

# State Water Board Devising New Definition, Policy for Protecting Wetlands

BY JOSH STEPHENS

**THE DEFINITION OF WETLAND** would seem to be self-evident: wet land. If only it were that easy in California.

From vernal pools that slowly diminish in the Central Valley heat to brackish estuaries separating ocean from land, California’s topography includes some of the most varied types of wetlands imaginable. Their numbers and varieties baffle that which governmental regulations such as the federal Clean Water Act describe.

A new proposed policy, released in preliminary draft form by the Water Resource Control Board, seeks to preserve the state’s remaining wetlands and tighten controls over how permits to impact wetlands are issued.

The product of seven years of discussions and scientific study, the Preliminary Draft Wetland Area Protection Policy – based, in part, on the

federal definition – is being hailed by environmentalists but already raising anxiety among developers. It defines wetlands according to the following criteria:

- is continuously or recurrently inundated with shallow water or saturated within the upper substrate;
- has anaerobic conditions within the upper substrate caused by such hydrology; and
- either lacks vegetation or the vegetation is dominated by hydrophytes.

These criteria were recommended by the Water Board’s Technical Advisory Team, which consisted of a team of 15 scientists with expertise in various aspects of wetland ecology and geology.

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news  
analysis  
JOSH  
STEPHENS

## Wendell Cox Launches Attack on Regional Planning, Common Sense

**YOU MAY NOT YET HAVE HEARD**, but tanks are massing on the border of Santa Clarita.

Special forces have ziplined into Poway city hall. Under cover of night, Jerry Brown himself stands resolute on the prow of a PT boat, his corgi Sutter at heel, motoring up the American River towards Folsom. There, an unhinged planning director has gone native, grilling freshly slaughtered meat in a backyard. From atop the Coit Tower, you can hear it: the strafing has begun in San Rafael.

May God have mercy on all our souls.

So implies the latest essay by Wendell Cox, “California Declares War on Suburbia,” published in this

past Saturday’s *Wall Street Journal*. In it, Cox takes aim at Senate Bill 375, California’s landmark law promoting compact development patterns for the purpose of reducing greenhouse gas emissions. Any regular reader of *CP&DR* knows that over the past year the state’s “Big Four” metropolitan planning organizations – in San Diego, Los Angeles, Sacramento, and the Bay Area – have been producing regional plans to comply with SB 375. Lamenting that 1.6 million people moved out of California in the 2000s, Cox contends that these plans will force housing prices up and thus drive more people out of the state.

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**GOV. JERRY BROWN'S** successful effort to shut down the state's now defunct redevelopment agencies has taken another casualty: the California Redevelopment Association. In a statement released today, CRA officials and board members announced that the organization, absent its *raison d'être*, would soon begin the process of shutting down, pending a vote of its membership. CRA's yearlong effort in 2011 to preserve redevelopment turned disastrous as the state Supreme Court rendered a ruling that eliminated the payment scheme and condemned all the state's RDA's. In a letter from CRA President and Alhambra City Manager Julio Fuentes, and CRA Interim Executive Director Jim Kennedy reads, in part: "With the dissolution of local redevelopment agencies as of Feb. 1, it has become clear to the board and executive staff that the business plan for CRA is no longer sustainable. (T)he CRA Board of Directors has now concluded with great reluctance that it has no other prudent choice but to initiate the dissolution of the association."

**THE CALIFORNIA HIGH-SPEED RAIL AUTHORITY** has published a revised business plan for a truncated version of its 520-mile rail system, whose construction is set to begin this year. The revised plan includes the construction of 300 miles of electrified rail from Merced to San Fernando Valley in ten years, an improvement in existing rail service in the Bay Area and Los Angeles regions, a \$30 billion reduction in costs, down from roughly \$90 billion, and the potential to access cap and trade funds. According to the plan, local diesel-powered rail systems in Los Angeles and Northern California will be converted to electric power; existing Amtrak/Metrolink rail corridors between Union Station and Anaheim will also be upgraded.

**ONE OF THE MOST** hotly contested proposed rock quarries in the history of rock quarrying went down to defeat in a 3-2 vote by the Riverside County Board of Supervisors in February. For seven years Granite Construction, developers of the 414-acre Liberty Quarry, just outside Temecula, had faced staunch opposition from residents worried about environmental impacts and the Pechanga Band of Luiseño Indians, who claimed that the quarry would disturb sacred lands. Granite has promised that the quarry would

provide jobs and necessary building materials for the Inland Empire. In the life of the quarry, it would have produced up to 270 million tons of aggregate, which would have been trucked out on Interstate 15. The supervisors' vote was the last of several efforts to halt the mine. The City of Temecula had previously attempted to annex the site. Granite Construction would have to resort to legal action to reverse the vote.

**THE COMMUNITY OF EAST LOS ANGELES** has been attempting to become its own city since 1960. The most earnest attempt yet was recently rejected by the Local Agency Formation Commission which concluded that the city of over 150,000 would be unable to financially sustain services. Supporters for the incorporation of East L.A. want more time to explore options for additional revenue and said they wanted to give residents the opportunity to vote on the proposal and whether there should be new taxes to make the proposed city more fiscally sound. A member of the East Los Angeles Resident's Association said they would explore remaining options for East L.A.'s cityhood.

**LACK OF REDEVELOPMENT FUNDING** in Oakland has put to bed one of the last efforts to keep the Athletics in Oakland. Previous plans of a new waterfront ballpark at Jack London Square are no longer viable without redevelopment dollars. Oakland faces losing all three of its major sports teams – Athletics, Raiders and Golden State Warriors, as the team owners express interest in moving. In the meantime, Oakland is focusing efforts on revamping the O.co(?) coliseum while still pursuing stadiums in San Jose and Santa Clara.

**TWO DEVELOPERS IN LAKE FOREST** plan to turn an old auto center into a vibrant residential village. Tru-mark Homes and Brookfield Residential submitted proposals to the city, for a zoning change and general plan amendments; the developers noted their selection of the site due to proximity to retail, movie theatres, parks and jobs. The council is considering the compatibility of the site with the city's land-use vision, and fiscal impacts from the possible zoning change. The City Council and Planning Commission will make the final call on approval.

**NBCUNIVERSAL'S BIG EVOLUTION PLAN**, in the works for a half-decade, is facing increased opposition. County Supervisor Zev Yaroslavsky is one of the latest to express opposition to NBCU's housing, studio and transit development plan, including a portion that involves building 3,000 residential units on Universal's back lot. Concerns include harming film production, residential pressure on the studio to constrain or curtail some of its production activity, and traffic congestion.

**A RISING PRICE TAG**, lack of confidence in the High Speed Rail Authority, and the selection of a route through Madera County that disturbs agriculture led the Madera County Board of Supervisors to reverse their conditional support of California's proposed high-speed rail system. They would still however, be open to locating a heavy maintenance station for the trains because it would be a huge economic benefit – bringing 1,500 jobs to the county. Sites in Merced, Fresno and Kern counties are all vying for consideration. Supervisor Max Rodriguez, the lone hold out against the resolution, noted that opposing the project hinders their county's chance of selection.

**HAVING STEPPED DOWN** as executive director of the California Coastal Commission last summer because of failing health, Peter Douglas passed away April 1 at the age of 69. He had been stricken with cancer. Douglas was one of the architects of the California Coastal Act and has been hailed by many as the savior of the California coastline. Many commission decisions were to deny developments such as hotels and oil platforms from encroaching on the coastline. Others, however, considered him an obstructionist and enemy of private property rights. Douglas has been succeeded at the Coastal Commission by longtime commission executive Charles Lester.

**THE LOS ANGELES CITY PLANNING COMMISSION** approved the Los Angeles River Improvement Overlay plan to control development and landscaping along the L.A. River. The plan, which follows 32 miles of the river, from Canoga Park to Griffith Park, awaits a touchy debate as it heads to the City Council. Zoning for the project includes property within 2,500 feet of

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William Fulton  
*Editor and Publisher Emeritus*

Josh Stephens  
*Editor*

David Blum  
*Graphic Design*

Robin Andersen  
*Circulation Manager*

Morris Newman, Kenneth Jost  
*Contributing Editors*

Abbott & Kinderman, LLP  
*Legal Digest*

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the river – posing concerns to residents and businesses whose property comes right up against the river, in regards to the city's heavy requirements. Before facing the full City Council, the river overlay zone will be further reviewed in a joint meeting of the City Council's Planning and Land Use Committee and the Ad Hoc River Committee.

**A \$1 MILLION DOLLAR GRANT** has been awarded to the Riverside County Health Coalition to promote healthy eating and physical activity in the community of Eastside. Eastside fit all the grant requirements – high rates of obesity, poverty and unemployment. However, the neighborhood has set a foundation to include community partners, making it a desirable recipient. The coalition aims to improve the health of children and adults by providing residents with healthier options, education, and revamped parks that encourage physical outdoor activities. Plans for the grant include creating Farmer Markets and expanding healthy food choices to help eliminate the food desert in Eastside.

**LOS ANGELES WORLD AIRPORTS** and Ontario city officials remain at odds in the fight for control of L.A./Ontario International Airport. Ontario has been vying for control of the airport for the last three years, and recently offered LAWA \$50 million for the airport. The City of Ontario contends that that LAWA officials have been neglecting their regional airport and have not rebuilt their enplanement numbers since the recession, to focus on the \$4.11 billion terminal modernization program at LAX. While LAWA officials state the 35% drop in enplanements is due to recession, Ontario officials believe the true issue is mismanagement. Two Los Angeles council members initiated a resolution that asked LAWA to research the issue of returning the Ontario airport to local control, with study parameters including ways to increase air travel and determine its fair market value.

**A FEDERAL REMOVAL REPORT** assessed the removal of Klamath River Dams would add jobs (an estimated 4,600) and aid in fish protection, but the project would cost between 238 and 493 million dollars. California lawmakers are still heavily divided on the issue. The removal report – designed to aid Interior Secretary Ken Salazar decide whether to go ahead with removing the dams, received good peer reviews, but the peers want more details on uncertainties.

**NEW RESEARCH** done by the University of California at Irvine has found that residents of communities with a central core of shops and services walk nearly three times more – and drive less – than residents of neighborhoods whose services are located along a major

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## REDEVELOPMENT BILL STATUS UPDATE – BY CP&DR STAFF MARCH 23, 2012

**PERHAPS MORE QUICKLY** than anyone would have thought, the California Legislature is already considering a collection of bills designed to both smooth the process of dissolving redevelopment agencies and to introduce new tools that cities can use in redevelopment's absence.

For supporters of redevelopment, Senate Bill 1585 (Perez) is the Holy Grail. Or, if not the Holy Grail, at least a big help. It both cleans up some of the challenging aspects of Assembly Bill X1 26, thus making the dissolution process clearer for successor agencies, and expands the definition of enforceable obligations.

The other bill that has gotten significant attention is SB 654 (Steinberg) which would restore some funds for low- and moderate-income housing. That bill has received support from nearly every housing advocacy group in the state, most of which decried the loss of redevelopment's 20% set-aside for affordable housing. With the Legislature's spring recess upcoming, from March 29 to April 9, several bills have been making progress.

### **SB 654 (STEINBERG) – AFFORDABLE HOUSING**

SB 654 modifies provisions relating to the transfer of Low- and Moderate-Income Housing Funds (LMIHF) and responsibilities associated with dissolved redevelopment agencies. SB 654's provisions modify the scope of the term "enforceable obligation" and require that any unencumbered amounts on deposit in the LMIHF of a dissolved redevelopment agency be transferred to specified entities.

*Status: Passed out of Senate, 34-1.*

### **SB 986 (DUTTON) – RDA BOND FUNDS**

SB 986 provides that all bond proceeds that were generated by a former redevelopment agency shall be deemed to be encumbered and prohibits a successor agency from sending these proceeds to the county auditor-controller. The bill requires that these bond proceeds must be used by the successor agency for the purposes for which the bonds were sold pursuant to an enforceable obligation that was entered into either by the former agency or its successor agency by December 14, 2014.

*Status: Heard in Senate Governance and Finance Committee.*

### **SB 1151 (STEINBERG) – ACCOUNTING FOR PROPERTIES**

This bill would require the successor agency to prepare a long range asset management plan that outlines a strategy for maximizing the long-term value of the real property and assets of the former redevelopment agency for ongoing economic development and housing functions. The bill would require the successor agency to submit the plan to the Department of Finance and the oversight board by December 1, 2012, and would require the approval of the plan by the department and oversight board by December 31, 2012.

*Status: Will be heard in the Senate Governance and Finance Committee on April 18.*

### **SB 1156 (STEINBERG) – COMMUNITY DEVELOPMENT**

SB 1156 would enable cities and counties to establish a "community development and housing joint powers authority" to assume successor agency responsibilities and create an additional sales tax to fund sustainable economic development and affordable housing.

*Status: Will be heard in Senate Transportation & Housing Committee.*

### **SB 1220 (DE SAULNIER) – AFFORDABLE HOUSING**

SB 1220 titled the "Housing Opportunity Trust Fund Act of 2012," would establish a permanent source of funding for affordable housing. The funding would come through the imposition of a \$75 fee on the recording of each real-estate document, and such funds would be used to support the development, acquisition, rehabilitation, and preservation of affordable housing.

*Status: Referred to committees on Transportation & Housing and Governance and Finance.*

### **AB 1585 (PEREZ) – AB X1 26 CLEANUP/ENFORCEABLE OBLIGATIONS**

AB 1585 also expands the definition of "enforceable obligation" to include any loans between the agency and the host city or county within two years of the date of creation of the redevelopment agency or within two years of the date of the creation of a project area if the loan is specific to that project area. Other loans may be also be deemed enforceable obligations provided that the oversight board makes a finding that the loan was for legitimate redevelopment purposes. There are other provisions clarifying the functions of successor agencies and oversight boards.

*Status: Passed Appropriations Committee, 11-3; passed Assembly, 58-7.*

## SOUTHERN CALIFORNIA ADOPTS \$524 BILLION REGIONAL PLAN

**LOS ANGELES** – Hasan Ikharta, executive director of the Southern California Association of Governments, began this afternoon's general assembly session by saying that the organization's 2012-2035 Regional Transportation Plan and Sustainable Communities Strategy "isn't perfect, but it's good." In some circles, that sort of candid modesty would probably get Ikharta fired, or at least booed off the stage. Instead, he got applause from general assembly members, and none of roughly 20 speakers who offer public comments offered lodged any major objections.

In a room full of public policy wonks and elected officials representing six counties and nearly 200 cities, "good" is good enough.

"It is going to change the way we do business and the way we think about the urban form," said Ikharta. "It's going to provide choices for people to move around."

Shortly after Ikharta's introduction, the general assembly adopted the RTP/SCS on a unanimous vote of its 83 members. The age of climate-friendly, smart-growth regionalism has officially begun in Southern California.

"Today's approval of the 2012-2035 RTP/SCS was a historic decision made by Southern California elected officials on SCAG's Regional Council. This action establishes a roadmap to welcome four million new residents and 1.7 million new jobs into our region by 2035," commented Pam O'Connor, SCAG President.

SCAG's is the second RTP/SCS to be adopted under California's 2008 landmark climate change and smart growth law, Senate Bill 375. The San Diego Association of Governments adopted its plan in November, but that plan is facing legal challenges under the California Environmental Quality Act. So far, no one has raised legal objections. The Sacramento Area Council of Governments is soon expected to adopt its SCS and Metropolitan Transportation Plan update.

As *CP&DR* reported in December, the RTP/SCS is based on a decidedly "bottom-up" approach. The plan does not ask jurisdictions to swallow growth or transportation strategies that they are not already willing to take. And, notably, the plan allows for some subregions to create their own alternative SCS's so that they can

meet the greenhouse gas targets of SB 375 as they see fit.

Implementation of the RTP/SCS is now a looming challenge. It is expected to cost \$524 billion over 25 years. The plan dedicates 54 percent of funding to transit and non-highway options, more than triples the funding for bike and pedestrian projects, and reduces traffic congestion overall and per-capita delay by 24% – despite the addition of 4 million residents in the 6-county region by 2035. It would locate 87 percent of all jobs and 82 percent of all housing within a half mile of rail stations and bus stops. Apartments and condominiums would account for 68 percent of all development, up from 39 percent in the previous plan.

Some environmental highlights of the plan include the following (noted by NRDC's Amanda Eaken on her blog):

- ▶ Increases funding for biking and walking by over 350% from \$1.8 to \$6.7 billion;
- ▶ Spends \$246 billion – nearly half the plan's total revenue – on public transportation;
- ▶ Reduces congestion 24% per capita despite adding 4 million residents;
- ▶ Brings 12 key transit expansion projects to Los Angeles in the next 10 years under Mayor Villaraigosa's 30-10 plan;

▶ Creates 60% more housing near transit than is currently available;

▶ Creates 4.2 million jobs in the region, 87% of all jobs will be ½ mile from transit;

▶ Achieves a 24 % reduction in pollution-caused respiratory problems, resulting in \$1.5 billion per year in health care savings' and;

▶ Saves over 400 square miles of open space – more than a third the size of Yosemite – from development by shifting to a more walkable land use pattern for the region.

Supporters contend that this investment could yield savings of \$3,000 per resident because of savings in fuel, electricity, and water. These savings are based on the premise that more compact development patterns will eliminate expenditures on laws, cars, and heating and cooling.

"We can expect a reduction in per capita emissions, supporting the construction of new homes and businesses but with a plan to connect the dwellings with multiple transportation options, preserving the natural beauty of the California landscape for today's recreation and our future generations enjoyment, and ensuring that businesses remain in the Golden State and prosper," said Ikharta in a statement.

– JOSH STEPHENS, April 4, 2012

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roadway. The findings, which indicate that an area's single most robust indicator of walkability is its number of businesses per acre, were published in the Fall 2011 issue of *Access*, the University of California Transportation center magazine.

### THE MERRIAM MOUNTAINS HOUSING PROJECT

planned for San Diego's North County region has been recommenced under new ownership. The former Stonegate Development Group plan, which ran into opposition as a result of concerns about transportation impacts and susceptibility to wild fires, was overturned in favor of a far smaller blueprint. The project's new owners, San Diego-based Newland Real Estate Group and Japanese Sekisui House, await an analysis from the San Diego County Department of Planning, which has requested justification

for the developer's request to build more than ten times the number of dwellings allotted in the county's general plan.

**THE 9TH CIRCUIT COURT OF APPEALS** has ruled a controversial plan for the management of national forests in the Sierra Nevada flawed. The court's decision, which found the U.S. Forest Service guilty of inadequately assessing how fish would be affected by increases in logging and road building, is the latest in a legal battle over changes made by the Bush administration.

**A STUDY** by the California Department of Public Health has found that people in poorer areas of Los Angeles and Fresno Counties are more susceptible to health risks from climate change than those in more affluent communities. In Los Angeles, coastal neigh-

borhoods are the most vulnerable due to a variety of factors including a rise in sea-level, a lack of public transit, and a risk of wildfire.

**MAYOR ED LEE OF SAN FRANCISCO** has tasked his newly-created Housing Trust Fund Work Group with finding a solution to the lack of funding for affordable and workforce housing after the demise of the city's redevelopment agency, which led the majority of affordable housing development for the city. Lee is considering increasing property taxes or distributing tax incentives to developers who agree to build affordable housing.

**A STUDY BY THE U.S. BUREAU OF RECLAMATION** has found an enlargement of Lake Shasta a feasible means of increasing California's water supply. Ac-

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## EPA Defeat in Supreme Court Unlikely to Affect Enforcement of Clean Water Act

BY JOSH STEPHENS

SINCE THE PASSAGE of the Clean Water Act in 1972, when the Environmental Protection Agency told a property owner to jump, in some cases the property owner's only possible response was "how high?" Not so anymore.

Last month, in *Sackett vs. Environmental Protection Agency*, the United States Supreme Court issued a ruling that places a limitation on how far the EPA can go to compel property owners to comply with the Clean Water Act.

To enforce the act, EPA officials often issue "administrative compliance orders" to property owners whom it determined were discharging pollutants or otherwise harming wetlands on their property. Chantelle and Mike Sackett had been cited for doing just that and received a compliance order halting their construction of a home near Priest Lake, Idaho. Refusal to follow the order would have come with a fine of \$37,500 per day.

Plaintiffs claimed that EPA policies unfairly prevented property owners to contest these fines.

"Our main objection was that the EPA was imposing the threat of ruinous fines and even criminal prosecution without any proof of violation or an opportunity to be heard," said Reed Hopper, principal attorney with the Pacific Legal Foundation, which represented the plaintiffs. "There was simply no accountability."

On a 9-0 decision, the Supreme Court held that a compliance order – and the threat of fine – could be subject to a suit because, according to the justices' decision, the agency treated the order as a "final ruling" without any other procedural remedies for the property owners. This ability for a property owner to now sue for a "pre-enforcement review" may give EPA officials pause when issuing compliance orders in the future.

"I think it's a great step forward for property rights and the rule of law and due process," said Hopper.

How large a step it really is – and what practical impact it will have – is debatable.

On the one hand, the ruling is arguably the most significant land-use related ruling since 2005's *Kelo vs. New London* decision, which

upheld the right of governments to invoke eminent domain for the purposes of economic development, and 2006's *Rapanos v. United States*, which narrowed the scope of waterways and wetlands that were protected under the Clean Water Act.

(Not coincidentally, some of the ambiguity in *Sackett* stems from the *Rapanos* ruling; the Sacketts' property is not technically a wetland but rather falls under the more ambiguous category of "waters of the United States.")

Thus far, *Sackett* does not appear to have far-reaching legal impacts.

Many observers note that the ruling was intentionally narrow and applies only to the specific type of compliance order that was at issue in the *Sackett* case.

"The decision was very narrow and leaves open to EPA the ability to enforce the law either using the same mechanism, but also being prepared to go to court, or using different mechanisms and slightly different approaches," said Devine.

The has not announced any new policies as a result of the decision.

"EPA will of course fully comply with the Supreme Court's decision, which the agency is still reviewing," said Bill Keener, spokesperson for the EPA's San Francisco office, relaying a statement from EPA headquarters.

Notably, the *Sackett* decision does not place any new constraints on the EPA. The burden remains on the landowner to object to EPA compliance orders through litigation.

"There's nothing in this decision, as I read it, that limits EPA's ability to warn dischargers when the agency believes someone is violating the Clean Water Act," said John Devine, staff attorney in the Natural Resources Defense Council. "If the EPA wants to use that approach, it needs to be prepared to spend the resources to litigate the issue of the discharger's liability under the law when it issues the order."

Hopper, however, said that just that threat of litigation may be enough to prompt the EPA to issue compliance orders more conservatively, or to do more research before issuing orders.

"What we're after was to try to make, for

the first time, the EPA accountable for its enforcement action," said Hopper. "The agency is going to have to do more than just a drive-by type evaluation."

Even so, Hopper said that the ruling is likely to affect only a few of the roughly 3,000 compliance orders that, according to CNN, the EPA issues each year.

"It will have no effect on that whatsoever," said Hopper. "The only cases that are going to be brought to court are going to be those in which the agency is acting at the margins."

However it affects the EPA's practices, the *Sackett* decision seems unlikely to rile activists in either the property-rights movement or the environmental movement. Though the *Kelo* decision did not actually set new legal precedent, it still galvanized property-rights advocates and spawned a slew of new state laws meant to restrict the use of eminent domain. Because the *Sackett* ruling restricts government power – albeit only slightly – no such response is expected.

"Here we have a decision that struck down governmental power, so there's nothing for people to react to," said Sean Hecht, executive director of the Environmental Law Center, UCLA Law School. "Government just has to decide how it's going to change how it does business as a result. No one's going to get up in arms about an abusive power based on a decision like this."

Though the EPA issues Clean Water Act compliance orders all over the country – 3,000 per year, according to CNN – California poses a particular challenge to EPA officials because of the diversity of the state's wetlands, which do not always adhere in reality to the federal definition thereof. Nonetheless, there appears to be little reason to believe that the ruling would affect California any more or less than it would any other state. If anything, fewer opportunities to issue compliance orders may arise in the first place.

"The wetlands there tend to be small, vernal pool types....water features that are only questionably subject to control under the Clean Water Act," said Hopper. ■

# Home Denied CEQA Infill Exemption for Being ‘Unusually Large’

*Court’s decision places new boundaries on use of categorical exemption, illustrates CEQA’s tendency to support status quo*

BY WILLIAM W. ABBOTT

**THE PREMISE BEHIND** the categorical exemptions in the California Environmental Quality Act for infill and single-family projects is that projects in relatively dense, established urban areas are unlikely to create major impacts. According to a recent decision, this premise has its limits.

The City of Berkeley is not known for lavish hillside homes the way that, say, Beverly Hills is. And yet, recently the city’s Board of Zoning Adjustment had granted a categorical construction of what can only be described as a mansion. Community members fought the project, filing *Berkeley Hillside Preservation v. City of Berkeley*.

Property owners had applied for permits to demolish an existing home on a 29,714 square foot lot and to construct a 6,478 square foot home along with an attached 3,394-square foot, 10-car garage. The lot is a hillside lot with an approximately 50% grade. Based upon CEQA exemptions for infill and for construction of new small structures, the Board of Zoning Adjustment approved the permits.

The proposed construction was supported by neighbors, but other interested parties appealed the approvals to the City Council, claiming that the CEQA exemption was granted inappropriately. A geotechnical engineer,

Dr. Lawrence Karp, submitted a letter indicating that he had reviewed the building plans, and that he was familiar with the site based upon his work on other building sites in Berkeley. In the letter, Karp contended that addition-

What is important about this decision is that it highlights the barrier that CEQA poses to infill and to the revitalization of existing urban areas.

al benching would be required, that this was not reflected on the plans, and that the site potentially had some exposure to seismic risk. Karp also indicated that additional vegetation removal was required that was not otherwise reflected on the plans. Karp concluded by indicating that the project would likely have significant impacts during construction and operationally due to seismic risk.

Two engineers submitted letters on behalf of the applicants (at least one was a geotechnical engineer). They argued in part that Karp misread the plans and that the project was appropriate for the site. The City Council was

presented with conflicting evidence as to relative size of the proposed structure to other homes in Berkeley. The City Council denied the appeal, and the opponents filed suit. The trial court ruled for the city and applicant, and the neighbors appealed again.

The key issue on appeal was whether or not the city appropriately applied a CEQA exemption in light of all of the evidence. The appellate court indicated that judicial review requires a two-step inquiry. First, the court determines if there are unusual circumstances. As applied here, the appellate court found that the evidence was that the construction was unusual based upon size. The evidence most favorable to the city was that less than .4% of existing homes in the city were larger (although the record included less favorable evidence as well). The city argued that the relevant consideration in determining unusual circumstances was the vicinity of the proposed construction, and from this perspective, the proposed size was not unusual. Rejecting this approach, the appellate court directed that the proper point of focus was the broader category of similar structures for which the exemption was intended, not just those in the vicinity.

Once this test is satisfied, the inquiry shifts to whether “there is a reasonable possibility that the proposed construction will have a significant effect on the environment due to the unusual circumstances of its size.” The appellate court found that the opponents had made the requisite showing of a fair argument through the Karp letter. The fact that there was evidence in favor of the city’s decision was not

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“It’s said that great minds think alike. Sometimes great firms do, too.”

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# >>> Large Home Prompts New Limits on CEQA Exemptions

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conclusive under the fair argument test. Accordingly, the appellate court determined that an EIR was required.

**COMMENT:**

The issue at hand is not whether or not a property owner has an inalienable right to build a ten-car garage or a 7,000-square foot house. What is important about this decision is that it highlights the barrier that CEQA poses to infill and to the revitalization of existing urban areas. CEQA prioritizes the status quo over change.

If we are serious about creating vibrant urban communities, then we need vigorous CEQA reform. It's not rocket science to figure out why development steadily marches onward at the suburban fringe: defenders of the status quo file CEQA lawsuits, cows rarely do. ■

*William W. Abbott is a partner in the firm of Abbott & Kindermann, LLP, of Sacramento.*

► **The Case:**  
*Berkeley Hillside Preservation v. City of*

*Berkeley* (February 15, 2012, A131254) 203Cal.App.4th 656.

**The Attorneys:**  
For Appellants: Susan Brandt-Hawley

For Respondents City of Berkeley: Zach Cowan, City Attorney, Laura McKinney, Deputy City Attorney

For Respondents and Real Parties in Interest Mitchell Kapor, Freada Kapor-Klein, and Donn Logan: Myers, Nave, Riback, Silver & Wilson, Amrit S. Kulkarni, Julia L. Bond

## City's Oversight Does Not Extend 90-Day Limitation Period

*Period to challenge land use approval is not extended by more general rules governing administrative mandamus*

BY WILLIAM W. ABBOTT

THE ADJECTIVE "SHORT" best describes California's land use and CEQA statutes of limitation, and *Okasaki v. City of Elk Grove* illustrates this principle perfectly.

From CEQA's 30- and 35-day limitation periods, to the 90-day limits of the planning and zoning matters (Government code section 65009), to the Subdivision Map Act (Government Code section 66499.37, time waits for no litigant. The most recent case addressing the planning and zoning law wrestles with the interface of the 90-day statute in Government

Code section 65009, with the timeline found in Code of Civil Procedure section 1094.6. These latter timelines call for an extension of time periods in circumstances in which the petitioner has requested the agency to prepare the administrative record, in which case, the statute extends to 30 days from the delivery of the record. (Section 1094.6(d))

Okasaki challenged a variance granted to a neighbor by the City of Elk Grove. Roughly one week after the city's decision, Okasaki requested that the city prepare the administrative record. Eventually, 90 days passed without the city preparing the record and without Okasaki having filed suit. Okasaki eventually filed suit soon after the 90-day period passed.

The city successfully demurred on the basis of Government Code section 65009. The court of appeal affirmed. However, Okasaki argued

the timeline for filing the writ was extended by the city's failure to deliver the record. Not so, according to the appellate court. Rather, in reconciling these two provisions, the appellate court noted that 65009 was the more specific section and therefore prevailed over the terms of the broader provisions found in Code of Civil Procedure section 1094.6. ■

*William W. Abbott is a partner in the firm of Abbott & Kindermann, LLP, of Sacramento.*

► **The Case:**  
*Okasaki, et. al. v. City of Elk Grove, et. al.* (February 24, 2012, C066203) Cal.App.4th

**The Attorneys:**  
Jerry Sandefur for Plaintiffs and Appellants.

Best Best & Krieger and Stacey N. Sheston for Defendants and Respondents.

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# Bay Meadows Refines Transit Oriented Development

BY MORRIS NEWMAN

**LOATH AS I AM** to make grand pronouncements, I think Bay Meadows, the 83-acre project in San Mateo, is possibly the best plan I've seen for a transit oriented development.

This mixed-use proposal brings an unaccustomed level of clarity and order to the design of mixed use-neighborhoods near transit stations. Bay Meadows, in fact, makes most other TODs look almost slipshod and disorganized by comparison. The desire to achieve density, rather than instill a sense of order, often prevails at TODs. The much praised Contra Costa Centre, for example, appears casually planned and suburban compared to Bay Meadows, while others look like dense business parks. But is high-density urban design really incompatible with pedestrian activity?

Bay Meadows' site plan, however, is as easy to understand as a diagram. Yet, the irregular and flexible parts of the plan may be equally responsible for its success.

Planned for the former site of the Bay Meadows horse racing track just south of the San Mateo County fairgrounds, Bay Meadows is entitled to build up to 1.25 million square feet of office space, 90,000 square feet of retail space and 1,170 apartments and condos. (The same developer, Wilson Meany Sullivan, was earlier responsible for conversion of the Ferry Building in San Francisco into office space and retail.)

As in most other TODs, the biggest buildings are closest to the transit station, in this case a future Caltrain stop (which will replace the current Hillsdale station). Also familiar is the strategy of scaling down development the further one gets from the station. Rather than invention, it's the straightforwardness of the design, prepared by Cooper Robertson of New York, is what makes Bay Meadows a model for other TODs. If I were an academic, I might say that Bay Meadows has lifted the klutzy phenomenon of transit-oriented development to a recognizable building type. (Architects, who seem to love opacity in language, might call it a "typology.")

Let's start with the obvious features of the

design. Rather than blurring the difference between residential, retail and office buildings, the designers here have made each building type as distinct as possible. Each of the building types – office buildings, retail boxes, apartment clusters – has its own identifiable size, shape and location on the map. Here, the notion of mixed use is more horizontal than ver-

places for office workers.

Large-scale, multifamily housing starts on the eastern edge of the shopping street. Moving further east, the housing is interrupted by a linear park that parallels the almost rigid arrangement of buildings. The park is formal and French-looking, like a silk tie on a white shirt. The park looks small, active and inviting for dog walking and bicycling. One sign of refinement of the Bay Meadows plan is that the landscaping tends to be active, as is only secondarily used as a buffer or negative space. The major recreational site is a 12-acre park on the north edge of the plan, which looks like a scoop of ice cream atop a piece of apple pie. The park also provides a buffer (see above) to the immense parking lot for the fairgrounds on the immediate north.

Flexibility is important to Bay Meadows. Although the plan is set up on a grid, the pie-shaped site does not allow the designers to use a strict, unvarying grid. Instead, the grid is soft-edged, allowing lot lines tend to stretch, contract and sometimes take on irregular contours. Slight irregularities in the shape of individual blocks grow more pronounced as we head east, toward the shift to the diagonal streets. The flexibility, whether "suburban" or not, also makes it possible for the developer to develop the land efficiently, with a minimum of awkward, triangle-shaped spaces left over in the transition from the square grid to



The plan for Bay Meadows, an 83-acre transit oriented project in San Mateo County

tical, with different kinds of buildings sitting side by side, rather than stacking housing atop storefronts atop one another. Equally important, each building type is arranged in long rows that run down the width of the plan, with the regularity of rows of beads in an abacus. Nearest to the station is a set of five office buildings, known collectively as "The Station." This is Bay Meadows' gesture toward the noble if elusive goal of jobs-housing balance.

Immediately east of the big-footed office buildings is a neighborhood-serving shopping street, which appears relatively narrow and pedestrian friendly plan. This is the place for residents to pick up the dry cleaning and a quart of milk, and it provides some eating

the diagonal street. Also, the soft-edge nature of the plan allows the designers to provide a pleasant concave edge to the southern boundary of the big park, rather than an ugly, arbitrary straight line.

Nothing in life or urban design is perfect. The designers of Bay Meadows cannot entirely avoid the awkwardness of the site, with the parking lot to the north and a large industrial parcel to the east. In this setting, Bay Meadows may look like a stand-alone suburban island of medium-density development amid big empty spaces. The next place to plan is that parking lot, where hopefully some future developer can extend the orderly urban fabric created at Bay Meadows. ■

## >>> Water Board Tries to Save State's Remaining Wetlands

— CONTINUED FROM PAGE 1

Only 9% of the state's wetlands remain as compared to the days of Spanish settlement. For much of the 20th century, the policies of the state and of the Army Corps of Engineers was to fill wetlands in order to make lands arable and developable. This policy seeks to reverse that trend while preserving the diversity of the state's wetlands.

In order to account for unusual wetlands that occur in California's arid climate, the definition includes the following caveat: "Places lacking vegetation but otherwise meeting the hydrology and substrate criteria for wetlands are defined as wetlands... (to include) tidal flats, playas, some river bars, and shallow non-vegetated ponds."

That accounts for some of the more arid regions of the state and some of the wetland types that typically don't have vegetation," said Eric Stein, Biology Department Head at the Southern California Coastal Water Research Project and member of the Technical Advisory Team.

The draft policy also includes a wetland delineation method, a wetland assessment and monitoring framework, and authorization procedures for dredge and fill discharges to waters of the state

The draft has been released "for information purposes" and will not be subject to public comment for several more weeks. Water Board officials expect that it will undergo revision before the board votes on a final draft.

Though rhetoric cannot capture every variation and account for every potentially valuable natural resource, scientists say that this definition will serve the desired purpose, especially compared to status quo. Thus far, the state has not adhered to an official definition. Different agencies, from the Coastal Commission to the Department of Fish and Game, have often relied on their own notions of what constitutes a wetland.

As a result, say state officials, the process for protecting wetlands — or, conversely, for issuing permits to dredge, fill, and discharge — has been haphazard at best.

"It's difficult to manage a resource without knowing exactly what it is and being able to identify exactly what it is," said Bill Oreme, chief of the Water Board's Wetlands and 401 Unit.

The Water Board ordered the drafting of the new policy with three goals in mind: 1) establish clear, uniform criteria for the application, review, and approval of permits to discharge

dredged or fill material to waters of the state; 2) to achieve no net loss of wetlands; 3) provide a common framework for the monitoring and assessment of wetland areas.

All of these goals hinge on the definition of what a wetland is, but some say that the new definition does not go far enough to achieve them.

"We think it's far too narrow," said Colin Kelly, state attorney at Orange County Coastkeeper. "If you look at other sections of California state regulations, there aren't as many qualifiers on what a wetland is." Kelly said that those qualifiers could end up excluding important resources.

Until recently, the Clean Water Act was interpreted to cover a wide variety of wetlands, but no longer.

The federal government's definition has prevailed over waters covered by the Clean Water Act. But even that has been a moving target, thanks to a pair of recent Supreme Court decisions — *Solid Waste Agency v. U.S. Army Corps* of 2001 and *Rapanos v. U.S.* of 2006 — that ruled that the act applied only to tributaries of navigable waterways. This ruling effectively reduced the amount of waters that fall under the protection of the Clean Water Act and forced the state to enact its own policy to protect important waters that are now excluded from the CWA.

State officials could not merely adopt federal standards, and apply them to all potential waterways in the state, because of the variety and relative preciousness of the state's wetlands. Biologists contend that wetlands often serve as crucial habitats for all manner of species, particularly migratory birds. Thus, even an ephemeral vernal pool could provide safe harbor in an otherwise arid landscape. Meanwhile, coastal wetlands are considered valuable for flood control, water filtration, and recreation.

Though officials stress that the policy and definition remain in draft form, developers are anxious about changes that could arise if and when a final version is adopted.

"Our principle concern is the potential duplication of federal, state, local regulations," said Mike Winn, president and CEO of the Building Industry Association of California. "It's already a very complicated process and this doesn't seem to be simplifying matters at all.

It contradicts and makes what for decades now has been a painful but at least somewhat

predictable process less predictable."

The board also hoped to bring its definition of wetlands in line with that of the Clean Water Act; however, some say that there are enough discrepancies — such as the occasional exclusion of the vegetation criterion — that permit applicants may end up doing more work.

"We have a really serious concern with the process of having to go through two wetland permitting processes, not just one," said Winn.

"It looks to me like it may be just enough different to make it confusing... and perhaps burdensome," said Elizabeth Lake, partner at the law firm of Holland & Knight.

Despite the trepidation that many developers feel any time the state changes a policy, state officials insist that the new policy might actually ease the burden on developers who apply for permits. Officials say that the new definition will neither increase nor decrease the amount of resources that lie under the state's protection, and they have pledged to make the permitting process more streamlined.

Thus, developers will not necessarily find more lands off-limits, and even if applications are to be denied, they will be denied more quickly than they are under the current system.

"There's going to be no difference between what we presently have jurisdiction over and the condition after the policy," said Oreme.

"What you're going to see is that areas that are regulated today are probably very similar to areas that are regulated under this policy," said Stein.

Oreme said that currently each of the state's nine Regional Water Boards follow their own criteria, meaning that any developer who works in more than one region faces different policies.

"I think developers should find a lot of advantages to this policy," said Oreme. "This policy will establish a set of criteria that will be uniform across all water boards."

Although the Supreme Court took many wetlands out of federal jurisdiction under Section 404 of the Clean Water Act, many wetlands areas remain federally protected. The Water Board has made efforts to ensure that its new definition matches up with that used by the Army Corps of Engineers. In cases when the jurisdictions overlap and a developer must submit applications to both a regional water board and to the Corps.

The Corps has therefore been involved with the drafting of the new policy and has pledged

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## >>> Anti-Density Critics Miss Point of SB 375

— CONTINUED FROM PAGE 1

SB 375 is naturally irresistible to Cox, the outspoken libertarian urban scholar who, on a roughly annual basis, announces the results of such-and-such new study or analysis that conclusively proves the evils of smart growth.

What I've finally figured out is that, in his own mind, Cox does not dwell in the outer suburbs of which he is so fond. Rather, he seems to inhabit his own Frontier, an empty, windswept place where no one else will read his thoughts and, therefore, never discover their fallacies. Because if Cox had imagined that anyone would read his work, then he might for a moment have considered that he puts up some pretty big targets. Think Moby Dick in a swimming pool.

In the latest go-round, Cox's logic follows a circuitous path, so it's best to respond roughly in order of the claims that he presents.

**Since 2000 more than 1.6 million people have fled, and my own research as well as that of others points to high housing prices as the principal factor.**

SB 375 and AB 32 did not pass until 2008 and 2006, respectively. In the first half of the 2000s, developers could not build homes fast enough in California. So, yes, it must be the climate change regulations and not the incredible demand for housing that has driven prices up.

**California has declared war on the most popular housing choice, the single family, detached home**

Just as we shouldn't confuse war with non-binding policies to direct regional transportation and land use planning, let's also not confuse most popular with most common. And let's not forget that the single-family home is most common because of the laws, regulations, and public investments that made it most common.

**Metropolitan area governments are adopting plans...**

Here's his first whopper of a falsehood: metropolitan planning agencies are government agencies, but they are not governments. They have no police power and exert influence only to the extent that they control some transportation funding. And much of their policy-making depends on the consensus of their members: typically cities and counties, which are governments. Notably, MPO planners have based SCS's in large part on the general plans of these constituent jurisdictions. (Cox should know that the SCS of the Southern California Association of Governments was adopted on a

unanimous vote; and, no, the suburban representatives were not bound and gagged in a back room.)

**... that would require most new housing to be built at 20 or more to the acre, which is at least five times the traditional quarter acre per house.**

Cox has built a career on an appealing but often useless observation: less dense areas promote efficiency because cars burn relatively less gas when they travel at consistent speeds on uncongested streets. This metric, however, ignores overall fuel consumption that takes place when you have to drive to the next county to buy a quart of milk.

If every urban area in California continued to build at four houses to the acre, the distances from homes to basic amenities would grow ever greater. And you can forget about your commute: unless companies are going to open up branch offices in Tracy and Palmdale, then commutes from Cox's fantasy fringe to established job centers would become farcical.

Big houses and the Frontier mentality are fine if you live and work in Jurupa. Sure, people like big houses. They also like living close to their jobs. Some of them even like living close to other people.

Cox ignores the inherent attributes of places — charm, vibrancy, attractiveness, convenience, accessibility (see London, Paris, Santa Monica, San Francisco... you get the point) — that would make a resident perfectly happy to live in close quarters and assumes that residents base their preferences purely on housing types. In other words, don't hire Cox as your economist, and please don't hire him as your real estate agent.

But what about the inner suburbs? What about Milpitas? Or Covina? Or even Irvine? They can't keep expanding. So if, as Cox's whole premise suggests, population growth is a good thing, then how exactly are they going to grow without becoming more dense?

**State and regional planners also seek to radically restructure urban areas, forcing ...**

SB 375 doesn't force anything on anyone. It provides incentives and a few penalties. No city is going to go out of business if it doesn't comply. Moreover, planners at MPO's have insisted that SCS's will cause anything but "radical" restructuring. Places that are suburban will remain largely suburban. Places that are urban will simply become "more" urban and thus relieve pressure on suburban areas. By

promoting this high-density development, most new development will take place on a relatively small footprint, thus largely preserving Cox's precious status quo.

**...much of the new hyperdensity development...**

"Hyperdensity"? Hyperdensity is Hong Kong. It's Mumbai. It's a Hunger Games screening on opening night. The notion that Cox thinks any place in California could ever be hyperdense is enough to forever disregard him. (Ironically, I don't actually want to disregard him. I like a good contrarian.)

**...into narrowly confined corridors.**

This description implies that California's boulevards will turn into sun-starved canyons, with laundry hanging between tenements. That's hardly the case. But even if it was, Cox willfully ignores the premise behind directing density to "narrow" corridors: it keeps density out of single-family home neighborhoods. What a concept.

**If the planners have their way, 68% of new housing in Southern California by 2035 would be condos and apartment complexes. This contrasts with Census Bureau data showing that single-family, detached homes represented more than 80% of the increase in the region's housing stock between 2000 and 2010.**

On Day One of moral philosophy class, most professors review the naturalistic fallacy, otherwise known as the is-ought fallacy. It means that what "is" is not necessarily what "ought" to be. (For an example, see the American South, ca. 1600 – 1865.) Mr. Cox apparently was absent that day.

**Over the past 40 years, median house prices have doubled relative to household incomes in the Golden State...economic studies...have documented the strong relationship between more intense land-use regulations and exorbitant house prices.**

I'm not going to tangle with Cox over studies. We all know that there's a study for everything. I'll only say that a lot more things were going on in the 1970s than just the introduction of land use regulations. There was also, say, Prop. 13, the oil crisis, the consumption of readily developable land, and disco too.

Since then, California has weathered the flight of the defense industry, the slow decrease in oil production, the scourge of the War on Drugs, the closure of military bases, the evisceration of the public school system, the

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## >>> Wetlands

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its commitment to facilitate an efficient permitting process.

“We will continue to work with the State on its proposed policy to reduce duplication, streamline reviews and make decisions about protecting wetlands that are consistent and reasonable, and plan to submit further comments once the Draft Policy is open to formal public review,” said Michael Jewel, regulatory chief for the U.S. Army Corps of Engineers Sacramento District.

Despite the state’s mandate to incur no net losses, both the Corps’ and the Water Board’s statements of purpose indicate that they are committed to “reasonable economic development.” ■

### ► Contacts & Resources:

State Water Resources Control Board Clean Water Act Section 401 Program  
[http://www.waterboards.ca.gov/water\\_issues/programs/cwa401/wrapp.shtml](http://www.waterboards.ca.gov/water_issues/programs/cwa401/wrapp.shtml)

Colin Kelly, Staff Attorney, Orange County Coastkeeper, 714.850.1965

Elizabeth Lake, Partner, Holland & Knight, 415.743.6969

Bill Oreme, Chief, Wetlands & 401 Unit, State Water Resources Control Board, 916.341.5254

Eric Stein, Biology Department Head, Southern California Coastal Water Research Project, 714.755.3233

Mike Winn, President & CEO, Building Industry Association of California, 916.443.7933

## >>> Calif. at Peace with SB 375

– CONTINUED FROM PAGE 10

near-lifetime incarceration of nonviolent felons, and the rise of the Kardashians (who, not coincidentally, live in Calabasas). I have no idea what this has to do with home prices, but my point is that California is a slightly more complicated place than Cox makes it out to be.

**A 2007 report by McKinsey...recommended cost-effective strategies such as improved vehicle economy, improving the carbon efficiency of residential and commercial buildings, upgrading coal-fired electricity plants, and converting more electricity production to natural gas.**

The California Legislature recommended the same thing. It’s called AB 32.

**It is better to raise children with backyards than on condominium balconies.**

In a universe full of empty assertions based on nothing but aesthetic biases, rarely does logic flee from opinion with quite such haste as it does from this one.

In point of fact, only an illiterate boor would categorically privilege the suburbs over all else. Cox needs look only to Betty Friedan (or Betty Draper, for that matter) to consider that maybe life holds more than meatloafs, soap operas, and chain restaurants.

Plenty of young parents would be perfectly happy to live in nice, well located multifamily dwellings rather than in poorly constructed stucco boxes in the high desert. If only there were more such dwellings to go around. However, if Cox thinks that the outer suburbs are so darned attractive, then he can get bargains on just about as many homes in Riverside, Stockton, and Merced as he wants. Everyone else who can afford to buy is buying elsewhere, or so just about all the demographic analyses suggest.

**A less affordable California, with less at-**

**tractive housing, could disadvantage the state as much as its already destructive policies toward business.**

Here, Cox conflates the form of housing with the supply of housing. Sustainable Communities Strategies explicitly account for projected population growth. Though Cox may not like them, all the odious little apartments in those regional plans are meant to house exactly the number of people by which each respective region is projected to grow. If Cox thinks all 10-plus million of those new residents should live in detached homes, then I’d like to see what sort of plans he has in mind.

### Conclusion

To Cox’s credit, he never denigrates the mission of reducing emissions and greenhouse gases. At least he shares that goal with the fact-believing community. I wish, though, that he had more to offer. Surely SB 375 and its SCS’s have their flaws. But if California is going to absorb millions of new residents, reduce pollution and greenhouse gas emissions, and be anything less than a snarled hellhole a generation from now, then it needs to do something. For now, SB 375 is that something, and spreading misconceptions and half-truths about it will not help.

Cox would like to believe that war is coming. It’s not. But summer is coming, and it’s going to be a long, hot one if California – and the rest of the world – does not get its house in order. ■

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# APA Seeks to Rejuvenate Planning Profession at National Conference in Los Angeles

BY JOSH STEPHENS

**THE LAST TIME** the American Planning Association held its national conference in Los Angeles, the Lakers were playing in Inglewood, the only trains to serve Union Station were Amtrak, and the only people who spent the night downtown were homeless or business travelers. Today, attendees of the 2012 APA National Conference – to be held at the Los Angeles Convention Center April 14-17 – will find everything from light rail to lofts to Staples Center. A lot has changed in Los Angeles since 1986. Likewise, a lot has changed in the planning profession – and if this month's conference goes off as organizers hope, there are more changes yet to come.

Under the theme, "ReImagine," conference organizers hope to introduce planners to the contemporary Los Angeles, with a host of tours and California-specific sessions, among 200 total sessions. **CP&DR** spoke with APA President Mitchell Silver, planning director for the city of Raleigh, NC, and local conference chair Marissa Aho, a planner with Rosenheim & Associates, about the upcoming conference, its relationship with California, and what it portends for the planning profession.

**CP&DR:** What sort of attendance are you expecting for the APA conference?

**MARISSA AHO:** We expect approximately 5,000 people from around the world. Many California APA members will be in attendance and more than half of the 1,200 APA members in Los Angeles will be participating.

**CP&DR:** What are the main themes of the conference?

**MITCHELL SILVER:** We're naming it "Reinvent, Reinvigorate, ReImagine": Reimagine the City, Reimagine Your Career, Reimagine the Possibilities. The purpose is to get planners to see their value and what they offer to communities, this country, and the world in a whole new way. It's a very different conference than past conferences. It's going to be a big celebration of planning.

**CP&DR:** What unique tracks are going to be featured in the program?

**MS:** First, we have this overall strategic plan, which challenges planners to "Lead, Inspire, Innovate. We believe that now, after 100 years of the planning profession, is the time to prepare planners for what we see as the next big movement in the planning profession. The need for this new direction is due to demographic change and the new economy. We want to challenge planners to step up and be leaders and prepare for this new planning movement that is underway.

Second, a track will focus on communication. We want to challenge planners to step up and be leaders and prepare for their communities for the emerging issues in the 21st century. To lead, planners must be effective communicators as they work with their communities to understand and plan for the future.

Third, we have a whole track on "Changing Faces of America." Believe it or not, there are still some planners who do not recognize the enormous change we're seeing in our country, from the graying of America to the browning of America. It's more pronounced in different regions of the country than in others.

Fourth, sustainable places was a huge initiative by the APA, so this is our way to recast the comprehensive plan based on green principles.

**CP&DR:** Do you think most planners are going to embrace these messages? Will some find it unfamiliar, or challenging?

**MS:** Certainly some are going to find it unfamiliar. There are a lot of planners across the country who are – I won't say "stuck," because it's not their own doing – working as planning and zoning administrators. For some, either their local government won't allow them to think big, but it will be new to some.

I travel around the country and challenge planners: "What are the trends? What's going to happen 5, 10, 20 years ahead? Are you preparing your community for those changes?" Most haven't even thought about it. For some this will come as a complete surprise because they're dealing with current planning and day-to-day administration of planning and zoning.

**CP&DR:** Are there any connections between these themes and the location of Los Angeles this year?

**MS:** There's no question that LA had a reputation of being a sprawl city. But LA is doing a lot of wonderful things to emerge as a 21st century city. We hadn't been to LA for very long time. So "reimagine" also fits into LA. We want to take full advantage of these transformative changes that have been undertaken in LA and the surrounding region.

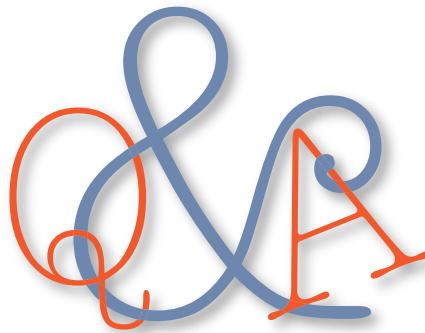
**MA:** When the Local Host Committee started planning for the conference, our goal was to show Los Angeles off to the nation. The last time the National Planning conference was in LA was 1986. Los Angeles is very different than the planning community experienced in 1986 and there is a lot to show off. The Local Host Committee track will feature sessions on the social strip and how the Sunset Strip has rebooted its image using a BID and social media, the 20th Anniversary of the LA Riots, and how Survey LA is integrating historic preservation into local planning. The Planners Guide features the different neighborhoods in Downtown LA and the places that people are able to easily walk to from the Convention Center and conference hotels.

**CP&DR:** What can planners learn from California?

**MA:** They can learn from our diversity and we can show people who think of Los Angeles as "suburbs in search of a city" that there are 88 independent cities and many more neighborhoods throughout Los Angeles. I would encourage planners from smaller municipalities to explore the neighborhoods in Los Angeles. For instance, South Pasadena's Mission Street Gold Line station. Breaking down LA into neighborhoods may be the best way for planners from smaller towns to learn from Los Angeles.

I think that we're going to show people not only what they may expect, be it SB 375 or any of the green building principles and so on. I think that that's something that people look to California to model. There are also more unexpected things that people may be interested in, such as the food truck phenomenon. Food trucks are now all over the country, but they more or less started here and the policies and

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WITH **MITCHELL SILVER  
& MARISSA AHO**



Mitchell Silver,  
APA president  
and planning  
director for  
the city of  
Raleigh, NC

# Going Solo: The Extraordinary Rise and Surprising Appeal of Living Alone

BY JOSH STEPHENS

CHANCES ARE the typical high-level urban planner, someone who has been through graduate school, secured a good job, and put in the years to rise to a position of authority, lives what might be considered a conventional lifestyle. He or she is probably married, probably has a house, and probably lives among the same.

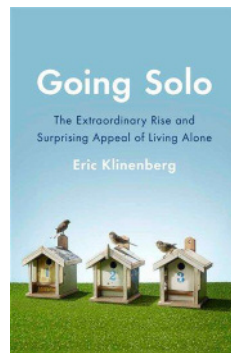
There's nothing wrong with that lifestyle, of course. Many American cities and suburbs have been built to its exact specifications. But, needless to say, the conventions of the past are not necessarily those of the future. And yet there is always the subtle danger that planners plan according to what they know. For them, Eric Klinenberg's *Going Solo: The Extraordinary Rise and Surprising Appeal of Living Alone* offers a potentially instructive glimpse into how the other half lives: some out of preference, others out of desperation.

While the recession has forced many young adults back into their parents' basements and guest rooms, a far larger segment of the population is now living blissfully alone. With robust incomes and social fabrics woven through the Internet, they rent one-bedroom apartments, buy condominiums by themselves, and hang out in bars, coffee houses, and all other manner of third spaces. They are unmarried but not necessarily young, and, as Klinenberg emphasizes, they are alone but by no means lonely.

Not surprisingly, few of these "singletons" live behind picket fences or shop at Walmart. Rather, they are predominantly an urban species, living in close proximity to work, friends, and amenities that, according to Klinenberg, can make solo living a more preferable to, say, marriage and child-rearing. Naturally, they seek certain things in their cities that mom, dad, and 2.5 kids do not. We're talking about high-density housing, cafes, bars, coffee places, and even bowling alleys, where they will not bowl alone but rather will meet their friends and enjoy the solitary life together. It's as if Ross, Joey, and Chandler all moved into their own places across the hall from Carrie, Samantha, and Charlotte.

As his bowling references suggest, Klinenberg, a professor of sociology at NYU, takes direct aim at scholars such as Robert Putnam, whose 2001 *Bowling Alone* decried

the unraveling of civic life in America. Indeed, in the late 1990s that trend was in full force, but since then it has reversed, thanks in part to the Internet. In 1950, 22 percent of adults were single and accounted for 9 percent of households. Now, more than 50 percent are single and 31 million – 15 percent – live alone. A full one-third of people 65 years and older live alone.



## ***Going Solo: The Extraordinary Rise and Surprising Appeal of Living Alone***

**By Eric Klinenberg  
The Penguin Press  
\$27.95 hardcover**

Planning has always been tied to demographics, though the planning trends often lag behind demographic trends. The implications of singleton culture for planning are, naturally, vast, and even obvious. It's not hard to imagine that a great many of these people wouldn't mind if every city looked like San Francisco or Greenwich Village.

Indeed, singletons have to live in cities: their lives take place in public, not around the dinner table or the living room television. A singleton's salary could buy any one of the thousands of idle tract homes in Riverside or Las Vegas, and still they fight each other for apartments in Hollywood and North Beach.

Unfortunately, Klinenberg relies on an overabundance of human interest stories to make points that are largely obvious. Goodness knows, most policy-related publications can use more color, but Klinenberg takes it to an extreme, with a parade of vignettes about

singletons in varying states of domestic bliss (or misery, as the case may be). He gives us stories about divorcees and loners and characters who sound like they're auditioning for *Sex in the City*. There are anecdotes about misadventures in cooking, cats, and there is Helen who proclaims, "marriage is [f'ing] boring." We meet Charlotte, "who at fifty-two carries her big-boned body with grace and confidence." We face learn the axiom that nothing more lonely than being with the wrong person

We even meet Sasha Cagen, the founder of the "Quirkyalone" subculture, a label that conjures an image of Zoey Deschanel making paper-chain men at her kitchen table with *Yo La Tengo* playing at moderate volume. According to Cagen, whom Klinenberg describes as "charismatic," "when one Quirkyalone finds another, oohh la la. The earth quakes." If planners ever find out what "oh la la" entails, then there's probably a whole other set of public policies that they should consider.

Some of those stories, of course, are heart-breaking. Forget about the wine bars: some of the people who live alone in the big city are truly alone. Klinenberg describes the process of locating next-of-kin of a loner who passes away. Investigators find a single postcard, dated a decade earlier, from what appears to be a distant relative. When the relative is tracked down, she barely recognizes the name of the deceased.

Klinenberg also checks into the unsettling world of single-room occupancy hotels, which he describes as crucial havens for (mainly) men who are crippled by poverty, crime records, and substance abuse and have nowhere else to go. Ironically, in many cities these very same hotels are being demolished or converted to make way for lofts. And he describes the elderly, many of whom have lost spouses and friends, and are no longer connected to their kids. They survive on lifelines like Meals on Wheels.

Meanwhile, singletons come and go; they are a huge constituency, but rarely do individual members invest themselves deeply enough in local politics to actually amount to an interest group. Finally, singletons on the fringe – the ex-cons and drug addicts in

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## >>> APA Conference to Offer Resources for Job-Seekers

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questions about land use versus mobile uses are still being discussed here. We have a mobile workshop on food trucks so people can go into neighborhoods and see them in action.

**CP&DR:** How might this conference aid those planners who are concerned about the economy and the job market?

**MA:** The APA Los Angeles Section held a program last month on the book APA is releasing as part of the 2012 National Planning Conference, *Planning in Los Angeles* edited by David Sloane. Participants at the end of the presentation, by Anastasia Loukaitous-Sideris and Sam Gennaway, who both have essays in the book, were discussing how the presentation reminded them of why they got into planning and how much fun planning school was. And how, despite challenging times, exciting planning can be.

This enthusiasm was because of one presentation. So, to have four days where the world is looking at *Planning in Los Angeles*; despite redevelopment, despite other challenges, I am hoping that it will turn into a celebration. It is an opportunity to be cheerleaders of our profession and celebrate what we have accomplished and what we can accomplish when we keep working together. ■

*These interviews have been edited and condensed. Interviews were conducted separately and combined.*

**2012 American Planning Association  
National Conference  
Los Angeles Convention Center  
Saturday-Wednesday  
April 14-17, 2012  
<http://www.planning.org/conference>**

## >>> Book Review cont.

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SROs, and the lonely seniors, are not particularly likely to speak up at their next city council meeting or to attend a fundraiser for the next mayoral candidate. They may appreciate the privacy of the voting booth, but civic life is, by definition, a public affair.

For a moment, Klinenberg brushes against what would have been his own strongest point: singletons are not merely prevalent; they are also, ironically, politically marginalized. Cities have long been dominated by the passions of parents, who lobby for good schools, safe neighborhoods, and the eradication of exactly the sort of vice that many young singles enjoy (and enjoy responsibility). Moreover, homeowners exert far greater political force than renters do. They have a tremendous financial stake in the fate of their cities, and they tend to stick around for decades.

Klinenberg diagnoses the problem that “greater representation in politics....(doesn’t) come easily for any group of people, and particularly not for one that’s as heterogeneous as singles.” Dispiritingly, he concludes that “it’s not yet clear whether it’s possible to form a collective identity based on being a singleton.”

In his final chapter, Klinenberg leapfrogs over the question of public participation and discuss ways that public policy might accommodate singles if they were to form a bloc of

their own. He notes that humans have been living collectively for some 20,000 years but singly only for a few decades. In broad strokes, he recommends that “we could, for instance, begin thinking about how to redesign our metropolitan areas so they better meet the needs of the people who live and work in them.” Instead, we are at least a generation too late. With the trend already in full swing, “we’ve failed to redesign cities and suburbs to meet the needs of singleton society,” he writes.

Klinenberg points out public subsidies of both housing and public transportation overseas that make cities like London, Stockholm, and Tokyo so appealing to singles — and, not incidentally, such economic powerhouses. Stockholm emerges as Klinenberg’s favorite city, which has a long tradition of quasi-communal living and all sorts of policies to support it. (It’s no wonder that Sweden gave rise to Ikea.) His point, of course, is that in Europe, policies have promoted urban living just as in the United States they have promoted the suburbs.

As it happens, American cities are, finally, getting more Swedish. Greater density, mixed use buildings, public transit and the other hallmarks of smart growth seem to uphold the singleton lifestyle nicely. “Oohh la la,” indeed. ■

## inbrief

— CONTINUED FROM PAGE 4

According to the report, the Shasta Dam could be raised by a maximum of 18.5 feet, increasing storage capacity by 14 percent. The \$1.07 billion project faces pushback from the Winnemem band of Wintu Indians, who have expressed concerns over the flooding of cultural and religious sites near the lake.

**ANSHUTZ ENTERTAINMENT GROUP (AEG)** has released a traffic mitigation plan for the 73,000-seat football stadium it plans to build in downtown Los Angeles. As part of its plan, the developer has committed \$2.5 million to study the effects of adding a lane to a one-mile stretch of the 101 Hollywood Freeway from downtown to Glendale Boulevard; AEG is also looking to widen the westbound 10 Freeway ramp at Los Angeles Street. In order to stay in line with a 2011 requirement for the field to be a “green” stadium (meaning the facility must draw fewer car trips than other NFL venues), AEG has determined that approximately 23% of game attendees would use public transit. In an effort to meet this estimate, the developer has asked Metropolitan Transportation Authority and Metrolink to increase rail cars on nearby lines on game days. AEG will add 250 bicycle stalls to the stadium’s parking areas. ■

*Compiled by Erin Brodwin and Connie Phu*

## Apps for the Highly Effective Planner

ACCORDING TO RANDALL ARENDT, a renowned planner and Fellow of the Royal Institute of Town Planners, the effective planner must have four basic skills: observing, recording, communicating, and self-educating. Given the essential nature of urban planning, it's assumed that most of these skills play out in the real world: streets, buildings, parks, and the like. Unfortunately, many planning jobs keep planners cooped up in offices staring at desktop monitors. Smartphones, however, can reverse this trend, allowing planners to do much of the work they do on computer – researching, analyzing data, and even sketching – in the field, where, ideally, they ought to be.

While even planners can get distracted by Angry Birds and Pandora, we can now choose from a host of mainstream and industry-specific apps that can help uphold Arendt's time-honored principles. For example, on the job with Los Angeles County Parks & Recreation, I can use mapping and data analysis apps to evaluate and determine the suitability of potential new sites for parks while out in the field. Smartphones and apps also come in handy in meetings when I need to quickly research and answer questions about our parks, such as how many residents are within a half-mile of a certain park or which schools are within walking distance of the park.

For planners who haven't yet spent much time in the App Store, here are a few of the most useful apps, many of which are smartphone versions of software and websites with which many planners are already familiar.

### ARCGIS

<http://itunes.apple.com/us/app/arcgis/id379687930?mt=8>

While it is not possible to do full blown GIS work on a smartphone, this app allows you to: find and share maps from ArcGIS Online (ESRI's online GIS); use tools to search, identify, measure, and query; and collect, edit, and update GIS features and attributes.

### BUSINESS ANALYST ONLINE (BAO)

<http://itunes.apple.com/us/app/bao/id380484178?mt=8>

BAO allows you to get key demographic and market data about any location in the U.S. It is a great tool for planners who need to evaluate an area on-site. Users can get up-to-date facts about the people at a location, e.g. age, income, education, home ownership, lifestyle, spending habits; compare one address against another or against the county, state or U.S.; and share facts about a location with others. Additional features are available for subscribers.

### CYBURBIA

<http://itunes.apple.com/us/app/cyurbia/id446645799?mt=8>

Cyurbia is the internet's oldest social networking site for urban planners and others interested in shaping the built environment. The Cyurbia

Forums message board allows you to discuss and possibly find solutions to the issues facing your communities, share your knowledge, and enjoy conversation and camaraderie with other planners, architects, students, and other like-minded people.

### GOOGLE EARTH

<http://itunes.apple.com/us/app/google-earth/id293622097?mt=8>

Everyone should be familiar with Google Earth by now. This app offers the same global satellite and aerial imagery available on the desktop version of Google Earth, including high-resolution imagery for over half of the world's population and a third of the world's land mass.

### PLANETIZEN

<http://itunes.apple.com/us/app/planetizen/id328082077?mt=8>

Planetizen is intended to be a one-stop source for urban planning news, commentary, interviews, event coverage, book reviews, announcements, jobs, consultant listings, and training. This free app allows you to browse Planetizen's daily news summaries, job listings, feature stories, and blog. (Disclosure: Planetizen's parent company manages CP&DR's website.)

### PLANETIZEN COURSES

<http://itunes.apple.com/us/app/planetizen-courses/id483028462?mt=8>

Planetizen Courses provide online video courses related to the field of urban planning. With this app, you can learn tools like mapping, Photoshop, and SketchUp, and about topics like pedestrian planning and planning ethics. This app enables you to view sample chapters (usually the introduction) of urban planning courses available. Full courses can be viewed in the app when you subscribe on the Planetizen Courses website.

### SIM CITY DELUXE

<http://itunes.apple.com/us/app/simcity-deluxe/id380017992?mt=8>

The idea of building a city from scratch is exciting, especially when compared to the incremental, piecemeal approach to planning most of us have grown accustomed to. With this app, you can build your dream city, test your ability to handle multifaceted scenarios, and guide your city through seasonal catastrophes. It just may sustain your passion in planning and may even help you gain some useful insights for real life city planning.

All of these apps are available on Apple's App Store and most can be found on Google's Android Market. Unfortunately, there are no CEQA or post-redevelopment apps yet. But one can always check out CP&DR's website on a smartphone for the latest news coverage on both topics.



## Feds Quash Dreams of Amsterdam-by-the-Bay

**NEARLY TWO YEARS AGO**, I wrote an article that pondered the effects of legalized marijuana on California's cities. The options, for those cities that didn't forbid cannabis entirely, seemed to range from stoner wastelands to magical communities of mellowness.

Back then, the state was on the verge of transcending the medical marijuana movement and in fact legalizing recreational use for all adults. Oakland's Oaksterdam "University" – which teaches about the cultivation and sale of cannabis – and its proprietor Richard Lee were at the center of this movement, claiming that legalized marijuana would be good for everyone: good for patients who needed relief, good for adults who needed the occasional mental vacation, and – not insignificantly – good for taxing entities that could finally cash in on an enormous, but previously untaxed, portion of California's economy.

My article traced, in part, the potential effect that legalization would have on the urban environment. If you've been to the real Amsterdam, you know that coffee shops figure prominently in the streetscapes of some neighborhoods, to the delight of tourists. Though I am personally ambivalent about marijuana, I figured that enterprising cities might attempt to replicate Amsterdam's success (minus the canals and Rembrants), and Oakland seemed like the leading contender (with Eureka not far behind). This week, the federal government – with apparently no backing or cooperation from local officials – lodged its objection to this notion.

Agents of the DEA, IRS, and federal marshalls raided Richard Lee's home Monday, with the intent of shutting down his legally operating business. Reports indicate that "dozens" of agents took part in the raid and used such devices as battering rams and power tools to breach Lee's defenses. Lee is a wheelchair-bound paraplegic; he uses marijuana to control his pain. Now his institution seems all but defunct. At nearly the same moment that the feds was busying itself with weed – and a 10-minute drive away – seven people at another institution of learning, Oikos University, lost their lives at the hands of a disturbed, but apparently stone-cold sober, criminal.

When I wrote on the legalization two years ago, I spoke with Rebecca Kaplan, the Oakland City Council member who has long championed the legalization, regulation, and taxation of marijuana. She spoke of the value of legal cannabis in no uncertain terms. Oakland has already cashed in, levying a significant city tax on what has been, in large part, a peaceful economic activity. And, by some accounts, the city has benefited. Oaksterdam has already become something of a neighborhood hub, in an area between downtown Oakland and Lake Merritt.

I'm not going to posit whether or not this is a good thing – that should be up to the people of Oakland – but I will point out that the forces of urban development often work in strange, unpredictable, and fascinating ways. Great cities are great in part because they house diverse peoples. They allow like-minded groups to congregate and create communities, often for everyone's benefit. So far, I haven't heard any reports indicating that Oakland is any worse off.

The forces that bring people together and subsequently shape neighborhoods are economic, cultural, and ethnic. But they can also be legal. Certain laws, some with no particular mind to land use, have profound impacts on the urban environment. In California's case, the legalization of cannabis allows cannabis enthusiasts to congregate. They can share ideas and gain a sense of dignity that many of them – especially those for whom marijuana is truly medically necessary – may not have experi-



Oaksterdam University's website at [oaksterdamuniversity.com](http://oaksterdamuniversity.com) (above) features a link at the top to [oaksterdamraid.com](http://oaksterdamraid.com) (bottom), a site detailing the organization's ongoing battle with the federal government.

enced heretofore. If this openness gives rise to coffee shops, cafes, and even "universities" where well meaning patients and users can cease to be marginalized, so be it.

In a city that has suffered riots, racial strife, chronic unemployment, and all manner of derision (cf. Gertrude Stein), it's hard to say that Lee, Kaplan, and law-abiding cannabis enthusiasts don't know what they're doing.

We can be fairly certain that Oikos shooter One L. Goh was not in his right mind. Whether the DEA was, and whether Oakland will be better for it... that's probably an open question.

– JOSH STEPHENS | APRIL 5, 2012

## Parsing California's Density Bombshell in 2010 Census Data

**YOU KNOW WHEN YOU'RE DRIVING EAST** on Interstate 10, past downtown Los Angeles, and all you can see ahead of you is the jumbled horizon of rooftops, trees, and overpasses? That is, according to the latest Census figures, the true face of density. Don't let any skyscraper-dwelling, subway riding Chicagoan, New Yorker, or Philadelphian say anything different.

Today the US Census released a slew of city-related data from the 2010 Census, and it includes some figures about California that will be startling to anyone who hasn't been paying attention for the past few decades. It reveals that, contrary to 20th century images of shuffling hoards that populate eastern cities, the West now has by far the most dense urban areas in the country. Nine of the top ten densest urban regions are in the west, and the top four are all in California:

- Los Angeles-Long Beach-Anaheim ("about 7,000" people per square mile).
- San Francisco-Oakland (6,266)
- San Jose. (5,820)
- Delano, Calif. (5,483)

New York-Newark comes in at is fifth, with 5,319 people per square mile.

Setting aside Delano's unexpected star turn, none of this should come as a surprise to planners in California (which also happens to be the "most urban" state, with 95% urban residency). Density is what happens when you build freeways all over the place and everyone gets to live all over the place. For all the objective connotations of these figures, there's no doubt that there's plenty of room for interpretation, which can have deep implications for public policy.

### MEASURES OF DENSITY

Seven-thousand people per square mile. Does that mean that I'm sharing my particular square mile with 6,999 other people? Of course not. These Census numbers, like almost all statistics, are crude, insofar as they refer to entire urban areas. Moreover, measure of density depends on where demographers draw the line around the "urbanized area." For instance, Manhattan tops out at an astounding 560 residents per acre. San Francisco's central city comes in second place nationally, with 260 per acre. Los Angeles' center city density is 70 per acre. Meanwhile, though Chicago's residential densities are similar to those of Los Angeles, its central city has 2,200 jobs per acre, compared to L.A.'s 1,200. The moral of the story: the Los Angeles region's density is high on average but evenly spread. New York, Chicago, and the Bay Area have much greater densities in their central places, but then they peter out into more bucolic places like New Canaan, Buffalo Grove, and San Rafael.

### SPRAWL VS. DENSITY

This is one of the bigger non-debates in urban planning. It was stoked a few years ago by Robert Bruggmann in his book *Sprawl: A Compact History*. In short, he argued that the definition of sprawl – i.e. his definition of sprawl – precluded density. This definition implies that sprawl exists only where development has used greenfield land inefficiently, to create spread out houses on the urban fringe. But Bruggmann was disingenuous. Density is a demographic measurement. Sprawl refers to the form of land use. That's why CP&DR publisher Bill Fulton has long referred to the Los Angeles area as "dense sprawl," because the built up area

spreads out to the horizon despite the fact that it is dense. After Southern California's initial phases of leapfrog development, cities filled in the empty spaces, resulting in a density gradient that is remarkably uniform throughout the region.

Interestingly, this pattern continues in the developing world. A recent study sponsored by the Lincoln Institute for Land Policy found that cities in Latin America are growing larger not by consuming more land on the urban fringes, but rather by filling in undeveloped patches. This pattern means that urban land cover is increasing at surprisingly high rates, because the consumption of infill land is, according to the authors, harder to perceive than is the consumption of urban land. In the Los Angeles area, "dense sprawl" means that residents are living at high densities and yet are spread over a wide geographic area and often in places that don't offer convenient local services. The result: traffic.

### CROWDING VS. DENSITY

In the popular imagination, I gather that there is little distinction between crowds and density. But the two could not be more different. Los Angeles seems like it's not dense because it has few crowds - no Times Square or Michigan Avenue (and no Union Square or Delores Park, for that matter). We rarely experience what P.J. O'Rourke refers to as the "jostle and squash" of urban life (he was talking about the grandstand at the Kentucky Derby, but same difference). So Los Angeles doesn't feel dense because it's not crowded. Until, that is, you enter the Santa Monica Freeway at 5pm.

### THE CULTURE OF DENSITY

The more I visit other cities and the more we discuss the Red State/Blue State divide (which you can extrapolate to Red/Blue counties and even Red/Blue neighborhoods), the more I believe that urban life depends as much on attitude as on demographics or even urban form. Los Angeles has a long history of pretending not to be dense - because for a while, it wasn't.

But even though apartments have replaced single-family homes and we've now hit 7,000 people per square mile, I've always felt a palpable longing among many L.A. residents for the old days of privacy and disconnection. You see it when homeowners protest against apartment developments and when they rail against anything that would bring more cars to a given neighborhood. L.A. does not have a tradition of strolling about or spending afternoons in the park. We look at fellow Angelenos with suspicion, as if each one of them is a competitor for the last open parking space on earth. By contrast, a city like Portland, Oregon, embraces walking, biking, and riding public transit even though the urban area is not nearly as large or dense as those in California. That's a cultural choice that Portlanders have made. Meanwhile, down south, the backyard, the fence, and the swimming pool dominate the city's mentality, no matter how many thousands of neighbors you have.

### DENSITY AND URBAN FORM

Generally, progressive planners and smart growth advocates seem to like density. In its crudest form, greater degrees of density probably can lead to more functional, pleasant cities. But it's not the numbers that matter. The L.A. area could have a density of 7,000, 14,000, or 1,000. As I

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## Density Bombshell cont.

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told the *L.A. Daily News*'s Dakota Smith for her article on this very subject, what matters is how a city carries its density.

Some dense cities (NYC, San Francisco) have great transit and appealing streets. For instance, according to the University of California Transportation Center, the combined percentages of commuters who walk or use public transit in New York is 36%. In SF-Oakland, it's 20% and in Washington, DC, it's 18%. Los Angeles? 8%. Meanwhile, some sparsely settled cities (Salt Lake, Phoenix) have wide, fast boulevards that, if not pleasant, at least make them easy to get around. Then there's Los Angeles, which offers the worst of both worlds: it's too dense for traffic to flow, but not quite dense enough – and not designed well enough – to foster the street life that makes other big cities so wonderful.

### THE FUTURE OF DENSITY: SMART GROWTH & SB 375

The relatively uniform density that has arisen in Southern California, thus far, is largely the result of a relatively free market for development and the relative dominance of the automobile. In this land rush, quantity overwhelmed quality, and the result is the land use equivalent of a television tuned to static. It's busy, uniform, and incoherent. More entropic than organized.

For about the past few years, however, planners in California have been trying to figure out what to do with all this density now that we have it. The solution – or so some hope – is Senate Bill 375. While full implementation is still a long way off, the intent of SB 375 is to do exactly what California's major urban regions have not done in the past: it focuses density into places that can best accommodate it. Public transit offers the most obvious accommodations, and SB 375 encourages cities to nudge dense development towards light rail stops, major bus routes, and the like. It also promotes a better mix of residential and commercial, so that one day residents can walk around the corner for that quart of milk rather than drive to the Super Walmart.

If cities implement the tenets of SB 375's Sustainable Communities Strategies – regional plans being drawn up by the metropolitan planning organizations of San Diego, Sacramento, the Bay Area, and Southern California (Los Angeles) – then density may no longer be hidden. It will be plain to see in the streetscapes. And if California residents can accept the fact that we are, indeed, an urban state, maybe, by the time we hit 8,000 per square mile, we'll look like one too.

– JOSH STEPHENS | MARCH 29, 2012 ■

## San Diego To Replace Redevelopment Funds With Fees –But Will Downtown Development Agency Survive?

SAN DIEGO – Seeking to make up for lost redevelopment funds, the City of San Diego has decided to require downtown developers to pay processing fees for the first time in decades. But it remains to be seen who will process the permits and get the money – the city's planning department or the city's nonprofit downtown redevelopment entity, the Centre City Development Corp.

For decades, the CCDC and the Southeastern Economic Development Corp. have performed San Diego's redevelopment functions in the downtown and the southeast area – functions that will wind down now that redevelopment is dead. Uniquely, however, CCDC and SEDC also perform land-use permitting functions in their project areas on behalf of the city.

The San Diego City Council is expected to act on the processing fees in April. CCDC has already approved the fees – assuming the city allows CCDC to continue processing permits downtown.

Speaking at an Urban Land Institute event in San Diego on Tuesday morning, CCDC's board chair, Kim Kilkeny, said his organization can process land-use permits much faster than the planning department – typically in about three months. And even though the downtown fees are much lower than fees elsewhere in town, he said, they would be enough to keep CCDC afloat.

In essence, of course, the cost of processing downtown permits is being shifted from the tax-increment flow to the developers. Jim Oliver

of the Oliver McMillin development company, another ULI panelist, said that would be enough to kill downtown projects, at least for the time being. "If you find a project that works with a nothing land cost, that's a deal you might be able to do," he said.

The CCDC/SEDC setup dates back to Pete Wilson's days as mayor of San Diego in 1970s, when he decided the nonprofit approach would be more effective than a traditional redevelopment agency. For decades, CCDC has been a model for downtown redevelopment entities.

Kilkenny said that without the tax-increment flow, San Diego will have to find another way to finance infrastructure downtown and in outlying neighborhoods. "Up to now, the assumption downtown has been, Densify and build infrastructure with tax increment; while the approach in outlying areas has been, Density and the infrastructure is adequate," he said. "We're going to have to start thinking about an infrastructure bond."

Kilkenny also said that Sen. Darrell Steinberg's "asset bill" – which would allow redevelopment agencies to retain assets and use them as an endowment for future activities – wouldn't help CCDC.

"We were in the business of taking bad property and turning it around," he said. "We owned a lot of bad properties." Sacramento City Manager John Shirey made similar comments at a ULI event in that city last week.

– BILL FULTON | MARCH 21, 2012 ■

