

Issues discussed at the Planning Commission.	Laws and text that address these issues.
<p>Quotes from Planning Commission Hearing on the Altamira development proposed for Joshua Tree, CA. April 7, 2016</p> <p>Planning Commissioner Weldy: <i>“In my read of this, the JTCP, which says in essence ‘you’re not going to mass grade’, is completely at odds with the 10,000 sq. ft. zoning on land use which can’t be done without mass grading. Just on that one item alone, they are absolutely at odds. And I think that, when you look at the General Plan, which is very specific: zoning has square footages- and then you look at the Community Plan which is: ‘we like the feel - we’d like to preserve’- it’s a little less precise. But they are not a match. And so, I don’t think it applies to this particular plan and the question today- but the question for this afternoon or tomorrow is: we need to either rectify the Community Plan, or rectify the zoning- because you can’t have this zoning and take a strict definition of that Community Plan and have it match. And I don’t think it will in this particular case.”</i></p> <p><i>“If this project is approved, it would change the character of that immediate area. I don’t think there’s any doubt about that.”</i></p>	<p>Governor Office of Planning and Research, <u>General Plan Guidelines - 2003, Chapter 9:</u></p> <p>Where the consistency requirement applies, every zoning action, such as the adoption of new zoning ordinance text or the amendment of a zoning ordinance map, must be consistent with the general plan. A zoning ordinance that is inconsistent with the general plan at the time it is enacted is “invalid when passed” (<i>Leshar Communications v. City of Walnut Creek (1990) 52Cal.3d 531; Sierra Club v. Board of Supervisors (1981)126 Cal.App.3d 698</i>).</p> <p>By the same token, when a general plan amendment makes the zoning inconsistent, the zoning must be changed to re-establish consistency “within a reasonable time” (§65860(c)). According to the California Supreme Court, “[t]he Planning and Zoning Law does not contemplate that general plans will be amended to conform to zoning ordinances. The tail does not wag the dog.” (<i>Leshar Communications v. City of Walnut Creek, supra</i>).</p> <p>State law does not prescribe what constitutes “a reasonable time” for reconciling the zoning ordinance with the general plan. OPR suggests that when possible, general plan amendments and necessary related zoning changes be heard concurrently (§65862)...</p> <p>CA Government Code Section 65860:</p> <p>(a) County zoning ordinances shall be consistent with the general plan of the county. A zoning ordinance shall be consistent with a county general plan only if both of the following conditions are met:</p> <ol style="list-style-type: none"> (1) The county has officially adopted such a plan. (2) The various land uses authorized by the ordinance are compatible with the objectives, policies, general land uses, and programs specified in the plan. <p>(c) In the event that a zoning ordinance becomes inconsistent with a general plan, or to any element of the plan, the zoning ordinance shall be amended within a reasonable time so that it is consistent with the general plan as amended.</p> <p>Consistency between all the documents is required by CA Gov Code 65300.5:</p> <p>65300.5. In construing the provisions of this article, the Legislature intends that the general plan and elements and parts thereof comprise an integrated, internally consistent and compatible statement of policies for the adopting agency.</p> <p>65300.7. The Legislature finds that the diversity of the state's communities and their residents requires planning agencies and legislative bodies to implement this article in ways that accommodate</p>

Commissioner Weldy:
"I don't think anybody can look at this (project) and say: 'this is a commensurate style with what's around it'. There is no PUD; there is no gated community- there is like density, but not in the same context. So this will be different- and it will change."

Commissioner Smith: *"I agree with that." "On what the MAC was saying on behalf of the citizens, they want to keep the low density atmosphere throughout the community. This is the first major departure from that, with a highly dense area which interferes, and this is what the JTCP doesn't like, it interferes with the natural vegetation and natural animal movements..."*

Commissioner Weldy: *"I don't misunderstand how seriously this will change the complexion of that area. But I think it will be warning for us to really sit down after this to look at the General Plan and the Community Plan and say 'how do we put these two in sync'. Because they're not at this point. It's not fair for both the community - and it's certainly not fair for the applicant to be caught in that middle between the two."*

local conditions and circumstances, while meeting its minimum requirements.

CA Gov Code 66474, and San Bernardino County Development Code 87.02.060, demand that the county **MUST** deny this project as designed.

66474. A legislative body of a city or county shall deny approval of a tentative map, or a parcel map for which a tentative map was not required, if it makes any of the following findings:

(a) That the proposed map is not consistent with applicable general and specific plans as specified in Section 65451.

(b) That the design or improvement of the proposed subdivision is not consistent with applicable general and specific plans...

87.02.060 Tentative Map Approval or Disapproval

In order to approve or recommend the approval of a Tentative Map and conditions of approval, or to disapprove a Tentative Map, **the review authority shall first make the findings required by this Section. In determining whether to approve a Tentative Map, the County shall apply only the ordinances, policies, and standards in effect at the date the Department determined that the application was complete in compliance with Section 87.02.030 (Tentative Map Filing, Initial Processing), except where the County has initiated General Plan, community plan, specific plan, area plan or Development Code changes, and provided public notice as required by Map Act Section 66474.2.**

(a) Required findings for approval.

(1) Mandatory findings. The review authority shall approve a Tentative Map **only** after first making **all** of the following findings, as required by Map Act Sections 66474 and 66474.6. The findings shall apply to each proposed parcel as well as the entire subdivision, including any parcel identified as a designated remainder in compliance with Map Act Section 66424.6.

(A) The proposed map, subdivision design, and improvements are consistent with the General Plan, any applicable community plan, and any applicable specific plan;

(B) The site is physically suitable for the type and proposed density of development;

(C) The design of the subdivision and the proposed improvements are not likely to cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat;

(D) The design of the subdivision or type of improvements is not likely to cause serious public health or safety problems;

(E) The design of the subdivision or the type of improvements will not conflict with easements acquired by the public at large for access through or use of, property within the proposed subdivision

Actually, the JTCP and the GP are consistent. The design of the project (the wall cutting off wildlife, the dangerous handling of the blue line streams, the lack of open space, blading 105 acres destroying/risking hundreds of Joshua trees, yuccas, cholla, creosote, etc.) is what is completely inconsistent with the goals and policies of both the JTCP and the GP. Yes, the zoning is an issue, too. That location was requested by the Community to be down-zoned to 18M in 2004, but the County did not do it. As the State laws make very clear, if there is an inconsistency it should have been rectified in a timely manner. The County has a legal responsibility to review proposed projects for consistency with our Community Plan. The county should have informed the Applicants at their first meeting about this disconnect. The Community DID inform the Applicants back in 2007, and in 2009, and continued to inform them and the County about this issue.

