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VERY LOCAL PLANNING:
A Study of Area Planning Commissions in California

by

Loni Mahan

The regulation of land use by cities and counties in California is one of the main pillars in the temple of home rule. The State's role in land use control has confined itself to the establishment of procedures and, more recently, to the definition of broad goals and policies. The application of these procedures and policies, however, has always been the responsibility of locally elected officials acting through their appointed planning commissions.

Although this partnership between state and local government seems to guarantee local control over land use, many citizens believe that the control isn't local enough. The Legislature authorized cities and counties to create planning commissions in 1929 and required a "planning agency" in each jurisdiction in 1965. State law required each planning commission to prepare a plan for the physical development of the community, to be adopted by the governing body of the city and county. In 1971, Senator Gordon Cologne, a Riverside County legislator, authored an amendment to the Planning and Zoning law allowing cities and counties to appoint area planning commissions (APCs) with authority to regulate land use in prescribed portions of their jurisdictions (Government Code Section 65601). Senator Cologne's constituents in the Coachella Valley felt that the county seat in Riverside was too far away to respond adequately to problems concerning the management of the area's land; they wanted a more local planning commission. The bill passed unanimously. Thus, the legislative intent was to provide mechanisms for local control over land use. Yet, to date, neither the Legislature nor the planning profession has examined the extent to which area planning commissions have been used.

WHAT IS AN AREA PLANNING COMMISSION?

A city council or county board of supervisors creates an area planning commission to regulate land use in a specified portion of the city or county. The city council or board of supervisors designates the issues over which the APC will have control. On those issues, the APC has the same level of authority as

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the city or county planning commission and is separate from its control. As with the city or county planning commission, the APC's decisions may be appealed directly to the city council or county board of supervisors. The ordinance creating the APC specifies its name, its area of jurisdiction, the extent of its authority, the number, term, and composition of its members, and the method for selection. In the four existing APCs, the board of supervisors appoints the members.

The 1978 Local Government Planning Survey revealed that many cities and counties may not understand what an area planning commission actually is. Many respondents interpreted the term "area planning commission" in the generic sense, as if it referred to city or county planning commissions or to areawide councils of governments. Although the statute is fairly straightforward (see chart), there is a subtle difference between Section 65100 and Sections 65600 and 65601 that may cause confusion. Section 65100 relates to subcounty portions of land, while Sections 65600 and 65601 allow the crossing of city and county boundaries to create multi-jurisdictional planning commissions. Thus, an area planning commission could be created for unincorporated areas, for incorporated land, for an area that contains both unincorporated and incorporated land, or even for land covering two or more counties. The statute does not specify which legislative body would hear appeals from the last two types of planning commissions. The relationship between the city and county planning commissions and the area planning commissions authorized in Sections 65600 and 65601 is also unclear. Where the jurisdictions overlap, which planning commission would prevail? Would the APC be advisory only?

Enabling Legislation for Area Planning Commissions

By ordinance, the legislative body of each county and city shall establish a planning agency. Such planning agency may be a planning department, a planning commission, or the legislative body itself, or any combination thereof

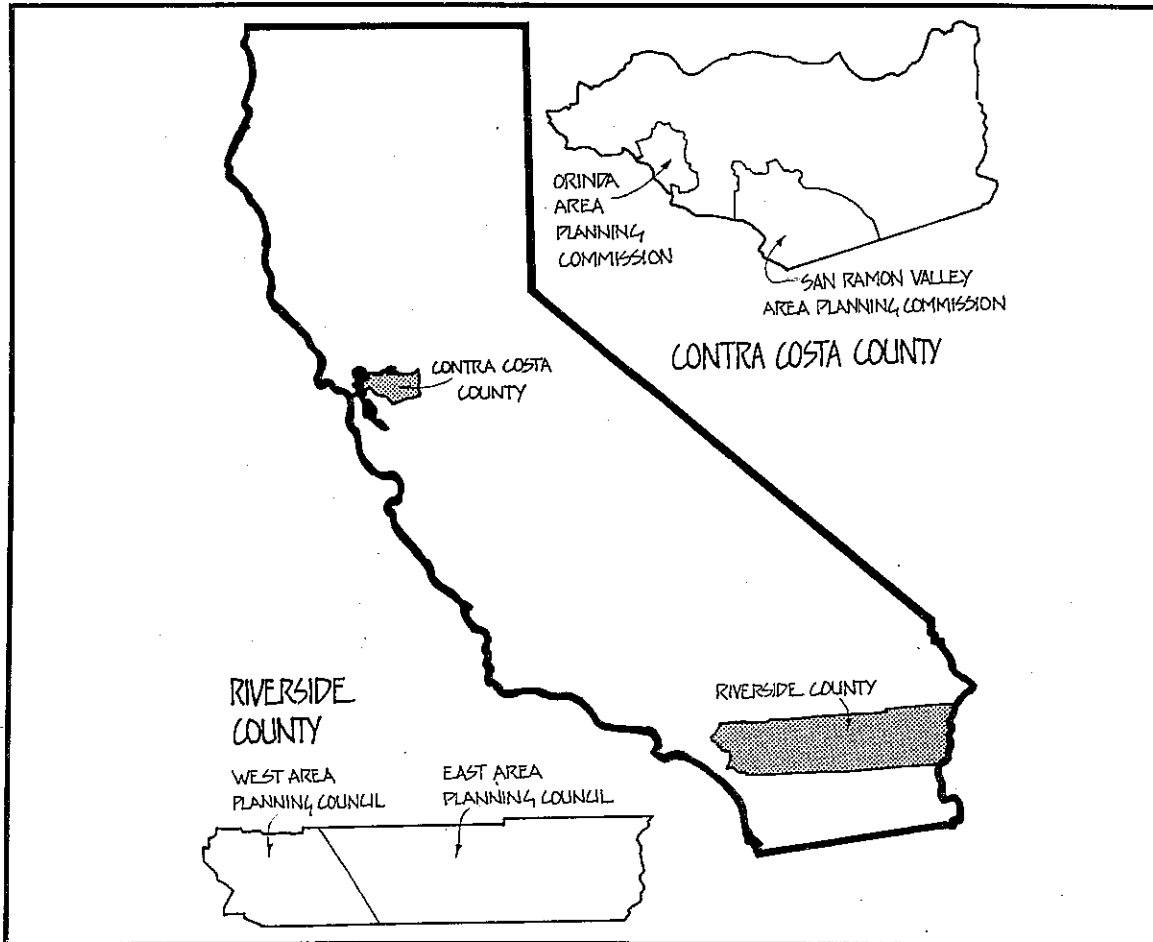
The legislative body of a county may provide for one or more area planning commissions which may be the planning agencies for prescribed portions of the county. (Government Code Section 65100)

A planning area for area planning purposes may include populated areas, unpopulated areas, or unimproved areas within or outside of cities, or any combinations of such areas. (Government Code Section 65600)

By resolution, the governing bodies of the city, or cities, county, or counties, or any of them in which a planning area lies may establish an area planning commission. (Government Code Section 65601)

The significance of the ambiguity of the statutes lies in the fact that, of the eight agencies created using these code sections as all or part of their authority, four function as councils of governments (COGs) while the other four are APCs. The Sacramento Regional Area Planning Commission and the Merced County Association of Governments were established pursuant to Government Code Sections 65600 and 65601, while the Central Sierra Planning Council and the Tri-County Association of Governments derive their authority from Government Code Sections 65600 and 65601, plus Government Code Sections 6500 et seq., the joint powers authority.

The difference between a planning commission and a council of governments is great. The former has regulatory power over land use, while the latter does not. A COG is a voluntary association of two or more local governments created to coordinate local land use plans and to resolve regional problems, such as air and water quality. It exists by virtue of a joint powers agreement among its member agencies, is governed by a board consisting of representatives of each member agency, and exercises no independent regulatory authority. None of the four COGs cited holds hearings, issues development permits, or in any direct way regulates land use. The other four area planning commissions, all in Contra Costa and Riverside Counties, use Government Code Section 65100 as their authority and function as planning commissions for prescribed, unincorporated portions of their counties. They serve as agencies for very local land use control.



**CONTRA COSTA COUNTY:
ORINDA AND SAN RAMON VALLEY AREA PLANNING COMMISSIONS**

The Contra Costa County Board of Supervisors created its two APCs in July 1977, following a supervisorial election. The residents of the areas wanted to form APCs in order to have more control over local development than the County Planning Commission offered. Two supervisorial candidates for the districts in which the APCs now lie supported the residents. They were elected and the APCs were created by a 3-2 vote.

The Orinda Area Planing Commission includes 21 square miles of unincorporated land within the Orinda Union School District. It has a population of 52,000. The San Ramon Valley Area Planning Commission includes the 112 square miles and 46,000 people covered by the San Ramon Valley Area general plan. The County Planning Commission regulates the rest of the county - an area about three times larger than the combined APCs.

Both APCs largely serve affluent, well educated individuals with an interest in maintaining the present character of their communities. The Orinda APC is the smaller, more wealthy of the two. Consisting primarily of the community of Orinda, it has little developable land remaining within its boundaries. Most of the issues that come before it are fairly detailed in nature, such as rezonings, subdivisions, variances, and use permits for small projects. The San Ramon Valley APC, on the other hand, containing San Ramon, Alamo, and Danville, is five times the size of Orinda's and has a substantial amount of developable land. As much of the development pressure in this Bay Area county is concentrated within the boundaries of the San Ramon Valley APC, it is very active, with some meetings lasting until 4:00 in the morning.

The Orinda APC has seven members and meets once a month; San Ramon has seven and meets twice a month. For the first two years, one commissioner on each APC was also a member of the County Planning Commission. Funding for the APCs comes largely from fees paid for the permits they issue and the rest is absorbed by the County Planning Department. Commissioners receive no salary or per diem. Their term of office is two years.

Both APCs are somewhat controversial. Many developers and real estate brokers view them as obstructing development and increasing its cost, while lower-income areas, such as El Sobrante and Martinez, perceive them as furthering elitist interests. The County Planning Commission takes a less restrictive stance on development than either APC. It allowed more development in the APCs' jurisdictions before they were created. Further, the most active planning commission, in terms of the number of proposals debated, is San Ramon Valley, even though its size equals only one-fourth of the unincorporated area in the county. The Board of Supervisors continues to be divided on the value of the APCs. By the same 3-2 split, it voted in September 1979 to extend them another two years.

RIVERSIDE COUNTY: WEST AREA AND EAST AREA PLANNING COUNCILS

The Riverside County Board of Supervisors originally established three APCs in 1972: the East Area, West Area, and Central Area Planning Councils. The

residents of the Coachella Valley, which is both remote from the county seat of Riverside and rural in character, wanted increased control over local land use. They asked then Senator Cologne to carry a bill specifically authorizing APCs. The bill passed and Riverside's APCs were established shortly thereafter. In considering the request for an APC, the Board of Supervisors took into account the heavy workload of the County Planning Commission. The Board decided to divide the unincorporated portion of the county into three sections and to assign some of the planning commission's powers and duties to the APCs and to leave some with the County Planning Commission.

In 1975, the Board consolidated the West and Central Area Planning Councils. The reorganized West Area Planning Council's territory is smaller geographically, but is the more urbanized, populous, and active of the two. The Cities of Riverside and Corona, with the bulk of the population, are located in western Riverside County. Although cities are not included in the APC's jurisdiction, their fringe areas are. The East Area Planning Council's jurisdiction covering the rest of the county, is twice as large, but has less than half the population. Much of this land is desert, with most of the population in the Palo Verde and Coachella Valleys. The West Area Planning Council serves a 2,400 square mile area and 430,000 people; East Area serves a 4,800 square mile area and 170,000 people.

The APCs meet once a month to act on such items as the issuance of conditional use permits, variances, and the approval of plot plan appeals. The major difference between the East Area and the West Area Planning Councils is that the East Area processes all subdivision applications within its jurisdiction, while the West Area does not process any. In general, the County Planning Commission reviews applications for large shopping centers and condominium conversions, while the APCs rule on the smaller projects. The West Area Planning Council, however, recently denied a 700-unit condominium conversion application which would have affected 1,000 tenants.

The County Planning Department funds the APCs and county staff serves them. There are five people on each Council, one of whom must be a member of the County Planning Commission. They receive \$50 per meeting, plus expenses.

COMPARISON OF THE FOUR AREA PLANNING COMMISSIONS

The APCs in Contra Costa and Riverside Counties differ functionally, geographically, and in their relationship to the County Planning Commission. The Orinda and San Ramon Valley APCs in Contra Costa County function as "mini" planning commissions for relatively small portions of the County, with no interference from the County Planning Commission. In Riverside County, the West Area and East Area Planning Councils together have authority over the entire unincorporated part of the county for certain issues (variances and conditional use permits, for example), while the County Planning Commission generally has responsibility for the larger issues, such as major subdivisions or shopping centers. The exception to this is subdivisions: the East Area Planning Council reviews all subdivision applications in its jurisdiction. Thus, the regulatory responsibilities in Riverside County have been functionally and geographically split between the County and the APCs, with the result that all of the County's unincorporated area is served by both an APC and the County Planning Commission.

The relationship of the APC to the county planning commission differs in each county. In Contra Costa, the APCs are "full-service" commissions, virtually identical to the County Planning Commission and, in fact, one is more active; in Riverside County, the two APCs complement the County Planning Commission. In a sense, the Riverside County APCs play a more subordinate role in land use issues than the Contra Costa County APCs. In both counties, the Board of Supervisors hears appeals of the Commissions' decisions.

Performance

Generally, the supervisors, staff, and commissioners in both counties regard the APCs as effective. Contra Costa's APCs maintain a much higher profile than do Riverside's and generate more controversy. The San Ramon Valley APC is the most visible, active, and controversial, with the lines of controversy drawn in a fairly traditional manner. The homeowners and the local League of Women Voters in the San Ramon area support the APC, while many developers and builders generally consider it a hindrance. Because the control is so local, the needs and desires of the residents of the APC area are met, often translating into restrictions or costly conditions on land use. Yet, only about 5% to 10% of the APCs' decisions are appealed to the Board of Supervisors in each county, with the Board overturning about half. This indicates a high rate of success in decisions.

APC membership is fairly coveted, with more applications for the seats than there are seats available. This seems to represent a high level of community interest in the commissions. In sum, the APCs meet the objectives of their creators in that they provide a more responsive, grass-roots control over land use and, in Riverside County, a more manageable workload for the County.

A Word About Budgets

Accurate information on APC budgets is nonexistent because the county planning departments staff the APCs, at least partially, and the County absorbs much of the cost. Each County measures costs differently: Contra Costa measures incremental costs, while Riverside computes total costs. A relatively large number of people spend varying portions of their time on work for the APCs; aggregating this time is difficult. Further, determining the added incremental cost of an APC – that is, the additional cost the APC incurs which would not exist were it not there – is in part educated guesswork. Theoretically, the county planning commission would regulate the APC areas anyway, although in practice the APCs go into more detail than would the county planning commission. Finally, unaccounted hours of overtime donated by staff are not calculable. A comparison of the costs of the Riverside County and Contra Costa County APCs was attempted, but owing to dissimilar accounting practices, was impossible. Moreover, a comparison of the two counties would be of doubtful benefit, since their APCs differ greatly in size and function. However, some observations can be made.

AREA PLANNING COMMISSION

	<u>Population/ Square Miles</u>	<u>Number/Terms of Commissioners</u>	<u>Appointed by</u>	<u>Duration</u>	<u>Estimated Budget*</u>
<u>Contra Costa County</u>					
Orinda Area Planning Commission					
Established July 1977					
	16,000 pop. 12 sq. mi.	7 2-year terms	Board of Supervisors	2 years	\$6,500
San Ramon Valley Area Planning Commission					
Established July 1977					
	52,000 pop. 112 sq. mi.	7 2-year terms	Board of Supervisors	2 years	\$11,800
<u>Riverside County</u>					
West Area Planning Council					
Established March 1972**					
	400,000 pop. 24,000 sq. mi.	5 4-year terms	Board of Supervisors	indefinite	\$75,000
East Area Planning Council					
Established March 1972**					
	200,000 pop. 4,800 sq. mi.	5 4-year terms	Board of Supervisors	indefinite	\$25,000

* Contra Costa County APC budgets represent incremental cost. Riverside County APC budgets represent total cost.

** Reorganized in February 1975; originally there were three area planning councils.

Riverside County employs three full-time secretaries and budgets \$8,635 for expenses and per diem for the commissioners for both APCs. Estimating that the County assigns an additional three, full-time professional planners, the total budget probably runs to \$100,000 per year for both. Contra Costa County, which calculates the additional incremental costs of its APCs, budgeted \$6,500 for Orinda APC and \$11,800 for San Ramon Valley APC for FY 1978-79, or \$18,300 for both. Originally hoping to create special districts for funding, the Contra Costa APCs, instead, instituted surcharges on planning-related fees after the enactment of Proposition 13 in 1978 reduced the revenue-gathering potential of special districts. In comparing the two counties' costs for APCs, it is important to keep in mind that Contra Costa is much smaller than Riverside and that the budget of \$18,300 for its APCs represents incremental costs.

Potential

As an alternative to incorporation, APCs offer control over land use without all the administrative trappings and costs of cityhood. Some unincorporated communities have established municipal advisory councils (MACs), which approximate city councils in providing a structure for expressing community identity (see, Jack Fuller, Municipal Advisory Councils: An Experiment in Community Participation, Sacramento, CA: Office of Planning and Research, 1977). MACs can deal with any community issue and advise the board of supervisors of their interests, concerns, and needs. Generally these communities, of which Paradise in Butte County is an example, create MACs as an alternative to incorporation and land use dominates the list of issues they consider. Because of the concern over land use, Paradise, which successfully incorporated in November 1979, seriously considered requesting an APC if the incorporation proposal failed at the ballot box.

Until Proposition 13 limited this possibility, a community could go even further toward self-determination by creating a MAC, an APC, and a special district, establishing in effect a "county town." A special district - either a county service area or a community services district - could raise revenues to support the MAC and the APC. A community services district also has the authority to provide additional services. A community could function as a self-contained unit with this combination of a town council, planning commission, and a special district for revenue and other services. Special districts can still be formed in the wake of Proposition 13, but their revenue-producing capacity has been constrained by the property-tax limit. If a new district could supplement its property-tax revenues with fees, charges, and assessments, it might have enough funds to operate a "county town."

While APCs solve the problem of remoteness from the county seat and lack of responsiveness by the county planning commission, there is another situation in which they may be useful. Fringe areas on the outskirts of a city are often not quite urban, but are not rural either. Frequently, they have unique problems. Since 1972, each county's Local Agency Formation Commission (LAFCO) has been required to designate each city's "sphere-of-influence," or areas outside of its boundary which would logically be annexed to the city at some time in the future (Government Code Section 54774). Land within the sphere-of-influence is often urbanized and virtually indistinguishable from the city, yet land use is regulated by the County. This portion of the county is often

subjected to intense development pressures. A planning commission created to deal exclusively with such a transitional area might be useful. The politics of defining boundaries and determining representation for an urban fringe APC, however, are problematic. Efforts in the mid-1970s in Butte County to form an APC for the greater Chico area were abandoned when proponents were unable to agree on boundaries and representation.

Although the law allows APCs in cities, no cities have created any. Large cities, such as Los Angeles, San Diego, or San Jose, could potentially be well served by APCs in parts of their jurisdictions, perhaps relieving some of the anonymity metropolitan residents often feel. The City Council would be the body creating the APC, defining its authority, and hearing appeals.

A county's willingness to decentralize land use control is implicit in the creation of an APC, something few county planning commissions are willing to do. A 1971 study done in Sonoma County recommended creation of an APC to deal with the fringe area of the City of Sonoma. Nothing came of the study. Currently, in Sacramento County, the bedroom community of Rancho Cordova is considering incorporation, with the LAFCO instead recommending formation of a MAC, since a MAC is advisory only and would, therefore, be more palatable to the County Planning Commission.

Since the creation of an APC could be viewed as a criticism of a county planning commission, the reluctance to create such agencies is understandable. Moreover, planning issues are often quite complex, and there is a danger that very local decisionmakers may not have the knowledge of planning to deal with them. Add to these factors the additional staff time needed for APCs, and the major administrative and political roadblocks become apparent. A strong community and a sympathetic local supervisor and board of supervisors are obviously keys to forming an APC.

SUMMARY

Area planning commissions are little-used mechanisms for local land use control. Of the four existing in California, two function essentially as mini-planning commissions for very small portions of land, wielding real power in their jurisdictions. The other two complement the county planning commission by assuming part of its functions, while allowing increased local control over certain issues. Each of the four is located in an unincorporated area and is appointed by the county board of supervisors, which defines the commission's authority and jurisdiction. The county planning commissions have no authority over the APCs; decisions are appealed directly to the boards of supervisors. An APC can solve a community's problem of remoteness from the county seat, bringing regulation of land use to the community. As an alternative to incorporation, it can be useful if land use issues are a community's major incentive to incorporate. An APC combined with a municipal advisory council and supported by a special district could function as a "county town" – that is, an unincorporated "city." APCs represent one of the most local forms of land use control in California.

One reason APCs are not used more frequently is that relatively few people are aware of them. Other factors may be a shortage of planning expertise in

rural areas, a reluctance to decentralize county control, and the success of MACs in addressing land use issues. In most areas of the state, conventional land use agencies are satisfying the needs of the citizens. City and county planning commissions and departments, councils of governments, and less formal MACs all have land use planning or regulatory authorities, or both. Area planning commissions provide a way to supplement these institutions, if necessary. The circumstances justifying an APC may be limited, and APCs may not be needed or even suitable for extensive use. What they offer is an alternative for people to exercise control over the physical development of their communities.