

Executive Summary

When the Little Hoover Commission met to discuss California's land-use policies, bleary-eyed veterans of this debate reported that the spirited effort of recent years to create a new growth strategy for the State was dead. But strategy or no, the population continues to grow -- as do the housing shortage and the traffic congestion. And for the most part, where there is construction, there is conflict.

The latest attempts to address these problems -- first in the name of managing growth and then to spur economic recovery -- did lead to incremental improvements. Permits are being streamlined and some jagged edges in the California Environmental Quality Act have been filed down. But the daily process of providing homes to California's growing population while preserving the refuge of its previous residents remains in too many cases a thorny path up a rocky cliff.

For the State to restore its economic vitality, it must reduce the time, cost and risk associated with the development approval process. While California should not compromise its environmental goals, it must reform procedures that by reputation or reality discourage would-be homeowners and corporate executives from investing in the State.

Toward this end, the Commission's recommendations would clarify the ground rules, require the State to resolve competing public policies, and encourage the planning needed to ease the regulatory and financial burden on individual projects. The recommendations would reform the

California Environmental Quality Act to prescribe a process for resolving conflicts and deriving certainty -- rather than being a source of disputes and litigation.

The Commission also found that beyond the monetary costs to individual projects, the current land-use procedures are thwarting the very innovation that some of the regulations are designed to encourage.

The Commission was told by one developer who has been lauded by environmentalists for his vision that the interminable process -- burdened with risk and conflict -- discourages the kind of progressive designs necessary to build "sustainable cities."

The Commission heard from California's largest bank that continued urban sprawl, the easiest type of development to get through the current process, was bad for business and endangered species. And it was told by economists that current infrastructure policies were failing to provide the public works needed for cities to be physically and economically healthy as they grow into the next century.

In other words, California cannot afford to surrender to these problems. And as it turns out, Californians in small towns and big cities have not. In some places where growth controversies have been the hottest, there are signs of cooperation and reform.

On the edges of the Bay Area, neighboring cities are jointly planning a future with homes, offices, stores -- and vineyards and oak trees. In Southern California's mega-city, regional competition is giving way to regional cooperation. And within Los Angeles City Hall, radical reforms are being considered.

California, however, cannot wait for every city and county to stumble one by one into the regulatory abyss and then attempt heroics to save itself. Just as California led the nation 20 years ago in adopting laws to protect the health and quality of life of its residents, it must pioneer new ways to efficiently meet those worthy goals. California must learn from its mistakes and capitalize on the ingenuity that is being mustered some place in the state every day.

These locally born initiatives should be inspiration enough to those in state government to resume work on land-use policy reform. To assist their efforts, the Commission makes the following findings and recommendations:

Finding 1: Competing state policies invite land-use conflicts that complicate the project approval process -- squandering fiscal resources, short-changing environmental protections and discouraging compact development.

Considerable effort has been made in recent years to streamline the process for obtaining permits and for reviewing proposals under the California Environmental Quality Act. Many of the reforms are too new to evaluate. But even if these reforms are completely successful, the public review and approval process of development projects will remain fractured. Duplication in the process is costly. But more important, duplication makes it difficult to truly balance public priorities and to recognize both environmental and economic limits. Complicated procedures and multiple approvals -- each a potential source for conflict and delay -- are particularly onerous to mixed-use and higher-density projects that many planners believe are essential to provide efficiently for a growing California.

Recommendation 1: To speak with one voice, the State should establish a single, timely process for assessing the environmental consequences of proposals, compensating for the harm projects will cause and resolving conflicts between public agencies.

The State should replace its sequential approval process with a unified one. The California Environmental Quality Act should be the sole vehicle for determining the potential consequences of projects, considering public comments, modifying projects, compensating for remaining impacts, and providing all necessary approvals for the project to proceed. A unified process is essential to balancing competing public needs, reducing the waste and redundancy of current procedures, resolving conflicts and encouraging compromise -- all of which will be needed for the State to accommodate growth with new efficiency. The Governor and Legislature can accomplish this recommendation by:

1. ***Requiring state permitting agencies to fully participate in the CEQA process.*** Legislation should be enacted to require permitting agencies to raise concerns and requirements at the earliest time possible, to comment on modifications and mitigation plans, and respond to draft EIRs by stating any outstanding conditions that would have to be met for permitting.
2. ***Requiring government agencies to mediate disputes that arise in CEQA.*** The Governor should establish a standing council of the

appropriate agency secretaries and department heads to quickly resolve stalemates between agencies. The council would create transparency in the bureaucracy, ensure that requirements are reasonable, and help to identify conflicts in state policies.

3. ***Tightening up decision deadlines.*** The Governor and the Legislature should enact legislation requiring lead agencies to act on a project within 180 days of certifying an Environmental Impact Report and within 45 days of completing a negative declaration.
4. ***Creating objective-based pilot projects.*** Legislation should be enacted allowing and encouraging pilot projects that explore new techniques for coordinating mitigation requirements. The State should support the pilot project with funding, technical assistance and high-level policy support.

Finding 2: The failure of community planning has resulted in a project-by-project review of regional growth-related problems that is costly, time-consuming, ineffective, and discourages the innovations that could provide more housing with fewer urban impacts.

The current process burdens individual projects with determining how and where communities should grow and resolve communitywide issues such as transportation, air pollution and loss of wildlife habitat. Individual projects contribute to these problems and should have to contribute to their resolution. But attempting to address these issues on a project-by-project basis diminishes environmental protection, increases costs, and discourages new development designs needed to give Californians a greater choice in housing styles and an improved quality of life.

Recommendation 2: Planning laws -- including CEQA -- should be reformed to encourage local agencies to establish regional strategies for protecting water quality, open space, wildlife habitat and other natural assets. Projects complying with those plans should be relieved from having to assess separately those problems.

The State should create incentives and provide technical assistance to communities that perform the kind of big-picture planning called for in existing laws and policies. This approach would provide significant regulatory relief to cities and counties that for the most part now coordinate and consider cumulative impacts on a project-by-project basis. This approach would allow for more creativity and efficiency in satisfying

environmental regulations -- and therefore increase the chances those goals will be met. And it promises to reduce conflicts over individual projects and between cities and counties. The Governor and the Legislature can accomplish this goal by:

1. ***Creating a revolving fund.*** Legislation should be enacted to provide grants and loans to help communities pay for Master Environmental Impact Reports, watershed-wide water quality plans, regional habitat conservation plans or similar documents. Communities could repay the fund as they receive existing fees collected at the time of development.
2. ***Requiring local agencies to standardize CEQA thresholds.*** CEQA should be amended to require lead agencies to establish thresholds that would more consistently determine when different levels of environmental review would be required and how impacts can be mitigated. The thresholds for conducting environmental impact reports for most infill and for small compact development projects should be raised to require EIRs only in cases when there is substantial evidence that the environment may be harmed.
3. ***Rewarding regional cooperation.*** Legislation should be enacted creating incentives -- including a priority system for funding from the state infrastructure bank -- that reward communities that prepare regional plans for transportation, open space, habitat, air and water quality. With an executive order, the Governor should direct the Resource Agency, Environmental Protection Agency and Office of Planning and Research to provide technical assistance and regulatory flexibility to communities that want to experiment with market-based or performance-oriented regulatory compliance.

Finding 3: The State's failure to invest in infrastructure has increased housing prices, aggravated growth-related disputes and diminished California's economic potential.

Over the last 15 years, the provision for infrastructure has become a significant factor in California's land-use controversies. As local governments have lost the ability to spread the costs of capital improvements throughout the community, much of those costs have been pushed onto new development -- increasing housing prices and discouraging economic development. Other needs, such as freeway interchanges and regional parks, have gone unmet, fueling concerns that growth is reducing the quality of life.

Recommendation 3: The State must invest in well-planned and efficient infrastructure to accommodate a growing population and capture economic opportunity.

California must coordinate its investments. And it must better manage the demands on existing resources to stay economically competitive while preserving our quality of life. A coordinated state infrastructure policy has the potential of reducing a major source of controversy, while helping to pioneer new solutions to perennial growth-related problems. The Governor and the Legislature can implement this goal by:

1. ***Establishing an infrastructure task force.*** The Governor should create the task force through executive order. It should include transportation, water supply, air and water quality, conservation, agriculture and commerce officials. The task force should review the State's existing infrastructure programs for consistency and compatibility. It should provide technical assistance to local and regional officials. And it should recommend policy changes to enable better management of the State's infrastructure.
2. ***Funding the State Infrastructure Bank.*** The Legislature and Governor created the bank in 1994, but it has never been funded. Funding the bank will help California communities to build for their future, and provide a valuable incentive to do better planning. The state task force should set up guidelines and review applications for funding from the state infrastructure bank.
3. ***Requiring locals agencies to complete infrastructure plans.*** The guidelines established for participation in the state infrastructure bank should include the requirement that participating communities have completed infrastructure plans. The plan should show how the community will accommodate the development projected in comprehensive general plans and consider market mechanisms, such as rush hour toll pricing, to encourage efficiency.

Finding 4: The State's long-held policies encouraging orderly growth are being undermined by the failure to address private sector concerns and reform obsolete local ordinances.

Research, innovation, experimentation and practical experience are yielding answers to some of California's most intractable growth-related problems: how to encourage redevelopment of aging neighborhoods; how to encourage efficient transportation patterns; and how to encourage mixed-use development. But the State lacks the mechanisms for recasting this knowledge as policy.

Recommendation 4: To equip California for a future that will look much different than today, the State must accelerate the land-use learning process. The State must help communities and regions learn from the mistakes and successes of others. And it must work with the private sector to encourage market-based solutions to innovation in development.

The State should actively coordinate experts in California's universities, in local planning departments, private consulting services and elsewhere to create model zoning, parking and other land-use ordinances to eliminate the disincentives to redevelopment, infill and mixed-use projects. The State should work with lending and other financial institutions to identify concerns about mixed-use, higher density and infill development, and to craft market-based solutions to these concerns. The Governor and the Legislature can fill this role by:

1. ***Directing the Business, Transportation and Housing Agency to resolve private-sector concerns about investing in innovative projects.*** The agency should work with lenders and other financial institutions to identify concerns about investing in higher density, infill and mixed-use projects. The agency should recommend regulatory or other policy changes that could ease those concerns and encourage investments in a greater variety of housing types.
2. ***Directing the Office of Planning and Research to develop model zoning and parking ordinances.*** The office should tap the resources of the State's planning agencies, private consultants and universities to craft model ordinances that would create more flexibility, prevent density downzoning, and reduce requirements that undermine housing and transportation goals.