CP&DR

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CALIFORNIA PLANNING & DEVELOPMENT REPORT

State Scrutinizes Successor Agency Payment Requests

BY JOSH STEPHENS

Over the past two weeks, California cities have been learning the fate of countless redevelopment projects – touching everything from graffiti-removal programs to nine-figure transit-oriented developments to billion-dollar stadiums. For many, the news is not good – especially now that the California Department of Finance is weighing in.

April 15 was the deadline for successor agencies to submit Revised Obligation Payment Schedules (ROPS) – essentially lists of projects and assets that they believe should continued to be funded from the Redevelopment Property Tax Trust Fund even while the state appropriates the remainder of agencies' former tax increments. ROPS replace Estimated Obligation Payment Schedules, which have prevailed since redevelopment agencies officially went out of business Feb. 1.

In an effort to harvest as much funding as possible for the state and other taxing agencies – and, therefore, prevent cities from appropriating more than their fair share of trust fund monies – ROPS were to undergo several layers of scrutiny. By April 15 all ROPS were to have been approved by each successor agency's seven-member Oversight Committee, made up of representatives from each respective RDAs' major taxing entities and audited by their respective county auditor-controllers.

The crucial step in the ROPS gauntlet is, however, the review by DOF. AB 1X 26 requires DOF, along with the state controller, to issue the final say on the validity of items on successor agencies' ROPSs. June 1 is the deadline by which all obligations must be approved.

DOF has taken a hard line on redevelopment since February – and, in dealing with the ROPS, has not hesitated to call out items that, in its estimation, runs afoul of the dissolution legislation. And, many local officials say, DOF is taking a very hard line, especially on the asset transfers that

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insight

WILLIAM FULTON

Even with Dissolution Underway, Redevelopment Continues to Evolve

Against all odds, redevelopment isn't quite history yet in California. Some projects continue. Most cities are engaged in a long wind-down process that is consuming considerable time and attention. And the state legislature is considering a variety of options to revive redevelopment, or at least get it back on life support.

The current activity falls into four categories. First, there is the winding down of old redevelopment projects and disentanglement of municipal and RDA resources and staff. Second, there are the looming negotiations between the "successor agencies" (mostly the cities) and the "oversight committees" (controlled by schools and counties) over which projects can continue and how much property tax increment can be devoted to those activities. Third, some cities are attempting to cobble together alternative strategies to promote urban development. And finally, there are the surprisingly active attempts by the legislature to bring redevelopment back in some form.

The wind-down of the old agencies has been painful for cities because redevelopment had become so deeply embedded in the structure and budget of almost every municipality in the state. Although redevelopment agencies were technically separate entities – and, in a few cases such as Los Angeles, operated

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inside

THE BUILDING INDUSTRY ASSOCIATION of Southern California named David W. Shepherd the chief executive officer. Shepherd was the land use planning manager of Orange County where he oversaw development projects and coordinated planning with other jurisdictions. Before that, he served as a consultant for government agencies and was the director of forward planning and government affairs for KB Home's coastal division. He has previously served in various leadership positions for the BIA.

CONTROVERSY IS ARISING from U.S. Representative Elton Gallegly's proposed bill that would expand the Los Padres Conservation and Recreation Act to add 63,500 acres of protected area to the mountains above Santa Barbara. Though the proposal includes adding scenic routes and waterways, it also calls for the opening of roads to motorized vehicles and designating 65,000 acres as special off-road vehicle areas. Gallegly contends that the proposal will preserve all forest activities and allow everyone to have access to the forest, while also saying that compromises were made to keep everyone's interests in mind. Activists in the environmental community are annoyed by these wilderness bills which, they say, seem to have little to do with the environment. They are concerned about the effects of off-roading and motor vehicles in the wilderness. The off-roading community supports the bill.

THE SANTA MONICA PLANNING COMMISSION approved the outline for a novel "Transportation Impact Fee," calling on all new developers to consider their project impacts on traffic in the city. Developers who choose otherwise must pay the transportation impact fee to the city to mitigate the negative transportation impacts of their development. The resolution notes that it is important for new developments to pay for improvements in Santa Monica's transportation network to offset the increased traffic generated by these projects. Mitigation fees collected will go towards increased alternative forms of transportation: public transit, bicycling, ridesharing and walking. Additionally, contributions will go toward developing bike lanes and the future Expo light rail line.

WILDLIFE EXPERTS and solar energy developers are butting heads once again over a large solar energy project in eastern Riverside County. Opponents contend that BrightSource Energy's Rio Mesa Solar Energy Generating Facility's proximity to the Colorado River flyaway poses danger to birds, such as the bald eagle and yellow-billed cuckoo, which could crash into mirrors or be burned by their heat. BrightSource officials noted that the towers they build for the project would be done so in a way to dissipate the mirror's heat, eliminating a concern for the birds, citing a project in Israel that uses the same technology. However, a large concern is still that the birds at risk are listed species. Company officials have been asked to fund more surveys to judge the project's impact, and hope they can reach an agreement.

SAN FRANCISCO'S Transit Sustainability Program (TSP) aims to reform the city's transportation by looking to expand the build-out of transit corridors, bike paths and pedestrian safety measures. The program intends to provide an improved link between land use planning and transportation. Under TSP, the Transportation Sustainability Fee would replace the current Transportation Impact Development Fee which project developers pay to the San Francisco Municipal Transit Authority to mitigate infrastructure costs related to car trips and transit trips created by the new developments. The program is planned for adoption in late 2013.

THE NAPA COUNTY Conservation and Development and Planning Commission still have yet to come to a decision regarding the long-debated Napa Pipe development. The project intends to build a high-density residential neighborhood with open space and many other city amenities, as well as some light industry. The project is located on unincorporated county land approximately three miles south of downtown Napa. While some commissioners view the project as an opportunity that is too good to pass, others see it as sprawl, noting that currently existing cities in the county are where growth should be. The proposal is now headed to the Napa County Board of Supervisors.

VICTORVILLE TRANSPORTATION OFFICIALS are attempting to find funding for a 63-mile freeway that would link Highway 14 in Palmdale to Highway 18 near Lucerne Valley. The six-lane corridor has been proposed since the 1970s to relieve congestion and better the flow of goods via trucking in the region, but the hefty price tag of 6.9 billion dollars is halting progress. The High Desert Corridor hopes to find funding through various public-private partnerships – toll roads, green projects along the highway, or connecting the Victor Valley residents to Los Angeles' Metrolink system by a passenger rail corridor. The project is working on its environmental impact report and plans to release a draft in the Fall, with a final version being released the Spring 2013.

THE ANAHEIM Regional Transportation Intermodal Center (ARTIC), received environmental authorization to proceed from the Federal Transit Authority. The City of Anaheim is working with the Orange County Transportation Authority (OCTA) to plan and construct the state of the art facility that will make travel in the region much easier. The project is still in the planning process, the next major step is finding a general contractor. ARTIC hopes to be up and running by Fall 2014. The center is projected to serve over 10,000 commuters per day.

THE SUNCAL COMPANY has suffered a significant legal blow in its efforts to recover what it claims are lost profits after its deal to redevelop the Alameda Naval Air Station fell apart. SunCal accused the City of Alameda of violating a 2007 agreement that gave the company exclusive rights to discuss the redevelopment. Though it has not yet ruled on whether the City of Alameda breached its contract with SunCal, a District Court Judge ruled that SunCal is not entited to recoup what it claims are $100 million in lost profits. The conflict arose after city voters refused to exempt the project from Alameda's multi-unit housing ban, prompting the City Council to break off relations with developers in July 2010. It has not been ruled whether or not Alameda has violated its contract with SunCal, or whether or not the developers will be able to claim back the $17 million they spent on project planning. Though the former Navy base has great views of San Francisco and the East Bay hills, it is also a toxic Superfund site and is vulnerable to flooding. SunCal is still hoping to eventually develop the land.

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SAN JOSE'S CITY PLANNING COMMISSION came to a unanimous decision approving a $60 million permanent home for the San Jose Earthquakes. Despite the overwhelming support for the stadium, residents who live nearby worry about negative affects on their neighborhood, just west of San Jose Mineta Airport. While they say they are not in opposition, they note they would like more protection. Team owner Lewis Wolff would like to start work on the stadium as early as this summer to open it next year.

OVER 830 MILES OF NEW BIKEWAYS will be added to unincorporated areas of Los Angeles County under the county's Bicycle Master Plan, which was adopted by the Board of Supervisors recently. Some areas where bike lanes will be added include the Santa Monica Mountains, Santa Clarita, and the Antelope Valley. The project cost sits at $331 million and county staff said the majority of funding would come from federal and state sources. Since the plan also replaces an older bike plan from 1975, the county is eligible to apply for federal and state grants to fund project construction.

NEARLY 60 YEARS AFTER the Pacific Electric Railway stopped running trains to Santa Monica, rail has returned to the Westside of Los Angeles with the opening of the $930 million Expo light rail line. Expo Line trains are scheduled to open more lines by mid-summer and in the coming years. The late-April grand came two years behind schedule and cost $290 million more than anticipated. Phase II is under construction and is expected to open in 2015.

THE CITY OF FOLSOM expanded its territory to the El Dorado Hills border late February, adding about six square miles. The expansion is a result of years of work to annex the region south of Highway 50. The land is privately owned and will likely be developed over the coming decades. Plans for the land include leaving 30%, approximately 1000 acres, as open space, and using the rest of the area for parks and schools, residential construction, and commercial, industrial and office space. City officials anticipate the creation of 13,000 jobs, and staff are currently working out the details of infrastructure plans. Jeff Starsky, a Folsom City Council Member said the move brightens the future of the city.

THE RIVERSIDE COUNTY Board of Supervisors has approved Travertine Point, a new city planned for the western shore of the Salton Sea, California's largest lake. Shortly after the project's approval, the Sierra Club and Center for Biological Diversity filed a lawsuit against the county, noting that the 40,000-person community would increase greenhouse gas emissions, degrade the already poor air quality, and threaten the wildlife around the quickly degrading sea. The proposed development still needs approval from Imperial County and the federal government since 1,400 acres would be on tribal land. Riverside County planner Matt Straite said the project has been properly reviewed and addressed environmental concerns. The developers have pledged to make a "significant contribution" to the Salton Sea restoration efforts.

THE ANAHEIM CITY COUNCIL voted, 3-2, against a ballot initiative that would allow the public to decide whether or not to pursue a 158-million tax dollar incentive to build two luxury hotels near Disneyland. Recalling for a ballot measure might subject the city to potential legal challenges and financial liability as the move could be interpreted as an end-run attempt on the referendum process. The project will help bring tax revenue and create jobs, but critics see the incentive as a 'giveaway' and 'illegal gift of public fund.' The two city council members who voted against the incentive thought the public should receive their right to vote on the issue.

THE CITY OF SANTA MONICA was one of three cities – along with Chicago and Purcellville, Virginia – to receive the 2012 Siemens Sustainability Community Award. The three communities were chosen and applauded for their multi-disciplinary approach to sustainability in city planning while positively impacting local businesses and the quality of life for citizens. Santa Monica won the award for setting strategic citywide goals that are reinforced across multiple planning areas, such as resource conservation, economic growth, open space and land use, housing, transportation, civic participation, and human services. Each of these three cities will receive $20,000 worth of trees from the Alliance for Community Trees.

THE CLOVIS CITY COUNCIL approved a plan laying out the future neighborhoods of the city. The map covers 48,000 acres in the city and adjacent regions, and illustrates how the land will be used. Rural residents have expressed concern about shielding their homes from the new housing tracts. The city has supported a 100-foot buffer, but residents would prefer a buffer zone of at least 150-feet. Project costs came in higher than expected, upping the city's contribution from 2.1 million to 3.1 million.

IN AN EFFORT TO STEM the loss of the city's middle class, San Francisco Mayor Ed Lee is now working to address two housing problems at once, boosting the number of middle-income homes, while maintaining efforts to create low-income housing. Proposals with ideas such as subsidies, to achieve housing affordability goals are in the works, but the city is still flushing out a solidified plan. Tommy Avicolli of the Housing Rights Committee in San Francisco noted that the housing crisis in the city affected the working-class and the poor long before the middle-income class, and shows concern in regards to how the city will deal the middle-class before having met the needs of San Francisco's neediest. However, Supervisor Scott Wiener says affordable housing for the middle and the low-incomes are not mutually exclusive, and that attempting to solve the middle-income housing issues will not undermine low-income housing.

THE STATE OF NEVADA has recently reiterated its threat to pull out of Lake Tahoe Compact if the bi-state governing board voting requirements are not loosened to make environmental standards more easily changeable, and therefore allow more accessibility to new development projects. Nevada Senator John Lee sponsored this bill last year, saying the lake's resorts need to be updated to attract tourists. California Senator Darrell Steinberg notes the ultimatum as unnecessary, inflammatory and counter productive and says that he is instead, open to new and creative ways to address Lake Tahoe's challenges.

SAN FRANCISCO'S NEWEST PROPOSAL to encourage bike commuting in the city would allow employees to park their bicycles at work. The legislation under consideration by the Board of Supervisors calls for commercial property owners to offer secure bicycle parking, or allow employees to bring bikes into the workplace. Currently, the city already requires new developments to provide on-site bike storage. 75,000 people ride their bikes daily in San Francisco, this equates to 3.5% of all trips. The city hopes to reach its 20% trips by bike goal by 2020.

THE PLANS FOR SAN FRANCISCO'S Central Subway are finally moving forward after facing criticism during the city's recent mayoral election. The 1.7 mile subway will cost $1.6 billion and connect the Caltrain station to Chinatown. The Municipal Transit Authority was referred for $150 million in federal funds for new rail projects, and the project will likely receive $942 million in a full funding grant agreement. Despite the progress, there are still critics who oppose the subway and hope federal officials will halt the project.

A SETTLEMENT AGREEMENT between South Lake Tahoe and the League to Save Lake Tahoe ended a prolonged legal battle over an update in the city's general plan. The league challenged that the update did not address possible environmental impacts that could be caused by the plan, and also did not propose measures to mitigate these potential damages. Mayor Claire Fortier says the city's plan is one of the most sustainable and greenest in the state, and hopes the settlement will turn over a new leaf for working through both Lake Tahoe's potential and problems. The League's executive director Darcie Goodman-

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Light Rail EIR Correctly Uses Future Baseline Conditions

In direct contrast to opinions recently issued by the Fifth and Sixth Appellate District Courts, the Second Appellate District upholds use of variable baselines in an EIR

BY WILLIAM W. ABBOTT

Observers of the California Environmental Quality Act may find it refreshing when a court lays it on the line. And that is exactly what Division Eight of the Second Appellate District did in addressing CEQA's requirements for baseline selection for projects with future implementation dates. *Neighbors for Smart Rail v. Exposition Metro Line Construction* provides a counterweight to recent decisions from the Fifth and Sixth Appellate Districts, setting a stage for a possible California Supreme Court review.

The case involves an EIR prepared for the second phase of a Los Angeles Metro light rail line extending from downtown Los Angeles to Santa Monica. While the EIR used existing physical conditions in a number of impact discussions, the lead agency used a future scenario to measure the project's impacts on traffic and air quality. The lead agency's rationale was that 2009 population and traffic numbers, as compared to forecasted numbers, were less reliable in assessing impacts for a project with a completion date of 2015, at its earliest.

A group of residents in Cheviot Hills – a relatively upscale neighborhood of single-family homes – filed a CEQA challenge, asserting that the use of a future baseline scenario violated CEQA, pointing to the recent decisions of *Sunnyvale West Neighborhood Association v. City of Sunnyvale* (2010) 190 Cal.App.4th 1351 and *Madera Oversight Coalition, Inc. v. County of Madera* (2011) 199 Cal.App.4th 48.

The appellate court in *Neighbors* critically reviewed not only *Sunnyvale* and *Madera*, but also the California Supreme Court decision in *Communities for a Better Environment v. South Coast Air Quality Management District* (2010) 48 Cal.4th 310, reaching several noteworthy conclusions. First, the CBE court dealt with baseline in a case involving an existing operation, looking at a hypothetical baseline of maximum permitted activity, a baseline which overstated actual current conditions. Second, the *Neighbors* court went on to say that to the extent that *Sunnyvale* and *Madera* stood for the proposition that CEQA precluded the use of a future baseline, "we disagree with those cases." The court went on to uphold the balance of the EIR challenges. However, the court ordered published only that portion of the decision pertaining to the baseline.

Comment:

In taking a different path to the baseline, the *Neighbors* court concurred in a critical point well known to planners: in the right set of circumstances, a CEQA evaluation of a project compared to existing physical conditions will lead to information which is less useful and reliable to the public and the decision-makers. Given that CEQA is intended to foster more informed decision making, rigid adherence to the use of existing physical conditions in every instance may miss the mark in terms generating meaningful analysis. Lead agencies, when following *CBE*, would be well served to the follow the Metro's use of a variable baseline, utilizing existing conditions for many, if not most, of CEQA's impact discussions. ■

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➤ **The Case:**
Neighbors for Smart Rail v. Exposition Metro Line Construction (April 17, 2012, B232655) 2012 Cal.App. LEXIS 434.

The Attorneys:
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Nossaman: Robert D. Thornton, John J. Flynn III, Robert C. Horton, Lauren C. Valk and Lloyd W. Pellman for Defendants and Respondents Exposition Metro Line Construction Authority and Exposition Metro Line Construction Authority Board

Campus Traffic Plan Rankles San Diego Local Officials, Requires New EIR

BY WILLIAM W. ABBOTT

The trials of Sisyphus are apt metaphors for that moment in the California Environmental Quality Act review process wherein parties believe they have reached the summit but in fact discover themselves at the bottom of the hill, only to repeat their past efforts. A recent decision involving a determination of infeasibility by California State University at San Diego, which, after the Supreme Court issued its decision in *City of Marina v. Board of Trustees of California State* (2006) 39 Cal.4th 341, was directed to set aside an earlier environmental impact report and to revise it consistent with *Marina*.

The second time around, the university rejected offsite traffic mitigation on the basis that the legislature refused to appropriate money for that purpose. On the basis that the university was required to adopt all feasible mitigation measures, SDSU's rejection for lack of appropriation was held to be insufficient, thus sending the university back up the CEQA hill again.

The case involves SDSU's adoption of a new master plan, which would provide for significant increase in student enrollment (from 25,000 full time students to 35,000, in addition to related facilities), and as a consequence, increased traffic and student use of transit. Following certification of the revised, post-*Marina* EIR, the City of San Diego, the Redevelopment Agency, and San Diego Metropolitan Transit System all filed petitions for writs of mandate challenging the approvals.

One of the key issues in the litigation was the university's finding of infeasibility as it related to offsite traffic impacts. The findings concluded that certain offsite facilities were the responsibility of the city and as no agreement had been reached with the city, CSU found that there was no certainty of mitigation. The EIR concluded that the impact would be significant and unavoidable. The approval documents also directed the university chancellor to seek additional funding from the state legislature for offsite traffic mitigation. The findings also concluded that as legislative funding was uncertain, that mitigation was not assured and that the impacts would remain significant and unavoidable.

The ensuing litigation centered on the effect and import of the California Supreme Court's decision in *Marina*, which recognized that, in certain circumstances, the ability of a state agency to implement a particular mitigation strategy may be subject to legislative appropriation. Ultimately, the appellate court in this case concluded that the matter of legislative appropriation was not the end of the analysis, as nothing precluded CSU from utilizing non-legislatively appropriated funds to fund the off-site mitigation ("For example, we presume a campus of CSU (e.g., SDSU) may receive revenues or other funds from a myriad of sources (e.g., tuition, student fees, revenue bonds, parking fees, and private donations).

> Thus, it would appear that, for publicly sponsored projects, this case stands to require a near-endless examination of funding options.

Furthermore, in the context of the case, SDSU presumably will receive additional revenues from project-related sources (e.g., rent from Adobe Falls faculty and student housing, revenue from guests of the Alvarado hotel, fees charged to residents of the project's new dormitories and/or other student housing, revenue from the new campus conference center, and revenue from the expanded and renovated student union)."

Thus, it would appear that, for publicly sponsored projects, this case stands to require a near-endless examination of funding options.

The opponents also challenged the alternatives analysis, arguing that the lead agency should have evaluated onsite operational changes which could have reduced or avoided the unmitigated impacts. The appellate court agreed with this argument. It is noteworthy that the appellate court did not find that the range of alternatives studied in the EIR was not a "reasonable range" designed to promote informed decision-making, but the appellate court only concluded that one or more additional onsite alternatives should have been studied.

(Comment: As to this issue, it appears that the appellate court deviated from the accepted standard of review of EIR alternatives. Applying the substantial evidence test, the appellate court did agree that CSU did calculate the amount of the fair fee correctly.)

The appellate court also agreed with the opponents that the EIR included improper deferred traffic mitigation. The text provided, "SDSU shall develop a campus Transportation Demand Management ('TDM') program to be implemented not later than the commencement of the 2012/2013 academic year. The TDM program shall be developed in consultation with [SANDAG] and [MTS] and shall facilitate a balanced approach to mobility, with the ultimate goal of reducing vehicle trips to campus in favor of alternate modes of travel." (Italics in the original.) The appellate court concluded that this language did not rise to the required commitment to mitigate found necessary in cases like *Communities for a Better Environment v. City of Richmond* and *Defend the Bay v. City of Irvine*.

The appellate court also agreed that the EIR failed to evaluate the impact of the project on transit system operations. The system operator submitted comments questioning the ability of the transit system to absorb the future student school trips assumed to be provided by the system without further transit system expansion. The fact that CEQA's Appendix G does not list transit does not mean that transit-related impacts are exempt from CEQA evaluation. The court further reminded lead agencies that the duty to investigate and analyze falls to the lead agency, not to the agency whose service capabilities may be adversely impacted. ■

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

➤ **The Case:**
City of San Diego v. Board of Trustees of the California State University (2011) 201 Cal.App.4th 1134.

Court Upholds Map Act Workaround

Court of appeals affirms the practice of processing sequential boundary line adjustments of the same parcels.

BY WILLIAM W. ABBOTT

Muting one of the more burdensome requirements of the Subdivision Map Act, the First Appellate has ruled in favor of "multiple sequential adjustments" in *Sierra Club v. Napa County Board of Supervisors*.

In 1991, the California Legislature amended the Subdivision Map Act to restrict the use of boundary line adjustments by limiting their use to four or fewer adjacent parcels. While intended to deal with the reconfiguration of large ranches without going through the subdivision process, the 1991 amendment made the process of making minor technical adjustments between contiguous parcels more cumbersome then what was necessary. Local governments and engineers developed different strategies for working around the amendments. One of those was processing multiple sequential adjustments.

Napa County addressed this issue in 2009 when the Board of Supervisors adopted an amendment to its code permitting sequential processing of lot line adjustments where the same parcels were involved, in circumstances in which the prior adjustment was approved and recorded. The County also concluded that such adjustments would be categorically exempt from CEQA.

The Sierra Club filed suit, alleging that this policy was inconsistent with the Subdivision Map Act and a violation of CEQA. As the litigation moved forward, the county agreed to an extension of the time period for the preparation of the administrative record. The county then filed a demurrer, arguing that the petitioner had failed to serve a summons within the 90 days required by the Subdivision Map Act. The trial court rejected the demurrer on the grounds that the county's grant of an extension constituted a general appearance. The trial court then ruled in favor of the county.

The Sierra Club appealed. Addressing first the county's statute of limitations defense, the appellate court affirmed the lower court ruling that the lawsuit was filed in a timely manner, concluding that the general appearance satisfied the service of summons requirement.

Turning to the merits, the appellate court concluded that the multiple sequential processing was not an "end around" of the Map Act. Relying in part on the legislative history, the appellate court, in examining the adopted language, disagreed with the Sierra Club's argument that the legislature intended to ban later adjustments of the same parcels. The appellate court also affirmed the county's conclusion that such adjustments were ministerial, and therefore not subject to CEQA.

Building upon earlier cases, the court concluded that although the county may enjoy some elements of discretion when processing a lot line adjustment, the discretion which could be exercised to shape the proposal was not sufficiently meaningful to justify the application of CEQA. ■

The court concluded that although the county may enjoy some elements of discretion when processing a lot line adjustment, the discretion which could be exercised to shape the proposal was not sufficiently meaningful to justify the application of CEQA.

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➤ **The Case:**
Sierra Club v. Napa County Board of Supervisors (April 20, 2012, A130980) ___Cal.App.4th ___.

The Attorneys:
For the Appellant Sierra Club: Block, DeVincenzi & Zelazny, Kevin P. Block

Counsel for Respondents Napa County: Robert Westmeyer, County Counsel; Laura J. Anderson, Deputy County Counsel; Miller Starr Regalia, Arthur F. Coon

West Hollywood Devises Parking Credits Plan

BY JOSH STEPHENS

When Axl Rose first stepped off the bus, took the stage at the Whisky, and screeched out the opening lines of "Welcome to the Jungle," he probably wasn't thinking about parking. But he might as well have been.

West Hollywood's Sunset Strip – home to music clubs, restaurants, and rock star mayhem – offers a chaotic array of parking options along its winding, two-mile stretch of Sunset Boulevard. Nighttime parking rates often top $20. Similar conditions prevail a half-mile south along Santa Monica Boulevard, where gay nightlife, boutiques, and restaurants attract visitors from all over the Los Angeles area.

Finding places for all of those visitors to park is the goal of an innovative parking scheme that the city adopted last month. While it is not a comprehensive reform, a new "parking credits" program represents an incremental effort to aid both drivers and local businesses – particularly those that are seeking to change the use of their property – by cataloging available parking spaces and allocating them collectively among businesses that occupy 10,000 or fewer square feet.

This means that the city will keep track of the number of available spaces in the area and will issue credits rather than force businesses to identify specific spaces, either onsite or off-site, to fulfill their parking requirements.

The program is a response to a perceived stagnation among local businesses.

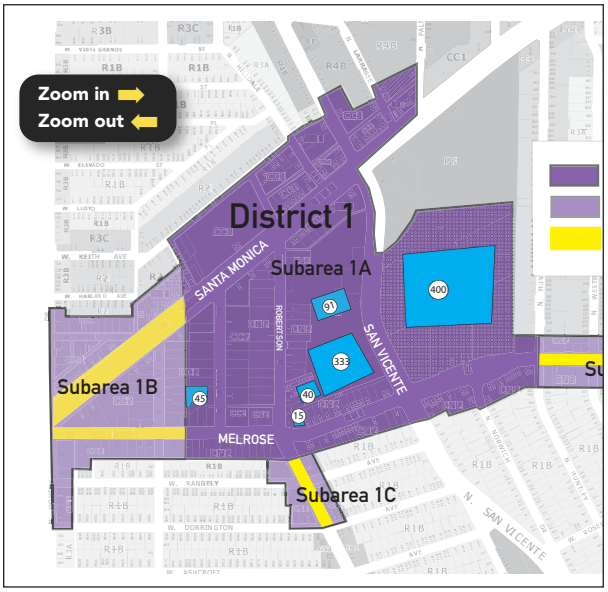
"(The city) realized that Sunset Boulevard, the rock n' roll capital of the world, was filling up with vacancies, and so were the avenues of art and design," said Mott Smith, whose firm Civic Enterprises consulted with West Hollywood. "People couldn't satisfy their parking requirements." Smith previously worked on a similar parking credit program in the Silver Lake section of Los Angeles.

The program will start by allocating only public spaces, but West Hollywood Public Works Director Oscar Delgado said the city intends to include private spaces as well. The first area of the city where the program will go into effect is a triangle encompassing the western end of Santa Monica Boulevard and Melrose Boulevard. Delgado said that the Sunset Strip is the next likely participant.

City officials contend that many parcels had been effectively locked into their uses because of parking requirements. Retail spaces that wanted to convert to restaurants had to find more parking because restaurants have very high parking requirements. Meanwhile, landlords of buildings with restaurants often felt locked in, because to de-intensify – by switching to a non-restaurant tenant – would mean either giving up scarce spaces or hanging on to, and paying for, spaces that they didn't need.

"We're not having everybody be responsible for providing their own parking, especially when we have surplus parking," said Delgado.

Many businesses in the city have gotten used to paying what consultant Mott Smith described as "extortion" prices from places like office garages and car washes that leased surplus spaces so that businesses could fulfill their city-mandated requirements. Scholars such as UCLA's Don Shoup have noted that these requirements are often arbitrary and too crude to create finely detailed places. Currently in West Hollywood, retail requires 3.5 spaces per 1,000 square feet while, at the upper end, nightclubs require 14 spaces per 1,000 square feet.



"People wring their hands about what should the right parking requirements be for particular uses – 'I think mortuaries should be 3.2 spaces per coffin' and so on and so on," said Smith. "And you never get to the right number."

Moreover, in West Hollywood at least, many businesses' patrons never even used the spaces that businesses have been paying for.

"They're paying often $100 per month for fake spaces that nobody ever parks in," said Smith. (That monthly fee is, of course, on top of the rate that patrons pay to park.)

By creating a flexible system that pays attention to the actual number of available spaces and to actual parking patterns, the program is ultimately intended as an economic development tool. City officials hope that it will allow properties to be put to their highest and best use rather than be constrained by the old parking requirements.

The business community has so far welcomed the program.

"We're very excited about it," said Genevieve Morrill, president of the West Hollywood Chamber of Commerce. "It's something that the city has been needing to do for a quite a long time. We're such a dense community, it just makes sense that people may park once."

Delgado and Smith both said that the key to the program is the biannual parking counts that will determine how many spaces are being used at any given time.

"With the parking credits, you're selling how much parking is available versus how many striped spaces there are," said Delgado.

Delgado said that this program will, in the long run, promote a more vibrant, pedestrian-oriented commercial neighborhoods.

"We're promoting 'park once' and walk around," said Delgado.

This program arises at a time when cities across the state have been forced to develop new strategies to promote development and economic development now that their redevelopment agencies have been shut down.

Though not every city attracts rockers, gay club-goers, and art aficionados in quite such high numbers – much less spaces that cost $100 per month – any city with complex parking problems in dense commercial areas could stand to benefit from adopting a similar program.

"Where it's ideal is cities that have a built-in mixed use," said Delgado. "Let's say they have a lot of office space during the day and at night they have vacancies. It allows them to intensify and change their uses during the evening."

The hope, for the city, is that parking credits can make West Hollywood, and others, less like jungles and more like paradise cities. ■

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To Fight Recession, Cities Loosen Rules for Downtown Tenancy

BY JOSH STEPHENS

If urban planners in many California cities had their way, every street-level unit in their downtowns would house restaurants, bars, boutiques, and all sorts of other retail stores, all teeming with life. They might even have a pet store or two. Unfortunately for some cities, "how much is that banker in the window" doesn't have quite the same ring.

But, thanks to zoning changes that some cities are instituting, storefront bankers – not to mention accountants, lawyers, internet, and other office uses startups – may soon feature more prominently in downtown streetscapes.

Several years ago the City of San Jose adopted an ordinance permitting only consumer-oriented businesses in its street-front units. They were to be the bricks-and-mortar establishments to complement Silicon Valley's internet-oriented economy.

But the recession has, needless to say, taken its toll on those businesses, and with the economy so has gone San Jose's downtown plan. The city reports street-level vacancies of around 30%. That means that one out of every three windows in the city's downtown is blank. Not exactly part of the city's recipe for a resurgent downtown.

"We're simply not seeing it at the street level and it creates a greater sense of blight and sense of lack of safety for folks who simply don't see the vitality on the sidewalk," said San Jose City Council Member Sam Liccardo.

Last month Liccardo introduced an ordinance designed, if not to reverse this trend, then at least to take advantage of it by permitting at least some kinds of office-based uses on the ground floor of mixed-use and commercial buildings downtown.

Traditionally, ground-floor office uses were considered an anathema to good mixed-use planning, as they do not enliven the streetscape in the same way as retail. But, as Liccardo said, an office is better than an empty storefront.

"The greatest enemy of urban revitalization is a vacant storefront," said Liccardo. Facing demand from offices, Liccardo said he "came to the realization that if you can be with the one you love, love the one you're with."

Liccardo said that successful retail requires a round-the-clock presence of both residents and workers. San Jose is pursuing a plan to add 10,000 residents to its downtown, but that plan remains in its infancy.

The ordinance does not invite offices to move in en masse. San Jose's includes restrictions: offices cannot fill corner suites; extant tenants cannot be displaced by offices; and the amount of space given to offices will be limited on a per-block basis. Liccardo said that plenty of office-based businesses are eager to fill in some of those gaps.

Importantly, the new policy in San Jose includes a sunset clause. The city council is required to revisit it in one year, at which time it could revert back to the retail-only policy if economic conditions warrant doing so – or if the city council feels that offices have are threatening to take up too much space.

In nearby Redwood City, itself a hearth for Silicon Valley tech businesses, is doing much the same. Its downtown has struggled to realize its downtown plan. But recent demand for office space there has caused the city council to reconsider its restrictions.

Officials in both cities stress that these ordinances are meant as temporary stopgap measures, meant to take advantage of unique economic times. With the tech industry booming, the office market appears to be strengthening while the consumer market remains soft.

Neither, however, wants to sell their cities soul simply to get the lights back on. Laurel Prevetti, San Jose's assistant director of Planning Building and Code Enforcement, said that she is eminently wary of the ways that different kinds of offices present themselves to the street. She cited the co-working office NextSpace as a model for an office that's almost as good as a retail store.

"They did something very different: they essentially opened their windows, used vibrant pink colors, and opened windows," said Prevetti. "It is outward-looking. It is very inviting. That's a great example where office is not a deterrent."

Less appealing scenarios involve closed blinds and the sort of quietude that would cause passers-by to pick up their pace.

"We've had other offices like insurance companies and such where they essentially put their…back office stuff looking out on to the street: computer tables, the backs of desks," said Prevetti. "The worst case is when they completely put up blinds and have no attempt to …do anything that would add to the street life of the city."

Redwood City is looking for the same types of businesses as San Jose is.

"We want transparency," said Redwood City Vice-Mayor Jeff Gee. "We don't want rows and rows of cubes. We want to make sure that the windows and storefronts look alive and are not all black."

Whether or not the cities return to all-retail strategies, the demand that they are seeing may signal a new trend in the way that businesses approach their offices. They may find, in fact, that certain businesses will want to compete with retail establishments even when the rents rise.

Gee said that offices have taken interest in Redwood City because of the downtown's proximity to a Caltrain commuter rail station. The balance among downtown uses may therefore have as much do to with cultural shifts as with economic cycles.

"Today, right now there's a demand for office space from a lot of technology startups," said Gee. "That has been driven, of all things, by the train….the new generation of workers really don't want a car."

Prevetti said that this trend applies not only to youth-oriented internet startups but also to more venerable firms. She cited interest from corporate tenants, such as Oracle software and the accounting and consulting firm PricewaterhouseCoopers, who may be seeking office space that appeals to their new recruits.

"We're finding that as we attract more use and recent graduates from college, they want to be part of an active downtown," said Prevetti. "They want to be able to go out, grab a coffee, come back, have a collaborative space."

For both San Jose and Redwood City, relaxing their downtown regulations represents small steps to combat the recession and institute creative, low-impact economic development strategies. Though neither city is responding directly to the loss of redevelopment, it is on city officials' minds.

"We recognize we're in an era of bold ideas about revitalization," said Liccardo. "Without money to incentivize (development), we need to think about how we provide some relief to restrictions that city government often impose on development."

Before every city trades its dining tables for cubicles, the Silicon Valley officials cautioned that these strategies may not be for everyone, especially in places where office demand is weak or nonexistent.

"A lot of it is pretty fine-grained when you look at downtown revitalization," said Prevetti. "Other cities if they're interested in going down this course to do it very mindfully." ■

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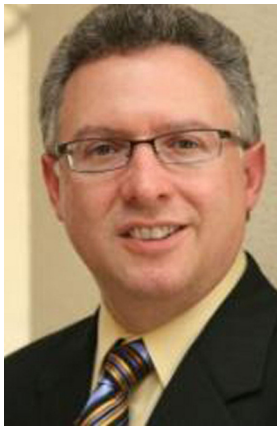
Study Gives Hope for California's Inner Suburbs

BY JOSH STEPHENS

As planners have increasingly embraced the principles of smart growth over the past few years, suburban areas have increasingly borne criticism as examples of how not to plan. This criticism often ignores a crucial point: even if suburbs are imperfect – largely because they promote automobile dependency – they are not necessarily hopeless. A recently completed study led by Prof. Marlon Boarnet of the University of Southern California's Sol Price School of Public Policy (in collaboration with *CP&DR* publisher Bill Fulton), investigates how inner-ring suburbs operate and how they might be improved. Published in *Access Magazine* and the journal *Urban Studies*, "Retrofitting the Suburbs" documents pedestrianism in eight communities in the South Bay area of Los Angeles County, including Inglewood, Hawthorne, Torrance, and Gardena. It finds that even when sexy solutions like light rail are not on the horizon, communities can still take steps to increase walking and make even existing suburbs a little less sprawling. *CP&DR* spoke with Boarnet about his findings.

Q&A WITH PROF. MARLON BOARNET



Prof. Marlon Boarnet, of the University of Southern California's Sol Price School of Public Policy

CP&DR: What are the main findings of this study? What new insights into suburbia did you discover?

MARLON BOARNET: There are three key results:

1. We chose four neighborhood-scale communities that we thought were reflective of auto-oriented developments, with strip commercial on the major arterials. Then we chose four communities that were reflective of more pedestrian-oriented development patterns that typically predate WWII.

The first result that we found was that, as you would expect, in the more pedestrian-oriented, more centered neighborhoods, there was more walking and less driving than in the auto-oriented neighborhoods. All these neighborhoods are in what one would consider highly auto-dependent, suburban communities.

The magnitude of difference was striking. The average number of walking trips per day was five times larger than the average number of walking trips in the more driving-oriented neighborhoods. And in the centered neighborhoods, there were 30 percent fewer driving trips per day.

2. Geometry appears to matter too. The neighborhoods that have commercial in the center and tend to be inwardly focused. Businesses in Rivera Village, for instance, are surrounded by apartments and single-family homes. Old Town Torrance somewhat looked the same. The auto-oriented neighborhoods arguably had about the same type of land-use mix, but they were arranged linearly. And so it really does appear, particularly for walking, that there's a geometrically inward focus on a center.

3. A higher concentration of neighborhood-serving business is associated with more walking. The number of nearby business definitely maters. This came through both in analyses that compares the centers vs. auto-oriented corridors and also in cases where we looked at differences in travel within corridors.

If we were to identify the single characteristics most highly associated with walking, it would be number of neighborhood-serving businesses per unit of land area. We tried other measures. We tried looking at the amount of sales, the number of employees to try to measure the size of the commercial area. None of those predicted walking travel as did the number of neighborhood-serving businesses.

This appears to be related to parcel size. If you're going to get a high number of neighborhood-serving business in a fixed area, you have to be dealing with ultimately smaller parcels. So if are we talking about smaller shops or big box stores, the answer seems to be that a small footprint is important because that's axiomatic of a large number of businesses.

CP&DR: How much of this was surprising?

MB: The magnitudes of difference authentically did surprise me.

When our client suggested that we examine variations within the neighborhood, my first reaction was to say that didn't make sense: how could there even be meaningful travel variations? The Artesia corridor, one of the study neighborhoods, is two miles end to end. We found sizeable difference for walking and driving just for the people who lived in the middle versus those who lived on the end points. That was surprising because it's such a small neighborhood.

I think there's a lesson that may be broader than this one study. I've been telling people at the Southern California Association of Governments that we need to be aware that our estimates of land use travel and interactions are average effects for typically metro areas or states. The averages may be obscuring a lot of meaningful local variation. For the SB 375 process, we really need to get more knowledgeable about this local variation. We want to know where are the effects strong and where are they not strong.

The neighborhood business story was surprising in the sense that people have been talking about the importance of destinations, but I think there's been a little bit of cacophony on what land use elements matter. People are wondering if it's density, if it's mixed use, if it's destinations. In trying all of those we got a pretty clear signal that it's concentration of neighborhood-serving businesses. Density hardly mattered at all. That wasn't really surprising, but I think it's a message that isn't really appreciated in the literature.

That's another lesson that kind of came out of this: density is a really bad measure to focus on if you're trying to encourage walking. What you really want to focus on are these places that are destinations to travel to.

A lot of times, I hear planners talk about only increasing residential density to increase walking. If you're not building destinations, that can be counterproductive. You're literally building the need for more car travel. You're creating more congestion but not allowing alternatives modes to become effective. I now cringe when I hear people only talking about density.

CP&DR: The report is called "Retrofitting the Suburbs." How do you change places like this? How do you turn a corridor into a center?

MB: It's a twofold process: you identify places that have existing concentration of neighborhood serving retail and think about how to transform that from these auto-oriented boulevards into something more walkable, and there you get into the nitty gritty. You may want to talk about development incentives, what types of retail the neighborhood could support, what type of parking policy you need, ways to disin-

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>>> Inner Suburbs Can Be Part of SB 375 Retrofit

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centivize car use, and what changes to the zoning codes you need.

The other thing is the mobility strategy: what we learned from the travel study is that people will go to their local center, but they will also go to the other cernters, so you need to think about ways to knit these together. Some kind of mobility infrastructure that's short distance, about three miles, light on infrastructure, light on the environment.

CP&DR: How applicable do you think these findings are to other communities in California?

MB: This is more about the first generation post-World War II suburbs that are more of a target for infill. I think there's a lot of places that are from the same development vintage as the South Bay – 1950s, 1960s – and a lot of places that are essentially built-out, which is the other characteristic of the South Bay that I think makes it ripe for this strategy. Infill is the only way to go in the South Bay. I marveled that you can drive and drive and never find an empty parcel of land.

The densities that we measured range from about 8 dwelling units per acre to about 12, so it's not a low-density place per se. Other places, for instance the San Fernando Valley, San Gabriel Valley, and a lot of places in northern Orange County may be similarly situated. In the Bay Area you'd try to find those analogs. I don't think this is an Ontario story or a south Orange County story.

CP&DR: SB 375 is intended to make a lot of land use changes in the state. How does this strategy mesh with those of the Sustainable Communities Strategies?

MB: I think this study is consistent with the broader SB 375 project. You could easily imagine it as the basis of a subregional Sustainable Communities Strategy. The South Bay Council of Governments didn't pursue one, but they could have.

A lot of the popular discussion around SB 375 is very focused on rail transit. It's important to remember that there are communities like the South Bay that are not going to have rail transit for many years. And there are still robust opportunities to use coordinated land use and transportation planning in other ways to reduce vehicle travel and reduce greenhouse gas emissions. If we're not careful we might begin to imagine that this is all about rail transit story, and I think the South Bay study says there are really interesting and useful things that places without rail transit can do.

We don't want to think that we have one model – TOD – and that's the end of the story. It's helpful to put a second, complementary story on the table. ■

FEW LOCALITIES TO CAST BALLOTS ON LAND USE IN JUNE

By CP&DR Staff

THIS UPCOMING ELECTION DAY, June 5, will be a relatively quiet one for land use measures in California. Only a handful of measures appear on city and county ballots. Perhaps not surprisingly, Orange County features two of the most contentious measures: one to promote affordable housing in Yorba Linda and to create a new commercial center in Cypress. In Shasta County, voters will be asked to do some "ballot-box zoning" to stop an approved development, and in Butte County voters may rein in marijuana cultivators, in keeping with a statewide trend to restrict the sale and cultivation of cannabis in communities where it is unwanted.

COUNTY OF BUTTE

Medical Marijuana Cultivation Ordinance Referendum
Measure A

Measure A is a referendum on an ordinance proposed for Butte County. It asks, "Shall the Medical Marijuana Cultivation Ordinance, Ordinance Number 4029, be adopted?"

The Butte ordinance forbids any cultivation – indoors or out – on properties of less than 1/2 acre; limits gardens to 6 mature plants on properties of 1/2 to 1.5 acres; requires all gardens over six plants to be registered with the County Dept of Development Services Gardens; and forbids any cultivation within 1,000 feet of schools, churches, parks, youth-oriented or residential treatment facilities.

ORANGE COUNTY

Yorba Linda
Affordable Housing at Savi Ranch and Other Locations
Measures H and I

On June 5, 2012 the City Council of the City of Yorba Linda called for a special election to be held to allow the residents in the City of Yorba Linda to consider two measures in accordance with the Yorba Linda's Right to Vote Amendment (Measure B). This vote is an effort for the city's housing element to comply with state law, by increasing the allowable number of residential units and building heights at nine specific locations within the city.

If a majority of the voters approve this measure, amendments will be adopted for the Land Use Element and Land Use Diagram of the City's General Plan, the City's Zoning Map and Regulations and the Town Center Specific Plan. Passing the Measure does not require property owners to construct multi-family housing on the identified sites. The measure merely allows housing to potentially be built. As determined by the city attorney, if the measure does not pass the city could potentially be more susceptible to legal challenges alleging that the city is in violation of state housing law

ORANGE COUNTY

City of Cypress Zoning Amendment
Measure L

Loosening land use restrictions for the site of the former Cypress Golf Club, Measure L would amend the Cypress Business and Professional Center Specific Plan by creating a new 33.5 acre planning area within the existing specific plan area where most commercial uses permitted in the CG zone would be allowed. The measure would change the zoning designation within the new planning area from Public and Semi-Public (PS-1A) to Planned Business Park (PBP-25A) and change the various General Plan Land Use Designations with the new planning area to "Specific Plan". The measure will also limit development in the new planning area to 875,556 square feet with a maximum floor area ratio (FAR) of 0.6:1. The site is currently constrained by 1987's Measure D, which put restrictions on the use of the site when it became apparent that the golf course might not survive. It closed in 2004.

SHASTA COUNTY

Knighton Road Development in Churn Creek Bottom Referendum
Measure A

In 2011, the Shasta County Board of Supervisors approved a commercial development on Knighton Road in Churn Creek Bottom. That decision was the impetus for Measure B, which would freeze zoning in that area. A "yes" vote on Measure A will allow the proposed development to move ahead. A "no" vote means that the development will not be allowed to go ahead.

SHASTA COUNTY

Freeze Zoning in Churn Creek Bottom
Measure B

Whereas Measure A refers to only the particular development that supervisors have approved for Churn Creek Bottom, Measure B would have broader impacts. It would freeze the general plan in the Churn Creek Bottom until 2036. This will prevent any commercial development in the area until then. ■

>>> Dept. of Finance Rejects Scores of RDA Projects

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occurred between cities and redevelopment agencies last year in anticipation of the end of redevelopment.

In many cases, DOF has refused to allow high-density or transit-oriented projects to go forward – a move that makes sense in financial terms but seems to run counter to the Brown Administration's urban development policy goals. And in at least one case, DOF is asking a local government to kill projects funded by federal dollars.

"We haven't done a metric in terms of this many were denied for this, this many were denied for that," said H.D. Palmer, DOF's deputy director for external affairs. But at one point last week, Palmer said that DOF received 274 ROPS's. Of those, 46 were automatically denied over technicalities such as formatting. DOF issued letters for 164 of them and approved 29 free-and-clear.

DOF has taken on extra staff in order to comply with the required three-day turnaround once a successor agency has submitted its ROPS (many did not meet the April 15 deadline and instead turned them in late).

DOF seems to be interpreting AB 1X 26 more conservatively than even successor agencies' oversight boards, which were expected to be conservative themselves insofar as oversight board members represent taxing entities that stand to gain from the freeing up of tax increment funds. As it turns out, many oversight boards have been sympathetic to the agendas of former redevelopment agencies.

"They were in accord on every issue," said David Gouin, director of housing and economic development for the City of Santa Rosa. "The oversight board saw everything as adding value to all taxing entities. They did not take much time to conclude that they should adopt the ROPS and pass along a positive recommendation to the Department of Finance."

Those accords matter little, however, if DOF disagrees.

"We've heard from our members that DOF is kicking back a substantial number of ROPS submittals, including ones that have been signed off on by the oversight boards," said Patrick Whitnell, general counsel for the League of California Cities.

The types of denials that DOF has issued defy easy categorization. Some automatic denials have been over paperwork problems, such as when Santa Rosa's successor agencies have listed multiple funding sources on one line of its spreadsheet. DOF has questioned many successor agencies' administrative costs.

Most notable is the challenge of interpreting AB 1X 26. Though legislation clearly forbade the signing of new contracts following June 28, 2011, many of the state's 400 or so successor agencies find themselves in gray areas because their resepective redevelopment agencies were involved in unique, complex deals that the statute does not explicitly allow or forbid.

Whitnell cautioned that the League has not conducted a formal survey of its members, but initially, many of DOF's objections fall into what he described as "ten different categories." Among them, the largest category is that of unexpended bond funds.

In some cases, DOF would like successor agencies to defease bonds by paying them off early or diverting funds to other projects – and therefore paying off the bonds with other funds. Whitnell noted that many bonds cannot be redeemed early. Therefore, successor agencies would have to pay them off by taking out loans at prohibitively high interest rates.

DOF has also questioned many agreements between cities and redevelopment agencies. AB 1X 26 forbade new agreements as if its effective date, June 28, 2011. These agreements, which often include transfers of assets, joint ventures between public agencies and private developers, and scores of variations thereof.

One major category of obligations that the legislation seems to have missed are those that encumber future property tax funds for deals that do not lend themselves to traditional contracts. On a relatively minute scale, Omar Dadabohy, director of community development for the City of Stanton, said that the Stanton's successor agency must pay for utilities for an affordable housing complex. That obligation is implied but was still not explicit enough for DOF.

"They're saying there's not going to be a contract in place," said Dadabohy. "Well, there's not going to be a contract in place. I don't have a contract with Southern California Edison. They're not being open or flexible."

Meanwhile, in Santa Rosa, the redevelopment agency is asking DOF to approve a $120 million for the redevelopment of New Railroad Square, a major transit oriented development focused on a commuter rail line scheduled to begin service next year. TIF monies were to be used to fund affordable housing at the site and to do toxic remediation.

"It creates just what the state, county, and city would like to have: higher density uses along a rail station," said Gouin.

DOF has thus far refused to fund that project.

In West Sacramento, the redevelopment of property previously owned by Sacramento-Yolo Port District is in a similar state of limbo.

That deal that has already gone through but, like many other deals across the state, it relies on future TIF funds to complete the deal through a "performance pass-through agreement." West Sacramento Public Finance Manager Paul Blumberg said that the contract does not specify exactly how much TIF monies would be needed because the deal involves multiple funding sources and therefore it was not advantageous to indicate specific dollar amounts in the original contract – especially because no one anticipated that redevelopment would soon cease to exist.

Blumberg said that DOF has rejected this deal because it claims that the city and port district are, effectively, one in the same, because the city appoints members to the port commission. Therefore, the deal is considered an impermissible city-agency agreement rather than a permissible third-party agreement.

Also in West Sacramento, the master planned Bridge District redevelopment was to rely on $144 million in redevelopment funds, as well as a combination of other funding sources, including Proposition 1C infrastructure bonds. While the deal was signed before the AB 1X 26 deadline, DOF is questioning whether it actually constitutes a contract.

"These agreements….didn't specify specific amounts going to each element because you've got a number of funding sources," said Blumberg. "All of the commitments have been made to this district that clearly describe the use of tax increment and firmly make that commitment."

DOF has even questioned agreements that include funding from the federal government. Bakersfield Economic Development Director Donna Kunz said that while DOF has unsurprisingly questioned $4.2 million in interagency loans, it is also asking the successor agency to eliminate projects funded by three loans from the Department of Housing and Urban Development. Kunz said that the city would be submitting additional documentation in the hopes of getting that item approved.

Generally, Whitnell said that DOF has erred on the side of questioning those requests that the legislation does not explicitly permit.

"Our take on it, based solely on reports that

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>>> Insight: Redevelopment Will Not Die without Litigation

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as such – in the vast majority of cases, these agencies were a seamless part of the city government. The City Council served as the redevelopment board, the city manager served as executive director, and so forth.

Although this integration made sense in terms of operational efficiency – especially for smaller cities – the real reason was financial. By integrating the RDA into the organizational structure, the city could use redevelopment funds to pay for personnel and activities that would otherwise have to come out of the general fund. Not only were redevelopment personnel paid for by redevelopment funds, so were many other staff. City managers and community development directors were often paid partly out of redevelopment funds. Public works engineers would charge their time to redevelopment projects. In Oakland, 17 police officers were being paid out of redevelopment funds. Thus, disentangling redevelopment from regular city operations has been difficult for many cities.

So too has the process of determining which activities can continue. At first, the redevelopment establishment assumed that all activities could continue so long as they were funded with bonds that had already been issued. But the California Department of Finance soon issued strict guidelines saying that just because the RDA had floated bonds, that didn't mean the activities could continue. In many cases, the Department of Finance suggested, design contracts should be terminated mid-stream and bonds should be "defeased" (backed by other city assets rather than RDA assets) or paid off.

AB 1X 26 called upon the sponsorship entity to make a choice to designate itself as the successor agency to oversee the wind-down. Most cities did so, though a few – including Los Angeles – did not, meaning Governor Brown had to appoint a panel to serve as the successor agency. In most cases, successor agencies are currently trying to figure out how to persuade everybody else in the process to take a broad view of which obligations should be honored and, therefore, which redevelopment projects can continue to move forward. This process is likely to take two forms – negotiation and litigation.

On the one hand, successor agencies will likely press hard to persuade oversight committees that everybody will be better off financially in the long run if promising RDA projects are allowed to proceed. Even if the oversight committees buy this argument, however, the Department of Finance will be looking over everyone's shoulder and could reverse an oversight committee's decision.

On the other hand, there is little question that California will see a raft of litigation over this issue in the next couple of years. Cities will argue that the county auditor and oversight committee didn't properly accept their list of enforceable obligations; they will also argue that they can't defease the bonds. It will be quite a while before all this gets sorted out in court. So redevelopment personnel may have been laid off, but redevelopment consultants and lawyers will do just fine.

Meanwhile, cities are scrambling to find ways to keep doing redevelopment projects in the absence of the redevelopment law. First out of the gate was the inner-ring Los Angeles suburb of Alhambra, which adopted a local ordinance that gave the city many powers the redevelopment agency formerly held, including the power to buy and sell land for economic development purposes and provide financial assistance to developers. Many of Alhambra's ideas involve taking activities the city was already involved in – community development block grants and disposing of surplus property, for example – and using those activities in a focused way to continue redevelopment projects. Other cities are likely to follow suit, using sales-tax rebates more aggressively, donating city-owned land to projects, and so forth.

Perhaps most surprising, however, has been the amount of activity in the legislature on the redevelopment front. Whether Governor Brown signs any bills is an open question, but both houses of the legislature have been actively pursuing redevelopment proposals.

Few legislators who voted on the redevelopment package in 2011 actually expected redevelopment to be killed. They thought they were voting on a complicated workaround to take more funds away from redevelopment agencies and still conform with Proposition 22, the 2010 ballot initiative sponsored by the cities and redevelopment agencies designed to create a firewall between the state and redevelopment funds. Still, the fact of the matter is that the RDAs had no friends in 2011 – and they do have some friends in 2012.

Legislation has dealt with three issues. The first is affordable housing. When redevelopment was killed, there was $1.3 billion in uncommitted affordable housing money sitting in RDA accounts. It seems likely that the legislature will pass – and the governor will sign – legislation allowing cities to keep this money to use for affordable housing.

The second issue is the other assets that were held by RDAs when they went out of business. RDAs had at least $2 billion in cash in the bank, plus – most likely – billions more in real estate assets. Many cities claim the real estate isn't very valuable, but it's hard to know for sure; the Los Angeles Community Redevelopment Agency had 400 properties in its portfolio. Darrell Steinberg, the head of the state senate, has proposed allowing cities to keep the assets as an endowment for future redevelopment activities. In theory this is a viable idea – after all, the fight in the legislature was over the ongoing flow of property tax revenue, not the assets – but either the legislature or the governor may well decide to lay claim to the money to balance the budget.

The third issue is – believe it or not – bringing back the tax-increment financing system in some form. A variety of ideas have been floating, most notably allowing cities to do tax-increment financing with city and county property tax funds so long as counties agree to the idea. In theory, this too should be a viable idea, since it does not touch the property tax revenue that flows to schools. (The state must backfill property tax revenue lost to schools out of the general fund). Governor Brown has said that he would consider any redevelopment proposal that does not affect the state general fund, but it may be that 2012 is just to soon to bring back tax-increment financing. Brown may want to wait till the redevelopment carcass is colder.

One thing is sure: government involvement in building urban infrastructure and subsidizing urban development is likely to return in California in some way. The state's entire policy apparatus, including the regional planning law SB 375, points in that direction. And Governor Brown has been supportive of the policies. The question is whether – or how soon – bringing back some limited form of redevelopment will be politically acceptable. ■

>>> DOF Aides by AB 1X 26

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we've received from our membership…is that DOF seems to be very conservative in its interpretation of AB 1X 26 to the point where in certain instance," said Whitnell. "We're not entirely certain that they're interpreting it correctly."

Some officials feel that DOF has been stretching its authority.

"In one respect we weren't surprised," said Stanton's Dadabohy, which got $218 million worth of obligations denied. "We expected that the state would try to challenge every item and take our local tax dollars. And we were surprised by the basis for some of the comments."

Dadabohy said that part of his surprise stemmed from the fact that his staff had worked closely with DOF staff to ensure that the ROPS was prepared properly.

This approach, said Whitnell, could mean that the process of approving and denying obligations could effectively extend for years – and get far more contentious than it has been thus far.

"This could lead to some legal disputes down the road with respect to the position that DOF is taking," said Whitnell.

DOF that it is interpreting AB 1X 26 strictly and consistently.

"We're measuring every one of these submissions by the same yardstick, which is based upon what is in AB 26," said Palmer. "Does it fall within the definition of an enforceable obligation or does it not?"

Palmer said that successor agencies have had ample opportunity to understand what DOF's position would be on different types of obligations. As well, DOF staff members have been working directly with successor agencies on their ROPS's in an effort to avoid denials, resubmissions, and confusion.

"Understanding that this is a very complicated process, we have been very forward-leaning in trying to get as much information out there to help successor agencies and oversight boards understand that is permissible and not permissible under AB 26," said Palmer.

Successor agencies have been resubmitting their ROPS's to respond to DOF's comments, and they have been submitting documentation to support items that were questioned or unclear. In instances where it seems unlikely that DOF will approve an obligation, cities have been instructed to simply leave them off their revised ROPS's for the time being so that further discussions can take place.

Henceforth, successor agencies will be submitting further ROPS's every six months. It is assumed that each iteration will include fewer obligations as former redevelopment projects are paid off and wound down. Many successor agencies prepared both 2012 ROPS's simultaneously, as the next submission date is July 1.

For cities, each ROPS carries the fear that DOF may not approve projects that had been considered both permissible under AB 1X 26 and crucial to the city's well being.

"We're anxious about each and every one of them," said Gouin. "Each and every item is important." ■

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inbrief

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Collins said there's no reason for the city and the League to not have a positive relationship, despite disagreement.

A COALITION OF ENVIRONMENTAL GROUPS has already filed suit against Newhall Ranch, the recently approved mega-development in north of Los Angeles that would house 60,000 residents. While the groups claim the development would harm the river waterway and destroy wildlife habitat, the spokesperson for the developer denied all claims brought forth by the environmentalists. The project has been in the works since 1996 and was first approved in 2003 after numerous years of debate, only to be caught in legal challenges. Marlee Laufferr, spokeswoman for Newhall Development says similar allegations made in the past have all been repeatedly disproved.

CALIFORNIA SCIENTISTS and experts from the National Weather Service and other agencies are creating coastal flooding maps and tsunami escape routes to better prepare for tsunami disasters. Damage from last year's tsunami that hit California shorelines after destroying three nuclear reactors in Japan is still being surveyed. The tsunami that hit March 2011 caused $100 million in damages to California harbors but, scientists say, could have been much worse if it had hit at high tide. Tsunami brochures have been created to instruct people how and when to evacuate. ■

—Compiled by Connie Phu

Smart Growth Strategies Prompt Dumb Objections

Joel Kotkin is just thinking about the children. Too much, if you ask me.

As you may recall, two weeks ago it was Wendell Cox who used the *Wall Street Journal* opinion pages to herald the "war" that California's urban areas are launching on the suburbs.

For whatever reason, the *Journal* really has it cut out for California, because Kotkin's piece – which isn't actually an op-ed but rather a sycophantic quasi-interview by Allysia Finley – levies similar criticisms of California's land use policies, but with some even more strained logic and offensive biases.

I'd rather not make a career out of responding to erroneous analyses of California's demise. But, as a loyal Californian and fan of truthfulness, I can't ignore this latest volley of claptrap.

Cox and Kotkin both claim that policies that discourage suburban development and/or encourage dense urban development are undermining the notion that California is the promised land. This myth of the California dream is particularly powerful for Kotkin, who contends that California used to be "God's best moment."

This is the blithe vision that none but the most daft have ever believed. The only cliché about California that is more abiding than sunshine is that of noir (itself a ponderous metaphor, but we'll go with it). Well known scholars such as Mike Davis has covered that ground extensively, as has almost every other honest student of California. So, to base public policy on a myth – or, more accurately – one half of a myth makes little sense.

Does California have its prosaic problems? Sure it does. In fact, I conducted an insightful, cordial interview with Kotkin about two years ago in which he lucidly described some of California's demographic challenges. Let's look at those that Kotkin identifies this time.

Kotkin's central claim is that the four million people who have reportedly left California in the past ten years have done so for two interrelated reasons. Restrictive local land use policies have made coastal areas unattainably expensive. So, rather than consign themselves to miserable outer suburbs, families are up and moving to states like Texas and Nevada because of low taxes. This trend has rendered urban areas like San Francisco and West Los Angeles "boutique" cities that cater only to the wealthy.

I couldn't agree more with Kotkin's implication: a more diverse range of residents should be able to live in lovely places like San Francisco and Santa Monica. By all accounts, Kotkin should be overjoyed by Senate Bill 375. If all goes as planned, it will enable more people to live in expensive places near the coasts while relieving pressure on single-family home prices.

Except, according to Kotkin, the policies that would promote housing – and de-boutiqueify these cities, by a) enabling more people to live in them, and b) creating more places like them – carry the air of a Stalinist plot. "Things will only get worse in the coming years as Democratic Gov. Jerry Brown and his green cadre implement their 'smart growth' plans to cram the proletariat into high-density housing," writes Finley.

Let's overlook the rhetoric of socialist class struggle and focus on supply and demand. If the coasts are such nice places, then it would stand to reason that, if offered sufficient housing stock, people would willingly live in them rather than subject themselves to "cramming."

Alternatively, if those cities don't increase their density, then the only way to make them more diverse, and suitable for the middle class, is to kick out the rich and let families squat in their mansions. *¡Viva la Revolucion!* And good luck figuring out the espresso machine.

It's clear, then, that Kotkin's objections to smart growth are not reasoned policy analyses. They are ad hominem attacks against a class of people whom he finds icky. According to Kotkin, if you're not rich then "your chances of being able to buy a house or raise a family in the Bay Area or in most of coastal California is pretty weak."

It's clear that Kotkin's objections to smart growth are not reasoned policy analyses. They are ad hominem attacks against a class of people whom he finds icky.

You can't raise kids in multifamily dwelling in coastal California? Who does Kotkin think he is, Dr. Spock? I'd like him to tell his theory to my mother – and to the millions of other parents who have raised perfectly decent children in tight quarters.

On this point, it's worth quoting Kotkin in full:

What I find reprehensible beyond belief is that the people pushing [high-density housing] themselves live in single-family homes and often drive very fancy cars, but want everyone else to live like my grandmother did in Brownsville in Brooklyn in the 1920s.

(This is the moment when, if I was John Stewart and this was *The Daily Show*, I'd be looking plaintively into the camera and stuttering, "But...he... just...said....")

Let's make this clear: Kotkin is claiming that the reprehensible people who are unbelievably supporting SB 375 are the very same single-family-home dwellers whom he venerates. This would be contradictory at best – but it also happens to be wrong.

In fact, the current governor (who had nothing to do with the passage of SB 375) famously lives in a multifamily building in Sacramento. Granted, the former governor lives on a property in–where else? – West Los Angeles that could comfortably fit several extra families. And that's just in his carriage house. (How convenient for him.) Regardless, who's the one who's making land more expensive?

As for the legislature, I have no idea where they all live. Probably in one big houseboat on the American River. But I do know that SB 375's author, Sen. Darrel Steinberg, represents Sacramento (which is a city, last time I checked). And I know that, on average, Democratic voters are more likely to be urban dwellers and that Republican voters are more likely to be suburbanites. Kotkin must know this, unless he has forgotten where Nancy Pelosi is from.

So the voters who have supported SB 375 are in fact more likely to already live in denser urban environments. They support SB 375 not because they want to make everyone else miserable but because they want more people to enjoy the urban experience. Most of us city folk don't give a rip about what happens in the suburbs; if they want to stay boring,

– CONTINUED ON PAGE 15

Smart Growth cont.

– CONTINUED FROM PAGE 14

homogenous, and sparely populated, that's fine by me.

Meanwhile, I've never met Kotkin's grandmother, but I'm sure she's a very nice lady and would not like her grandson to say mean things about her home. But that's beside the point. All the people who currently live in Brownsville – because they're hipsters who dig the lifestyle or families who enjoy the inestimable financial benefits of participating in New York City's economy – would probably not like him to say mean things about their lifestyle either.

Kotkin then offers up a notion that is both logically and grammatically nonsensical: "The new regime…wants to destroy the essential reason why people move to California in order to protect their own lifestyles."

This is where it gets personal. I live in an apartment. So do most of the people I know. By and large, all of us are pleased with our lifestyles because we get to live in great cities and reap their estimable social and economic benefits even if we don't have vast backyards or fences to shield us from people who make us uncomfortable. I support more dense urban development not just because I think it's a fine way to live but also because it will, indirectly, reduce my cost of living if the supply of apartments – which are already in high demand – increases.

This is how land use economics works.

So let's recap: Kotkin disparages people like me for liking a lifestyle that he disagrees with. He thinks that more people should live where I live (i.e. near the coast) but he doesn't think that coastal areas should build more housing, and he definitely doesn't think that the state should promote that housing. Because then there'd be too much of a bad thing, even though people want that bad thing very badly if it's located in the right places.

And that's why, according to Kotkin, California shouldn't have passed SB 375 and instead should have maintained the status quo. Or something like that.

Kotkin also spews some nonsense about the evils of green energy, but, to be honest, I'm too exhausted to write any more. Something weird is going on here, and I'll be damned if I can figure it out.

If Kotkin wants to discuss further, I invite him to join me in my fourth-floor hovel and witness my childless depravity firsthand. He can bring his own espresso.

– JOSH STEPHENS | APRIL 26, 2012

Los Angeles Marks 20 Years of Slow, but Steady, Recovery

Today, on the eve of the 20th anniversary of the Los Angeles civil unrest, my sense of frustration remains intact with all parties: the Los Angeles Police Department and former Chief Darryl Gates; the looters who torched and ransacked small businesses in my former neighborhood in West Adams; and all-white juries in suburban communities, with their curious reluctance to convict policemen accused of using excessive force.

Even more frustrating, however, was the failure on the part of both business and government to acknowledge the deepest, fundamental cause of the riots, which was institutionalized racism. This type of racism took the form of "red-lining" by banks and insurance companies, which often refused to make loans or underwrite businesses in "undesirable" or "high-risk" (i.e. minority) areas. This resulting economic devastation of red lining can be found can be found in African-American communities throughout the United States. African-American communities are poor not because black people are somehow lacking in enterprise but rather because major lenders have denied them capital.

Let's be very clear: institutionalized poverty, made possible by red lining, was the real cause of the Rodney King riots.

Also frustrating, if well-intentioned, was the effort of private, non-government groups like Rebuild L.A. to attract both capital and businesses to the riot area. Remember that riot area stretched from Long Beach to Pasadena. (Like everything else in Los Angeles, the riots took a linear path, along major thoroughfares, in cars.) I was skeptical then, and remain so now, that private enterprise was somehow more able than government to break down the colossal edifice of racism, poverty and blue lining.

Rebuild LA eventually wound down a few years later with few tangible achievements; perhaps the organization should be credited with providing good public relations and a positive push to lenders to support the development new shopping centers and some new housing in South Central. In fact, working class people spend much of their disposable income, more so than everybody else does, on food and retail goods. Retailers often do well in working class neighborhoods (although some supermarkets have complained in the past that pilferage has made some stores unprofitable and driven up food prices in poor neighborhoods.)

Yet South Central in general and the LA in particular are better off now than they were 20 years ago. The reasons, ironically, may have little to do with the King riots. The first reason is the rapid growth of the African-American middle class, and the slow realization on the part of corporate America that the majority of African-Americans are middle income wage earners, not scowling gangbangers with gold-plated cocaine spoons dangling from their neck chains. Although grotesque and bigoted, this misperception of the Black community continues to hold sway in many parts of the country.

A second reason was the 'SoHo phenomenon,' or the fad of buying cheap industrial buildings or outdated office buildings in downtown areas for conversion into fashionable "loft" housing. In the late 1990s and early 2000s, the widespread popularity of this type of real estate investment increased the comfort level of lenders who would have shunned such deals even a few years earlier. (In fairness, this loft-conversion mania was largely market-driven, even though local agencies, such as the late LA Community Redevelopment Agency, had spent decades advocating for downtown housing, with limited results.)

A third reason is the rise of ethnic retailing, with shopping centers designed for specific populations – notably Latino and Asian communities. The success of these businesses, and their corporate "depth" of capital, has increased their popularity among both shopping center owners and the lenders who review all their leasing decisions.

Money is the common factor among all these reasons for recovery.

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Los Angeles Recovery cont.

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Urban areas – and that includes the suburbs – depend on steady infusions of capital to attract new residents and new employers while maintaining property values. When new investment came to South Central, the community improved, if only a little.

And yet, a few years ago, I covered a story of a new charter school on Vermont Avenue, not far from the intersection where the riots started. The architects explained to me that the building lacked transparent windows, to protect students from the possibility of targeted shootings. The neighborhood is better for having the school, but the defensive character of the school building is a reminder that social conditions remain much the same as they were before the Walpurgisnacht of 1992.

– MORRIS NEWMAN | APRIL 28, 2012

BART May Soon Take Orders from Blogosphere

The transit activists, it seems, are storming the gates in the Bay Area. Their target for the 2012 election season is the open District 3 seat on the Bay Area Rapid Transit, and a victory could signal the maturation of an insurgent trend years in the making. In an era dominated by Tea Party challenges to the political establishment, it is instead transit activists who are battling against BART's status quo. Activists have become increasingly frustrated over the last decade with BART's focus on system expansion and job creation through dubiously justified construction projects than with improving core services and keeping up with runaway structural deficits.

The genesis of the conflict can be traced back to the Oakland Airport Connector (OAC) project. Studied since the 1970s, BART dreamed of connecting the nearby Oakland Coliseum station with the Oakland Airport. The $130 million project was sold to Alameda County voters in 2000 as part of the Measure B half-cent sales tax. But the OAC went through as series of gross mutations, shedding system features while ballooning in cost.

By 2010, the cost estimate for the OAC had more than quadrupled to $550 million. The system would no longer connect to BART, requiring riders to switch to an adjacent station and ride on a pulley-operated tramway. The overhead tramway would run slower than the existing AirBART bus shuttle system while the fare would cost twice as much. The ridership projections over the existing system were viewed dubiously, as were the claimed job-creation figures. Promised stops along the economically depressed Hegenberger Corridor, a major element in selling the project to the public, were removed from the plans due to cost overruns. The much cheaper, and faster, dedicated-lane Bus Rapid Transit option was tabled for primarily political reasons.

With core services being cut back on the BART system, a fleet of train cars nearly 40 years old, and fabric seating that was found to contain dangerous viruses, bacteria, and fecal mater, transit activist groups like TransForm and Urban Habitat swung into action against what they saw as a wasteful, duplicative project. The most visible opposition to the Oakland Airport Connector came from a cadre of young blogger-activists, often writing under pseudonyms: the now-shuttered ABetterOakland, run by Vsmoothe (Echa Schneider); Future Oakland & The DTO, both run by DTO510 (Jonathan Bair); Living in the O, run by Oakland Becks (Rebecca Saltzman); TransBay Blog, run by Eric C.; Systemic Failure, run by Drunk Engineer; and many others.

Vocal opposition to the OAC turned into a Title VI civil rights complaint with the Federal Transit Administration, leading to the withdrawal of $70 million in stimulus funds. Opposition further coalesced around the candidacy of urban planner and former Executive Director of the East Bay Bicycle Coalition, Robert Raburn. While incumbent Carole Allen Ward, a staunch OAC proponent, trumpeted her role in using BART for job creation, Raburn focused on transit service, access, and equity. Raburn unseated Ward in an upset in 2010 – campaigning primarily on a platform built around his opposition to the Oakland Airport Connector.

But even with the election of an anti-OAC board member, the Oakland Airport Connector project simply refused to die. While he convened an inquiry on the OAC, Raburn found that BART staff had plowed so much money into the project so as to make it nearly impossible to shutter without a massive financial loss. Raburn grudgingly acquiesced, pivoting focus to service issues. He helped steer budget surpluses towards replacing bacteria-infested seating rather than temporary fare reductions, getting BART to prioritize replacing their 40-year-old fleet of passenger cars, and had a hand in the ouster of OAC-supporting BART manager Dorothy Dugger.

With a new election cycle upon us, another transit activist tested in the gantlet of the Oakland Airport Connector is running for the BART Board. This time it is Rebecca Saltzman, author of Living in the O, who is a main contender for the District 3 seat. This election should see less acrimony than the last, as District 3 incumbent Bob Franklin is stepping down to run for a seat on the Oakland City Council (a seat being vacated by Councilwoman Jane Bruner in her run at Oakland City Attorney).

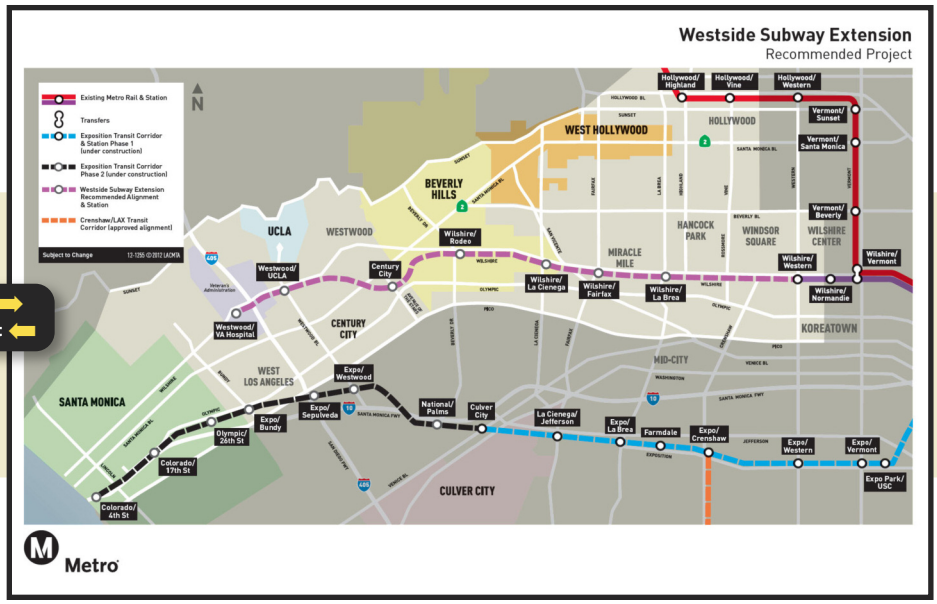
Saltzman is from the new school of transit advocates, more concerned with service enhancements, improving headways and hours of operation, system upgrades, and transit equity than she is with system expansion. BART staff and longer-tenured board members, however, are still looking outwards rather than in. BART had a recent groundbreaking for their system expansion to San Jose (the projections for which have been roundly criticized in the past), and is in the process of pushing through an expansion plan to the suburban/exurban community of Livermore (criticized for its freeway-median alignment and low ridership projections).

What this all means for the future of BART has yet to be determined, but we may look back on this coming election as a tipping point in how Bay Area leaders think about transit, and the future role that transit advocates will play in making those decisions.

Christopher Kidd was the founder and former writer of the LADOT Bike Blog. He currently works as a planner at Alta Planning + Design in Berkeley.

– CHRISTOPHER KIDD | MAY 7, 2012

Los Angeles Subway cont.



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"If we're in control…we would be able to manage that process and we will be the ones that are responsible for mitigating, not MTA," said Goldberg. "I'm not going to leave the safety of our students in the hands of an MTA board whose only goal is to tunnel underneath the high school." Goldberg stressed that the city does support the subway – just not the tunnel under the school.

A video produced by the PTA rendered some of these outcomes in gripping "A-Team"-era special effects.

Metro officials contend that fireballs and carnage are not exactly in their best interests either.

"If we did anything that was unsafe, not only would it undermine that project but it would undermine everything that this agency is trying to do," said Jody Litvak, community relations manager for Metro. (Disclosure: Litvak and I both serve on the board of a local civic organization.)

Litvak also pointed out that the agency has constructed dozens of underground miles in the county without incident. She said that some of those tunnels run under schools, as do segments of Bay Area Rapid Transit.

Goldberg's second major contention is that the tunnel – the top of which would be a full 50 feet below grade, even accounting for the campuses sloping topography – could impede future building projects to expand and modernize the school. He explained that the Division of the State Architect must approve any school development plans, and he feared that the presence of the tunnel could make the State Architect balk.

Metro officials say that they are more than willing to collaborate with the school district to try to accommodate future development. If only the district would collaborate with Metro.

"I'm sure we could and I'm sure we would be willing (to collaborate), but we're in a situation right now that makes it difficult because we were told some time ago that all communications between Metro staff and school district staff had to go through attorneys," said Litvak. "There's been a fair amount of saber-rattling leading one to infer the likelihood of lawsuits."

Jason, the junior class president, would prefer that all the adults in Beverly Hills quit their drama and let the subway take its course. He said that most of his schoolmates – they being the children that everyone wants to protect – likely feel the same way. He even conducted a Facebook poll to find out.

"The majority of the people who answered my poll said they didn't care, which to me translates as they're not really interested in our school putting up the fight that it is," said Jason.

He has clearly been learning lessons that the school board has not approved.

"Subways run under all over metropolitan areas. They go under commercial buildings….they go under other public buildings," said Jason. Meanwhile, he continued, "the likelihood of a fatal automobile crash is very real, despite the safety precautions and airbag regulations designed to protect us. However, we drive anyway. To fight the subway is to drive away modernization."

In the course of raising hell against Metro, no one in Beverly Hills seems to have the patience to listen his point of view.

"I feel as though this issue is highly political, governed by homeowners and businesses," said Jason. "Regardless of what I say…the board responses to its voters, so that's where the power is."

Editors of the school paper, *The Highlights*, did not respond to requests for comment. Neither did Gabrielle Carteris.

Goldberg was quick to point out that Beverly Hills itself is not as powerful as some might think.

"We don't have private citizens that are writing checks to BHUSD," said Goldberg. "The perception that somehow we have wealth and means – maybe individual families who send their kids to our schools have that – but the district is suffering."

A version of this article appeared on Next American City's daily blog.

– JOSH STEPHENS | MAY 4, 2012

Los Angeles Subway Inches Towards Land of Maseratis

I LIVE TOO CLOSE to Century City and Beverly Hills to objectively report on the what is shaping up to be the most bitter land use battle in California: that of uber-wealthy Beverly Hills versus uber-ambitious Los Angeles County Metropolitan Transportation Authority. Here's my best shot at an update.

Last week the Metro board gave an historic go-ahead to the westward extension of the Los Angeles Purple Line subway. Though environmental and engineering documents for the subway have been certified for the entire 9.6-mile extension – which would pick up at the line's current terminus, two miles west of downtown, and extend roughly to the 405 Freeway – the segment that was approved stops short of that long-sought western reach.

A beleaguered, marginalized, forlorn hamlet stands in its way.

For the past two years, this entity has claimed that Metro is imposing itself on a powerless little town. Civic leaders have described it as David vs. Goliath, with Metro as the Goliath. Residents who are confined to 10,000 square-foot mansions and condemned to navigate Los Angeles traffic in such mean conveyances as Maseratis and Aston-Martins have launched all manner of epithet against the transportation authority because of a plan that could, they say, blow up, or cripple, Beverly Hills High School.

Beverly Hills High School

SHAWN MAGILL

Though it is in the 90212 zip code, in the city's humble southern portion, Beverly Hills High School is nonetheless one of the finest public schools in the region, so much so that generations of students have faked Beverly Hills addresses in order to gain admission. But, according to the Beverly Hills City Council, the Beverly Hills Unified School District board, Metro poses a grave danger to future Brandons, Brendas, and Andreas.

The community is irate about Metro's preferred alignment (see map on page 17), which would put a station at Constellation Boulevard, in the middle of Century City, run the line directly under the school. Beverly Hills would prefer a station on Santa Monica Boulevard and a subsequent alignment that would run under Santa Monica Boulevard.

School board president Brian Goldberg thinks that future pupils should fear for their lives.

"We don't feel that MTA (Metro) has done their due diligence with respect to uncovering potential safety concerns with the number of abandoned oil wells, methane gas, saturated soil, the impact that it may have on 80-year-old buildings on the high school site," said Goldberg.

The city has requested a special hearing in front of the Metro board before the alignment is approved. It will take place May 17.

Back on campus, junior class president Jason seems more concerned about getting an education than fighting one of the biggest infrastructure projects in the nation.

"I feel as though hysterics have been a factor here," said Jason. "People are blowing this issue out of proportion, giving it more attention than it deserves." (I agreed to obscure Jason's name because he is a minor, and probably doesn't want to be associated with what he considers an embarrassing spectacle.)

For the past two years, debate about the subway has been the loudest conversation in Beverly Hills since the trial of Lindsay Lohan. Though Metro has held innumerable public meetings on the proposed subway dating back to at least 2006, it wasn't until late 2010 that civic raised concerns that some of the 17 alignments that Metro had published in its Alternatives Analysis might pose a problem.

Originally, the most clear and present danger – articulated by then-School Board President Lisa Korbatov – was that terrorists would use the subway to blow up the school. This premise assumes that these terrorists have no access to a motor vehicle and have never seen Shannen Doherty's early work in "Heathers."

The debate has since shifted to less fanciful grounds.

"We're not asking MTA to mitigate terrorist attacks," said Goldberg.

Many in Beverly Hills believe that the Constellation station is a conspiracy instituted by Century City developer JMB Realty. Or it could be that JMB is one member of a loud chorus that thinks it's silly to put the station at Santa Monica Boulevard, immediately across the street from a golf course, rather than in the middle of the second-largest office district in the city. There's discussion about earthquake faults too, with dueling seismic analyses, that seems unlikely to be resolved.

Goldberg said the school board has narrowed their protests down to two main concerns: things that would blow up if underground excavation takes place, and things that would not get built if underground excavation does not take place. School officials simply do not trust Metro to construct tunnels safely and, in particularly, avoid igniting underground pockets of methane gas.

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