



## Analyzing Action/Plan Consistency

The Role of the Staff Report

Brian W. Ohm

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# Analyzing Action/Plan Consistency

## The Role of the Staff Report

Brian W. Ohm

### ABSTRACT

**Problem, research strategy, and findings:** An increasing number of laws throughout the United States require that local officials articulate the reasons for their decisions related to land use matters. These include the legal basis for the decision and the factual basis of the particular matter. Although there is not much research on the role of planning staff reports in the planning process, staff reports become part of the record and can provide legitimacy for a decision. In this study I summarize the legal requirements found in many states that certain local decisions must be consistent with a locally adopted comprehensive plan. I analyze how planning staff reports evaluate consistency. Many staff reports fail to provide decision makers with an analysis of how a proposed action relates to the policies in the plan.

**Takeaway for practice:** A comprehensive plan is more than a future land use map. Planning staff reports need to provide the framework for an analysis of how a proposed action relates to the community's plan as a whole and give meaning to the concept of consistency. Staff reports should inform decision makers about the content of the plan, thereby reminding decision makers of the existence of the plan, and evaluate how the proposed action relates to the policies in the plan through a narrative that reinforces the value of planning.

**Keywords:** communication, comprehensive planning, consistency, implementation, staff reports

The comprehensive plan remains a central focus of planning thought and practice (Godschalk & Anderson, 2012). Comprehensive plans, however, are not self-executing; they are meant to provide information to guide future decisions regarding regulations, public investments, and other programs. These decisions should implement the plan. Laws in many states require that certain decisions relate to the local comprehensive plan in an attempt to ensure that decision makers make decisions based on the plan (Mandelker, 2003).

In the past 25 years, I helped draft legislation strengthening the framework for local comprehensive planning in two states. Although the exact language differs in each state, both laws require that certain local actions must be consistent with a locally adopted comprehensive plan. Similar to the experience in other states, the passage of those laws led to uncertainty and confusion among planners, attorneys, and local officials struggling to operationalize the action/plan consistency requirement. Consistency determinations are ultimately the responsibility of those vested with final decision-making authority, usually the local elected body. Planning staff reports, however, should be central to implementing consistency requirements. Staff reports are the most common planning document written by planners (Johnson & Lyles, 2016). Staff reports are intended to provide the facts necessary for the

governing body to make an informed decision about consistency and help create the record for a legally defensible decision if challenged in court (Barneby, 2017; Meck & Morris, 2004; Swift, 2014). Dalton and Burby (1994) evaluate planning mandates in California and North Carolina and conclude that both states "could reinforce consistency requirements between plans and development management programs ... by requiring explicit findings in staff recommendations on development proposals" (p. 454).

Despite the importance of staff reports, the planning literature offers little guidance on how staff reports can help operationalize consistency requirements. Here I attempt to fill that void by exploring the guidance offered by legislation and court decisions for the type of analysis to determine action/plan consistency. I first explore the origins of the consistency issue and the adoption of consistency requirements by state and local governments. I then explore the guidance offered by legislatures and courts for what consistency means and the analysis expected of decision makers. Next I identify a range of approaches found in staff reports from communities that require action/plan consistency and evaluate how well they meet the legal guidance for action/plan consistency determinations. I conclude that as a communicative tool, planning staff reports should do more than provide conclusory statements that a proposed action is consistent with the local comprehensive

plan. The report should identify the goals, policies, and objectives that relate to the proposal and discuss how the proposed action furthers or does not further those goals, policies, and objectives to help elevate the importance of the planning process.

## Methodology

I use legal research methods to identify the guidance offered by courts and legislatures for analyzing action/plan consistency. The legal research focuses on states that require local decision makers to take action consistent with the local comprehensive plan. Although the planning laws applicable to local governments vary considerably among the 50 states, these statutes and court cases provide general guidance for any community seeking to ensure that actions are consistent with its comprehensive plan.

I then use the legal guidance to establish an evaluation protocol for a content analysis of local government planning staff reports from communities that require action/plan consistency. Norton (2008) adapts content analysis methods to evaluate plans and zoning codes. Content analysis evaluates the message conveyed by these documents using an evaluation protocol. Thousands of local governments throughout the United States practice action/plan consistency. Planners compose tens of thousands of staff reports annually in communities that mandate action/plan consistency. Staff reports convey an important message because decision makers and the public may be unfamiliar with the contents of the plan or unsure about how to apply the plan to a specific action. In my decades of experience working on this issue I have examined hundreds of reports representing the range of approaches. In this study I evaluate the message conveyed in staff reports to decision makers and the public about how a proposed action relates to the contents of an applicable local comprehensive plan. The evaluation identifies practices in staff reports that best meet the guidance offered by courts and legislatures for analyzing how a proposed action relates to the plan.

## The Origins of Action/Plan Consistency

Law is not an end in itself; it is a means to policy goals (Mandelker, 1973). Recognizing this, planning scholars have long advocated that legal tools affecting community change and development, such as zoning ordinances, need to be based on the goals, policies, and objectives identified in a plan for the community (Harr, 1955a; Kent, 1964). Kent (1964) characterizes the years from 1930 to 1950 as “twenty years of confusion” about the relationship between zoning and the comprehensive plan (p. 31). A

source of the confusion was the Standard State Zoning Enabling Act published by the U.S. Department of Commerce in 1926 and the Model City Planning Enabling Act (MCPEA) published by the Department in 1928. These models influenced the local zoning and planning enabling laws adopted in many states. The Standard State Zoning Enabling Act stated that zoning regulations “shall be made in accordance with a comprehensive plan” but did not define what is meant by a *comprehensive plan* (qtd. in Mandelker, 1976, p. 902). The MCPEA did not use the term *comprehensive plan* and introduced the concept of the “master plan” that included a “zoning plan.” The MCPEA did not require the preparation of a master plan prior to adopting zoning regulations (Mandelker, 1976; Meck, 2000). As a result, communities that elected to adopt a zoning ordinance often did not have a plan upon which to base the zoning ordinance. Many courts interpreted the comprehensive zoning ordinance as the comprehensive plan. Courts also allowed communities that had a master plan to ignore the plan when making zoning decisions.

The push to distinguish planning from zoning received heightened awareness in the 1950s. Kent (1964) cites three events that began to bring clarity to the need for an independently adopted comprehensive plan: the planning provisions in the Federal Housing Act of 1949, the approval of an educational booklet on city planning by the American Institute of Planners in 1952 that defined a comprehensive plan, and the 1955 California law that defined the elements of a general (comprehensive) plan.

By the 1950s, zoning had evolved from a stable pre-ordained code to a more discretionary system (Netter & Vranicar, 1981). The increased use of discretionary devices such as variances and special use permits resulted in the individual review of development proposals and ad hoc regulation. In the 1950s, legal scholars concerned about the reasonableness of local zoning decisions stressed that zoning needed to relate to a plan for the community (Harr, 1955a, 1955b). Influential Harvard law professor Charles Harr (1955a) argued:

... zoning done before a formal master plan has been considered and promulgated is *per se* unreasonable, because of failure to consider as a whole the complex relationships between the various controls which a municipality may seek to exercise over its inhabitants in furtherance of the general welfare. (p. 1174)

The primary legal justification for acting in accordance with the plan was to legitimize local government decision making by articulating the public policy reasons (the rational basis) for the decision as a hedge against arbitrary and capricious action (Harr, 1955a; Mandelker, 1996).

Comprehensive plans became a vehicle to provide information local officials needed to make effective decisions (Kent, 1964) and to provide a standard against which the judiciary can measure the validity of a land use action if it is challenged in court (Hart, 1974). Legal defensibility focuses on judicial review of the local government's process and rationale for a challenged action to ensure the local government followed legal requirements and that the decision was not arbitrary and capricious.

### **The Advent of State and Local Requirements for Action/Plan Consistency**

Today consistency requirements appear in various legal contexts throughout the United States. In 1971, California became the first state to enact a statute requiring that county and city zoning ordinances "shall be consistent with the general plan of the county or city" (DiMento, 1974, p. S197). The legislative intent behind the law was to encourage local governments to follow through on the guidance provided by the plan (DiMento, 1974).

Over the years, legislatures in other states followed California's lead and adopted statutory definitions of the minimum elements of a comprehensive plan and required that certain actions must be consistent with a local comprehensive plan. In addition to California, other states with statewide action/planning consistency requirements include Arizona, Delaware, Florida, Kentucky, Maine, Nebraska, New Jersey, Rhode Island, Oregon, Washington, and Wisconsin (Meck, 2000). Minnesota mandates planning and action/plan consistency in the seven-county Minneapolis–St. Paul metropolitan area (Ohm, 1995). In North Carolina, local comprehensive planning is voluntary. However, if a city or county adopts a comprehensive plan, the decision makers must prepare and adopt an explanation describing relevant portions of the applicable plans and how a proposed rezoning is or is not consistent with the plans (Owens, 2018).

In addition to these states, many other states require that other actions conform to the local comprehensive plan. These other actions include adopting redevelopment plans (Mandelker, 1967), approving subdivisions, and using tax increment financing. A number of state legislatures also attempt to limit arbitrary local government actions by requiring that local governments articulate the reasons for denying a land use permit. Although not a requirement for consistency per se, the comprehensive plan may provide support for denying proposed projects that are inconsistent with the plan.<sup>1</sup>

In some states, the courts require consistency (Sullivan, 2000). The Kansas Supreme Court, for example, identified conformity with the local comprehensive plan and the recommendations of the planning staff as factors that local government should consider when reviewing zoning amendments (*Golden v. City of Overland Park*, 1978). Local governments in other states also have the discretion to adopt consistency requirements even though their state laws do not require action/plan consistency.

### **What Does Consistency Mean for Local Decision Makers?**

Though the idea of consistency may be a laudable objective, the meaning of the term *consistent with* and how to operationalize consistency in practice is a source of confusion. State laws attempting to link plans and regulations use different terms to articulate the relationship. The phrase *in accordance with a comprehensive plan* gave way to terms that attempted to more clearly define the relationship such as *consistent with*, *conform to*, or *shall not conflict with a comprehensive plan*. The 1971 California law mandating consistency between zoning and the local general plan did not include a definition of the phrase *consistent with*. Those drafting the legislation appeared to know what the phrase meant, so it was not necessary to include a definition.

Nevertheless, conflicts arose in interpreting the term. Some people interpreted the phrase to require exact conformity between a land use decision and the plan (Catalano & DiMento, 1975). A decision on a rezoning, for example, would need a direct and unambiguous one-to-one relationship between the zoning ordinance and the plan (DiMento, 1980). Some planning experts criticized this interpretation for turning plans into inflexible zoning maps. "To the extent that a plan takes on regulatory effects, it heralds the demise of planning ... for by definition planning is not regulation" (Hagman & DiMento, 1978, p. 7). The focus on maps ignored the text of the plan and the goals, policies, and objectives articulated in the plan. Recognizing the complex nature of planning, those drafting the California law intended *consistency* to be interpreted as *compatibility* (Catalano & DiMento, 1975). This interpretation would require an analysis of land use decisions with the goals and objectives of the comprehensive plan that is flexible enough to provide local officials with the discretion necessary to resolve future growth problems and preserve the integrity of the general plan (Hart, 1974).

The source of confusion may reflect differing views about the function of comprehensive plans. One view, influenced by the rational model of planning, assumes a direct relationship between the plan and local decisions

where the plan is a blueprint for future development (Laurian et al., 2004). The other view assumes a communicative model of planning in which the plan is a guide for decision making and consensus building rather than a blueprint (Laurian et al., 2010). As discussed below, the law tends to support a more communicative model of planning.

To clarify the issue, the California legislature amended the law in 1972 to define *consistent with* as “the various land uses authorized by the ordinance are compatible with the objectives, policies, general land uses and programs specified in such a plan” (DiMento, 1974, p. S202). In 1973, the California Council on Intergovernmental Relations adopted General Plan Guidelines intended to further clarify the meaning of *consistent with*. The Guidelines stated that a “zoning ordinance should be considered consistent with the general plan when the allowable uses and standards contained in the text of the zoning ordinance tend to further the policies in the general plan and do not inhibit or obstruct the attainment of the articulated policies” (DiMento, 1974, p. S204). A 1975 Opinion of the California Attorney General provided additional guidance, opining that “consistency’ . . . need not require an exact identity between the zoning ordinance and the general plan” (DiMento, 1974, p. S204). Matching zoning with the general plan map alone might not be sufficient to comply with the consistency requirement (DiMento, 1974).

Over the decades, the California Legislature required that other actions also needed to be consistent with the general plan. The current guidance continues the focus on the text of the plan (objectives and policies) rather than the maps:

An action, program, or project is consistent with the general plan if, considering all its aspects, it will further the objectives and policies of the general plan and not obstruct their attainment. (State of California, 2017)

The California courts have held that “a given project need not be in perfect conformity with each and every general plan policy” (*Napa Citizens for Honest Government v. Napa County Board of Supervisors*, 2001, p. 378). The courts recognize the need to strike a balance between reliance on the plan to prevent arbitrary decisions (limit discretion) and flexibility in decision making that can lead to outcomes that might be inconsistent with the plan (Mandelker, 1996). Consistency requirements highlight the perpetual struggle between flexibility and predictability in local planning decisions.

Consistency requirements do not eliminate local discretion to interpret and balance competing policies. The California court in *Napa Citizens for Honest Government v. Napa County Board of Supervisors*

acknowledges the balancing of policies as part of the decision-making process:

The body that adopts general plan policies in its legislative capacity has unique competence to interpret those policies when applying them in its adjudicatory capacity. It follows that a reviewing court gives great deference to an agency’s determination that its decision is consistent with its general plan. . . . Because policies in a general plan reflect a range of competing interests, the governmental agency must be allowed to weigh and balance the plan’s policies when applying them, and it has broad discretion to construe its policies in light of the plan’s purposes. A reviewing court’s role is simply to decide whether the [public] officials considered the applicable policies and the extent to which the proposed project conforms with those policies. (p. 386, internal citations omitted)

Comprehensive plans are a legislative document and should be interpreted following rules of statutory interpretation (Grosso, 2019).

Other states have similar stories to California’s experience. For example, Wisconsin’s comprehensive planning law, adopted in 1999, defined the elements of a local comprehensive plan and provided that beginning in 2010, the enactment or amendment of zoning ordinances, subdivision ordinances, and official mapping ordinances must be consistent with a local government’s comprehensive plan. Like California, Wisconsin’s law did not originally define consistency. Confusion over the meaning of consistency resulted in the need to amend the law to define *consistent with* to mean “further or does not contradict the objectives, goals, and policies contained in the comprehensive plan” (Ohm, 2013, p. 4-10). Based on this definition, the task for local decision makers is to articulate how a proposed action furthers or does not contradict relevant policies in the plan.

The APA’s *Growing Smart Legislative Guidebook*, providing model planning enabling legislation, includes a similar legal definition of consistency. The model legislation states that a proposed action is consistent with the local comprehensive plan when the action:

- a. furthers, or at least does not interfere with, the goals and policies contained in the local comprehensive plan;
- b. is compatible with the proposed future land uses and densities and/or intensities contained in the local comprehensive plan; and
- c. carries out, as applicable, any specific proposals for community facilities, including transportation facilities, other specific public actions, or actions proposed by nonprofit and for-profit organizations that are contained in the local comprehensive plan.



In determining whether the regulations, amendment, or action satisfies the requirements of subparagraph (a) above, the local planning agency may take into account any relevant guidelines contained in the local comprehensive plan. (Meck, 2002, p. 8-37).

The *Guidebook* further provides that a decision on a development permit must explain how it is based on “the goals, policies, and guidelines of the comprehensive plan” (Meck, 2002, p. 10-29). Operationalizing the consistency concept requires decision makers to understand the contents of their comprehensive plan and to analyze whether a specific approval is consistent with the community’s comprehensive plan.

Increasingly, courts are shifting their traditional deference to local decisions and requiring local governments to do a better job articulating the basis for their decision (Mandelker, 1989). One example is *Atkinson v. City of Charlotte* (2014), a North Carolina case involving a challenge to the statutorily required plan consistency statement for a zoning amendment adopted by the city. The city approved a zoning amendment with the following statement of consistency: “This petition is found to be consistent with adopted policies and to be reasonable and in the public interest” (*Atkinson v. City of Charlotte*, 2014, p. 7). Neighbors opposed to the amendment sued the city. The court reversed the city’s approval of the zoning amendment because this statement failed “to include an ‘explanation’ as to why the amendment is reasonable and in the public interest under the plain meaning of that term” (*Atkinson v. City of Charlotte*, 2014, p. 9). The case shifts the focus to the contents of the plan and the need for a more systematic analysis of how the policies in the plan relate to the decision.

Likewise, the Napa Citizens for Honest Government case involved the court’s review of the county’s decision that the specific area plan for a large development was consistent with the county’s general plan. The court disagreed with the county’s consistency analysis because the county merely cited goals and policies from the plan without appreciating the adverse impacts of the proposed development:

[T]he consistency doctrine requires more than ... recit[ing] goals and policies that are consistent with those set forth in the County’s General Plan. ... The proper question is whether development of the Project Area ... is compatible with and will not frustrate the General Plan’s goals and policies. If the [development] will frustrate the General Plan’s goals and policies, it is inconsistent with the County’s General Plan unless it also includes definite affirmative commitments to mitigate the adverse effect. ...

The County cannot state a policy of reducing traffic congestion, recognize that an increase in traffic will cause unacceptable congestion and at the same time approve a project that will increase traffic congestion without taking affirmative steps to handle that increase. It also cannot state goals of providing adequate housing to meet the needs of persons living in the area, and at the same time approve a project that will increase the need for housing without taking affirmative steps to handle that increase. (pp. 379–380)

If a community is going to establish goals and policies, the community needs to take affirmative steps to further those goals and policies. Grosso (2019), analyzing the consistency requirement under Florida law, arrives at a similar conclusion: “Comprehensive plan language should be written in a manner that reflects the maxim ‘Say what you mean and mean what you say’” (p. 160).

### The Role of the Staff Report in Helping Decision Makers Analyze Consistency

The growing trend in legislation and court cases requiring local decision makers to articulate the reasons for their decisions elevates the need for planning staff reports to help decision makers understand the community’s plan as a way to frame the basis for their decision. Decision makers often lack detailed knowledge about the contents of the plan. The staff report therefore provides an important vehicle to provide the supporting information that decision makers can cite as the basis for their decision. Planning staff reports should identify the applicable goals and policies from the plan and describe how the facts of the pending action relate to those goals and policies to justify the recommendations made by planning staff. The planning staff report becomes part of the record and should be a critical aid to the decision-making process and help define what is meant by *consistent with*. If challenged in court, the staff report can be important for providing the proof needed to support a consistency determination by decision makers. In the landmark case *Fasano v. Board of County Commissioners* (1973), requiring zoning/planning consistency, the Oregon Supreme Court struck down a rezoning because the county failed to prove consistency. In reviewing the record of the decision, the Court concluded: “The staff report ... is too conclusory and superficial to support the zoning change.”

The literature evaluating plan quality identifies the “implementation gap” caused by the failure to use plans to guide the local decision-making process (Berke et al., 2006). This observation raises questions about the role of the staff report in that process. Early guidance for

staff reports focused on how an action related to the future land use map (Erley, 1976). The focus on the future land use map is somewhat at odds with legislative definitions of *consistent with* and court decisions that require an analysis of how the proposed action furthers or does not conflict with comprehensive plan goals and policies. The staff report needs to discuss the applicable goals and policies that support the depicted future land use map designation.

The Florida case *Board of County Commissioners of Brevard County v. Snyder* (1993) highlights the limitations of focusing on the future land use map alone. The case involved a proposed rezoning of a parcel from single-family residential to a more intense residential use. The future land use map in the county's comprehensive plan designated the parcel as residential. Twenty-nine different zoning classifications were consistent with the county comprehensive plan future land use map, including both the current zoning of the parcel and the proposed rezoning. The Florida Supreme Court held that the county was not required to rezone land to the most intensive use, but the county bears the burden of proving that maintaining the existing zoning classification accomplishes a legitimate public purpose and that the refusal to rezone the property is not arbitrary, discriminatory, or unreasonable. Staff reports that articulate how a development proposal furthers the goals and policies in the plan can help local decision makers meet this burden. Focusing on the future land use map alone is a missed opportunity to educate local officials, the public, and the reviewing courts on the plan, thereby undermining the noble objectives of planning (Siemon, 1986).

Over the decades, I have reviewed the content of hundreds of staff reports from around the country, with a particular focus on jurisdictions that require action/plan consistency. The analysis of consistency in those reports varies considerably. Many reports focus exclusively on the future land use map designation alone and do not reference goals and policies of the plan. Some reports do analyze how a proposed action furthers the plan goals and policies. A continuum of approaches to the consistency analysis emerges, ranging from no analysis to an informative analysis of the application of plan policies.

At the no-analysis end of the continuum are reports that only include a statement informing the decision makers that there is a plan. For example, some staff reports involving a proposed rezoning in states that require consistency simply include a reference to the plan's future land use map designation, such as mixed-use, without any additional text. This lone reference is not helpful to decision makers because the report does not include any statement that the rezoning is or is not furthering any plan policies.

Next are staff reports that only include a conclusory statement that the rezoning is consistent/inconsistent with the future land use map in the plan. An example would be the statement, "The proposed zoning is consistent with the Comprehensive Plan's designation of the site as part of a Traditional Neighborhood." The report does not explain why the rezoning furthers the goals, policies, and objectives that the city is attempting to achieve through that map designation.

Next are staff reports that conclude a proposed rezoning is consistent/inconsistent with the goals, policies, and objectives in the local comprehensive plan but do not include the verbatim goals, policies, and objectives. An example would be the following: "The rezoning is consistent with the Comprehensive Plan policies to encourage non-residential uses such as neighborhood retail within low-density residential neighborhoods." The actual policy language from the plan related to the rezoning is not included in the staff report. Including the language of the specific policies from the plan would inform the decision-making body about the actual language of the plan and allow them to confirm or not confirm the conclusions related to the proposed action.

Next are staff reports that conclude the proposal is consistent/inconsistent with the comprehensive plan and list the goals, policies, and objectives in the comprehensive plan that support or do not support the proposed action. Staff reports reviewed that follow this approach will include a verbatim list of a handful to about two dozen relevant goals, policies, and objectives from the various elements of the local comprehensive plan—land use, economic development, housing, transportation, etc.

This approach provides decision makers with the specific language of relevant goals and policies in the report, allowing decision makers to interpret and apply them to the proposed action they are being asked to decide. It does not include any additional guidance from the planning staff applying the policies to the proposed rezoning.

At the most informative and analytical end of the continuum are staff reports that provide decision makers with the background they need to make an informed decision on consistency. The staff reports list the applicable goals and policies (providing decision makers with the exact language from the plan) and then analyze how the rezoning furthers the applicable goals and policies based on the facts of the development proposal. An example from a staff report of this analysis is:

*Residential Neighborhood Land Use Policy LU-9.2:*

Facilitate the development of complete neighborhoods

by allowing appropriate commercial uses within or adjacent to residential and mixed-use neighborhoods.

Analysis: Given the mix of residential and commercial uses in the area, this rezoning would enhance the residential use of the property and create a complete neighborhood. (City of San Jose Planning Commission, 2016, p. 5)

The staff report goes on to identify additional policies and includes an analysis for each one. Based on the court cases and legislation discussed earlier, this is the approach staff reports should emulate. It is similar to the model provided from the City of San Luis Obispo (CA) for complying with the consistency requirement, included as [Figure 1](#).

The staff report, however, does not replace the work of the elected and appointed local officials tasked with decision-making authority. In the case *Wally v. Town of Kannapolis* (2012), the North Carolina Supreme Court invalidated a zoning amendment because the board failed to approve a statement about the consistency of the amendment with the local comprehensive plan. The court rejected the city's argument that it essentially approved a consistency statement because it had a staff report that included a consistency statement at the time the city adopted the amendment. Decision makers may agree or disagree with the interpretations and recommendations provided in the staff report. In the end, it is the decision maker who needs to articulate the basis for their decision and how the action furthers or does not further the policies of the comprehensive plan.

### ***The Staff Report and the Communicative Model of Planning***

To explore the role that staff reports can play in the decision-making process, consider the following hypothetical situation. A plan includes a goal of creating a vibrant downtown. To achieve this goal, the plan includes several policies promoting compact, pedestrian-friendly, mixed-use infill development in the downtown. The plan also recognizes the role of historic structures in making the downtown a vibrant place and includes policies promoting the protection of historic landmarks in the city. Planning practice encourages internal consistency among the various elements of the comprehensive plan. The various policies promoting a vibrant downtown and historic preservation seem internally consistent at the time the plan is adopted.

Several years after the community adopts the plan, a developer proposes replacing a 2-story structure in the downtown with a 14-story mixed-use building. The proposed 14-story building is consistent with the policies promoting compact, pedestrian-friendly, infill development in the downtown area. The proposed building, however, is immediately adjacent to a church designated a city historic landmark. The new building will block the sunlight from reaching the historically significant stained glass windows of the church and diminish the historic architectural context of the windows. Structural engineers also determine that blocking the sunlight will hasten the deterioration of the church's limestone structure due to moisture. Because of the negative impact on a city landmark, the proposed 14-

The City Attorney's office for the City of San Luis Obispo (CA) offers the following "practice tip" for complying with consistency requirements. The decision should include specific findings and articulation of factual, project-specific support for each of the findings, commensurate with the nature and scope of the approval being granted. The City Attorney's office (Dietrick & Ansolabehere, n.d., p. 9) provides the following example of how best to write such findings:

**POLICY: 2.2.8 Natural Features:** Residential developments should preserve and incorporate as amenities natural site features, such as land forms, views, creeks, wetlands, wildlife habitats, and plants.

**AVOID WRITING FINDINGS LIKE THIS:** The project is consistent with Policy 2.2.8 of the General Plan because it preserves and incorporates natural features as amenities.

**WRITE FINDINGS LIKE THIS WHICH SPECIFICALLY INCLUDES SUPPORTING FACTS:** The project is consistent with Policy 2.2.8 of the General Plan because it incorporates San Luis Creek into the common area and incorporates "greenbelt" designs into the project by permanently preserving open space buffers around the development site.

Figure 1. Model for complying with consistency requirements.



story building is inconsistent with the policies promoting the protection of historic structures. When adopted, a plan may appear internally consistent, but applying the plan to a specific development proposal may bring to light conflicting policies.

Analyzing whether the proposed development is consistent with the future land use map alone may not be helpful for deciding whether the project furthers the goals and policies of the plan. The staff report should not ignore the fact that a proposal may be consistent with some policies but not others. Absent language in a plan prioritizing certain policies, all applicable policies in the plan—both those that support the proposal and those that do not—should be identified in the report. The staff report should then offer an analysis of how the proposal furthers or does not further those policies.

The tenor of the analysis in the staff report may relate to the role assumed by a planner in transmitting information through the planning staff report. Planners may assume a technical role orientation where they are a “value-neutral adviser to decision-makers about the best way to serve the public interest, without promoting particular policy positions” (Howe, 1980, p. 398). Planners might also assume a political role in which they take a more “value-committed, activist” role “favoring advocacy of particular policies and attempting to insure their implementation” (Howe, 1980, p. 398).

Finding an action furthers certain policies in the plan does not render conflicting policies meaningless. Staff reports can help rationalize internal inconsistencies in the plan and suggest ways to harmonize the conflicting policies. In the above hypothetical, if the staff report identifies and discusses the policies supporting the proposed development and the policies that do not, the report provides planning staff with a basis to recommend redesigning the project to minimize or mitigate the potential impacts on the adjacent church. It could also lead to an outcome where the decision makers decide that although the proposal is inconsistent with some policies, generally the project is in harmony with the comprehensive plan and approve the project. Or, conversely, the decision maker could decide that because the project is not consistent with all the policies in the plan, the project must be denied. On balance, the decision may be guided by whether the decision makers prioritize historic preservation over infill development or vice versa.

According to Mandelker (2003), an “[a]rgument on planning policies is relevant in deciding whether, and how, the plan should apply” (p. 648). Over the decades, planning and development review evolved to more collaborative, dynamic, iterative, and contingent processes focused on policy argumentation where the plan is the default policy argument (Norton, 2011). The planning staff report presents the staff perspective on a

development proposal. Assume the planning staff concludes a proposal is not consistent with the comprehensive plan and identifies numerous policies in support of that conclusion. The applicant whose project is the subject of the staff report reviews the report and at the public hearing on the proposal presents decision makers with a different perspective on the facts and/or a different interpretation of the applicable policies to show how the project is consistent with numerous policies in the community’s plan. This information becomes part of the record. The decision-making body decides the matter and articulates the reason for the decision, citing information from the staff report and/or other sources such as contrasting policies raised by the developer. Staff reports should be an essential part of the dynamic process of achieving a reasonable balance between flexibility and predictability.

### The Promise of Staff Reports

Communities make significant investments in staff time, involving citizens, hiring consultants, and eventually formatting and publishing a comprehensive plan for the community. The importance of the plan to the development process is undermined if people do not refer to the plan. Planners need to use the staff report to educate decision makers, stakeholders, and others about the information provided in the plan to guide future decisions. It is through this exchange of information that plans are implemented.

Local government planning departments are often understaffed, and planners have multiple tasks they need to accomplish on a daily basis. Identifying the applicable policies and discussing how a proposed project relates to those policies in a staff report should not consume a significant amount of time. Understanding that planners need to engage in a more transparent policy analysis at the implementation stage of a plan may influence the format of the plan, how policies are written (detailed and prescriptive versus vague), the number of policies, and other aspects of the plan. The format of planning staff reports can be standardized with word processing technology to make inclusion of plan policies easier. Application forms for development approvals could also task the applicant with identifying the applicable policies for the plan and articulating how their proposed project is consistent with the plan.

A legal requirement for consistency is not an end in itself. Rather, consistency requirements seek to add meaning to the plan and the community’s vision articulated in that plan. Requirements for consistency dictate a more thorough analysis of how the policies in a plan apply to a particular action. This opens the door for planners to assume a meaningful role in the development process. The courts serve as a check on whether

local actions are in harmony with the plan. Well-written planning staff reports will ensure that plans do not sit unused, gathering dust on the shelf.

#### ABOUT THE AUTHOR

**BRIAN W. OHM** ([bwohm@wisc.edu](mailto:bwohm@wisc.edu)) is a professor in the Department of Planning and Landscape Architecture at the University of Wisconsin–Madison. He helped draft the consistency requirements in the 1995 Amendments to Minnesota’s Metropolitan Land Planning Act and the consistency requirements in Wisconsin’s 1999 comprehensive planning law.

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#### NOTES

1. Examples of these legislative requirements include Idaho: “The approval or denial of any application required or authorized pursuant to this chapter [Local Land Use Planning] shall be in writing and accompanied by a reasoned statement that explains the criteria and standards considered relevant, states the relevant contested facts relied upon, and explains the rationale for the decision based on the applicable provisions of the comprehensive plan, relevant ordinance and statutory provisions, pertinent constitutional principles and factual information contained in the record” (Idaho Code §67-6535(2), 2020); and New Hampshire: “The local land use board shall issue a final written decision which either approves or disapproves an application for a local permit . . . . If the application is not approved, the board shall provide the applicant with written reasons for the disapproval” (New Hampshire Revised Statutes, §676:3, 2017). At the national level, the Federal Telecommunications Act of 1996 requires that the reasons for the denial of a permit for a telecommunications tower must be in writing (*T-Mobile South, LLC v. City of Roswell*, 2015).

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