

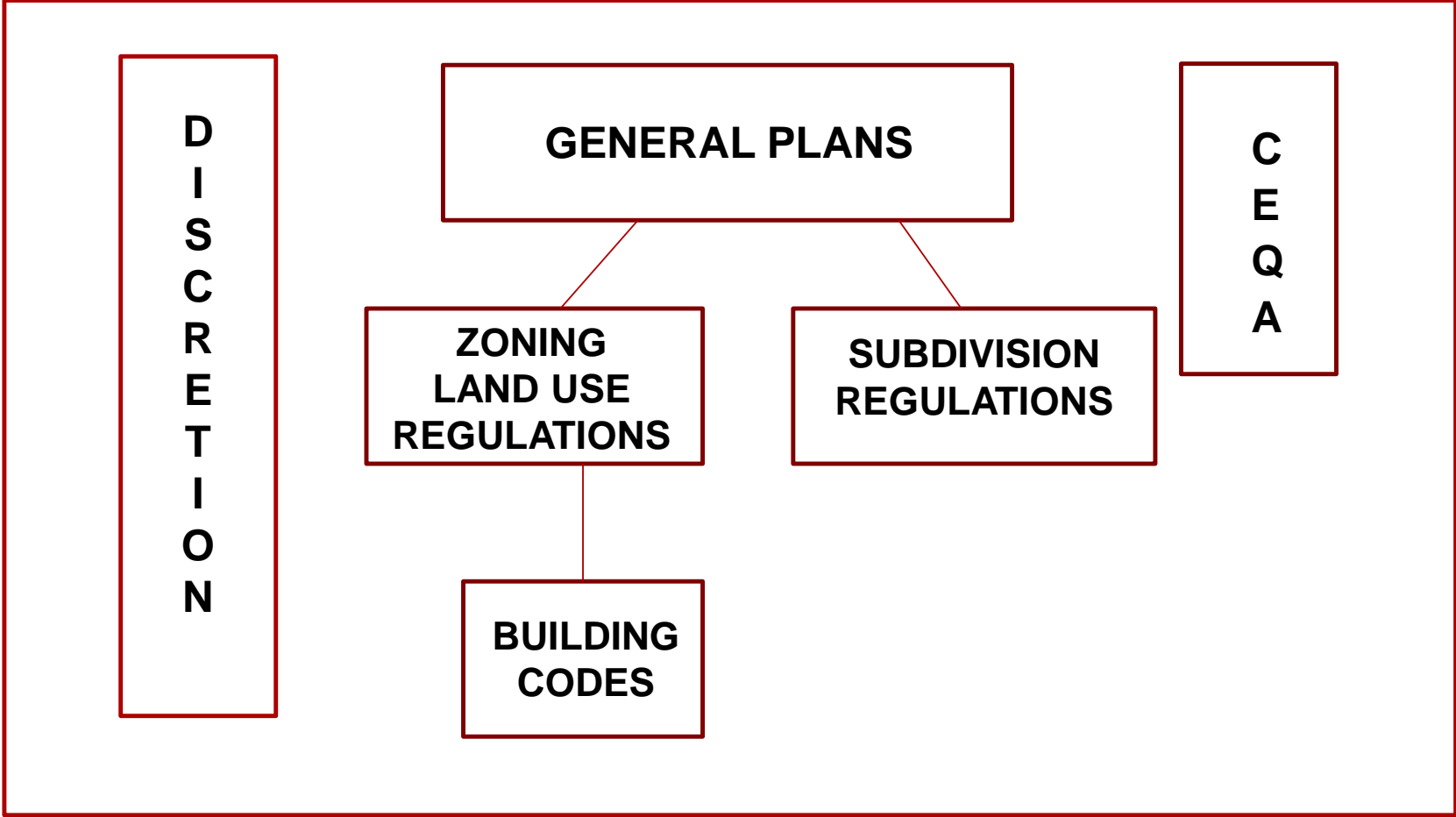
# THE ESSENTIALS OF CALIFORNIA LAND USE PRACTICE

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# CALIFORNIA LAND USE CONCEPTUAL RELATIONSHIPS



# WHAT IS A GENERAL PLAN? WHY ARE THEY IMPORTANT?

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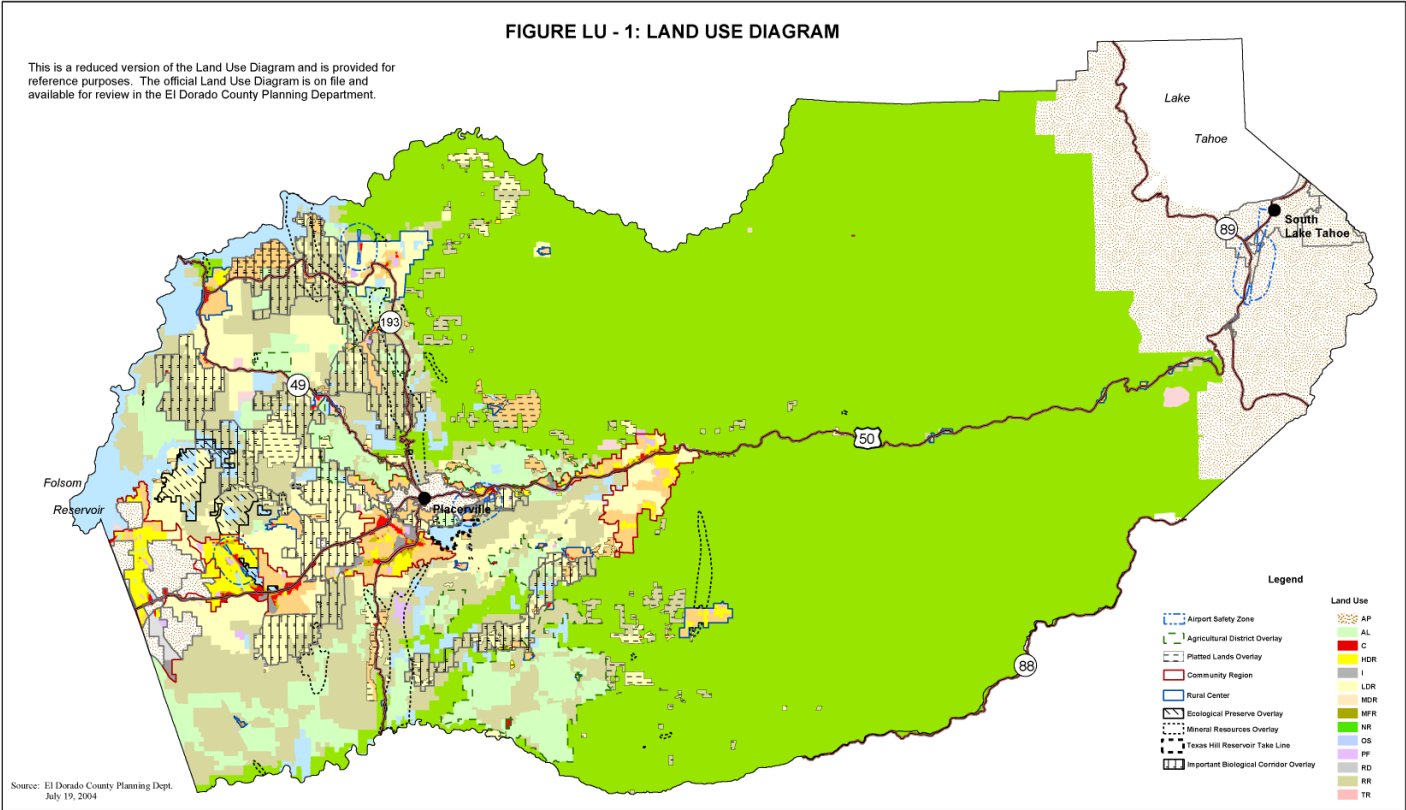
- LAND USE MAP
- POLICIES

# The State's Role in Land Use Decisions

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- Process Versus Substance
- Housing Element
- The Power of the Home Rule
- Geographical Carve-Outs From Home Rule
  - Tahoe
  - Coastal Zone
  - BCDC
  - Delta

# El Dorado County GENERAL PLAN MAP



# El Dorado County

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# El Dorado County

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# WHAT IS ZONING?

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# ZONING – PART OF THE MUNICIPAL CODE

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## 📁 Title 130 - ZONING

### SUBPART I. - PLANNED DEVELOPMENTS

📁 CHAPTER 130.02. - GENERAL PROVISIONS

📁 CHAPTER 130.04. - PROCEDURE

### SUBPART II. - GENERAL LAND USE ZONING

📁 CHAPTER 130.06. - GENERAL PROVISIONS

📁 CHAPTER 130.10. - AMENDMENTS

📁 CHAPTER 130.12. - ENFORCEMENT

📁 CHAPTER 130.13. - RIGHT TO FARM

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📁 CHAPTER 130.15. - SECOND RESIDENTIAL UNITS  
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📁 CHAPTER 130.18. - OFF-STREET PARKING AND  
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📁 CHAPTER 130.23. - TEMPORARY USE PERMITS

📁 CHAPTER 130.25. - FLOOD DAMAGE PREVENTION  
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📁 CHAPTER 130.26. - UNCLASSIFIED (U) DISTRICTS

📁 CHAPTER 130.28. - RESIDENTIAL DISTRICTS

📁 CHAPTER 130.30. - RESIDENTIAL AGRICULTURAL  
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📁 CHAPTER 130.32. - COMMERCIAL DISTRICTS

📁 CHAPTER 130.34. - INDUSTRIAL DISTRICTS

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- CHAPTER 130.40. - MOBILE HOME DISTRICTS
- CHAPTER 130.42. - TRANSPORTATION CORRIDOR (TC) DISTRICTS
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### ■ CHAPTER 130.80. - HOUSING ADVISORY COMMISSION

### ■ CHAPTER 130.81. - AFFORDABLE HOUSING DENSITY BONUS

## SUBPART VII. - DEVELOPMENT AGREEMENTS

### ■ CHAPTER 130.85. - DEVELOPMENT AGREEMENTS

### ■ CHAPTER 130.90. - REAL PROPERTY FIRE HAZARD DISCLOSURE

# REGULATION OF THE DIVISION OF LAND

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## SUBDIVISION MAP ACT

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# THE DIVISION FOR PURPOSES OF SALE, LEASE OR FINANCING



# THE EVOLUTION OF THE SUBDIVISION MAP ACT

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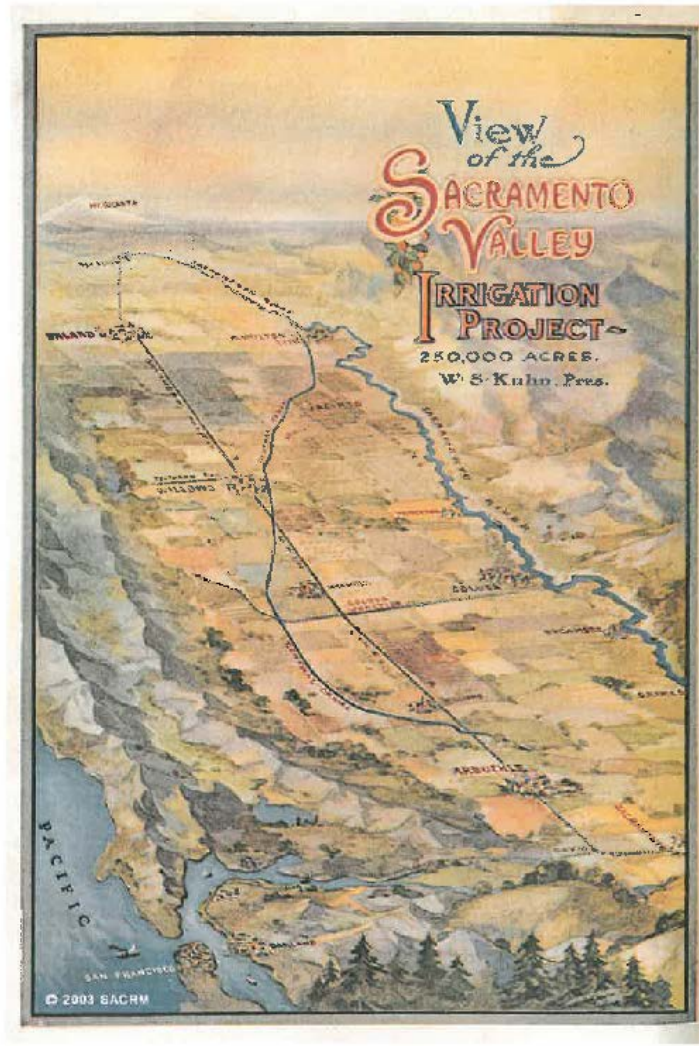
FROM RECORDING TOOL TO LAND USE  
PLANNING TOOL

PRE vs. POST 1929 RECORDED MAPS

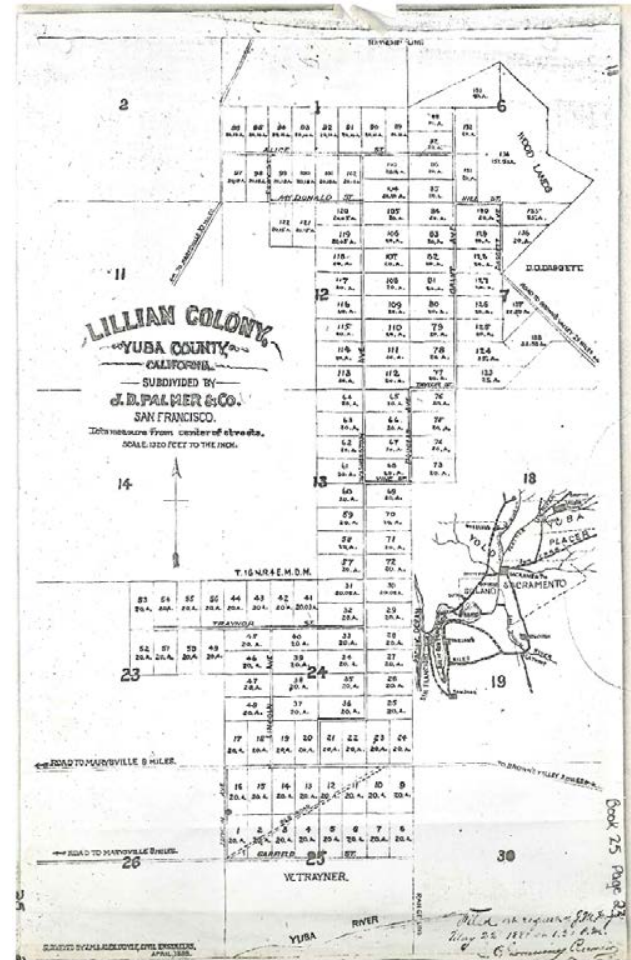
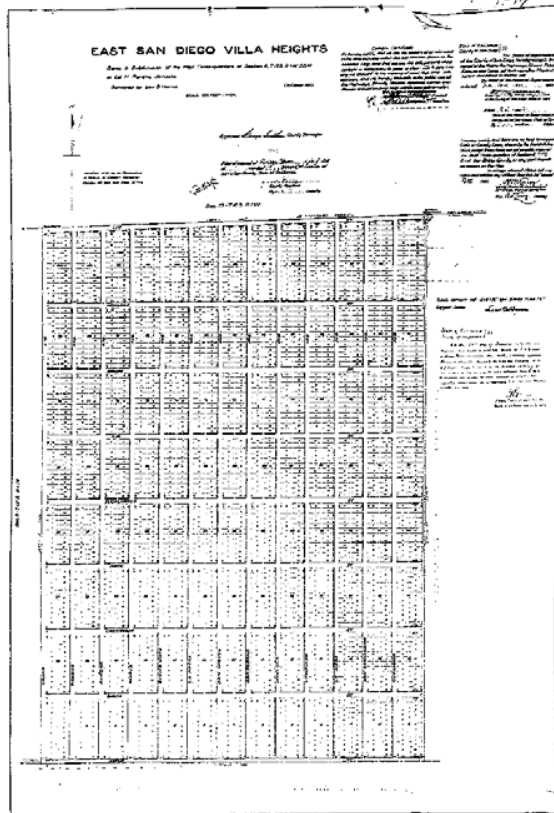
# WHAT DOES A SUBDIVISION MAP LOOK LIKE?

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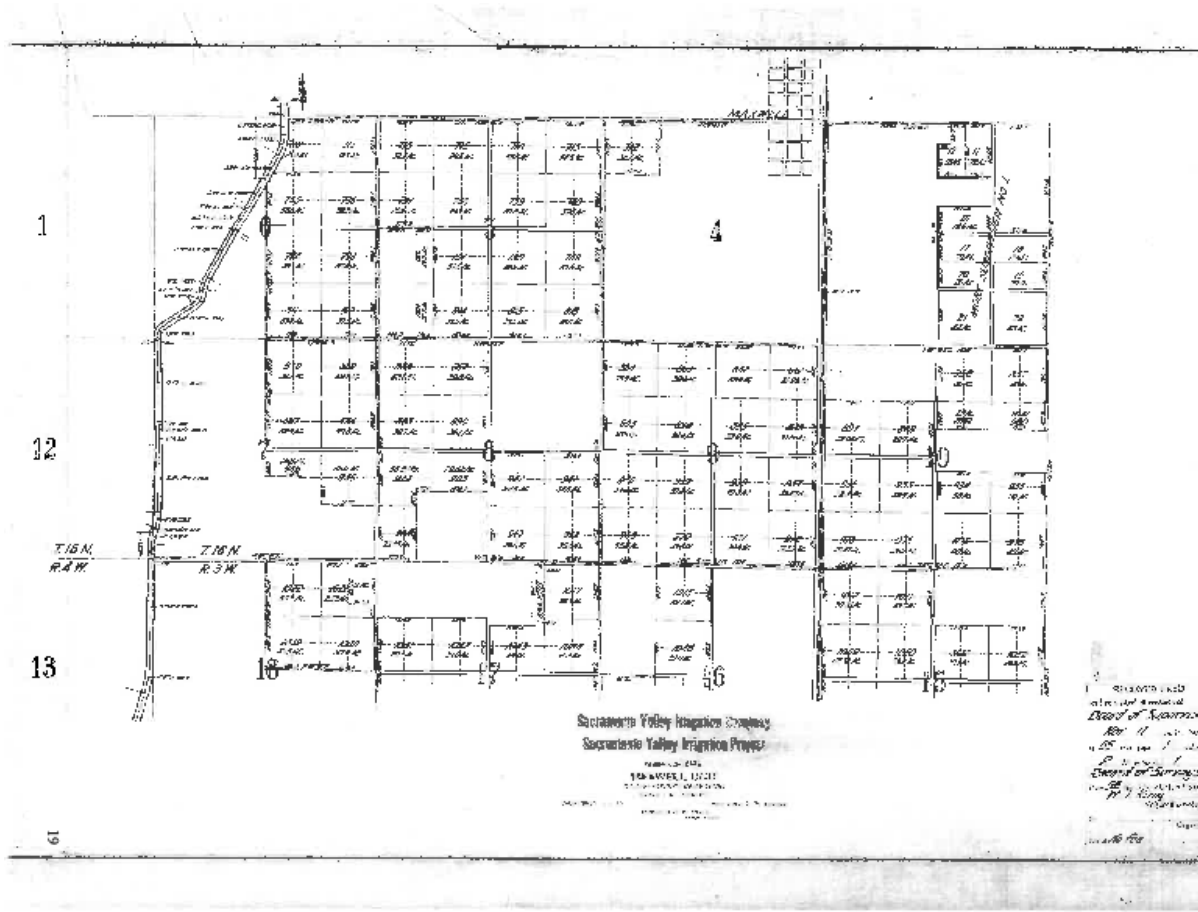
# HISTORICAL MAPS



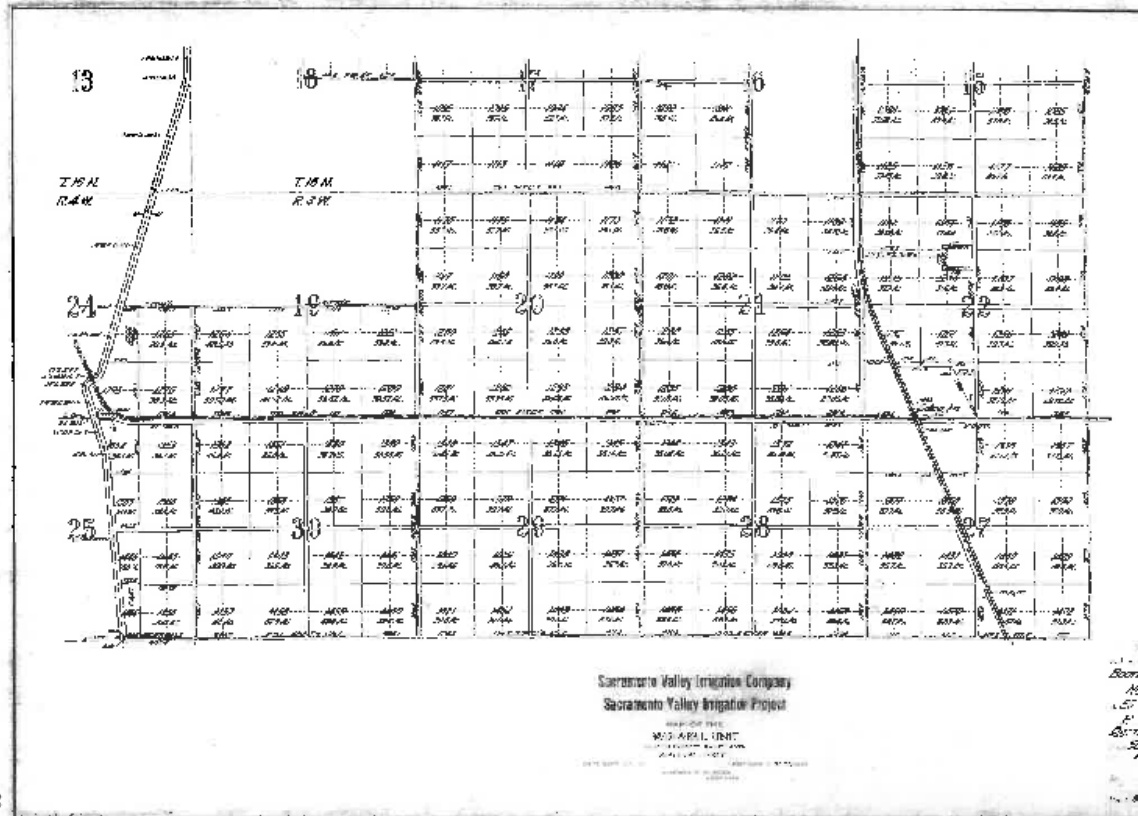
# HISTORICAL MAPS



# HISTORICAL MAPS

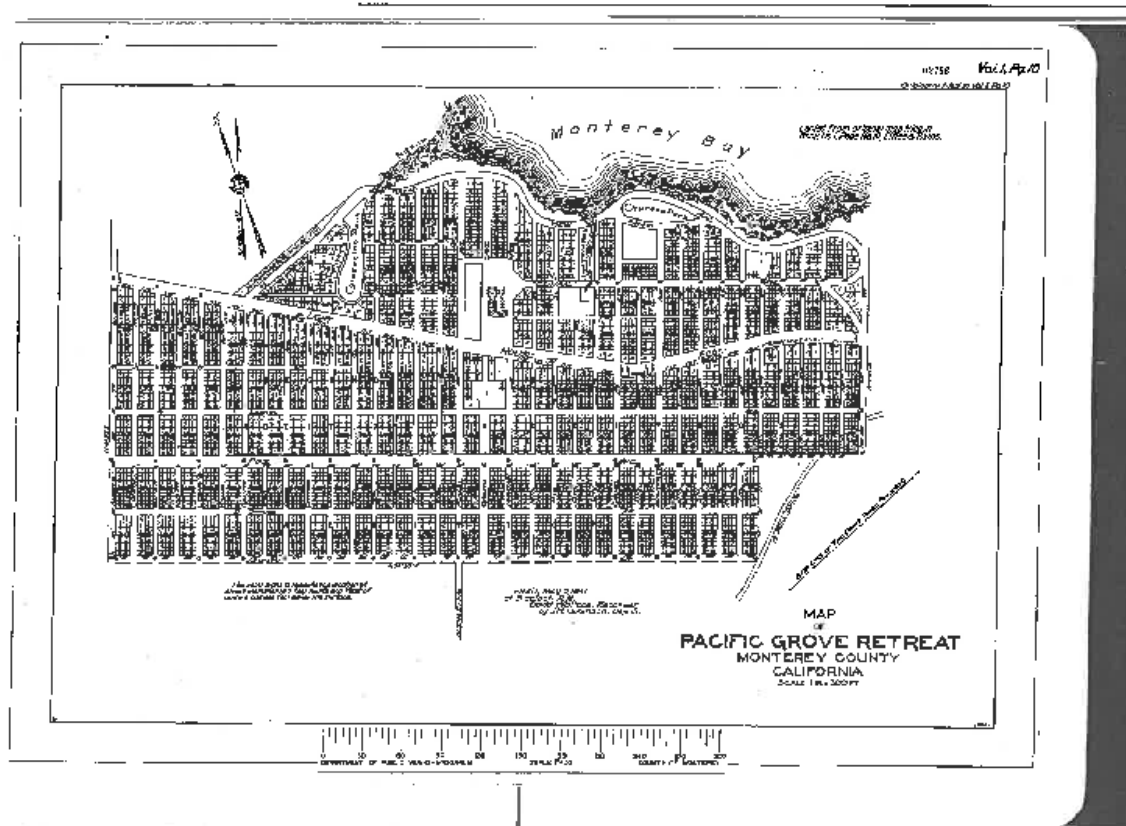


# HISTORICAL MAPS



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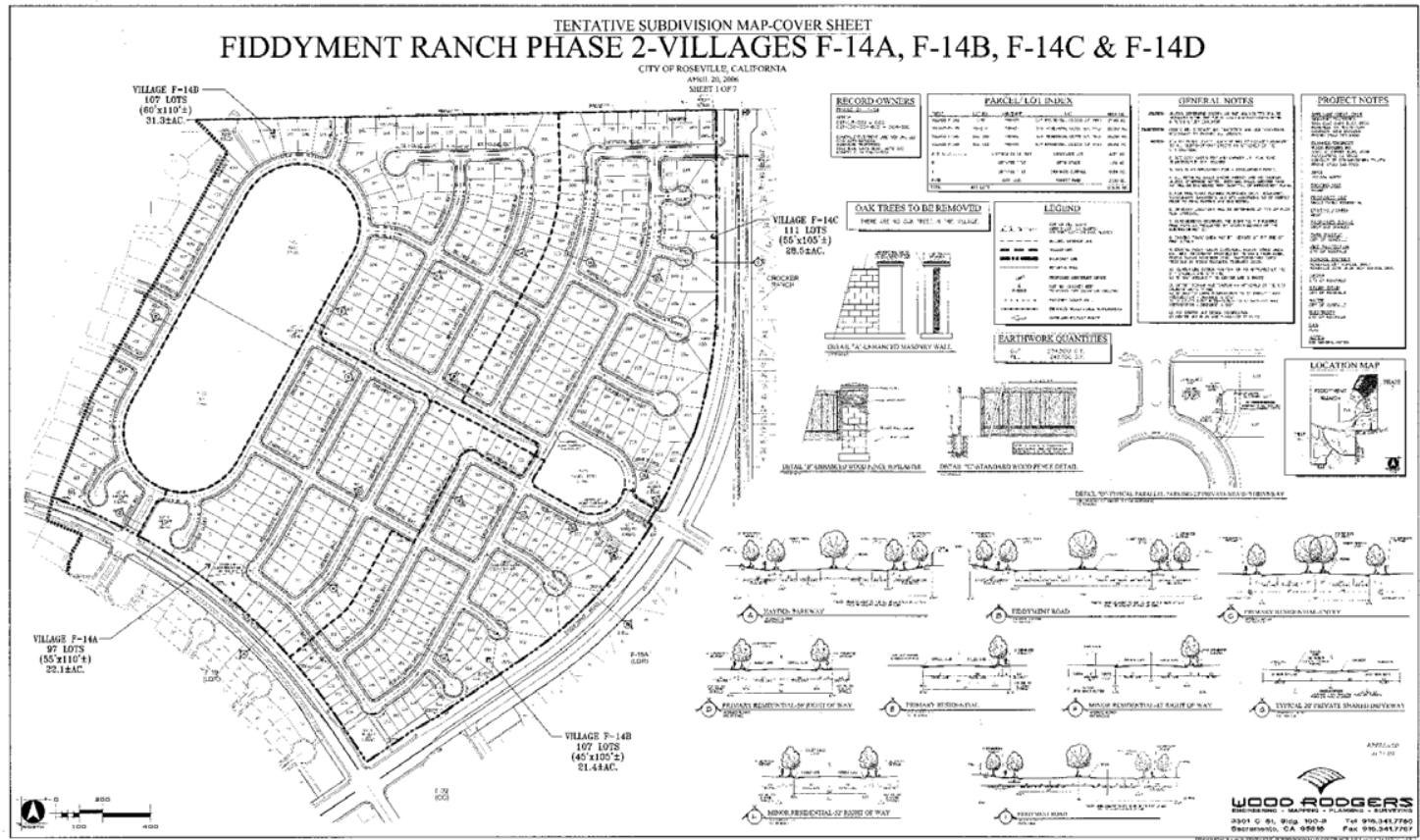
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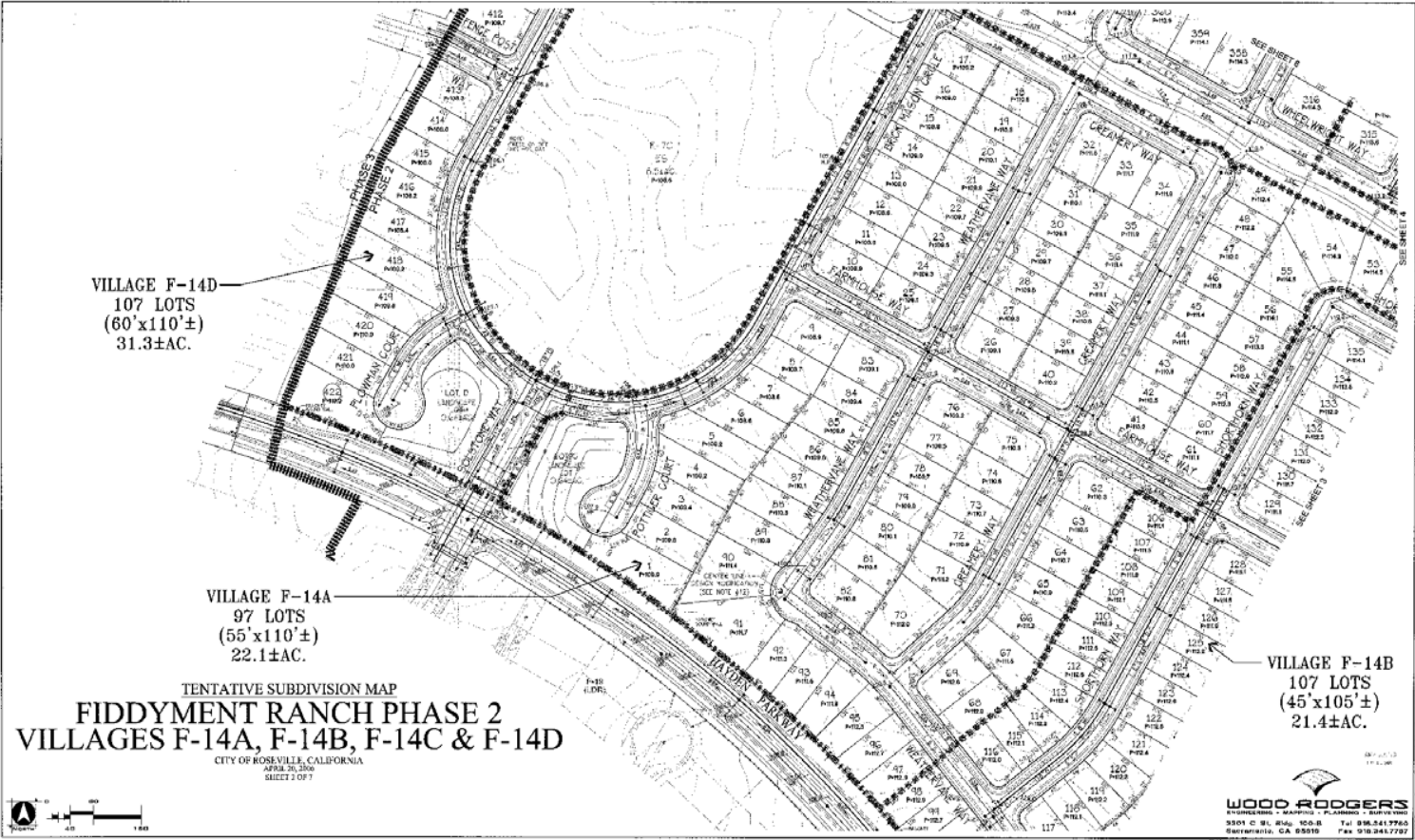




# MODERN DAY TENTATIVE MAPS



# MODERN DAY TENTATIVE MAPS



# GENERAL PLANS

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After 1970, general plans become the new constitution guiding local decision making.

# In terms of general plans, cities and counties must think in terms of:

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- The seven mandatory elements
- Internal consistency
- Correlation of the land use and circulation elements
- Keeping the General Plan current
- Consistency in implementation

# CONSISTENCY IN IMPLEMENTATION

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*“The project is inconsistent with the General Plan”*

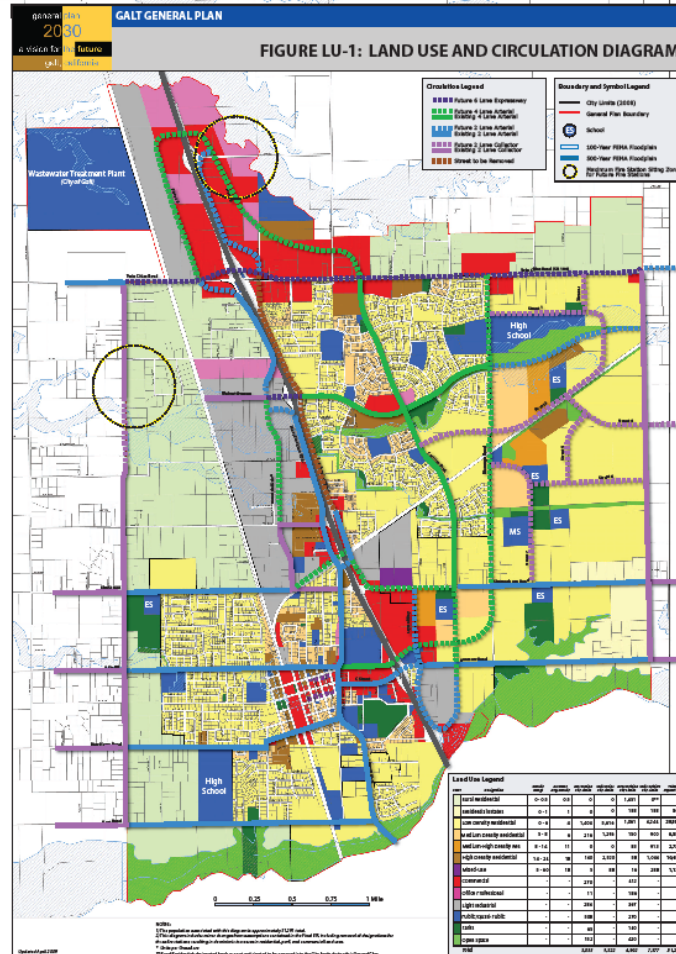
- How is consistency determined?
- A project cannot be expected to be consistent with each and every policy of a general plan because of the competing policy objectives often embraced by a general plan. Sequoyah Hills Homeowners Ass’n v. City of Oakland (1993) 23 Cal.App.4th 704.
- A project must be consistent with unambiguous fundamental policies, whatever those are. FUTURE v. County of El Dorado (1998) 62 Cal.App.4th 1332.

# SPECIFIC PLANS

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For The Systematic Implementation Of The General Plan

# City of Galt GENERAL PLAN







# CEQA

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- Programmatic Review vs. Project Review
- CEQA is not a new source of regulatory power.

# CEQA PRACTICE IS DEFINED BY:

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- State statute
- CEQA Guidelines
- Case law

# CEQA

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What is a project?

What activities are exempt?

- Case law – “The Golden Rule”
- Statute
- CEQA Guidelines

# EIR VS. NEGATIVE DECLARATION

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*“You should have prepared an EIR.”* This is a typical claim presented by a project opponent.

- CEQA is an environmental disclosure statute.
- A CEQA decision is based upon “Substantial Evidence” made in compliance with mandated procedures.

# MITIGATION MEASURES

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1. The lead agency has the duty to adopt all feasible mitigation measures.
2. In certain circumstances, it may be impractical to articulate the details of a mitigation measure. Follow protocols to avoid claims of *deferred mitigation*.

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*“Substantial Evidence” means...enough relevant information and reasonable inferences from this information that a fair argument can be made to support a conclusion, even though other conclusions may be reached.”*

*CEQA Guidelines §15384*

- 
- As a decision maker, you should ask yourself, staff and the public the hard question of “What is the evidence?”
  - A conclusion by itself is not evidence.
  - A desire for an EIR is not evidence.
  - Controversy is not evidence.
  - *Personal* experience can be evidence.

---

## **General Rule #1:**

If there is substantial evidence of a fair argument that a project may a significant adverse environmental impact, an EIR is required. Perley v. County of Calaveras (1982) 137 Cal.App.3d 424.

## **General Rule #2:**

Notwithstanding adverse impacts, a project may proceed, in limited circumstances, with a negative declaration where impacts have been previously studied.



# FINDINGS TELL THE STORY

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## **Example #1**

The planning commission finds the project is consistent with the general plan.

## **Example #2**

The planning commission finds as follows:

The project, as modified by conditions of approval 17 and 19, will not cause the intersection to operate at less than LOS C, thereby meeting general plan policy C-3. See DEIR, p. 4-6.

# OTHER ISSUES

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The Administrative Record

Ex Parte Contacts

# CUTTING EDGE ISSUES

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1. Water (matching supply to demand; project impacts on groundwater)
2. Impact fees (individual vs. county-wide fees)
3. Development Agreements:  
Opportunities for implementing community goals through negotiated approvals.
4. Initiative and Referendum

# WANT TO LEARN MORE?

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For cases and statutes: [WWW.FINDLAW.COM](http://WWW.FINDLAW.COM)

For reference books: [WWW.SOLANO.COM](http://WWW.SOLANO.COM)

Curtin's California Land Use

Guide to the California Environmental Quality Act

Exactions and Impact Fees in California

Websites

- [www.aklandlaw.com](http://www.aklandlaw.com)
- [www.ceres.ca.gov](http://www.ceres.ca.gov)
- [www.ceres.ca.gov/ceqa](http://www.ceres.ca.gov/ceqa)
- [www.opr.ca.gov](http://www.opr.ca.gov)