534; *Bownds v. City of Glendale* (1980) 113 Cal.App.3d 875, 880; *Friends of "B" Street v. City of Hayward*, *supra*, 106 Cal.App.3d 988, 998; *Hawkins v. County of Marin* (1976) 54 Cal.App.3d 586, 594-595; *Selby*, *supra*, p. 620.)

The issue of whether a general plan should be more general for flexible long-range planning or more specific for short-range governmental decisions has long been debated. (See *Selby*, *supra*, pp. 614, 621; *Zoning*, *supra*, p. 901.) Thirty years ago the conflict was described by a leading commentator as "the constant struggle of choice between the over-general and the over-detailed." (Haar, *The Master Plan: An Impermanent Constitution* (1955) 20 L. & Contemp. Prob. 353, 370, hereafter cited "Haar.")

The question is primarily significant due to the statutory requirements for amending a general plan. Amendments normally require hearings (§§ 65351, 65355) and environmental review under the California Environmental Quality Act (Pub. Res. Code, §§ 21000-21174), with revisions to zoning ordinances made necessary by the "consistency" requirement (§ 65860). (See *City of Santa Ana v. City of Garden Grove*, *supra*, 100 Cal.App.3d 521, 530-533; *Selby*, *supra*, p. 630; *Zoning*, *supra*, p. 907.)<sup>3</sup>

In construing the language of section 65302, we are guided by several principles of statutory construction. The primary rule in interpreting a statute is to

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<sup>3</sup> In most cases the land use element may only be amended "three times during any calendar year." (§ 65361, subd. (a).)

"ascertain the intent of the Legislature so as to effectuate the purpose of the law." (*Moyer v. Workmen's Comp. Appeals Bd.* (1973) 10 Cal.3d 222, 230.) In ascertaining legislative intent, we turn first to the language used (*Tracy v. Municipal Court* (1978) 22 Cal.3d 760, 764), giving the words their ordinary and usual meanings (*People v. Belleci* (1979) 24 Cal.App.3d 879, 884). "Words must be construed in context, and statutes must be harmonized, both internally and with each other, to the extent possible." (*California Mfgs. Assn. v. Public Utilities Com.* (1979) 24 Cal.3d 836, 844.) Finally, "the legislative history of the statute and the wider historical circumstances of its enactment are legitimate and valuable aids in defining the statutory purpose." (*Ibid.*)

Here, we believe that it is important to note that the Legislature used the word "diagram" in section 65302 rather than "map." A "diagram" is commonly defined as "a graphic design that explains rather than represents: a drawing that shows arrangement and relations." (Webster's New Internat. Dict. (3d ed. 1966) p. 622.) "A diagram is simply an illustrative outline of a tract of land. . . . At best, it is but an approximation." (*Burton v. State* (Ala. 1897) 22 So. 585, 586.)

On the other hand, when the Legislature has used the term "map," it has required preciseness, exact location, and detailed boundaries. (See §§ 66434, 66445, 66499.52; see also *Selby, supra*, p. 617.)

In 1965 the Legislature recodified the statutory requirements for general plans, and in so doing, it substituted the word "diagram" for the term "map" previously required. (See Stats. 1965, ch. 1880, § 5; Stats. 1955, ch. 1644, § 4.) A change of language generally means a change of legislative intent. (See *Mosk v. Superior Court* (1979) 25 Cal.3d 474, 493; *Ostrus v. Price* (1978) 83 Cal.App.3d 518, 523.)

The purpose of the statutory change from "map" to "diagram" was described by one commentator as follows:

"Note that while the earlier statute used the term 'map,' implying an exactness and rigidity, the modern code uses the term 'diagram,' no doubt persuaded by Professor Haar's analysis of the master plan as a compilation of objectives and illustrative materials. Haar recommended the term diagram because maps import location." (*Selby, supra*, p. 619, fn. 33.)

Professor Haar's analysis was as follows:

"The plan should state the goals—the desirable maximum density of people per area; the question of how to arrange them should be left to the implementing regulation. The singling out by the present acts of *location* of

uses seems mistaken. The use of the master plan in some areas of subdivision and street control as a vehicle of legislation should be discouraged. The need for isolating the regulatory from the planning function is overlooked. Unless the two are separated, the broad view will tend to be lost in the day-by-day handling of details. Different types of education and different kinds of people are needed in the different areas of planning and details. And, from the sheer mass of work, bearing in mind the limited resources of staff and time, energies will be devoted to the more immediate, usually more pressing task of the regulating of the land-use activities rather than to the broad, future aspects of such activities.

"The stress in the enabling acts on the *location* of the various facilities also appears undesirable. It is the *relation* of airport sites to residential, industrial, and commercial areas that is the long-range planning function. It is not the function of a master plan to examine the territory and pinpoint in detail the sites and locations of the various activities; its job is that of goals and relationships. Blush as one may, it is primarily, as pointed out in Part II, a philosophic guide to a way of life; the pin-pointing of lots, unavoidably necessary in the transmission of planning ideas, is not the optimal use of the plan.

"For this reason, the enabling acts should be amended to make clear that the master plan consists of statements of objectives and illustrative materials. The identification of the plan with maps is undesirable, for maps import location. Perhaps the term 'diagrams' should be substituted." (Haar, *supra*, p. 370.)

The advantages of the "policy plan" approach over the detailed map approach has been stated as follows:

"The plan must integrate and coordinate activities to avoid waste, ineffectiveness and maladjustments. In the integration and coordination functions, the general plan's greatest contribution is its long range point of view of attaining the ultimate goals. Additionally, the plan serves a vital informational role and provides encouragement to citizens to participate in setting goals. This long range view is lost when the plan becomes imbued with detail equivalent to that of an official map.

"Since the plan is to be a compilation of development policies, where the plan is limited to findings, principles, and related matters and is prevented from containing details it will be more comprehensible to the citizen and

concomitantly will arouse greater public interest in the plan. Without public support, of course, the plan is effectively a nullity. Further, by keeping the minute details like street location and length out of the plan the short-term effects of zoning are less likely to threaten the flexibility of the long-term goals of the master plan.

"The degree of precision in the circulation element seen in the *Selby* case is undesirable. The function of the master plan is *not* to pinpoint the locations of various activities; rather, it is to set up goals for and relationships among these activities. . . .

"No longer do all planners believe that it is both necessary and possible for the law to forecast the *precise* direction and kind of growth the municipality will undergo. The increasing substitution of verbal plans—statements of municipal objectives—for official maps or graphic master plans reflects an increasing awareness that precision in prediction is not feasible, and that mapping is not so simple a guide to community development. Since identification of the plan with the term 'map' imports precise location, Haar suggests the substitution of the term 'diagram.' In theory the California scheme approves and implements this notion." (*Selby*, *supra*, p. 629, fns. omitted.)

The above analysis is consistent with the construction placed upon the language of section 65302 by the agency charged with implementing its provisions. Among the functions of the Office of Planning and Research (hereafter "OPR") is the mandate to "develop and adopt guidelines for the preparation and content of the mandatory elements required in city and county general plans." (§ 65040.2; see *Sierra Club v. Board of Supervisors*, *supra*, 126 Cal.App.3d 698, 708; *Bownds v. City of Glendale*, *supra*, 113 Cal.App.3d 875, 880.) We have been informed by the director of OPR as follows:

"In the past, many local governments considered the land use map a 'blueprint' of the jurisdiction's future development. As a result, in practice, the land use map was often the only portion of the general plan used. This planning approach presented many problems. For example, the map did not make logical connections between the various land use designations and the community's goals and data base, thereby making the map's designations appear arbitrary and susceptible to numerous amendments; because of its blueprint nature, the map hindered flexibility and the use of common sense in reviewing development proposals; the map was regarded as a 'second zoning map' and was not perceived as necessary by a large segment of the

community; and the map generally precluded addressing the concept of phasing or timing of growth.

"This over-emphasis on the map may have led the Legislature to eliminate the term 'map' so in order to de-emphasize the map in relation to the text. . . ."

In sum, a general plan normally "is not specific enough in detail to affect individual parcels, but rather indicates general locations. [Citation.] It consists of diagrams, . . . general locations, and a statement of objectives, principles, and standards." (C.E.B., *supra*, § 2.21, p. 31; see Diener, *supra*, p. 766.)

We do not mean to imply, however, that the owner of a specific parcel of land may not usually be able to determine from a general plan the possible range of uses for his property. While the diagram locations are general, the policies set forth in the plan should be detailed enough to identify possible uses at any particular time. Over a lengthy period of time, different uses may be determined for an individual parcel due to changed circumstances but following the same established policies of the plan. (See Hagman, Cal. Real Estate Practice (1983) 280.30[3], p. 280-14; Haar, *supra*, pp. 367-373.) In this manner the plan remains current and allows for changes without being continually amended.

This approach is consistent with the following advisory guidelines issued by OPR:

"How specific and detailed a diagram of proposed land uses need be depends on the size of the planning area and the intended uses of the diagram. In some jurisdictions, the diagram functions as a general guide, with the text containing specific directions for interpreting the diagram. Other jurisdictions use their diagrams as parcel-specific guides to land use." (Off. of Plan. & Res., General Plan Guidelines (rev. 1982), p. 18.)

Hence, the less detail contained in the diagram portion of the general plan, the more specificity is required in the text.

The detail necessary for a parcel specific map may be developed at a later stage in the land use regulatory process. Specific plans (see §§ 65450-65452) and zoning ordinances may be adopted (see §§ 65800-65912) and subdivision maps approved (see §§ 66410-66499.58) that will provide the requisite specificity when more information becomes available. (See Diener, *supra*, pp. 766, 770; Selby, *supra*, pp. 625, 628; Zoning, *supra*, p. 903.)

At the general plan stage, on the other hand, the Legislature has given to cities and counties great flexibility in dealing with their potential growth and development. (See §§ 653007, 65302.1; *Selby Realty Co. v. City of San Buenaventura*, *supra*, 10 Cal.3d 110, 118; *City of Los Angeles v. State of California*, *supra*, 138 Cal.App.3d 526, 535; *Stevens v. City of Glendale* (1981) 125 Cal.App.3d 986, 997-998; *Mountain Defense League v. Board of Supervisors*, *supra*, 65 Cal.App.3d 723, 732.) As the Court of Appeal stated in *Bownds v. City of Glendale*, *supra*, 113 Cal.App.3d 875, 883-884:

"Planning is at best an inexact science. General plans or policy statements are often semantical exercises which require considerable interpretation on the part of persons charged with implementing them.

"In the area of planning and land use the Legislature has promulgated its own general policies and mandated that local governments in turn adopt plans which comport with the Legislature's policies.

"Absent a complete failure or at least substantial failure on the part of a local governmental agency to adopt a plan which approximates the Legislature's expressed desires, the courts are ill-equipped to determine whether the language used in a local plan is 'adequate' to achieve the broad general goals of the Legislature. In short, while a court, such as in *Save El Toro Assn. v. Days*, *supra*, 74 Cal.App.3d 64, may conclude that in form and general content, a local plan fails to meet the general requirements of the statute, a court cannot and should not involve itself in a detailed analysis of whether the elements of the plan are adequate to achieve its purpose. To do so would involve the court in the writing of the plan. That issue is one for determination by the political process and not by the judicial process."

In answer to the question presented, therefore, we conclude that a parcel specific map is not required for the land use element of a general plan adopted by a city or county; a diagram of general locations illustrating the policies of the plan is sufficient.

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