



Bay Area SCS Land Use Scenario Seeks to Take Advantage of Existing Transit, Density

BY JOSH STEPHENS

JUDGING BY THE LIKES of Oakland, Berkeley, and, of course, San Francisco, a plan to encourage density, transit use, and environmentalism in the Bay Area might seem redundant. But these vibrant urban centers are just small elements in the sprawling, nine-county region that is the subject of the fourth and final Sustainable Communities Strategy to be drafted for California’s major urban areas.

Branded as Plan Bay Area and devised by the area’s paired regional planning organizations – the Association of Bay Area Governments and the Metropolitan Transportation Commission – the SCS attempts to extend the smart growth ethos from the bustling streets of SoMa and the Haight all the way out to Sonoma, Napa, and Solano counties.

“The plan is this notion of trying to knit together housing, land use, climate change challenges, and livable communities into a unit so that we can talk about it all at one time,” said Randy Rentschler, director of

legislation and public affairs for MTC.

The plan’s Preferred Land Use Scenario and Investment Strategy was approved unanimously by a joint session of the MTC and ABAG boards in May; the agencies are now working on alternatives and will release a full draft of the plan in December. MTC also voted to approve the “One Bay Area Grants” (OBAG) program, and ABAG approved a draft housing allocation methodology for Bay Area cities. The plan is intended to help the region accommodate 2.1 million new residents and 1.1 million new jobs by 2035.

Whether every locale in the Bay Area will welcome these jobs and residents remains to be seen.

Many of the Bay Area’s outlying suburbs have long maintained their cultural distance from the center cities and have been concerned that re-

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Sacramento Awash in Post-Redevelopment Legislation, Supporting Housing, Sustainability

insight
WILLIAM FULTON

NOW THAT THE California state budget is mostly out of the way, it’s time to see what – if anything – the state will do this year to plug the redevelopment gap.

And as redevelopment bills move forward, it’s pretty much shaping up like this: The legislature is likely to pass something. The question is whether Gov. Jerry Brown will sign anything.

So-called “policy” bills were required to clear their house of origin in the legislature by June 1. For the most part, the redevelopment-related bills sponsored by the two legislative leaders – Assembly Speaker John Perez and Senate President Pro Tem Darrell Steinberg – cleared their own houses and are now awaiting a hearing in the opposite house. It’s pretty

clear that some package of bills will wind up on Brown’s desk in September.

In general, there are three types of bills:

The first bills deal with affordable housing.

The second would bring back tax-increment financing in some form.

The third would replace tax-increment financing with some other funding source.

Especially with the second and third types of bills, there’s a clear trend: Tie the funding opportunities to the regional sustainable communities strategies that are being created under SB 375, Steinberg’s regional planning/greenhouse gas emissions reduction bill.

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THE STAFF OF THE STRATEGIC GROWTH COUNCIL

has issued recommendations for awarding a total of \$20.7 million for Urban Greening Grants to communities throughout the state. Funded by Proposition 84, the Urban Greening Grants complement the Sustainable Communities Planning Grants, which are also awarded by SGC. This is the second of three rounds of funding, to total \$90 million. SGC staff evaluated 270 proposals and has recommended funding for 67 projects and plans. Project funding would directly fund the implementation of greening projects, such as tree planting or park construction, whereas plan funding enables agencies and municipalities to draw up long-term strategic plans. Roughly 75% of the recommended funding goes to plans. The Trust for Public Land will receive the largest grant of \$1 million, to acquire property for wetland restoration in Santa Barbara County. SGC also awarded \$20 million in the first round of Sustainable Communities Planning Grants in December 2010 and expects to award the final round in 2013. The grants, which will total \$65 million, are funded by the 2006 water protection act Proposition 84. For this round, SGC received 137 applications requesting a total of \$73 million. Though SGC staff acknowledge that granting \$24 in the second round leaves a relatively sparse sum of \$13 million for third-round projects, the staff report contends that the number of high-quality proposals warranted a larger total award for the second round.

THE CALIFORNIA HIGH-SPEED RAIL

Authority Board today passed a 2012 revised business plan that will provide for high-speed rail service within a decade by using existing rail infrastructure in northern and southern California at a cost of \$68.4 billion. Several analysts dispute this figure, which is roughly \$30 billion less than the most recent estimate for a full build-out of the rail network. This "blended approach" was adopted with an amendment committing the Authority to work with transportation agencies in Orange County to identify ways to enable a one-seat ride to and from Anaheim. As part of the amendment, the Southern California Passenger Rail Planning Coalition will consider options for a connection that will cost less and be less intrusive than a full-build connection enabling the one-seat ride to Anaheim. The Board unanimously approved a Memorandum of Under-

standing with Southern California transportation agencies and MPOs. This document outlines a shared commitment to advance the development of high-speed rail while providing funding for local early investment projects in Southern California that will improve rail service immediately. This agreement is designed to set the stage for construction to begin on needed Southern California infrastructure projects as early as next year. Over the objections of environmental groups, Gov. Jerry Brown has recently proposed that high speed rail be largely exempted from CEQA requirements; he claims that CEQA suits could delay construction and endanger federal funding that must be used by 2017. Several CEQA suits have already been filed, and another suit challenges the initial Central Valley segment by claiming that the system cannot meet the requirements of Proposition 1A, the voter-approved bond measure that provides nearly \$10 billion in funding.

IN ANOTHER UNANIMOUS DECISION,

the Board approved a Memorandum of Understanding with Northern California transportation entities. This would electrify the popular Caltrain commuter train from San Jose to San Francisco and eliminate some at-grade crossings. The MOU, which has been approved by the Metropolitan Transportation Commission, calls for local and regional entities to provide funding for just over half the \$1.5 billion agreement. The Authority would provide \$706 million from 2008 Prop 1A bond monies. The most significant change in new plan is that it scales back parts of the project, reduces community impacts by narrowing the width of the corridor required in most urban areas, and reduces costs to \$68.4 billion. The new plan will support early upgrades to Metrolink and Caltrain as well as lines now used by Amtrak and ACE, allowing those trains to go faster and attract more riders. Electrification is expected to cost \$1.5 billion and be completed by 2019.

THE GOLDEN STATE WARRIORS

announced a plan to build a new sports and entertainment arena on the waterfront in San Francisco in time for the 2017-18 NBA season. The privately financed arena will be located at Piers 30-32 on San Francisco Bay, south of the Bay Bridge, between the Ferry Building and AT&T Park. Under an agreement with the city, the city will provide

the land and the Warriors will pay to repair the crumbling piers, and privately finance the arena project. The cost of repairs is estimated at \$75 to \$100 million. The new facility will host the Bay Area's NBA basketball team, as well as provide a spectacular new venue for top-tier concerts, cultural events and conventions, and prominent events the City currently cannot accommodate. The new arena will be located in a transit- and pedestrian-rich location, with a Muni Metro stop at its doorstep, and only a few blocks from Embarcadero Station and the new Transbay Transit Center.

THE BEVERLY HILLS UNIFIED SCHOOL DISTRICT

filed a lawsuit in Los Angeles Superior Court asking a judge to set aside the Los Angeles County Metropolitan Transit Authority approval of the Final EIS/EIR for the Westside Subway Extension Project. The lawsuit was filed under the California Environmental Quality Act, which requires that government agencies, such as Metro, consider environmental consequences before certifying or approving projects like the Westside Subway Extension. According to the lawsuit, Metro failed to comply with CEQA "due to a rush-to-judgment" in locating the Westside Subway Extension station in Century City at Constellation Boulevard. The lawsuit alleges that the Metro Board made its decision without considering the full and complete information about alternatives needed to adequately make an informed choice. The school board and others in Beverly Hills have protested Metro's choice to tunnel under Beverly Hills High School, rather than under Santa Monica Boulevard. The school board claims that tunneling could damage the school, endanger students, and interfere with as-yet undefined expansion plans. In other Metro lawsuit news, a group of neighbors opposing the Expo Line light rail extension to Santa Monica have filed a CEQA suit alleging in part that the line's accompanying bike way has not been properly reviewed; the group already lost a suit regarding the environmental impacts of the actual train line.

THE NATIONAL TRUST FOR HISTORIC PRESERVATION

recently unveiled its 2012 list of America's 11 Most Endangered Historic Places, an annual list that spotlights important examples of the nation's architectural, cultural and natural heritage that are at risk of de-

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struction or irreparable damage. More than 230 sites have been on the list over its 25-year history. Two of the 11 sites are located in California. The list includes the bridges of Yosemite Valley because a proposed National Park Service management plan for the Merced River would leave three historic Rustic Style bridges in danger of removal – despite their significance to the park’s landscape. It also includes Terminal Island at the Port of Los Angeles, which is where America’s tuna canning industry came of age, the site of the forced removal of nearly 3,000 Japanese-American residents in 1942. This site is considered threatened by continued neglect due to long-term vacancy of the historic buildings, and a proposed plan that limits reuse of the buildings and, in some cases, calls for their demolition. The trust also named historic U.S. Post Office buildings to the list because of Congress’ intention to shutter hundreds of post offices across the country, including some in California.

TRUCKEE OFFICIALS recently approved the alpine city’s third major planned community, Joerger Ranch. The 67-acre proposed community has been in the works for ten years, and the Town Council approved the project in late February at a joint workshop with the Truckee Planning Commission. The workshop reviewed the community’s Specific Plan, which intends to overlay land use designations on the site, which does not have zoning regulations. Truckee staff and the Joerger consultancy team have been working together on this project, which consists of residential, commercial, business and open areas. One of the council’s largest concerns is the project’s alignment with Truckee’s general plan. Specific concerns include elements of living like walkability. Community Development Director John McLaughlin acknowledges the project is a work in progress in the upcoming year.

A REDEVELOPMENT PLAN by the University of Southern California that will replace a shopping center and dormitories with new housing, a hotel, retail shops, and a public plaza jumped an important hurdle late

May, when the Los Angeles city planning department approved its environmental impact draft statement, noting all concerns are expected to be successfully mitigated. The project, which they are calling USC Village, plans to include hundreds of dorm beds and 250,000 square feet of faculty housing units. Additionally, there will be 350,000 square feet of commercial retail space, and a 150-room hotel. Community members have expressed concerns about gentrification, and students worry that high dorm rates will cause students to live elsewhere. USC’s Senior Vice President of University Relations, Thomas Sayles said the university is attempting to meet some concerns raised by hiring locally and providing funding for neighborhood improvement. Sayles hopes the project approval will allow construction to begin in early 2013.

SENATOR DIANNE FEINSTEIN has written the California Senate to announce that she intends to take action against abusive lawsuits filed against small businesses by private attorneys under the auspices of the Americans with Disabilities Act. Feinstein said that some attorneys are filing “abusive lawsuits,” and coercive demand letters” to force these businesses to pay hefty fines over frequently minor noncompliance with the federal Americans with Disabilities Act (ADA) and California’s Unruh Civil Rights Act.” Feinstein cited a case in Redlands, where an attorney sued 22 businesses on failure to display a sign by handicap parking to note that violators would be towed. Businesses that settled paid between \$5,000 and \$14,000 in fines. Senate President Pro Tem Darrell Steinberg wrote back that the California Legislature shares her concern and had previously approved a measure that helped businesses comply, making it more difficult to sue. Feinstein is eager for a state solution, but said she would introduce the issue to the U.S. Senate if the California State Legislature cannot agree on a solution.

DESPITE THE STATE’S highest court ruled in favor of cutting redevelopment funding, south San Diego County officials are not willing to let go of their future

redevelopment plans. National City is moving forward with its aquatic center plan, which they hope to be completed by spring 2013. The 4,600 square foot planned facility will complement the new marina, which has sparked change in the city in the past few years. Despite the lack of state redevelopment funding, city officials are confident that they will be able to complete 40 projects with the \$40 million in bonds they issued last year in the middle of what Governor Jerry Brown is attempting to do with redevelopment agencies. However, how the debt will be paid back is uncertain, but city officials have noted that they plan to use some bond money to leverage more funding, like federal grants.

THE LOS ANGELES COUNTY Board of Supervisors approved a final Coastal Commission Plan for residential and commercial development on Marina Del Rey, late March. Two existing parking lots will be developed into residential apartments and senior living facilities, along with retail shops. In addition to these development projects, the plan will also create larger boat slips and wider docks to comply with the Americans with Disabilities Act. Opponents to the approval include environmentalists who worry about the protection of wildlife in the Ballona wetlands, and recreational boaters who are concerned about the reduced number of boating slips.

THE SANTA MONICA PLANNING COMMISSION has approved, in concept, a transportation impact fee, which may be the first of its kind. The fee would be incorporated into the city’s land use and circulation element update and is intended to “mitigate negative transportation impacts of new development.” The general plan update strives for “no new net new trips” during peak hours downtown. A dollar amount has not been set, but, in concept, the fee would require developers to contribute to infrastructure improvements in order to offset the impacts of any new trips that their developments would create.

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MMLOS Toolkit

A web-based interface that organizes the LOS methods by mode (auto, transit, bike, etc.) and by setting (urban, suburban, rural), so users can identify methods that most closely address their unique situation.

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- Fort Collins Motor Vehicle LOS
- Fort Collins Bicycle LOS
- Fort Collins Pedestrian LOS
- Fort Collins Transit LOS
- HCM 2010 Bicycle LOS



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KEY LOS ANGELES OFFICIALS are in support of an urban transformation project in Hollywood. In its rezoning plan, parts of Hollywood will be transformed into a “mini city,” complete with residential and commercial towers on streets like Vine, Hollywood and Sunset. The project has caused much concern among residents who believe the development projects place the community’s small-town charm in jeopardy. The Hollywood Community Plan also aims to de-emphasize the use of single-passenger autos in favor of transit options such as the Red Line subway.

TWO NEW STUDIES question the idea of food deserts, the notion that poor urban neighborhoods lack access to healthy foods and full-service grocery stores. Instead, the studies show that while these neighborhoods have more fast food chains and convenience stores than affluent ones, they also have more grocery stores, super markets and full-service restaurants as well. Study by the RAND Corp. notes that in any urban area, there is availability for any type of food. These studies may change the approach to eliminating childhood obesity and advocating for healthier lifestyles. A spokesperson for the Department of Agriculture notes that fighting obesity requires a comprehensive response, taking actions in all areas including access to food, improving food at schools, increasing physical activity and education on leading healthy lives. Although these studies show that there is no lack of food access in what some may call food deserts, John Weidman of Food Trust, an advocacy group in Philadelphia notes that not all grocery stores are created equal, and those in poorer areas may have fruits and vegetables that are of poor quality and too costly.

SAN FRANCISCO is attempting to shorten the time drivers spend looking for street parking by using new technology and the laws of supply and demand to raise the price of parking on the city’s busiest blocks and lower it on the emptiest ones. Parking costs on the busiest blocks range from \$4.50 to \$6 per hour. This parking plan is the latest attempt in making their downtown accessible without being too congested. Part of the plan includes cutting the price of city-owned parking garages to lure cars off the street. Although it is too early to tell if the program is working, there is a desirable effect in some areas. Some neighborhoods in San Francisco recently objected the proposal that called for installing parking meters on streets it is currently free, with one of the largest concerns being affordability for the poor.

THE ISLAMIC CENTER OF THE SOUTH BAY, in the Los Angeles County city of Lomita, filed a federal lawsuit claiming the city engaged in religious discrimination when the mosque renovation plans were rejected. The denial of renovation plans has made it

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REDEVELOPMENT UPDATES:

BUDGET TRAILER BILL

The Senate Budget Subcommittee recently heard testimony from cities and other supporters of redevelopment in opposition to a bill that could limit the number of former redevelopment projects that receive funding under Assembly Bill 1X 26. Released last week, the bill would make changes to the redevelopment dissolution statutes that would reduce the discretion of local oversight boards and expand the power of the Department of Finance, including granting it the ability to divert local sales and property taxes when it determines successor agencies have “improperly” transferred funds to other agencies or private parties. “It’s designed to provide additional clarification in terms of some of the actions associated with the dissolution of redevelopment agencies,” said DOF spokesperson H.D. Palmer. The DOF’s proposal would direct all remaining affordable housing and other funds to benefit the state and empower DOF and county auditor-controllers with authority to resolve all matters of dispute involving Recognized Obligation Payment Schedules and enforceable obligations in favor of the state without regard to priorities set by local oversight boards. Though many have expressed concerns about AB 1X 26, the League of California Cities is leading the opposition against this new bill, which, League officials say, makes the dissolution process even harder on cities. Palmer said, though, that the bill includes provisions that could benefit successor agencies. Many successor agencies have been concerned about obligations that might not get funded by the deadline of June 1 but that are still under investigation by DOF. The bill would ensure that monies would be available even if deliberations extend beyond June 1.

LAWSUITS

Several entities have filed the first of what may ultimately be dozens of lawsuits related to the demise of redevelopment. In late May, eleven cities sued the Department of Finance, asking for a temporary restraining order on the disbursement of property tax funds to taxing entities. The cities feared that once the funds were disbursed, they would have little chance of winning funds for disputed items on their Recognized Obligation Payment Schedules. A judge refused to grant the restraining order.

Several other lawsuits have been filed:

- A developer in Hercules sued for \$53.3 million after the Department of Finance initially rejected an obligation for an affordable housing project that the developer had been involved with. After the suit was filed, DOF reversed its decision.
- A merchants’ association in Santa Ana has filed suit to recover roughly \$82 million in former redevelopment funds, claiming that a 1982 legal settlement requiring the city to spend \$2 million per year on street upgrades through 2023 constitutes an enforceable obligation.
- The Victor Valley Economic Development Authority (VVEDA) filed a lawsuit in California Superior Court contending that the State of California’s adoption and implementation of Assembly Bill x1 26 does not apply to VVEDA. The lawsuit contends that VVEDA was formed as a Joint Powers Authority under the Joint Powers Act, which is a separate and distinct provision of law from those laws that govern the formation of redevelopment agencies. The lawsuit also contends that because VVEDA was formed as a reuse agency to transact business in direct response to a federal military base closure program, that AB x1 26 should be preempted by federal authority.
- Affordable housing developers in San Marcos are suing for \$60 million in bond funds that they say are enforceable obligations. The complaint claims that the redevelopment bond funds are crucial for a housing development to qualify for low-income housing tax credits.

AFFORDABLE HOUSING FUNDS

California’s relentless, ever widening budget deficit has claimed another victim: redevelopment’s affordable housing funds. Gov. Jerry Brown’s revised draft of his 2012-13 budget addresses a deficit that has risen to an estimated \$15.7 billion, up from an estimated \$9.2 billion at the beginning of the year. The May revise appropriates all remaining cash assets that had been held by redevelopment agencies. This move effectively does away with funds that many had hoped – and expected – would be preserved even as redevelopment itself had been dissolved. Roughly \$1.4 billion currently sits in the former redevelopment Low & Moderate Income Housing Fund. Preservation of affordable housing had been considered by many to be the one part of redevelopment that had to be salvaged.

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burdensome for congregants to exercise their religion because the debilitated property is more fitting for a refugee camp than place of worship, the suit claims. There is a lack of prayer room and room for programs to benefit mosque membership. Although municipal staff and the Planning Commission recommended approval, the city council denied the application. The mosque's legal team thinks the vote was derailed by vocal public opinion, partially motivated by anti-Muslim bias. Others note that these frustrations are not prompted by discrimination issues, but rather, land use issues – such as parking. Municipal officials believed they engaged in productive discussion to revise the plan with the mosque architect.

SAN FRANCISCO'S preservation program, which governs historic districts and landmarks, is undergoing updates under legislation introduced by Supervisor Scott Wiener. Proposition J was passed in 2008, but only this past February did the Planning Commission and Historic Preservation Commission agree on how the city should revise these articles. Under the proposed changes, residents in a potentially historic district will vote before it is created. Additionally, those who already own property in such districts but cannot pay to maintain them, will stay at an affordable rate in order to encourage affordable-housing development in these neighborhoods. Lastly, these changes mean the Planning Commission and Historic Preservation Commission must base local historic preservation standards to those used by the Secretary of the Interior.

FEDERAL LAND MANAGERS are in negotiations for land trade with the Agua Caliente Band of Cahuilla Indians near Palm Springs. Under the proposal, the Bureau of Land Management would trade 9 square miles in the northern part of Santa Rosa San Jacinto Mountains National Monument, in exchange for 2.3 square miles of land the tribe currently owns. Tribal members say the land contains their ancestors' ancient art and village and should have been theirs all along. Federal land managers in charge of this project are seeking public input. Some cyclists, hikers, and equestrians have protested, fearing the loss of trails in this area.

THE HUMBOLDT COALITION FOR PROPERTY RIGHTS (Hum-CPR) is filing suit against the county for unwillingness to comply with the California Public Records Act on a request for attorney fee information. Lee Ulansey, HumCPR Chairman, says the county did not provide the documents within ten days and that they are required to do so because the public has a right to know how much they have spent on land-use lawsuits. In a press release, Ulansey said, "We believe that the citizens should know how much money is being spent on lawsuits on private property issues...particularly in these difficult economic times, the public needs to know how much money is being diverted to often un-

necessary litigation." HumCPR is planning on moving forward with the lawsuit since it seemed like there was no sign that the county counsel's office would act.

THE FRESNO CITY COUNCIL voted to allow residents west of Highway 99 to vote on forming a special district to aid in maintenance costs at a proposed park. If two-thirds of votes are in favor of the district, the council can pass an ordinance to levy the special tax. These tax fees would be added to property tax. The city has more than \$7 million to build the Universally Accessible Park, \$5 million of which was from a state grant. The city is on a tight budget and attempting to find solutions for how to find funds to maintain the park after it is built.

THE HERCULES CITY COUNCIL confirmed two development agreements with Hercules Bayfront LLC for a waterfront transit village. Jim Anderson, a principal in the developer team showed support for the transit center while noting the merit and value to the city. The development project is expected to be a pedestrian, bicycle and transit-friendly mix of over 1,392 houses, shops, restaurants and offices. Previous concern over the environmental impact statement and mitigation costs on the development has also been resolved. Residents have mixed views on the project, but one of the boardmembers of the neighborhood associations voted unanimously to oppose hosting any NFL team on a short-term basis. The Pasadena Chamber of Commerce supported the idea of hosting short-term as it would be a lost opportunity to dismiss the idea without properly assessing the positive and negative impacts.

NEARLY 10 SQUARE MILES of valuable ecological resources will be transferred to government control and preserved in perpetuity according to a deal recently approved by the California Coastal Commission. The land encompasses the former Coast Dairies Ranch, just north of Santa Cruz. The deal involves the transfer of three parcels and the transfer of thousands of acres currently held by the Trust for Public Land into public hands. The new parcel fronts several miles of coastline

and extends 2 ½ miles inland. Coastal Commission officials have hailed it as a landmark deal, partly because such large parcels are becoming more scarce. The Coastal Commission also approved a final forest preservation and development plan for Pebble Beach in the Del Monte Forest of Monterey County. The compromise ends decades of conflict about how to develop the remaining Pebble Beach Company lands in the Del Monte Forest, and will permanently set aside more than 635 acres of pristine native Monterey Pine forest while allowing the development of a new 100 room hotel, expansions of the existing Lodge at Pebble Beach and the Inn at Spanish Bay, and 90 new homes in, and adjacent to, existing developed areas.

THE PLEASANTON CITY COUNCIL approved a plan to develop 500 apartment units in a mixed use development near the Dublin-Pleasanton BART station. To be developed by affordable housing developer BRE Properties, the development is intended to comply with a court order for the city to provide more affordable housing. The city famously lost a lawsuit in 2010 in which it unsuccessfully challenged its share of regional affordable housing in order to impose a voter-approved growth cap.

A FORESHORTENED VERSION of Sacramento's new Green Line light rail line opened in mid-June. The initial \$44 million segment covers only one mile and serves only two station stops, but it is intended to be the beginning of 12-mile line that will eventually extend north from downtown Sacramento, over the American River, and up to the Sacramento Airport. The line's first and only unique stop, called "7th and Richards/Township 9" serves the River District, north of the city's downtown railyard; it connects with the Yellow Line at the County Center Station. The district is currently sparsely developed, but city officials hope that the line will serve as a catalyst for revitalization. Nearly 2,500 residential units are planned for the Township 9 development, on a parcel just north of the station. The next phase, involving a bridge over the American River, is not yet funded. ■

—Compiled by Connie Phu

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Neighbors Fail to Demonstrate Inadequacy of Hospital EIR's Traffic, Noise, Mitigation Analyses

Court rules in favor of Palo Alto Medical Foundation on all counts

BY KATHERINE J. HART

In *Pfeiffer v. City of Sunnyvale City Council*, the Court of Appeal, Sixth Appellate District, upheld the city's certification of an environmental impact report and approval of an expansion of the Palo Alto Medical Foundation's medical campus. The court found that the city properly deemed the project consistent with its general plan; used the correct baseline for the traffic analysis in the EIR; used the correct baseline for the traffic noise analysis in the EIR; and contained a sufficient discussion of traffic noise impacts in the EIR.

Background

The expansion of the Palo Alto Medical Foundation's medical campus included the demolition of several structures: an existing 72,065-square-foot building, three existing homes, and a surface parking lot. It entailed the construction of a 150,000-square-foot three-story medical office building (52 feet high) with underground parking and 3,250 square feet of storage and waste management area. These improvements entailed the rezoning the property from low-med density residential with office/planned development combining district to a public facilities/planned development combining district. The city elected to prepare an environmental impact report for the project.

The notice of preparation for the EIR was issued on October 22, 2008, and a public scoping meeting was held on October 29, 2008. The draft EIR was circulated in January 2009

and the final EIR was published in May 2009, which included a reduced project description of a 120,000-square-foot medical office building (38 feet high) with a two-story (not four-story) parking garage.

The city council certified the EIR and adopted the revised (reduced) project, but rejected the request for a rezoning. Neighbors, including lead plaintiff Jeni L. Pfeiffer, filed a petition for writ of mandate challenging the city's approval of the project contending (1) the project was inconsistent with the city's general plan, (2) the EIR failed to use the proper baseline with which to analyze traffic and traffic noise, and (3) the EIR improperly found construction noise was an unavoidable impact.

The trial court denied the petition and the neighbors appealed.

General Plan Inconsistency

Appellant neighbors argued that the project was inconsistent with the city's general plan because the project entailed constructing a storage and waste management area on land zoned for low-density residential development. The court reiterated that the applicable standard of review was abuse of discretion and that a court reviews an agency's decision directly. A party seeking to overturn an agency's general plan consistency determination bears the burden of showing why, based on all the evidence in the record, no reasonable person could have reached the same conclusion.

Here, the court found the appellants had failed to show that the zoning excluded any use other than residential (the zone was, after all, low density with an office/planned development combining district), and that appellants'

conclusory arguments that the city council failed to make express findings regarding general plan consistency between the project and the zoning of the subject property, did not illustrate unreasonableness on the part of the city.

Appellants were dissatisfied with the city's consideration and inclusion of the general plan conformity issue in the draft EIR, as well as in the response to comments (final EIR). However, the appellate court found that the city's EIR was required to evaluate the project's consistency with the general plan only if the project would, in fact, be inconsistent with the general plan (which here, it would not). The court further held that the city's response to appellants' comments regarding this issue complied with CEQA Guidelines section 15088.

Traffic Baseline

The most significant and interesting discussion in this case pertained to traffic baseline. Appellants challenged the traffic impact analysis in the EIR, claiming the EIR improperly used hypothetical background conditions instead of the true existing conditions as the traffic baseline. The city and real party countered that CEQA does not mandate the use of a particular baseline and a baseline that deviates from existing conditions is allowed under the circumstances at issue (so long as there is substantial evidence supporting the deviation). Quoting from the *Save Our Peninsula Committee v. Monterey County Board of Supervisors* (2001) 87 Cal.App.4th 99, the appellate court stated that an EIR can take into account the normal increase in traffic over time.

The draft EIR included an analysis of traf-

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>>> Court Rejects Concerns about Mitigation of Noise, Traffic

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fic, which looked at existing conditions, background conditions, project conditions, and cumulative conditions (2020) of the project. The court concluded that appellants did not carry their burden in illustrating how the evidence supporting the city's decision on baseline was lacking. Then, the appellate court went on to distinguish *Sunnyvale West Neighborhood Assn., et al. v. City of Sunnyvale City Council* (2010) 190 Cal.App.4th 1351, decided by the same appellate district (but with a different panel of justices) rationalizing that “the traffic baselines included in the EIR were not limited to projected traffic conditions in the year 2020, but also included existing conditions and the traffic growth anticipated from approved but not yet constructed developments.”

Traffic Noise Baseline

On the issue of traffic noise impacts, appellants argued the city used a hypothetical background traffic baseline and thus, could not analyze the project's noise impacts on the existing environment. The court disagreed and held that the appellants failed to bear the burden of

proving the EIR was legally inadequate because the EIR properly analyzed existing plus project conditions over existing traffic noise levels, as well as the cumulative traffic noise impacts of the project. The court distinguished the *Sunnyvale West* case once again stating that the EIR showed the existing traffic noise levels were measured and compared with existing ambient noise levels.

Mitigation Measures and Alternatives

The final issue on appeal was whether the EIR was internally inconsistent on the conclusion of the project's construction noise impacts, and then whether the mitigation measures and alternatives for the project's construction noise impacts were adequate. Appellants argued that because the EIR summary indicated the impact would be reduced down to insignificant, it was internally inconsistent since the analysis showed the impact as significant and unavoidable. The court found this error irrelevant since the EIR properly analyzed the mitigation measures and alternatives of the impact.

Appellants further argued that the city was required to analyze mitigation measures or al-

ternatives that would lessen the impact of noise construction to less than significant (down from significant and unavoidable). Notably, the EIR contained 11 mitigation measures to address the construction noise impacts. The court stated that “the relevant CEQA provisions do not require analysis of mitigation or alternatives that would reduce the impact of construction noise to a level of insignificance” and that the appellants failed to cite any authority supporting such a proposition. ■

Katherine J. Hart is an attorney with the Sacramento law firm of Abbott & Kindermann, LLP.

► The Case:

Pfeiffer v. City of Sunnyvale City Council (Oct. 28, 2011, H036310) 200 Cal.App.4th 155. Certified for publication Nov. 22, 2011.; certified for publication Nov. 22, 2011.

The Attorneys:

For Appellants: Alexander T. Henson

For Respondents: Robert K. Best, John D. Fairbrook, Arthur Bernard Mark III, Trainor Fairbrook

San Diego Property Owner Fails to Win Tax Relief

Property tax liability does not automatically carry forward simply because buyer is carrying out public redevelopment plan

BY WILLIAM W. ABBOTT

ONE OF THE MANY key features of 1978's Proposition 13 was the rolling back of the taxes, and limiting annual increases. A change in ownership was treated as a triggering event for purposes of establishing property valuation, and in turn, the recalculated property tax liability. *Duea v. County of San Diego* clarifies as aspect of how, and when, tax liability may be recalculated.

Over time, one of the important considerations in applying tax liability was whether a transfer took place. Subsequent to Proposition 13, the Legislature enacted legislation for purposes of defining certain transfers as not constituting a triggering event. Exemptions include acquisition through eminent domain, acquisition by a public entity, or governmental action resulting in a judgment of inverse condemnation.

David Duea, as trustee for a revocable trust, sold property to a private developer active in the development/redevelopment of San Diego's downtown baseball complex, today known as Petco Park. Following the sale of the property, Duea acquired replacement property. Duea then filed a request with the county tax assessor to have the tax base from the sold property transferred to the acquired property. The assessor rejected the request on the basis that the property was not acquired by a public entity.

Duea appealed to the Board of Equalization, arguing that the acquisition was the functional equivalent to an eminent domain proceeding (which would be a basis for base transfer). Backing up Duea, The city's development corporation, responsible for the ballpark and related projects, issued a letter to Duea indicating that had he not sold, the city would have condemned the property. The Board of Equalization affirmed the decision of the assessor.

Duea filed a Superior Court action. At trial, Duea argued that the developer-buyer was acting as an agent for the city, but the trial court rejected this argument on the basis that Duea

had not presented this issue to the Board of Equalization, thereby failing to exhaust administrative remedies.

The Court of Appeal affirmed, concluding that Duea had administratively pursued the “eminent domain” argument, but not the acquisition by agency legal theory and that the trial court was not obligated to consider the alternative theory. Recognizing the long line of cases which vest the primary legal proceeding with the local board of equalization, the appellate court declined to broaden the authority of the trial court. ■

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

► The Case:

Duea v. County of San Diego (Feb. 29, 2012, D058333), certified for publication March 27, 2012, 204 Cal.App.4th 691; 2012 Cal.App. LEXIS 350

The Attorneys:

James Ellis Schneider, LL.M., Inc., and James Ellis Schneider for Plaintiff and Appellant.

Thomas E. Montgomery, County Counsel, and Walter Joseph DeLorrell III, Deputy County Counsel, for Defendant and Respondent.

Tahoe Plan Would Introduce Smart Growth to Recreational Paradise

BY JOSH STEPHENS

IN PERHAPS A MORE SENSIBLE WORLD, the 325,000-acre Lake Tahoe Basin would not be governed by two rival states, a handful of small cities, and embittered factions of environmentalists and resort-casino owners. Nor would it have miles of open highway or 55,000 year-round residents. Rather, it would be treated like the Grand Canyon, the Everglades, or any other of America's major natural wonders.

Instead, pioneers, skiers, and gamblers got to the Tahoe area before the federal government could – and, from many environmentalists' perspective, many of them got their at the worst possible time. By the time regional planning arrived, in the form of the Tahoe Regional Planning Agency, the basin had already been widely developed. TRPA sought mainly to bring development to a crawl, even at the possible expense of good, environmentally friendly development.

"Tahoe was built out in the 1960s at the peak of sprawl development. It's a car-oriented infrastructure," said Patrick Wright, executive director of the California Tahoe Conservancy. "I think it's fair to say that the existing rules are a strong disincentive to redevelopment and to smarter growth/AB 375-consistent principles."

Assembly Bill 375 is the California law that seeks to reduce per capita vehicle miles traveled through compact development; it applies only to the state's major urban areas. Notably, SB 375 does not apply to Nevada. Interests on the eastern side of the lake have traditionally favored more development – and the economic growth that accompanies it – and have often bristled at having to collaborate with California. Any successful plan will have to find a compromise amid this tension.

Short of turning back the clock 50 years or allowing casinos to run wild, the new plan is attempting to gingerly update the plan so that it promotes redevelopment in preferred locations.

The result has been an ongoing feud over the nature of development in the basin. The latest – and perhaps last – round in that feud centers on the long-awaited release of the draft Tahoe Regional Plan Update, by the Tahoe Regional Planning Agency. The draft plan was made public in April; the TRPA board is ex-

pected to vote on it by December, following a public outreach process.

If the preferred alternative is adopted, the plan will attempt to bring smart growth to the great outdoors. Critics say, however, that what's good for the big city is not so good for the great outdoors.

"It's not about general land use policies or changes and directions that we have to go as a country," said David McClure of the North Tahoe Citizens Action Alliance. "This is in the Lake Tahoe Basin...it has very limited geography and infrastructure...and a set of environmental thresholds that are not established anywhere else in the country."

TRPA, if and when it is adopted, will be the first comprehensive plan update for the Tahoe Basin since 1987. For years, activists and public officials on both sides of the state line have been clamoring for the update. The update process commenced in 2005 but stalled several times until the Nevada legislature forced TRPA's hand with a threat to pull out of the bi-state compact. All the while, water clarity in the lake – which many use as a benchmark not only for the health of the North America's largest alpine lake but also as a stand-in for a range of other environmental measures – has slowly diminished.

Lake Tahoe's clarity now stands at around 70 feet of depth; the interim target is 75 feet, with a threshold standard of 97 feet.

While the plan aims to keep particles out of the water and keep streams and trees healthy, several of the plan's five alternatives – including the frontrunner Alternative C, which Cowen said has been vetted by the Regional Plan Update Committee of the TRPA board – rely on a strategy that has become a staple of major metropolitan areas: smart growth.

Though cities like South Lake Tahoe and Nevada's Incline Village are not exactly metropolises, TRPA planners say that by clustering growth in small town centers and around existing resort infrastructure – such as the basin's major ski areas – the plan will lead to reduced driving, pollution, storm water runoff, and other adverse impacts on the basin's ecological health.

Permitted densities would depend on the location of a proposed development. Building heights would be permitted up to four stories

(56 feet) in town centers, six stories (95 feet) in the "Regional Center," and 197 feet in the "High Density Tourist District."

Some city officials say that the plan fits nicely with their own cities' respective visions.

"We've identified areas throughout the basin where we want to target for concentrating development that is...linked by alternative transportation...and that is consistent in the city's general plan," said Hilary Roverud, director of Development Services for the City of South Lake Tahoe. "I certainly believe that will bring environmental benefit."

The plan includes incentives that, say TRPA officials, will encourage landowners to abandon and restore parcels that contribute to pollution and swap them for parcels within existing urban footprints. The hoped-for result is that residents and tourists alike will arrive at the basin, park once, and then explore by foot, boat, and bus.

"The Environmental Redevelopment Program (is) to encourage moving properties away from our sensitive areas...incentivizing them to move into the town centers where there are more services available, people have more opportunity to get out of their car," said TRPA spokesperson Kristi Boosma.

TRPA planners say that, of 1,100 acres of sensitive stream habitat that is slated for restoration, nearly half remains in private hands. A few strategic swaps could, therefore, make a major difference. The plan treats these potential areas as commodities whose value landowners can capture by restoring them privately.

"Those development commodities that we've used as growth controls we're now using as incentives to make it economically feasible to have private investors do a lot of the restoration for us," said TRPA spokesperson Jeff Cowen, in a joint interview with Boosma.

TRPA officials and other supporters call this strategy "environmental redevelopment."

Though the prospect of promoting development in order to achieve conservation goals may seem paradoxical, TRPA officials say that it can go a long way towards undoing some of the ecological being inflicted by existing developments. The vast majority of the basin was developed in an era when environmental con-

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>>> Tahoe Plan Seeks to Undo Damage from 60s Sprawl

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cerns were minimal. That kind of development led to the creation of the TRPA in the first place.

“We have a code of ordinances that was written in 1987 when it was really important to stop runaway growth and to control overdevelopment,” said Cowen. “About 80% of what’s in the basin was built before TRPA, so what we need to do is create an environment where people want to remodel, redevelopment, rebuild.”

Many developments were built without safeguards to filter storm water runoff, and some say that even renovating existing buildings has been hampered by a burdensome TRPA permitting process. And because of rampant development in the 1960s and 1970s, any strategies for restoring the basin and hitting TMDL targets must by necessity target those older developments.

Cowen said that a change in 1-2% of the basin’s 43,000 residential parcels could be enough to yield significant benefits. Cowen said that the basin’s 3,100 remaining developable units amount to the square footage of a Walmart Superstore; “that’s not urbanization as I would think of the term,” he said.

In exchange for this swap, landowners may be allowed to build at higher densities. Even though the original Tahoe Compact puts a hard cap on development and year-round population growth, opponents of the plan fear that the plan’s eager embrace of “environmental redevelopment” is a Trojan horse.

“With their plan they’re just going to fix a 2,500 population increase,” said Ann Nichols, President of North Tahoe Preservation Alliance and member of the Lake Tahoe Federal Advisory Committee; her group is aligned with McClure’s. “But they don’t count all the second- and third homeowners and tourist accommodations.”

Nichols questioned TRPA’s ability to actually compel property owners to do the sort of restoration that the plan calls for. She and McClure agreed that the status quo often prevents owners of small properties from redeveloping them, but she speculated that with lax enforcement, property owners would reap the benefits of land swaps without actually investing in environmentally friendly restoration.

“It actually works in reverse and keeps people from doing what they’re supposed to do,” said Nichols.

Though Wright, of the Tahoe Conservancy, said that he supports TRPA’s plan, he said that

“whether or not land use regulatory changes alone are going to be enough to actually stimulate redevelopment versus make it easier and not be an impediment is... an open question.”

Even the smart growth approach strikes critics as suspicious, primarily because the area does not have consistent commuting patterns and established large population base.

“The application of this growth and so-called smart growth principles is being misapplied here because it’s basically been co-opted by the mountain resort development industry,” said McClure. “They’re using those principles, or misusing them, to justify \$200-\$500 million resort development projects in Lake Tahoe.”

Though McClure and Nichols both said that they are not opposed to all development, they are wary of large developments and of the impact that tourists can have. They noted as well that the plan’s transit infrastructure – detailed in an accompanying Regional Transportation Plan – may not be robust enough to coax visitors out of their cars. Cowen countered that, with concentrated development, tourists can walk out the back door of their hotels and reach ski slopes and hiking trails without driving at all.

“Clearly, concentrated development will help support transit systems,” said Wright. “It will help provide walkable communities. I think the question is, how great are the benefits? What kind of critical mass do you need to support a healthy transit system?”

Many in the region say that large resorts may hold the key to the area’s economic health. The plan has come about at a moment of profound economic change in the basin. Casino gambling has nosedived, in part because of competition from Indian casinos in California; casino employment in South Lake Tahoe is down to about 3,200 workers, from over 7,000 in the mid-1990s. The area’s economy is increasingly relying on visitors who come for recreation and natural splendor rather than for smoke-shrouded tables deep inside a casino.

“It’s no longer about coming in a bus with 40 other people and going into a casino,” said Betty “B” Gorman, president & CEO of the Lake Tahoe South Shore Chamber of Commerce, which supports the plan. “There’s no one here that doesn’t understand the importance of protecting the environment and engaging people in a better understanding of what that means.”

Moreover, with more visitors may come a greater demand for employees – who may or

may not be able to live in the basin.

“If South Lake gets revitalized and we don’t have enough affordable housing and we don’t have adequate transit, we’re just going to have more people commuting up the hill from outlying areas,” said Wright.

Immediately “down the hill” from South Lake Tahoe lies the Nevada capital of Carson City, which, in an indirect way, has led to the drafting of the current plan.

Last year the Nevada Legislature based Senate Bill 271, which called for Nevada to pull out of the bi-state compact if TRPA did not meet certain conditions. Supporters of the bill said that they were frustrated with the delay in updating the plan and conditioned the threatened pull-out on a timely draft. TRPA’s board includes members from both states.

Critics of SB 271 contend that it is a way for Nevada to force TRPA to loosen restrictions on development. A letter from four environmental groups – including Nichols’ – to TRPA claims that while “TRPA was established to protect the fragile eco-system of the region...SB271 demands, among other things, more attention to economic stimulation and profit.”

Whether or not that claim is true, there is a consensus that the law did motivate TRPA to quicken its process.

“I think it’s significantly shaped the timing,” said Wright. “Whether you’re a supporter or a detractor of it, there’s no question that the two states have gotten together....I don’t know that it significantly affected the details.”

TRPA officials are more glib.

“All the update does is meet the timeline requirement of SB 271,” said Cowen. ■

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Cities Discover Relative Merits of Staying Out of RDA Game

BY JOSH STEPHENS

WHILE MOST OF California's cities undergo the arduous wind-down of their redevelopment agencies, a handful of cities have been going about business as usual. For most of the cities that never had redevelopment agencies, business has been, and probably will continue to be, good. Redevelopment took root in economically disadvantaged places, so the likes of Beverly Hills, Rolling Hills Estates and San Marino are carrying on contentedly.

Add to that rarified group the East Bay of Benicia and the south Los Angeles County city of Gardena. They are among the few cities in California that, by most accounts, should have had redevelopment agencies and yet did not. Though the demise of redevelopment has not necessarily been a blessing in disguise, those cities have nonetheless escaped the trauma that their peers are suffering.

"All the other cities in Solano County have redevelopment agencies, and it's extremely difficult dealing with it," said Benicia City Manager Brad Kilger, a former redevelopment manager who also serves on a League of California Cities post-redevelopment task force. "There are dozens and dozens of issues that need to be worked out on how you unwind these things."

Though both Gardena and Benicia face economic challenges – Benicia has an outdated industrial park and Gardena's median annual household income of \$45,599 is well less than that of the state as a whole – Kilger said that the benefits of his city's current situation are twofold. The city does not have to contend with what Kilger described as the administrative and logistical "debacle" that is the dissolution process. Moreover, the city will not have to part with full-time staff members whose salaries may have been funded by redevelopment, as they were in many other cities.

"Since we didn't have an RDA...our city wasn't heavily invested in personnel or other costs...associated with RDAs, so we weren't really impacted by the changes recently," said Ward Madrono, Gardena's police chief and assistant community development director. "We are thankful that we have no liability because of the recent decisions."

In that respect, the loss of redevelopment is yet another blow that has followed years' worth of fiscal constraints brought on by the

recession.

"Given the turmoil that's created inside organizations who have been over the last 3-4 years dealing with downsizing...(dissolution) is like the last straw," said Kilger. "From that standpoint we do not have to contend with that and I see that as a major plus for us."

"We feel that we've probably hit bottom and ... that we'll be able to continue to deal with the need for cost reductions and such. The cities with (former) redevelopment agencies ... they don't know where the bottom is."

— BRAD KILGER,
BENICIA CITY MANAGER

Cities that have lost their redevelopment agencies are currently caught in a maelstrom of uncertainty as the Department of Finance deliberates on the validity of their Recognized Obligation Payment Schedules.

"We are thankful that we have no liability because of the recent decisions," said Madrono.

Cities without redevelopment agencies might not be in strong shape, but their fate may be more predictable.

"We feel that we've probably hit bottom and, barring another major turnaround recession, that we'll be able to continue to deal with the need for cost reactions and such," said Kilger. "The cities with (former) redevelopment agencies... they don't know where the bottom is."

The two cities missed out on the redevelopment trend – which gained momentum in California following the 1978 passage of Proposition 13 – for different reasons.

For decades, Benicia had funded development activities from its general fund surplus, created in part by the success of a mid-20th century era Benicia Industrial Park. But, with the industrial park in decline, Kilger said that, upon arrival in Benicia, he felt the city was ready to explore other options.

"When I came on board about a year ago, the infrastructure in the industrial park had deteriorated over the last 30-some years," said Kilger. "Before redevelopment had met its demise, I was thinking this is a prime community for redevelopment!"

Madrono said that the city had not necessarily suffered for lack of redevelopment, except for having trouble assembling parcels.

"We're a built-out city for the most part," said Madrono. "Without having the funding of an RDA to do that ourselves we've been limited in our ability to do large-scale developments."

Gardena's failure to form a redevelopment agency was not for lack of trying. Rather, Gardena residents raised the common – if not necessarily substantiated – complaint that redevelopment would lead to rampant use of eminent domain. Redevelopment foes called for a voter referendum on redevelopment and won.

Madrono said that, had the issue come up again more recently, the vote might have yielded a different result.

"There was a lot of misinformation about it and maybe some lack of trust at the time," said Madrono. "If it was on the ballot now, there might be more trust in government...to move that forward."

As cities are now trying to devise their own home-grown economic development initiatives, Benicia and Gardena do not necessarily offer much by way of models. Benicia, with fewer than 30,000 people, thrived in large part because of the industrial park. Meanwhile, Gardena employed a range of administrative reforms in order to facilitate the development process.

"We've tried to develop a one-stop approach to economic development...identifying potential businesses that want to come here, through our hand-holding and pre-meetings," said Madrono. He added that the city has also tried to streamline the code-enforcement process.

Those practices, said Madrono, helped make Gardena a finalist for the honor of "Most Business-Friendly City" by the Los Angeles Economic Development Corp. last year. ■

>>> Bay Area SCS to Rely on Priority Development Areas

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gional planning efforts would impose unwanted density on them. Self-described Tea Party supporters have been concerned that Plan Bay Area would go so far as to force residents out of their homes and put strict moratoria on the development of single-family houses.

Officials say that the plan has been deliberately constructed so as not to upend residents' suburban lifetimes.

"They got this idea that we were going to try to impose this urban vision in places where it didn't make sense," said Rentschler. "That's the last thing we were trying to do."

As with the SCS's devised by the other three of California's "Big Four" MPOs – mandated to create SCS's by Senate Bill 375, the 2008 law that seeks to reduce driving via compact development and transit use – Plan Bay Area is designed around a core of transportation investment as described in the accompanying Regional Transportation Plan update.

Though the Bay Area already famously has Bay Area Rapid Transit and other major elements of public transit infrastructure, the RTP includes elements such as a BART extension to San Jose, the San Francisco central subway, and 270 miles of new and converted express lanes on the region's freeways.

Even with all of those investments, the plan actually emphasizes maintenance of the existing transportation system over the development of new infrastructure. Planners have hailed this "fix it first" strategy, which allocates 88% of transportation funding – up from current levels of 80% – to maintenance.

"The very positive change is when we look at the shift in transportation money, where a much higher percentage is spent on maintenance and operation and a decline in the amount of expansion," said Egon Terplan, regional planning director at San Francisco Planning & Urban Research Association.

As well, the plan includes performance-based funding, which directs transportation investment towards areas of greatest need.

To meet SB 375's goals of reducing per capita greenhouse gas emissions by 7% in 2020 and by 15% in 2035, planners estimate that – if current residents maintain their travel patterns, then each marginal resident will have to

drive 75% less by comparison.

On the land use side, Plan Bay Area centers on an innovative program that encourages cities to comply voluntarily with SB 375. Cities may submit applications to adopt "Priority Development Areas" (PDA's) and thereby become eligible for grants and technical assistance from MTC/ABAG. To be eligible to be-

gram will allocate \$14 billion of One Bay Area Grants to localities to plan and invest in PDA's. The plan intends for 75% of new housing and 64% of new jobs to be located in PDA's and for per capita vehicle-miles travelled to fall accordingly.

Though this strategy has garnered widespread praise, some observers fear that achieving SB 375's greenhouse gas emissions reductions poses a greater challenge in the Bay Area than in the state's other big three MPOs. Many places in the Bay Area – most notably San Francisco – are already compact and already have high transit ridership. Therefore, achieving the marginal decreases in greenhouse gas emissions may be more difficult because the region is relatively efficient in the first place.

"For SCAG to reach its targets, it was more about encouraging a modest densification of land use patterns that are already in line with what the market is doing," said Terplan. "For the Bay Area, a place where per capita driving is already less than in a lot of other regions, getting a 15% reduction is harder."

In fact, the plan acknowledges a six-percentage-point gap in emissions reductions for 2035.

"The region really needs to look at pricing mechanisms, particularly road pricing, as a way to close the greenhouse gas emission gap," said Terplan.

Others feel that those concerns are overblown, and they say that the region's density and, especially, its transit infrastructure simply provides greater opportunities for effective infill development.

"There's lots and lots of redevelopment opportunities around the Bay Area's existing network," said Hobson. "We don't have to spend a lot of money to put thousands of new homes and jobs around transit centers. In other regions, they need to build transit in order to have TOD."

The big money, though, will be directed towards transportation projects. Through 2040, the region will invest \$277 billion in roads, mass transit, and non-motorized transportation.

As it turns out, getting people around is only half the battle for Plan Bay Area. Many planners and public officials in the region have

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come a PDA, an area had to be within an existing community, near existing or planned fixed transit or served by comparable bus service, and planned for more housing.

Though PDA the program has been in effect for six years, the advent of the SCS has given it greater purpose. Currently, there are 115,000 acres of PDA's in the Bay Area, in various stages of build-out. The "OBAG" grant pro-

>>> Tea Party Protests Exert Little Influence on Plan Bay Area

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also approached it as sort of economic development plan, with housing at its core.

While MTC can direct the investment of transportation funds, Rentschler stressed that the plan's success relies on the participation of the region's localities — namely the 101 cities that make up the metro area. The plan calls for those localities to complement the region-wide investments with local plans and investments of their own.

"If you want the Smart Train in Marin and Sonoma, that's great," said Rentschler. "But unless you want empty trains, communities in those counties have to . . . you have to support those stations. In some cases that means TOD, in some cases that means retail, in some cases that's a big parking lot."

The plan is designed to accommodate the Bay Area's Regional Housing Needs Assessment allocation, which is determined by the state. However, many planners are concerned that the plan still will not alleviate the region's notoriously high combination of transportation and housing costs.

"The most significant concern is that the agencies' own analysis shows that the share of income that low-income families spend on transportation and housing is going to get worse, not better," said Hobson. "So displacement risks are going to be much higher."

Though many communities consider the production of housing — especially affordable, subsidized housing for low- and moderate-income residents — to be a burden, regional planners are trying to convince localities of the opposite: that more housing will translate to greater regional economic growth.

"If you provide the housing at a reasonable cost, you're going to get the strong economy that you're seeking," said Rentschler. Rentschler noted that, despite the tech boom in San Francisco and Silicon Valley, the Bay Area economy has been largely stagnant for the past decade.

Those goals are frustrated by communities that are reluctant to grow, regardless of what incentives Plan Bay Area may offer.

"I am concerned with a growing perception in the Bay Area that we are built out," said Terplan. "One of our great challenges is to overcome that perception and see the positive benefits of growth, particularly of adding housing . . . and the densification of existing employment centers."

If that growth comes to pass, it would likely contradict the claims of Plan Bay Area's loud-

est opponents. Members of the Tea Party movement have accused the plan of being everything from a United Nations conspiracy to a plot to advance communism. More substantively, they fear that the plan's emphasis on dense development will impose on the suburban lifestyle in the suburbs.

"A lot of these folks don't like government anyway so they're not going to give it a chance to be understood," said Rentschler. "What's ironic is that many of these folks who are from the Tea Party live in places that are going to be protected because we're going to be building dense housing in other cities. They should have come to our meetings and cheer-leaded us."

More mainstream critics have raised concerns about whether the plan provides sufficient incentives and accommodations for private sector partners. A coalition of Bay Area business groups — including the Building Industry Association (BIA), the Bay Area Council, and the Silicon Valley Leadership Group — issued a letter to the MTC and ABAG boards imploring them to ensure that the plan matches up with the realities of the housing market. As well, BIA officials have questioned whether the plan disadvantages suburban areas by investing in city centers

Supporters of the plan contend that, despite the plan's nominal promotion of "urban" virtues, it is designed to benefit outlying cities as well.

"If anything, the Priority Development Area framework sets such a low threshold, there are communities all around the Bay Area that have access to these funds," said Terplan. PDA's have been approved for cities on the region's outer edges, such as Gilroy, Livermore, and Petaluma.

Terplan said that if outlying cities feel shut out of transportation funding, it's only because the plan's performance-based funding naturally hews towards center cities, where transit use is particularly intensive and, therefore, "more people are going to ride them for less money."

Moreover, planners say that the BIA and other critics are responding more to a discomfort over the dense, multi-unit housing than to genuine flaws in the plan.

"The challenge is always going to be, when you make public investment and improve a place, it changes the economics of that locale," said Rentschler. "I think one thing they're responding to is the fact that a traditional model in which their members worked and built is in transition."

Rentschler added that planners need to pay attention to developers' concerns, to the extent that those concerns can bear on the plan's execution. "If they're advising us that we're creating a situation that can't happen in the real world then we want to be responsive to that," he said.

In fact, suburban communities are already following Plan Bay Area's principles. Though the Contra Costa County city of Danville has not applied for a PDA, Chief of Planning Kevin Gailey said that the city's new downtown plan would be a strong candidate. He said he did not feel that the plan would be a burden on the city or its residents.

"We're embracing the idea that . . . the lion's share of job growth and residential development is going to happen within 4-5% of our area" said Gailey. "Whether we're doing the SCS and doing a PDA, I don't think we'd be doing much different on our update."

Whether or not their concerns are well founded, the Tea Party participation, in particular, has made public meetings unusually popular, according to Rentschler. Whether the volume of public participation — and strong gripes from the left and right — has created a better plan is not clear, however.

"We used to have a hard time getting anyone interested in what we were doing. If we had 10 people show up and fed them cookies we thought we were doing good. Now we have packed rooms," said Rentschler. "I'm not sure that's a huge qualitative improvement, but it certainly means that a significantly larger spectrum of society is engaged."

Rentschler also cautioned that the current plan is designed to evolve as it is updated at regular, four-year junctures.

"What we're in here is a continuous planning effort," said Rentschler. ■

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>>> Legislators Consider Disposition of RDA Assets

— CONTINUED FROM PAGE 1

Each leader got an affordable housing bill through their own house – AB 1585 for Perez and SB 654 for Steinberg. In different ways, both bills try to protect the 20% affordable housing setaside money that was part of the redevelopment system. Both bills seek to ensure that about \$1.4 billion in “unencumbered” affordable housing money that was sitting in redevelopment agency bank accounts on February 1 stays with housing agencies, rather than being distributed to all local government agencies for general purposes.

The second set of bills – which would create a new, much more focused redevelopment effort – is the centerpiece of Steinberg’s efforts. SB 1151 and SB 1156 would construct a replacement system for redevelopment, requiring more cooperation with counties and tying those efforts to implementation of sustainable community efforts.

These “asset bills” are probably the most controversial redevelopment bills – and the ones that would seem to stand the least chance of success. Nevertheless, Steinberg – who has made no secret of his commitment to redevelopment – is pushing them hard.

Both bills target assets formerly owned by redevelopment agencies – possibly as much as \$2 billion in cash and an undetermined amount of value in real estate assets. SB 1156 would allow cities and counties to jointly create a “Sustainable Communities Investment Authority,” which could pursue activities under the old redevelopment law. But this arrangement would not require a finding of blight. Rather, the new authority could pursue transit- and pedestrian-oriented developments that conform with the regional sustainable communities strategy adopted under SB 375.

SB 1156 would allow the use of the city-

county portion of the tax increment to be dedicated to redevelopment, thus holding the state harmless because school property taxes are not included. SB 1151 would allow these authorities to also use the assets that redevelopment agencies had on hand on February 1. There is considerable debate as to whether RDA real estate assets were worth much by the end because so many RDAs transferred assets to their host city government in 2011.

The final category of bills involves so-called “new money.” The first is AB 1532, the bill that will dictate how money derived from the state’s new “cap-and-trade” greenhouse gas emissions reduction program will be spent. The bill – sponsored by Perez – would allow the money to go to public transportation and local sustainability efforts – again, if they conform to the sustainable communities strategy. The bill seems likely to pass.

It may well be that Jerry Brown still believes that the redevelopment carcass is not cold enough and therefore won’t sign any bills at all this year. But at least the legislature is going to give him some proposals that meet the criterion he laid out in January.

Steinberg managed to get both 1151 and 1156 out of the Senate before the deadline for policy bills at the end of May. The vote was fairly close – 22-15 in one case and 21-15 in the other. And it was mostly a straight party-line vote. All the yes votes were Democrats and all the no votes were Republicans except for two – Democrats Lou Correa of Orange County and Rod Wright of South Los Angeles, both of whom often move in a conservative direction on sustainability issues. In theory, 1156 should not be objectionable, since it holds the state financially harmless and creates a voluntary process that requires county consent. But you never know. 1156 theoretically takes money that could be used to plug the state budget deficit.

The second bill is AB 2144, also sponsored by Perez, which would make it easier for local governments to set up an infrastructure financing district as an alternative to redevelopment. IFDs date back to the ‘90s. They permit the use of tax-increment financing for public infrastructure – but only with 2/3 voter approval. This bill would cut the approval required to 55%, as with school bonds. The new bill is especially targeted as military base reuse.

It may well be that Jerry Brown still believes that the redevelopment carcass is not cold enough and therefore won’t sign any bills at all this year. But at least the legislature is going to give him some proposals that meet the criterion he laid out in January – that the state budget be held harmless. We’ll see what he does. ■

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Designers Contemplate How Density Should Look

HOW DO CITIES create a thriving urban fabric on large lots? How do you build large developments to fit within existing communities? How can large developments contribute to neighborhood vitality rather than overshadow it?

Such was the theme of “Large: Designing for Density”, the third installment of the Lunchtime Forum series held by San Francisco Urban Planning & Research (SPUR) last week. In the hour-long forum, moderated by Anne Torney of Daniel Solomon Design, speakers from the public, non-profit, developer, and architectural worlds held forth on what they considered the essential elements for large residential design. More than just an esoteric discussion, the topic could prove to be important for cities that, in the coming years, will be conforming to Sustainable Communities Strategies and deciding what density ought to look like.

Joshua Switzky, representing the San Francisco Planning Department, compared large residential developments to UFOs landing in the midst of a city. He characterized zoning and design guidelines as the controls to rein in large-lot development that can otherwise “run amok”. While San Francisco adopted its first Urban Design element in 1972, it became clear over the proceeding decades that it didn’t give enough guidance for large-lot development. The Better Neighborhoods Program, launched in 2002, hopes to provide both citywide and neighborhood-specific design guidance for incorporating large-lot development into the urban fabric. The tools Switzky listed for integrating large development are well known to most: re-establishing street-grid connections on super-blocks, requiring ground floor activity, syncopating building facades to create sight-line variations, and breaking up the massing of building frontages.

Daniel Murphy, the president of Urban Green Devco LLC, next spoke on design for large-lot residential from the developer’s point of view. Murphy drew most of his examples from the South-of-Market neighborhoods (South Beach, Bayside, Mission Bay) that have seen a shift from industrial/port activity to large-lot residential development over the last 25 years.

In the South Beach area, near the foot of the Bay Bridge, he extolled the variation in height and architectural styles of the existing large residential developments, the development of continuous urban streetwalls, and the proliferation of POPOS (privately-owned open space) as elements that soften large developments and tie the community together. He also stressed that, in large residential developments, design trumps materials: successful urban places can be made on the cheap if they are built the right way.

In the Mission Bay area, near the San Francisco Giants’ waterfront ballpark, he held up the “framing” of streets with an appropriate ratio of street width to building height as a key for successful design. He also complimented the developers’ “respect for open space and heritage” by retaining houseboats in the Mission Bay inlet as well as providing easy waterfront access. For those who have experienced the ghost town that Mission Bay often feels like when the Giants aren’t in town, Murphy urged patience. Large-lot residential developments, he said, need time to mature before they can be judged as successful urban spaces.

In closing, Murphy urged the audience to “dream big”, and not get bogged down in what he called the “blood sport” of neighborhood development politics. He instead urged communities to let planners and developers do their jobs, which earned him an earful from neighborhood activists at the Q&A session following the forum.

From the non-profit world, Raime Dare spoke in her capacity as president of the SF Community Housing Partnership and a senior project man-

ager with Mercy Housing. While the previous two speakers spoke mostly about the exteriors of large-lot residential developments, Dare instead focused on the design elements inside the building necessary to thriving communities. Drawing on the 12-story, 136-unit Mercy Housing development for low-income and senior housing at 10th & Mission, Dare emphasized the need for varied spaces within the building itself. Lounges, play areas, event space, patios, youth centers, and day care were among the semi-public spaces needed to make large, high-density buildings successful. Also stressed was the role that buildings can play in the framing of outdoor spaces, whether they are public or reserved for the use of residents.

The final speaker was Glenn Rescalvo, principal-in-charge at Handel Architects, LLP. Rescalvo portrayed increasing density as a boon to San Francisco, but one which requires additional attention paid to the challenges that a crowded city can bring. While Rescalvo was more inclined to judge each building individually for its merit, he stressed the importance of increased pedestrian infrastructure and open space as a counterbalance to an increasingly dense city. He highlighted three downtown open spaces in close proximity: Yerba Buena Gardens, the Crocker Galleria, and the plaza at 555 Mission (with its interesting public art). To Rescalvo, each open space provided different urban functions, which further contributed to the enjoyment of a denser city.

When it came the buildings themselves, Rescalvo urged planners and residents to be less concerned with height than with bulk. By allowed taller building heights (invoking shades of LeCorbusier), he said that building footprints could be reduced and more open space provided for public benefit. Rescalvo characterized such an approach as “getting your sky back” by reducing building bulk; he eschewed “holding the height line” on buildings which would create an uninterrupted wall.

While the forum was interesting and informative, I couldn’t help but feel that its brevity left out major points in the discussion. The focus of the forum was almost entirely on aspects of the buildings themselves, paying scant attention to the transition between large developments and the surrounding community. It’s telling that almost every example at the forum came from the historically industrial and commercial areas along the South-of-Market waterfront – these new residential communities were cut out of whole cloth and did not face the task of transitioning into a well-established residential neighborhood. Another issue unresolved by the forum was that of infrastructure: while Rescalvo briefly mentioned the need for better and larger sidewalks, none of the other speakers mentioned what types of cumulative impacts denser residential development has on our streets.

Though not as pertinent to design, the demise of redevelopment in the state could have been another fertile topic for a forum on high-density residential housing. Many large-lot residential projects across the state, especially those built for or incorporating low-income and senior housing, were made feasible through redevelopment funding. The loss of such funding may play out in future project design as developers attempt to make things pencil out.

— CHRISTOPHER KIDD | MAY 31, 2012 ■

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.

Market Forces Favoring Walkability Align with Planning Trends

SEVERAL WEEKS AFTER I WROTE what could be described as emotion-driven defenses of California's approach to smart growth (in response to separate commentaries by Wendell Cox and Joel Kotkin), I was heartened to read a different, but complementary, perspective from Christopher B. Leinberger in this weekend's New York Times. It would appear that, when you run the numbers, smart growth might make sense after all.

Leinberger led a Brookings Institution study with the delightfully rock-n'-roll title "Walk This Way: The Economic Promise of Walkable Places in Metropolitan Washington, D.C." which compared changes in housing prices in walkable neighborhoods as compared to suburban neighborhoods. Setting aside the subjective nature of "walkable" and "suburban," Leinberger found "real estate values increase as neighborhoods became more walkable, where everyday needs, including working, can be met by walking, transit or biking."

Leinberger cites places like Columbus, Ohio's, Short North neighborhood and Washington, DC's, West End, where real estate prices have risen 163% and 205%, respectively, since 1996. In the same time period, prices comparable suburban areas have risen only 69% in the DC study area and negative 13% in the Columbus study area.

Lest these trends reflect residents' native incomes more than their lifestyle preferences, Leinberger notes that "People who live in more walkable places tend to earn more, but they also tend to pay a higher percentage of their income for housing." This means that the walkable areas are more dear – and, by extrapolation, more desirable – on both an absolute and relative scale.

As we all know, real estate economics is an inexact science. The consumer trends are invisible swells that rise from the abyssal plains of culture, demographics, and economics. We can't just go to the house store and see which ones are flying off the shelves. Instead, we have to look at the prices of existing stock and infer that increases in prices correlate with increases in aggregate demand, and we need lots of data. Leinberger thinks that the data is reaching a critical mass.

"Walk this Way" offers the following conclusion, signaling nothing short of the biggest shift in urbanism since, arguably, the late 1940s:

"While U.S. home values dropped steadily between 2008 and 2011, distant suburbs experienced the starkest price decreases while more close-in neighborhoods either held steady or in some cases saw price increases.

This distinction in housing proximity is particularly important since it appears that the United States may be at the beginning of a structural real estate market shift. Emerging evidence points to a preference for mixed-use, compact, amenity-rich, transit-accessible neighborhoods or walkable places."

In other words, we have entered a new era.

Though the bulk of the Brookings study focused on the Washington, DC, metro area, Leinberger writes that "these findings appear to apply to much of the rest of the country." Could that mean California, too? I don't see why not.

This analysis means that, whatever your aesthetic objections to smart growth may be, it might actually turn out to be a good investment for California. If the Brookings results are right, then California's Sustainable Communities Strategies are directing growth towards the very places where demand is likely to be higher.

My visceral take on smart growth is that it's good for everybody. If you like dense urban living, then now you get more of it. If you enjoy the wide-open suburban lifestyle, then you're in luck too: growth is going to happen in the places where you aren't.

In defending SCS's against some recent criticism (here and here), I noted some contradictions and some leaps in logic, and I corrected some inaccuracies and what I considered to be willful disregard for facts. From all the articles I've written on the subject, I know firsthand that countless people have been working very hard on California's Sustainable Communities Strategies, from which tens of millions of us will – hopefully – benefit.

Critics can, and should, say what they want. But, while California's planners should take pride in being ahead of the curve, they should bear in mind one caveat, though: we can't let nonsensical critiques drown out those that might be legitimate.

Of course the SCS's aren't perfect. No less an authority than the state attorney general has said so – and CP&DR has reported accordingly. Critiques such as Harris' should set up sensible discussions about how to implement SCS's and address nuances. It's hard not to be frustrated, however, by "us vs. them" rivalries based on what appeared to be visceral, aesthetic objections that do not advance the public discourse or make California a better place.

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Walkability cont.

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As California grows more dense, the Brookings study should remind planners and developers to pay attention not just to the difference between walkability and mere density. You can have dense slums and dense hotspots, and you can have friendly single-family home neighborhoods and indifferent multifamily neighborhoods. It's all in how you design them and in what mix of uses you include.

If we can all get behind smart growth and clamor for it to be done well – which isn't going away now that it's the law of the land – then we can make sure that the less convincing critiques become self-defeating prophecies.

– JOSH STEPHENS | MAY 29, 2012 ■

TOD Advocacy Keeps Chugging Along

ONCE A SHINY, exciting new concept, transit oriented development is easing into the mainstream like a train approaching a station – in thought, if not yet on the ground. Yesterday's Transit Oriented Development Summit, sponsored by the LA chapter of the Urban Land Institute and held at the University of Southern California, attempted to lay the track for a long, prosperous ride – rather than a dead-end.

Yesterday's event was the third annual TOD Summit, and it's interesting to note what has changed since 2010. The inaugural event was a veritable pep rally for the way that many people think California should grow. Back then, ULI leadership made a deliberate – and perhaps risky – choice to get behind TOD and to introduce it to many members who were probably still mourning the collapse of the market for single-family homes. That conference implied that TOD would be one of the trends that would yank the development industry out of its malaise.

Two years later, the industry-wide malaise seems to be so deeply ingrained that it's ceased to be a malaise and instead has become the status quo. The good news, at least for proponents of TOD, is that developers are now having a more sober and, perhaps, more practical discussion about what TOD should be. In part because of the implementation of Senate Bill 375's Sustainable Communities Strategies, California is no longer discussing whether to do TOD but rather how to do TOD. No easy task, apparently.

Panels addressed crucial minutiae such as financing, design, and compliance with SCS's.

I had the pleasure of moderating a session on – what else? – redevelopment. That conversation has changed too. The panelists – attorneys Murray Kane and Michael Kiley, as well as RDA veteran Renata Simril of Jones Lang Lasalle – emphasized that the loss of redevelopment does not necessarily impact TOD's more than it does other kinds of developments. Nevertheless, it's hard not to notice that, in Los Angeles County at least, many current and future TOD sites lie in former RDA project areas. I'm thinking of South LA's Blue Line, East LA's Gold Line, and the Purple Line subway through downtown. If there's no RDA, then all the TOD's in those places get harder to develop. Yesterday's discussion was a refreshing departure from the hand-wringing and post-game analysis that had occupied many panels earlier in the year and instead focused on the details of dissolution and the future of redevelopment.

They agreed that litigation would tie up the disposition of assets for 3-4 years and that no one was really sure how or when the plum assets – including some that might be ripe for TOD – would get sold off. Maximizing value is not, of course, the same thing as expeditious disposal. Perhaps most pessimistically, Kane in particular emphasized that financing schemes such as infrastructure financing districts and community taxing were unlikely to work at all, much less replace development. (Even though his business is

booming, he called dissolution a “disaster” for the state, in part because, he said, revenue recovery that were once estimated at \$1.7 billion are plummeting, possibly well below \$1 billion.) Ultimately, the panel agreed that cities need to pursue policy solutions (parking came up more than once) in order to invest their windfall tax increments, make development easier, and guide developers who are bold enough to work in former RDA project areas.

The one session that could rightly be called a cheerleading session was, not surprisingly, the speech by Los Angeles Mayor Antonio Villaraigosa. The mayor seemed relaxed and even feisty in his advocacy for transit in the Los Angeles area and for smart development around transit. It's hard not to recall, though, that this very same mayor was pushing for “elegant density” a full seven years ago. It's a long haul, to say the least.

The most exciting upcoming TOD in Los Angeles County might that of USC's massive mixed-use district on the north side of its campus. Within a ten-minute walk of the Expo Line, it's still not clear whether a revitalized area geared towards the USC community will really have much to do with the surrounding South LA neighborhood, which remains depressed after all these decades. Ironically, the least stirring aspect of the conference was the presentation of “visions” for Los Angeles' Union Station. Recently, LA Metro held a conceptual design competition yielding some lovely renderings – none of which, Metro later revealed, are likely to come to fruition.

But big ideas and big projects are not necessarily what drive TOD.

The final session, a plenary talk by Pasadena-based architect and New Urbanist eminence Stefanos Polyzoides presented a compelling vision of just how functional and attractive TOD can be – if it's planned and designed properly. Polyzoides issued what amounted to a call to arms for planners: TOD, he said, is not one building or one project. It's an entire urban region radiating out from a transit station. Ideally, he said, that region needs to be planned as a whole (he, of course, recommended form-based code) and then developed according to the plan. In that sense, his own Del Mar station in Pasadena and other iconic early examples of TOD – like Oakland's Fruitvale Station and even the award-winning Contra Costa Centre – do not yet realize what TOD ought to be.

That's a big ought. It's tantalizing to think that, if the financing, the regulation, the planning, and the architecture all come together that LA County (and others around the state) could end up with dozens of gleaming transit-oriented districts to complement what are becoming extensive bus and rail systems. The conference certainly implied that this – and not suburban tract-home development – would be the wave of the future. How many more TOD Summits will pass before that happens – and how much of the enthusiasm will remain – is anyone's guess.

– JOSH STEPHENS | JUNE 8, 2012 ■

Malibu Mysticism Protects Hoi Polli from Seashore

Malibu Lagoon
State Beach
along Pacific
Coast Highway



CALIFORNIA DEPARTMENT OF PARKS AND RECREATION

THE DISPUTE BETWEEN the State of California and a group of Malibu residents regarding the restoration of the Malibu Lagoon is the latest land-use dispute in this city which occupies – apt word! – a coveted, 30-mile stretch of coastline in Los Angeles County. To the outward eye, the issue appears to center on the state’s desire to restore a degraded wetlands area vs. the concerns of local surfers who are fretting about the fate of the legendary point break at Surfrider Beach.

Those surfers believe that the State Parks Department’s restoration work, which involves draining polluted water and dredging sediment from a restored wetlands, might somehow ruin their surfing, even though the lagoon is separated from the ocean by an earthen dam. In other words, to the uninformed eye, this case could easily be mistaken as the old canard of Malibu residents opposing any intrusion by “outsiders,” such as state environmental agencies and other bandits.

Nothing could be further from the truth. In reality, the residents of Malibu are actually protecting us all from harm, heaven forbid.

Never before has this been revealed publicly: Malibu residents base their actions on the Kabbala, the ancient mystical tradition.

The truth is – and I tremble as I write these words – the Malibu coast, famed for sunshine and sparkling blue water, is actually a place of metaphysical evil. We learn this from Zephaniah, Chapter 2, Verse 5: “Woe to the inhabitants of the seacoast ... land of the Philistines.” We know that Malibu is the home of the Philistines, because of the high number of local residents who work in the entertainment industry.

In our ignorance, Californians have wrongly criticized Malibu residents for being piggish and exclusionary. Like blind people, we have excoriated the selflessness of home owners – such as David Geffen and Barbara Streisand – who have attempted to keep non-Malibuans from ac-

cessing the coast, or even parking their cars in the city. May Heaven forgive our ingratitude! Malibu residents are simply shielding us from the bad magic of an accursed sea coast. (The pious are advised to spit three times, at the very mention of the place.)

So conscientious are the Kabbalists of Malibu, in fact, that they have been known to chase away self-described “swimmers” who are “legally” enjoying what they naively refer to as “public” waters, especially those of Broad Beach, where rent-a-cops on Quad-Runners keep the masses at bay. And to think that some of these so-called “by-right bathers” actually complain, mind you, about the “harassment” they receive at the hands at the blessed guardians of Malibu’s private beaches! As my dad used to say, “no good deed goes unpunished.”

When the state wildlife service brings its bulldozers to Malibu lagoon this month, nothing less than a cataclysm could be the result. Remember those billboards last year that publicized the end of the world on particular dates? Those were the originally scheduled start dates for the lagoon work! Just let that sink in for a minute.

The Kabbalistic message is clear: Stay away from Malibu, you sheepish masses! It’s bad for you. Trust me on this one, OK?

One last thing: Every person who reads this article and has access to social media should tweet about it. This act will ensure good health and prosperity for the rest of your life. A 49-year-old school teacher in Michigan who tweeted an earlier article of mine on this very website won \$7 million from the state lottery shortly after. If you fail to tweet this article, unfortunately, things just might go badly for you. I don’t want to say any more. Like I said, trust me. Have I ever lied to you?

– MORRIS NEWMAN | JUNE 7, 2012 ■

Disney's Newest Attraction Turns Cars into Fantasy

JUST AS NEW POLICIES are arising in California to wean Californians off their cars, a force more powerful than public policy has arisen to get the next generation all amped up about driving. No, gas prices haven't plummeted and high speed rail isn't dead (yet). Those would be child's play compared to Cars Land – the newest “world” at Disney's California Adventure theme park.

Forget the old Autopia ride, which was basically a string of glorified golf carts putting down a track. According to its website, Cars Land re-creates seemingly the entire landscape of the American West and sends cartoony roadsters bounding over ravines and along canyon walls. Kids can scamper among jalopies, jeeps, and low-riders, and then have a milkshake at a diner in roadside America.

It may remind you of a movie you've seen. It was called Cars.

I spend enough time bounding over nothing while I'm idle on the 10 Freeway, so I don't think I'll be engaging in this particular fantasy. But I have a feeling that millions of kids have other ideas. They're going to clamber aboard and experience a thrill unlike anything they've ever experienced before. Unless they've ever ridden in a real car before.

Cars Land could make driving cool in a way that we haven't seen since James Dean. Well, OK, Paul Newman. Maybe Steve McQueen. Or Burt Reynolds. And David Hasslehoff. And Dale, Jr. Hey Girl, Ryan Gosling grabs a mean gearshift too.

Oh, never mind.

Given that cars have been cool for the past 100 years or so, I guess Cars Land isn't going to leave any impressions that aren't already there. In fact, given Disney's track record with Americana, Cars Land, which opens June 15, might actually herald good things for the real California.

Disneyland inspired lot of interesting 1980s urban theory, which celebrated the eerie unreality of the place. Fresh off Space Mountain (and who knows what else), Jean Baudrillard theorized that Disneyland created a copy of the real world – and yet, is also in the real world. Disneyland is a place and the idea of a place all at once. I, for one, never bought into this notion of hyper-reality, which Baudrillard refers to as “simulacrum,” meaning a copy without an original. I have never for a moment believed I was in anything other than an enormous diorama.

(California Adventure takes this idea to a new extreme, by re-creating famous sites in California, as if visitors couldn't just visit the actual sites themselves. It even includes perverse replicas of old Los Angeles landmarks, including the Carthay Circle movie theater and the streamline modern masterpiece Pan Pacific Auditorium. The thought of seeing buildings that really ought to still exist sounds, to me, more depressing than It's a Small World.)

For those of us who can neither suspend our disbelief nor stomach too much poststructural theory, Disneyland as a magical place isn't so interesting. But Disneyland as an archeological site is another matter entirely.

With the possible exception of Fantasyland, each of the other five “lands” in the original Disneyland park – Adventure-, Tomorrow-, Frontier-, and Main Street, USA – was grounded in something resembling reality. Even Tomorrowland drew inspiration from the actual conquest of space during the Cold War.

Notably, this is archive of places we've lost, sometimes in tragically ironic ways. The rainforest is retreating and conquered the frontier. Fairy princesses have given way to Snookie and Khloe, and tomorrow has come and gone.



Cars Land, at Disney's California Adventure theme park in Anaheim

COURTESY DISNEY

Main Street, USA troubles me the most, since it celebrated the classic American main street at the very moment when small town life was giving way to suburban life (thanks, in part, to the car). The Happiest Place on Earth is, in short, a graveyard of American ideals.

There's an argument to be made that Disney actually contributed to the decline of main street America, by introducing mass-produced entertainment that degraded community life, but that's beside the point. What's more salient is that Disney may be on to something with its uncanny ability to predict, and create, nostalgia.

I'm sure that at one point the demise of the frontier, the jungle, and manned space flight seemed preposterous. It could be that, in the near future, driving and automobiles will also lose their luster and that they'll be best enjoyed in amusement parks rather than on I-5 at rush hour.

If that's the case, then Cars Land may flip Baudrillard's simulacrum on its head: the real world might actually become better than the fake one.

Even in light of that rosy notion, I confess that I'm still not excited to visit Anaheim anytime soon. But I'm sure plenty of other people are. I wonder how they'll all get there?

– JOSH STEPHENS | JUNE 6, 2012 ■

