

# California Voters Face Bumper Crop of Land Use Ballot Measures

BY JOSH STEPHENS

While the presidential race has put the charms of federalism on full display, direct democracy has never been more robust than it is in California this election cycle. In jurisdictions of all sizes, Californians face the biggest crop of land-use ballot measures in years.

With development in full swing and economic fortunes

on the rise, cities are facing more than 50 measures -- including a large number of fairly typical project approvals and funding measures, including major transportation measures in Oakland, Santa Cruz, Santa Clara County, and Los Angeles County. The economic recovery has also inspired slow-growth measures, most notably Santa

— CONTINUED ON PAGE 14

*insight*  
WILLIAM  
FULTON

## Bifurcated California

It's election season, and throughout California we are seeing an unusually large number of ballot measures designed to restrain development. As usual, most of these measures are in coastal areas. Some are urban growth boundary measures, but a lot of them try to put a brake on the density and/or height of new residential development. Presumably that's because longtime residents in these coastal areas fear that high-density residential development

will invade their communities.

But even as these skirmishes are still going on, it looks like the battle is over — at least in coastal California. Higher-density development has already won. And increasingly that's creating a bifurcated state. New single-family homes are built pretty much only in the inland areas. With a couple of exceptions, the coastal areas are turning dense.

— CONTINUED ON PAGE 26

<b>IN BRIEF:</b> .....	Page 2	- Courts can withhold redevelopment funds.....	Page 12
<b>NEWS:</b>		- Mello funds can be used for expanded capacity.....	Page 13
- SGC awards \$289 million to 25 projects.....	Page 4	<b>FROM THE BLOG:</b>	
- San Jose picks border war with Santa Clara.....	Page 7	- Tom Hayden's Gone, But Will The Westside Make It To The 21st Century?.....	Page 30
<b>LEGAL DIGEST:</b>		- Paradigm Shift on the California Riviera.....	Page 33
- Coastal Act trumps Density Bonus Law.....	Page 10	- McKinsey's Cure for California's Housing Woes.....	Page 34

## LAO Assesses Legacy of Prop. 13

The Legislative Analysts Office has released a [report](#) on the impacts of Proposition 13. The property tax raised \$55 billion in 2014-2015 making it the second largest source of government revenue behind personal income tax. With the passage of Proposition 13 in 1978, the property tax was capped at 1 percent annually (whereas before it was an average of 2.67 percent). The report seeks to answer a range of questions about Prop. 13, many of which are based on assumptions and received wisdom about the perceived fairness of the law. The LAO came to the following conclusions, among others: 1) Owners of properties that are similar but purchased at different times often pay vastly different amounts of property tax; 2) For homeowners at all income levels, tax relief from Prop.13 generally is proportionate to the market value of their homes; 3) Property turnover has slowed since voters approved Proposition 13; 4) Homeowners pay a slightly larger share of property taxes today than they did when Prop.13 passed; 5) There is little evidence that Prop. 13 significantly discourages creation of new businesses; 6) Local governments increasingly rely on other local taxes to make up for the revenue losses that resulted from Prop.13 and cities' and counties' tax revenue per

person has declined since Prop.13; and 7) Proposition 13 created fiscal incentives for many communities to focus more on building retail stores, auto dealers, and hotels while focusing less on housing.

## Oakland Releases Resiliency Strategy

As part of its participation in the 100 Resilient Cities [program](#), the City of Oakland [released](#) Resilient Oakland: It Takes a Town to Thrive, a resilience playbook and call to action designed to tackle Oakland's most pressing systemic and interdependent economic, social and physical challenges. The Resilient Oakland playbook includes strategies and actions to tackle systematic, interdependent challenges. This means changing the local and regional institutions to become more resilient and responsive to challenges. The main themes of Resilient Oakland are to build a more trustworthy and responsive government, stay rooted and thrive in the city, and build a more vibrant and connected Oakland. «The Resilient Oakland Playbook sets forth nearly 40 actions designed to be collaborative, data-driven and equitable in our outcomes,» said Kiran Jain, Oakland's chief resilience officer, in a statement. "By taking a continuous 'build, measure, learn' approach to resiliency, we honor the work that has been done and

build on it today, while setting forth bold actions that shape the future of a more resilient Oakland." (See prior [CP&DRcoverage](#).)

## San Diego Reins in Civic San Diego

The San Diego City Council [approved](#), 5-4, new restrictions on Civic San Diego, the nonprofit that oversees downtown development. The new restrictions include more oversight and transparency, mandates for low-income housing, employee wages and local hiring. The council members who voted against the pact said the language was not firm enough, with too many potential loopholes and wanted stricter income eligibility requirements for low-income housing in CivicSD projects. CivicSD was created in 2012 to oversee redevelopment projects after the state eliminated redevelopment agencies; two of the council members are in favor of phasing out the organization entirely.

## Treasure Island Plan Receives LEED-ND Platinum Certification

Treasure Island Community Development has announced that its redevelopment of Treasure Island and Yerba Buena Island have been [awarded](#) LEED-ND Platinum plan certification, the highest designation possible. Treasure Island is the largest plan,

- CONTINUED ON PAGE 3



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](http://WWW.CP-DR.COM)

You may e-mail us at:  
[INFO@CP-DR.COM](mailto: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

– CONTINUED FROM PAGE 2

in acres, to receive this certification nationwide. The project received its certification for implementing measurable strategies and best practices to achieve sustainable site development, water savings, energy efficiency, sea-level rise adaption and overall environmental quality. The redevelopment of the man-made island created for the 1939 World's Fair received unanimous approval from the San Francisco Board of Supervisors in 2011. The project includes upgrades to road, utilities and creation of 300 acres of park and open space.

### **Low Inflows Imperil S.F. Bay Ecosystem**

Researchers at the Bay Institute have [found](#) that because little water is flowing from the Sacramento-San Joaquin River into the San Francisco Bay estuary, the ecosystem may be collapsing. One major reason for the sharp decrease in water is human extraction. The State Water Resources Control Board last month required Californians to leave 40 percent of what would naturally flow during the spring to save fish species. One UC Davis scientist told the SF Chronicle “of the roughly 120 native freshwater fish species in California, over 80 percent of those are faced with extinction by the end of the century if current trends continue.” The study’s conclusions were that fish extinctions were looming, starvation of fish-dependent species, diminished freshwater to the Gulf of the Farallones, increased salinity, and lack of sediment.

### **Sacramento Arena Opens with Hopes of Spurring Downtown Vibrancy**

The Golden 1 Center, the new \$557 million Sacramento Kings arena, officially [opened](#) this month after years of planning, negotiating, and efforts to keep the Kings in Sacramento. Located in the heart of downtown Sacramento at Fifth and L Street, the building was designed for a relatively small space, but needed to push Sacramento’s downtown into a new era architecturally and economically. The arena’s design draws from the Sierra Nevada mountains and Yosemite’s Half Dome for inspiration. The city gave \$255 million in construction subsidies in the belief that the stadium would draw people to the city center to help rejuvenate Sacramento. The Downtown Plaza shopping mall, which had been in decline for years, formerly occupied the site. It, in turn, had come about through a 1960s urban renewal program that demolished an entire neighborhood.

### **Housing Shortage May Yet Impede Economic Growth, Reports Say**

A pair of [reports](#) from UC Riverside’s [Economic Forecast](#) and UCLA’s Anderson Forecast both contend that California’s housing crisis may have long-term impacts on the state’s economy. The reports find that the state cannot continue to grow as it has in the past without growing the workforce; but California does not have the homes needed to accommodate these new workers. One reason for this slump is the

state’s full employment, meaning nearly everyone that wants a job has one. The UC Riverside report equates economic growth with population growth. It notes that the shortage of housing all but ensures that the state’s population cannot grow significantly, in part because housing costs are too high to attract migrants from other states. Without more people to recruit into the job market, residential construction has been down 2 percent for houses and 11 percent for multifamily permits from last year. A major reason for the lack in migration is the high cost of living in the state.

### **Study Finds ‘Filtering’ of Housing Happens Slowly in Bay Area**

UC Berkeley Institute of Governmental Studies released a [research brief](#) titled Housing Production, Filtering and Displacement: Untangling the Relationships. The study finds that in the Bay Area development of both market-rate and subsidized housing can reduce displacement pressures, but subsidized housing has double the impact of the former. While on average in the United States rental units are filtered down at a rate of 2.2 percent per year, in California and New England the rate is much lower and filtering rates have an inverse relationship with housing price inflation. It is estimated that in the Bay Area filtering rates are roughly 1.5 percent per year and rents decline by about 0.3 percent annually. In housing markets such as San Francisco, aggressive preservation strategies plus increases in subsidized and market-rate housing will help address the displacement crisis. ■

# SGC Awards \$289 Million in Projects, But Gets Criticism About Senior Projects

BY WILLIAM FULTON

The Strategic Growth Council staff has awarded almost \$300 million to 25 different projects around the state that promote greenhouse gas emissions reduction and affordable housing, and assist disadvantaged communities.

However, the council received criticism for a decision to reclassify senior multifamily projects from “apartments” to “retirement communities”, which affected the scoring.

Overall, the Bay Area region was the biggest winner, with seven projects totaling almost \$100 million. The Southern California Association of Governments region also won seven projects, but the total funding was \$76 million. The Central Valley received about \$60 million in funding.

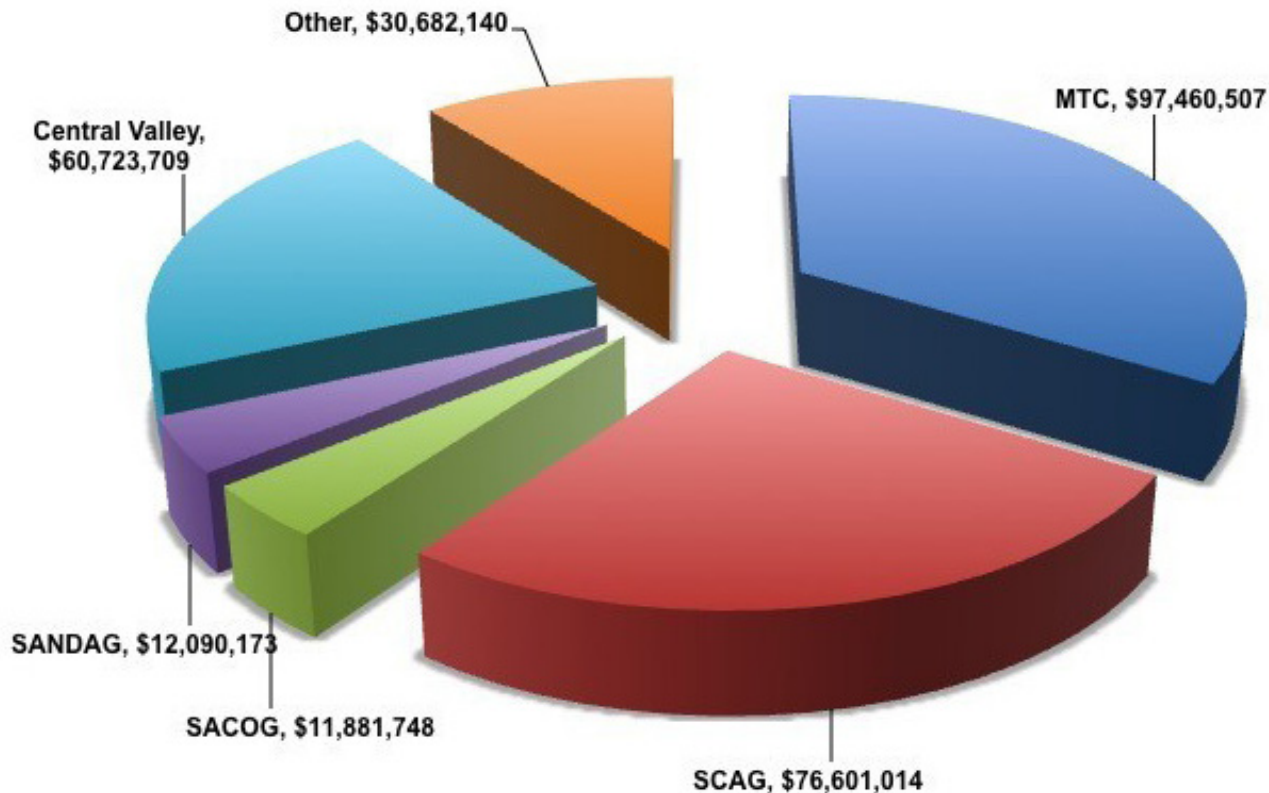
The single biggest project being funded is a \$20 million

bike trail, complete streets, and affordable housing project in Redding.

The SGC funds are divided into three categories: transit-oriented development (TOD) project areas, integrated connectivity projects (ICP), and rural innovation project areas (RIPA). TOD projects must be adjacent to high-quality transit and include affordable housing, meaning development projects are more likely to quality. The other two are more focused on connecting transportation infrastructure but can contain affordable housing or other additional components.

Most of the funds went to TOD projects (\$120 million) and ICP (\$129 million). About \$40 million went to RIPA.

**Breakdown of \$289 Million in SGC Recommended Projects**



- CONTINUED ON PAGE 5

## >>> SGC Awards \$289 Million in Projects, But Gets Criticism About Senior Projects

– CONTINUED FROM PAGE 4

SGC estimates that more than 2,000 affordable housing units will be built with the funds and 85% will benefit disadvantaged communities.

Two-thirds of the TOD funds -- \$78 million – went to the Bay Area. The biggest TOD grants went to Mercy Housing, which received \$16 million for the 455 Fell project in Hayes Valley, which includes 108 units of affordable housing and complete streets. Another large Bay Area project is UrbanCore’s Coliseum Connections, a 110-unit mixed-income housing project that will be built in the parking lot of the Coliseum BART station, which received almost \$15 million.

However, the largest single TOD grant went to Deep Green Housing & Community Development’s 76-unit supportive housing project in the Westlake section of Los Angeles, near the Westlake/MacArthur Park Red Line station. SGC is proposing almost \$17 million for that project.

The ICP projects were more geographically spread out, with SCAG getting \$35 million, the Central Valley \$31 million, and ABA only \$18 million. Many of the ICP funds also went to projects that are primarily affordable housing but with an amped-up connectivity component. For example, \$12 million would go to the Michaels Development Corp. for a housing project contained in the master redevelopment plan for Jordan Downs, a public housing project in South-Central Los Angeles. The project would include an extension of Century Boulevard into the project from the west.

The bulk of the rural funds went to the Central Valley. For example, Wasco Affordable Housing will receive more than \$18 million for a project that will move 160

farmworker families from an industrial location to a more central location closer to basic amenities.

SGC was criticized last year for favoring the Bay Area over Southern California, though both regions received funding for the same number of projects in the end. In this year’s semi-finals, SGC staff permitted several projects from SCAG and other non-Bay Area locations to move forward outside of normal processes.

At the meeting, SGC received considerable criticism for reclassifying senior multifamily projects from “Apartment” to “Retirement Community.”

SGC funded only two out of 17 full senior housing applications, many of whose scores were apparently affected by the Air Resources Board’s decision to reclassify those applications under the “Retirement Communities” land use subtype rather than the “Apartment” subtype”. According to several unsuccessful applicants, this change caused an increase in estimated vehicle trips and hence a lower estimate in greenhouse gas emissions reduction.

“Senior housing is typically a housing source for low-, very-low, and extremely-low income seniors,” Stuart Hartman, vice president for operations at the Retirement Housing Foundation, a nonprofit developer, told the SGC at its meeting in Sacramento

on October 11. “It is a radically different type of housing than a retirement community.”

“It’s like calling a horse a dog and a dog a horse,” Meghan Rose, director of policy for Leading Age California, told the SGC. “They’re just not the same thing.”

Several speakers asked SGC to rescore the projects for this round, the SGC declined to so and approved the staff recommendations instead. Most speakers also asked

**“Senior housing is typically a housing source for low-, very-low, and extremely-low income seniors,” one developer said. “It is a radically different type of housing than a retirement community.”**

– CONTINUED ON PAGE 6

## >>> SGC Awards \$289 Million in Projects, But Gets Criticism About Senior Projects

– CONTINUED FROM PAGE 5

SGC to consider a supplemental round in order to give the senior projects another chance, but SGC Chair Ken Alex downplayed expectations on that idea as well.

“It’s not obvious to me that it should go back simply to ‘Apartments,’” Alex said. “For that reason I think it’s not appropriate to change the proposed allocations this year or to do a new round based on next year’s money until we figure this out in a better way.”

The two senior projects funded by the SGC were the Kings Canyon project in Fresno, a mixture of affordable and senior housing that received \$15 million, and the Sun Valley senior veterans housing project in Los Angeles, which received \$11 million. Both were funded through the Integrated Connectivity Program. Among the senior projects that did not receive funding were the Beacon Pointe project in Long Beach by Century Affordable Development, the Valley Vista senior apartments in Jamestown, a senior affordable housing project in South San Francisco, Eden Housing’s senior project in Alameda, and a senior housing project in Crescent City by Danco Communities.

Several applicants and advocates also criticized SGC and ARB for a lack of transparency. Although SGC held several workshops on proposed changes to the guidelines, this shift was buried deep in ARB’s “Quantification Methodology” document and not highlighted by SGC staff at the workshops. Deputy Executive Director Allison Joe said the staff would discuss the senior housing issue in detail in developing guidelines for next year’s program.

The question of affordable housing has been a difficult one for the SGC ever since the AHSC program was created two years ago. The program is funded by state cap-and-trade pollution permit funds and is designed primarily to reduce greenhouse gas emissions. However, housing advocates have lobbied hard to give priority to affordable housing projects in the scoring, with considerable success.

In his remarks about the senior housing issue, Alex referred to the tension between sustainability and affordable housing. “I do want to remind everybody that at the end of the day this remains a cap-and-trade greenhouse gas emission reduction funded program,” he said. “So as important as affordable housing is in this State, and as important as it is that we deal with it, the function of this Council on this topic is to reduce greenhouse gas emissions.”

SGC permitted more than 70 proposals to move forward to the final scoring, seeking more than \$700 million in state funds. The final SGC decision was to fund 25 projects with \$289 million. The Bay Area and Southern California received seven projects each, with the average project receiving between \$10 million and \$12 million. Originally the SGC had been expected to give away \$400 million, but cap-and-trade auction sales have been weaker than expected. ■

SGC meeting materials can be found [here](#).

Videotape of SGC meeting can be found [here](#).



# Massive Development Sparks Border War between San Jose, Santa Clara

BY JOSH STEPHENS



In most urban areas, the promise of 25,000 new jobs would cause celebrations. But the laws of economics take strange turns in Silicon Valley.

This summer, the Santa Clara City Council approved CityPlace, a \$6.5 billion mega-development on the site of a city-owned golf course (which was previously a landfill). It is designed in part to be the downtown that the valley, populated by office parks and bedroom communities, does not have. The project, developed by Related Cos., will encompass a total of 9.7 million square feet, more than half of which will be office space, and 1.1 million square feet of retail.

Amid this enormity will be 1,360 residential units.

But that's far too few, according to Santa Clara's biggest

neighbor.

While Santa Clara city leaders are hailing the project, their counterparts in San Jose are wondering something else: Where is everyone going to live? And how are they going to get there?

Shortly after CityPlace's approval, and an accompanying general plan amendment, San Jose filed a lawsuit against Santa Clara in Santa Clara County Superior Court; Related Cos. is named as a real party of interest. It is believed to be the first time San Jose has sued a neighboring city over development issues.

The suit alleges that the project violates the California Environmental Quality Act on the grounds that the city did not properly consider the traffic, water, and economic

— CONTINUED ON PAGE 8

## >>> Massive Development Sparks Border War between San Jose, Santa Clara

– CONTINUED FROM PAGE 7



impacts of the massive project. In particular, San Jose alleges that Santa Clara has failed to plan for the housing needs of the project's estimated 25,000 workers. They will, San Jose's argument goes, be forced to seek housing in San Jose and thereby push housing prices even higher.

CityPlace exacerbates what San Jose officials describe as an already challenging situation. According to city officials, 32 percent of Santa Clara workers live in San Jose, with only 8 percent of Santa Clarans working in San Jose.

"As a city, San Jose is providing housing not just for workers employed in Santa Clara, but for workers in other cities across the Peninsula and South Bay," said San Jose spokesperson Elisabeth Handler.

It's a region-wide problem – and it's an old fight in Silicon Valley, where San Jose – a city of almost 1 million people – has long complained of bearing the housing burden for smaller, richer Silicon Valley cities where the jobs are located.

"In the Bay Area there is an extraordinary imbalance between job creation and housing production which puts pressure on housing prices," said Sarah Karlinsky, a policy analyst for the regional urbanist advocacy group SPUR. She noted that the region added over 450,000 jobs from 2010 to 2014, but scarcely more than 10 percent as many housing units.

Santa Clara officials point out that the city's general plan

– CONTINUED ON PAGE 9

# >>> Massive Development Sparks Border War between San Jose, Santa Clara

– CONTINUED FROM PAGE 8

calls for 10,000 new housing units. Santa Clara’s population is 120,000 while San Jose’s is 998,000.

“Create profound environmental impacts which, unnecessarily, have a regional effect...[and] shifts the environmental burden and expense to support that economic development onto neighboring cities and counties by limiting housing within the development,” wrote San Jose’s attorneys in the complaint. “Respondent’s EIR has understated and/or whitewashed the impacts the project creates, leaving its own citizens and neighboring communities to bear the burdens, risks, and costs of these impacts.”

The complaint further accuses Santa Clara of disregarding the principles of its own general plan, which call for reducing in vehicle miles traveled, reduction in greenhouse gas emissions, and preservation of neighborhoods.

Santa Clara has hired prominent CEQA attorney Tina Thomas to defend it. City officials have fired back at San Jose alleging that it has pursued developments close to its border with Santa Clara without consulting the city and that it has aggressively recruited businesses and new jobs.

Santa Clara Mayor Lisa Gilmore did not respond to requests for comment.

In essence, both cities’ housing shortages, and the resulting jobs-housing imbalance, has made economic development an unusually controversial issue.

San Jose hopes to reach a settlement without bringing the suit to court.

“As a city, we believe in working with the other cities in our region to jointly address the economic and quality of life issues that impact all of us, without involving the courts,” said Handler. ■

### Contacts & Resources

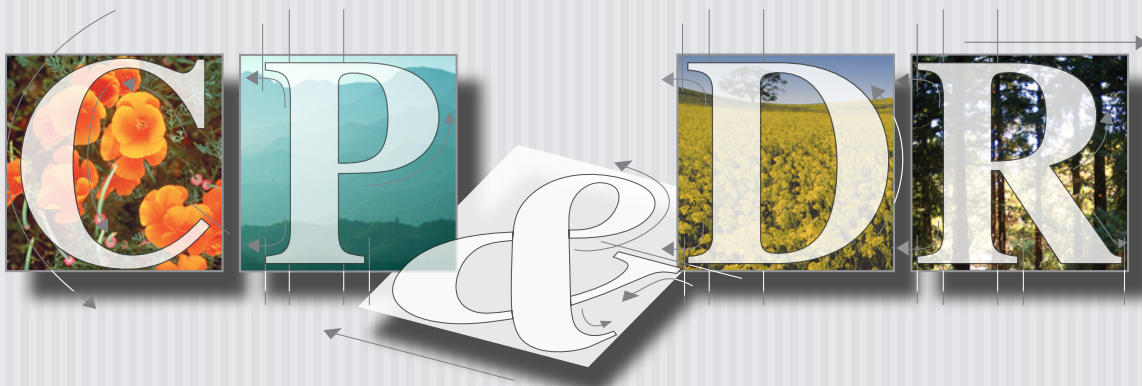
[Santa Clara CityPlace Project Page](#)

[San Jose Complaint](#) (pdf)

**Elisabeth Handler**, Public Information Manager, Office of Economic Development, City of San Jose, [elisabeth.handler@sanjoseca.gov](mailto:elisabeth.handler@sanjoseca.gov)

**Sarah Karlinsky**, Senior Policy Advisor, San Francisco Planning & Urban Research, [skarlinsky@spur.org](mailto:skarlinsky@spur.org)

Join us online ...



Is now on TWITTER and FACEBOOK!



Follow our tweets @Cal\_Plan and search for us to become a fan on Facebook

# legal digest

## Coastal Act Trumps Density Bonus Law

BY WILLIAM FULTON

The Coastal Act trumps both the Density Bonus Act and the Mello Act, which requires affordable housing in coastal areas. That's the conclusion of the Second District Court of Appeal, which upheld the City of Los Angeles's decision to deny a 15-unit housing project in Venice that would have replaced a three-unit building.

The ruling reaffirms the power of the Coastal Act, whose primary purpose is to protect coastal resources. In this case, Los Angeles officials decided that the visual incompatibility of the new project, proposed by Kalnel Gardens LLC, with existing buildings violated the Coastal Act even though some buildings nearby were of similar scale.

The court had an easy time with the Density Bonus Act, since that law expressly states that it does not supercede the Coastal Act. The court had a more difficult time with the Mello Act, which specifically applies within the coastal zone. In addition, the Coastal Act states that its provisions should not be used to allow local governments to obstruct the construction of affordable housing under other laws.

However, the appellate court found, the Coastal Act also requires

that the design of new developments protect scenic views and be "visually compatible with the character of the surrounding areas." (Pub. Resources Code, § 30251.) That was the basis of the City's decision to reject the Kalnel project, and on appeal Kalnel does not contend there was insufficient evidence to support that finding."

Kalnel proposed a project that included five single-family homes and five duplexes and received a density bonus because two units were reserved for very-low-income families. Under the density bonus law, Kalnel also got a height variance. City staff gave the project various approvals, including a coastal development permit, but neighbors appealed the project to the Planning Commission, claiming that height, density, setbacks, and other visual characteristics were out of step with the neighborhood.

At a hearing before the West Los Angeles Area Planning Commission, neighbors claimed one- and two-story structures outnumbered larger structures such as the one proposed by a 9:1 ratio. However, Kalnel's lawyer ultimately said the project was "all a case about affordable housing and density bonus." Kalnel lost all the appeals, including the appeal to the Los Angeles City Council, and then

filed a lawsuit. Los Angeles County Superior Court Judge James C. Chalfant ruled that the city had violated the Housing Affordability Act and that the project conformed to density bonus rules. However, the court ruled that the three housing laws are subordinate to the coastal act and substantial evidence existed that coastal resources would be threatened by the project.

Perhaps the most important issue was whether the Coastal Act trumps the density bonus law – a law that developers often use to increase the density of their project above local zoning limits in exchange for providing affordable housing. But this proved to be an easy issue for the court to resolve.

Writing for the three-judge panel, Justice Laurence Rubin simply noted that the The Density Bonus Act (§ 65915) states: "Nothing in this section shall be construed to supersede or in any way alter or lessen the effect or application of the [Coastal Act]." (§ 65915, subd. (m).)"

The Mello Act proved more complicated, since the law is specifically designed to ensure that affordable housing is provided in the coastal zone. Whenever a new

## >>> Coastal Act Trumps Density Bonus Law

– CONTINUED FROM PAGE 10

project is built in the coastal zone, the law requires the developer to provide either new or replacement affordable housing. The Coastal Act also specifies coastal considerations do not permit local governments to avoid other affordable housing requirements.

“Standing alone, these two provisions might be construed as giving the Mello Act primacy over the Coastal Act,” wrote Justice Rubin. “However, the Coastal Act also requires that the design of new developments protect scenic views and be ‘visually compatible with the character of the surrounding areas.’ (Pub. Resources Code, § 30251.)”

In further discussion about the conflict between coastal resources and affordable housing, Justice Rubin wrote: ‘Which interpretation is most protective of coastal resources? One that requires Mello Act housing even if it blocks coastal access, intrudes into environmentally sensitive areas, or is visually incompatible with existing

**“Standing alone, these two provisions might be construed as giving the Mello Act primacy over the Coastal Act,” wrote Justice Rubin. “However, the Coastal Act also requires that the design of new developments protect scenic views and be ‘visually compatible with the character of the surrounding areas’.”**

uses, or one that requires application of the Mello Act’s affordable housing requirements within the coastal zone so long as those housing projects abide by the Coastal Act’s overall

protective provisions?

He concluded: “Remembering the Legislature’s statements that protecting coastal resources is a paramount concern because those resources are of vital and enduring interest, it seems clear that the latter interpretation must prevail.”

The appellate court declined to consider the question of the Housing Affordability Act because of a technical error in the appeal made by Kalnel. ■

### The Case:

[Kalnel Gardens LLC v. City of Los Angeles](#), No. B264434 (September 29, 2016).

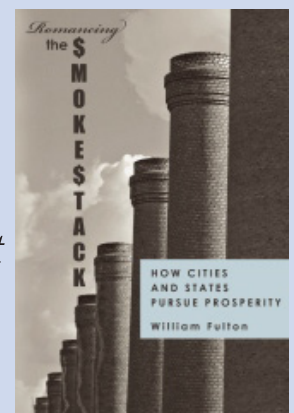
### The Lawyers:

For Kalnel Gardens: Allen Abschez, Loeb & Loeb, [aabshez@loeb.com](mailto:aabshez@loeb.com)

For City of Los Angeles: Michael Bostrom, Deputy City Attorney, [mailto:Michael.Bostrom@lacity.org](mailto:mailto:Michael.Bostrom@lacity.org)

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

*Bill Fulton’s Book On Economic Development*



# Courts Can Withhold Disputed Redevelopment Funds

BY WILLIAM FULTON

Courts may withhold funds as part of a redevelopment dispute even though a previous ruling concluded that the state cannot.

The court also ruled that the City of Tracy can be reimbursed for almost \$1 million in staff work done on behalf of its redevelopment successor agency – but not for money paid by the city to third-party contractors under a cooperative agreement with the former redevelopment agency.

Like many cities, Tracy adopted a cooperative agreement with its redevelopment agency when the dissolution of redevelopment was pending in 2011, essentially transferring redevelopment funds to the city for use in several public and infrastructure projects. Including a downtown shopping plaza. The cost of all these improvements totaled \$6.3 million.

The Department of Finance ruled that the \$6.3 million was not an enforceable obligation under the redevelopment dissolution law. The city gave \$1.84 million back to the successor agency under protest and DOF directed the city to return the rest of the money as well.

The city then sued, making a variety of claims. Among other things, the city argued that the dissolution law was not intended to apply to 2011 sponsorship agreements predating the passage of the law and also that Proposition 22 – the 2010 initiative that protected redevelopment funds but not redevelopment itself -- prohibited the state from reallocating general fund

money to repay “wrongfully diverted and already expended tax increment.”

The court ruled against the city on both issues. On the question of sponsorship agreements that predate the passage of the dissolution law, the court said it had already decided the issue last year in [City of Brentwood v. Campbell](#), 237 Cal.App.4th 488.

“In *Brentwood*, we rejected this tactic of hunting indirectly through legislative mouseholes for an elephant of legislative intent,” wrote Justice Kathleen Butz for a three-judge panel. “In short, the Legislature *intended* to layer upon the existing statutory dissolution framework a *new* procedure and definition to recapture diverted tax increment that the sponsors and former redevelopment agencies siphoned away through these sponsor agreements beginning in January 2011 in response to the imminence of [the end of redevelopment] before the judicially delayed dissolution date of February 2012.”

(Detail on the *Brentwood* case can be found in [CP&DR’s account](#) of the trial court’s ruling in 2014.)

However, the ruling on the withholding of funds may be more important, as it refines the Third District’s ruling in a case from Bellflower last spring. In that case, the [Third District ruled](#) that under Proposition 22, neither the Board of Equalization nor a county auditor-controller can withhold disputed redevelopment funds, as called for under AB 1484 – the 2012

redevelopment dissolution clean-up bill. [*City of Bellflower v. Cohen* (2016) 245 Cal.App.4th 438]

But in this case the Third District said that courts *can* withhold disputed funds. Wrote Justice Butz: “The import of *Bellflower* is that the Legislature cannot withhold local tax revenues from sponsors through administrative fiat as a remedy for violation of the directives in the Great Dissolution. However, the sponsors are not rendered judgment-proof by virtue of the constitutional provision, such that their general funds are immune from answering for a violation of state law in court.”

The Third District also ruled that Tracy is entitled to approximately \$1 million in funds expended by its staff in undertaking work conducted on behalf of the successor agency. However, the court ruled that Tracy is not entitled to reimbursement for funds paid to third-party contractors for work done on the plaza and other projects pursuant to the 2011 agreement between the city and the redevelopment agency. ■

## The Case:

[City of Tracy v. Cohen](#), No. C077440.

## The Lawyers:

For City of Tracy: Dolores Bastian Dalton, Goldfarb & Lipman, [ddalton@goldfarbblipman.com](mailto:ddalton@goldfarbblipman.com)

For Department of Finance: Deputy Attorneys General Marc A. LeForestier, [marc.leforestier@doj.ca.gov](mailto:marc.leforestier@doj.ca.gov) and John W. Killeen, [john.killeen@doj.ca.gov](mailto:john.killeen@doj.ca.gov)

# Mello Funds Can Replace General Tax Revenue

BY WILLIAM FULTON

Breaking new legal ground, an appellate court has concluded that a Mello-Roos District may fund facilities and services that are funded by general tax revenue in areas outside the district but within the same jurisdiction. The court also ruled that a Mello-Roos tax funding general governmental services is not a general tax under Proposition 13 and Proposition 218 but, rather, a special tax.

Although the Mello-Roos District is more than 30 years old, this new case from San Ramon is the first case to specifically address these particular issues. The case was brought by the Building Industry Association of the Bay Area, not the developer, who had agreed to the Mello-Roos District and, in fact, had cast the only vote in the Mello-Roos election.

In 2014, San Ramon [made approval of the 48-unit “Acre Development” townhome project contingent on creation of the Mello-Roos District](#), which was then used to fund facilities and services equivalent to what the city provides in older neighborhoods using general tax revenue. This arrangement is not unusual in California; in fact, it was envisioned by Mello-Roos’s drafters when they wrote the law shortly after Proposition 13 passed. The city imposed the requirement after conducting a fiscal analysis concluding that the project would generate a \$500-per-unit annual deficit.

At issue is Government Code Section 53313, which requires that services paid for with Mello-Roos revenues must be “in addition to those provided in the territory of the district before the district was created” and “[t]he additional services shall not supplant services already available within that territory when the district was created.”

The BIA argued that the Mello-Roos law does not allow a jurisdiction to use substitute Mello-Roos revenue for general revenue in providing city services, arguing instead that Mello-Roos funds must be used to provide a higher level of services to properties in the district. But the First District Court of Appeal ruled that Mello funds could be used to provide an equivalent level of service so long as the district is created in response to the increased demand created by a new development project.

Writing for the three-judge panel, Justice Marla Miller concluded: “From our understanding of the ordinary meaning of the language in section 53313, it seems clear from the outset that the additional services requirement is met by services that meet increased demand for existing services within the district. Such services would be ‘in addition to’ the services provided in the area of the district before the district was created. Moreover, services that meet increased demand do not ‘supplant’ the services available in the area of the district when the district was created, because they do not replace those services. To the contrary, they supplement those services.”

Implicit in Justice Miller’s ruling is the idea that general tax revenue must pay for whatever services were being provided to the area before it was developed – say, an occasional police drive-by of a deserted area -- while the Mello funds can be used to pay for increased services – for example, frequent patrol service in the new neighborhoods.

Justice Miller also concluded that the Mello-Roos tax in question is a special tax, not a general tax, even though its revenue will pay for a wide range of

services usually paid for by general revenue. If the court had found that the tax was a general tax, that would have invalidated the tax because Mello taxes must, by law, be special taxes. The BIA had made this argument based on a statement by the Fifth District Court of Appeal in *Neilson v. City of California City* (2005) 133 [Cal.App.4th](#) 1296, a parcel tax case. In that case, the appellate said stated that it could “conceive of a special tax that permits expenditures for so many specific governmental purposes that the parts might swallow the whole.”

But Justice Miller’s ruling concluded that *Neilson* didn’t apply. Although it engaged in speculation, she wrote, “The *Neilson* court never reached the issue because the taxpayer neither ‘pled sufficient facts to show that the parcel tax [there] is such a tax,’ nor ‘suggest[ed] how he might cure his defect.’ *Neilson* does not purport to define the outer bounds of a special tax, and the Association is therefore incorrect to claim that the tax here ‘run[s] afoul’ of a standard set in *Neilson*.” ■

## The Case:

*Building Industry Association v. City of San Ramon*, No. A145575 (October 13, 2016)

## The Lawyers:

For BIA: Paul Campos, Building Industry Association of the Bay Area, <mailto:pcampos@biabayarea.org>

For City of San Ramon: Allan Robert Saxe, Interim City Attorney, [bsaxe5@aol.com](mailto:bsaxe5@aol.com)

For amicus League of California Cities: Michael G. Colantuono, Colantuono Highsmith & Whatley, [mcolantuono@chwlaw.us](mailto:mcolantuono@chwlaw.us)

## >>> California Voters Face Bumper Crop of Land Use Ballot Measures

– CONTINUED FROM PAGE 1

Monica’s Measure LV, which would require most projects over 45 feet tall to be approved by popular vote. The most contentious single project is surely the proposed stadium for the San Diego Chargers, which is the subject of competing citywide ballot measures. (See prior CP&DR [coverage](#).) Meanwhile, a measure asks all of San Diego County to decide the fate of the 600-acre Lilac Hills development.

Land-use ballot measures have ebbed and flowed in California since the 1980s, with the largest surges coming when the development market is hot. Because opposition to development takes a while to come to a political boil, ballot measures are often a lagging indicator of a hot development market. Since the market is still hot, this fall’s election may be the first of several cycle that will feature major growth-related ballot measures.

The most distinctive trend on this year’s ballots centers on the statewide housing crisis. Many cities are responding with questions about funding and zoning for affordable housing. Others are taking a protectionist tack, with an unprecedented number of rent control ordinances on ballots in the Bay Area. (See prior CP&DR [coverage](#).)

If housing sounds stressful, some measures are all about mellowing out. The possible legalization of recreational marijuana through Proposition 64 has prompted countless cities to place anticipatory measures on their ballots regarding the allowance (or prohibition) of retail marijuana and related restrictions. (See prior CP&DR [coverage](#).) Meanwhile, Proposition 53 would require all projects statewide requiring bond funding in excess of \$2 billion to be subject to a statewide popular vote. It would impact projects like high speed rail, the proposed Bay Delta water tunnels, and other large infrastructure projects.

In Ventura County, no fewer than eight cities are considering measures as required by the unique countywide “Save Open Space and Agricultural Resources” initial of 1995. SOAR requires a popular vote to approve the rezoning of agricultural or open space within a given county

jurisdiction. Two competing measures on the countywide Ventura ballot would amend SOAR itself. Measure C would extend the SOAR through 2050. Measure F would give farmers control over conversion their land as of 2036. (See prior CP&DR [coverage](#).)

Finally, in the informal competition for most democracy-obsessed city, an odd pairing has emerged. Perennial contender San Francisco unsurprisingly has nine ballot measures related to land use, with questions concerning everything from street trees to legacy businesses to mega-developments at Hunters Point and Candlestick Point. Beating out San Francisco, on a per capita basis is the Orange County Suburb of Costa Mesa. Its seven land use measures include three competing questions about marijuana.

The following is a selection of statewide, countywide, and local ballot measures from around the state, organized by category.

[Statewide](#) | [Rent Control](#) | [Affordable Housing](#)  
[Transportation & Infrastructure](#)  
[General Plans & Growth](#) | [Parks & Open Space](#)  
[Projects & Specific Plans](#) | [Miscellaneous](#)

---

### STATEWIDE

#### **Proposition 53**

#### **Approval Requirement for Revenue Bonds above \$2 Billion Initiative**

Requires statewide voter approval before any revenue bonds can be issued or sold by the state for certain projects if the bond amount exceeds \$2 billion. Fiscal Impact: State and local fiscal effects are unknown and would depend on which projects are affected by the measure and what actions government agencies and voters take in response to the measure’s voting requirement.

– CONTINUED ON PAGE 15

# >>> California Voters Face Bumper Crop of Land Use Ballot Measures

– CONTINUED FROM PAGE 14

## **Proposition 64 Marijuana Legalization Initiative**

Legalizes marijuana under state law, for use by adults 21 or older. Imposes state taxes on sales and cultivation. Provides for industry licensing and establishes standards for marijuana products. Allows local regulation and taxation. Fiscal Impact: Additional tax revenues ranging from high hundreds of millions of dollars to over \$1 billion annually, mostly dedicated to specific purposes. Reduced criminal justice costs of tens of millions of dollars annually.

### **RENT CONTROL & TENANTS RIGHTS**

#### **City of Alameda Measure L1 Rent Stabilization Ordinance**

Shall the voters adopt the City’s March 31, 2016 Rent Stabilization Ordinance, which (a) limits residential rent increases to once annually, (b) requires mediation for all residential rent increases above 5%, including binding decisions on rent increases for most rental units, (c) restricts reasons for evictions, (d) requires landlords to pay relocation fees when terminating certain tenancies, and (e) permits the City Council to amend the ordinance to address changing concerns and conditions?

#### **City of Alameda Measure M1**

Shall the City Charter be amended to (a) limit annual residential rent increases for certain units to 65% of the percentage increase in the Consumer Price Index, (b) create an elected Rent Control Board separate from the City with authority to hire staff, impose fees on landlords for program funding and assess penalties, (c) limit the reasons for terminating tenancies and (d) require rental property owners to pay relocation fees to tenants when terminating certain tenancies?

#### **Burlingame (San Mateo County) Measure R Burlingame Community Protection Ordinance**

The purpose of this Ordinance is to promote neighborhood and community stability, healthy housing, and affordability for renters in the City of Burlingame by

controlling excessive rent increases and arbitrary evictions to the greatest extent allowable under California law, while ensuring Landlords a fair and reasonable return on their investment, and guaranteeing fair protections for renters, homeowners, and businesses. Limits rent increases on pre-1995 multifamily buildings to the Consumer Price Index increase (but not less than 1 or more than 4 percent). Establishes just-cause eviction rules for all rental property including single-family homes, condos and multi-family units, whenever constructed.

#### **City of San Mateo Measure Q Community Preservation and Fair Rent Charter Amendment**

Shall the charter amendment adding Chapter XI to the San Mateo City Charter to enact rent regulations applicable to apartment housing with an initial certificate of occupancy dated before February 1, 1995; and just cause for eviction requirements applicable to apartment housing with an initial certificate of occupancy dated before the date the measure becomes effective; and establishing a Rental Housing Commission to administer and implement these regulations and requirements be adopted?

#### **City of Mountain View Measure W Rent Stabilization Ordinance**

Shall a rent stabilization ordinance be adopted requiring a tenant-landlord dispute resolution program and binding arbitration for rent increase disputes exceeding 5% of base rent per 12-month period and service reductions for most multifamily rental units with a certificate of occupancy before February 1, 1995; prohibiting eviction of tenants without just cause or relocation assistance; prohibiting substantive changes for two years, and requiring a super majority City Council vote for substantive changes thereafter?

Placed on ballot by City Council. Would amend rent program that the city started in April to require binding arbitration for rent increases exceeding 5 percent on pre-1995 buildings. Also limits evictions to just causes,

– CONTINUED ON PAGE 16

# >>> California Voters Face Bumper Crop of Land Use Ballot Measures

– CONTINUED FROM PAGE 15

unless landlord complies with the city’s Tenant Relocation Assistance Ordinance.

## **City of Mountain View [Measure V](#) Rent Stabilization Ordinance**

Shall a Rent Stabilization city charter amendment be adopted enacting rent regulation and prohibiting amendments except by Citywide election, with annual rent increases limited to the Consumer Price Index (minimum 2%, maximum 5%) for most multifamily rental units built before February 1, 1995; prohibiting evictions without just cause for rental units built before this measure becomes effective; creating a Rental Housing Committee authorized to enact regulations, hire staff, expend funds, and charge landlords fees to implement this amendment?

## **City of Oakland [Measure JJ](#) Just Cause For Eviction and Rent Adjustment Ordinances**

Placed on ballot by City Council; would amend Oakland’s Rent Adjustment Program. Shall Oakland’s Just Cause For Eviction and Rent Adjustment Ordinances be amended by: (1) extending just-cause eviction requirements from residential rental units offered for rent on or before October 14, 1980 to those approved for occupancy before December 31, 1995; and (2) requiring landlords to request approval from the City before increasing rents by more than the cost-of-living adjustment allowed by City law?

## **City of Richmond [Measure L](#) Fair Rent, Just Cause for Eviction, and Homeowner Protection Ordinance**

A proposed City of Richmond ordinance to establish rent control, a rent board, and just cause for eviction requirements in the City of Richmond. Voter initiative rolls back rents on pre-1995 multifamily apartments to July 2015 levels and limits future increases to the CPI. Imposes eviction controls on all rental units.

## **AFFORDABLE HOUSING & HOMELESSNESS**

### **Santa Clara County Measure A**

To provide affordable local housing for vulnerable populations including veterans, seniors, the disabled, low and moderate income individuals or families, foster youth, victims of abuse, the homeless and individuals suffering from mental health or substance abuse illnesses, which housing may include supportive mental health and substance abuse services, shall the County of Santa Clara issue up to \$950 million in general obligation bonds to acquire or improve real property subject to independent citizen oversight and regular audits?

### **Alameda County [Measure A1](#) Affordable Housing Bond**

To provide affordable local housing and prevent displacement of vulnerable populations, including low- and moderate-income households, veterans, seniors, and persons with disabilities; provide supportive housing for homeless people countywide; and help low- and middle-income households purchase homes and stay in their communities; shall the County of Alameda issue up to \$580 million in general obligation bonds to acquire or improve real property, subject to independent citizen oversight and regular audits? Percentage needed to pass: 66.6667%

### **City of Berkeley [Measure Z1](#) Low Income Housing Authorization**

Shall any federal, state or local public entity be empowered to develop, construct or acquire an additional 500 units of low-rent housing in the City of Berkeley for persons of low income?

### **City of Berkeley [Measure U1 \(City-Sponsored\)](#) Rental Unit Business License Tax**

Shall an ordinance permanently increasing the gross receipts tax on owners of five or more residential units from 1.081% to 2.880%, with certain exceptions, prohibiting landlords from passing the tax on to sitting tenants, and

– CONTINUED ON PAGE 17

## >>> California Voters Face Bumper Crop of Land Use Ballot Measures

– CONTINUED FROM PAGE 16

directing the Housing Advisory Commission to make recommendations on funding and programs to increase affordable housing and protect Berkeley residents from homelessness, be adopted?

### **City of Berkeley Measure DD Rental Unit Business License Tax (Voter Initiative)**

Shall an ordinance permanently increasing the gross receipts tax on owners of three or more residential rental units from 1.081% to 1.5%, prohibiting landlords from passing the tax on to sitting tenants except as allowed by law, and authorizing the Council to create a citizen panel to make recommendations on increasing affordable housing and protecting residents from homelessness be adopted?

### **City of Los Angeles Measure HHH Homelessness Reduction and Prevention, Housing, and Facilities Bond**

To provide safe, clean affordable housing for the homeless and for those in danger of becoming homeless, such as battered women and their children, veterans, seniors, foster youth, and the disabled; and provide facilities to increase access to mental health care, drug and alcohol treatment, and other services; shall the City of Los Angeles issue \$1.2 billion in general obligation bonds, with citizen oversight and annual financial audits?

### **City of Los Angeles Measure JJJ Affordable Housing and Labor Standards Related to City Planning (“Build a Better LA”)**

Shall an ordinance: 1) requiring that certain residential development projects provide for affordable housing and comply with prevailing wage, local hiring and other labor standards; 2) requiring the City to assess the impacts of community plan changes on affordable housing and local jobs; 3) creating an affordable housing incentive program for developments near major transit stops; and 4) making other changes; be adopted?

### **City and County of San Francisco Proposition C Loans to Finance Acquisition and Rehabilitation of**

### **Affordable Housing**

Shall the City amend the Charter to increase affordable housing requirements for private developers of new market-rate housing projects of 25 or more units until the Board of Supervisors passes an ordinance changing those requirements and also authorize the Board of Supervisors to change affordable housing requirements by ordinance?

### **City of San Diego Measure M Affordable Housing: Increasing the Limit on the Number of Units the City and Certain Public Agencies are Allowed to Help Develop**

Shall the voters increase by 38,680 the maximum number of housing units the City and certain other public agencies are allowed to help develop, construct, or acquire for people with low incomes, without this ballot measure approving specific housing units, providing funds for development, removing requirements that otherwise apply, or taking any other action?

### **City of Santa Monica Measure GSH**

To maintain and improve Santa Monica community services including support for preservation of affordable housing, reducing homelessness, school repair and improvement, education of Santa Monica children and students, and other general fund services, shall an ordinance be adopted to increase by one-half percent Santa Monica’s transactions and use tax, subject to independent annual audits, all funds used locally, no money going to Sacramento, raising approximately \$16 million annually, until ended by the voters?

### **City and County of San Francisco Proposition P Competitive Bidding for Affordable Housing Projects on City-Owned Property**

Shall the City be prohibited from proceeding with an affordable housing project on City-owned property unless the Mayor’s Office of Housing and Community Development receives at least three proposals; and shall the City incorporate into City law most current criteria for

– CONTINUED ON PAGE 18

# >>> California Voters Face Bumper Crop of Land Use Ballot Measures

– CONTINUED FROM PAGE 17

selecting a developer for affordable housing projects on City-owned property?

### **City and County of San Francisco Proposition U Affordable Housing Requirements for Market-Rate Development Projects**

Shall the City increase the income eligibility limit for on-site rental units for all new and existing affordable housing units to make them affordable for households earning up to 110% of the area median income?

### **City and County of San Francisco Proposition J Funding for Homelessness and Transportation**

Shall the City amend the Charter to create a Homeless Housing and Services Fund, which would provide services to the homeless including housing and Navigation Centers, programs to prevent homelessness and assistance in transitioning out of homelessness by allocating \$50 million per year for 24 years, adjusted annually; and create a Transportation Improvement Fund, which would be used to improve the city’s transportation network by allocating \$101.6 million per year for 24 years, adjusted annually? Funded by Proposition K, a 0.75% sales tax increase.

---

## **TRANSPORTATION & INFRASTRUCTURE**

### **Alameda-Contra Costa Transit District 1 Measure C1 Alameda-Contra Costa Transit District (AC Transit)**

To preserve essential local public transportation services, including those for youth, commuters, seniors, and people with disabilities, while keeping fares reasonable, shall the Alameda-Contra Costa Transit District extend its existing 8 dollars per month parcel tax at current levels for 20 years with no increase in tax rate, raising approximately 30 million dollars annually, with independent oversight and all money spent locally? Percentage needed to pass: 2/3

### **Bay Area Rapid Transit District Measure RR (Alameda, Contra Costa, San Francisco Counties) Bond Measure: Safety, Reliability and Traffic Relief**

To keep BART safe; prevent accidents/breakdowns/

delays; relieve overcrowding; reduce traffic congestion/pollution; improve earthquake safety and access for seniors/disabled by replacing and upgrading 90 miles of severely worn tracks; tunnels damaged by water intrusion; 44-year-old train control systems; and other deteriorating infrastructure, shall the Bay Area Rapid Transit District issue \$3.5 billion of bonds for acquisition or improvement of real property subject to independent oversight and annual audits? Percentage needed to pass: 66.6667%

### **Los Angeles County Measure M Los Angeles County Traffic Improvement Plan**

To improve freeway traffic flow/safety; repair potholes/sidewalks; repave local streets; earthquake-retrofit bridges; synchronize signals; keep senior/disabled/student fares affordable; expand rail/subway/bus systems; improve job/school/airport connections; and create jobs; shall voters authorize a Los Angeles County Traffic Improvement Plan through a ½ ¢ sales tax and continue the existing ½ ¢ traffic relief tax until voters decide to end it, with independent audits/oversight and funds controlled locally?” (See prior CP&DR [coverage](#).)

### **Placer County Measure M**

Shall Placer County reconfigure the 80/65 Interchange to relieve congestion; better maintain roads countywide; provide dedicated funding for rural road pothole repair; widen roadways/expand transit; expand Highway 65 in each direction; provide safe routes to school; add seniors/disabled persons transit; widen Baseline Road and build Placer Parkway creating I-80 alternatives, by establishing a one-half cent sales tax, limited to 30 years, raising \$53 million annually, with independent audits, citizens’ oversight, and increasing eligibility for state/federal matching?

### **Sacramento County Measure B The Road Maintenance & Traffic Relief Act**

To: Fill potholes and repave streets; Repair deteriorating bridges; Relieve traffic on roads and freeways; Build a new expressway between Elk Grove, Rancho Cordova

– CONTINUED ON PAGE 19

## >>> California Voters Face Bumper Crop of Land Use Ballot Measures

– CONTINUED FROM PAGE 18

and Folsom; Extend Light Rail toward the Airport and Elk Grove; Support Light Rail and bus operations, maintenance, and security; and Improve bicycle and pedestrian safety; Shall the ordinance enacting a 30-year countywide one half cent sales tax, raising approximately \$100 million annually, with independent oversight and audits, be adopted?

### **San Diego County Measure A**

#### **Road Repair, Transit, Traffic Relief, Safety and Water Quality Measure**

An ordinance be adopted to: repair roads, deteriorating bridges; relieve congestion; provide every community funds for pothole/street repairs; expand public transit, including improved services for seniors, disabled, students, veterans; reduce polluted runoff; preserve open space to protect water quality/reduce wildfires by enacting, with independent oversight/audits, a 40-year, half-cent local sales tax (\$308 million annually) that Sacramento cannot take away.

### **San Mateo County Measure K**

Extension of Measure A, approved by voters in 2012) half-cent sales tax that has generated approximately \$80 million annually.

### **Santa Clara County Measure B**

#### **Santa Clara Valley Transportation Authority**

To relieve traffic, repair potholes; shall VTA enact a 30-year half-cent sales tax to: Repair streets, fix potholes in all 15 cities; Finish BART extension to downtown San Jose, Santa Clara; Improve bicycle/pedestrian safety, especially near schools; Increase Caltrain capacity, easing highway congestion, improving safety at crossings; • Relieve traffic on all 9 expressways, key highway interchanges; Enhance transit for seniors, students, disabled; Mandating annual audits by independent citizens watchdog committee to ensure accountability. Two-thirds approval needed.

### **City of Berkeley Bond Measure T1**

Shall the City of Berkeley issue general obligation bonds not exceeding \$100,000,000 to repair, renovate, replace,

or reconstruct the City's aging infrastructure and facilities, including sidewalks, storm drains, parks, streets, senior and recreation centers, and other important City facilities and buildings? Financial Implications: The average annual cost over the 40-year period the bonds are outstanding would be approximately \$21, \$90, and \$128, respectively, for homes with assessed valuations of \$100,000, \$425,000 and \$600,000. Two-thirds approval needed.

### **City of Oakland Measure KK**

#### **Investing in Oakland's Infrastructure and Affordable Housing**

To improve public safety and invest in neighborhoods throughout Oakland by re-paving streets to remove potholes, rebuilding cracked and deteriorating sidewalks, funding bicycle and pedestrian safety improvements, funding affordable housing for Oaklanders, and providing funds for facility improvements, such as, neighborhood recreation centers, playgrounds, and libraries, shall the City of Oakland issue \$600 million in bonds, subject to independent citizen oversight and regular audits?

### **Santa Cruz County Measure D**

#### **Safety, Pothole Repair, Traffic Relief, Transit Improvement Measure.**

In order to: improve children's safety around schools; repair potholes; repave streets; improve traffic flow on Highway 1; maintain senior/disabled transit; reduce global warming pollution by providing transportation options like sidewalks, buses, bike lanes, trails; preserve rail options; shall Santa Cruz County voters adopt an ordinance establishing a half-cent sales tax for 30 years, raising approximately \$17 million annually, requiring citizen oversight, independent audits, and funds spent locally?

---

## **GENERAL PLANS & URBAN GROWTH**

### **Sonoma County Measure K**

#### **Community Separators Protection Ordinance**

In order to preserve rural open space and agricultural land, maintain community identities, and prevent sprawl,

– CONTINUED ON PAGE 20

## >>> California Voters Face Bumper Crop of Land Use Ballot Measures

– CONTINUED FROM PAGE 19

shall the “Community Separators Protection Ordinance” be adopted to amend the Sonoma County General Plan to require voter approval of changes to the General Plan that increase the allowed density or intensity of development within Community Separators until December 31, 2036?

### **City of Cotati Measure Q Renew Urban Growth Boundary**

Shall an ordinance amending the General Plan of the City of Cotati to extend the current Urban Growth Boundary for an additional 30 years be adopted?

### **City of Costa Mesa Measure Y City of Costa Mesa, An Initiative to Require Voter Approval on Certain Development Projects**

Shall the ordinance to require voter approval of development projects that require adoption, amendment, change or replacement of the General Plan, the Zoning Code, a specific plan, or an overlay plan, and that generates over 200 additional trips, increases intersection volume/capacity, changes the intersection utilization/level of service, adds 40 or more dwelling units, adds 10,000 sq.’ of non-residential use, or changes a public use to a private use under specified conditions, be adopted?

### **Del Mar Measure R Voter Approval of Commercial Development Initiative**

Shall the ordinance which proposes to amend the Del Mar Community Plan, Housing Element, and Municipal Code to require voter approval for certain development projects be adopted?

### **Encinitas Measure T Housing Element**

Shall City Council Resolution No. 2016-52 and Ordinance No. 2016-04, which collectively update the City’s General Plan Housing Element, amend related General Plan provisions, and amend Specific Plans, Zoning Code, Zoning Map, Municipal Code, and Local Coastal Program, in an effort to comply with State law, incentivize greater housing affordability, implement rules to protect

the character of existing neighborhoods, maintain local control of Encinitas zoning, and resolve existing lawsuits, be adopted?

### **City of Gilroy Measure H Urban Growth Boundary**

Shall an ordinance be adopted to amend the Gilroy General Plan to add an Urban Growth Boundary line (UGB) to the General Plan Land Use Plan Map, designate lands outside the UGB as Open Space and prohibit urban development on such lands, and provide that (with limited exceptions) such restrictions may not be amended or repealed until December 31, 2040 without a vote of the people?”

### **City of Milpitas Measure I Urban Growth Boundary**

Shall an ordinance that amends the Milpitas General Plan Land Use Element to extend until December 31, 2038 an Urban Growth Boundary near the base of the Milpitas foothills, that would limit development within Milpitas to the valley floor and the base of the foothills by prohibiting Milpitas from providing city services to new land use developments in the hillside area, be adopted?

### **City of Milpitas Measure J Hillside Combining District**

Shall an ordinance, requiring until December 31, 2038, any amendments to the existing “Hillside Combining District” Ordinance and any amendments to the general plan land use designation for lands currently designated as “Hillside” property be approved by the voters before becoming effective, be adopted?

### **City of Milpitas Measure K General Plan**

Shall an ordinance amending the City of Milpitas General Plan be adopted to mandate that any attempt to rezone parks, parklands or open space to residential, commercial or industrial, or any proposal for residential, commercial or industrial development in parks, parkland or open space, must be placed before Milpitas voters and secure two-thirds

– CONTINUED ON PAGE 21

## >>> California Voters Face Bumper Crop of Land Use Ballot Measures

– CONTINUED FROM PAGE 20

support in the City's next general election?

### **City of Morgan Hill Measure S**

Shall a measure be adopted to amend the Morgan Hill General Plan and Municipal Code to update the City's voter-approved Residential Development Control System (RDCS) to extend it to 2035, establish a population ceiling of 58,200, with a slower rate of growth than currently exists, and improve policies to maintain neighborhood character, encourage more efficient land use, conserve water, and preserve open space?

### **City of Santa Monica Measure LV**

Shall the City's General Plan and Municipal Code be amended to require: a new permit process for major development projects exceeding base sizes or heights of 32-36 feet, with exceptions such as single unit dwellings and some affordable housing projects; voter approval of major development projects and development agreements, excluding affordable housing and moderate income and senior housing projects, among others; and voter approval of changes to City land use and planning policy documents?

### **PARKS, RECREATION, OPEN SPACE**

#### **County of Los Angeles Measure A**

#### **Safe, Clean Neighborhood Parks, Open Space, Beaches, Rivers Protection, and Water Conservation Measure**

To replace expiring local funding for safe, clean neighborhood/ city/ county parks; increase safe playgrounds, reduce gang activity; keep neighborhood recreation/ senior centers, drinking water safe; protect beaches, rivers, water resources, remaining natural areas/ open space; shall 1.5 cents be levied annually per square foot of improved property in Los Angeles County, with bond authority, requiring citizen oversight, independent audits, and funds used locally?

#### **County of Napa Measure Z**

#### **Water, Parks and Open Space, Restoration and Preservation Measure**

To protect drinking water by preserving and restoring

watersheds, rivers, creeks; protect natural open spaces and wildlife habitat; reduce wildfire risk; and maintain parks and trails; shall Napa County enact a 1/4 percent sales tax for the Napa County Regional Park and Open Space District raising an estimated eight million dollars annually for fourteen years with citizen oversight, annual audits, and funds that cannot be taken by the State?

### **County of Ventura Measure C**

Shall the current ordinance requiring a vote of the people for changes to Open Space, Agricultural and Rural General Plan land use designations, goals and policies in the unincorporated area of the County be extended from 2020 through 2050, with specified modifications, such as permitting changes without a vote to allow for up to 12 acres of land to be used for food processing?

### **County of Ventura Measure F**

Shall the current ordinance requiring a vote of the people for changes to Open Space, Agricultural and Rural General Plan land use designations, goals and policies in the unincorporated area of the County be extended from 2020 through 2036, with specified modifications, such as permitting changes without a vote to allow for redesignation of land adjacent to certain school sites and up to 225 acres of land to be used for food processing?

SOAR-Related municipal measures, some of which concern urban growth boundaries are on ballots in the following cities:

### **City of Fillmore Measure A**

#### **CURB Extension Until 2050**

Shall the ordinance initiated by residents extending the expiration date of the City Urban Restriction Boundary line from December 31, 2020 to December 31, 2050, removes the exemption for schools and government facilities such that they must be built within the CURB, and requires an election to develop 20 acres of land beyond the CURB and the land must be fallow of agricultural use for 4 years be approved?

– CONTINUED ON PAGE 22

## >>> California Voters Face Bumper Crop of Land Use Ballot Measures

– CONTINUED FROM PAGE 21

### **City of Moorpark Measure E Moorpark Save Open-space and Agricultural Resources – 2050 Initiative**

Shall the Ordinance entitled “Moorpark Save Open-space and Agricultural Resources – 2050 initiative” (“Moorpark SOAR – 2050”) be adopted to extend with certain amendments the provisions of the 1999 voter-approved Moorpark SOAR from December 31, 2020 to December 31, 2050 and continue to prohibit the City of Moorpark from permitting urban services or urbanized uses of land outside the current Moorpark City Urban Restriction Boundary (CURB) with certain exceptions during that extended period?

### **City of Camarillo Measure J**

Shall an ordinance be adopted approving an initiative ordinance amending Chapter 3.0 of the Camarillo General Plan to add development restrictions within an area designated the Conejo Creek Voter Participation Area and to amend and extend the life of the development restrictions outside the Camarillo Urban Restriction Boundary (CURB)?

### **City of Oxnard Measure K**

Shall the Save Open Space and Agricultural Resources (SOAR) Ordinance be extended, maintaining a City Urban Restriction Boundary (CURB); prohibiting urban development outside of the CURB until December 31, 2030, unless approved by the voters; maintaining a City Buffer Boundary (CBB); and prohibiting changing the designation of land within the CBB that is designated ‘Agriculture’ in the Oxnard 2030 General Plan, unless approved by the voters?

### **City of Oxnard Measure L**

Shall the Save Open Space and Agricultural Resources (SOAR) Ordinance be extended, maintaining a City Urban Restriction Boundary (CURB); prohibiting urban development outside of the CURB until December 31, 2050, unless approved by the voters; maintaining a City

Buffer Boundary (CBB); and prohibiting changing the designation of land within the CBB that is designated ‘Agriculture’ in the Oxnard 2030 General Plan, unless approved by the voters?

### **City of San Buenaventura Measure P**

Shall the initiative ordinance extending open-space, agriculture, and hillside land use changes by voter approval to 2050 be approved?

### **City of Santa Paula Measure U CURB and 81-Acre Initiative Extension Until 2050**

Shall an ordinance initiated by residents that expands the City Urban Restriction Boundary to include 53.75 acres in the southwest portion of the City, extends the expiration of the City Urban Restriction Boundary from 2020 to December 31, 2050, extends the expiration of the 81-Acre Initiative from 2025 to December 31, 2050, and makes other minor textual revisions to the CURB be adopted?

### **City of Thousand Oaks Measure W**

Shall the ordinance extending the City Urban Restriction Boundary Ordinance, and extending the ordinance requiring voter approval of any General Plan designation change from the Existing Parks, Golf Courses, and Open Space category, from December 31, 2030 to December 31, 2050 be adopted?

### **City of Costa Mesa Measure Z City of Costa Mesa, Measure for Sensible Community Development and Development-Funded Open Space and Recreation**

Shall the Costa Mesa Measure for Sensible Community Development and Development-Funded Open Space and Recreation, which ratifies the City’s existing land use regulations, ensures that approximately 25% of the State Developmental Hospital on Harbor Boulevard would be zoned as passive or recreational open space, and establishes a fee paid for by developers for the purpose of funding new active recreation, open space, and public park facilities within the City, be adopted?

– CONTINUED ON PAGE 23

## >>> California Voters Face Bumper Crop of Land Use Ballot Measures

– CONTINUED FROM PAGE 22

### **City of Santa Clara Measure R Protection of Parkland and Open Space**

Shall Section 714.1 of the Santa Clara City Charter be added to provide that no City owned land used for park or recreational purposes, including the Ulistac Natural Area and the Santa Clara Soccer Park, shall be sold or disposed of by the City without being authorized by a two-thirds (2/3) majority vote and that development upon such property shall be subject to referendum?

### **City of San Diego Measure J Lease Revenue from Mission Bay Park**

Shall Charter section 55.2 be amended to: increase, from 25% to 35%, the allocation of annual Mission Bay Park lease revenues exceeding \$20 million, for capital improvements in San Diego Regional Parks; allow Council to add City-owned parkland to Mission Bay Park's boundaries; combine and coordinate construction of Mission Bay Park improvements identified in this section; and extend operation of this section until 2069?

### **Santa Monica Mountains Recreation and Conservation Authority (Los Angeles County) Area 1 Measure GG; Area 2 Measure FF**

To maintain and conserve local open space, wildlife corridors, and parklands; acquire and protect additional lands from development; improve fire prevention including high fire alert patrols and brush clearing; protect water quality in local creeks; and increase park ranger safety patrols; shall Mountains Recreation and Conservation Authority implement a \$35 special tax for ten years only, providing \$995,000 annually with all funds spent locally in the Santa Monica Mountains and Hollywood Hills east of 405 freeway, and requiring independent citizen oversight audits? To maintain and conserve local open space, wildlife corridors, and parklands; acquire and protect additional lands from development; improve fire prevention including high fire alert patrols and brush clearing; protect water quality in local creeks; and increase park ranger safety patrols; shall Mountains Recreation and Conservation

Authority implement a \$15 special tax for ten years only, providing \$241,000 annually with all funds spent locally in the hillside communities of Woodland Hills, Encino, and Tarzana, and requiring independent citizen oversight audits?

---

### **SPECIFIC PLANS & PROJECT-SPECIFIC MEASURES**

#### **San Diego County Measure B Lilac Hills Specific Plan**

Shall this Initiative be adopted for the purpose of amending the County General Plan, Zoning Ordinance and Code of Regulatory Ordinances and approving the Lilac Hills Ranch Specific Plan (“Plan”)? The Plan provides for the development of a 608-acre master-planned community including 1,746 dwelling units, three commercial centers, a public park, 10 private parks and 16 miles of trails. The project site is generally located north of Escondido and east of I-15 in the unincorporated area of North San Diego County.

#### **City of Beverly Hills Measure HH Hilton Condominium Tower Initiative**

Shall an ordinance be adopted allowing a 26 story (345 feet) residential building instead of two residential buildings of 8 stories (101 feet) and 18 stories (218 feet); increasing open space from approximately 1.25 acres to 1.7 acres for use as a private garden that is generally open to the public subject to reasonable restrictions determined by the property owner; prohibiting any discretionary architectural review; and reducing graywater use requirements?

#### **City of Cupertino Measure C**

Shall an initiative ordinance be adopted amending Cupertino's General Plan to limit redevelopment of the Vallco Shopping District, limit building heights along major mixed-use corridors, increase to 45 feet the maximum building height in the Neighborhoods, limit lot coverages for large projects, establish new setbacks and building planes on major thoroughfares, and require voter approval

– CONTINUED ON PAGE 24

## >>> California Voters Face Bumper Crop of Land Use Ballot Measures

– CONTINUED FROM PAGE 23

for any changes to these provisions?

### **City of Cupertino Measure D Valco Town Center Specific Plan**

Shall an initiative be adopted enacting the Valco Town Center Specific Plan for the 58-acre Valco Shopping District Special Area requiring residential (approximately 389-800 units, including approximately 20% senior housing), office (2,000,000 sf), commercial (640,000 sf), hotel, park, civic/educational uses; requiring funding/community benefits for transportation (approximately \$30,000,000), schools (approximately \$40,000,000), green roof (approximately 30 acres), recycled water; granting initial entitlements; establishing development standards and limited future approval process; and making related Cupertino General Plan and Municipal Code amendments?

### **City of Cypress Measure GG**

#### **City of Cypress, Cypress Town Center and Commons Specific Plan**

Shall an ordinance that approves the “Cypress Town Center and Commons Specific Plan” to allow for development of a town center, single-family and multi-family housing, commercial/senior housing and a public park on portions of Los Alamitos Race Course, the former Cypress Golf Club and adjacent properties, together with related general plan and specific plan amendments and zone changes, be adopted?

### **City of Livermore Measure FF**

#### **Springtown Golf Course Open Space Ballot Initiative**

Shall the ordinance affirming and readopting the open space designation “OSP Parks, Trail Ways, Recreation Corridors and Protected Areas” in Land Use Element for the 2003-2025 City of Livermore General Plan for the Springtown Golf Course, except for the Springtown Library and the Springtown Association parcel, be adopted?

### **City of San Diego Measure C Downtown Stadium Initiative**

Should the measure be adopted to: increase San

Diego’s hotel occupancy tax by 6% to build a City-owned downtown professional football stadium and convention center project, and fund tourism marketing; effect the project financing, design, construction, use, management, and maintenance, including a \$650,000,000 contribution and 30-year commitment by a professional football entity; end Tourism Marketing District assessments; adopt a development ordinance, and related land use, sign, and zoning laws?

### **City of San Diego Measure D**

#### **Tax and Facilities Initiative (“The Citizens Plan”)**

Should the measure be adopted to: among other provisions, increase San Diego’s hotel occupancy tax up to 5%; end Tourism Marketing District; allow hoteliers to create assessment districts and use hotel occupancy taxes for a downtown convention center and not a stadium; prohibit onsite expansion of existing convention center; create downtown overlay zone for convention and sports facilities; create environmental processes; and allow Qualcomm stadium property’s sale for educational and park uses?

### **City and County of San Francisco Proposition O**

#### **Office Development in Candlestick Point and Hunters Point**

Shall the City permanently exempt new office space on Candlestick Point and most of the former Navy shipyard at Hunters Point from the City’s annual 950,000-square-foot limit, and provide that any new office space in this project area would not count toward the annual limit that applies in the rest of the City?

---

## MISCELLANEOUS

### **City of Albany Measure N1**

#### **Changes to Section 20.28.040 of the Albany Municipal Code “Measure D” - Parking Requirements**

Shall an ordinance authorizing the Albany City Council to amend the residential parking requirements established by Measure D (enacted by the Albany voters in 1978), after

– CONTINUED ON PAGE 25

## >>> California Voters Face Bumper Crop of Land Use Ballot Measures

— CONTINUED FROM PAGE 26

following the normal procedures for amending City Zoning Ordinances, be adopted?

### **City and County of San Francisco Proposition E Responsibility for Maintaining Street Trees and Surrounding Sidewalks**

Shall the City amend the Charter to transfer responsibility from property owners to the City for maintaining trees on sidewalks around their property as well as sidewalks damaged by the trees, and pay for this by setting aside \$19 million per year from its General Fund, adjusted annually based on City revenues?

### **City and County of San Francisco Proposition M Housing and Development Commission**

Shall the City amend the Charter to create the Housing and Development Commission to oversee two new departments (the Department of Economic and Workforce Development and the Department of Housing and Community Development) that would take over the duties of the Office of Economic and Workforce Development and the Mayor's Office of Housing and Community Development, which would cease to exist?

### **City and County of San Francisco Proposition X Preserving Space for Neighborhood Arts, Small Businesses and Community Services in Certain Neighborhoods**

Shall the City require developers of projects in parts of the Mission and South of Market neighborhoods to build

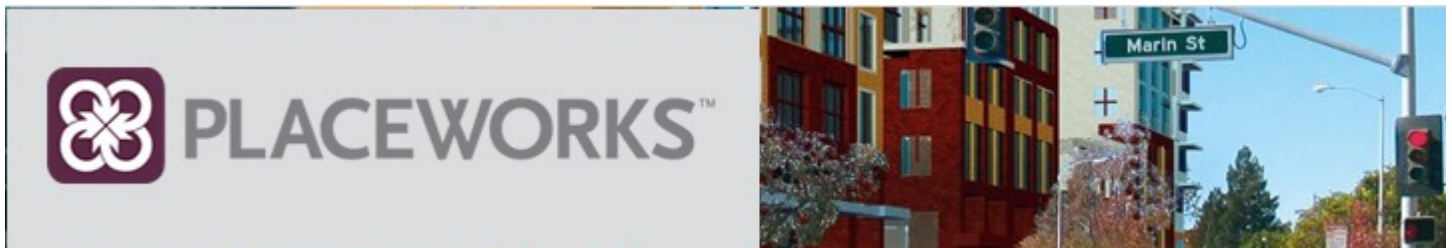
replacement space if they remove production, distribution and repair uses of 5,000 square feet or more, institutional community uses of 2,500 square feet or more, or arts activities uses of any size, and to obtain a conditional use authorization before changing the property's use?

### **Monterey County Measure Z Oil And Gas Drilling Operations Initiative**

Shall an initiative amending the Monterey County General Plan, Local Coastal Program, and Fort Ord Master Plan to: (1) prohibit the use of land within the County's unincorporated (non-city) areas for hydraulic fracturing treatments ("fracking"), acid well stimulation treatments, and other well stimulation treatments; (2) prohibit new and phase out existing land uses that utilize oil and gas wastewater injection and impoundment; and, (3) prohibit the drilling of new oil and gas wells in the County's unincorporated areas be adopted?

### **City Of Soledad Measure F Transient Occupancy Tax**

Shall Section 3.16.020 of Chapter 3.16 of the Soledad Municipal Code be amended to increase the existing transient occupancy tax, charged only to occupants of City hotels, from nine percent (9%) to twelve percent (12%), increasing the tax collected by an estimated \$20,000 for a new estimated annual total of \$100,000, with no termination date, to continue to provide funding for essential services such as police, fire, street repair, park maintenance and community programs? ■



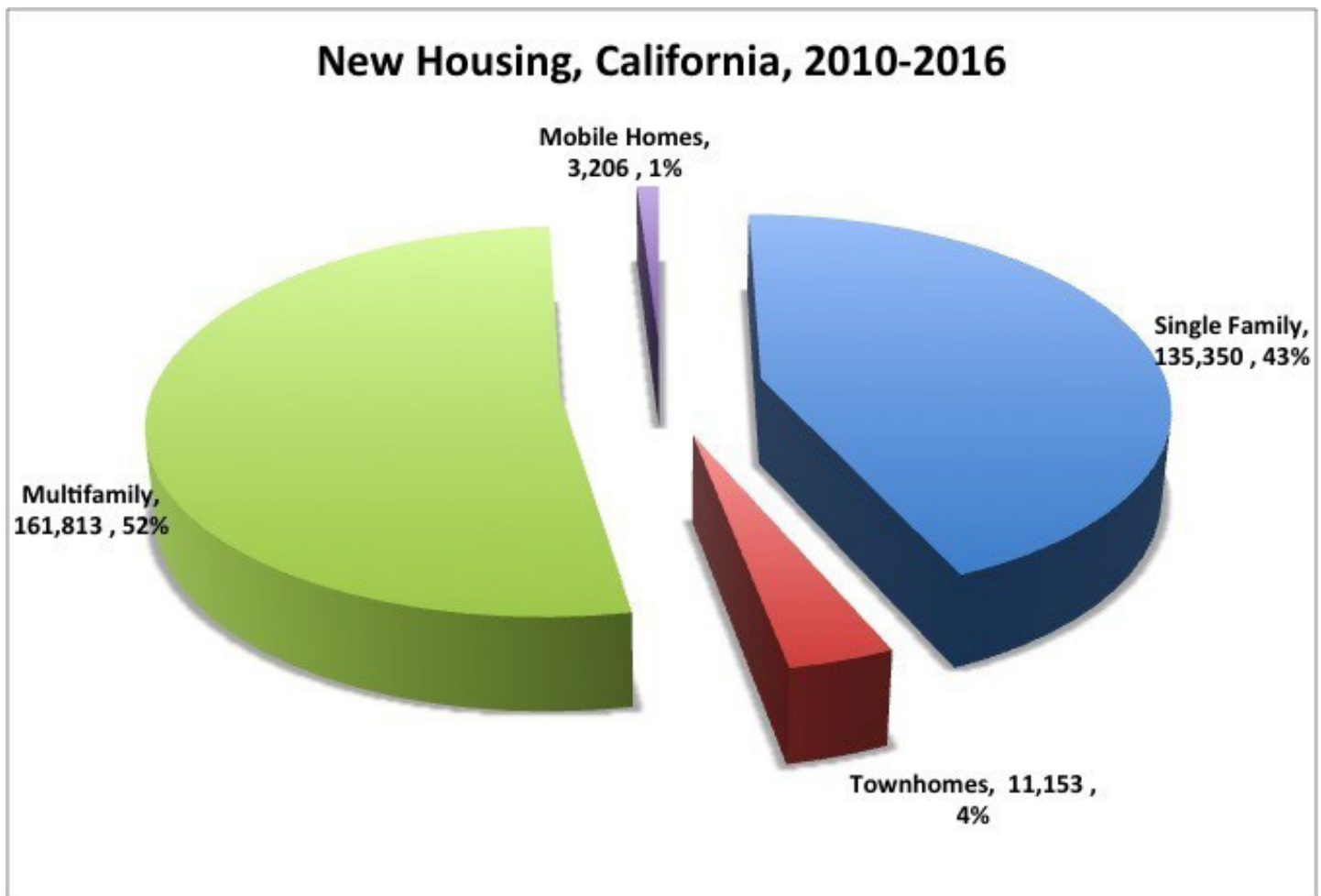
## >>> Bifurcated California

– CONTINUED FROM PAGE 1

Perhaps most strikingly, the move toward multifamily development has gotten much stronger since the Great Recession ended. According to the Demographics Research Unit at the Department of Finance, between 2010 and 2016 more than half of all housing units built in California were multi-family units, and the vast majority of those were contained in projects of five or more units. This reverses the trend from the 2000s – but reinforces a trend from the 1990s. (All numbers in this article are derived from [DOF's most recent E-5 spreadsheet](#).)

population.) There was a huge amount of single-family housing built during the real estate boom that ended with the crash in 2008 – much of which was available for rent or at cut-rate prices when the Great Recession ended. And lenders have been gun-shy about single-family subdivisions for years.

But the trend is striking. And it's even more striking when you break out the coastal and inland areas – or, more



Now, there are a lot of caveats here. There hasn't been that much housing built since 2010 – only about 300,000 units, or an increase of about 2.5%. (There was only about one housing unit built for every six people added to the

accurately, the land-poor urban areas (which are mostly near the coast and good transit) and the land-rich suburban areas (which are mostly, but not exclusively, inland and away from good transit).

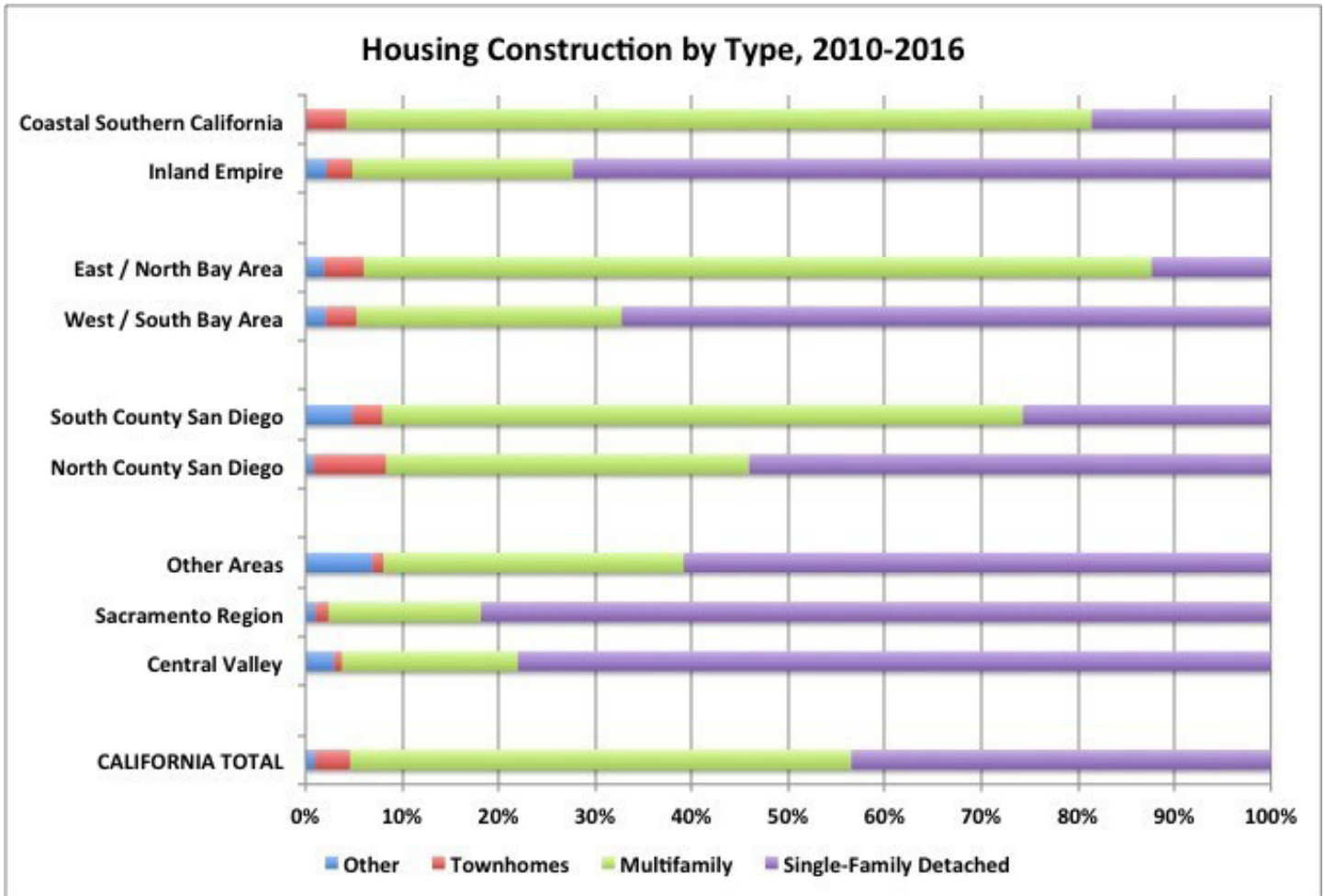
– CONTINUED ON PAGE 27

## >>> Bifurcated California

– CONTINUED FROM PAGE 26

To see what I mean, take a look at the striking patterns contained in the chart below.

growth counties to the north, Marin, Sonoma, and Napa – you’ll see that only 28% of new housing is multifamily and



In coastal Southern California – Ventura, Los Angeles, and Orange counties – 77% of new construction is multifamily and only 18% is single-family. (Even in Ventura – land-rich but highly regulated – the numbers were 62% multifamily and 27% single-family.)

In the Bay Area, there’s a similar big divide. If you look at the rapidly urbanizing counties with good transit – San Francisco, San Mateo, Santa Clara, and Alameda – you’ll see that 83% of new housing since 2010 is multifamily and only 12% is single-family. In the other counties – Contra Costa and Solano to the east and the three notoriously no-

68% is single-family.

We see the same thing in San Diego – though, as in the Bay Area, some of the single-family dominance is located in slow-growth coastal areas with land. In South County, 66% of new housing is multifamily and only 25% is single-family. In North County, 54% is single-family and 37% is multifamily.

But that’s not the whole story. There’s also a story here about big cities in California. Contrary to recent history, they are growing faster than the state as a whole. They are adding housing faster than the state as a whole. And they

– CONTINUED ON PAGE 25

## >>> Bifurcated California

– CONTINUED FROM PAGE 27

are adding multifamily housing *much* faster than the state as a whole.

The trend is *really* striking with the biggest cities. Take a look at the chart below, which compares the four largest cities with the state as a whole. Bear in mind that three of the four cities – Los Angeles, San Jose, and San Diego – are geographically very large, while San Francisco is not. Those big three cities are, however, running out of land.

The raw numbers are striking. Of all the new housing built in these four cities, 92% was multifamily and only 7% was single family.

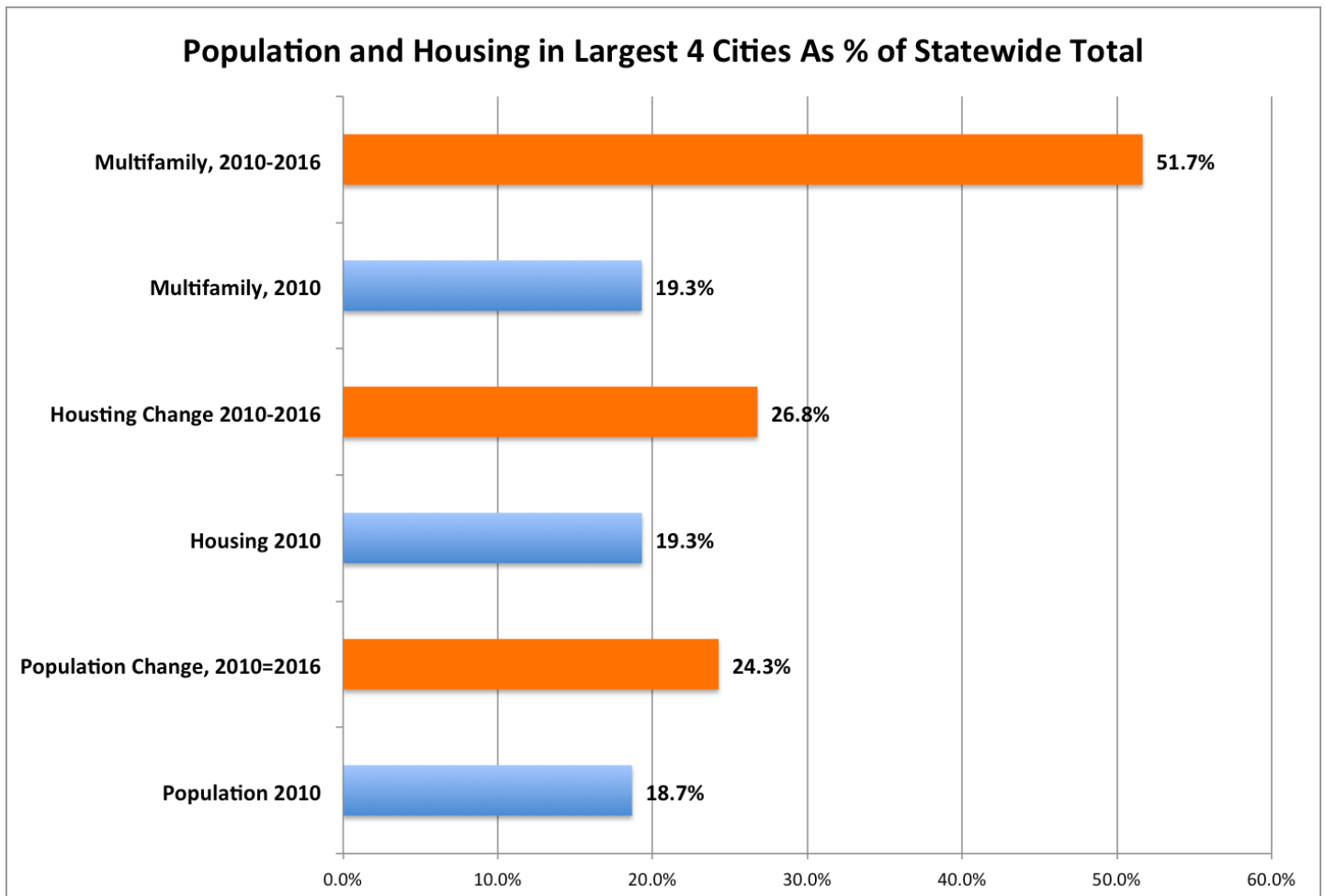
But the numbers relative to the state as a whole is even more striking. Look at the chart below. Blue represents the situation in 2010; orange is the change from 2010 to 2016.

In 2010, these four cities had about 19% of the population and 19% of the housing. But between 2010 and 2016, these four cities added 24% of the population and 27% of the housing. Most strikingly, they added about 52% of the multifamily housing.

In other words, more multifamily housing was built *in L.A., San Jose, San Diego, and San Francisco* than in the *entire rest of California put together*.

This trend plays out with other big cities, at least in coastal areas. Big inland cities are like their surrounding counties. Housing construction in Fresno, Bakersfield, Sacramento, Stockton, and Riverside – the five biggest inland cities – is all overwhelmingly single-family.

So there it is: Bifurcated California. One very identifiable



– CONTINUED ON PAGE 29

## >>> Bifurcated California

– CONTINUED FROM PAGE 28

part of California is getting much denser really fast. One very identifiable part of California is not. It doesn't break out. This doesn't break down perfectly by coastal and inland areas – political culture about land use in places like the North Bay and North County San Diego matter a lot – but the overall trend is clear.

In the long term, the question is not so much how the bifurcation occurs but what it means – not just politically but also in terms of policy, transportation, and lifestyle. For example, as the state's push for a planning policy revolving

around reduction in driving grows, the dense coastal areas will have a huge advantage in competing for money. And the big question is probably whether anti-density politics in the coastal areas will trump pro-density market trends. If the market wins, that means more housing built near job centers, lessening the transportation impact. If anti-density politics wins, that means more housing gets pushed inland. More people will be living in single-family homes, but they'll be driving a long way to work. Whether they will be happy or not remains to be seen. ■



IS ON TWITTER AND FACEBOOK!

Please follow our tweets @Cal\_Plan,  
and search for us and become a fan on Facebook.



## Tom Hayden Is Gone, But Will the Westside Make It to the 21st Century?

On the day after [Tom Hayden died in Santa Monica](#), I went on the California APA's tour of station-area development along the Expo Line on Los Angeles's Westside. It was a bit of a homecoming for me, because my life in Southern California began and ended within spitting distance of that line and despite all the years in Ventura so much of what went on in between was all tangled up with the Westside.

The tour made me realize how much has changed on the Westside – even in the last few years, but certainly since I first met Tom Hayden 35 years ago. Two things struck me.

The first – especially at our first stop at the Culver City station -- is the weird and ever-changing relationship between the Westside and the car. Yes the Westside is rich and hip, and yes ridership on the Expo Line is exploding. (Monday was the first day the line ran on six-minute headways.) Nevertheless, automotive carcasses are littered everywhere on the Westside, and folks there are obsessed beyond all reason with moving them and storing them.

The second – especially at our last stop at Bergamot Station – is how thoroughly the Tom Hayden-era model of urban development, if you want to call it that, is now being rejected by the people of Santa Monica. Hayden, of course, was the godfather of the left-wing faction that took over Santa Monica on a rent control platform in 1981 and he represented the Westside in Sacramento for almost 20 years. For decades, the deal for developers in Santa Monica was simple: We'll give you what you want if we can extract enough community benefits from you. (In fact, this was the topic of [my master's thesis in urban planning at UCLA](#), which formed the basis of Chapter 1 of *The Reluctant Metropolis*.) But the recent debacle at Bergamot – including the city council's decision to un-approve the big Hines mixed-use project and the subsequent slow-growth measure on the ballot this fall – has made it clear that this deal won't work any more on the Westside.

If you add these two things together, it paints a pretty

interesting picture of how the Westside has evolved, how much it struggles these days with being a victim of its own success – and how much the Westside slides back into 20<sup>th</sup> Century thinking when the going gets tough.

The minute-by-minute, hour-by-hour surface street gridlock on the Westside is awesome to behold, almost as if it were one of the seven wonders of the world. Which is, of course, why the Expo Line is so successful. And yet ...

Our first stop was at the Culver City station, near Helms Bakery. Culver City is doing a great job of station-area planning and the resulting district is going to be an excellent walkable neighborhood with strong connections to downtown Culver City. (For example, Lowe Enterprises' plans for Ivy Station [look really good](#).) But the most amusing part of our visit there was [the automated parking garage](#) at the old Helms Bakery, which owner Wally Marks and his family have lovingly transformed into modern office and retail space.

The parking garage is, indeed, impressive. Once automatically parked using a lift, the cars are moved around the garage based on the established patterns of the drivers. If you don't use your car during the day, it gets shuffled to the back; if you are in and out, it stays in the front. Your car will be gradually moved closer to the exit as the clock the time you typically leave work. And retrieving a car, even from an upper floor, takes a matter of seconds.

But as I watched and listened – and Wally and his staff and consultants couldn't stop talking about how great the garage was – I kept thinking that this must have been how IBM talked about how great the Selectric typewriter was right before the personal computer was invented. Yes, the Helms garage is all about efficiency – but it's about *storing* and *retrieving* cars efficiently. Whereas the buzz in urban circles worldwide is about Uber, car-sharing and autonomous cars – that is, *using* cars more efficiently, so that you don't need to store or retrieve them in the first place.

## Tom Hayden Is Gone, But Will the Westside Make It to the 21st Century?

– CONTINUED FROM PAGE 30

In New York and San Francisco these days, you are how you ride or where you go. On the Westside, you are still what you drive. *So 20<sup>th</sup> Century.*

And that was part of the reason it was pretty refreshing to move on to the next stop – the Bundy station – and hear Dan Martin, a third-generation car dealer, bitch about parking requirements and talk about creating a walkable environment.

When I first moved to L.A. in the early ‘80s, I lived walking distance from the Martin Cadillac dealership at Olympic and Bundy – not that you would have wanted to actually walk to Martin Cadillac in those days. (Take my word for it: Then, as now, I didn’t own a car.) After almost 50 years on this 5-acre site, Martin Cadillac will soon give way to [Martin Expo Town Center](#), a 10-story project with 500 residential units, 200,000 square feet of creative office space, and 100,000 square feet of retail, which will probably include a high-end grocery store.

The visit was a good reminder that car dealers are often sitting on the best properties in transit-rich neighborhoods, and the best ones are smart enough to realize that as they become retail dinosaurs that real estate is their biggest asset. The Bundy stop is still pretty much an amenity desert, but between the Expo Line and big office buildings that pre-date it, the pedestrian traffic is already pretty good. At lunchtime today I saw maybe 30 people walking around at Olympic and Bundy, an intersection that features not only Martin Cadillac but a bunch of gas stations and convenience stores.

One stop to the west is Bergamot Station, which features a combination of hip galleries and other arts businesses,

**Yes, the Helms garage is all about efficiency - but it's about storing and retrieving cars efficiently. Whereas the buzz in urban circles worldwide is about Uber, car-sharing and autonomous cars – that is, using cars more efficiently, so that you don't need to store or retrieve them in the first place.**

high-end creative office businesses located in old industrial buildings, and traffic-spewing office towers from the 1980s. My life in L.A. may have begun down the street near Martin Cadillac, but it ended here 32 years later, when I was one of the principals in charge of the [Bergamot Area Plan](#) for the firm now known as Placeworks.

And I do mean ended, because that plan – and some of the development projects that might have been built near the station – suffered the most ignominious fate of any planning effort in Southern California in recent memory. With it died the Tom Hayden-era idea of soaking the developers to get social goods, which has apparently been replaced by the pretty retro planning idea that doing nothing is usually better than doing something.

The plan was supposed to build on Santa Monica’s vaunted 2010 LUCE (Land Use and Circulation Element). The LUCE, which supposedly had broad public support, was built on the concept of “tiers” – the idea that developers could get higher “tiers” of density in exchange for providing more community benefits. The LUCE was the ultimate manifestation of the Hayden-era development-for-goodies formula that was developed by the first progressive leaders in Santa Monica back in the ‘80s: Sure, we’ll give you the density for whatever the market is demanding (office, housing, retail) so long as you give us lots of social benefits in return. This was pretty radical stuff back in the ‘80s, when most people’s idea of urban planning activism was to just shut down new development. And despite the fact that Hayden and his buddies had a reputation for being socialists, it requires a pretty deft understanding of capitalism to make this idea

– CONTINUED ON PAGE 32

## Tom Hayden Is Gone, But Will the Westside Make It to the 21st Century?

– CONTINUED FROM PAGE 31

work. You have to know just how hard to squeeze the developers, so you still get the goodies and the developers don't go away.

Over time, as capitalism has taken over the Westside, the argument for a bigger squeeze has only increased. Today in Santa Monica, the market is so strong that developers will pay almost literally any price for entitlements.

Except that this isn't what happened when Hines proposed a major mixed-use project on Olympic Boulevard right across the street from Bergamot Station. The project was arguably not the best designed project ever, though it dramatically improved pedestrian connectivity and publicly available open space in the area. Nor, apparently, did Hines do an especially good job selling it to the neighbors. The bottom line was that just before the 2014 local election, the city councilmembers up for re-election rescinded approval of the development agreement to save their own skin. And then, subsequently, [they also backed off a lot of the good stuff contained in the LUCE](#).

Save their own skin they did, at least for now, but at a cost. Hines sold the land and the existing Papermate factory is now being retrofitted – meaning there is still a 1,200-foot wall along Olympic Boulevard and no sidewalk. Yes, the latest biggest project on Olympic Boulevard went away. But so did all the goodies. And so, by the way, did a lot of developers who could have been squeezed.

Meanwhile, the defeat of the Hines project infected the entire Bergamot plan, and many of the other things that would have created better connectivity and a mixture of activities went out of the plan. The status quo, however imperfect, was judged to be better than anything new.

In a certain way, you can't blame Santa Monica's residents for taking such an anti-growth attitude; after all, they've been hammered with job-related traffic for 30 years. But in rejecting dense 21st Century mixed-use growth, they are stuck with 20th Century problems, like no sidewalks, no connectivity, and even no restaurants.

They also, by the way, have no affordable housing and none of the other things that the Hayden-era activists in Santa Monica wanted, because they are stuck with the 20th Century solution of simply retaining the status quo.

So even as Hayden – perhaps the prototypical 20th Century lefty intellectual – slipped away in a hospital a short distance away, the section of Los Angeles that he loved remains mired in 20th-Century thinking. Unfortunately, it's not the 20th Century anymore.

A personal postscript about Hayden: He always took an interest in my work and often quoted me, which on occasion could be pretty embarrassing. For example, one night I was walking down the street in Sacramento with a bunch of Central Valley Republicans when Tom, then a state legislator, hailed me as he was getting out of his car and yelled that he had quoted me in a hearing that day when he was railing against increasing cross-Delta water transfers. We talked briefly, and I pivoted back to discussing farmland with the Republicans as fast as I could.

Still, I couldn't help but like the guy. To me, he was generous to a fault. I well remember the time he hosted a small event at his house when *The Reluctant Metropolis* came out. Afterward, I tried to give him a copy, but he pulled a twenty and a five out of his wallet and thrusting the cash into my hand. "I know what it's like to have to buy books from a publisher and then give them away," he said. Maybe the guy appreciated capitalism more than he let on -- and more than Santa Monica's current community activists.

– WILLIAM FULTON | OCT 25, 2016 ■

## Paradigm Shift From The California Riviera

At first blush, the rest of California may not have much to learn from a high-priced, semi-isolated Spanish Revival paradise by the sea. But, roughly halfway through this week's [conference](#) of the American Planning Association California Chapter, held in Pasadena, Santa Barbara yielded what might be the conference's two most compelling pieces of data:

- Among all the people who live in Santa Barbara's downtown core and immediate surrounding neighborhoods, 10 percent commute outside the city for work.
- Among all the people who work in downtown Santa Barbara, 39 percent commute into the city from somewhere else.

Hm.

These numbers come from Rob Dayton, principal transportation planner in the Santa Barbara Department of Public Works. They illustrate a truism that planners in big cities know well but that is counterintuitive to many suburban planners and — more importantly — to many of the opponents of growth in center cities. Dayton's numbers attest to the jobs-housing imbalance, in all its Mediterranean glory. (CP&DR doesn't cover Santa Barbara very often — in part because, being built-out, it doesn't have a lot of development.)

This data lead to an obvious conclusion: the more residents a downtown accommodates, the less driving there is in the aggregate. That's doubly true if you believe in a world in which people do not equate self-worth with a steering wheel.

Santa Barbara is acting on this data sensibly: by encouraging development — commercial and residential — in its downtown core. Though Santa Barbara's street grid that is saturated, as Dayton said, a development's traffic impact depends largely on its location. He expects that developments in the core will generate half the traffic of developments in outlying areas of the city.

This is exactly the kind of logic that eludes many of the opponents of development. In Santa Monica, for instance, voters will soon consider a ballot measure, Measure

LV, that would all but freeze residential development. Proponents argue in part that development automatically incurs traffic and they fight like mad against it, ignoring the fact that the people with the most incentive to occupy new units are exactly those who are commuting into Santa Monica. Meanwhile, the westbound Interstate 10 looks like an evacuation route every morning.

Disregard for the jobs-housing imbalance is much the same in Los Angeles, where traffic gridlock is cited as the reason to oppose pretty much everything, especially in sites in West L.A. that would likely house — you guessed it — workers who commute to Santa Monica.

Dayton's Santa Barbara data is of course no revelation for anyone who has paid any attention to center cities in the past decade. But his way of getting around the NIMBY freakout is. He's using vehicle miles traveled (VMT) measurements rather than level of service (LOS).

That change, which will be blessed statewide with the imminent implementation of SB 743, enables the city to essentially evaluate traffic impacts — and, crucially, CEQA analysis — from potential development in its entire downtown area in one fell-swoop. (The conference's host city, Pasadena, happens to have been the first city in California to implement VMT metrics; see CP&DR [coverage](#).)

Dayton said the impacts of any particular downtown development can be performed “on the back of a napkin.” That's because VMT enables the city to account for the non-impact of all those downtown workers who, with closer-in housing, will no longer be gumming up intersections after they spill off Highway 101.

Dayton stressed that Santa Barbara's plan is new and not yet implemented. But if a place as near-perfect as Santa Barbara can accept that, sometimes, a little development can be a good thing, maybe there's hope yet for the rest of coastal California.

– JOSH STEPHENS | OCT 24, 2016 ■

## McKinsey's Cure for California's Housing Woes

While the footsoldiers in the efforts to plan cities (and add housing) were grinding away in Pasadena at the American Planning Association [conference](#), a different audience was discovering a challenge that planners have known about for years.

Yesterday, McKinsey and Co. released [A Tool Kit to Close California's Housing Gap](#), which offers its take on California's housing crisis. It was a focal point of a session I attended at yesterday's Milken Institute [California Summit](#), moderated by none other than Jonathan Wotzel, director of the McKinsey Global Institute. McKinsey's conclusion: California doesn't have enough housing. How's that for a news flash?

Perhaps the only thing new about the report was its [audience](#). The people who pay attention to McKinsey (who are much the same people that attend Milken Institute events) are probably different from those who usually pay attention to government reports. And they wear more expensive suits.

I approach that with explicit sarcasm because, of course, every planner in California already knows this. So does nearly every renter and every homebuyer in the sub-\$5 million market. The crisis has been studied and described by nearly every major university in the state and acknowledged by nearly every major think tank and nonprofit that deals in land use. The Legislative Analysts Office put out two major [reports](#) last year.

What's been missing, in many cases, is political will and, let's face it, political leadership. While majors like Los Angeles's Eric Garcetti and Oakland's Libby Schaff have forcefully called for more housing, leaders in many other cities are acting like they hope the whole thing will just go away. Fortunately, that kind of willful ignorance is getting increasingly difficult to pull off.

The panelists at the summit offered anecdotes and analysis — much of it excellent -- that would sound like old hat to most planners. To folks who haven't considered the housing crisis and especially the influence of anti-growth stakeholders, it must have been terrifying.

- Scott Laurie of the Olson Co. described the woes of a developer. He described a 58-unit by-right project in the City of Orange that, though it conformed to the zoning code, got cut in half because of the objections of a single neighbor. Then there's a project on the San

Gabriel-Rosemead border. The Rosemead City Council told him up-front that it would nix its portion of the project if a *single* constituent objected to it. Guess what happened there.

- Assemblymember and former Santa Monica City Councilmember Richard Bloom said that would-be housing developers are bailing out and selling sites to commercial developers because — for reasons that defy logic — neighbors don't protest commercial but treat residential like it's toxic waste. "There's this idea that housing doesn't pay," said Bloom. "Commercial pays." This, despite the fact that residential typically generates less traffic.
- Carol Galante, former Federal Housing Administration official and current professor at UC Berkeley, said "it's hardest to build where the jobs are" and summed up the situation neatly: "the way we do land use in California is not normal."

McKinsey, of course, has some recommendations for normalizing the situation. Normal to the tune of 3.5 million units by 2025. That's the number that the report thinks California can reach with a few nips and tucks to its land use policies.

They want cities to identify housing "hot spots," like places near transit and with vacant lots; make approvals quicker and less complex; promote affordable housing; and reduce the cost of constructing and operating multifamily housing complexes. Again, not exactly news.

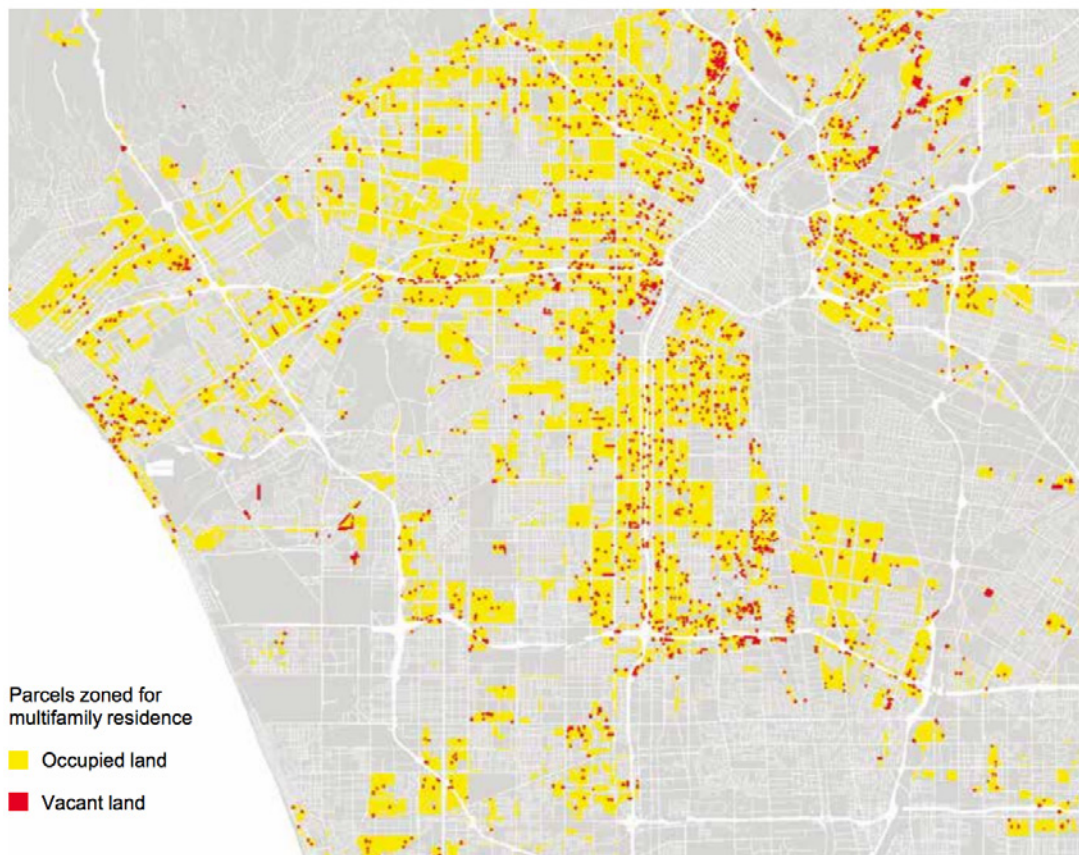
Among the "hot spots," McKinsey estimates that up to 3 million units can be built statewide around transit hubs. The recommendation that has drawn the most [attention](#) is that of building on vacant lots that are already zoned for development. McKinsey says there are scads of them in center cities.

Well, of course there are. No one ever said California's housing shortage was due to lack of land, vacant or otherwise. Planners have been encouraging cities to embrace density for ages. SCAG released its "[two percent strategy](#)", advocating for the region's future development to take place on two percent of its land, in 2004. McKinsey's recommendation is therefore odd, kind of like saying you should feed the homeless with the burritos in your freezer.

## McKinsey's Cure for California's Housing Woes

– CONTINUED FROM PAGE 34

**Los Angeles County has 5,600 to 8,900 vacant parcels zoned for multifamily use, with zoned capacity for 32,000 to 75,000 units**



NOTE: Vacant parcels shown larger than actual size to improve legibility.

SOURCE: Los Angeles County GIS Data Portal; McKinsey GIS analysis; McKinsey Global Institute analysis

Unfortunately, unless McKinsey is recommending the biggest eminent domain taking in history, the state can't compel land owners to build so much as a doghouse. Prop. 13 ensures that land owners have nearly zero carrying costs, and California cities don't have land value taxes.

McKinsey's most provocative recommendation would be to try to, finally, make the Regional Housing Need Allocation mean something. They recommend that the state offer a combination of incentives and penalties for cities that fail to meet their RHNA numbers. This might include withholding state property tax allocations for cities that flout their housing obligations and giving grants and bonuses to those that exceed them. Currently, "RHNA is a joke to a lot of cities. There's no enforcement," said Galante.

It's hard to imagine how all this would happen given the current political climate and the temperament of stakeholders. As Galante noted, homeowners, not renters, are typically the ones who vote in local elections in California. That means that people like consulting firm partners and captains of finance are the ones with the real power. They're the ones who vote, donate, and, often, protest against new development. They're the ones who have heretofore pressured cities into the status quo. Now that they know there's a problem, maybe they'll try to do something about it.

– JOSH STEPHENS | OCT 27, 2016 ■