

## **Update of the Land Use Element**

The Land Use Element should be updated periodically consistent with state law so that area plans can be comprehensively reviewed. The purposes of the Land Use Element update are to review new information or conditions that affect land use policy and to review the effectiveness of policies in implementing plan goals.

Several steps are involved in updating Framework for Planning and each area plan as indicated in Appendix E located at the end of this document.

### **Public Participation During the General Plan Update Process.**

Early in the update process, the county encourages individuals, groups, organizations, advisory committees and public agencies to comment on issues pertinent to the plan update. This process is encouraged through each step of the update process. It is especially important that community advisory committees, representing the spectrum of groups within their community, participate throughout the plan update process to help define issues, discuss desired community direction, and provide input for overall plan development.

Public comments will likely result in proposed changes in the plan. However, these comments are not considered to be amendments, nor are they subject to the amendment process described here. As comments are received and responded to, the planning director will determine if an actual amendment is being requested. Examples of comments that would not be processed as formal plan amendments might include written or verbal suggestions, identification of minor errors, updated figures and statistics, and generalized areas where the plan can be improved. These changes usually result in changes that benefit the larger community and area, rather than an individual property owner.

### **Amending the Land Use Element**

State law (Government Code Section 65358) provides that no mandatory element of a general plan may be amended more than four times per year. At those times, however, the Planning Commission may consider any number of proposals for individual changes to the LUE or other general plan elements. Hearings on proposed changes must receive public notice and be conducted as required by the Government Code. The limitation of four times per year does not apply to amendments requested and necessary for residential projects where at least 25 percent of the proposed units will be occupied by or available to persons and families of low or moderate income (as defined in Section 50093 of the Health and Safety Code).

The LUE may be amended by changing land use categories and combining designations, programs, standards, or any other provision or policy of the plan. These are processed either as separate general plan amendment applications, or are evaluated as property owner requests for changes submitted during an area plan update. Amendments may be initiated by any individual or group, by the Planning Director, Planning Commission, or the Board of Supervisors.

### **Processing of Amendments**

General plan amendments may be proposed by filing an application with the Department of Planning and Building. An application will be accepted for processing once it is found to be complete, except for the time period between 90 days before the update of an LUE area plan is started, and 30 days before the Draft Plan is scheduled to be released for public review. However, subject to Board of Supervisors approval, acceptance of applications for individual properties processing could be resumed two years after the start of an LUE area plan update if the plan update has not been completed. This provision for resumption of non-update amendment processing after two years would also apply to area plan updates that have already exceeded the 24 month processing time.

## **Consideration of Individual Property Owner Requests for Changes During a General Plan Update.**

**Timing.** During the time period between 90 days before a General Plan Update is scheduled to start and 45 days before the draft plan is scheduled to be released for public review, an individual property owner request may be considered within the overall update procedure and corresponding time schedule. For example, an application filed on September 15th will not be accepted for separate processing if an update covering the proposed site has begun or is scheduled to begin the following December 15th (within 90 days). This requirement also applies to the situation where the county has scheduled a comprehensive update to other parts of the Land Use Element, Framework for Planning or to the Land Use Ordinance. The determination of when a separate amendment may be made, or when it must be included with an update as a property request for changes, is made by the planning director. However, the Board of Supervisors can consider accepting applications for separate processing if the applicable area plan update is not completed within two years after it is started or if the application qualifies for one of the following exceptions.

In some instances, individual property owner requests may need to be processed separately from an area plan update if the following circumstances apply to the requested change or proposal: 1) If the request is outside the original scope of work or budget, 2) If the request would adversely affect the completion times already established, and 3) If the request would be considered a "major" project.

Examples of individual property owner requests that are to be considered as part of the update process include, but are not limited to, the following:

1. Individual property owner requests that adjust or intensify development potential significantly by proposing changes to text or map designations.
2. Amendments necessary to allow major development projects, such as subdivisions, Conditional Use Permit, and specific plans.
3. Major changes proposed to county policy, or where significant issues or public controversy are likely to occur. This category of requested change may be referred by the Board of Supervisors to an update at any time in advance of the next scheduled update.

Examples of individual property owner requests that may not be considered as part of the update process include, but are not limited to, the following:

1. When an area plan update by itself would not result in significant impacts sufficient to require preparation of an EIR, any citizen requests that would result in significant impacts and the preparation of an EIR, shall be processed separately from the update.

**"Window" for considering property requests for changes during an update.** Property owner requests for changes shall be considered as part of an update during a processing "window" that begins 90 days prior to starting the update, and extends to within 45 days prior to the date that the planning director determines that the draft updated plan is ready for submittal for environmental review. After that date, or two years after the plan update is started if it has not been completed sooner, and the Board of Supervisors so authorizes, a separate amendment application may be made and processed.

Members of the public may recommend changes to the LUE land use categories, standards, or text as part of the area plan update process by either submitting written recommendations to the Department of Planning and Building prior to the public hearings on the draft plan or by presenting verbal or written comments at scheduled public hearings and workshops, during the area plan update process.

As part of the authorization process, the Board of Supervisors may make exceptions to the above-described limitation on general plan amendment applications such that amendments could be processed during the update "window" under the following circumstances:

1. To correct obsolete references, statistics, or errors in text or maps.
2. To accommodate the development or expansion of a public facility, public works project, or major energy facility, or to change the land use category of a site which is being transferred between public and private ownership.
3. For proposed housing developments where at least 50% of the units will be affordable by low and moderate income households as defined by Section 50093 of the California Health and Safety Code.
4. To satisfy an immediate community need as determined by the Board of Supervisors.
5. For proposed projects that would offer a significant public recreation, economic, or environmental benefit, as determined by the Board of Supervisors.
6. For proposed projects that would involve the preparation of an environmental impact report that would provide important information that will assist the county in the LUE area plan update process, as determined by the Board of Supervisors.
7. Property owner requests for changes to text or map designations that are minor adjustments which do not significantly intensify development potential or contribute to major cumulative impacts, as determined by the Board of Supervisors.

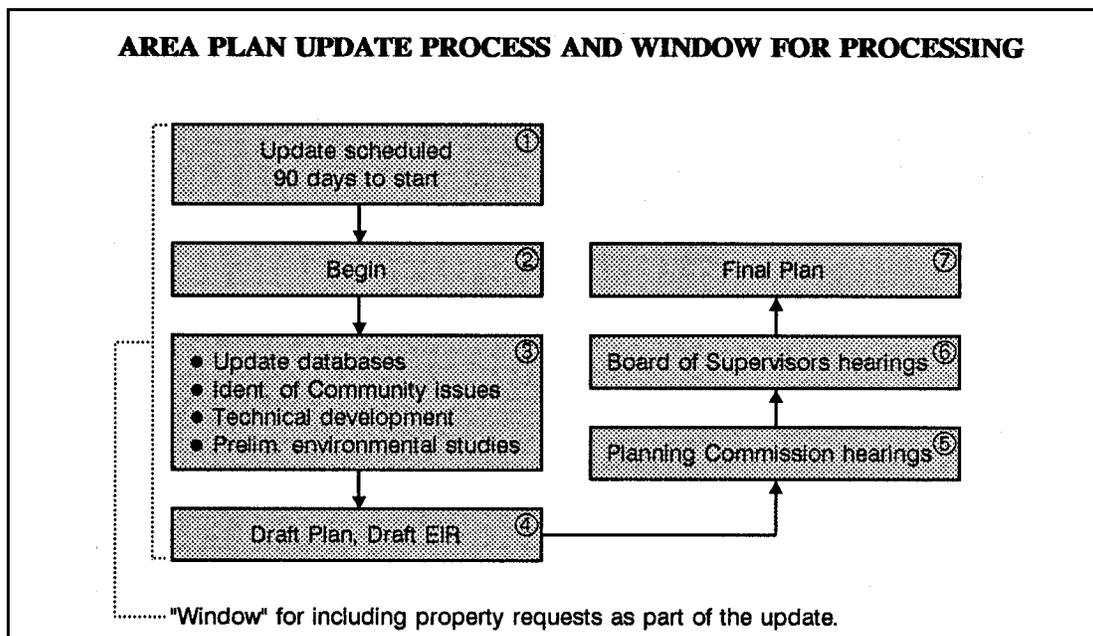


Figure 8-1: Area Plan Update Process, and Window for Processing

## **Processing Steps**

A listing of steps followed by staff when processing individual property owner requests during a general plan update, and for general plan amendments processed normally apart from update are found in Appendices E and F located in the back of this document.

## **Environmental Impact Determinations**

Procedures are contained in the Land Use Ordinance and Real Property Division Ordinance by which applications for land use permits and land divisions are reviewed. They specifically require a review of potential impacts of proposed projects in accordance with the California Environmental Quality Act (CEQA). Determinations of environmental impacts are for all discretionary projects as defined by CEQA, including land use permits, land divisions and general plan amendments, as well as specific plans and county facility master plans.

Particular attention to proposed land divisions is necessary because the Subdivision Map Act no longer allows conditions of approval to require that notes be placed on an approved final or parcel map. Such conditions have often been the means to require mitigation of environmental impacts and still approve a proposed subdivision. When a Conditional Use Permit or Minor Use Permit is required with a proposed subdivision, the land use permit enables the use of conditions of approval that will apply separately after map recordation.

In cases where there is no Conditional Use Permit or Minor Use Permit required for a subdivision, a substitute procedure may be used. If the initial study conducted for the proposed subdivision identifies potentially significant effects, but the applicant proposes revisions to the project or agrees through a developer's statement signed by the applicant to revisions in the project that would avoid or mitigate the effects to a point where clearly no significant effects would occur, a negative declaration may then be issued for the proposed subdivision.

The applicant may be required by conditions of approval of the tentative subdivision map to enter into an agreement on behalf of himself and his successors in interest prior to recordation of the parcel or final map or to record an additional map sheet with the final map or parcel map. The agreement or additional map sheet may require the applicant to carry out and perform certain duties and obligations after map recordation including mitigation measures that may have been identified in the initial study and agreed to in a developer's statement or may have been identified in an environmental impact report prepared for the project. Such agreements and or additional map sheets may address, but not be limited to, building site designations, archaeological constraints, tree removal, landscaping, or other measures necessary to successfully mitigate the impacts of the land division.

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