City of Los Banos
At the Crossroads of California

AGENDA

ADJOURNED
JOINT CITY COUNCIL &
PLANNING COMMISSION MEETING

LOS BANOS COMMUNITY CENTER LOUNGE
645 Seventh Street
Los Banos, California

WEDNESDAY, MAY 22, 2019

If you require special assistance to attend or participate in this meeting, please call the Community & Economic Development Department at (209) 827-7000 extension 118 at least 48 hours prior to the meeting.

The City of Los Banos complies with the Americans with Disabilities Act (ADA) of 1990.

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Si requiere asistencia especial para atender o participar en esta junta por favor llame a la oficina de la Secretaria del Departamento de Planificación al (209) 827-7000 extensión 118 a lo menos de 48 horas previas de la junta.

Any writings or documents provided to a majority of the Planning Commission regarding any item on this agenda will be made available for public inspection at the meeting and in the Community & Economic Development Department's office located at City Hall, 520 J Street, Los Banos, California during normal business hours. In addition, such writings and documents may be posted on the City's website at www.losbanos.org.

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Cualquier escritura o los documentos proporcionaron a una mayoría del Departamento de Planificación con respecto a cualquier artículo en este orden del día será hecho disponible para la inspección pública en la reunión y en la oficina del Secretaria del Departamento de Planificación del City Hall, 520 J Street, Los Banos, California durante horas de oficina normales. Además, tales escrituras y los documentos pueden ser anunciados en el website de la Ciudad en www.losbanos.org.

1. CALL TO ORDER. **6:00 PM**

   A. City Council

   B. Planning Commission

2. PLEDGE OF ALLEGIANCE.

3. ROLL CALL.

A. City Council Members

Faria __, Johnson-Santos __, Jones __, Lewis __, Mayor Villalta __

B. Planning Commission Members

Cates __, Dees __, Giuliani __, Higby __, Limon __, Spada __, Toscano __

4. CONSIDERATION OF APPROVAL OF AGENDA.

A. City Council

B. Planning Commission

Recommendation: Approve the agenda as submitted.

5. PUBLIC FORUM: Members of the public may address the City Council & Planning Commission on any item of public interest that is within the jurisdiction of the City Council & Planning Commission, including agenda and non-agenda items. No action will be taken on non-agenda items. Speakers are limited to a five (5) minute presentation.

6. CONDUCT A JOINT STUDY SESSION REGARDING LEGISLATIVE UPDATES TO THE GENERAL PLAN UPDATE 2040.

Recommendation: Informational item only, no action to be taken.

7. ADJOURNMENT.

A. City Council

B. Planning Commission

APPEAL RIGHTS AND FILING PROCEDURES

Any person dissatisfied with an act or determination of the Planning Commission may appeal such act or determination to the Planning Commission by filling written notice with the Planning Commission Secretary not later than five (5) business days (excluding holidays) after the day on which the act or determination was made. An appeal must state the act or determination which is being appealed, the identity of the applicant and his/her interest in the matter, and set forth in concise statement(s) the reasons which render the Commission's decision unjustified or inappropriate. (Los Banos Municipal Code Section 9-3.2326)

Concerning an action taken by the Planning Commission related to Chapter 2 Articles 1 through 17 of the Los Banos Municipal Code "Subdivisions", if a subdivider or other affected property owner is dissatisfied with any action of the Commission with respect to a tentative map or the nature and extent of improvements recommended or required he/she may within fifteen (15) days after such action appeal to the Planning Commission Secretary for a public hearing on the matter. An appeal must state the action being appealed, identify the agenda item by agency number or project title, and

set forth in concise statement(s) the reasons for the appeal. (Los Banos Municipal Code Sections 9-2.807)

Appeals must be in writing and include the appellant's name and address and original signature. A filing fee of $150.00 must accompany the notice of appeal.

I hereby certify under penalty of perjury under the laws of the State of California that the foregoing agenda was posted on the City Hall bulletin board not less than 72 hours prior to the meeting.

Stacy Souza Elms,
Community & Economic Development Director

Dated this 16th day of May 2019

City of Los Banos
At the Crossroads of California

Agenda Staff Report

TO: City Council and Planning Commission

FROM: Stacy Souza Elms, Community and Economic Development Director

DATE: May 22, 2019

TYPE OF REPORT: Agenda Item

SUBJECT: Legislative Updates and State General Plan Guidelines Update

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Recommendation:

That the City Council provide input to staff to incorporate updates to the General Plan that reflect legislative updates to comply with State law.

Discussion:

The purpose of this Planning Commission/City Council Study Session is to discuss legislative updates that affect the Los Banos General Plan Update 2040. The legislative updates that pertain to the Los Banos General Plan Update potentially affect the following elements:

- Land Use;
- Circulation;
- Safety;
- Open Space;
- Environmental Justice; and
- Housing

The City's General Plan consultant, PlaceWorks, will be presenting the legislative updates and will be providing guidance through the State requirements and will be

describing how they affect the City of Los Banos. Staff will be looking to the Planning Commission/City Council for direction regarding potential new policies to comply with State Law. The attached memo provides a series of recommendations and staff will be discussing various strategies to achieve the recommendations provided within.

No formal action will be taken at this meeting. The purpose of the meeting is to seek direction from the Planning Commission/City Council on ways to implement the various legislative updates within the General Plan Update. PlaceWorks will be providing guidance and recommendations, and staff will be looking for feedback from the Planning Commission/City Council on potential new policy choices to be included within the General Plan Update.

The next steps of the General Plan Update include preparing the focused General Plan Update, the Environmental Impact Report, and developing the implementation tasks which include the Economic Development Strategy, Downtown Strategic Plan, and Business Park Master Plan. The Downtown Strategic Plan will be kicked off with a Downtown stakeholders meeting to discuss downtown vision at the end of May. We are anticipating a community wide meeting for the downtown strategic plan to solicit community input in June.

Reviewed by:

Alex Terrazas, City Manager

Attachments:

PlaceWorks Legislative Updates Memo
Legislative Updates Matrix

PLACEWORKS

MEMORANDUM

DATE May 15, 2019

TO Stacy Souza, City of Los Banos

FROM Carey Stone, Eric Panzer, and Joanna Jansen

SUBJECT Legislative Updates and State General Plan Guidelines Update

This memorandum describes legislative updates that affect the Los Banos General Plan Update 2040, and recommends changes to the General Plan, as approved in 2009, to comply with State law. In the second section of this memorandum, we provide an overview of the General Plan Guidelines released by the California Governor's Office of Planning and Research (OPR) in July 2017 and recommend changes to reflect this updated guidance.

Legislative Updates

LEGISLATION ALREADY ADDRESSED

When Los Banos adopted the 2030 General Plan Update in July 2009, its content and review process accounted for several State laws that had been recently adopted. The 2030 General Plan Update therefore already responds to the following legislation that was in place before its adoption:

- Tribal Consultation (SB 18, 2004)
- Climate Change and Greenhouse Gas (GHG) Emissions (AB 32, 2006)

LEGISLATION THAT DOES NOT APPLY

Because Los Banos does not have any adjacent or nearby military installations and is not within a designated wildfire zone, the following State legislation does not need to be addressed:

- Military Land Use Compatibility (SB 1468, 2002; SB 1462, 2004)
- Fire Hazards (AB 3065, 2004; SB 1207, 2010)

LEGISLATION FOR WHICH CHANGES ARE OR MAY BE REQUIRED

This section addresses the following legislation:

- Sustainable Communities (SB 375, 2008)
- Complete Streets Act (AB 1358, 2008)
- Disadvantaged Unincorporated Communities (SB 244, 2011)
- Tribal Cultural Resources (AB 52, 2014)
- Climate Change Adaptation (SB 379, 2015)
- 2030 GHG Emissions Target (SB 32, 2016)

- Planning for Healthy Communities Act (SB 1000, 2016)
- Accessory Dwelling Units (SB 1069, 2016; AB 2299, 2016; AB 2406, 2016; SB 229; and AB 494, 2017)
- 2017 State Housing Legislation
    - Housing Accountability Act Changes (AB 678; SB 167; and AB 1515)
    - "By Right" Housing Bill (SB 35)
    - RHNA Reporting Requirements and Enforcement Bills (AB 879; SB 35; AB 72; AB 879; AB 1397)
    - ADU Clean-up Bills (AB 494 and SB 229)
    - Inclusionary Rental Housing (AB 1505)
    - Districts for Streamlined Processing (SB 540 and AB 73)
    - Funding Measures (SB 2 and SB 3)
- Fire, Flood, and Adaptation Safety Element Updates (SB 1241, 2012, and SB 1035, 2018)
- Revisions to Regional Housing Needs Allocations (AB 1771; SB 828; AB 2238, 2018)
- Revisions to the Density Bonus (AB 2372; AB 2797; AB 2753; SB 1227, 2018)
- Revisions to the Housing Accountability Act (AB 3194, 2018)

Sustainable Communities (SB 375, 2008)

Legislation Summary

SB 375 directs the California Air Resources Board (CARB) to set regional targets for reducing greenhouse gas emissions (GHG), establishing a "bottom up" approach to ensure that cities and counties are involved in the development of regional plans to achieve those targets. SB 375 ties together the regional allocation of housing needs and regional transportation planning in an effort to reduce GHG emissions from motor vehicle trips.[1] SB 375 requires cities to:

- Revise their Housing Elements every eight years in conjunction with the regional transportation plan and complete any necessary rezonings within a specific time period, generally three years.
- Establish for each program in its Housing Element a timeline for implementation, such that there will be beneficial impacts of the program within the planning period.
- Include in its annual Housing Element progress report a description of actions taken by the local government to implement the Element's programs by the specified deadlines.

SB 375 also requires metropolitan planning organizations to prepare a Sustainable Communities Strategy (SCS), which demonstrates how a region will meet CARB's GHG reduction targets by reducing the amount of vehicle miles traveled. The target for Merced County, set by CARB in 2010, calls for the

[1] Institute for Local Government, "The Basics of SB 375," https://www.ca-ilg.org/post/basics-sb-375.

region to reduce per capita emissions 5 percent by 2020 and 10 percent by 2035. SB 375 also allows more relaxed California Environmental Quality Act (CEQA) requirements for housing developments that are consistent with an adopted SCS.

Recommendations

The Merced County Association of Governments (MCAG) is responsible for preparing the SCS for all of Merced County. The MCAG Governing Board adopted the 2018 Regional Transportation Plan/Sustainable Communities Strategy on August 16, 2018. The City of Los Banos should use the most recent plan as guidance.

SB 375 does not supersede cities' land-use authority, so there is no requirement in the legislation for cities to change or amend their General Plans to be consistent with the SCS. However, we recommend that the City incorporate within section 3.3 of the Land Use Element the recommendations in the SCS prepared by MCAG. Adopting these recommendations will also help address SB 32 (GHG reductions) and SB 1000 (Environmental Justice).

Complete Streets Act (AB 1358, 2008)

Legislation Summary

The Complete Streets Act (AB 1358) requires cities to modify the Circulation Element of their General Plan to plan for a balanced, multimodal transportation network that meets all users' needs for safe and convenient travel in a manner that is suitable to the local context—whether it's rural, suburban, urban, or some combination. Any revision of a General Plan Circulation Element triggers AB 1358's requirements. Therefore, the City of Los Banos must incorporate Complete Streets in this update of the General Plan.

Recommendations

The City of Los Banos 2030 General Plan already includes guiding policies in the Land Use Element; Circulation Element; and Parks, Open Space, and Resources Element to create a built environment that encourages bicycling and walking, and to reduce automobile dependence by making alternate modes of travel more convenient. To fully address AB 1358, the City must go beyond making active transportation convenient and strengthen policies and design standards to protect the safety of all transportation facility users.

We recommend that the City add a new Guiding Policy under the Overall Circulation System Planning policies in the Circulation Element to incorporate Complete Streets provisions that ensure all transportation facilities are designed and built to be safe for all users, including pedestrians, bicyclists, transit users, people with disabilities, and drivers.

Disadvantaged Unincorporated Communities (SB 244, 2011)

Legislation Summary

SB 244 requires that on or before the due date for the next adoption of their Housing Element, cities must update their Land Use Elements to:

- Identify and describe Disadvantaged Unincorporated Communities (DUCs) that are inside of the Sphere of Influence (SOI) of a city or town. (Disadvantaged communities are defined as those with annual median household incomes that are less than 80 percent of the statewide annual median household income.)
- Analyze needs or deficiencies related to water, wastewater, stormwater drainage, and structure fire protection, for each DUC within the city's SOI.
- Analyze potential funding mechanisms that could make it financially feasible to extend services and facilities to identified DUCs.

SB 244 also requires cities to review and, if necessary, amend these aspects of the General Plan with each subsequent Housing Element Update.

Recommendations

The City of Los Banos 2014–2023 Housing Element Update, adopted in July 2016, states that there are no DUCs within the City Limit or Sphere of Influence of the city. It does not appear that the Los Banos General Plan Land Use Element was updated to include this information, as required by SB 244.

SB 244 identifies DUCs using the following definitions and criteria, among others:

> *(1) "Community" means an inhabited area within a city or county that is comprised of no less than 10 dwellings adjacent or in close proximity to one another.*
>
> *(2) "Disadvantaged unincorporated community" means a fringe, island, or legacy community in which the median household income is 80 percent or less than the statewide median household income.*
>
> *(3) "Unincorporated fringe community" means any inhabited and unincorporated territory that is within a city's sphere of influence.*

Fire Hazard Planning (SB 1241, 2012)

SB 1241 established safety element requirements for state responsibility areas and very high fire hazard severity zones. Los Banos is in a Local Responsibility Area; it is not a State Responsibility Area nor is it in a very high fire hazard severity zone. However, SB 1241 also requires all local jurisdictions (regardless of the level of wildfire hazard in the community) to develop policies and implementation actions based

on the most recent *Fire Hazard Planning Guide* from the Office of Planning and Research.[2] The *Fire Hazard Planning Guide* includes policy suggestions addressing wildfire hazard, adequate water flow for fire suppression, evacuation routes, and emergency services, among other topics.

Tribal Cultural Resources (AB 52, 2014)

Legislation Summary

AB 52 adds "tribal cultural resources" (TCR) to the specific cultural resources protected under CEQA, and it requires lead agencies to notify relevant tribes about development projects. It also mandates lead agencies must consult with tribes if requested and sets the principles for conducting and concluding consultation.

Under AB 52, a TCR is defined in a similar way to a tribal cultural place under SB 18: sites, features, places, cultural landscapes (must be geographically defined in terms of size and scope), sacred places, and objects with cultural value to a California Native American tribe. Because present-day tribal lands may not be anywhere near a tribe's traditional geographical "home," the City cannot make assumptions about which tribes could be affected by a project. Instead, each time the City pursues a project subject to AB 52, it must contact the Native American Heritage Commission (NAHC) for a list of affected tribes. The NAHC can provide information on which tribes may be traditionally and culturally affiliated with a geographic area.

It should also be noted that State statue regarding General Plan contents requires the Open Space Element to address "open space for tribal resources" as one of several categories of open space that must be covered in the General Plan [Gov. Code § 65560(b)(6)]. This includes:

Public land containing any Native American sanctified cemetery, place of worship, religious or ceremonial site, or sacred shrine, or any Native American historic, cultural, or sacred sites that are listed or may be eligible for listing in the California Register of Historic Resources.

Tribal consultation is required not only to identify these resources, but also to determine the level of confidentiality needed to protect these resources and what information about them can or should be published in a public document.

Recommendations

As noted above, the letter of the law of AB 52 is focused on the CEQA process. There are no legal requirements for General Plan content regarding TCRs. However, early and ongoing dialogue between tribes and lead agencies is central to successful tribal consultation efforts, and it is beneficial to build trust and relationships with tribes that may be interested in projects in and around Los Banos. As trust

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[2] The current version of this guide, from 2015, is available online at http://www.opr.ca.gov/docs/Final_6.26.15.pdf.

is built, tribe members may feel more comfortable disclosing the location and nature of TCRs; City staff and decision-makers will better understand what Native Americans consider important and why; and mutually acceptable mitigations can be identified. Moreover, not all tribes hold the same beliefs; thus, the City won't know what a tribe values until it establishes a relationship with them. Good working relationships between lead agencies and tribes can facilitate the development process and save time and money. But most importantly, they demonstrate respect and avoid perpetuating the destruction of Native cultures that has characterized much of California's history.

Therefore, the City could consider adding to the General Plan overarching guidance regarding tribal consultation, relationship building, and respect for TCRs. Existing Policy POSR-I-41 is a good start. It requires "applicants of major development projects to consult with Native American representatives regarding cultural resources to identify locations of importance to Native Americans, including archeological sites and traditional cultural properties." The updated General Plan could add a similar policy focused on consultation not only with applicants but with City staff and elected officials, and/or a more general policy demonstrating that the City understands what TCRs are (as distinct from listed archeological or historic sites), values their importance, and intends to take concrete steps to preserve them.

Climate Change Adaptation (SB 379, 2015)

Legislation Summary

SB 379 requires the Safety Elements of General Plans to be reviewed and updated to include climate adaptation and resilience strategies. The review and update must consist of the following components:

- A vulnerability assessment that identifies the risks climate change poses to the local jurisdiction and the geographic areas at risk from climate change.
- A set of adaptation and resilience goals, policies, and objectives based on the information specified in the vulnerability assessment.
- A set of feasible implementation measures designed to carry out the adaptation and resilience goals, policies, and objectives, including:
    - Avoiding or minimizing climate change impacts associated with new land uses.
    - Locating, whenever feasible, new essential public facilities (e.g., hospitals and health care facilities, emergency shelters, emergency command centers, and emergency communications facilities) outside of at-risk areas, or identifying methods to minimize damage if located in at-risk areas.
    - Designating adequate and feasible infrastructure in at-risk areas.
    - Establishing guidelines to work cooperatively with relevant local, regional, State, and federal agencies.
    - Identifying natural infrastructure that may be used in adaptation projects, where feasible.

This review and update must occur with the next revision of the local hazard mitigation plan, on or after January 1, 2017.

Recommendations

The 2030 General Plan Update contains guiding policies and implementing actions to reduce GHG emissions and mitigate climate change impacts associated with new land uses, but it does not address the climate change adaptation requirements of SB 379.

We recommend that the City establish a comprehensive understanding of the risks that climate change poses to Los Banos, based on existing data from County and regional sources. As noted above, the trigger for this update will be the next revision of the relevant Local Hazard Mitigation Plan (LHMP), in this case the 2014 Merced County Multi-Jurisdictional Hazard Mitigation Plan (MJHMP), which was adopted by Los Banos through City Council Resolution No. 5689. The typical LHMP update occurs every five years, so it is anticipated that the data to provide the additional analysis required under SB 379 will be available in 2019.

This assessment should be presented in a new section on climate change adaptation and resilience in the General Plan Safety Element, and, per SB 379, should be based on the following, to the extent that data are available:

- Online Cal-Adapt tool.
- California Adaptation Planning Guide.
- Merced County, local agencies, and special districts that manage resources vulnerable to climate change.
- Historic data on natural events and hazards.
- Existing and planned development, utilities, and infrastructure in at-risk areas.
- Relevant federal, State, regional, and local agencies that protect public health, safety, and the environment.

This new section of the Health and Safety Element should also include new goals, policies, and actions that respond to the vulnerability assessment. Given that adaptation is a cross-sector issue, new goals, policies, and actions may be needed in other elements, such as the Land Use Element and the Parks, Open Space and Resources Element. In addition, to comply with the specifications of SB 379, additional policies and actions may be needed to address the following:

- Ensuring that new development avoids or minimizes climate change impacts.
- Locating essential public facilities outside of at-risk areas and/or minimizing potential damage if such facilities are or must be located in at-risk areas.
- Designating adequate and feasible infrastructure in at-risk areas.
- Coordinating with other agencies on adapting to the full set of threats from climate change.

- Identifying natural infrastructure available for adaptation projects.

2030 GHG Emissions Target (SB 32, 2016)

Legislation Summary

SB 32 amends the State Health and Safety Code (Section 38566) and 2006 Global Warming Solutions Act (AB 32), to direct the California Air Resources Board (CARB) to "ensure that statewide greenhouse gas emissions are reduced to at least 40 percent below the statewide greenhouse gas emissions limit no later than December 31, 2030." The California Global Warming Solutions Act of 2006 set a statewide GHG reduction target for 2020, directed the State to maintain and continue reductions after 2020, designated CARB as the State agency charged with monitoring and regulating sources of GHG emissions, and directed CARB to adopt rules and regulations to achieve the "maximum, technologically feasible, and cost-effective" GHG emissions reductions and to prepare a scoping plan to detail the State's program for achieving reduction target(s).

CARB released its Scoping Plan in 2008, and subsequently released a Climate Change Scoping Plan Update in November 2017, which details the State's strategy for achieving the 2030 GHG reduction target directed by SB 32 and includes:

- Revised forecasts of GHG emissions through 2030.
- Estimates of GHG reductions from State programs, such as the Renewables Portfolio Standard and the Low Carbon Fuel Standard, among others.
- A Proposed Scoping Plan Scenario, along with four alternative scenarios.
- Estimates of local GHG reduction targets that would be consistent with the Proposed Scoping Plan Scenario.

The 2017 Scoping Plan also identifies local governments as essential partners to achieve California's GHG emissions reduction goals and proposes local plan-level GHG reduction goals. CARB recommends local governments aim to achieve a community-wide emissions goal of no more than 6 metric tons of carbon dioxide equivalent (MT CO_2e) per capita by 2030 and no more than 2 MT CO_2e per capita by 2050, consistent with the statewide emissions limits established in AB 32, SB 32, and other legislation and executive orders. The 2017 Scoping Plan includes the following guidance for local reduction goals:

"Local governments can start by developing a community-wide GHG emissions target consistent with the accepted protocols as outlined in OPR's General Plan Guidelines Chapter 8: Climate Change. They can then calculate GHG emissions thresholds by applying the percent reductions necessary to reach 2030 and 2050 climate goals (i.e., 40 percent and 80 percent, respectively) to their community-wide GHG emissions target. Since the statewide per capita targets are based on the statewide GHG emissions inventory that includes all emissions sectors in the State, it is appropriate for local jurisdictions to derive evidence-based local per capita goals based on local emissions sectors and population projections that are consistent with the framework used to develop the

statewide per capita targets. The resulting GHG emissions trajectory should show a downward trend consistent with the statewide objectives. The recommendation for a community-wide goal expands upon the reduction of 15 percent from 'current' (2005–2008) levels by 2020 as recommended in the 2008 Scoping Plan."

Recommendations

To respond to SB 32 and the 2017 Scoping Plan, the City must include the following in the General Plan and/or its EIR:

- A community-wide GHG emissions inventory for existing GHG emissions (CEQA Baseline).
- A community-wide GHG emissions forecast for the GP Horizon (2040).
- GHG Emissions target for year 2040 based on the GHG reduction goals of SB 32 and Executive Order S-03-05.
- Feasible mitigation measures that reduce GHG emissions (this can include a requirement to prepare a GHG Reduction Strategy).

If the City has the resources to create a GHG emissions reduction strategy shortly after the General Plan update, the following additional steps should be considered:

- A community-wide GHG emissions forecast for the SB 32 target year of 2030.
- A set of GHG reduction strategies that, when quantified, achieve the 2030 reduction target and continue emission reductions beyond 2030 (reduction strategies to be included as General Plan policies or implementation actions).
- A monitoring and tracking program.

There are a number of benefits of aligning both documents, including:

- Allowing local governments to include a wider range of mitigation measures in the GHG reduction strategy, especially those that are related to land use and transportation.
- Allowing projects to take advantage of a wider range of CEQA streamlining measures.
- Streamlining environmental review for the GHG reduction strategy itself.
- Ensuring that the GHG emissions reduction plan and General Plan use a consistent set of baseline conditions and growth assumptions, which can save effort for planners.

Planning for Healthy Communities Act (SB 1000, 2016)

Legislation Summary

SB 1000 requires that General Plans include an Environmental Justice Element—or related goals, policies, and objectives integrated in other elements—that identify disadvantaged communities within

the area covered by the General Plan. The new environmental justice goals, policies, and objectives must do the following:

- Reduce the unique or compounded health risks in disadvantaged communities by reducing pollution exposure and promoting public improvements, public services, community amenities, food access, safe and sanitary homes, and physical activity.
- Promote civil engagement in the public decision-making process.
- Prioritize improvements and programs that address the needs of disadvantaged communities.

This update must occur upon the adoption or next revision of two or more elements concurrently on or after January 1, 2018, thus the General Plan Update triggers these requirements.

"Disadvantaged communities" are defined as areas identified by the California Environmental Protection Agency pursuant to Section 39711 of the Health and Safety Code or low-income areas that are disproportionately affected by environmental pollution and other hazards that can lead to negative health effects, exposure, or environmental degradation.

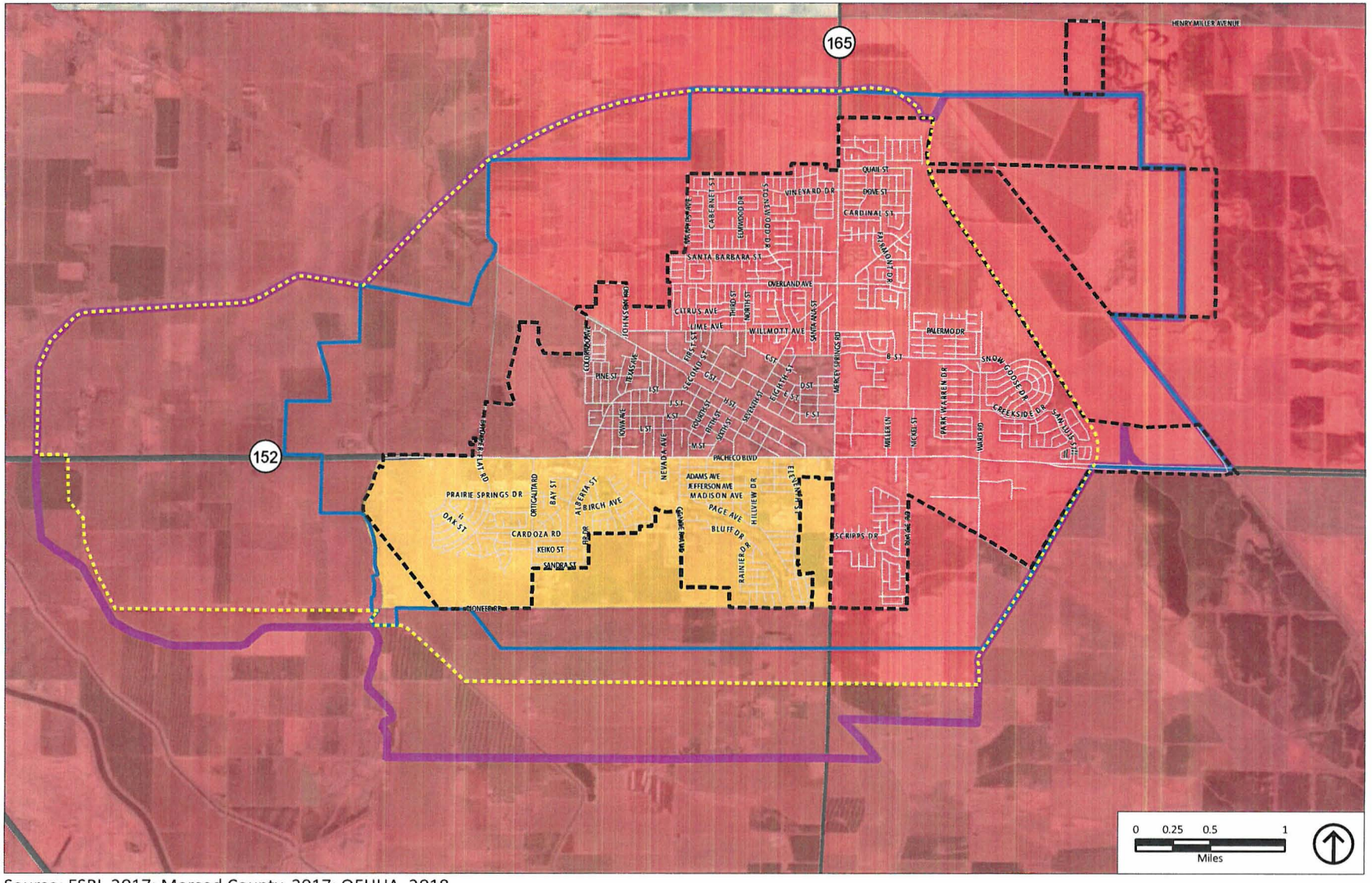
SB 1000 defines DACs per Health and Safety Code Section 39711, specifying CalEnviroScreen as the primary screening method for identifying DACs. Interactive CalEnviroScreen mapping is available online at https://oehha.ca.gov/calenviroscreen/report/calenviroscreen-30. CalEnviroScreen quantifies a range of factors related to the combination of pollution burden and population characteristics (such as poverty, educational attainment, or age) and arrives at a score for every Census tract. In general, the higher the score, the more impacted a community is. Census tracts in the highest quartile of scores (75 to 100) are considered to be disadvantaged communities under SB1000. The majority of Los Banos is considered by the State to be a disadvantaged community; see Figure 1. This means that Los Banos will need to address environmental justice as part of the General Plan Update. It also means that Los Banos may be eligible for separate pools of grant funding through various State programs that are intended to benefit disadvantaged communities.

Note that this does not refer to the same methodology used to identify "disadvantaged unincorporated communities" described above under SB 244. Both use median income as one criterion, but SB 244 is focused on safe and adequate infrastructure while SB 1000 is focused on disproportionate impacts of environmental pollution.

Recommendations

The existing General Plan does consider Environmental Justice, but it does not fully address SB 1000. The City of Los Banos will need to incorporate environmental justice information and policies into appropriate elements of the General Plan.

PLACEWORKS



Source: ESRI, 2017; Merced County, 2017; OEHHA, 2018.

City Limit

Urban Growth Boundary

Sphere of Influence (Currently In Place)

2012 Sphere of Influence (Not Adopted)

CalEnviroScreen Overall Percentile Score

>91 (more disadvantaged/impacted)

81–90

≤80 (less disadvantaged/impacted)

Figure 1
SB 1000 Disadvantaged Communities

As noted above, the new goals, policies, and objectives must address some specific aspects of environmental justice, including the following:

- **Pollution exposure and air quality.** The existing General Plan includes policies that minimize exposure to hazardous materials (e.g., Guiding Policy S-G-4) and air pollutant emissions (e.g., Guiding Policies POSR-G-13, POSR-G-14, and POSR-G-15). These policies could be expanded to target disadvantaged communities, the specific pollutants of concern in those communities, and mitigation approaches for new development that could place sensitive receptors in areas with exposure to pollutants.
- **Public facilities.** The existing General Plan addresses water and wastewater infrastructure, parks and community facilities, transportation, and healthcare in the Water Resources, Public Facilities and Services, Circulation, and Health and Safety Elements. The new environmental justice components should ensure that disadvantaged communities have adequate access to public facilities and services, in part by promoting public improvements in those communities.
- **Food access.** The City should include policies to promote projects that would improve access to affordable and nutritious food in disadvantaged communities.
- **Safe and sanitary homes.** The Housing Element works to ensure access to housing, including affordable housing, and includes policies that promote safe and sanitary homes. These policies could be expanded to address the following:
    - Ensuring that affordable housing projects meet health and safety requirements that are consistent with market-rate housing.
    - Expanding efforts to repair and rehabilitate substandard housing in disadvantaged communities.
    - Remediating lead-based paint, mold, mildew, asbestos, and other contaminants.
    - Enforcing public health-related codes in disadvantaged communities.
- **Physical activity.** The Guiding Policies and Implementing Actions under the Parks, Open Space, and Resources Element promote opportunities for physical activity. The City could expand those policies to target an equitable distribution of physical activity opportunities, including through promoting public improvement projects that create a more comfortable and safer streetscape for pedestrians and bicyclists in disadvantaged communities.
- **Civic engagement.** Since the current General Plan does not explicitly address civic engagement in the City's planning processes, the City should include policies that promote public participation in its planning processes and which specifically target disadvantaged communities, including through:
    - Using culturally-appropriate approaches.
    - Considering the convenience of meeting times/locations for community members.
    - Using social media and other communication techniques for those without time to attend public meetings.

  - Providing translation services when needed.
- **Prioritization of improvements and programs that address the needs of disadvantaged communities.** Since the existing General Plan doesn't explicitly prioritize disadvantaged communities, this would be a new policy topic. New policies to prioritize improvements and programs that serve disadvantaged communities should address the following:
  - Whether improvements/programs meet an important community need. Under-served communities have needs and priorities that may be distinct from those of the public at large. The equity of projects and investments should be assessed based on whether and how well they address these priority needs.
  - Whether benefits to the local community are significant.
  - Whether low-income residents are the primary beneficiaries.
  - Whether improvements/programs avoid substantial burdens, like increasing toxic exposures, causing a net loss of affordable housing, or displacing residents or local businesses.

In addition to those policy topics required by SB 1000, the City could also consider addressing the following in its Environmental Justice Element and/or policies:

- Neighborhood design.
- Public safety and security, including crime prevention through environmental design (CPTED).
- Emergency and community services.

Accessory Dwelling Units (SB 1069, 2016; AB 2299, 2016; AB 2406, 2016; SB 229 and AB 494, 2017)

Legislation Summary

Accessory Dwelling Units are homes created in or on existing residential structures or properties. By their nature, ADUs have lower development costs and tend to be smaller, making them more naturally affordable than other housing types.

To go beyond traditional market-rate construction, subsidized construction, and housing preservation strategies, California is seeking to increase the creation of ADUs across the state, with an emphasis on urban centers and already-developed areas. Several pieces of legislation signed into law in 2016 (and refined in 2017) establish ADUs as a legally-allowed use on single- and multifamily residential lots. The two more recent bills amend 2016's ADU legislation to close loopholes (primarily those related to parking requirements and utility connection fees) and further promote creation of ADUs; these clean up bills are discussed in more detail in the following section, *2017 State Housing Legislation*.

Altogether, these bills establish statewide regulatory standards designed to encourage the creation of ADUs. Under these bills, noncompliant local ordinances that prohibit or place burdensome requirements on ADUs are null and void and are replaced by the State standards. To increase local

understanding and interest in the creation of ADUs, jurisdictions are encouraged to engage in a public process to adopt a local ADU ordinance based on the State standards. It should be noted, however, that the State ADU standards are the minimum for what must be allowed. Local governments generally cannot adopt more restrictive requirements, except for certain permissible restrictions related to health and safety. Local regulations will be judged against the intent of the Legislature, which was to encourage ADUs and avoid "burdensome" requirements that "unreasonably restrict the ability of the homeowners to create ADUs."[3]

Recommendations

These bills do not explicitly require specific changes to General Plan policies, and Los Banos has already adopted an ADU ordinance to facilitate compliance with State ADU legislation. Consistent with this ordinance and State law, the updated General Plan could include a new implementing action to explicitly support the creation of ADUs in all residential areas of the City with sufficient service capacity, and where reasonable health and safety concerns such as water availability, sewer capacity, or the presence of wildfire hazards would not preclude them. The Land Use Element should also: mention that ADUs are generally allowed within residential designations; discuss which residential designations or geographical areas, if any, could not support ADUs for reasons permitted under State law; and note that ADUs within existing structures must be allowed in all single-family residential zones, subject to fire safety and entrance requirements.

2017 State Housing Legislation

Legislation Summary

Housing Accountability Act Changes (AB 678, SB 167, and AB 1515)

Effective January 2018, AB 678, SB 167, and AB 1515 strengthened the Housing Accountability Act (HAA) by restricting the ability of jurisdictions to deny or reduce the density of proposed housing projects, including mixed-use projects, regardless of affordability levels. These laws also require local jurisdictions to review housing development proposals more quickly and encourage local governments to give developers more clarity and feedback in the review and approval process. With these changes, many findings previously used by local jurisdictions to deny housing projects are no longer considered valid grounds for denial, creating a review process that is more friendly to homebuilding. (See Updates to the Housing Accountability Act (AB 3194), below, for additional detail on how the HAA now operates in light of these multiple changes.)

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[3] California Department of Housing and Community Development, December 2016, "Accessory Dwelling Unit Memorandum," (http://www.hcd.ca.gov/policy-research/docs/17Jan30-ADU-TA-Memo.pdf)

"By Right" Housing Bill (SB 35)

Subject to certain requirements and restrictions, SB 35 streamlines approval and environmental review processes for housing and mixed-use projects of two units or greater that are proposed in jurisdictions who have failed to meet their assigned Regional Housing Needs Allocation (RHNA) for lower-income housing or above-moderate income housing, and/or who have failed to submit their latest Housing Element Annual Progress Report (2017).

Jurisdictions that have made insufficient progress toward above-moderate-income construction and/or who have failed to submit their Progress Report are subject to the most inclusive streamlining, whereby any project that makes 10 percent or more of its units affordable may be eligible for streamlining. Jurisdictions that have submitted their progress reports and made sufficient progress toward their above-moderate-income housing construction but have made insufficient progress toward lower-income housing construction are subject to streamlining provisions for projects that propose making 50 percent or more of their units affordable. Currently, the California Department of Housing and Community Development (HCD) identifies Los Banos as being subject to potential SB 35 streamlining for any project that makes 10 percent or more of its units affordable.[4]

Streamlining provisions offer qualifying projects benefits with respect to types of local approvals, CEQA review, and approval timelines. Projects that meet requirements for SB 35 streamlining receive a ministerial approval process, without a need for conditional use permits or similar discretionary approvals. Qualifying projects are also exempt from CEQA review; however, it should be noted, that a project can be disqualified from SB 35 streamlining by certain site conditions that would typically be evaluated as part of a CEQA review. (See below for SB 35 restrictions and requirements.) SB 35's provisions regarding approval timelines require jurisdictions to make determinations of SB 35 qualification within 60 days for projects with 150 units or less and within 90 days for larger projects. For SB 35 qualifying projects, jurisdictions must complete design review or other oversight within 90 days of submittal for projects with 150 units or less, and within 180 days for larger projects.

To qualify for SB 35 streamlining, projects must meet a number of other requirements in addition to including affordable housing. SB 35 projects must comply with all objective zoning and development standards in place at the time they are proposed. Additionally, the site of the proposed project must not have certain types of identified hazards and must not have previously hosted affordable or rental housing units within a certain time period. Among other things, a project cannot qualify for SB 35 if it would be built in a coastal zone, on farmland, in protected-species habitat, or result in the demolition of a historic structure on a local, State, or federal register. SB 35 projects must also meet requirements for paying prevailing wages and employing skilled labor, depending on the size and nature of the project.

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[4] California Department of Housing and Community Development, "SB 35 Statewide Determination Summary," December 2018. Available at http://www.hcd.ca.gov/community-development/housing-element/docs/SB35_StatewideDeterminationSummary.pdf

RHNA Reporting Requirements and Enforcement Bills (AB 879, SB 35, AB 72, and AB 1397)

Multiple recent laws contain provisions to strengthen the enforcement powers of the California Department of Housing and Community Development (HCD). All of these bills require agencies to report additional information to HCD each year; and AB 72 in particular provides HCD with tools to continuously enforce compliance with State housing laws, rather than only every five years during the adoption of an updated Housing Element. Furthermore, these laws give HCD the power to require local jurisdictions to propose new, more suitable sites for lower-income housing development, instead of continuously recycling previous Housing Element sites that have proven improbable candidates for needed housing development. The increased authority granted to HCD through this legislation is intended to spur local governments to thoroughly implement their General Plans—particularly Housing Element policies that encourage affordable, accessible housing in compliance with State law.

ADU Clean-up Bills (AB 494 and SB 229, 2017)

Taken together, AB 494 and SB 229 further reduce barriers to the creation of ADUs and close loopholes in previously adopted ADU laws. Under these bills, existing garages that are converted to serve as the entirety or a portion of an ADU are grandfathered so they don't need to comply with setback requirements. With respect to parking, these bills: provide additional flexibility for the placement of ADU parking, including parking to replace structured spaces that are converted to ADUs; explicitly allow the use of tandem parking spaces; and effectively set the maximum allowed parking requirement for ADUs at one space per unit—irrespective of the number of bedrooms. The new laws also clarify that a "studio, pool house, or other similar structure" can qualify as an ADU; and that ADUs may be rented separate from the primary residence with which they are associated. Furthermore, the bills specify that special districts and water corporations are among the agencies who must ensure that utility hookup charges for ADUs are proportionate to the anticipated impact. Lastly, these bills give HCD additional authority to review and comment on local ADU legislation.

Inclusionary Rental Housing (AB 1505)

In 2009, State courts ruled that local jurisdictions could not enforce mandatory inclusionary housing ordinances (IHOs) that required market-rate rental housing projects to provide a certain proportion of their units at below-market prices, effectively restricting the application of IHOs to ownership housing. AB 1505 reestablished local authority to adopt inclusionary housing policies for proposed rental housing projects. Effective January 2018, AB 1505 superseded the earlier court ruling, clarifying that despite Costa-Hawkins Act restrictions on rent control, cities are permitted to require that new rental projects allocate a portion of their total units to be affordable for lower-income households. This law strengthens the authority of local governments to implement affordable housing policy and encourages the creation of affordable rental units proportionate to the increase in the housing stock.

Districts for Streamlined Processing (SB 540 and AB 73)

These bills provide potential alternatives to the creation of Specific Plans through two different, streamlined processes that also make cities eligible to receive designated State funding. SB 540 grants local jurisdictions the ability to create Workforce Housing Opportunity Zones (WHOZ) through a

streamlined Specific Plan drafting and adoption process, funded through grants or no-interest loans from HCD. Upon adoption of a WHOZ, housing developments in the WHOZ are fast-tracked for approval with the condition that they allocate a specified percentage of units to be reserved for lower-income households and that private projects pay prevailing wages for construction labor.

Similarly, AB 73 encourages local governments to create housing sustainability districts with specified minimum amounts of lower-income housing at the plan and project levels. Housing projects that meet the affordability and other requirements of the sustainability district and which (in the case of private projects) pay prevailing wages, are entitled to ministerial approval. AB 73 requires the preparation of an EIR for a sustainability district and exempts from CEQA housing projects that are located in and comply with the requirements of a sustainability district. Cities are eligible to receive incentive funds from the State upon adoption of a sustainability district and its EIR, as well as once the city has issued building permits for the units (including affordable units) specified in the sustainability district.

Funding Measures (SB 2 and SB 4)

Together, SB 2 and SB 3 are expected to raise approximately $5.2 billion dollars for affordable housing over the five years following their passage. These funds would help restore State support for affordable housing that has been lacking since the closure of redevelopment agencies in 2012.

SB 2 imposes new fees of up to $225 on real estate transactions other than home purchases and is expected to raise $1.2 billion over five years, or roughly $250 million per year. Of the funds generated in 2018 (the first year the fees are operative), 50 percent will be made available to cities and counties to update general and specific plans and housing elements to streamline housing production. The remaining 50 percent of first-year revenues will be dedicated to homeless services, such as rapid rehousing assistance, among others. After 2018, 70 percent of generated funds will go to local governments to support the creation of affordable housing, and the remaining 30 percent will support the State's multifamily affordable housing program.

SB 4 was a $4 billion affordable housing bond that that went on California's November 2018 ballot as Proposition 1 and was subsequently passed by California voters. SB 4 allocates funds as follows:

- $1.5 billion for affordable multifamily housing,
- $1 billion for affordable veterans' housing.
- $150 million for local transit-oriented development implementation.
- $300 million for infill infrastructure to support high-density affordable/mixed-income housing.
- $150 million for loans to low-income and moderate-income homebuyers.
- $900 million for farmworker housing, innovative housing solutions, and other efforts

Recommendations

Although these 2017 bills do not explicitly impose requirements for specific language in General Plans, there are a number of ways in which Los Banos can and should integrate this recent legislation into its General Plan Update and future project approvals.

With respect to Housing Accountability Act changes and SB 35, compliance will rest primarily upon adherence to State requirements during the project approvals process. The General Plan could include policies expressing an intent to comply with State law regarding project approvals, but it would not be strictly necessary. In the case of the Housing Accountability Act, compliance will require approval of housing projects that meet all applicable zoning and other objective requirements and which do not qualify for exceptions, such as evidence-based health and safety impacts. In the case of SB 35, Los Banos will be required (as a result of its recent levels of lower-income housing production) to provide streamlined approval for projects that meet all SB 35 requirements, comply with local zoning, and which make at least 10 percent of their units affordable to lower-income households.

As noted above, Los Banos adopted its 2014–2023 Housing Element in July 2016. The Housing Element is the only Element of the General Plan that is on a State-mandated review, approval, and adoption timeline. The current Housing Element is valid through 2023 and is not being revised as part of the current General Plan Update. Changes with respect to RHNA reporting requirements and HCD enforcement will need to be accounted for in subsequent Housing Element revisions but will also need to factor into updates to the Land Use Element, to ensure consistency with the Housing Element and compliance with State requirements for the identification of potential lower-income housing sites.

As discussed above with respect to the other ADU legislation, Los Banos could adopt revised Land Use Element policies that more explicitly encourage the creation of ADUs across the city and express an intent to pass a local ADU ordinance or zoning code update. Barring the latter options, the State mandated ADU standards will apply automatically if Los Banos's zoning is not compliant.

Recent legislation regarding inclusionary housing, streamlined housing districts, and housing funding all present Los Banos with potential options for new policies and programs to include in the General Plan Update. Los Banos is not required to undertake any of these efforts but could elect to do so.

Fire, Flood, and Adaptation Safety Element Updates (SB 1241, 2012, and SB 1035, 2018)

Legislation Summary

SB 1035 does not in and of itself establish new requirements for what must be included in a Safety Element; instead it clarifies timing issues for updating Safety Elements with respect to certain topic areas that were addressed by previous legislation.

Several pieces of legislation over the last twelve years have expanded what cities are required to address in their General Plan Safety Elements. AB 162 (Wolk) in 2007 expanded required Safety Element content with respect to flood hazards. SB 1241 (Kehoe) in 2012 similarly expanded required Safety Element content regarding wildfire hazards.

And SB 379 (Jackson) in 2015 added climate change risks, adaptation, and resilience to Safety Element content requirements. (For more information on the climate change related requirements, which are the most recent new requirements, see the discussion of SB 379 above.) These bills created various timelines and triggers for including and updating information on these topics in Safety Elements.

SB 1035 clarifies that revisions to the Safety Element to address fire hazards, flood hazards, and climate adaptation and resilience strategies all must occur upon each revision to a Housing Element or Local Hazard Mitigation Program. And even in the absence of those triggers, a Safety Element update to address these topics must occur no less than once every eight years.

Recommendations

Given that an update to the 2014 Merced County Multi-Jurisdictional Hazard Mitigation Plan (which serves as Los Banos's Local Hazards Mitigation Plan) is expected this year, Los Banos should plan to make Health and Safety Element updates to fully address all of the required topic areas discussed above—with a particular emphasis on climate change risks, resilience, and adaptation, since the current General Plan does not directly address these topics.

Revisions to Regional Housing Needs Allocations (AB 1771; SB 828; AB 2238, 2018)

Together these pieces of legislation require dramatic changes to how regional councils of governments (COGs) plan for and calculate regional housing needs allocations (i.e., the distribution of new housing units at various income levels across local jurisdictions). These changes affect the objectives, methods, unit distribution, and appeals process for RHNA efforts.

Among other changes, AB 1771 would require RHNA plans to:

- Include objectives to avoid displacement, affirmatively further fair housing, and give low-income households greater access to high-opportunity areas.
- Maintain consistency between plan actions and the objectives above.
- Consider overcrowding and number of households that are spending a disproportionate amount of their income on housing costs.
- Provide additional data, information, and notices to the public, local governments, and HCD throughout RHNA development.
- Account for loss of housing due to emergencies/disasters.
- Be subject to a revised appeals process that features greater transparency and provides more opportunity for other jurisdictions and third parties to weigh in on the appeal.

Among other changes, SB 828 would reform the RHNA process in the following ways:

- Prohibit previous underproduction of housing units or stable population levels from serving as justification to lower a jurisdiction's share of regional housing needs
- Require provision and consideration of data regarding overcrowding, rates of growth in housing costs and income, and housing cost burden for households.
- Empower HCD to make methodology adjustments based on a region's existing and projected households.

- Allow opportunities/constraints to consider lands designated for agricultural preservation.

AB 2238 primarily seeks to ensure that localities that suffer devastating housing losses due to wildfire or other disasters are not unfairly penalized during the RHNA process (i.e., expected to rapidly make up for those losses). The bill requires COGs to consider such losses in their RHNA calculations.

Recommendations

AB 1771, AB 2238, and SB 828 do not directly impose specific requirements for the content of General Plans; but, future RHNA processes may result in changes to regional housing policies and Los Banos's share of regional housing needs, which could in turn trigger substantial revisions of the city's Housing Element in the next required Housing Element update in 2023. However, given that the next RHNA process for the Merced County Association of Governments (MCAG) will likely not be complete until after this General Plan Update is adopted, attempting to anticipate the results of that process during this update would be speculative. Nevertheless, Los Banos may wish to generally consider whether its land use designations provide sufficient flexibility to potentially accommodate future RHNA allocations. Planning generously for housing at all income levels could help avoid a need for drastic changes after the next RHNA process.

Revisions to the Density Bonus (AB 2372; AB 2797; AB 2753; SB 1227, 2018)

The State Density Bonus (SDB) entitles developers to additional density beyond that which is allowed by local zoning and building standards if they provide sufficient amounts of on-site housing affordable to households with lower incomes. AB 2372, AB 2797, AB 2753 and SB 1227 generally serve to expand the applicability of the density bonus, grant localities certain additional flexibility in its implementation, and require the provision of additional density bonus information to project applicants.

AB 2372 allows cities to grant density bonuses based on floor area ratios (FARs)/square footage rather than number of dwelling units per acre. This change has the potential to encourage a better mix of unit sizes, especially more compact units. If a city opts to implement a FAR-based density bonus, it must allow project impact fees to be calculated based on square footage, rather than number of units. AB 2372 also includes a provision to restrict minimum parking requirements for density bonus projects to no more than 0.1 space per affordable unit and 0.5 space per market-rate unit.

AB 2797 is only applicable to the coastal zone and does not apply to Los Banos.

AB 2753 creates new requirements for local agencies to provide applicants with project-specific density bonus information at the time their density bonus application is deemed complete. Required information includes the amount of the density bonus, the parking ratio applicable to the project, and whether the applicant has provided sufficient documentation support a request for incentives, concessions, waivers, or reductions of development standards. Additionally, local agencies must adjust density bonuses and parking ratios based on changes over the course of development.

SB 1227 extends the density bonus to include projects that are 100 percent for students (i.e. dorms, including private dorms, and student-only apartments). SB 1227 makes several changes to density

bonus rules and calculations specifically for student housing projects. These changes account for the fact that student housing is typically rented by the bedroom, as well as for the fact that many students can't use typical approaches to demonstrate they conform to affordable housing income limitations. Many students have neither income nor documentation to verify they qualify; SB 1227 therefore allows students to use family income to demonstrate they qualify for affordable student units.

Recommendations

None of the recent density bonus bills specifically require General Plan changes. Implementation of these measures would generally take place during the approvals process for individual projects; however, Los Banos could explore including General Plan implementing actions that state an intent to adopt/amend local ordinances that implement the State Density Bonus, including these recent changes.

Revisions to the Housing Accountability Act (AB 3194, 2018)

AB 3194 expands HAA guarantees to certain proposed housing projects that do not comply with the objective standards of applicable zoning, provided that the project complies with the objective standards specified for that land use in the General Plan and that the objective standards in the zoning are inconsistent with those in the General Plan.

Given these and other recent changes, local governments are now usually required to approve residential or mixed-use projects that comply with all objective standards in the applicable zoning (or General Plan objective standards, when the zoning is not consistent with them). Local governments can only deny such projects under limited circumstances, such as when the preponderance of evidence demonstrates a project would have a specific, adverse health or safety impact. For affordable housing projects, HAA protections are even stronger, with cities generally being required to approve affordable housing projects, event when they don't conform to objective zoning standards, except under a limited set of circumstances.

Recommendations

Neither the HAA nor recent amendments to it require specific language in or changes to General Plans. However, given that recent HAA changes allow some projects to use General Plan objective standards in the event of inconsistency between a General Plan and zoning, it will be beneficial for Los Banos to ensure conformity between the objective standards in the General Plan, especially the Land Use Element, and local zoning.

Revisions to SB 35 (SB 765, 2018)

SB 765 makes explicit that CEQA does not apply to the determination of whether a project qualifies for streamlined ministerial approval under SB 35. SB 765 also requires SB 35 projects to comply with applicable objective subdivision standards.

Recommendations

SB 765 does not require General Plan changes but should be considered during project approvals.

General Plan Guidelines

OPR released the updated State General Plan Guidelines (GPG) in 2017. This section of the memorandum recommends changes the City could consider to reflect updated guidance from the State, based on the latest version of the GPG.

The GPG outlines the statutory requirements for General Plans, provides recommended content and policy language, and provides resources and templates to assist local agencies with the General Plan update process. The policy recommendations focus on four key themes:

- Climate change
- Economics
- Healthy communities
- Equitable opportunities

The GPG also includes best practices related to infill development, renewable energy, and mitigation of agricultural land conversion.

The adopted 2030 General Plan, once updated to reflect the recommendations above to comply with State law, will meet the statutory requirements for General Plans that are outlined in the GPG. With these recommended changes, the General Plan Update will also follow much of the data and policy recommendations in the GPG. The City could consider other amendments to the General Plan to reflect the GPG guidance, as described below; note that the GPG contents described are best-practice recommendations rather than statutory requirements.

Appendix A of the GPG is a compendium of recommended policies, drawn from adopted General Plans in jurisdictions across the state, and is available here:

http://www.opr.ca.gov/docs/OPR_Appendix_A_final.pdf

Mitigation of Agricultural Land Conversion

Conservation of environmental and agricultural resources is one of the State's three planning priorities.[5] State statute requires cities to address agriculture in the General Plan Land Use Element and the Open Space Element (called the Parks, Open Space, and Resources Element in Los Banos).

The GPG discussion of agricultural land conversion links readers to a publication by the California Council of Land Trusts (CCLT) entitled "Conserving California's Harvest: A Model Mitigation Program and

[5] California Government Code Section 65041.1

Ordinance for Local Governments," published in 2014. This handbook provides an overview of tools for mitigating impacts from agricultural land conversion: conservation easements, restrictive covenants or deeds (which are not recommended), fee title acquisition, in lieu fees, and mitigation banks. All of these tools are voluntary for cities or counties to adopt or employ.

The recommended policies on preserving agricultural lands in Appendix A of the GPG include:

- [City, county] shall establish a coherent and logical pattern of urban uses that protect and enhance open space and agricultural uses by providing a clear and permanent boundary for urban uses with the [city, county]'s planning area.
- Preserve agricultural lands using a variety of programs, including the Williamson Act, Farmland Preservation Zones (implemented through the Williamson Act), conservation easements, greenbelts, Agricultural Lands Conversion Ordinances and Right-to-Farm Ordinances.
- Maintain large parcel sizes within agricultural zones and strict requirements regarding division of farmland.
- Require the development of vacant lands within city boundaries prior to conversion of agricultural lands.

In addition to or instead of requiring mitigation of agricultural land conversion through a General Plan policy, some cities require mitigation through the CEQA process. CEQA defines agricultural land as "prime farmland, farmland of statewide importance, or unique farmland, as defined by the United States Department of Agriculture land inventory and monitoring criteria, as modified for California."[6] Lead agencies (in this case, the City of Los Banos) must mitigate or require mitigation of physical impacts to agricultural land to the extent feasible. Mitigation means:

a) Avoiding the impact altogether by not taking a certain action or parts of an action.
b) Minimizing impacts by limiting the degree or magnitude of the action and its implementation.
c) Rectifying the impact by repairing, rehabilitating, or restoring the impacted environment.
d) Reducing or eliminating the impact over time by preservation and maintenance operations during the life of the action.
e) Compensating for the impact by replacing or providing substitute resources or environments.[7]

One-to-one mitigation requirements, in which a city or a county requires a project proponent to permanently protect 1 acre of agricultural land for every 1 acre converted to non-agricultural use, have been adopted by several jurisdictions in California, and are generally supported by case law as feasible mitigation (although they may not always mitigate agricultural impacts to a less-than-significant level).

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[6] California Public Resources Code Section 21060.1(a)

[7] California Code of Regulations (CEQA Guidelines) Section 15370

However, there is currently no requirement that a city or county require mitigation for the conversion of agricultural land as a General Plan policy. Each jurisdiction must carefully consider its specific location and context and must carefully craft any agricultural mitigation requirements – whether in the General Plan or in CEQA documents - based on substantial evidence in the public record.[8]

CLIMATE CHANGE

With the existing background information, goals, policies, and actions related to GHGs and climate change, combined with the recommended amendments described above to comply with SB 375, SB 379 and SB 32, the General Plan Update will be consistent with much of the GPG Guidance related to climate change.

An additional policy topic to consider amending in support of GHG emissions reduction efforts is level of service (LOS). Governor Jerry Brown signed SB 743 on September 27, 2013, a bill which created streamlining provisions and exemptions for transit-oriented infill projects to better balance the needs of congestion management with Statewide goals related to infill development, promoting public health through active transportation, and reducing greenhouse gas emissions. SB 743 directed OPR to establish new practices and metrics to evaluate transportation impacts under the California Environmental Quality Act (CEQA) recommending that the Level of Service (LOS) metric be replaced with the Vehicle Miles Traveled (VMT) metric. While SB 743 doesn't eliminate the ability of local agencies to continue to use LOS as a planning metric in General Plans, it does reflect a shift in perspective to more sustainable transportation planning that relies on other metrics like VMT to avoid discouraging infill development, encouraging greenfield development, and making non-auto modes less safe. OPR issued a *Technical Advisory on Evaluating Transportation Impacts in CEQA* in December 2018 which includes recommendations for VMT assessment, thresholds of significance, and mitigation measures. Mandatory use of the new VMT CEQA guidelines by all Lead Agencies goes into effect on July 1, 2020.

The GPG recommends that local agencies continue to use LOS in planning processes to size roadways, but also to rely on other metrics, like VMT and multi-modal metrics, for evaluating individual projects and assessing impact fees. In addition, the GPG recommends that local agencies set LOS thresholds in consideration of the tradeoffs between mobility and other goals, such as reducing GHG and air pollution emissions, improving safety of other modes, and supporting public health.

The City of Los Banos will need to determine a revised transportation impact metric for future CEQA analyses and will also need to decide if the City would like to maintain LOS in the General Plan or replace it with the revised CEQA threshold.

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[8] Hart, Katherine J., "Appellate Court Upholds 1:1 Agricultural Lands Mitigation," accessed online at https://blog.aklandlaw.com/2010/12/articles/local-government/appellate-court-upholds-11-agricultural-lands-mitigation/.

Before proposing recommendations on VMT criteria, a VMT baseline must first be established as a point of reference. The lead agency has discretion in the methodology to determine a project's impact on VMT.[9] OPR recommends "a per capita or per employee VMT that is 15 percent below that of existing development" as a reasonable threshold.[10] However, the City can adopt a different threshold, provided it is based on "substantial evidence" that it will also meet the goal of the legislation: reducing GHG emissions. The City could coordinate with MCAG or other nearby jurisdictions to explore possible VMT thresholds that make sense in the local context of Los Banos. Based on the GPG guidance, the City should consider adding a new Guiding Policy C-G-9, under the Traffic Level of Service policies, to use VMT and multi-modal metrics to evaluate project impacts and assess impact fees.

ECONOMICS

The City's General Plan already recognizes the relationship between land use and circulation decisions and their fiscal implications, and recognizes how local economies can affect residents' quality of life.

A policy topic recommended in the GPG that supports fiscal health and reduced project costs is the concept of "dig once." As the name implies, the concept is to coordinate utility and roadway construction to avoid digging up the right-of-way multiple times. Sample policies provided in the GPG, and which could be added to the Public Facilities and Utilities Element, are:

- The City shall coordinate, to the extent possible, upgrades and repairs to roadways with utility needs, infrastructure upgrades, and bicycle and pedestrian improvements.
- The City shall implement a "dig once" policy to reduce costs and impacts on public right of way. The policy shall apply to infrastructure, utilities, and broadband whenever possible.

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[9] Office of Planning and Research, December 2018. *Technical Advisory on Evaluating Transportation Impacts in CEQA*, page 29. http://opr.ca.gov/docs/20190122-743_Technical_Advisory.pdf

[10] Office of Planning and Research, December 2018. *Technical Advisory on Evaluating Transportation Impacts in CEQA*, page 10.

HEALTHY COMMUNITIES

There has been considerable focus on this topic since 2010, and the GPG includes a chapter devoted to just this topic. There are some opportunities to improve the 2030 General Plan's existing support for healthy communities. In addition, the changes recommended above to comply with SB 244 (infrastructure for disadvantaged communities), AB 1358 (complete streets), SB 379 (adapting to climate change, which will address issues like extreme heat events), and SB 1000 (health risks in disadvantaged communities) will all promote healthy communities and further align General Plan 2040 with GPG guidance.

Goods Movement/Truck Routes

The GPG cites particular community health impacts of truck traffic associated with goods movement:

- Trucks emit diesel particulate matter, a localized pollutant that is particularly hazardous to human health.
- Trucks generate high noise levels.
- Trucks pose special collision hazards, especially for pedestrians and bicyclists.

To minimize those impacts, the GPG recommends that truck routes be designed to minimize risk to areas with concentrations of sensitive receptors and vulnerable road users, like pedestrians and bicyclists. In addition, the GPG recommends that goods movement facilities, like distribution centers, be located to avoid residential areas and schools.

The GPG identifies the following sample policy to address goods movement: "The City shall balance commercial goods movement with the health and quality of life priorities of the community by routing heavy truck traffic away from residential zones and promoting safety at rail crossings." The City could consider adding such a policy to the Circulation Element. The existing General Plan already addresses the need to reduce commercial traffic in neighborhoods but there could be a greater emphasis on the public health and quality of life. In addition, the City should add Figure 4-6: Truck Routes currently missing from the Circulation Element.

Crime Prevention Through Environmental Design (CPTED)

Social connection and safety is an aspect of healthy communities discussed in the GPG. Employing CPTED principles can improve the perceived and actual safety in communities. While many CPTED principles are best implemented at the Zoning Ordinance level, the City could consider adding a policy framework to the General Plan through a new policy that directs new development to incorporate CPTED principles by delineating private and public spaces, enhancing visibility, controlling property access, and ensuring adequate property maintenance. Such a policy could be added to the Land Use Element or Safety Element, as well as an associated action to establish CPTED provisions in the Zoning Ordinance.

Equitable Opportunities

The 2030 General Plan Update strives for social equity inherently in much of the policy framework. However, recent State legislative changes call for clearer and more direct policies to promote social equity and environmental justice, including SB 244 and SB 1000, as described above. With the recommended changes to comply with SB 244 and the recommended process to respond to SB 1000, General Plan 2040 will be consistent with the Draft GPG guidance on this issue.

LEGISLATIVE UPDATES MATRIX

The following table lists legislative updates that have occurred since adoption of Los Banos' 2030 General Plan and that may affect the current General Plan Update. Additional information on these bills is presented in the Legislative Updates and State General Plan Guidelines Update Memo, in the same order as below.

TABLE 1 LEGISLATIVE UPDATES POTENTIALLY PERTAINING TO LOS GENERAL PLAN UPDATE

Senate/ Asm. Bill	Number	Year	Affects General Plan Update?	Documents affected	Topic Area
SB	375	2008	Yes	Land Use Element	Sustainable Communities Strategy
SB	1358	2008	Yes	Circulation Element	Complete Streets
SB	244	2011	Yes	Land Use Element	Disadvantaged Unincorporated Communities
SB	1241	2012	Yes	Safety Element	Fire Hazard Planning
AB	52	2014	Indirectly	Land Use / Open Space Elements	Native American Cultural Resources
SB	379	2015	Yes	Safety Element	Climate Change Adaptation
SB	32	2016	Yes	General Plan / EIR	GHG Emissions Inventory/ Forecast/Reduction Measures
SB	1000	2016	Yes	Environmental Justice Element	Environmental Justice/ Community Health
SB	1069	2016	Indirectly	Land Use Element	Accessory Dwelling Units
AB	2299				
AB	2406				
SB	229	2017			
AB	494				
AB	678	2017	No	N/A	Housing Accountability Act
SB	167				
AB	1515				
SB	35	2017	No	N/A	By-Right Housing
AB	879	2017	Yes	Housing Element	Regional Housing Needs Allocation
AB	72				
AB	1397				
AB	1505	2017	No	N/A	Inclusionary Housing
SB	540	2017	Indirectly	Land Use Element	Districts for Streamlined Processing
AB	73				
SB	2	2017	Indirectly	Land Use Element	Funding for Affordable Housing
SB	4				
SB	1241	2012	Yes	Safety Element	Climate change risks, adaptation, and resiliency
SB	1035	2018			
AB	1771	2018	No	Housing Element	Regional Housing Needs Allocation
SB	828				
AB	2238				
AB	2372	2018	No	N/A	Density Bonus
AB	2797				
AB	2753				
SB	1227				
AB	3194	2018	Indirectly	Land Use Element	Housing Accountability Act
SB	765	2018	No	N/A	Revisions to SB 35 (By-Right)