CP&DR

VOL. 25, NO.17 — SEPTEMBER 1-15, 2010 CALIFORNIA PLANNING & DEVELOPMENT REPORT

Irvine Company Land Donation Keeps OC Wild

Long-Awaited Transfer Of 20,000 Acres Finalized

BY LARRY SOKOLOFF

Orange County is known for its miles of tract homes, car traffic and a booming economy. Much of that growth is due to the work of the Irvine Company, which has shaped a swath of the central county through its control and development of 93,000 acres that were once one of California's great ranches.

But beyond the residences and gleaming office towers the Irvine Company has built over the past 45 years, the company also, more quietly, committed a great deal of the old Irvine Ranch property to parkland. Altogether it has kept 50,000 acres in parkland. Many of the parks are of the landscaped neighborhood variety, a key selling point to its master-planned communities. But recently the company deviated from ballfields and tot lots by completing paperwork on a 20-year old plan to turn over 20,000 acres in open space to the county.

Even environmentalists are relatively happy with this one.

"This is the largest single donation of land in the County's history," said Marisa O'Neil, public information officer for OC Parks, the county agency which will manage the property. "OC Parks does not have plans to develop any of it as manicured parklands. We will keep the natural character to it and allow people to make their own connections to the land."

Some of the Irvine Company's most valuable development has occurred in the coastal plains of Orange County, where cooling breezes and ocean views are selling points. The city of Irvine is located there, and the company has built it into a community of over 200,000 residents.

Almost all of the donated land is in the hotter northern reaches of the county, lying south of the Riverside Freeway and east of the Cleveland National Forest. Full of canyons and steep mountains, it contains areas that could have been developed into housing or industry. Instead, about all that runs through it is State Route 241, a north-south toll road. Much of the new parkland is located in unincorporated county land.

The Orange County Board of Supervisors accepted 20,000 acres of permanent protected open space and park- – CONTINUED ON PAGE 8

insight

WILLIAM FULTON

Form-Based Codes Gain Popularity But Cannot Cure All

Amid budget shortfalls and a development drought, California cities and counties have stopped planning. But they haven't stopped coding.

Form-based code fever is still in full force throughout California. From north to south, cities – and, occasionally, counties as well – are using a good portion of their meager planning money to create form-based codes. Sometimes these codes are being created citywide, but more often they are focused on downtowns, older corridors, dead mall sites, and other locations designated for higher density or mixed-use development.

Why are local governments so hot for form-based codes? And in a seriously down economy, can simply rewriting zoning codes stimulate private development, as so many – CONTINUED ON PAGE 9

inbrief

A two-decades-long effort to build one of the nation's largest landfills near Joshua Tree National Park may be coming to an end. Last month the Ninth Circuit Court of Appeals declined to review an earlier decision rejecting, 2-1, a land deal to establish the 4,654-acre Eagle Mountain landfill in a defunct ore mine. Ontario-based developer Kaiser Ventures had acquired the mine in a swap with the Bureau of Land Management. The court's decision means that Kaiser must either respond to the court's concerns about the project or appeal the decision to the U.S. Supreme Court. Environmentalists have opposed the project because of its potential impacts to the park. The landfill would reportedly create 1,500 jobs and contribute over $250 million in taxes and fees to Riverside County's coffers.

A November ballot initiative will ask Sutter County voters to make the unusual move of giving up control over a parcel of land for the sake of opening it up to development. Planning and land use controls over a 1,800-acre piece of property near the City of Sutter are currently under the purview of the people – meaning that zoning changes depend on a popular vote – but if the Nov. 2 ballot measure passes, that control would shift to the Board of Supervisors. The property in question is called the Food Processing, Agricultural, and Recreation Combining District, which was intended to be a special district to serve the agricultural sector. Expected developments have not, however, come to pass, and the ballot initiative is an attempt to give the Board of Supervisors more flexibility in attracting types of development for which the district is not currently intended. The ballot measure passed with a unanimous vote by the supervisors, thus putting the question to the citizens of Sutter County.

The City of Folsom has indicated that it will file a long-awaited application with the Sacramento County LAFCO to annex 3,500 acres of largely undeveloped land south of Highway 50. City officials say that the land would be developed to house 10,000 residential units and 13,000 jobs, with 30 percent of the land reserved for open space; it would add substantially to the city's current estimated population of 72,000. As a greenfield development, the land would be developed in accordance with smart growth principles and comply with the region's Blueprint plan by attempting to provide an even balance between jobs and housing. Annexation could be approved as early as May 2011 with development commencing shortly thereafter.

The latest, and perhaps least complex, scheme to solve the San Diego region's airport woes is a footbridge that would allow travelers walk directly to Tijuana's Rodriguez International Airport from the US side of the border. With San Diego's Lindbergh Field expected to reach capacity within two decades, would-be investors in the bridge – including Chicago real estate mogul Sam Zell – see it as a way to take advantage of TIJ's proximity to the border and its excess capacity. The project would include a 525-foot toll bridge at Otay Mesa as well as customs and immigration facilities. Thus far, the U.S. State Department has found that the project would have "no significant impact" but would still require a host of local land use approvals. Several proposals to build a brand-new airport in San Diego County have failed over the past few decades.

California Energy Commissioner Jeffrey Bryon issued a 576-page report recommending the approval of what would be the world's largest solar power complex. The complex, to be developed by Oakland's BrightSource Energy, would consist of three plants spread over 3,500 acres of federally owned property near Ivanpah Dry Lake in eastern San Bernardino County. Using steam generation, the plants would produce 392 megawatts of electricity – enough to power 140,000 homes. The Energy Commission is the state agency responsible for issuing permits and conducting environmental reviews while the Bureau of Land Management is responsible for federal permits. Bryon's report is now open for public comment while BLM is expected to issue its decision by the end of this month. Opponents to the plant are concerned about its impact on endangered species such as the desert tortoise.

Following a major victory for Los Angeles preservationists last year, the owner of the once-endangered Century Plaza Hotel has announced plans to preserve and add to the midcentury modern landmark that is one of the centerpieces of the original 1960s plan for Los Angeles' major edge city. Los Angeles developer Michael Rosenfeld has proposed a pair of 46-story condominium and office towers that would stand to the west of the hotel. The hotel itself would be revamped to allow greater access between the towers and the heart of Century City, to the east. The Los Angeles Conservancy, which had fought Rosenfeld's proposal to raze the hotel in favor of two 50-story towers, has said that it does not oppose the $1.5 billion plan to develop the towers. The towers have received initial support from Los Angeles Mayor Antonio Villaraigosa and City Council Member Paul Koretz, who represents Century City.

After a year of speculation about where Los Angeles philanthropist Eli Broad would locate a planned museum to display his collection of contemporary art, he has settled on a site on downtown LA's Grand Avenue adjacent to Disney Hall and the Museum of Contemporary Art. Last month the project gained approval from the L.A. County Board of Supervisors and the Grand Avenue Authority, a state-local joint-powers authority overseeing the redevelopment of Grand Avenue. Broad had reportedly been considering sites in Beverly Hills and Santa Monica. The 120,000 square foot museum will replace a planned retail development on the site. The museum will be designed by the New York architecture firm of Diller Scofidio + Renfro and will be funded by the Broad Art Foundation. While the museum is expected to go forward, the neighboring Grand Avenue Project, a multibillion-dollar mixed use development, remains stalled due to economic woes.

Developer SunCal has filed a lawsuit against the City of Alameda after the city cancelled its agreement to have SunCal develop Alameda Point, a would-be 4,800-home development on the site of a former Navy base. SunCal had entered into a negotiating agreement with the city in 2007. That agreement was set to expire July 20 if a development deal had not been reached; that agreement included provisions for extensions, however. Contending that the milestones had not been met, the City Council voted July 20 not to extend the agreement. SunCal is suing to be reinstated on the grounds that city staff, specifically Interim City Manager Ann Marie Gallant, of undermining the company's efforts so that the city could get – CONTINUED ON PAGE 3

CP&DR

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Abbott & Kinderman, LLP
Legal Digest

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is published semi-monthly by

Solimar Research Group
Post Office Box 24618
Ventura, California 93002

Telephone: 805/701-CPDR (2737)
Facsimile: 805/643-7782

Subscription Price: $238 per year

ISSN No. 0891-382X

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inbrief

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out of the development agreement and develop the property itself. SunCal claims that city staff had unfairly questioned the company's financial estimates and thereby prevented the company from reaching a deal with the Navy for transfer of the site; that deal was one of the milestones required for extension of the development agreement. The suit does not seek remuneration but rather seeks to allow SunCal to move forward with development plans and prevent the city from pursuing any other plans.

The City of San Francisco signed a historic transfer agreement last month to allow the city to ownership of Treasure Island Naval Base. The official transfer is expected to take place this spring upon completion of environmental reviews. Signed by San Francisco Mayor Gavin Newsom, House Speaker Nancy Pelosi, and Navy Secretary Ray Mabus, the deal calls for the city to pay the Navy $105 million for the 400-acre artificial island in the middle of San Francisco Bay. The signing caps 17 years of negotiations that were marred by perennial disagreements between the city and the Navy. Master developer Lennar plans to build an eco-friendly 8,000-unit mixed use development on the island.

A recent UC Irvine study confirms the contention of many environmental justice activists: Latinos and Asians suffer greater exposure to pollution and toxins than do other ethnic groups in Southern California. Researchers measured residential proximity to plants manufacturing cleaning solvents, paint and petroleum products – and emitting toxic chemicals – in six heavily populated, ethnically diverse Southern California counties between 1990 and 2000. They found that neighborhoods with a higher percentage of Latinos or Asians were more likely to be near toxic waste sites than those populated by more whites or African-Americans. The UCI team looked at 3,000 Southern California census tracts – defined as areas inhabited by about 4,000 people – and determined that those with 15 percent more Latinos than an average tract were exposed to 84.3 percent more toxic waste. Tracts with 15 percent more Asians were exposed to 33.7 percent more toxic waste. "Education and awareness may factor in here, since immigrants may not know of the risks involved in living near toxic waste sites or may come from places where pollution from such sites is a lot worse," said the study's lead author, John Hipp, UCI associate professor of planning, policy & design, in a statement.

As promised, the California Redevelopment Association has officially filed an appeal with the Third District Court of Appeal to overturn a $2.05 billion state-mandated transfer of redevelopment funds from redevelopment agencies to schools. CRA is appealing a May 2010 Sacramento Superior Court decision by Judge Lloyd Connelly which upheld the legality of Assembly BillX4-26. ABX4-26 was passed in July 2009 as part of the 2009/10 state budget and authorized a total of $2.05 billion in local redevelopment tax revenue shifted to fund the state's obligation to schools. "Last year through ABX4-26, legislators took local redevelopment funds under the guise of benefit to schools when all they really did is short-change schools the same amount of money that would normally come from the State," said John Shirey, executive director of the California Redevelopment Association, in a statement.

California cities are stressed out. That's according to a recent Forbes Magazine survey that ranked Los Angeles and Riverside-San Bernardino as the second and fifth most-stressed cities in the country. The survey used data including joblessness, commute times, and exercise. Riverside ranked second-worst in unemployment and third-worst in commute times. Los Angeles was only sixth in commute times but dead last in physical health.

A major transit facility at Bob Hope Airport received preliminary approval on a 4-1 vote by the Burbank City Council last month. The $120 million Regional Intermodal Transportation Center would serve as a hub for airport visitors arriving and departing by train, bus, and rental car. The hub is intended to provide easier access to the airport and to cut down on automobile trips. Currently, off-site rental car lots generate 700,000 annual trips; the RITC would cut this number dramatically. The project would include a parking structure as well as pedestrian bridges connecting to the terminal and the adjacent Metrolink/Amtrak train station. The airport authority is expected to award contracts immediately; the facility's construction will be funded by rental car fees and airport facility fees. (Disclosure: *CP&DR* Publisher Bill Fulton has served as a consultant on this project.) ■

The California Chapter of the American Planning Association recently announced its 2010 Awards of Excellence. Highlights include the following:

2010 Comprehensive Planning Award for a Large Jurisdiction
Strategic Growth Principles, Policies and Implementing Strategies
County of San Luis Obispo, Department of Planning and Building

2010 Comprehensive Planning Award for a Small Jurisdiction
The City of Santa Monica Land Use and Circulation Element
City of Santa Monica, Planning and Community Development Department; The Phipps Group; Nelson/Nygaard Associates; and the The Odermatt Group

2010 Planning Project Award
Los Rios Park
City of San Juan Capistrano; David Volz Design; Environmental Construction Inc.; Barbara Butler Artist-Builder; and MIG Inc.

2010 Innovation in Green Community Planning Award
City of Berkeley Climate Action Plan
Berkeley Mayor and City Council; Berkeley residents and business community; and Berkeley City staff

2010 Focused Issue Planning Award
County of San Luis Obispo Housing Element Update, 2009-2014
County of San Luis Obispo, Department of Planning and Building

2010 Best Practices Award
City of Santa Clarita Community Character and Design Guidelines
City of Santa Clarita and RRM Design Group

2010 Neighborhood Planning Award
The Coast Highway Vision and Strategic Plan
City of Oceanside with Torti Gallas and Partners Inc.

2010 Advocacy Planning Award
Alvaro Huerta
UC Berkeley Department of City and Regional Planning
UCLA Chicano Studies Research Center

2010 Academic Award
Alviso, California: Community Assessment and Urban Design Analysis
San José State University, Urban and Regional Planning Department and Downtown College Prep School-Alviso

2010 Distinguished Leadership Award for a Professional Planner
George G. Mader, FAICP

2010 Distinguished Leadership Award for a Student Planner
Justin Meek
San José State University, Urban and Regional Planning Department

2010 Individual Journalist Award
Russell Clemings, Fresno Bee

2010 Media Award
Dream Street by Douglas McCulloh Co published by Inlandia Institute and Heyda

Los Angeles Billboard Regulations Upheld

City Council Can Limit 'Supergraphics', Other Billboards

BY KATHERINE J. HART

A City of Los Angeles ban on certain outdoor advertisements has been upheld by the Ninth U.S. Circuit Court of Appeals. In *World Wide Rush, LLC, v. City of Los Angeles* the unanimous three-judge appellate panel overturned a lower court ruling in favor of companies seeking to prevent the enforcement of the signage ban.

Despite its deep connections to both the media and car culture, the City of Los Angeles generally prohibits several classes of advertisements that encroach on the public realm: billboards that face a freeway, supergraphics (massive images that cover the sides of tall buildings), and conventional off-site billboards. However, the city has adopted a few exceptions to the prohibitions. For instance, it permits all three classes of advertisement in areas where specific plans are adopted to govern such signs or where the signs are permitted by development agreements. Advertisers have, however, been happy to push the limits of these restrictions, and for years, the city has battled advertising companies over disputed signs – many of which are clearly illegal and yet remain standing.

In 2009 the Ninth Circuit upheld the city's off-site sign restrictions, ruling that they did not unconstitutional favor some speech over other speech (*Metro Lights, LLC v. City of Los Angeles*, 551 F3d 898; see *CP&DR Legal Digest*, February 2009) [ ]. More recently, the city has battled with companies that have erected supergraphics and other lighted signs visible from freeways all over the city. In 2008, the Los Angeles City Council adopted a ban on new supergraphics and off-site signs.

The advertising companies in *World Wide Rush* sued the city to block enforcement of the sign bans. The companies argued that the freeway-facing sign ban was unconstitutional because it restricted commercial speech. This approach was unconstitutional, the companies argued, because the city had permitted some freeway-facing signs despite the ban, such as electronic signs next to Staples Center in downtown. The plaintiffs argued the supergraphic and off-site sign bans were unconstitutional on their face because exceptions provided by specific plans and development agreements gave the City Council direction to favor certain speech. The favoritism, they argued, was an unconstitutional "prior restraint" of free speech.

District Court Judge Audrey Collins ruled for the advertising companies and enjoined the city from enforcing the bans. The Ninth Circuit reversed Collins.

The Ninth Circuit first addressed the freeway-facing sign ban, which the city approved to limit motorist distractions and improve aesthetics. The court held that the city's exception to permit the billboards next to Staples Center and in a 15th Street special use district did not undermine the city's interests in aesthetics and safety. Instead, the court concluded the city's exceptions were reasonable in light of the benefits of redevelopment of a blighted area and a deal to get rid of billboards elsewhere in the city, thus creating a net loss of such advertisements.

Because this case revolves around restrictions on commercial speech, the *Central Hudson* case applies. In *Central Hudson*, the Supreme Court applied a four-part test to determine the constitutionality of a restriction on commercial speech. In applying the test to this case, the Ninth Circuit court framed the question as follows: Do the ban exemptions granted by the city contradict the city's argument that it has a substantial interest in regulating billboards for the safety of its citizens and the beauty of the city? Holding that the ban exemptions did not undermine the city's substantial interests in safety and aesthetics, the court reasoned that allowing the freeway signs near Staples Center was a key part of eliminating blight in the area, and that permitting the sign district on 15th Street – in exchange for removing signs on Santa Monica Boulevard – actually resulted in the elimination of multiple existing billboards along Santa Monica Boulevard.

"The city reasonably may have concluded that, on balance, safer and more attractive thoroughfares would result from renovations to Santa Monica Boulevard and a reduction in the city's total number of billboards, even if this required installation of some freeway-facing billboards along 15th Street," Judge Kim McLane Wardlaw wrote for the court. "The city also reasonably may have concluded that the benefits of redeveloping and attracting people to an otherwise dangerous and blighted downtown area outweighed the harm of additional freeway-facing billboards restricted to that area."

In addressing the second issue – whether the city could employ various exceptions in the ordinance banning supergraphic and off-site billboards – the Ninth Circuit held that the city was well within its discretion to grant exemptions to the ordinance, as the prior restraint doctrine did not apply. The court reasoned that because the City Council's power to authorize the exceptions to the sign bans arises out of the police power – and not from the bans themselves – the City Council had the authority to exercise discretion. ■

- The Case:
  World Wide Rush, LLC, v. City of Los Angeles, No. 08-56454, 2010 DJDAR 7787. Filed May 26, 2010.
- The Lawyers:
  For World Wide Rush: Rex E. Heinke, Akin, Gump, Strauss, Hauer & Feld, (310) 229-1030.
  For the city: Kenneth T. Fong, city attorney's office, (213) 978-8235.

ceqa

Torrey Condo Hills Suit Falls On Procedural Missteps

BY WILLIAM ABBOTT

While land use litigation per se is not overly complex, it contains two procedural rules that occasionally trip up project opponents. A San Diego community group that challenged a condominium project recently tripped on both hurdles.

First, the California Environmental Quality Act (CEQA) requires that the petitioner in a lawsuit request a hearing within 90 days (Public Resources Code § 21167.4). An oral request is insufficient. Second, if the challenge is to a tentative map approval, the petitioner must also obtain from the court and serve a summons (Government Code § 66499.37). In *Torrey Hills Community Coalition v. City of San Diego*, the Fourth District Court of Appeal affirmed a trial court's dismissal of a lawsuit on both grounds.

In September 2008, the City of San Diego approved a 484-unit condominium project for a collection of developers and landowners. The city's action included certification of an environmental impact report, rezoning, and approval of a vesting tentative map. Torrey Hills Community Coalition sued, arguing the city had violated CEQA and the Subdivision Map Act.

With respect to the dismissal of the CEQA claim, the Fourth District ruled that the coalition's oral request for hearing was insufficient because it failed to comply with the statutory obligation to serve the request on all parties.

The Map Act dismissal was more intriguing. The coalition claimed impossibility as a form of relief for failing to request a summons. The coalition pointed to declarations establishing that the San Diego Superior Court has routinely declined to issue a summons in cases involving CEQA. Notwithstanding the evidence that a summons would not have been issued in this case, the appellate court concluded that the coalition had failed to establish sufficient facts to claim impossibility and relief from the mandatory obligation to serve a summons within 90 days.

The appellate court followed its earlier reasoning set forth in *Friends of Riverside's Hills v. City of Riverside*, (2008) 168 Cal. App.4th 743 (see *CP&DR Legal Digest*, January 2009) [ ]. In the *Friends* case, the court dismissed CEQA claims based upon the noncompliance with the Subdivision Map Act rules for service of a summons. While the holding in *Friends* was published on November 24, 2008, and the 90-day period in *Torrey Pines* expired on December 15, 2008, there was no evidence that the coalition had requested a summons between the publication date and the end of the 90-day service period.

"[T]hus, there is no showing of diligence to support an impossibility theory," Presiding Justice Judith McConnell wrote for the court. ■

- The Case:
  Torrey Hills Community Coalition v. City of San Diego, No. D055579, 2010 DJDAR 19397. Filed July 2, 2010.
- The Lawyers:
  For Torrey Hills: Julie M. Hamilton, (619) 278-0701.
  For the city: Carmen A. Brock, deputy city attorney, (619) 236-6220.
  For the developers: Daniel P. Brunton, Latham & Watkins, (619) 236-1234.

CP&DR's Legal Digest provided by the law firm of Abbott & Kindermann, LLP. www.aklandlaw.com

LOCAL WATCH

JOSH STEPHENS

Santa Monica General Plan Sets New Green Standards

With the implementation of SB 375 still to come, cities across California will be challenged to revamp their general plans to meet its goals of reducing vehicle miles traveled and promoting more compact development. In the race to write the perfect plan, the City of Santa Monica has, according to some, taken an early lead with the approval in July of a new land use and circulation element (LUCE)already emerged as the leader.

A combination of a longstanding environmental ethic, a demanding citizenry, and good timing has resulted in Santa Monica's new land use and circulation element, which was certifiedapproved, along with its EIR, by the city council last month. The plan is intended to take the already vibrant mini-city of 90,000 and give it a few nips and tucks that will create new clusters and, backers hope, alleviate the city's notorious traffic.

The result, according to the LUCE's policy statements, will be a slightly more dense but far more sustainable place that balances urbanism against the city's more mellow past.

"We're transitioning from – and have been transitioning informally –from a beachside cottage community to a vital, active, sustainable urban community," said Santa Monica Planning Commissioner Hank Koning.

The LUCE had last been updated in 1984.

Studies and planning for the LUCE commenced even before the passage of SB 375 but have since developed with its principals in mind. Even before it was approved by the City Council in July, the plan had already received awards from the Los Angeles Chapter of the American Planning Association and the Southern California Association of Governments. Last month it received the award for "Outstanding Comprehensive Planning Award, Small Jurisdiction" from that the California Chapter of the APA.

To some, as Santa Monica goes, so may go the state.

"I can't imagine why this wouldn't be an SB 375 poster child," said Walker Wells, director of Green Urbanism Programs at Santa Monica-based environmental group Global Green USA. Every chapter of the LUCE document incorporates green components. This, said Wells, is a profound deviation from how general plans often address climate change.

"Otherwise it ends up in the extra chapter that just gets put on for lip service," said Wells.

Santa Monica has long had an outspoken environmental community, and its Sustainable Santa Monica plan has promoted environmental stewardship and mitigation of greenhouse gas emissions in a variety of ways. The LUCE, however, codifies this ethos in the general plan. It includes explicit environmental goals such as the generation of zero net new trips upon build-out of the planby 2025 – a goal that has obvious implications for other cities attempting to comply with SB 375.

"They created a bold policy statement of no net new trips," said Yara Fisher, senior planner at AECOM and Cal APA jury member. "That's beyond anything that you're seeing anywhere else….that was just really incredible for most of us on the jury."

Santa Monica planners estimate that by 2030 the city could be emitting as few as 760,000 annual metric tons of greenhouse gas emissions, as compared to nearly 950,000 today. If the 2030 target is reached, it would beat the state's AB 32 target by over 150,000 annual tons. It would even beat the goals of the city's existing Sustainable City Plan, adopted in 1994.

"They did what you're supposed to do in this day and age when you're…trying to implement sustainability," said Walker Wells, "They established metrics for themselves. They've moved from just using rhetoric – a 'balanced community,' a 'livable place,' a 'community with for opportunities for all' – and they asked, what are we really after?

"No net new trips. They threw down the gauntlet and said this is what we're after."

In addition to promoting density in key locations, the LUCE includes explicit goals regarding bicycling, walking, and even carpooling. Koning said that new development that adheres to the LUCE will not necessarily create a revolution in the way that commuters get to Santa Monica and the way that Santa Monicans get around their own city. He said, though, that incremental changes will be enough to keep traffic at bay.

"We're not asking everybody to ride a bike," said Koning. "If 1 percent of the community rode a bike instead of driving and another one percent walked and another 1 percent took the bus, then that…makes a difference."

If the LUCE works as intended, it will be no small feat. In addition to having prime beachfront property, Santa Monica is also one of the biggest employment centers in the Los Angeles. Its location on the geographic edge of the county means that commuters come from all directions and pool into the city's downtown and a handful of other commercial districts.

The LUCE addresses this by taking advantage of possibly the biggest gift that any city could receive: Phase II of the Expo light rail line, which will create a seamless connection from Santa Monica to downtown Los Angeles. Originally approved in 2002 by Los Angeles Metro, Phase I is under construction and Phase II has been funded and slated for completion in 2015.

The Expo Line's three station stops in Santa Monica – including one at Pico and 17th St. that city officials fought for – provide the basis for the lion's share of the LUCE's densification efforts.

"The real issue was to create corridors and have current and future jobs all right on the light rail corridor," said Santa Monica Planning Director Eileen Fogarty. "As you go toward downtown you have a tremendous amount of housing on that corridor."

Otherwise, the LUCE prescribes small tweaks in land use patterns that, planners hope, will make an enormous overall difference in the city. Of paramount concern was the impact of any changes on the city's residential neighborhoods. Santa Monica has an outspoken no-growth contingent that, in 2008, went so far as to place an initiative on the ballot that would have essentially frozen much commercial development in the city.

Fogarty said that in order to ensure that future development is appropriate, that developers would have to provide community benefits according to clear guidelines according to the amount of square footage that a developer might ask fothat call for developers to provide specific amounts of public benefits in accord with the amount of square footage that they wish to build. r.

Though Koning said he supports the LUCE, he also said that some developers and architects felt that restrictions might be strong enough to limit its overall effectiveness.

"A design code can always be more restrictive but it never can be less restrictive," said Koning. "The idea of the plan is to have walkable streets and complete communities…[but] if – CONTINUED ON PAGE 7

SM Garners Heavy Public Participation

– CONTINUED FROM PAGE 6

it's overly onerous, then developers won't build."

One of the strongest gestures towards the city's anti-growth contingent was a firm cap on building heights at 35 feet, thus encouraging medium-density development throughout the key corridors rather than high-density development that could overshadow neighborhoods. Additionally, the LUCE provides disincentives for converting existing buildings and it promotes commercial activities that serve local neighborhoods rather than customers from the broader region.

Rather than fight against outspoken residents, the LUCE process embraced them and made an effort to include as many of the city's voices as possible. Outreach took place on what some consider an unprecedented scale.

"Another thing [the CalAPA jury] looked at was the public participation program and how different voices were brought into the planning process," said Fisher. "It was clear that they had done so much outreach in so many different ways."

Fisher cited innovative outreach methods such as attending farmer's markets and convening over 60 citizens' groups.

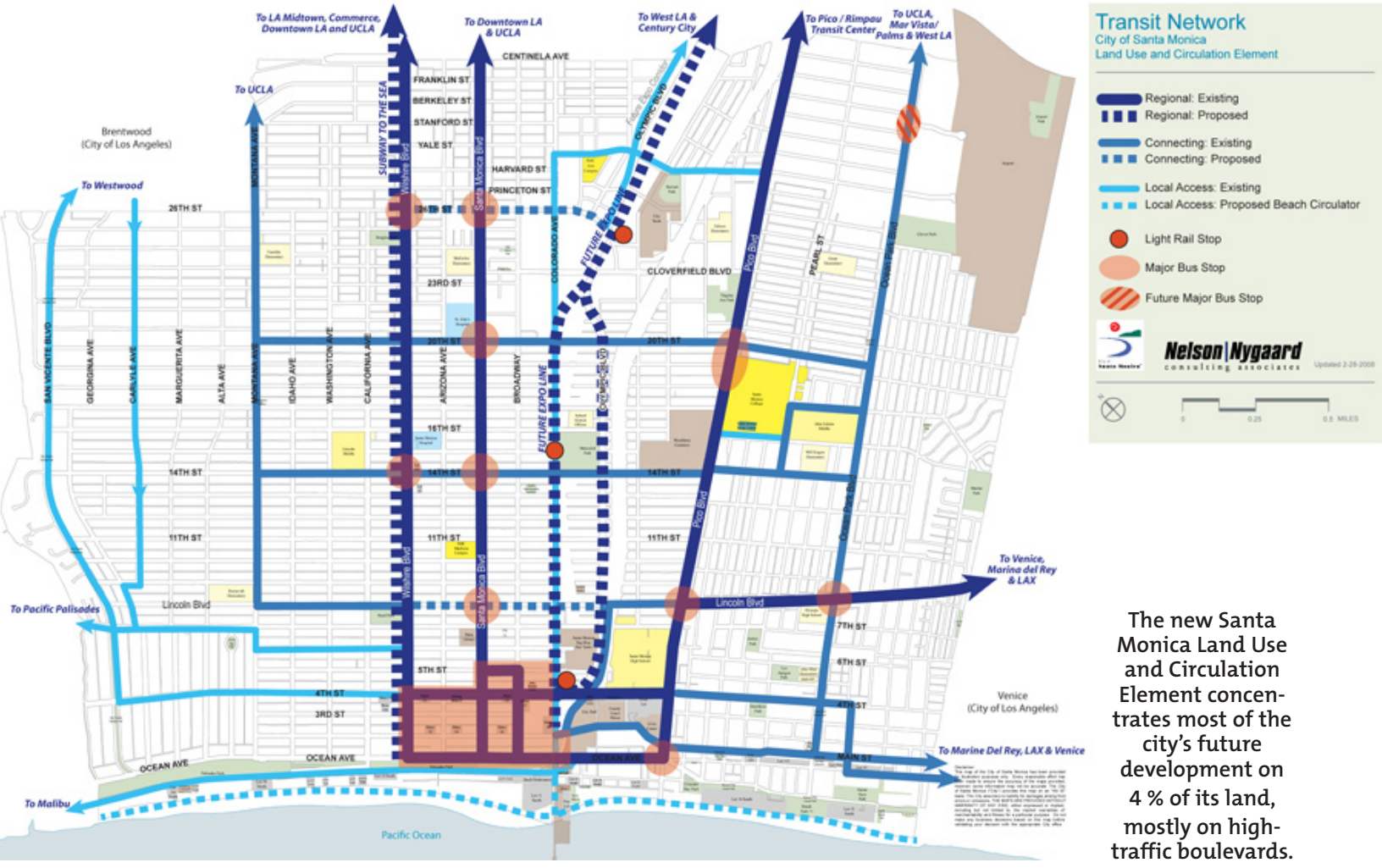
This outreach, however, has been criticized by some as an inordinately lengthy process that has resulted in a plan whose content – process notwithstanding – would have been the same if the plan had been approved years ago. In total, the LUCE process has taken six years.

With the LUCE's passage, Fogarty said that the city will not be waiting to implement it.

"To implement this we're looking at an interim control ordinance and then a comprehensive zoning ordinance and then we will be systematically doing area plans and specific plans," said Fogarty. "We're not just waiting several years until there's a final zoning ordinance." ■

■ Contacts & Resources:

SCAG Compass Blueprint Awards 2010, http://www.compassblueprint.org/awards
Santa Monica Land Use and Circulation Element Official Website
http://www.shapethefuture2025.net/
Yara Fisher, Senior Planner, AECOM (619)233.1454.
Eileen Fogarty, Planning Director, City of Santa Monica, (310) 458-8341.
Hank Koning, Santa Monica Planning Commissioner; Principal, Koning Eizenberg Architecture, (310) 826-6131.
Walker Wells, Global Green USA, (310) 581-2700, http://www.globalgreen.org



The new Santa Monica Land Use and Circulation Element concentrates most of the city's future development on 4 % of its land, mostly on high-traffic boulevards.

Irvine Company Preserves Chunk Of Orange County

– CONTINUED FROM PAGE 1

lands from the Irvine Company on June 29. The land will be managed for the next three years by the Irvine Ranch Foundation, a non-profit started with help from the Irvine Company.

The Irvine Company's well-known chairman, billionaire Donald Bren, started the path towards the donation in 1990 when the Irvine Company began a collaboration with the Nature Conservancy, to survey and manage company-owned wildlands. At the time, it was announced that the land would ultimately be turned over to public ownership.
The recent transfer to the county completed a 20-year process.

When the donation was originally announced, "everyone looked at 'what's the catch'"? recalled Dan Silver, executive director of the Los Angeles-based Endangered Habitats League. "No one ever found a catch. The only concern was how the county would pay for it and how it would manage it."

For the next three years, the Irvine Ranch Foundation will manage the land at a cost of nearly $1.6 million. The Irvine Company is also providing $4 million to establish the Orange County Parks Foundation, which will be combined with $2 million from the Nature Conservancy to help with land monitoring and new park infrastructure.

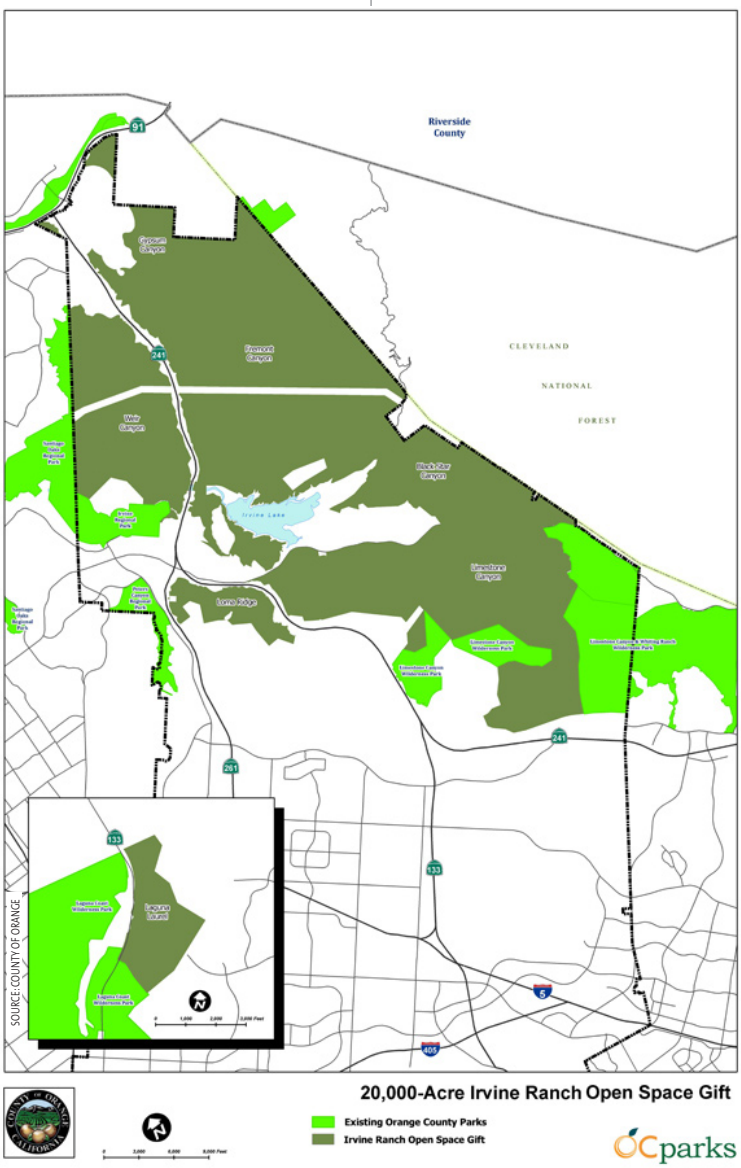
The transfer of the property was watched closely by Orange County environmental groups, who formed a steering committee last year to monitor it. Members included representatives of such groups as the Sierra Club, the Audubon Society, Laguna Greenbelt, Hills for Everyone and Friends of Harbors, Beaches and Parks.

The committee said it had four major concerns about the transfer: making sure the land kept its conservation protections, funding, and that it had a resource management plan and an independent oversight committee.

"The county has assured us that these elements are or will be in place," said Jean Watt, President of the Friends of the Harbors, Beaches and Parks, in a press release at the time of the transfer.

But Watt made it clear that the environmentalists will be monitoring the transfer. "Because we want the land transfer to succeed, we are accepting the county's assurances in a leap of faith. For now."

The donated land includes land that is part of the largest Natural Communities Conservation Plan in Orange County, the central/coastal subregion NCCP. The NCCP was formed in the 1990s, to set aside open space land for endangered and threatened species in the region, including the California Gnatcatcher and Cactus Wren, and to allow development on other land. The donated land includes areas that have been designated as both California and National Natural Landmarks for their outstanding geological and biological features. Of the 20,000 acres transferred by the Irvine Company to Orange County, 9,500 acres is in the Central Coastal subregion NCCP, according to Michael O'Connell, executive director of the Irvine Ranch Conservancy.



The Irvine Company's gift of 20,000 acres encompasses mountainous terrain near the edge of Orange County, along the border with Riverside County.

The transferred land is nearly five times the size of Los Angeles' Griffith Park and dwarfs the 843 acres of New York's Central Park. In contrast, Yosemite National Park is 761,000 acres.

"From my own perspective, this gift is largely unprecedented," said O'Connell. "There have been large donations of land to the public throughout California's history, and they have all become places are cherished today and will be into the future. The difference here, however, is that instead of being way up North somewhere or out in the remote Sierras, this land is right in our own backyard."

He added, "It's big, and incredibly valuable, piece of nature that's close by and can be experienced and cared for as a part of the community, as opposed to a place you have to take a vacation and go visit. The land is valuable that I doubt funding could have ever been raised to buy it."

Silver of the Endangered Habitats League said much of the transferred land has been damaged due to extensive cattle grazing and mammoth fires that have burned through the area. ■

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insight WILLIAM FULTON

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of its proponents seem to suggest?

The answer is yes and no. It's true that form-based code fever is the result, partly, of brilliant and aggressive marketing by New Urbanism evangelists. But viewed more broadly, the form-based code craze is part of a larger movement to update outdated codes of all kinds – for a variety of reasons.

The form-based code does not really represent a revolution, as some of its most strident evangelists suggest. Instead, it's part of a larger movement to bring confusing and outdated ordinances into the 21st Century – and, even more broadly, a movement in planning to focus more on implementation.

The typical zoning code is just about the most archaic, confusing – and intrusive – set of regulations imaginable. It's long, complicated, and full of legalese. It has been amended incrementally over time. It often covers situations and topics that don't even exist anymore – or else devotes dozens of pages to some topic that was controversial 30 years ago. It's not uncommon to have to flip around the entire code a dozen times to pick up all the references required for a particular situation. Sometimes, it's not even clear what type of permit approval is required or even who is doing the approving.

Little wonder, then, that planners typically cheer at that dramatic moment in the Andres Duany stump speech when Duany takes an enormous loose-leaf code book and chucks it in the trash can. And it's not surprising that understandable codes with lots of visuals are becoming more popular – especially at a time when design is becoming more important in planning and development.

But do form-based codes cure cancer? Or otherwise solve all problems in the world of planning and development? No, they don't. In fact, form-based codes really aren't a completely different type of animal from "conventional" zoning codes. They're still regulations that seek to control the form, use, and management of private real estate development projects. The difference is a matter of emphasis – more detail about form, less about use. And so it's probably best to think of a form-based approach at one end of a continuum – with a use-based approach on the other end.

A form-based code simply acknowledges what developers and their architects have known for decades: Whether illustrated or not, all zoning ordinances contain "pictures" of the buildings they permit. Embedded in the text of the typical zoning ordinance are setbacks and height limits that create an allowable building envelope. If you add a special design overlay district – not uncommon in certain locations – then you get a conventional approach (albeit clumsy) that is not that different from a form-based code.

Where form-based codes do begin to look pretty different from the conventional approach is the way they are organized. Instead of focusing entirely on the individual parcel, form-based codes focus on types of buildings and on the overall feel of each block. The typical form-based code has a typology of building types – mostly depicting a variety of multi-family, mixed-use, and commercial buildings – and then specifies which of these types will be permitted on each block. In this sense, form-based codes *are* revolutionary; they are concerned with a larger canvas than just the parcel.

By being extremely prescriptive, form-based codes do ensure a consistent look and feel to the physical form of a particular neighborhood, corridor, or development project. That's good. But in and of itself a form-based code does not solve all problems associated with zoning codes specifically or with planning more generally.

First, the typical form-based code doesn't solve the "flipping around" problem so typical of zoning ordinances. It's just a different kind of flipping around. You have to match the building types with the type of street with the type of district or corridor. This can be no less confusing than flipping around in a conventional code. And because form-based codes are often district-specific, amendments can be complicated because you may have to amend several adopted codes, not just one.

Second, form-based codes don't – and can't -- solve concerns about land uses simply through form. By focusing on design, form-based codes can solve problems associated with context, especially in urban situations where you simply must design your way out of conflict. But even in a form-based code, a city or county must consider the allowed uses carefully. It's easy to get *too* loose on use in a form-based code, so that uses with a big impact on the community get overloooked.

Finally, cities often make the mistake of thinking that if they adopt a form-based code, they don't have to do anything else to make a mixed-use or urban neighborhood work. But that's not true – especially when it comes to parking. Form-based codes often permit less parking at the parcel level. But codes don't – and can't – deal with the district-level question of how to provide enough parking. Indeed, one of the most common mistakes a city makes in adopting a form-based code is in restricting parcel-level parking without regard to whether enough pooled parking exists in the district. That's why a form-based code usually needs to be accompanied by a parking management plan.

Perhaps most significantly, a form-based code can't create a market for development where none exists. It's still a set of regulations – and like all land use regulations a form-based code works best when it is expected to shape and sculpt existing demand to create a better urban environment. Sure, there's some benefit to developers in creating more certainty about zoning and design, but form-based codes more or less assume that the demand already exists. It's worth bearing in mind that Duany himself began writing form-based codes not for local governments but for developers who wanted a consistent look and feel to their projects.

There's no question that nowadays we have to design our way around problems that, in the suburban era, we could simply solve by putting more space between things. This requires a more design-oriented approach to planning and development generally. And there's no question that we must update and simplify codes with an eye toward how they are used when development projects are proposed. But in and of themselves, form-based codes are no replacement for plans, for parking policies, or for conventional concerns about land uses.

Like most advances that are touted as revolutionary, form-based codes are most effective when they are used to solve the problems they can solve – and not expected to cure cancer or the common cold. ■

The New Suburban Dream

My nephew and his wife recently had their second child, and they are following a well-worn path from the city to the suburbs.

Four years ago, childless and carless, they lived the urban life in the fashionable Washington, D.C., neighborhood of Cleveland Park. Child No. 1 pushed them four miles out, to the expensive inner Maryland suburb of Bethesda, where they bought a cozy two-bedroom condominium that had been converted from an apartment. Then, a couple of months ago, Child No. 2 pushed them another 12 miles farther out – beyond the Beltway – to Rockville, where they bought a four-bedroom, 2,200-square-foot house.

Now they are living the suburban life – which means, inevitably, a large yard, two or three cars, and an autobound life for all concerned, including their infant. Right?

Well, not exactly. Yes, Eric and Kate have headed for the suburbs. But their life isn't really very autobound at all. Suburbia to them means an end-unit townhome, one car, a daily bus trip to day care, a 10- to 15-minute walk to the library and shopping at Rockville Town Square, and D.C. Metro commutes (13 minutes for him, 30 for her) to work and back.

This is America's New Suburban Dream. In a lot of ways, it's just like the old one – the familiar scramble for a great school district, a lot of square footage, distance from urban grittiness, and proximity to schools, parks, and libraries. But in important ways it's different.

When they say they live close to the playground, they don't mean it's five blocks to a city park; they mean it's 30 feet from their barbeque, across the common area of the townhome development. When they say they've traded proximity for space, they don't mean they have to drive five miles to the store. They mean that by living 1,000 yards away from the Rockville Metro Stop – instead of 100 yards – they can get a four-bedroom townhome instead of a two-bedroom condominium.

It's not an urban life, exactly. Their townhome development – dating from the early 1980s – is not exactly a New Urbanist's dream. It's basically a cul-de-sac development bounded on two sides by strip shopping centers. The streets look a lot like parking lots and it's not all that easy to walk along the sidewalks in and of the development, as Eric and Kate often do. It's more Clarence Stein than Andres Duany. Clearly, it was designed to accommodate people expecting to drive to the Red Line station when it opened in 1984. Yet even with these drawbacks, it has an appealing combination of suburban feel and urban access.

And their life is not so urban that they've abandoned their car. The car is an essential component of life on most days – especially to shuttle the kids around, run weekend errands, and, of course, go on vacation. But Eric and Kate use the car differently. The trips are mostly short and it's possible to go a couple of days without using the car at all.

But that doesn't necessarily mean their life is devoid of the good things. A walk of about 15 minutes will take them to the center of Rockville – a surprisingly rich and urbane place and becoming more so all the time. Rockville is the county seat of Montgomery County – an affluent and politically liberal county of almost 1 million people – so there have long been tall office buildings in the downtown. More recently, the city, the county, and private developers – including Federal Realty [http://www.federalrealty.com/] – teamed up to transform a former in-town shopping mall into Rockville Town Square [ ], a surprisingly dense downtown development project with a library, an "arts and innovation center," shops, and 6-story mixed-use buildings. Not surprisingly, the upper-floor condos aren't doing well at the moment, but the whole thing is walking distance from the Metro station – and from Eric and Kate's townhome. DuPont Circle or Cleveland Park it's not, but there's enough going on to keep most people – especially most family-oriented people – more than busy.

The walk from Rockville Town Center to the townhome is filled with close-up views of parking lots and strip centers along Maryland 355. This is exactly the kind of property that infill developers and planners salivate over as they think of multi-story mixed-use projects, which in turn terrifies most suburbanites, who fear ever-more-frightening traffic infestation. Amazingly enough for suburbanites, however, Eric and Kate don't seem to be afraid of more urban-style development creeping toward their townhome neighborhood.

Most smart growth evangelists would say that's because they understand the typical party line – that a walkable neighborhood works better as it gets denser, unlike an auto-oriented neighborhood, which breaks down because of traffic congestion when more development arrives. That's true enough – though it's kind of a nerdy way to put it. I'd guess Eric and Kate would think of it differently. To them, living in the suburbs revolves not around driving but around living. Though it's far from perfect, Rockville allows Eric and Kate and their kids to focus on living. Which, I think, has been the point of suburbs from the beginning.

– BILL FULTON | AUGUST 31, 2010

Catalyst Projects Need More Than Gold Stars

Maybe there is reason to hope we can get development right in the future.

That's the conclusion I draw after looking over the list of projects that the state Department of Housing and Community Development (HCD) recently named "catalyst projects." It's largely rhetoric: the state has put its seal of approval on – and given valuable publicity to – some promising, progressive projects. In general, projects are mixed-use, mixed-income infill projects that attempt – to varying degrees – to de-emphasize the automobile and improve the public realm. It's nice to see the state recognize the planning behind such projects, even if the state isn't willing to attach much money to that recognition.

A little background: Early this year, HCD, Caltrans and the Department of Conservation sought applications from cities and counties for the pilot project. The application stated: "Approximately six development projects will be selected as Catalyst Projects in communities throughout California to incentivize sustainable communities and test innovative strategies designed to increase housing supply and affordability; improve jobs and housing relationships; stimulate job creation and retention; enhance transportation modal choices that reflect community values, preserve open space and agricultural resources; promote public health; eliminate toxic threats; address blighted properties; reduce greenhouse gas emissions and increase energy conservation and independence."

After a review process that seemed to drag, HCD on August 24 named not just six catalyst projects, but instead selected 13 projects [ ]. A pleasant surprise. The projects are divided up at three different levels:

Gold

- City of Emeryville, Emeryville Marketplace
- City of San Francisco, Mission Bay
- City of Sacramento, Township Nine
- City of San Diego, Village at Market Creek
- City of Fullerton, Fullerton Transportation Center

Silver

- City of National City, Paradise Creek Revitalization
- City of Chico, Meriam Park
- Town of Truckee, Truckee Railyard
- City of Marina, The Dunes on Monterey Bay
- City of Ontario, Downtown Core Catalyst Project

Bronze

- City of Oxnard, North Oxnard Communities
- City of San Diego, Quarry Falls
- City of Hercules, Bay Front Transit Village

Each gold project is eligible for a $1.35 million Proposition 1C affordable housing grant, while the silver projects may receive $500,000 each, according to HCD spokeswoman Panorea Avdis.

A source who works in the administration told me that she had been skeptical of the program, but she came away with a positive feeling because of the projects themselves. By demonstrating that some cities and developers are willing to depart from California's tired suburban growth pattern, the projects should serve as models for meeting the state's sustainable growth goals, she told me.

In a written statement, HCD Director Lynn Jacobs said as much: "This pilot program will provide valuable insights to allow the State to implement best practices and strategies as we move forward with our sustainable development goals in California. Walkable communities, improved air quality, reduced emissions, less time spent in a car and a strong economy can all become reality through sustainable development, and I look forward to seeing how these projects develop."

I, too, am interested in how these projects develop, so I checked in on one of them – Meriam Park in Chico. Planned for about 270 acres on the southeastern edge of town, the project would have about 2,300 housing units, at least 1 million square feet of civic and institutional uses, and about 250,000 square feet of commercial space. The project appears to have just about every new urbanist bell and whistle – a walkable grid, alley-loaded housing, minimal setbacks, neighborhood parks and greens, a wide mix of uses and housing types. Meriam Park is intended to replicate Chico's excellent downtown [ ] and delightful older neighborhoods – and to depart from Chico's more recent suburban blandness.

Although a full three years has passed since the Chico City Council approved the project, and local developer New Urban Builders has a reputation for completing first-rate projects [ ], the project hasn't gone far because of the economy. Construction is under way on 90 units of affordable housing, and ground should break soon for a new north Butte County courthouse.

"We're bullish long-term, but we're not going to put more infrastructure in the ground that we think is prudent," said John Anderson, of Anderson/Kim Architecture + Urban Design and Meriam Park's chief designer.

The $500,000 for affordable housing is nice, but it's not going to make much difference. Still, the HCD recognition could open other state funding doors, according to Avdis.

"What we were looking for was the designation," explained Chico Assistance City Manager John Rucker. "We see it as a pretty innovative, sustainable project, and we're looking for a number of ways to make it work. We want to position ourselves so that we can take advantage of funding when it does become available."

Anderson said the project could be well-positioned to receive federal grants from the interagency partnership [ ] of Housing and Urban Development, the Department of Transportation and the Environmental Protection Agency.

Let's hope government funding and incentives for Meriam Park and the other catalyst projects emerge quickly. It's one thing for state and federal officials to tell cities and counties they should grow in a more sustainable fashion. It's quite another to provide the money that makes such growth actually happen.

– PAUL SHIGLEY | SEPTEMBER 02, 2010 ■