

Use of the Word “Should”

“You keep using that word. I do not think it means what you think it means.” — From the film “The Princess Bride”

Although the current 2000-2020 General Plan states that the County “shall” accept new Williamson Act contracts, the County does not. This is confirmed in the General Plan annual progress report for calendar year 2020 where the text reads, “The County is not accepting new Williamson Act contracts because the State of California stopped paying subvention funding to the County in 2009.” (The Williamson Act provides property tax relief to farmers in exchange for ten-year agreements that land is not converted to other uses. Subvention funds are state reimbursements to counties for lost tax revenue.)

This change in policy is reflected in the proposed 2020-2040 plan by replacing the word “shall” with “should.”

Program LU-A.F: The County...~~shall~~ **should** develop...a public outreach program to inform agriculturists and the public...of the advantages of participation in...Williamson Act contracts....

Policy LU-A.17: The County ~~shall~~ **should** accept California Land Conservation contracts...

The use of the word *should* in the General Plan is best understood vis-à-vis the word *shall*. The plan explains:

“The use of the word “shall” in a policy is an unequivocal directive; the word “should” is a less rigid directive that will be honored in the absence of compelling or countervailing considerations.”

Regarding the approval of new Williamson Act contracts, the “countervailing consideration” is known: the lack state subvention payments. Perhaps it would be best to express that consideration in the plan. For increased understanding, Policy LU-A.17 could be revised to read...

“The County shall accept California Land Conservation contracts, provided lost tax revenue is reimbursed through subvention funding from the state,....”

A question arises as to why policies such as those written below also employ the word *should*. Unexpressed are the countervailing considerations that preclude use of the word *shall*.

Policy TR-A.17: The County **should** utilize road construction methods that minimize the air, water, and noise pollution associated with street and highway development.

Policy OS-E.18: The County **should** preserve areas identified as habitats for rare or endangered plant and animal species primarily through the use of open space easements and appropriate zoning that restrict development in these sensitive areas.

Below is a chart of the use of the words *shall* and *should* as they occur in key positions (usually the first line) within 569 of 604 policies in the 2000-2020 General Plan.

	Economic Development	Agriculture & Land Use	Transportation & Circulation	Public Facilities & Services	Open Space & Conservation	Health & Safety
Shall	50	130	41	109	159	65
Should	0	2	1	2	10	0

Of interest is that the word *should* appears most often in pivotal sentences in the Open Space and Conservation Element that address preservation of natural habitats.

It is imperative that everyone understands from the get-go the countervailing considerations that have impeded and will continue to impede plan implementation. The County should engage county residents in a thorough discussion of the use of the words *shall* and *should*.

Note: The United States Constitution contains the words *shall* and *should*. The word *shall* appears 306 times, the word *should* but once (“*should*” there be a tie vote).