

Housing Bills Dominate 2016 Legislative Slate

BY CP&DR STAFF

If building houses were as easy as drafting laws, California would have left its housing crisis in the dust long ago. With rents continuing to inch upward, legislators in Sacramento have introduced a myriad of bills intended to streamline, fund, and otherwise promote the production of both market rate and subsidized housing statewide. Even bills whose titles ostensibly speak to issues like zoning, redevelopment dissolution, and infrastructure development are concerned wholly or in part with housing.

Leading this pack of bills was Gov. Jerry Brown’s proposal, Budget Trailer Bill 707, to bypass some local reviews for developments that include some low-income

units. The proposal also included \$400 million in state funds for low-income housing. Amid furious debate and politicking, including opposition from many housing advocates and low-income developers, the proposal failed for this year. More esoterically, a bevy of bills to promote accessory dwelling units have cropped up, as Californians seek shelter in back yards and detached garages.

Other categories of land use bills include infrastructure and conventional transportation, high speed rail, and climate change and the environment. Of those, the most significant may be Assembly Bill 197 and Senate Bill 32, which jointly update and extend the state’s landmark

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insight
WILLIAM
FULTON

An Old Slow-Growther Reshapes Himself As Trumpian

When Donald Trump announced his team of economic advisors – the first group, the one that was all men – it consisted, not surprisingly, mostly of real estate guys from New York. In fact, there was only one Ph.D.

economist in the group: Peter Navarro, a longtime business professor at UC Irvine, who apparently captured Trump’s attention with his book and film, [Crouching Tiger](#), which talks about the possibility of war

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San Francisco Envisions Intensive Development in SoMa

The City of San Francisco [announced](#) a plan to upzone Central South of Market to accommodate around 7,800 new affordable and market-rate housing units and 40,000 new jobs. The potential plan includes 2.1-million square foot redevelopment of the Flower Mart, a tennis club redevelopment, and a 400-foot residential tower. Proposed developer fees, of up to \$2 billion, would escalate based on amount of additional height and will help pay for new sidewalks, open space and affordable housing. Half of the fees, nearly \$900 million will fund affordable housing production. The plan also prioritizes \$500 million for public transit and sidewalk improvements. A separate EIR on the plan will be released end of this year and the Planning Commission will vote early next year. If passed, the Board of Supervisors will consider the plan.

Report: CEQA Has No Ill Effect on Economy, Development

Economic analysis firm BAE Urban Economics has released a [report](#) “CEQA in the 21st Century Environmental Quality, Economic Prosperity, and Sustainable Development in California” contending that, contrary to claims

by many developers and planners, the California Environmental Quality Act supports economically and environmental sustainable development. The report, sponsored by the Rose Foundation for Communities and the Environment, claims that CEQA does not have a dampening effect on California’s economy or on infill development and that concerns about frivolous CEQA lawsuits are overblown. Pointing to progressive developments in the state under CEQA, the report includes a number of significant findings, including: Legislative changes to CEQA aimed at streamlining the CEQA process to encourage [infill development](#) are working; between 2013 and 2015, legal challenges were filed in 0.7 percent of projects subject to CEQA review; California’s urban areas compare favorably to cities around the country with regard to the rate of infill vs. greenfield development; the state’s largest cities show ongoing improvement in walkability; and, when compared to other states, California produces the second highest number of affordable housing units per 100,000 residents in the nation. The report included a literature review of recent studies on CEQA’s impacts, legislation, legal findings, regulatory changes and their successes.

Judge Clears Way for Subway Tunnel Under Beverly Hills High School

A U.S. District Court judge has [ruled](#) in favor of Los Angeles County Metro’s plans to tunnel beneath Beverly Hills High School for subway extension to Los Angeles’ west side. The City of Beverly Hills and the its school district have spent \$10 million in litigation in the last five years over claims that the alignment would endanger the school and that Metro did not adequately analyze or publicize it. Judge George H. Wu said the Federal Transit Administration did not adequately respond to Beverly Hills Unified School District’s concerns about methane, air quality and recreation from the effects of tunneling the subway line. However Wu did not void the entire environmental review because of the “domino effect” on other phases and jeopardizing grants. Metro now has to complete additional analysis. (See prior CP&DR [coverage](#).)

Settlement Clears Path for Massive Logistics Center

Riverside County [reached](#) a settlement with Highland Fairview, the developers of the World Logistics Center in Moreno Valley, to mitigate impacts of the massive facility. The deal asks the developer to provide funding for road improvement

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is published semi-monthly by

Solimar Research Group
Post Office Box 24618
Ventura, California 93002

Phone / Fax: 805.652.0695

Subscription Price: \$238 per year

ISSN No. 0891-382X

Visit our website:
WWW.CP-DR.COM

You may e-mail us at:
INFO@CP-DR.COM

William Fulton
Editor & Publisher

Josh Stephens,
Morris Newman, Kenneth Jost
Contributing Editors

Susan Klipp
Fiscal Officer

Talon Klipp
Office Manager
Graphics & Website

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projects throughout the county. The planned 40.6-million-square foot warehouse complex will generate an estimated 68,721 vehicle trips a day and approximately 20,000 jobs. The developer will pay \$3 million for improvements on Gilman Springs Road and another \$3 million to improve Highway 60. The project is facing a dozen lawsuits, and this settlement only eliminates three. The other legal challenges are air quality and endangered species. A Riverside County judge has 90 days to [rule](#) on a Moreno Valley City Council vote to allow the complex to skirt the California Environmental Quality Act via the so-called «Tuolumne Tactic.» The cases say the city and developer did not adequately address environmental issues such as air pollution, traffic and other consequences required by CEQA. City Council then adopted three developer-back initiatives exempting the project from environmental laws. (See prior CP&DR [coverage](#).)

State Doles Out \$391 Million in Cap-and-Trade Funds for Transit

The California Transportation Agency has [selected](#) 14 public transit projects to receive part of the \$391 million in [funds](#) from a recent cap-and-trade auction. Nearly \$109 million will go to Los Angeles's subway system and \$28 million will fund a streetcar project connecting Santa Ana and Garden Grove. Senate President Pro Tem Kevin de León has a plan to help poorer Californians: \$100 million on areas including transit, \$100 million on rebates for purchasing clean vehicles and \$150 million for vehicle trade-in for low-income families. The two largest projects are High-

Speed Rail alignments in Fresno and Madera Counties with \$259 million. The next eight projects received \$41.2 million each towards Metrolink or Muni programs to provide cleaner, safer and more reliable service.

San Francisco Seeks to Engage Community to Improve Public Spaces

The San Francisco Planning Department [released](#) the Public Space Stewardship Guide, which provides community groups, civic leaders, and private sector entities with models, case studies and ready-to-use tools for funding, programming and maintaining successful public spaces. “Parklets, plazas, Living Innovation Zones, and urban prototyping are transforming public spaces like never before,” said San Francisco Planning Director John Rahaim in a statement. “The Public Space Stewardship Guide is an invaluable resource for cities, neighborhood organizations, business owners, neighbors, and artists nationwide who want to activate and sustain successful public spaces.” The guide asserts that successful public spaces require cooperation between city leaders and communities. Additionally a successful public space requires funding, programming and maintenance. The guide includes 17 case studies in one of these five models: Event-Based Models, Grassroots Partnerships, Public/Private Partnerships, Self-Governing Special Assessment Districts, and Maintenance/Technical Assistance Partnerships. Each case study has strengths and weaknesses, and the collection represents the range of organizations, space types, “use

levels” and budgets.

San Jose Faces Housing Lawsuit

Housing activists, including Urban Habitat and Housing California, are [suing](#) city of San Jose for a policy shift that undercuts state the Surplus Land Act, a state law designed to encourage affordable housing on public property. State law requires residential developments on public lands to include some affordable housing, but the city has given exemptions to developers building high rises downtown. The plaintiffs say these exemptions will lead to less affordable housing being constructed downtown and are seeking an injunction. City attorney Ricky Doyle says the city can make the policy changes because San Jose is a charter city and the law in question does not apply to charter cities.

Survey: Californians Still Support AB 32 GHG Reductions

Public Policy Institute of California released [findings](#) on a statewide survey on Assembly Bill 32, the decade-old law mandating reduction of GHG emissions, indicating sustained support for the state's efforts to combat greenhouse gas emissions. The telephone survey included 1,703 Californian adults from July 10-19th 2016. When asked about the law in general, 69 percent were in favor and 19 percent opposed. In response to a proposed law that would set more ambitious targets, 68 percent of adults were in favor of 40 percent below 1990 levels by 2030. Those surveyed thought actions to reduce warming would create more jobs (40 percent adults) or no effect (29 percent). A majority of Californians (55 percent)

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say they have never heard of the state's cap-and-trade system, which is a key component of AB 32. PPIC finds that the drought is still the most important environmental issue facing the state (38 percent) and air pollution was second (13 percent).

Sacramento Seeks to Expand Urban Forest

The Sacramento City Council [approved](#) an ordinance to protect existing street trees and expand the city's urban forest, which has historically been considered a nationwide exemplar. The ordinance will provide more clarity and accountability of how the city manages trees on public and private property. Additionally there will be a 15-day posting of a notice for city tree

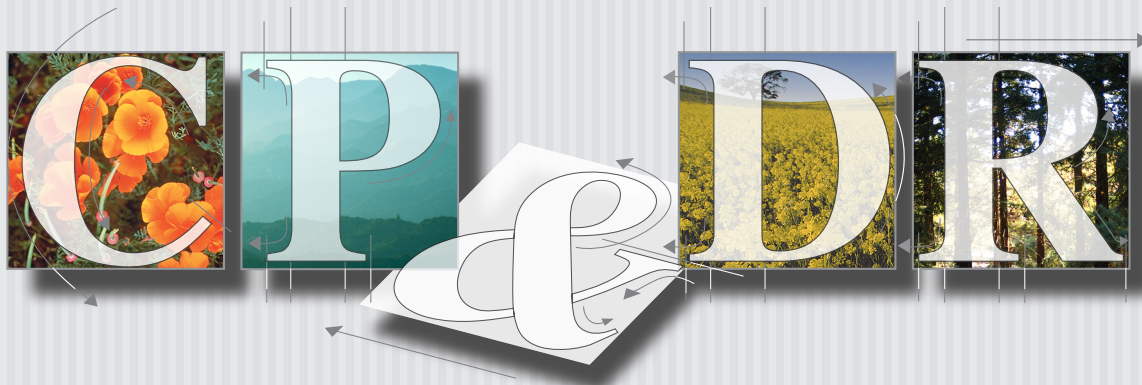
removals online along with a photo of the tree. The plan creates a funding source and regulations for planting new trees when older ones are removed. Fines can range from \$250 to \$25,000 a day for violations such as removing a tree without a permit or topping protected trees. Council members clarified a requirement that the tree removal permits are not issues before building permits, to ensure trees are not removed before a development is delayed or failed.

State Awards \$37.4 Million for Agricultural Preservation

The Strategic Growth Council announced the [awarding](#) of \$37.4 million in grants under the Sustainable Agricultural Lands Conservation Program (SALC) this

year to permanently protect 18,988 acres in 14 California counties. This \$37.4 million in [awards](#) (pdf) will protect 18,988 acres of irreplaceable agricultural land and, by limiting development, will reduce emissions by eliminating an estimated 47 billion vehicle miles. The Department of Conservation's Division of Land Resource Protection developed guidelines for the program, conducted public workshops, and reviewed 26 agricultural conservation easements, and funding 20 of them. By preventing agricultural lands from being developed SALC helps avoid increases in GHG emissions. Monterey County had five easement projects and a planning grant approved, the most awards of any county. ■

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Jeff Tumlin Takes Over As Oakland's Transportation Czar

BY JOSH STEPHENS

Residents and commuters in the City of Oakland have managed to get around and through the city in all the usual ways for the better part of two centuries without a key feature of most large cities: a department of transportation. Last year, as the city reckons with 21st century traffic and a host of challenges related to mobility and innovation, Mayor Libby Schaff decided enough was enough.



Under Schaaf's leadership, Oakland has embarked on an aggressive effort to design and implement a modern, progressive department of transportation. The city has contracted with Bloomberg Associates to devise a strategic transportation plan, and it has retained consulting firm Nelson\Nygaard to create the department. Nelson\Nygaard Principal and Director of Strategy Jeff Tumlin is leading that effort, serving as the city's interim director of transportation. CP&DR's Josh Stephens recently spoke with Tumlin about what Tumlin calls the "most challenging and exciting" project of his career and a potential national model for addressing urban mobility.

How did Oakland go without a department of transportation for over 150 years?

Historically, all of the transportation functions have been in the Department of Public Works. In some respects, that makes a lot of sense. Public works is responsible for maintaining things: the streets, the things below the streets, and above the street. For smaller cities, that's the rule, typically. Usually that works just fine.

At a certain point, though, as the scale of mobility needs grows and the linkage between mobility investments and achieving non-mobility objectives grows, so does the need for a different style of leadership to get the outcomes

that more complex cities need.

How has it gotten along in the absence of a transportation department?

Oakland is a classic under-resourced city. In my opinion, Public Works has done a remarkably good job meeting basic infrastructure needs despite not having nearly enough resources to do so.

I think where they struggled, and why many cities split public works from transportation, is about the objective tension. If

you're a sewer system engineer, your success means that there are no complaints. You want no one to notice that you exist and have everything operate perfectly but invisibly.

As the city grows and changes, the engineering requirements of the adjustments need to be made to the sewer system are pretty easy to predict. Your big concern is going to be deferred maintenance and keeping up with newer development. But the fundamental needs don't change over time.

Mobility is a different story. With mobility, we have such an incredibly powerful relationship with social equity, or with land value, with opportunity for access to jobs. We have this incredibly powerful connection to public health, whether it's reducing asthma or reducing obesity, or improving cardiovascular fitness. The secondary impacts of transportation investments can be even greater than our primary impacts.

In mobility you have to be thinking way far ahead and have a very different approach towards messaging and helping community members and policy makers understand the consequences of our investment decisions. ...

Under a public works mentality, we might define the mobility need as "alleviating congestion." What

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we've realized over the last 50 years is that congestion is an economic problem, not an infrastructure problem. Congestion cannot be solved with mere infrastructure.

What's it like working in a city hall rather than in a consulting office?

This is structured just like any other consulting contract. The city has contracted with Nelson\Nygaard to help form the DOT. As part of that, I'm sitting at a desk at City Hall to organize the department and to finalize and then implement the strategic plan that Bloomberg Associates is developing for us.

I think most cities use consultants incorrectly. Too often, we are asked to write reports, lob the reports back at city hall, and hope for the best. I think that's an ineffective way of using consultants.

I think cities can best use consultants for capacity-building and training and for working collaboratively with city staff on projects and programs so the project or program is not something that is owned by the consulting firm that lands at the feet of city staff but instead is owned by the city. The consulting firm is helping the city get the expertise need in order to deliver a better project or program, but more importantly, to be able to own and implement and adjust over time that program, because they've gained the expertise they need to finish it, implement it, and adjust it.

What explicit mandates have you gotten from the mayor?

My set of objectives at the high level are pretty straightforward: I need to help form a new department, from both Public Works as well as parking enforcement, which we'll be getting from the Oakland Police Department. We need to create an organizational chart, figure out how goes were, and deal with the teething problems of reorganization.

Task Two is figuring out the funding situation. We start off grossly under-resourced, so figuring out how to get the resources we need.

Task Three is improving project prioritization and project

delivery. We need allocate our resources based on data and achieving specific outcomes. Rather than managing by complaint, I want to spend every single dollar we've got in order to achieve specific goals around social equity, first and foremost. Other objectives like safety, and also our environmental objectives both around CO2 emissions and things like particulate emissions that have such a profound impact on health.

How much of this task concerns stakeholder input, and how much involves staying in city hall and just thinking through what this department should look like?

There have been many planning processes in Oakland that have gotten a lot of public input. The public has been very articulate about what is important to them. The immediate step is taking all the great input we've already received and translating it into goals, objectives, quantitative performance metrics, screening criteria, project delivery process.

In order to take the input seriously, we've got to do that technical homework and bring it to the public and policymakers for vetting. Hopefully they'll see their good input reflected in our approach, particularly in how we make decisions and about how we allocate scarce resources.

In CP&DR's recent coverage of Oakland, a recurring theme is the housing crisis. How can this department affect housing costs and equity issues?

I love looking at the "housing-plus-transportation" equation.

On the mobility side, we have some ability to influence housing production, but not all that much. There are others who are leading Oakland's role in delivering more housing. What I can do is reduce the percentage of their income that they're needing to spend on mobility so that folks have the same disposable income.

More importantly, I can increase accessibly. Part of the problem is that people don't have access to well paying jobs that have career ladders. Mobility can increase the number

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of potential job offerings to our residents. Significant parts of East Oakland are very low-income and not very accessible via transit. We have lots of low-income households that are auto-dependant even though they're living in the city. So they have to spend a significant percentage of their income on mobility. That is something we can help address.

It's not merely about providing new or higher frequency bus lines. It's also about making folks feel safe when walking to or waiting at a bus stop. In Oakland, there are invisible lines around personal security that vary by ethnicity and gender. Having to address those issues to make transit work is more important in Oakland than it is in a lot of other cities.

Last time you talked to CP&DR it was on Senate Bill 743. You were excited about that. Does that level of detail come into this job yet or ever?

Oakland is already working on SB 743 implementation and hopefully will adopt 743 performance metric in either late summer or early fall, potentially making Oakland the third city in California to adopt.

One thing that's been interesting is the unanimity of agreement by city staff and stakeholders that the conventional CEQA approach needs to go. I think Oakland is particularly interested in not only eliminating most transportation analysis from CEQA, because it just creates unintended negative impacts, but at the same time looking at more important factors, including these factors that support our emphasis on social equity.

One of the fundamental flaws of CEQA is the best it can do is slow down the pace at which everything gets worse. It's an impact analysis. Instead, we're interested in taking a more community benefits approach to say every development project in Oakland should strive to make Oakland more about what we love about Oakland and to improve mobility conditions for most efficient modes of transportation, particularly walking, biking, and transit.

How do you see this new department dealing with technological advances, be they TNCs, driverless cars,

and whatever else the tech community is cooking up?

This is another area in which Oakland is leading. I'm very proud of my staff. We will be rolling out some new policies around car-sharing and TNCs which will put Oakland at the forefront of cities that are addressing changing technology.

One of the areas where I'm hoping Oakland can lead in is making sure these new technologies have a net positive social equity impact. The city is going to want to work with providers to ensure that the folks that benefit are not just wealthy white people.

Whether it's car share or bike share or Uber, those services require a minimal level of density. They work through aggregation. They're most effective in places where basic services are within walking instance so you're not dependent on a car.

Today there's a strong correlation between dense, complete communities and wealth. Dense, complete communities are the most expensive places. As we're thinking about regulations to allow access to publically owned curb spaces for these private providers, we can set thresholds that push these providers into lower-density/lower-income areas than they would naturally start up in.

What lessons might other cities glean from this consulting project?

Some of the conclusions I've come to is that every city in California, no matter how resource-strapped they are, can use data in order to prioritize limited resources and to demonstrate their ability to solve problems, not just to respond to complaints. Using data allows us to build trust with our policymakers and voters, which can help resolve the fundamental problem, which is that we don't have enough funding in order to meet legitimate demand.

Another key conclusion is that there are powerful opportunities to redefine the nature of the relationship between the public sector and private consulting firms in order to make more productive use of cities' consulting dollars. Using consultants for capacity-building, training, and collaboration rather than just report-writing back in

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their offices.

What's an example of a data point that you think can be enlightening?

There are so many.

Mapping jobs accessibility is completely fascinating. Simply mapping the number of jobs that are accessible within a 30-min transit commute of each of each of your neighborhoods says a lot about your city. Mapping transit intensity and overlaying that on communities of concern or maps of income.

What's the timeline for getting the department up and running?

I am on an eight-month at 75 percent time, until February. There are a couple of key milestones. In September, Bloomberg Associates will deliver draft strategic plan, which will be our roadmap for the next three years.

In November, we have a \$650M bond on the ballot, about \$30 million of which will be for infrastructure. If that bond measure passes, that will provide a robust funding base for the department to be able to meet its objectives as laid out in the strategic plan and should also help us find a permanent

director before my contract expires.

Who will take over after your contract ends?

If I am able to help take care of the basic structural situation and we if pass the bond in November, this will be one of the most interesting and relevant jobs anywhere. The issues that Oakland faces are the same issues that most American cities are either facing now or soon will. The resources constraints, the diversity, the problem of rising wealth for those who are tied into the global economy at the same time we're having reduced opportunity for those who are less tied to the global economy -- that tension is in fact the primary tension that is being reflected in the national political debates we're having at this very moment.

Being at the center of all these extremely important and difficult national issues but have the resources and political system to be able to address them locally. Whoever can figure out how to allow Oakland to achieve its potential and for that potential to be distributed equitably has figured out how to address all of our national issues. ■

Conducted in July, this interview has been edited and condensed. Photo courtesy of Nelson\Nygaard.



legal digest

Century-Old Trestle Not Historic – Because City Says It’s Not

BY WILLIAM FULTON

When is a historic structure not historic – or, at least, when it is not historic *enough* to warrant environmental impact report under the California Environmental Quality Act?

When a local government says so, because local governments are accorded deference by courts in reviewing their CEQA actions – at least in cases like this.

At least that was the conclusion of the Sixth District Court of Appeal in a case involving a century-old railroad trestle in the Willow Glen neighborhood of San Jose. The case involves interpretation of a confusing section of CEQA regarding when an historic resource is subject to an EIR. In making the ruling, the court had to go deep into the rabbit hole of substantial evidence and fair argument.

San Jose is planning [to tear down the scenic trestle](#) and replace it with a steel structure. In the process, the city concluded that the trestle was not an historic resources and therefore not subject to an EIR. San Jose adopted a mitigated negative declaration instead. Neighbors and historic preservationists sued over the CEQA action, claiming that there was a fair argument that the trestle was a historic resource and therefore an EIR

“Since the standard of judicial review for a presumptively historical resource is substantial evidence rather than fair argument, it cannot be that the Legislature intended for the standard of judicial review for a lead agency’s decision under the final sentence of section 21084.1 to be fair argument rather than substantial evidence....”

should be required.

Santa Clara County Superior Court Judge Joseph Huber ruled in favor of the neighbors, saying that a fair argument standard should apply. The city appealed but the neighbors tried to have the case declared moot because the city had already prepared an EIR, which it then used to re-approve the project. The court went ahead and considered the case anyway, saying the city’s could be still be required to

vacate the approval depending on the outcome of the case.

At issue was whether the city had to apply the “fair argument” standard to the question of whether an EIR was required under the CEQA – that is, is there a fair argument that the project would have a significant impact on the environment (in the case, on an historic resource), as required under one section of CEQA, Public Resources Code Section 21084.1. The law further says that just because a building or structure is *not* included in any state or historic register and *doesn’t* meet other criteria for historic significance *doesn’t* mean that the lead agency can’t still designate it as historic. The neighbors argued that this last provision should apply and the trestle should be considered a historic resource for CEQA purposes even though it had not been designated as historic in any other way.

The court noted that the lead agency has to make a decision about significance based on the “preponderance of the evidence” and therefore the standard of review “logically must be whether substantial evidence *supports the lead agency’s decision*, not whether a fair argument can be made to the contrary.”

Continuing, Justice Nathan Mihara wrote for the court: “Since

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the standard of judicial review for a presumptively historical resource is substantial evidence rather than fair argument, it cannot be that the Legislature intended for the standard of judicial review for a lead agency's decision under the final sentence of section 21084.1 to be fair argument rather than substantial evidence....

“We conclude,” he wrote, “that the Legislature did not intend for the fair argument standard to apply to a lead agency's decision that a resource is not a historical resource under the final sentence of section 21084.1.”

He added: “To construe the statute

otherwise would be inconsistent with the Legislature's explicit provision authorizing a lead agency to find that a resource that was presumed to be a historical resource was not a historical resource if the lead agency found that a preponderance of the evidence supported its finding. We therefore conclude that the deferential substantial evidence standard of review is the correct standard to apply to the City's finding that the Trestle is not a historical resource.”

The court remanded the case to Judge Mihara to determine the merits of the MND's determination that

there was no substantial evidence that the trestle is an historic resource. ■

The Case:

Friends of Willow Glen Trestle v. City of San Jose, No. H041563

The Lawyers:

For Friends of Willow Glen Trestle: Susan Brandt-Hawley, Brandt-Hawley Law Group, susanbh@preservationlawyers.com

For City of San Jose: Katie Zoglin, Senior Deputy City Attorney, mailto:katie.zoglin@sanjoseca.gov

Legal Briefs

In the remand of the so-called “CEQA-In-Reverse” case, the First District Court of Appeal has ruled that the Bay Area Air Quality Management District's 2010 Toxic Air Contamination thresholds under CEQA “may not be used for the primary purpose envisioned by District, namely, to routinely assess the effect of existing environmental conditions on future users or occupants of a project.” The court found, in essence, that “Source” thresholds were okay, but “Receptor” thresholds were not because CEQA cannot be used to measure the impact of current environmental conditions on a new project. “We agree that conceptually, a proposed project that would itself worsen environmental conditions would be a source – but it would also be a receptor to the extent it brought users or occupants to the site.” *CBIA v. BAAQMD*, No. A135335.

Substantial evidence does not exist that a fire road used by hikers decades ago has actually been dedicated by private property owners to the public for hiking purposes, the Second District Court of Appeal ruled. In overturning a ruling by L.A. County Superior Court Judge Yvette Palazuelos, the appellate court found that testimony by “legacy hikers” who used the fire road prior to 1972 was unpersuasive in proving that the Hastain Trail in Coldwater Canyon had been given to the public through an “implied dedication”. *Friends of the Hastain Trail v. Coldwater Development*, No. B249841.

A 70-day limit on hearing notification in the LAFCO law is “directory” rather than “mandatory,” the Fifth District Court of Appeal has ruled. In a case involving an annexation dispute between Selma and Kingsburg, the court ruled that a legal notice claiming that a hearing was to be held in April 2013 did not preclude the

Fresno County LAFCO from holding the hearing in July 2013, more than 70 days later. *City of Selma v. Fresno County LAFCO*, F072147.

An appellate court has rejected an anti-SLAPP motion in a case reconsidering residential permit parking, concluding that the issue is not a matter of “public interest” but rather a neighborhood matter involving private interests. The case arose when the City of Culver City was accused in a lawsuit of violating the Brown Act by discussing agendaing a change in permit parking for a future meeting at the request of a church. But the Second District found that “[k]eeping the parking restriction at status quo would directly benefit plaintiff ... homeowners. In short, plaintiffs sought personal relief in the form of a halt to any attempts by the church to undo the long-standing parking restrictions.” *Cruz v. City of Culver City*, B265690. ■

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climate change law, Assembly Bill 32 of 2006, to 2050. Some provisions of AB 32 expire in 2020. Without an update, the state’s cap-and-trade system may be in jeopardy. Both bills appeared headed for defeat but were revived by the legislature’s Democratic majority in part at the urging of Brown.

Among bills that are still in play, lawmakers have until August 31 to pass bills and present them to the governor for his signature.

Here is a summary of active bills as Aug. 28 with their current status.

Planning & Zoning

SB 1000 (Leyva) Land Use: General Plans: Environmental Justice

This bill would add to the required elements of the general plan an environmental justice element, or related goals, policies, and objectives integrated in other elements, that identifies disadvantaged communities, as defined, within the area covered by the general plan of the city, county, or city and county, if the city, county, or city and county has a disadvantaged community.

Ordered to third reading.

Housing: Approvals, Zoning & Land Use

Budget Trailer Bill 707: Streamlining Affordable Housing Approvals

In May Gov. Jerry Brown introduced a budget trailer bill that would exempt certain projects from certain local discretionary approvals. It would grant by-right approvals to residential developments that, among other criteria, conform with existing zoning and planning regulations and includes a certain percentage of below-market-rate units. Conforming projects will be exempt forms of local discretionary review, which often slows down projects and imposes significant costs on developers. Importantly, these projects would also be exempt from review under the California Environmental Quality Act. (See prior CP&DR [coverage](#).)

Dead

AB 1934 (Santiago) Planning and Zoning: Development Bonuses: Mixed-use Projects

This bill, when an applicant for approval for commercial development agrees to partner with an affordable housing developer to construct a joint project or 2 separate projects encompassing affordable housing, would require a city, county, or city and county to grant to the commercial developer a development bonus, as specified. The bill would define the development bonus to mean incentives mutually agreed upon by the developer and the jurisdiction that may include but are not limited to, specified variances.

In Assembly. Concurrence in Senate amendments pending.

AB 2180 (Ting) Land Use: Development Project Review

This bill would require approval or disapproval within 120 days from the date of certification of an environmental impact report when the development project consists of either residential units only or mixed use development in which the nonresidential uses are less than 50 percent of the total square footage of the development, among other conditions. It would also reduce each time period to within 90 days when the development project consists of either residential units only or mixed use development in which the nonresidential uses are less than 50 percent of the total square footage.

In Assembly. Concurrence in Senate amendments pending.

AB 2208 (Santiago) Local Planning: Housing Element: Inventory of Land for Residential Development

This bill would revise the definition of land suitable for residential development to include above sites owned or leased by a city, county, or city and county. By imposing new duties upon local agencies with respect to the housing element of the general plan, this bill would impose a state-mandated local program.

This bill would also require, until December 31, 2023, the department to provide guidance to local governments to properly survey, detail, and account for sites listed pursuant to a requirement that the city or county consider the above-described guidelines for the preparation of housing elements.

Enrolled

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AB 2319 (Gordon) California Infrastructure and Economic Development Bank

This bill would expand the authority of the Infrastructure and Economic Development Bank by adding affordable housing, as defined, to the types of projects to which the bank is authorized to provide financial assistance. By expanding the bank's authority to expend funds in a continuously appropriated fund, the bill would make an appropriation. This bill would also make conforming, nonsubstantive changes to cross-references to this provision.

In committee: Held under submission.

AB 2501 (Bloom) Housing: Density Bonuses

This bill would require the local government to adopt procedures and timelines for processing a density bonus application, provide a list of documents and information required to be submitted with the application in order for it to be deemed complete, and notify the applicant whether it is complete. This bill would specify that the term "density bonus" means a density increase over the maximum allowable gross residential density at the time of the date of the application, or, if elected by the applicant, a lesser percentage of density increase or no increase in density.

Passed - Ordered to Assembly

AB 2502 (Mullin) Land Use: Zoning Regulations

This bill would authorize the legislative body of any city, county, or city and county to adopt ordinances to require, as a condition of development of residential rental units, that the development include a certain percentage of residential rental units affordable to, and occupied by, moderate-income, lower income, very low income, or extremely low income households, as specified, and would declare the intent of the Legislature in adding this provision. The bill would also make nonsubstantive changes.

Re-referred to Com. on L. GOV.

AB 2557 (Santiago) Zoning Regulations: Interim Ordinances

This bill would instead prohibit an interim ordinance from having the effect of denying approvals needed for the development of projects with a significant component of multifamily housing. It would additionally make findings

and declarations that addressing housing matters, including the development of multifamily housing, is a matter of statewide concern, and the bill therefore applies to all cities, including charter cities.

Hearing canceled at the request of author. Dead.

AB 2584 (Daly) Land Use: Housing Development

The Housing Accountability Act, among other things, prohibits a local agency from disapproving a housing development project for very low, low-, or moderate-income households or an emergency shelter or conditioning approval in a manner that renders the project infeasible unless the local agency makes specified written findings.

Senate amendments concurred in. To Engrossing and Enrolling.

AB 2697 (Bonilla) Redevelopment Dissolution: Successor Agencies: Disposal of Assets and Properties

This bill would require a successor agency, prior to the disposal of land of the former redevelopment agency, to send a written offer to sell for the purposes of developing low- and moderate-income housing to any local public entity within whose jurisdiction the land is located, as specified. The bill would additionally require the sale of land of the former redevelopment agency to be subject to certain requirements relating to affordable housing. By imposing new duties on local officials, this bill would impose a state-mandated local program.

In committee: Held under submission. Dead.

Housing: Low-Income, Financing & Homelessness

AB 2031 (Bonta) Local Government: Affordable Housing: Financing

This bill would authorize a city or county to reject its allocations of property tax revenues that it would otherwise receive pursuant to specified statutory provisions governing the dissolution of redevelopment agencies. The bill would except from this authorization a city, county, or city and county that became the successor agency to the redevelopment agency and did not receive a finding of completion from the Department of Finance, as specified, and any designated local authority of a redevelopment

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agency, formed as specified, that did not receive the finding of completion from the Department of Finance.

In Assembly. Concurrence in Senate amendments pending.

AB 2441 (Thurmond) Housing: Workforce Housing Pilot Program

This bill would create the Workforce Housing Pilot Program, which would award grant funding to eligible recipients for the predevelopment costs, acquisition, construction, or rehabilitation of rental housing projects or units within rental housing projects that serve, and for providing downpayment assistance to, persons and families of low or moderate income.

In committee: Held under submission. Dead.

AB 2817 (Chiu) Taxes: Credits: Low-Income Housing: Allocation Increase

This bill, for calendar years beginning 2017, would increase the aggregate housing credit dollar amount that may be allocated among low-income housing projects by \$300,000,000 as specified. The bill would also increase the amount the committee may allocate to farmworker housing projects from \$500,000 to \$25,000,000 per year. It would also modify the definition of applicable percentage relating to qualified low-income buildings that meet specified criteria.

In committee: Held under submission. Dead.

SB 846 (Committee on Budget and Fiscal Review) No Place Like Home Program: Establishment

This bill would establish the No Place Like Home Program (part of [AB 1616](#)), to be administered by the Department of Housing and Community Development. The bill would require the department to award \$2,000,000,000 through a competitive program among counties to finance capital costs, including, but not limited to, acquisition, design, construction, rehabilitation, or preservation, and to capitalize operating reserves, of permanent supportive housing for the target population, as specified.

Gutted and amended. Dead.

SB 879 (Beall) Affordable Housing Bond Act of 2016

This bill would enact the Affordable Housing Bond Act of 2016, which would authorize the issuance of bonds in the amount of \$3,000,000,000 pursuant to the State General Obligation Bond Law. Proceeds from the sale of these bonds would be used to finance various existing housing programs, as well as infill infrastructure financing and affordable housing matching grant programs, as provided.

Ordered to third reading.

AB 2475 (Gordon) Loan Program: California Infrastructure and Economic Development Bank

This bill would establish within the bank the Local Government Affordable Housing Forgivable Loan Program, and require the bank to make loans to a local government for the development of affordable housing by the local government on terms and conditions the bank deems in the best interests of the state.

In committee: Held under submission. Dead.

Housing: Accessory Dwelling Units

SB 1069 (Wieckowski D) Land Use: Zoning

This bill would find and declare that, among other things, allowing accessory dwelling units in single-family or multifamily residential zones provides additional rental housing stock, and these units are an essential component of housing supply in California. It would prohibit the imposition of parking standards under specified circumstances.

Ordered to third reading.

AB 2299 (Bloom) Land Use: Housing: 2nd Units

This bill would, instead, require a local agency to provide by ordinance for the creation of second units in certain zones. The bill would also specify that a local agency may reduce or eliminate parking requirements for any second unit located within its jurisdiction.

Read third time and amended. Ordered to second reading.

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AB 2406 (Thurmond) Housing: Junior Accessory Dwelling Units

This bill would authorize a local agency to provide by ordinance for the creation of junior accessory dwelling units, as defined, in single-family residential zones. The bill would require the ordinance to include, among other things, standards for the creation of a junior accessory dwelling unit, required deed restrictions, and occupancy requirements. The bill would prohibit an ordinance from requiring, as a condition of granting a permit, water and sewer connection fees or additional parking requirements.

In Assembly. Concurrence in Senate amendments pending.

Transportation, Mobility & Infrastructure

AB 2222 (Holden) Transit Pass Program: Free or Reduced-Fare Transit Passes

This bill would establish the Transit Pass Program to be administered by the Department of Transportation with moneys made available to support transit pass programs that provide free or reduced-fare transit passes to specified pupils and students. The bill would require the department to develop guidelines that describe the criteria that eligible transit providers are required to use to make available free or reduced-fare transit passes to eligible participants.

In committee: Held under submission. Dead.

AB 1591 (Frazier) Transportation Funding

This bill would create the Road Maintenance and Rehabilitation Program to address deferred maintenance on the state highway system and the local street and road system. The bill would require the California Transportation Commission to adopt performance criteria to ensure efficient use of the funds available for the program. The bill would provide for the deposit of various funds for the program in the Road Maintenance and Rehabilitation Account, which the bill would create in the State Transportation Fund, including revenues attributable to a \$0.225 per gallon increase in the motor vehicle fuel tax imposed by the bill.

Referred to Coms. on TRANS. and REV. & TAX. Dead.

AB 1592 (Bonilla) Autonomous Vehicles: Pilot Project

This bill would, authorize the Contra Costa Transportation Authority to conduct a pilot project for the testing of autonomous vehicles that do not have an operator and are not equipped with a steering wheel, a brake pedal, or an accelerator if the testing is conducted only at specified locations and the autonomous vehicle operates at speeds of less than 35 miles per hour.

In Assembly. Concurrence in Senate amendments pending.

AB 2796 (Bloom) Active Transportation Program

This bill would, for a program cycle adopted on or after January 1, 2018, require a minimum of 10% of all available Active Transportation Program funds to be programmed for planning and noninfrastructure purposes, except as provided. provided, and would require at least 50 percent of that amount to be programmed for planning activities to develop comprehensive active transportation master plans.

In committee: Held under submission. Dead.

ACA 4 (Frazier) Local Government Transportation Projects: Special Taxes: Voter Approval

This measure would provide that the imposition, extension, or increase of a sales and use tax imposed pursuant to the Bradley-Burns Uniform Local Sales and Use Tax Law or a transactions and use tax imposed in accordance with the Transactions and Use Tax Law by a local government county, city, city and county, or special district for the purpose of providing funding for local transportation projects, as defined, requires the approval of 55% of its voters voting on the proposition.

In committee: Hearing postponed by committee.

SBX1 11 (Berryhill) Environmental Quality: Transportation Infrastructure

This bill would exempt from these CEQA provisions a project that consists of the inspection, maintenance, repair, restoration, reconditioning, relocation, replacement, or removal of existing transportation infrastructure if certain conditions are met, and would require the

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person undertaking these projects to take certain actions, including providing notice to an affected public agency of the project’s exemption. Because a lead agency would be required to determine if a project qualifies for this exemption, this bill would impose a state-mandated local program. This bill would also, in an action or proceeding seeking judicial review under CEQA, prohibit a court from staying or enjoining a transportation infrastructure project that is included in a sustainable communities strategy or an alternate planning strategy and for which a programmatic EIR has been certified unless it makes specified findings.

Dead

SBX1 14 (Cannella) Transportation Projects: Comprehensive Development Lease Agreements

This bill would extend this authorization indefinitely and would include within the definition of “regional transportation agency” the Santa Clara Valley Transportation Authority, thereby authorizing the authority to enter into public-private partnerships under these provisions. The bill would also delete obsolete cross-references and make technical changes to these provisions.

Dead

High Speed Rail

AB 1889 High-Speed Rail Authority: High-Speed Train Operation

This bill would provide for the purposes of a certain plan that a corridor or usable segment thereof would be “suitable and ready for high-speed train operation” if specified conditions are met.

Read third time. Passed. Ordered to the Assembly.

AB 2049 Bonds: Transportation

This bill would provide that no further bonds shall be sold for high-speed rail purposes pursuant to the Safe, Reliable High-Speed Passenger Train Bond Act for the 21st Century, except as specifically provided with respect to an existing appropriation for high-speed rail purposes for early improvement projects in the Phase I blended system. The bill, subject to the above exception, would require redirection of the unspent proceeds received from

outstanding bonds issued and sold for other high-speed rail purposes prior to the effective date of these provisions, upon appropriation, for use in retiring the debt incurred from the issuance and sale of those outstanding bonds.

In committee: Set, first hearing. Failed passage.

Environment, Climate Change & Pollution

AB 197 (Garcia) State Air Resources Board: Greenhouse Gases

This bill would add two members of the Legislature to the state Air Resources Board as ex officio, nonvoting members. The bill would provide that the voting members of the state board are appointed for staggered 6-year terms. terms and upon expiration of the term of office of a voting member, the appointing authority may reappoint that member to a new term of office, subject to specified requirements. This bill would also require the state board, when adopting rules and regulations to achieve greenhouse gas emissions reductions beyond the statewide greenhouse gas emissions limit and to protect the state’s most impacted and disadvantaged communities, to follow specified requirements, consider the social costs of the emissions of greenhouse gases, and prioritize specified emission reduction rules and regulations.

Enrolled and presented to the Governor.

SB 32 (Pavley) California Global Warming Solutions Act of 2006: Emissions Limit

An extension of AB 32 of 2006, this bill would require the Air Resources Board to approve a statewide greenhouse gas emissions limit that is equivalent to 40% below the 1990 level to be achieved by 2030. The bill would also require the state board, on or before January 1, 2018, and each year thereafter, to prepare and submit to the Joint Legislative Budget Committee and appropriate policy committees a report relating to the greenhouse gas emissions reductions achieved toward those limits.

Enrolled and presented to the Governor.

Community Development / Economic Development

AB 806 (Dodd) Community Development: Economic Opportunity.

This bill would authorize a city, county, or city and county

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to acquire, sell, or lease property in furtherance of the creation of an economic opportunity, as defined. The bill would require the resolution to contain a finding that the acquisition, sale, or lease of the property will assist in the creation of economic opportunity and would require the creation of an economic opportunity to be subject to specified public notice and hearing provisions.

From committee: That the Senate amendments be concurred in.

AB 2492 (Alejo D) Community Revitalization

The bill would authorize an authority to carry out a community revitalization plan if the census tract or census block groups within the community revitalization and investment area are within a disadvantage community, as prescribed. It would authorize the calculation to be made with a combination of census tracts and census block groups. The bill would also revise the conditions to require, among other things, an annual median household income that is less than 80 percent of the statewide, countywide, or citywide annual median household income.

Senate amendments concurred in. To Engrossing and Enrolling.

Miscellaneous

SB 1262 (Pavley) Water Supply Planning

This bill would require a city or county that determines a project is subject to the California Environmental Quality Act to identify any water system whose service area includes the project site and any water system adjacent to the project site. This bill would provide that hauled water is not a source of water for the purposes of a water supply assessment, as specified. This bill would, if a water supply for a proposed project includes groundwater, require certain additional information to be included in the water supply assessment. The act generally requires a subdivider to submit a tentative map for subdivisions of land, as specified.

Ordered to engrossing and enrolling.

AB 2586 (Gatto) Parking

This bill would prohibit a local authority that contracts with a private entity to enforce parking regulations from

promoting designated incentives in connection with the issuance of violation notices.

Read third time. Passed. Ordered to the Assembly.

SB 133 (McGuire) Transient Occupancy Taxes: Hosting Platforms: Collection.

This bill would authorize a city, county, or city and county to elect to allow platforms, as defined, that elect to assume the responsibility of collecting and remitting transient occupancy taxes on behalf of operators, to collect and remit those taxes to that city, county, or city and county, as specified.

Hearing canceled at the request of author. Dead.

SB 734 Environmental Quality: Jobs and Economic Improvement Through Environmental Leadership Act of 2011

This bill would extend the authority of the governor to certify a project to January 1, 2018. The bill would provide that the certification expires and is no longer valid if the lead agency fails to approve a certified project before January 1, 2019. This bill would require a multifamily residential project certified pursuant to the act to provide private vehicle parking spaces that are priced and rented or purchased separately from dwelling units, except as provided.

Enrolled and presented to the Governor.

SB-1190 (Jackson) California Coastal Commission: ex parte communications: staff communications

This bill would prohibit a commission member or an interested person from intentionally conducting any ex parte communication or any oral or written communication regarding a pending enforcement investigation that does not occur in a public hearing, workshop, or other official proceeding, or on the official record of the proceeding on the matter. The bill would require a commission member to report these communications in writing, would require the report to be placed in the public record, and would prohibit a commission member from voting on or otherwise participating in any commission proceeding to which one of these communications applies, even if the communication is reported.

August 25 hearing postponed by committee. ■

>>> An Old Slow-Growther Reshapes Himself As Trumpian

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with China and how to avoid it.

And for those of you with long memories of California growth control wars, yes, we're talking about *that* Peter Navarro: The guy who ran for mayor of San Diego in 1992 – and almost won – on an anti-growth platform.

Navarro has been all over the place in defense of Trump's economic policies lately – for example, with [this spirited attack](#) on Moody's negative analysis of Trump's economic plan. And while Trump may have stumbled across Navarro's work on his own, it's far more likely that he was led to it by Dan DiMicco, the former CEO of Nucor Steel, who's been Trump's leading [who helped persuade his company](#) to provide financial backing for the film version of Navarro's book.

So what's a guy who once ran for office on an anti-growth platform doing as an economic advisor to a real estate developer running for president? As it turns out, this makes more sense than you might think.

At first you wouldn't think Navarro has much in common with the supposedly business-oriented Trump, but the common theme of Navarro's thinking has been to use governmental power to create limits and walls, the better to manage things for the benefit of those inside the walls. This was the fundamental concept of 1980s-style California growth management, which often allied left-wing neighborhood anti-growth activists with right-wing anti-immigration activists. And it's the fundamental concept of Trump's campaign.

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Another way to look at it is simply that Trump and California slow-growthers are win-lose folks, not win-win folks. A lot of economic theorists -- free-traders, for example, and real-estate development free-marketeers -- believe that the more there is, better it is for everybody. But Trump clearly doesn't believe this. To him, there are always winners and losers -- so you'd better box out the other guy if you want to be a winner or else make him pay through the nose. And the California slow-growthers feel the same way: More development creates losers as well as winners, so you'd better box out the bad development or at least make those developers pay through the nose.

Navarro's apparently a Democrat, though he has jokingly said that his political party is "economist". He first emerged in San Diego during the anti-growth backlash to the real estate boom of the late 1980s, when a citizen initiative was adopted limiting the number of housing units that could be built per year – even though previous growth management measures sought to align infrastructure and development.

In spite of the fact that he was a trained economist who taught in a business school, Navarro seemed to me like a pretty typical California anti-growth guy of that era. I first met him at a Realtors forum on growth management in Irvine around that time, and he advocated pretty standard growth control policies. When the real estate folks tried to ask him about "affordable housing," he waved his hand in the air – as if to swat the topic away – and said, "Separate issue." By which he meant that, to him, affordable housing was a thing you had to create via government subsidies,

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>>> An Old Slow-Growther Reshapes Himself As Trumpian

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not something you could create via the market by reducing regulation.

Navarro ramped it up in 1992 [when he ran for mayor](#). His platform was, again, standard-issue California growth control for the time: limited growth, tying development to infrastructure and services (for example, no additional housing without an increase in police officers) and, tellingly, immigration restrictions. He [deliberately rejected](#) the Construction Industry PAC endorsement and finished first in the primary against County Supervisor Susan Golding and City Councilmember Ron Roberts, an architect who was the odds-on favorite (and is now on the Board of Supervisors). But he lost to Golding in the runoff by four points and later lost races for city council and Congress. If he had defeated – and he had managed to navigate the notoriously treacherous political waters of San Diego City Hall (trust me on this one) – he might have been a seminal

figure in the history of California planning.

Instead he moved to Laguna Beach, kept teaching at UC Irvine, and focused on providing corporations with assessments of geopolitical risk. Which led him to China and to Trump. He does seem to believe that the United States has to use a lot of military muscle to keep things even with China – and it's never clear where Trump is on that question – and he does believe in better trade deals and apparently still in immigration reform. He recently argued – a la the supply siders – that Trump's proposed tax cuts wouldn't increase the deficit all that much because of the economic growth it would stimulate.

But so far, neither he nor Trump has weighed in on the question of whether the number of housing units should be restricted or tied to the provision of infrastructure and public services. Though it's kinda believable that they don't agree on that one. ■



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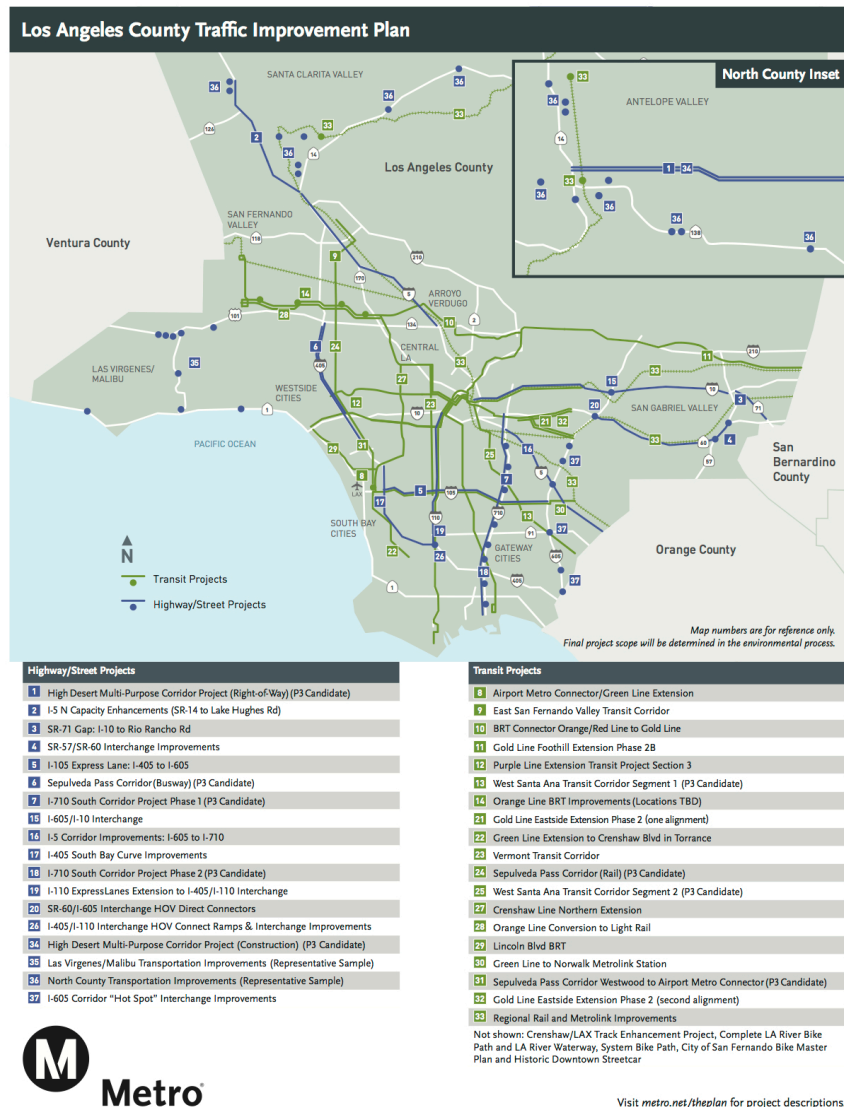


Metro's Prop. 13-Driven Christmas Tree

California has suffered plenty of perverse effects of Proposition 13: cuts to school funding, ossification of neighborhoods, general constraints on cities, etc. Most of those effects are by design or were, at least, foreseeable by Howard Jarvis and the measure's supporters.

In Los Angeles County, though, a new unintended consequence has arisen that, though it might prove great for the county, probably has Jarvis spinning in his grave.

This week, Measure M **officially** made it on to the countywide ballot for November. The successor to 2008's



Measure R, Measure M would further the region's long-range transportation plan by augmenting and extending the county's half-cent sales tax indefinitely (30-plus years at least) to generate tens of billions of dollars for transportation projects.

Like Measure R, which paid for popular projects like the

Expo Line to Santa Monica and Gold Line extension to Azusa, Measure M is a Christmas tree of projects, sprinkled around the county so that the measure will appeal to just enough voters to make it pass. And, at an estimated \$800 million in annual revenue, Measure M is one big Christmas tree — Rockefeller Center big. It includes 27 highway

Metro's Prop. 13-Driven Christmas Tree

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projects, 33 transit projects, and a good deal of local return monies. Many people are excited about these projects, and with good reason.

In some ways, though, the number of projects and amount of expected funding is a direct consequence of the number of voters that Measure M has to woo. That number is two-thirds of the electorate. That's the margin needed to pass a new tax in California. Thanks to Proposition 13.

The Jarvis people thought that this provision would curb public spending and ease Californians' tax burden. At the very least, they sought to ensure that proposed taxes were structured sensibly enough to appeal to a broad swath of voters. Measure M, though, is different.

The great thing about planning is that plans on paper cost nothing. Therefore, it costs Metro nothing — at least not up-front — to heap on project after project to appeal to different jurisdictions and different interests groups. Measure M has something for everyone: drivers, transit advocates, bike advocates; city people, valley people, South Bay people, even high desert people.

Metro's hope is that if people don't vote for the interests of the county as a whole, they'll at least vote for their own parochial interests. That's why even small jurisdictions and institutions — some as specific and localized as Cal State University, Northridge — are [keeping score](#). As the Los Angeles Daily News [reports](#), not everyone is happy, especially cities in south and southwestern L.A. County. Metro just hopes that *enough* people are happy. (Note: Now that it's on the ballot, Metro cannot directly lobby for the measure.)

You could call it politicking, but Metro is doing nothing if not playing by the rules.

It's not hard to imagine, though, that if the rules required a simple majority, the Measure R package would look much different. For starters, package that had to appeal to only 50 percent of voters would likely be smaller. It also might be more efficient. It might, for instance, omit a rail line from Torrance to West Hollywood or a highway to Palmdale, willfully sacrificing voter support in favor of projects that will be more cost-efficient and/or serve more people. It might be able to put more money into active transportation in the urban core and less money into highways serving the suburbs.

I'm not making value judgements about any of these projects. I'm just saying that Metro's strategy might have been different in a non-Prop 13 world.

In other words, Prop 13 compels Metro, and anyone else seeking to raise revenue via a vote, to come up with not necessarily the best spending program but rather the spending program that has the best chance of passing.

While we can be sure that many Prop 13 advocates will want nothing to do with Measure M, we can be equally sure that over the next few months transit advocates in Los Angeles will be crying "All aboard!" to rouse support for Measure M's proposed trains.

Or at least, "Two-thirds aboard!"

– JOSH STEPHENS | AUG 9, 2016 ■

