

Sample Talking Points for Staff's Annual General Plan Status Report

The Ask: Update the Land Use Tables

SPON's interest in the land use limits of GP Table LU1, the various GP land use maps, and especially [Table LU2](#), is because the accuracy of them is essential to the successful ongoing functioning of the [Greenlight Measure](#) enacted in 2000.

The General Plan tables started with what was last approved by voters (in 2006).

Although the Council is allowed to add and modify the tables, when non-voter-approved increases reach a certain threshold, a Greenlight vote is supposed to be automatically called. That system only works if the land use limit tables are conscientiously kept up to date, by amendment, as new development inconsistent with the previous limits is approved, for it is the amendments to the General Plan tables, and only that, which triggers the Greenlight analysis.

The problem, as explained above, is that the City has been using transfers and land use category "conversions" (the latter being something not sanctioned by anything in the General Plan except for to a very limited extent in the Fashion Island retail oval, pursuant to Policy [LU 6.14.1](#)) *without amending the General Plan land use limit tables to reflect the transfers authorized*. As a result, the City has approved development inconsistent with the General Plan tables, and not subjected to Greenlight scrutiny.

The extent of this unrecorded manipulation of the land use limits can be seen by looking at the **blue** corrections starting on [page 25 of Resolution 2014-67](#), which was presented to the Council on [July 22, 2014](#), in a staff effort to quietly clean up the tables before placing the new **yellow** changes on the ballot as the ill-fated [Measure Y](#).

SPON feels strongly that Tables LU1 and LU2 of the Land Use Element need to be updated NOW, with those updates acknowledged as non-voter-approved amendments to the General Plan. Only in that way can Greenlight be put back on track so "need for voter approval" decisions can be correctly made as new development is added to the Plan through future GPA's.

The Talking Points (Part 1): Getting the General Plan Back on Track

Talking point 1: There is clearly something wrong with the "status" of the Newport Beach General Plan when approved development in specific areas of the City exceeds the maximums shown in the current, published General Plan Anomaly Locations table (Table LU2) – for example, more total housing in Newport Center than allowed by the tables in the Land Use Element and massive office additions in areas other than those indicated.

Talking point 2: It is impossible to pursue Implementation Program 10.2 (tracking how close approved development is to the General Plan limits) unless those limits are correctly shown.

Talking point 3: Since Greenlight assumed the General Plan was the governing document, and development beyond its limits could be approved only through amendments to it, the present disconnect between approved development and the limits shown in the General Plan is a very serious problem. The only way to correct this is to formally amend the tables to reflect the non-voter-approved changes, and to include the amendments necessary to accomplish that in staff's [Greenlight Tracking Tables](#).

The Talking Points (Part 2): Commenting on the Remainder of Staff's Annual General Plan Status Report

It has become evident that Newport Beach has a rather casual attitude toward finding things "consistent" with the General Plan (and with other standards, such as the Local Coastal Program), citing one or two things about a proposal that seem consistent, while seemingly ignoring the possibility there might be a host of other aspects of the proposal that are inconsistent with it.

At the February 26, 2018, Community Development Department Open House, senior staff confirmed planners follow no systematic checklist to ensure each evaluates a project in the same way, or considers each possible area of consistency or inconsistency.

That attitude is evident in the [draft General Plan Annual Status Report for calendar year 2017](#) which is the subject of these Talking Points. For each of the 77 Implementation Programs of Chapter 13, one or two (sometimes difficult to verify) accomplishments are cited as evidence of fulfillment, without ever asking the equally important question of whether there are aspects of the Program that have *not* been fulfilled.

For example, starting with **Implementation Program 1.1** on "handwritten" page 39 of the staff report, one of the promises is that private development will be consistent with the General Plan. We are assured this will occur as the application is reviewed.

Talking point 1: If planning staff has no systematic checklist, how can the public feel assured that every aspect of consistency with the General Plan has been considered?

Talking point 2: Didn't this assurance fail when two massive new office towers were approved in Newport Center, larger than anything built there before, under a General Plan that called for very limited office expansion from 2006 through 2026? How could they be found consistent?

Next we are told one of the promises is that the City's own Capital Improvement Program (CIP) projects will be consistent with the General Plan. And this was fulfilled by the Council, which found the projects consistent when it approved the CIP in June 2017. The problem with this is that when the Council approved the CIP as [Item 14](#) on its June 13, 2017, agenda, the words "general plan" do not appear in anything presented to the Council, nor in their resolution of adoption.

Talking point 3: Who checked the 2007 CIP projects for consistency with the General Plan? Surely the Council didn't if no one reminded them to do so.

Talking point 4: Even if the City's CIP projects since 2006 have each been checked for consistency with the General Plan, what assurance does the public have that the GP doesn't call for CIP projects that have *not* been planned or approved?

But looking at staff's purported list of Implementation Program accomplishments, is not the most productive way to consider the Annual Status Report. One really has to look at the Implementation Program (CIP) itself (Chapter 13 of the General Plan, reproduced starting on handwritten page 4 of the 2018 staff report.

Reading the details under "Imp 1.1" one sees it is actually not supposed to be the City Council, but rather the Planning Commission that reviews the City's construction plans for consistency with the General Plan, and the review is not supposed to be limited to the City's plans, but to include the CIP's of other agencies doing work in the City, such as the Sanitation District or the School District.

Talking point 5: Did the Planning Commission review the City's CIP in 2017 before it was approved by the Council, as required by Implementation Measure 1.1? If not, why not?

Talking point 6: Since the General Plan was not mentioned in the City Council's 2017 budget adoption, how are we to be assured they found the Capital Improvement Program, or any other aspect of it, consistent with the General Plan?

Talking point 7: Has the Planning Commission reviewed the General Plan consistency of CIP proposals from external agencies proposing to do work within the City as required by Implementation 1.1?

Talking point 8: Where does the present report review the continuing applicability of the Implementation Program and recommend updates to them, as required by the Implementation Program?

Note: in the seven and one half years of its existence, not a single change has been made to Chapter 13.

The most notable event of 2017 in connection with the status of the General Plan was the issues left hanging by the [California Supreme Court decision on the City's Banning Ranch approval](#) -- which raises many questions not touched on in staff's report, including why GP policies, including the relevant Implementation Programs, were allegedly not followed, and whether they need to be rethought in view of changing circumstances and information (as the GP and IP themselves say they should). Even the discredited [Appeals Court decision from 2015](#) noted with puzzlement (see 1348 in the page notations in the left hand margin of the display) that the disputed GP policy about coordinating with state and federal agencies in delineating sensitive areas cites a *wrong* Implementation Program (namely, [Imp 14.11](#) [CA Public Utilities Commission] when [Imp 14.13](#) [US Fish and Wildlife] was presumably intended).

Talking point #9: Why would the City not even both to fix that obvious typo in the GP (in [Policies 6.5.3 and 6.5.6](#)), let alone the other outdated information about Banning Ranch (including discredited information about how much is developable)?