

Placer County to Decide On Squaw Valley Resort Development

BY JOSH STEPHENS

Despite consecutive seasons of miserable-to-average snowfalls in recent years, California ski resorts are moving ahead with ambitious expansion and development plans. In fact, less snow may simply mean that they're being more aggressive about offering year-round attractions.

The latest development comes from Squaw Valley.

The proposed Village at Squaw Valley would transform the mountain's currently threadbare base area into a multi-use destination, with a hotel, retail and restaurant complex, 850 residential units, and a "Mountain Adventure Center" with indoor and outdoor recreational activities. Dreamt up and developed in relative haste for the 1960 Winter

Olympics, Squaw Valley has never had a town or a base area to match those of rivals like Mammoth Mountain, Heavenly Valley, or Vail.

After five years and over 400 community meetings, the Squaw Valley Specific Plan was approved, 4-2, by the Placer County Planning Commission in August. It will soon go before the Placer County Board of Supervisors. It is believed to be the largest project to be proposed in the county in recent memory.

Located just outside the Lake Tahoe Basin, northwest of the lake, the resort sits in an ecologically sensitive — and politically contentious — area (see prior

— CONTINUED ON PAGE 13



New Climate Bills Likely to Put Pressure on SCSs

Gov. Jerry Brown and the California Legislature have moved the goalposts again on climate policy, meaning the state's metropolitan planning organizations and local governments are going to have to

go into stretch mode again in focusing land use policies and transportation investments on reducing greenhouse gas emissions.

Furthermore, the pressure on the MPOs and the local governments will depend on

— CONTINUED ON PAGE 15

IN BRIEF:	Page 2	- Wal-Mart's Green Recycling Isn't An Environmental Issue.....	Page 7
NEWS:		- WeHo Case Strengthens Inclusionary Housing Power	Page 9
- Coastal Commission Kills Banning Ranch Project.....	Page 4	- Sebastopol Developer Wins \$3 Million Judgment.....	Page 10
LEGAL DIGEST:		FROM THE BLOG:	
- Did Preservation Group Win or Lose San Mateo College Case?.....	Page 5	- Ed Ruscha's Los Angles.....	Page 17

Controversial Project in S.F. Mission District Approved

The San Francisco Board of Supervisors unanimously [approved](#) the largest residential complex in the history of Mission District, 3.5 years after the project was proposed. The development includes 191 market-rate apartments and 100-136 affordable units; the latter will be constructed by the city by land donated by the developer. Residents of this neighborhood, which has become a flashpoint in the city's gentrification debates, are worried about displacement; in a predominantly working-class Latino community a huge spike in luxury condominiums and new restaurants have replaced the rent-controlled apartments and laundromats. Those opposed to the project say it has a flawed environmental impact report, and that impacts of increased traffic and congestion were not evaluated. Supervisors responded that CEQA was not the appropriate avenue to address displacement concerns and that the city would construct the new affordable units with the \$30 million it has set aside. Activists have already indicated that they will [sue](#) to block the project.

Los Angeles Transportation Measure Overcomes Cities' Objections

A Los Angeles Superior Court judge [rejected](#) a claim from a group of seven cities that said the language

for Measure M, which proposes a sales tax increase for tens of billions of dollars worth of transportation projects, would mislead voters. The suited claimed that what was meant to be a half a percent increase was worded as a half-cent increase, implying that the tax would be a single-half cent regardless of the total value of a purchase. The court rejected this claim on a technicality, saying that state law does not require a local measure like Measure M to present the total annual costs associated with it. This suit was filed by South Bay cities including Carson, Commerce, Torrance, Rancho Palos Verdes, Norwalk, Signal Hill, and Santa Fe Springs. However, LA Metro [says](#) it is indeed a half-cent sales tax that will generate \$860 million per year. (See prior CP&DR [coverage](#).)

SANDAG Rolls Out Massive Driving Survey

The San Diego Association of Governments is turning to technology to get a [detailed account](#) of San Diegans' driving habits. The agency is asking 200,000 San Diego households to complete a survey of their transportation habits to help planners figure out regional planning decisions for the region. Some of these decisions are where new developments should go, what highway and rail lines to improve, and other big-picture issues. Survey participants – who make up nearly one-fifth of the county's population

– will be asked to download rMove, a smartphone application that uses GPS technology to track when they commute as well as other details of the user's transportation choices. Research firm Resource Systems Group has a two-year, \$1.75 million contract with SANDAG for the survey. Funding comes from the federal government.

Cap-and-Trade Auction Again Yields Disappointing Results

Revenue [generated](#) from the cap-and-trade program last month is estimated to be around \$390 million, even weaker than the previous round in May. Around 30.8 million credits were sold out of the nearly 96 million available. The market did have a higher demand for permits than three months ago, which is a measure of success. Gov. Jerry Brown's high-speed rail will get around \$8.4 million this round, but the program [needs](#) significantly more. Cap and Trade funds also contribute to planning-related programs such as the Affordable Housing and Sustainable Communities grants. The Cap and Trade program is still facing a pending lawsuit as to the legality of this potentially unconstitutional tax. And the recent auction was conducted before the legislature approved an extension of the program, thus calling into the question the long-term value of carbon credits.

Anaheim Paves Way for Development Near Angels Stadium

The City of Anaheim Planning

– CONTINUED ON PAGE 3



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– CONTINUED FROM PAGE 2

Commission [voted](#), 4-0, to develop a 15-acre site across from the Los Angeles Angels' parking lot for shops, restaurants, offices, residences and a hotel. The Angels are opposed to the project because, according to Angels' attorney Allan Abshez "would cannibalize the Angels' existing food, beverage and retail operations at Angels' Stadium." The plans include a 30-story residential tower with views of the stadium as well as an outdoor entertainment center. The Angels have plans to develop a "sports-entertainment-hotel" to help generate profits for the stadium renovations. The Angels, lead developer of the 15-acre site and the city will now try to reach a plan that is beneficial for all. The Anaheim City Council must still vote on the project within the next two months.

Chargers Propose Community Land Trust for Barrio Logan

Amid debates over a possible new stadium, the [San Diego Chargers](#) have told the San Diego Building and Construction Trades Council that they will help keep land values low and fight gentrification near their new home if the bid for the \$1.8 billion convention stadium is won. The team would establish a land trust for Barrio Logan, Sherman Heights, Logan Heights and other neighborhoods that would see high levels of displacement. The trust would be run by a nonprofit group and community members would drive the selection process, however the team would supply the trust with funds that range "in the millions." A labor agreement between the Chargers and the construction union would require unions to guarantee not to strike and require contractors to hire workers through the union halls.

Santa Cruz Zoning Would Create 'Nodes' of Density

The City of Santa Cruz has [released](#) the first draft of its proposed zoning update its for four main corridors. This new rule-book will help control through these major byways. Developers that meet certain criteria at numerous "nodes" along the corridors may build higher density developments. The new code is part of the city's vision to increase community walkability. This can include removing on-street parking for right-of-way improvements and bicycle access. The corridor committee also recommends incentives for new affordable housing, "community benefit" exceptions and craft design standards. Opposition has come from residents on the east side of the city who feel the plan encourages is undue density and development on their side of town. The Planning Commission will now begin hosting three public hearing meetings to gather input from the community on the draft zoning code before going to City Council for approval.

Developers Heavily Support Sacramento Supervisor Campaigns

A recent Sacramento Bee [analysis](#) finds that development interests account for two-thirds of the contributions and independent expenditures in Sacramento County supervisor races this year. The county has seven candidates running for two seats, raising a combined total of \$300,000. The county elections have limits of \$1,000 per election period for an organization and \$500 for an individual. Of the total sum, \$135,000 or 45 percent came from development interests. Josh Wood, executive director of Region Business tells Sac Bee that "Sacramento County has

thousands of acres of development that's being proposed in the next few years."

Planning Reform and Moratorium Initiative Qualifies for Los Angeles Ballot

Los Angeles activists have submitted 104,000 [signatures](#) to place the anti-development Neighborhood Integrity Initiative on the March 2017 ballot. The measure includes fast-tracking a new general plan, rules that developers cannot meet with city officials and a two-year moratorium on most major development projects. The major group in opposition, Coalition to Protect LA Neighborhoods and Jobs has raised \$722,335, half of the money came from CH Palladium. Coalition to Preserve LA, the backers of the initiative, have received \$1 million from the AIDS Healthcare Foundation, as well as Leonardo DiCaprio, Kirsten Dunst, Lowe Enterprises, Planning Architecture Engineering Alliance, Westfield and Eli Broad, among others.

Planning Commissioners Reined in by L.A. Mayor

Los Angeles Mayor Eric Garcetti plans to [issue](#) an executive directive banning private meetings, or ex parte communications, between planning commissioners and developers to "ensure that all dialogue with private stakeholders is on the record." This comes after city officials plan to stop a planned March ballot initiative that calls for a halt on major building projects that require changes in city rules. Garcetti also promised to make other changes, such as accelerating updates to community plans. Additionally he wants to ensure the city, rather than developers, choose the consultants who assess the environmental effects of projects. ■

Coastal Commission Rejects Banning Ranch Proposal

BY JOSH STEPHENS

A proposed development in Newport Beach that has become a crucible for the California Coastal Commission was overwhelmingly rejected, 9-1, by the commission in early September. With the controversial dismissal of former Executive Director Charles Lester in February, many environmentalists had accused the commission of taking a turn in favor of development and in opposition to serious coastal protection but the commission went in the other direction on Banning Ranch.

Proposed by a subsidiary of Aera Energy called Newport Banning Ranch LLC, the most recent iteration of Banning Ranch would have developed roughly one-seventh of a 401-acre oil field on the northern edge of Newport Beach. The project drew attention in part because it is one of the largest undeveloped parcels in urban coastal California.

The proposal that the commission voted on this week was for the development of 62 acres with 895 homes, 45,000 square feet of commercial space, 8 acres of retail and resort space, and a small park. Several acres would have been set aside for ongoing oilfield operations, with the rest preserved and/or restored. The parcel is considered critical habitat for the western burrowing owl and California gnatcatcher, among other endangered species.

In the works for over a decade, the project had been pared down several times. Coastal Commission staff presented an alternative plan that would have included roughly half as much development as the developer's plan. The commission did not approve that plan either.

"This is a project we have to get right," Commissioner Mary Shallenberger told the [Orange County Register](#). "We've heard this is the only intact coastal bluff ecosystem in Southern California. It is the largest concentration of endangered and threatened species in Orange County. ... You can't make a mistake with that and turn back when you find you haven't had it quite right. If we don't get it right, things will be lost forever."

The vote to reject Banning Ranch may help the commission save face in a tumultuous year. It drew measured praise from observers like Los Angeles Times columnist Steve Lopez, who has sharply criticized the commission.

Lopez wrote, "Wednesday was a step forward for the California Coastal Commission after months of turmoil, including a power struggle between the commission's staff of experts and the politically appointed commissioners who have the final say on projects."

One of the arguments in favor of the development was that it would pay for remediation and restoration of the oilfield. Project opponents, including representatives of the Banning Ranch Conservancy, say they would rather raise money to restore the land in its entirety than rely on developers. Estimates for restoration run as high as \$50 million.

"The staff report as reported...would result in the status quo, no habitat restoration, no public access," said Mike Mohler, Newport Banning Ranch senior project manager, according to the [Orange County Register](#). "It's a highly degraded oil site with a lot of potential."

Development of the site, which produced over 400 million barrels of oil, was first proposed in 1997. The city approved a project in 2012 but was hit with a lawsuit from Banning Ranch Conservancy alleging that the project violated the city's general plan.

The developer may re-apply in six months. Despite this week's vote, some are not convinced that the commission, in the post-Lester era, is truly committed to coastal protection.

"When it cools down and the public isn't paying attention, it will be business as usual," former Coastal Commissioner Steve Blank told the [Los Angeles Times](#). "The developer will come back in six months. This isn't over. It's all about the money. No way they are going to leave \$1 billion on the table." ■

legal digest

Cal Supremes Give Lead Agencies Deference On “New” v. “Modified” Projects

BY WILLIAM FULTON

Reversing an appellate court decision, the California Supreme Court ruled Tuesday that courts should substitute their “abstract” judgment for the lead agency’s judgment as to what constitutes a “new” project that requires more extensive environmental analysis.

The ruling appears to clear up a conflict between appellate rulings from different districts. But the plaintiffs said they still believe they can win the case on remand.

The case involved a proposed building program at College of San Mateo, a community college located in the City of San Mateo, that would have involved demolishing some buildings and renovating others. Initially, the college certified a mitigated negative declaration for the building program. Years later, however, the college changed the building program so that some buildings that would have been demolished would be renovated, while the Horticulture Building, which wraps around a horticultural garden, would be demolished.

Concluding that the change did not constitute a “new project” under the California Environmental Quality Act, the college issued an addendum to the MND. A group of residents and students calling themselves Friends of the College of San Mateo Gardens

sued and won in both San Mateo County Superior Court and the First District Court of Appeal. But in a unanimous decision, the Supreme Court reversed the First District.

“When an agency proposes changes to a previously approved project, CEQA does not authorize courts to invalidate the agency’s action based solely on their own abstract evaluation of whether the agency’s proposal is a new project, rather than a modified version of the old one,” wrote Justice Leondra Kruger in an exceptionally clear and well-written argument.

“... An agency that proposes project changes ... must determine whether the previous environmental documents retains any relevance in light of the proposed changes and, if so, whether major revisions to the previous environmental document are nevertheless required due to the involvement of new, previously unstudied significant environmental impacts. These are determinations for the agency to make in the first instance, subject to judicial review for substantial evidence.”

That was the important legal ruling, and it was pretty clear. Sabrina Teller, a lawyer, for Remy Moose & Manley who argued the case for the college, [told SFGate](#): “The court is still urging a deferential standard.”

However, Kruger acknowledged that the case before the Supreme Court did not address all issues in the case – including the question of the legal validity of the CEQA Guidelines sections that allow an MND addendum on a modified project rather than an environmental impact report. That’s one reason why the plaintiffs say they are confident of victory on remand.

Susan Brandt-Hawley, lawyer for the plaintiff, said she is still hopeful that the lower courts will distinguish the original and revised project in such a way that her client will win. “Here we have an addendum to a neg dec, and the neg dec was for a preservation project. And the new addendum (actually therefore a revised neg dec) is for a demolition project,” she said in an email to *CP&DR*.

The controversy in the case revolves around so-called “Building 20,” the college’s horticulture building and an adjacent garden that students and nearby residents value for its peacefulness. In 2006, the college adopted a building program that called for retention of Building 20 and demolition of other buildings on campus. The college also certified an MND for the project.

Five years later, however, the college changed the building

>>> Cal Supremes Give Lead Agencies Deference On “New” v. “Modified” Projects

– CONTINUED FROM PAGE 5

program, calling for renovation of the other buildings and demolition of Building 20 and the garden, along with replanting some of the herbs and bushes in the garden elsewhere on campus. The Friends group sued.

In an unpublished opinion three years ago, the First District Court of Appeal ruled against the college, concluding that as a matter of law the 2011 building program was a new project rather than a modified project. The First District relied heavily on *Save Our Neighborhood v. Lishman* (2006), 140 Cal.App.4th 1288. In that case, the Third District concluded that the question of a new or modified project was a “threshold question of law”.

The following year, the Second District issued a somewhat conflicting ruling in *Mani Brothers Real Estate Group v. City of Los Angeles* (2007), 153 Cal.App.4th 1385. In that case, the court found that a 3.3-million-square-foot project was a modification of a 2.7-million-square-foot project on which the city had done an EIR 15 years before. The Second District criticized *Save Our Neighborhood*, saying it undermined judicial deference of agency decisions.

The appellate court in the College

“When an agency proposes changes to a previously approved project, CEQA does not authorize courts to invalidate the agency’s action based solely on their own abstract evaluation of whether the agency’s proposal is a new project, rather than a modified version of the old one,”

of San Mateo case acknowledged this conflict but used the *Save Our Neighborhood* reasoning, saying that “it is clear from the record that the nature of the project has fundamentally and qualitatively changed to the point where the new proposal is actually a new project altogether.”

In her ruling for the Supreme

Court, Kruger rejected the *Save Our Neighborhoods* reasoning put forth by the plaintiffs in this case. She wrote that this approach “would assign to court the authority – indeed, the obligation – to determine whether an agency’s proposal qualifies as a new project, in the absence of any standards to govern the inquiry.”

She added: “[T]o ask whether proposed agency action constitutes a new project, purely in the abstract, misses the reason why the characterization matters in the first place....A decision to proceed under CEQA’S subsequent review provisions must thus necessarily rest on a determination – whether implicit or explicit – that the original environmental document contains some informational value.”

The Case:

Friends of the College of San Mateo Gardens v. San Mateo County Community College District, S215061 (September 19, 2016)

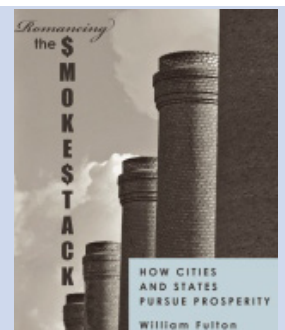
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Romancing the \$moke \$tack How Cities And States Pursue Prosperity

Bill Fulton’s Book On Economic Development



Wal-Mart's Green Recycling Doesn't Require CEQA Analysis

BY WILLIAM FULTON

Wal-Mart's trying hard to be green. And, despite the arguments of a local citizen group in Ceres, one appellate court has concluded that this isn't a problem under the California Environmental Quality Act.

In this case – involving a Wal-Mart in Ceres – the Fifth District Court of Appeal ruled that the mere fact that a project increases the amount of recycling – or includes biodegradable plastic – doesn't trigger a requirement for environmental analysis in a project's environmental impact report.

A group called Citizens For Ceres challenged the EIR in court on several grounds. The group was represented by Brett Jolley, a Stockton lawyer who often represents citizen groups opposing Wal-Mart projects in the Central Valley.

On the recycling question the Fifth District said: "Unlike traditional waste disposal methods, such as landfilling, recycling is not itself an environmental problem, but is instead a solution to the problems presented by those traditional methods." Therefore, the issues related to recycling are, by definition, not environmental problems. "[W]e agree with Wal-Mart and the city that when a project will result in increased demand for recycling services, this often can be treated as an economic rather than an environmental impact and need not be analyzed in the EIR."

The case also dealt with some interesting issues involving the economic rationale for a statement

of overriding considerations under CEQA, which is required to approve a project in the face of significant impacts. The citizen group had challenged the statement of overriding considerations, saying the project would not generate increased tax revenue and more jobs as the city and Wal-Mart claimed. But the court said the record contained "substantial evidence of probable benefit" and basically said judges don't have to be economists.

In a followup to a previous appellate ruling, the court overruled the trial court and decided that Wal-Mart should not have been barred from recovering the \$48,000 cost of preparing the administrative record in the case.

The court also rejected the citizen group's argument that the EIR did not adequately deal with issues associated with possible urban decay, saying that the city had adequately conditioned the project with requirements that Wal-Mart maintain the store it would be abandoning until a new tenant is found.

The proposed development project is a 300,000-square-foot retail center known as Mitchell Ranch Center, which would be anchored by a 190,000-square-foot Super Wal-Mart that includes 56,000 square feet for groceries. The non-grocery portion of the store is comparable in size to an existing Wal-Mart in Ceres that would be closed as a result of this project's construction.

The project's approval process and

EIR dragged out for several years and at one point Wal-Mart bought the property from the underlying developer and became the applicant. Citizens For Ceres brought a very wide-ranging legal challenge to the EIR, but both the trial judge and the appellate court ruled in favor of the city and Wal-Mart on all counts.

The appellate court's ruling on the recycling question may be an important precedent. Citizens For Ceres had argued that the city should have assessed the environmental impact of the recycling created by the project because Wal-Mart uses a biodegradable plastic known as polylactic acid, or PLA, in its packaging. Polylactic acid is sometimes known as "corn plastic".

The city documented that its current recycling facilities had more than enough capacity to handle the additional material from the Wal-Mart. But Citizens' consulting engineer made the following argument about why the city should have done an environmental analysis on the recycling:

PLA can compromise other plastic in the waste stream, which can reduce the opportunity to recycle the other materials, which in turn could threaten the city's ability to meet the state's AB 939 recycling targets.

The city's response was that PLA is already in Ceres' waste stream. The city separates PLA out of the waste stream after recycling is picked up and then sends it to the landfill, where it biodegrades, so therefore there

>>> Wal-Mart's Green Recycling Doesn't Require CEQA Analysis

– CONTINUED FROM PAGE 7

is no environmental impact worth analyzing.

The Court of Appeal acknowledged that the amount of recyclable waste would go up because of the Wal-Mart project, but concluded: “This is substantial evidence that the project will cause an increase in recycling; but as we have explained, an increase in recycling in itself is not an adverse environmental impact. It is *not* substantial evidence that the increase may be more than the city’s recycling contractor can handle. For that reason, it does not support a fair argument that there is a significant impact needing discussion in the EIR.”

Regarding PLA, the court noted: “Because of the sorting problem (PLA products cannot be recycled with other plastic and must instead be separated and either composted or landfilled), a major increase in PLA waste from a proposed project could conceivably lead to a reduction in recycling and an increase in landfilling.” However, the court concluded: “There is no evidence of this type of problem in this case, however.”

The discussion of the statement of overriding consideration could be important as well, because the Court of Appeal concluded that courts don’t have to second-guess a lead agency’s analysis of the economic benefits of a project.

Ceres had hired Bay Area Economics to do an economic analysis. BAE found that the project would increase sales tax receipts by \$327,000 per

year and increase the number of jobs over the current Wal-Mart from 375 to 580, in large part because of the other stores and restaurants that would be located in the center. Citizens For Ceres challenged all these numbers and BAE’s underlying assumptions. Among other things, Citizens argued that many of the new jobs would be part-time. Indeed, Citizens submitted as evidence a report from the San Diego County Taxpayers Association, released in 2000, on the subject of Wal-Mart and part-time jobs – but the city submitted a letter from the association three years later saying the report was outdated.

The appellate justices decided that it was not their job to second-guess an economic analysis: “It is not our role to make a factual finding about whether the project will truly benefit or harm the job market. It is not enough for a challenger to present some evidence opposed to the agency’s findings, for we do not resolve conflicts in the evidence under the substantial evidence standard. The only question is whether the record contains substantial evidence of a probable benefit. It does.”

On the question of who should bear the cost of preparing the voluminous administrative record in the case – often a contentious issue in CEQA cases – the court overruled the trial judge and said Wal-Mart could recover the costs. However, the court remanded to the trial court the question of how much cost Wal-Mart could recover. The administrative

record was the subject of a previous appellate ruling on the Ceres Wal-Mart -- *Citizens for Ceres v. Superior Court* (2013) 217 Cal.App.4th 889. In that case, the court ruled that pre-approval communications between the city and Wal-Mart were not privileged, which of course increased the cost of preparing the administrative record.

On the urban decay question – a topic of increasing interest in [CEQA lawsuits](#)– the appellate court reaffirmed a trend from other cases and narrowed the issue only to the physical deterioration of vacant stores. The court ruled that a mitigation measure requiring Wal-Mart to beef up maintenance of its old store while it is vacant was sufficient to take the urban decay issue down to a level of insignificance. The court declined to rule more expansively about the likely impact of the new Wal-Mart on a wide range of other stores in the vicinity.

The Case:

[Citizens of Ceres v. City of Ceres](#), No. F071600, September 12, 2016

The Lawyers:

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New Court Ruling Reinforces Locals' Inclusionary Housing Powers

BY WILLIAM FULTON

A longtime anti-poverty lawyer and his wife have lost an appellate case against the City of West Hollywood in which they challenged the city's imposition of inclusionary housing fees on their project. The ruling strengthens the power of local governments to enforce inclusionary housing policies, partly by reinforcing an appellate court ruling from San Jose last year.

Shelah and Jonathan Lehrer-Graiwer sued West Hollywood over a wide variety of fee-related issues on their 11-unit Croft Avenue housing project, including the inclusionary housing fees, which totaled more than \$500,000. But the Second District Court of Appeal rejected a wide variety of arguments and said the city had acted properly under the Mitigation Fee Act (AB 1600) in setting out an overall schedule for inclusionary housing fees.

Instead, the Second District ruled that the fees were appropriately based on the city's overall lack of affordable housing. Writing for a unanimous three-judge panel, Justice Victoria Chaney said that "the purpose of the in-lieu housing fee here is not to defray the cost of increased demand on public services resulting from Croft's specific development project, but rather to combat the overall lack of affordable housing."

Relying on *California Building Industry Assn. v. City of San Jose* (2015) 61 Cal.4th 435, she added: "This type of fee is not 'for the purpose of mitigating the adverse impact of new development but rather to enhance the public welfare by promoting the use of available land for the development of

housing that would be available to low- and moderate-income households.'"

The Lehrer-Graiwers, operating as 616 Croft Ave. LLC, have sought for many years to demolish two single-family homes just south of Melrose Avenue in West Hollywood and replace them with an 11-unit project. (Jonathan Lehrer-Graiwer was for many years a lawyer with the Western Center on Law and Poverty and later worked on many social justice cases as a lawyer in private practice.) The Lehrer-Graiwers won city approval for the project in 2005 but because of the downturn in the economy did not seek to pull permits until 2011. At that time, the city demanded that they pay higher fees totaling \$580,000, including \$540,000 for the inclusionary housing fee. The Lehrer-Graiwers paid the fees under protest and sued

They challenged the city's fee ordinance both on its face and as applied to their project. The appellate court concluded that the facial challenge was time-barred because the ordinance was adopted 10 years before the lawsuit was filed. More importantly, the appellate court rejected the as-applied challenge as well.

The Lehrer-Graiwers made a wide range of arguments, including the idea that the fees were really taxes under Proposition 218. The court rejected all these arguments.

Most important, the appellate court concluded that the inclusionary housing fees did not need to be tied to the impact of the Lehrer-Graiwers's project but, rather, could be part of an overall effort to tackle the affordable housing

problem in West Hollywood.

First, the court concluded that the burden of proof that the fees are reasonable lies with the city, not with the developers. The Lehrer-Graiwers had argued otherwise, citing Prop. 218. But citing *San Jose*, the court disagreed. Among other things, the court ruled on *Ehrlich v. City of Culver City* (1996) 12 Cal.4th 854, which distinguished between fees charged on a project basis and fees charged as part of an overall city policy.

Partly based on this reasoning – and again relying on *San Jose* – the court said the challenge should not have been based on the application of individual fees to an individual project. "Although the fee must be reasonable, the inquiry is not about the reasonableness of the individual calculation of fees related to Croft's development's impact on affordable housing," the court wrote. "The inquiry is whether the fee schedule *itself* is reasonably related to the overall availability of affordable housing in West Hollywood."

The Case:

616 Croft Ave LLC v. City of West Hollywood, No. B266660 (September 23, 2016)

The Lawyers:

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For City of West Hollywood: Michael Jenkins (mjenkins@localgovlaw.com) and Christi Hogin (hogin@localgovlaw.com), Jenkins & Hogan ■

Sepastopol Developer Wins \$2.855 Million Judgment

BY WILLIAM FULTON

In the latest court ruling in one of California's longest-running land-use disputes, an appellate court has upheld a judgment of almost \$3 million against a Sebastopol landowner for breaching his contractor with a development company that has been attempting to develop the landowner's 21 acres for almost 20 years. Both sides have accused the other of a variety of breaches over the years, all associated with getting permits for the property and its development.

Schellinger Brothers, a development company, first began to negotiate with James Cotter for the property in 1997. By 2002, as [Paul Shigley reported in CP&DR at the time](#), the proposed Laguna Vista project was generating significant controversy in the small Sonoma County city with a proposed size of between 170 and 200 housing units. But the wrangle between the city, Cotter, and the Schellingers went on to generate two appellate court rulings.

In the first one, in 2009, the First District Court of Appeal [refused to force the city to certify an environmental impact report](#) for the project, which by then had been cut down to between 125 and 145 units. The city had decided to recirculate the EIR and the Schellingers refused to pay for the recirculation, instead suing on the claim that under CEQA EIRs must be completed within one year. The court said the one-year requirement was not mandatory and, anyway, the delay occurred because the Schellingers kept revising the proposal to try to get the project approved.

That case set the stage for an extended battle between Cotter and

the Schellingers, since the actual conveyance of the property required project approval – meaning the Schellingers had to get subdivision approval and Cotter had to get a lot-line adjustment, both from the city.

In the second appellate case (*Schellinger II*), decided in 2013, Cotter sued the Schellingers for breach of contract in taking an inordinately long time to get the project approved. A trial judge disagreed and the appellate court affirmed in an unpublished opinion [*Cotter v. Brothers*, August 5, 2013, A135014]. But along the way the trial judge had ruled in 2011 that the Schellingers had two years to get the subdivision approval.

Then the Schellingers turned the tables on Cotter for breach of contract, alleging a wide variety of improprieties that included attempting to sell the property to a different owner in 2005, undertaking a wide range of trenches and other changes to the land without permits after heavy rains, and offering to donate the land to the city, all while the contractual agreement with the Schellingers was in force. After a bench trial with 11 witnesses, the trial judge awarded the Schellingers \$2,855,000 and the appellate court upheld the award.

The court devoted a considerable amount of time to the “trench issue”. In 2012, after heavy rains, Cotter hired a contractor named David Ruffino to ameliorate drainage and flooding problems on the property. Ruffino did not obtain any permits for the work, which among other things got him into trouble with regulators who claimed he

disrupted endangered species habitat. The contract between Cotter and the Schellingers prohibited Cotter from engaging in any “act of waste” that would diminish the property's value. On appeal, Cotter argued that the trial judge did not consider the Ruffino actions as “waste.” But the appellate court disagreed and concluded that the trial court's decision was based in large part on Cotter's repeated acts of bad faith, including his attempts to sell and donate the property and the fact that he did not pay taxes on the property.

Cotter also argued that the Schellingers were not permitted to “waive” the subdivision approval as a condition of the conveyance. But the Schellingers stated repeatedly that they did not believe they could get subdivision approval within two years after the trial court's ruling in 2011 and the trial court said the subdivision approval was “theirs to waive”. The appellate court agreed.

Cotter even made a complicated challenge to the \$2.855 million award, claiming that it was not backed up by sufficient evidence from the Schellingers in court, but the appellate court ruled otherwise.

The Case:

Schellinger Brothers v. Cotter, No. A142201

The Lawyers:

For Cotter: Brendan F. Macaulay, Nossaman, bmacaulay@nossaman.com

For Schellinger: Ethan A. Glaubiger, eag@glaubigerlaw.com ■

Legal Briefs

When Does A Wireless Company “Incommode the Public Use”?

The First District Court of Appeal has ruled that San Francisco’s aesthetic regulation of wireless telecommunications facilities in the public right-of-way is not pre-empted by state law. The decision turned on the court’s interpretation of the what the state meant when it adopted Public Utilities Code Section 7901, which permits telecommunications companies to use public rights-of-way only “in such manner and at such points as not to incommode the public use.”

The appellate court rejected the telecom companies’ argument that this phrase is limited only to the public’s right to travel and concluded: Nothing in section 7901 explicitly prohibits local government from conditioning the approval of a particular siting permit on aesthetic concerns.” Drawing upon *Sprint PCS Assets v. City of Palos Verdes Estates* (9th Cir. 2009) 583 F.3d 716, the court wrote: “In our view, “incommode the public use” means ‘to unreasonably subject the public use to inconvenience or discomfort; to unreasonably trouble, annoy, molest, embarrass, inconvenience; to unreasonably hinder, impede, or obstruct the public use.’”

T Mobile West LLC v. City and County of San Francisco, A 144252 (September 15, 2016)

Private Nuisances Are Different From Public Nuisances

In a case involving amplification of

sound at the Rancho Valencia Resort in Rancho Santa Fe, the Fourth District Court of Appeal, Division One, concluded that courts are not required to enforce public ordinances in cases involving private nuisances, especially when public enforcement mechanisms are available.

Neighbors argued that a Superior Court judge should have enforced the county’s zoning and noise ordinances in finding a private nuisance. But the trial court judge found no private nuisance and the appellate court upheld the trial judge’s conclusion that he was under no obligation to apply the county’s ordinances in a private nuisance case. For example, the appellate court found that the county had not declared violations of the zoning ordinance “to be a private nuisance, nor does [the zoning ordinance] provide private individuals with a right to enforce provisions of the Zoning Ordinance through private equitable actions.”

Mendez v. Rancho Valencia Reptsort Partners, No. D067899 (September 13, 2016)

Briggs Is Out \$800K Because of Nonprofit Paperwork Error

Attorney Cory Briggs may be in a thorn in the side of the City of San Diego, but thanks to a serious error – one that appellate judges say may be criminal – he won’t be extracting \$800,000 in attorneys fees in a case against the city that he won.

Representing a nonprofit group called San Diegans for Open Government, Briggs helped win an appellate

court ruling that struck down the financing mechanism for San Diego’s convention center expansion. He subsequently sought attorneys fees of more than \$800,000 in the case. (Another group’s attorneys sought more than \$1 million.)

As it turned out, however, San Diegans for Open Government – a group that Briggs often uses to bring cases against the City of San Diego – was suspended as a valid nonprofit entity at the time the group entered into the legal fray by filing a response to the city’s validation lawsuit.

Briggs argued that the city should have known the group’s nonprofit status was suspended at the time because it had been reported in the newspapers. However, Briggs gave no explanation for his own actions, and the Fourth District Court of Appeal concluded that Briggs actions “was clearly wrong.” Additionally, the court wrote, Briggs’ “explicit approval of SDOG’s appearance and representation of SDOG was, as described by the superior court, unethical and perhaps criminal.”

City of San Diego v. San Diegans for Open Government, Nos. D068939, D069890 (September 22, 2016)

Other 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

>>> Legal Briefs

– CONTINUED FROM PAGE 11

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. ■



>>> Placer County to Decide On Squaw Valley Resort Development

– CONTINUED FROM PAGE 1



CP&DR [coverage](#)). Environmental groups and other activists pushed to reduce the project's impacts and increase community benefits.

“Squaw Valley Ski Holdings is prepared to significantly invest in the offering at Squaw Valley to position the resort as a true four-season destination, provide more year-round jobs, on-site affordable workforce housing, tens of millions of dollars in other benefits to our local community, and assist in stabilizing the North Lake Tahoe economy,” said Andy Wirth, president and CEO of Squaw Valley Ski Holdings, LLC, in a statement following the vote.

The plan for the village went through four major iterations, each one smaller than the last. The current version is half the size of the original proposal and, according to the resort, and is now only 38 percent of what is allowable per the Squaw Valley General Plan and Land Use Ordinance, which was adopted in 1983.

Of the site's 93 acres, only 12 will contain buildings. Ninety percent of the development will take place on current parking lots and other non-pristine land. Full build-

out is planned to take 25 years.

Beyond the land-use plan, the resort has pledged to institute a range of mitigation measures to ease and offset environmental impacts. The resort will dedicate several million dollars to projects including stream restoration, upgrades to public parks, and support for public transit, plus a one-time \$20 million payment to upgrade transit infrastructure. The plan estimates local tax revenues of \$22 million annually that the county can allocate for environmental causes and social services.

“You already have a lot of established land uses that are primarily recreation- and-tourism based,” said Fisch. “If there is one specific issue area, that would be...the impacts of visitation because they inform the other impacts.”

The plan also estimates that by enabling visitors to lodge at the base of the mountain, rather than stay elsewhere and drive to the mountain, up to 2,000 trips per day may be eliminated from local roads on peak days.

Even these assurances do not comfort opponents of the current project.

– CONTINUED ON PAGE 14

>>> Placer County to Decide On Squaw Valley Resort Development

– CONTINUED FROM PAGE 13



Images courtesy of Squaw Valley Ski Holdings LLC

“The (environmental impact report) is simply fatally flawed,” Richard Drury, an opponent of the project, told the [Reno Gazette-Journal](#). He reportedly claimed that the plan’s figures on traffic and water availability cherry-picked different years with relatively few visitors and relatively high precipitation. “That is the kind of preposterous analysis that really requires a second look.”

Sierra Watch, a local environmental group, led an aggressive [campaign](#) to “keep Squaw true.” Its website contends that the plan includes ten-story buildings and amounts to a “massive and misplaced megaresort.” The plan pledges an average building height of 67 feet, which it says is “comparable” to the height of existing buildings on the site.

Representatives of Sierra Watch did not respond to multiple requests for an interview.

“It is a project that is within the holding capacity of the existing Squaw Valley general plan in that the project

proponents are actually seeking to entitle development that would otherwise be permissible,” said Alex Fisch, supervising planner with Placer County Planning Services. “If there is a broad point of consensus among everyone, it’s that the resort base does need redevelopment and does need to be made modern...the issue is, is this the right project?”

“Their issues range from the character of the plan area to issues pertaining to increases in traffic and corollary effects with greenhouse gases as well as impact to habitat,” said Fisch. He added that the environmental impact report lists ten un-mitigatable impacts.

Contacts & Resources

The Village at Squaw Valley [Overview](#)

Placer County Planning Department [Documents](#)

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>>> New Climate Bills Likely to Put Pressure on SCSs

– CONTINUED FROM PAGE 1

lot on whether California retains the embattled cap-and-trade program or ditches it. No cap-and-trade will almost certainly mean bigger targets in the MPOs' sustainable communities programs.

In early September, Brown signed two climate change bills: [SB 32](#), the long-awaited successor to [AB 32](#), and [AB 197](#). The first bill will put a lot of pressure on the regional sustainable communities strategies by essentially doubling the GHG emissions reduction target between 2020 and 2030. The second is designed to protect low-income communities from bearing too much of the brunt of the cap-and-trade program – meaning the bill could alter or threaten the cap-and-trade program altogether.

Up to now, the state's SCSs have been focused on [AB 32](#)'s target of reducing GHGs back to 1990 levels by 2020 – approximately a 20% reduction. And the evidence is that this effort is actually working. The ARB [recently reported](#) that the state's inventory of greenhouse gas emissions dropped from 484 million metric tons of CO₂ equivalent (MMTC02e) in 2007 to 441 MMTC02e in 2014. The 2020 target is 431 MMTC02e.

There has been a lot of legal wrangling about what the state's MPOs should do in the years after 2020, with environmentalists arguing that an 80% reduction target by 2050 should be taken into account even though it is contained only in an executive order, not state law. (This dispute [is still pending before the California Supreme Court](#) in a case involving the San Diego Association of Governments.)

[SB 32](#) moots this argument in part by codifying the goal of a 40% reduction by 2030 – a target that would almost certainly require the state to be on a trajectory toward 80% by 2050, no matter what the Supreme Court rules in the SANDAG case.

In the second round of SCSs, [as Josh Stephens recently reported](#), the big MPOs have been focusing mostly on incremental changes, not major shifts that would move toward 40% by 2030 or 80% by 2050. Moving to the [SB 32](#) target will almost certainly require a much bigger shift.

How big a shift, however, depends in large part on how the Air Resources Board decides to implement [SB 32](#). In the wake of [AB 32](#) in 2006 and [SB 32](#) in 2008, the ARB implemented a system that required the various MPOs to hit certain per-capita GHG targets in their regional transportation plans. This system has driven transportation investments in the RTPs (which are usually combined with the SCS) and, indirectly, may be affecting land-use decisions at the local level.

It is not clear, however, how much of the [SB 32](#) burden ARB will require the SCSs to bear. In June, the ARB issued a [concept paper](#) in anticipation of [SB 32](#)'s passage, which highlights four possible approaches to hitting [SB 32](#)'s 2030 target. The concept paper states that increased emissions reduction will have to come from the sustainable communities strategies but does not seek to quantify that amount.

The paper does, however, make it clear that the SCS targets will depend a great deal on the state's overall approach – and especially whether the state's cap-and-trade pollution reduction program stays in place. Cap-and-trade is under increasing pressure from both polluting industries and environmental justice advocates.

Under the cap-and-trade program, polluting industries – especially those that burn fossil fuels and therefore contribute to GHG emissions -- bid in an auction to purchase “allowances” that permit them to pollute. Cap-and-trade revenues currently fund a wide variety of state programs relevant to planning and development, including high-speed rail and the Strategic Growth Council's affordable housing and sustainable communities program, [which has \\$400 million](#) for development grants this year. But the fossil-fuel industry is always targeting the program and revenues from this year's auction were anemic.

Meanwhile, [AB 197](#) could threaten the cap-and-trade program from the opposite end of the ideological spectrum. From the beginning, environmental justice advocates have feared that cap-and-trade could harm poor neighborhoods disproportionately because ARB's goal is to reduce the overall amount of emissions, not reduce emissions in

– CONTINUED ON PAGE 16

>>> New Climate Bills Likely to Put Pressure on SCSs

– CONTINUED FROM PAGE 15

specific locations. This question is always an issue in cap-and-trade programs. The Environmental Protection Agency’s cap-and-trade program for acid rain pollutants is always running into resistance from specific states that fear they will be at a disadvantage. For example, Ohio’s emissions might actually go up if Ohio polluters can buy pollution rights from locations, such as Florida or Pennsylvania, where pollution is cheaper to build up.

Similarly, EJ advocates fear that polluting industries which purchase cap-and-trade allowances in California might choose to distribute those pollution allowances in a way that reinforces existing pollution patterns by focusing on existing older facilities near poor neighborhoods.

AB 197 seeks to mitigate that problem by requiring ARB to take “social costs” into account in setting up the cap-and-trade program. How, exactly, ARB is going to implement AB 197 is [anybody’s guess](#). But it could mean that the cap-and-trade program is changed, reduced, or eliminated.

And that will inevitably put pressure on the SCSs. Although the ARB concept paper does not quantify SCS emission reduction under different scenarios, it does generally characterize the degree of difficulty in each case. If cap-and-trade is retained, ARB reports, 2035 SCS targets will be subject to “increased stringency.” The same would be true of the state adopts a carbon tax, which is essentially a different way as the cap-and-trade program to get to the same goal.

Take away cap-and-trade or an equivalent policy, however, and the lift for SCSs becomes bigger. ARB outlined two alternative scenarios without a cap-and-trade program. The first focuses on reducing industrial pollution and requires “more ambitious targets” for SCSs. The second focuses on reducing transportation-related pollution – the other big contributor to GHG emissions – and, not surprisingly, calls for “ambitious stringency” in SCS targets. It’s not clear what “ambitious stringency” means, but it sounds pretty ominous. And that means more SCS fights ahead.

Post-script:

Subsequent to the bill-signing, state officials released two short white papers laying out possible approaches for hitting the targeted 40% reduction in greenhouse gas emissions by 2030. The papers are a starting point for the Air Resources Board’s new Scoping Plan on GHG reduction strategies.

One of the two white papers focuses on strategies for reducing vehicle miles traveled and the other, titled “Vibrant Communities,” focuses on land use strategies.

The “[Vibrant Communities](#)” paper proposes a specific set of state actions that “support regional and local governments” in reducing GHGs. These area:

- Development performance metrics for different land use policies.
- Create quantifiable land conservation targets.
- Develop stronger GHG emissions reduction targets for SCSs
- Create new policies for infrastructure siting consistent with state goals.
- Create more financing mechanisms and incentives at the state level.
- Develop new financing and regulatory tools to incentivize private landowners to engage in land conservation and carbon sequestration.
- Support express lanes, reduced parking requirements, and transit commuter incentives.

The [VMT paper](#) is much more speculative and contains a laundry-list of ideas that range across a wide variety of topics. But to provide a sense of what it contains, here are some of the bullet-point ideas dealing with land use and infill development:

- More transfer of development rights programs
- Rebates for location-efficient housing.
- Cross-subsidize infrastructure at transit stations in weak markets with revenue from development at transit stations in strong markets.
- Property tax abatements in distressed areas.
- Broader use of urban growth boundaries. ■

Art Review: Ed Ruscha and the Great American West

Several of the smallest pieces in the de Young Museum's extraordinary retrospective of California artist Ed Ruscha depict abnormally vast western landscapes. Thin strips of prairie stretch just above the bottom edge of the frame. Attenuated horizons separate starry skies from a dark continent. Extreme horizontality makes even Ruscha's tiniest images appear immense, capturing the grandeur and loneliness of Earth and sky.

Upon this template, telephone poles recede aching into a blue-black dusk (*Let's Keep in Touch*). Two oil derricks stand at attention on opposite sides of a canvas (*Well, well*). Clusters of tiny lights huddle close under a starry sky (*Two Similar Cities*). In *America's Future*, an empty horizon at dusk extends forever with every hue between yellow and taupe looming above. These are the pieces that gave the exhibit its title: "Ed Ruscha and the Great American West."



Though Ruscha depicts landscapes, he is not a landscape painter. For him, the western landscape turns into a symbol of itself, representing all the Americanisms – individualism, freedom, expansion, commercialism – that derive from having so much space on our hands. It also gave rise to a particularly type of urbanism, of which Ruscha is a remarkably astute critic.

Even Ruscha's emptiest landscapes are foils for the peculiar type of city that arose in the West. Raised in Nebraska, he migrated to Los Angeles in the 1960s, to discover the beauties and ironies of this corner of America. He looks with bemusement upon the place to which so many Midwesterners escaped. At age 78, he continues to work there.

Most of all, Ruscha is to painting what the team of Robert Venturi and Denise Scott Brown are to architecture. Both

were inspired by roadside landscapes of the West and fascinated by signage. Both balance aesthetic appeal with visual and verbal irony. Not coincidentally, humor for both of them comes in the form of unexpected use of text.

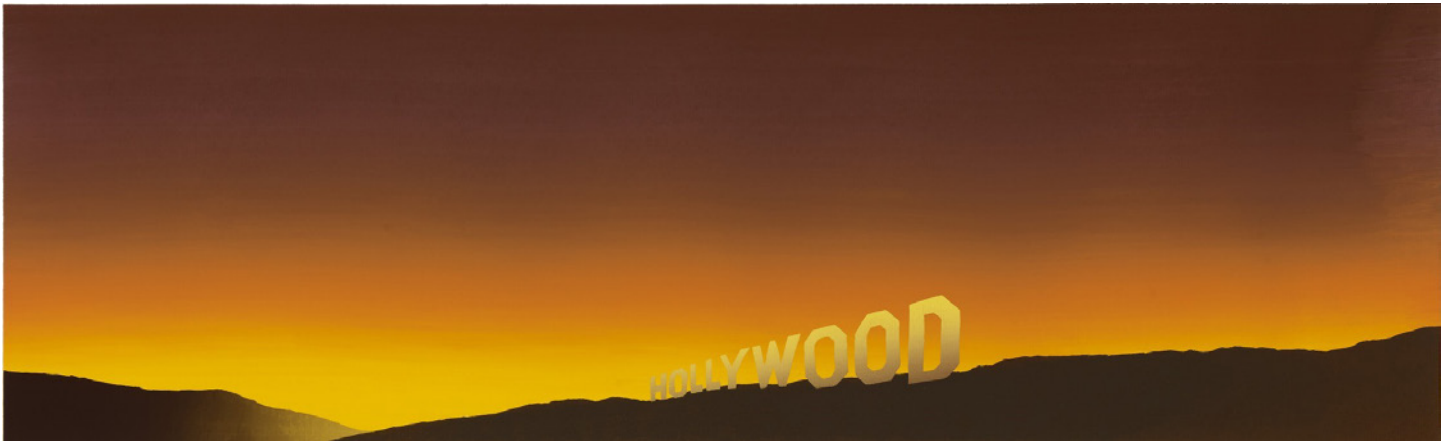
"The Great American West" traces Ruscha's interest in unexpectedly diverse subject matter while keeping a firm gaze on the ties that bind his works: from monumental paintings of gas stations, to silhouettes of coyotes, to raw words, to photographs of the entire Sunset Strip. The work of humans -- power poles, warehouses, streets, and, of course, written language -- inhabit every Ruscha image. But humanity is deliberately absent. Buildings are rendered deliberately sterile and ironic, curious interlopers on God's creation. His Standard Oil stations recede so perfectly into the vanishing point, they look more like architectural renderings than they do actual structures. Ruscha's trademark words are disembodied too, appearing as if

Art Review: Ed Ruscha and the Great American West

– CONTINUED FROM PAGE 17

stenciled on to the canvas by God, every bit as inscrutable as the landscape itself. This effect reaches its apotheosis in

Ruscha's series of the Hollywood Sign, in which words and landscape really do intersect.



All images courtesy of Fine Arts Museums of San Francisco.

Even Ruscha's photos are vacant. They reveal not architectural beauty but rather its banality. (The de Young, an [earnest work of starchitecture by Herzog and de Mueron](#), is the opposite of all which fascinates Ruscha.) He captures empty of parking lots and backyard pools with undisturbed surfaces. The same goes for his conventional cityscapes and his Sunset Strip photos, which look as evacuated by atomic blast or urgent Sunday sermon.

Ruscha's West is not a place for people.

The second room of the exhibit includes pieces from Ruscha's most deliberately urban series of paintings. Ruscha's "city" paintings are not paintings of cities at all but rather are works of abstract expressionism that ostensibly refer to Los Angeles. Ruscha depicts the city as a grey plain of static, like an untuned television, interrupted by lines representing streets, with names that mean something only to veteran Angelenos: Oxford, Beverly, Western; Laurel Canyon/Ventura Boulevard; Sunset, Coronado. In Sunset-Gardner Cross, the entire Los Angeles Basin extends up the canvas to meet with a bonfire of yellows, oranges, and reds.

His most haunting cityscapes depict Los Angeles from above at night, with beads of light forming straight lines and right angles on the "Plains of Id," as Reyner Banham called the working-class flats of the Los Angeles basin. His most nonsensical: the words La Brea, Sunset, Orange and De Longpre arrayed in their proper geographic arrangement

against the backdrop of what appears to be Mount Everest.

Ruscha reduces the city to cartographic signifiers: lines and names. This is the bureaucratic vision, familiar to thoughtful planners, that has sapped so many American cities of their would-be texture, soul, and joy. Those implacable white dots on the prairie connote our cities in their entirety – they signify locations, but they are not places. Ruscha offers a chance for planners to step away from the trappings of bureaucracy and literally envision cities and landscapes in new ways.

You cannot think about cities without thinking the landscapes atop and within they sit. Too often the quality of California cities, especially their pedestrian environments, is inversely proportional with the grandeur of landscape. Los Angeles is not warm, and not always humane, because it was not designed to be warm and humane. The sterile, empty, vacuous Los Angeles that Ruscha depicts is a place of our own making. (The lone exception is San Francisco, which Ruscha has not, as far as I know, ever depicted.)

Too many planners of past generations approached western cities the way Ruscha does – but without the humor and without the harmlessness of paint and canvas. They created real places that are inhuman and hew more towards commerce and automobiles than to joy and communion. Ruscha's lines are the placeless thoroughfares down which we drive.

– CONTINUED ON PAGE 19

Art Review: Ed Ruscha and the Great American West

– CONTINUED FROM PAGE 18

Unlike the abstruse, theory-based creations of many of Ruscha's late 20th century contemporaries (particularly abstract expressionists), his images are aesthetically gorgeous, with the precision of a graphic designer, sense of proportion on par with Renaissance masters, and command of color rivaling Mark Rothko. These images deliberately belie what many of our cities are like.

Viewing the west through Ruscha's eyes offers planners to think about the opposite of roadside America: the vibrancy of center cities so often dismissed as "crowds;" the pedestrian environments so ripe for redesign; the public spaces that we forgot to build as we expanded; and, most of all, the zoning laws, street patterns, and real estate typologies that pretend as if we can expand infinitely, all the way to that long horizon.

Ed Ruscha and the Great American West

On view until October 9, 2016

Tickets \$22

De Young Museum, San Francisco

Catalog

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– JOSH STEPHENS | SEPT 17, 2016 ■

