CP&DR

VOL. 32, NO.4 — ARPIL 2017

CALIFORNIA PLANNING & DEVELOPMENT REPORT

Post-Recession, Master Planned Communities Come Back To Life

BY JOSH STEPHENS

Up to the year 2000 or so, through the headiest days of growth in the Inland Empire, the 13 square miles between Ontario and Chino now known as Ontario Ranch had a population of over 300,000. If all goes according to plan, it will have roughly 150,000 by the midpoint of this century.

Despite this dramatic decline, Ontario Ranch is not some woebegone Rust Belt city. Indeed, it is experiencing not so much one of population so much as it is a change of species: from cattle to human.

What it does not represent, however, is much of a change in California's development patterns.

In decades past, outer suburban areas like the Inland Empire, inland San Diego County, Sacramento's rural

– CONTINUED ON PAGE 12

Hemet Downtown Plan Taps Into History, Mobility

BY JOSH STEPHENS

In 1883 novelist Helen Hunt Jackson visited what is now the City of Hemet in 1883 to do research for what became her novel Ramona. The title character is orphaned in Southern California following the Mexican-American War and finds adventure and romance on the frontier. Her story drew thousands of easterners weary of toil and strife and inspired countless readers to pursue the Southern California dream.

Had Jackson landed in present-day Hemet, though, she might chosen a different setting for her heroine.

The orange groves and soaring peaks that greeted Jackson gave way long ago to the tract housing, freeways, and big-box stores that characterize much of the Inland

– CONTINUED ON PAGE 19

inside

IN BRIEF: ..... *Page 2*

LEGAL DIGEST:
- Zoning code changes don't constitute one project under CEQA ..... *Page 7*
- Court affirms municipalities deserve great deference in findings ..... *Page 9*

NEWS:
- Master planned community sidebar: The List ..... *Page 17*

FROM THE BLOG:
- Developers aren't evil after all ..... *Page 22*

$52 Billion Transportation Funding Bill Passes

After an intense week of lobbying, largely on the part of Gov. Jerry Brown, the state legislature passed a $52 billion transportation plan that will raise gas taxes to fund road projects. The bill passed with the bare minimum two-thirds, with 27-11 in the Senate and 54-26 in the Assembly. The base gasoline excise tax will increase by 12 cents, creates a transportation improvement fee based on the value of a vehicle, and raises diesel excise and sales taxes. Estimates indicate that Senate Bill 1 will provide hundreds of thousands of jobs and stimulate the economy. Gov. Brown estimates that the higher fuel taxes and fees would increase costs by about $10 a month for the average motorist. Lobbying for the package included what the L.A. Times describes as "side-deals." These include $400 million for an extension of the Bay Area commuter rail line, the Altamont Corridor Express, and $100 million parkway project between UC Merced and Highway 99 in Sen. Cannella's district of Merced. The measure also provides $427 million for transportation projects in Riverside County. Environmental groups came out against the governor's proposal because of a provision that would give the trucking industry a break on future antipollution rules. Because of the increase in gas tax, the California Trucking Association won a provision that prevents clean-air agencies from imposing new pollution reduction requirements on existing trucks until the vehicles are 18 years old or have 800,000 miles. The Brown administration counters that the bill includes more than $8 billion in the first 10 years to improve the environment with expanded mass transit, bike and pedestrian facilities.

ABAG/MTC Release Draft of Bay Area SCS

The Association of Bay Area Governments and the Metropolitan Transportation Commission released draft Plan Bay Area 2040. The plan is an updated long-range Regional Transportation Plan and Sustainable Communities Strategy for the nine-county Bay Area. The previous iteration was adopted in 2013 as a result of the California Sustainable Communities and Climate Protection Act of 2008 (Senate Bill 375). The result of two years of planning, Plan Bay Area 2040 continues a "no sprawl" vision with a focus on infill areas near transit for more walkable neighborhoods, and it attempts to identify transportation and land-use strategies that promote sustainability, equity, and economic vitality. According to the plan, 77 percent of new homes and 55 percent of new jobs are focused within Priority Development Areas, which are designated infill areas close to transit. Some critics contend that the plan will not do enough to make the region's housing more affordable. There will be nine open houses, one in every county in the region. Additionally there will be three public hearings: San Jose May 16, Vallejo May 18, and San Francisco May 12. The comment period for all documents will close Thursday June 1. (See prior CP&DR coverage of second-generation SCS›s.)

Brown Appoints Three to Coastal Commission

Gov. Jerry Brown made appointments to fill three vacant positions on the California Coastal Commission. Ryan Sundberg, a member of the Humboldt County Board of Supervisors since 2010, replaces Martha McClure, who was forced to leave when she was not reelected to the Del Norte County Board of Supervisors. Donne Brownsey, from Fort Bragg, replaces Wendy Mitchell, who resigned last year. Earlier this month, San Francisco Supervisor Aaron Peskin was appointed to fill the seat of former Marin County Supervisor Steve Kinsey, who stepped down

– CONTINUED ON PAGE 3

CP&DR

William Fulton
Editor & Publisher

Josh Stephens,
Morris Newman, Kenneth Jost
Contributing Editors

Susan Klipp
Fiscal Officer

Talon Klipp
Office Manager
Graphics & Website

is published semi-monthly by

Solimar Research Group
Post Office Box 24618
Ventura, California 93002

Phone / Fax: 805.652.0695

Subscription Price: $238 per year

ISSN No. 0891-382X

Visit our website:
WWW.CP-DR.COM

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

– CONTINUED FROM PAGE 2

when he was not reelected as supervisor. Brown selected Coastal Commissioner Effie Turnbull Sanders to be the panel's environmental justice representative, a position that was created by the State legislation last year. The bill requires a commissioner to live in and work with communities that are disproportionately burdened by pollution and other environmental problems.

SCAG Adopts Regional Transportation Plan / SCS

The Southern California Association of Governments (SCAG) adopted the 2016-2040 Regional Transportation Plan/Sustainable Communities Strategy (2016 RTP/ SCS). The plan demonstrates how the region will reduce emissions from transportation sources to comply with Senate Bill 375 (SB 375) and meet the National Ambient Air Quality Standards set forth by the federal Clean Air Act. The 2016 RTP/SCS is a Project List containing thousands of individual transportation projects that aim to improve the region's mobility and air quality and revitalize the economy. Since the plan's adoption, some of these projects have experienced technical changes that are time-sensitive.As a result, amendments to the 2016 RTP/SCS and the Federal Transportation Improvement Program (FTIP) are needed in order to allow these projects to move forward in a timely manner. SCAG's Transportation Committee approved the release of the Draft 2016-2040 Regional Transportation Plan/ Sustainable Communities Strategy Amendment #2 and the Draft 2017 Federal Transportation Improvement Program Amendment #17-07. There will now be a 30-day public review and comment period ending May 8. Public hearings will be held in Los Angeles April 25 and will be accessible via videoconference from any of SCAG's regional offices.

Appeals Court Upholds Cap-and-Trade Program

An appeals court has upheld California›s cap-and-trade program, preserving what supporters say is a crucial source of funding for the state's efforts to combat climate change. Two judges on the three-judge panel sided with state officials who argued the program is within its authority to regulate the industry through permits to release GHG emissions. The dissenting judge contended the cap-and-trade functioned as an unconstitutional tax. The suit was brought by business groups, including the California Chamber of Commerce, that contended that the program was an unfair burden on businesses. The decision could still be appealed to the California Supreme Court. Cap and trade funds contribute to land use programs such as the Affordable Housing and Sustainable Communities grant program.

Phase 1 of Salton Sea Management Plan Released

The California Natural Resources Agency has released the first phrase of a long-awaited management plan to halt the degradation of the Salton Sea. Under the Salton Sea Management Program Phase 1 10-Year Plan, the first projects are to restore areas where migrating birds once proliferated and to control toxic dust storms that arise from the permitter of the lake. Costing $383 million, the phase includes building a series of ponds and water-transfer systems across about 29,000 acres that would cover up stretches of dusty lakebed. The sea has been shrinking for years and is considered to be nearly "dead» ecologically. Last year, the legislature approved $80.5 million for Salton Sea projects. Critics of the plan worry about how the it will be funded, as much of the funding has to be approved by the legislature, and whether the state can be held accountable if it fails on its commitments to protect public health and habitat. Various options are being studied, such as building a "perimeter lake" that would stretch 60 miles along the lake's west shore, importing water from the Sea of Cortez or brackish groundwater from elsewhere. The Salton Sea is one of the most important wetlands along the Pacific Flyway and supports nearly 90 percent of the migratory route's American white pelicans and eared grebes. While this first phase is recognized as providing temporary solutions, it is a first step in the right direction.

Report Examines Relationship between Infill Development and Displacement

Researchers at UC Berkeley and UC Los Angeles released a report (pdf), "Developing a New Methodology for Analyzing Potential Displacement" that seeks to evaluate the potential negative social equity impacts that result from Senate Bill 375, which promotes infill. Senate Bill 375 caused more regions across the state to pursue compact, transit-oriented development (TOD) as a strategy to achieve GHG emission reductions

– CONTINUED ON PAGE 4

– CONTINUED FROM PAGE 3

through their sustainable communities strategy. The report examines the relationship between fixed-rail transit neighborhoods, TOD, and displacement in Los Angeles and the San Francisco Bay Area and the effectiveness of anti-displacement strategies. The results found that TOD can destabilize surrounding neighborhood as housing costs tend to increase, demographic composition of the area changes, and results in the loss of low-income households. This study shows a significant and positive correlation between TOD and gentrification, particularly in downtown areas and core cities.

Climate Change Threatens Up To 67 Percent of S. California Beaches

A study from the U.S. Geological Survey predicts that, "with limited human intervention," 31 to 67 percent of Southern California beaches could be completely eroded by 2100 with sea level rises of 3 to 6.5 feet. According to the study, complete erosion means the beaches would recede up to either cliffs or existing structures along the shore. While the sand and beaches are seen as summertime destinations for residents and tourists alike, the sand also serves as a protective barrier for the man-made structures onshore. The necessary steps to protect the beaches are "massive and costly" according to USGS geologist and study coauthor Patrick Barnard. These steps include increasing the rate sand is added to replenish existing beaches, which costs Malibu's Broad Beach $31 million to add 2,000 truckloads.

Developer Sues San Diego Convention Center

Developers of a luxury bayfront hotel proposed for the site have sued the San Diego Convention Center over provisions in an upcoming ballot measure that, they say, would illegally impair their plans. Fifth Avenue Landing, which has a ten-year lease on the property, will seek a 66-year extension once building permits are approved for the 44-floor hotel. The lawsuit accuses the Convention Center of interfering in their permitting process and undermining plans for a four-star, $300 million hotel. San Diego Mayor Kevin Faulconer's initiative to raise hotel taxes to generate $685 million for an expanded convention center began last week after the failure of the "Convadium" ballot measure in November. Some of the generated funds would go to improving roads and reducing homelessness. However, the ballot initiative does not include plans for the city to control where an expansion would occur. Fifth Avenue Landing claims that the ballot measure would give the city an excuse not to extend its lease and, instead, reclaim the parcel where its hotel would be developed. (See prior CP&DR coverage.)

Lawsuit to Promote Housing In Lafayette Struck Down

A Contra Costa County Superior Court judge ruled against activists who filed a lawsuit against the City of Lafayette. The group, San Francisco Bay Area Renters Federation (SFBARF) alleged that Lafayette violated the state's Housing Accountability Act by approving a smaller housing development rather than a larger apartment complex. Part of a larger movement to increase the region's housing supply, the suit became known as "Sue the Suburbs." The developer, O'Brien Homes, initially proposed 315 apartments but in the revised plans that were approved, included only 44 single-family homes, which would be more expensive. SFBARF argued the city pressured the developer to reduce the size of its project, to prevent potential renters from moving to Lafayette. The city says it has over 500 apartment units completed or in the pipeline, particularly downtown near BART and public transit.

Raiders to Move to Las Vegas; Oakland May Sue

After years of negotiations and failed attempts to renovate – with minimum public funding – the Oakland Coliseum, NFL owners voted, 31-1, to allow the Raiders to move to Las Vegas. This will be the team's third move in 35 years. The team will remain in the Coliseum for the next two seasons, and potentially a third. In Las Vegas there are plans to build a $1.9 billion stadium on 63-acre site near the Strip and the Raiders would need to agree to a 30-year lease with the Stadium Authority. The Raiders have secured a $650 million loan from Bank of America and plan to contribute $500 million from personal seat license sales, naming rights and a $200 million loan from the NFL through its stadium upgrade program. Raiders officials claim that a rent increase, to $3.5 million annually from $900,000 annually cemented their decision to move the team. Oakland Mayor Libby Schaaf said the city may consider legal action against the Raiders, founded on the idea that the team did not negotiate in good faith. ■

legal digest

City Can't Punt On Banning Ranch ESHAs In EIR, Appellate Court Rules

BY WILLIAM FULTON

The City of Newport Beach should have considered the probable footprint of environmentally sensitive habitat areas (ESHA) in its environmental impact report for the controversial Banning Ranch property, the California Supreme Court has ruled.

The court overruled the Fourth District Court of Appeal's 2015 split decision upholding the city's actions. "the City's failure to discuss ESHA requirements and impacts was neither insubstantial nor merely technical," wrote Justice Carol Corrigan for a unanimous court. "The omission resulted in inadequate evaluation of project alternatives and mitigation measures. Information highly relevant to the Coastal Commission's permitting function was suppressed. The public was deprived of a full understanding of the environmental issues raised by the Banning Ranch project proposal."

She added: "The City's approach, if generally adopted, would permit lead agencies to perform truncated and siloed environmental review, leaving it to other responsible agencies to address related concerns *seriatim*."

Because the court found the EIR inadequate, it did not address underlying general plan issues that the appellate court ruled on.

The Banning Ranch controversy has dragged on for several years. Banning Ranch is a 400-acre parcel of land located on a coastal bluff where the Santa Ana River flows into the Pacific Ocean that was formerly the site of oil drilling. The development plans calls for remediation of the oil drilling's damage, as well as construction of 1,375 residences, 75,000 square feet of retail space and a boutique hotel to be built on approximately one-quarter of the property.

The city has done a delicate dance on the project in recent years, certifying an EIR and "approving" the project even though the city's Coastal Land Use Plan (CLUP) refers to Banning Ranch as a "deferred certification area," meaning that true project approval requires the Coastal Commission to approve CLUP amendment. The Coastal Commission rejected that amendment last September and the developers, an LLC created by Aera Energy, sued that action as well.

The 2016 appellate ruling dealt with two issues: whether the city should have "coordinated" with the Coastal Commission more closely in approving a general plan amendment to allow the project and whether the EIR should have identified and analyzed ESHAs. The majority ruling in the appellate court upheld the city's action on both counts, saying in the case of the EIR that because Banning Ranch would require separate Coastal Commission certification (presumably with separate environmental review) there was no need to examine the ESHAs in the general plan EIR. The Supreme Court reversed on the ESHA issue and did not reach the general plan issue.

The crux of the ESHA issue concerned the location and size of a road that would both the development project and a city park being developed as part of the project that was the subject of a previous appellate ruling. The road had the potential to interfere with habitat for the California gnatcatcher, the bird species that originally stimulated California's endangered species wars in the 1990s. The Coastal

– CONTINUED ON PAGE 6

>>> City Can't Punt On Banning Ranch ESHAs In EIR, Appellate Court Rules

– CONTINUED FROM PAGE 5

Commission tried to get the city and the developer to restore habitat along either of the road, but the city would not agree to those terms. (Making the issue more complicated was the fact that the landowner leased some of the property to a contractor doing utility work for the developer and the contractor in turn damaged some of the gnatcatcher habitat. The Coastal Commission then issued a "consent order" requiring the city and the developer to restore the habitat. In the process, a Coastal Commission biologist identified tentative ESHAs.)

When the city produced the draft EIR for the Banning Ranch project, it did not include any substantive discussion of possible ESHAs, though it did note that the project would require approval from the Coastal Commission, which *would* have to identify ESHAs. The city said that only the Coastal Commission can determine ESHAs, but the Coastal Commission staff argued that the city was obligated in the EIR to consider the probable boundaries of ESHAs and conduct and impact and mitigation analysis on that basis. The city, in turn, argued that under the terms of the consent orders, the ESHA identification and analysis would be conducted by the Coastal Commission.

Even though the split appellate court upheld the city, the unanimous Supreme Court shot it down in no uncertain terms – relying on the fact that under the CEQA Guidelines the city is required to "integrate" its planning processes with other laws.

"The City's approach, if generally adopted, would permit lead agencies to perform truncated and siloed environmental review, leaving it to other responsible agencies to address related concerns *seriatim*."

"Essentially," wrote Justice Corrigan, "the City claims it was entitled to ignore the fact that Banning Ranch is in the coastal zone. The City's position is untenable. CEQA sets out a fundamental policy requiring local agencies to 'integrate the requirements of this division with planning and environmental review procedures otherwise required by law or by local practice so that all those procedures, to the maximum feasible extent, run concurrently, rather than consecutively.' (§ 21003, subd. (a).)

She added: "[T]he City's EIR omitted *any* analysis of the Coastal Act's ESHA requirements. It did not discuss which areas might qualify as ESHA, or consider impacts on the two ESHA delineated in the Coastal Commission's consent orders. As a result, the EIR did not meaningfully address feasible alternatives or mitigation measures.[1] Given the ample evidence that ESHA are present on Banning Ranch, the decision to forego discussion of these topics cannot be considered reasonable." ■

The Case:

Banning Ranch Conservancy v. City of Newport Beach, No. S227473 (March 30, 2017)

The Lawyers:

For Banning Ranch Conservancy: John G. McClendon, Leibold McClendon & Mann, **john@ceqa.com**

For City of Newport Beach: Whitman F. Manley, Remy Moose Manley, **wmanley@rmmenvirolaw.com**

Zoning Code Changes Aren't One Project, Court Rules

BY WILLIAM FULTON

One of the most nebulous areas of the California Environmental Quality Act is what's a separate project and what's not. Under CEQA, lead agencies can't piecemeal projects in order to avoid dealing with impacts.

In a new ruling from Santa Cruz County, the Sixth District Court of Appeal provides some guidance: Several different changes to the county zoning ordinance are, indeed, separate projects because they can be implemented independent of one another. And cumulative impact analysis requirements will ensure that any overlapping impacts are examined.

The Aptos Council -- a citizen group in the unincorporated seaside community of Aptos near Santa Cruz – sued Santa Cruz County over the CEQA analysis associated with a wide variety of code changes. These included changes in the way the county allows exceptions to site standards that the county characterized as minor (such as reducing setbacks and increasing lot coverage), which was handled with a negative declaration and a subsequent addendum; changes to the hotel ordinance (decreasing the parking requirement among other things), which was handled by a separate negative declaration; and changes to the sign ordinance, which the county declared exempt under four different CEQA sections.

The Aptos Council sued, saying that the county's ongoing overhaul of its zoning code should be considered one project of which these three changes are a part. For that reason, the Council said, the county's exemptions and negative declarations represented impermissible piecemealing under CEQA.

The Sixth District ruled in favor of the county and in so doing provided pretty clear guidance to lead agencies on how to approach the question of piecemealing, especially in a wide-ranging effort such as a zoning code overhaul.

"Although the ordinances can be considered a part of what the County characterizes as its efforts toward regulatory reform of various zoning ordinances," wrote Justice Eugene Premo for a uninamous three-judge panel, "each of the contemplated ordinances are separate and apart from each other. In other words, they serve different purposes.

Premo's opinion is a cook's tour of relevant case law, both recent and of long-standing.

Most specifically, Premo relied heavily on his interpretation of the Fourth District's ruling in the first Banning Ranch case_(*Banning Ranch Conservancy v. City of Newport Beach* (2012) 211 Cal. App.4th 1209, or *Banning Ranch I),* which also dealt with CEQA piecemealing. In *Banning Ranch I,* the Fourth District concluded that a the controversial Banning Ranch development project and an adjacent park project had different purposes and therefore did not need to be analyzed together.

In the process of relying on Banning Ranch, Premo also reached back almost 30 years to the granddaddy of all CEQA piecemealing caes, *Laurel Heights Improvement Assn. v. Regents of University of California* (1988) 47 Cal.3d 376.

In *Laurel Heights*, the California Supreme Court characterized CEQA as "an environmental 'alarm bell' whose purpose it is to alert the public and its responsible officials to environmental changes before they have reached ecological points of no return." The court ruled that CEQA must analyze the cumulative impact of the project in question as well as all "reasonably foreseeable" projects that may create a cumulative impact. The court also ruled that environmental analysis should be prepared "as early as feasible in the planning process to enable environmental considerations to influence project program and design."

The Aptos Council tried to argue that by treating three code changes as separate projects, the county failed to sound the "environmental

– CONTINUED ON PAGE 8

>>> Zoning Code Changes Aren't One Project, Court Rules

– CONTINUED FROM PAGE 7

alarm bell". But the court disagree – and turned the language of *Laurel Heights* back on the plaintiffs in the process. The court noted that "early environmental review is preferred" but *Laurel Heights* found that "premature environmental analysis may be meaningless and financially wasteful."

Applying Aptos Council's logic would require the County to wait to begin environmental review and implementation of any reform [the county zoning code] until the County has decided precisely what language to use and which ordinances to enact," the court wrote. "The County's effort to modernize certain parts of the County Code is not fixed. Although there are certain codes and ordinances the County has researched and has determined it will amend, the County asserts that specific amendments are far from set in stone. Engaging in a single environmental review this early in the process would therefore be meaningless."

The plaintiffs also tried to rely on another granddaddy CEQA case, to *San Franciscans for Reasonable Growth v. City and County of San Francisco* (1984) 151 Cal.App.3d 61, but that failed as well. In *San Franciscans,* the First District laid down a strong rule for analyzing cumulative impacts. In essence, however, Justice Premo concluded that all the different aspects of the county's zoning overhaul were not foreseeable. "At the time the ordinances were considered, other regulatory reforms that may have cumulative impacts had not yet come to fruition," he wrote. "When future reforms are considered for environmental review, the cumulative impacts of all related reforms, as articulated in the CEQA Guidelines, will be examined. ■

"Although the ordinances can be considered a part of what the County characterizes as its efforts toward regulatory reform of various zoning ordinances," the court wrote, "each of the contemplated ordinances are separate and apart from each other."

The Case:

Aptos Council v. County of Santa Cruz, H042976 (March 30, 2017)

The Lawyers:

For Aptos Council: William P. Parkin, Wittwer Parkin, **wparkin@wittwerparkin.com**

For County of Santa Cruz: T. Brooke Miller, Assistant County Counsel, **t.brooke.miller@santacruzcounty.us**

City Deserves Great Deference on Findings

BY WILLIAM FULTON

In a case involving a historic house on Coronado Island, an appellate court has reinforced the idea that local governments deserve great deference in making findings and shouldn't be second-guessed by judges.

In so doing, the Fourth District Court of Appeal reaffirmed the principles on findings laid out in the two *Topanga* cases -- (*Topanga Assn. for a Scenic Community v. County of Los Angeles* (1974) 11 Cal.3d 506, 514 (*Topanga I*).) and *Topanga Assn. for a Scenic Community v. County of Los Angeles* (1989) 214 Cal.App.3d 1348 (*Topanga II)* – especially the second case, in which the Second District ruled that "findings are to be liberally construed to support rather than defeat the decision under review."

At issue was the proposed demolition of a small bungalow dating from the 1920s. The Planning Commission – and, on appeal, the City Council – designated the bungalow as historic even though the city had previously concluded that similar bungalows built by the same builder dating from the same era were not historic.

Arthur and John Young, trustees for the J.S. Abbott Trust, sued the city. The Youngs argued that the city abused its discretion by denying them a demolition permit, arguing that the findings were not sufficient; the city failed to apply its own mandatory guidelines, and the findings were not supported by sufficient evidence.

The Youngs lost on all counts. "This court's role is not to reweigh evidence, but rather, to determine whether the findings are supported by substantial evidence," wrote Justice Cynthia Aaron for a unanimous three-judge panel.

Under the city's municipal code, a structure may be designated historic if it is at least 75 years old and meets at least two of five criteria contained in the code. The Planning Commission – and, on appeal, the City Council – found that the house met two criteria – Criterion C and Criterion D.

Criterion C requires that city find that the property "possesses distinctive characteristics of the Spanish Bungalow architectural style, and is valuable for the study of a type, period, or method of construction and has not been substantially altered."

Criterion D requires that the city find that the property "is representative of the notable work of a builder, designer, architect, artisan or landscape professional."

The appellate court found that there was "abundant evidence" that Criterion C was met; and also concluded that the house was a notable example of the work of the Hakes Investment Company, which built many bungalows on Coronado Island in the 1920s, thereby fulfilling Criterion D.

On appeal, the Youngs argued, among other things, that the findings were not sufficient to support the decision. The test for this question was laid down in *Topanga I:* "[T]he agency which renders the challenged decision must set forth findings to bridge the analytic gap between the raw evidence and [the] ultimate decision or order." The Youngs claimed the findings were conclusory and did not include any reasoning, because in part it simply repeated the ordinance's language.

The appellate court ruled in favor of Coronado on this point. "[A] resolution that incorporates findings that reflect the ordinance's language could sufficiently inform the parties of the analytical path adopted by the administrative agency in reaching its ultimate conclusion—i.e., the conclusion that the subject property is a historically significant resource," wrote Justice Aaron.

The Youngs also argued that the decision was not supported by substantial evidence. The court ruled in favor of the city, saying substantial evidence was available for the findings on both Criterion C and Criterion D. Justice Aaron went into detail about the contents of the staff report in front of both the Planning Commission and the City Council in support of this conclusion.

The key point of contention here was that the city had declined to designate other Hakes bungalows as historic. But, Justice Aaron again

– CONTINUED ON PAGE 10

>>> City Deserves Great Deference on Findings

– CONTINUED FROM PAGE 9

took a deferential stance toward the city's decision, writing: "Although there may be similarities between the subject property and the other Hakes properties, including the four that were determined not to warrant historical resource designation, it was for the Commission, and the City Council in reviewing the Commission's determination, to weigh the evidence and determine whether historic designation was appropriate for the subject property."

The Youngs also claimed that the City Council did not consider evidence they brought forth challenging the historic designation, but the court said that the staff report could not have taken that information into account because it was presented at the public meeting and it is a reasonable conclusion that decisionmakers had taken the evidence into account if it was presented by the Youngs at the council meeting.. "The absence of discussion of the evidence on the record does not mean that the City Council failed to consider the evidence," Justice Aaron wrote. ■

"This court's role is not to reweigh evidence, but rather, to determine whether the findings are supported by substantial evidence."

The Case:

Young v. City of Coronado, D070210 (April 4, 2017)

The Lawyers:

For Young: Kevin Sullivan, Schwartz, Hyde & Sullivan, **ksullivan@sanlawyers.com**

For City of Coronado: Steven Boehmer, McDougal Love Eckis Boehmer & Foley, sboehmer@mcdougallove.com

San Diego Can Move Forward With Lifeguard Station

BY WILLIAM FULTON

Reversing a Superior Court judge's ruling, the Fourth District Court of Appeal has ruled that the City of San Diego properly moved forward with construction of a lifeguard station – even though the construction occurred almost 10 years after the city issued a development permit that was supposed to expire after three years.

In essence, the court concluded that although the delay lasted almost a decade, the city's actions – seeking federal funding and continuously updating a Coastal Commission permit – kept the city's own "site development permit" alive despite three-year limit.

"The evidence before the trial court was that the City actively pursued the funding needed to enter into a contract for the lifeguard station from the time the permit was issued until it contracted with EC Constructors, and that the City also continuously pursued the coastal development permit," wrote Justice Gilbert Nares for a unanimous three-judge panel. "Under the language of the SDP, which conditioned physical work on the project on first obtaining necessary building and other permits, we hold that the City's actions constituted sufficient utilization to prevent the expiration of the permit."

The lifeguard station is to be built on Mission Beach, one of the city's busiest beaches. The Development Services Department – the city agency that issues permits – issued a site development permit, or SDP, to the City's Engineering and Capital Projects Department to build the lifeguard station in 2006. The SDP stipulated that it would expire within three years unless extended.

Largely because of financial difficulties, the city delayed moving forward with the lifeguard station until 2015. When neighbors were informed, they complained that their views would be obstructed and claimed they had not been informed or consulted. A group called Citizens for Beach Rights sued, arguing that the 2006 SPD had expired and seeking a permanent injunction against construction of the lifeguard station. San Diego Superior Court Judge Kathering Bacal agreed and issued a permanent injunction.

On appeal, the city argued first that the statute of limitations on challenges had expired and second that the SDP was still valid. The appellate court agreed with the city on both counts and reversed.

San Diego Municipal Code section 121.0102 and Government Code section 65009 both place 90-day limits on the ability of plaintiffs to sue. But after a bench trial, Judge Bacal said that the city municipal code's statute of limitations didn't apply because the city's permit for the lifeguard station had expired of its own accord three years after it was issued. The citizen group, she argued, "Citizens did not challenge the decision to grant the SDP, or any other permit."

The appellate court disagreed. "Citizens cannot plead around the statute of limitations by avoiding mention of the City's actions and instead referring only to the language of the SDP," Justice Nares wrote.

"In sum," he added, "we disagree with the trial court's conclusion that Citizens' lawsuit was not an attack on a 'decision,' as that term is used in Government Code section 65009, subdivision (c)(1)(E) and SDMC 121.0102. Citizens' claims—filed on August 26, 2015—were made more than 90 days after the City decided the SDP remained valid and, based on that decision, issued a building permit to EC Contractors. Accordingly, Citizens' action was barred."

The court concluded that the lawsuit was also barred by the doctrine of laches, which prevents a legal challenge from moving forward after an unreasonable delay.

Just as important, the court also concluded that the city had kept the SDP alive by seeking federal funding and maintaining an active coastal permit for the project. The city's coastal permit was approved in 2007 and the city successfully obtained two extensions. ■

The Case:

Citizens for Beach Rights v. City of San Diego, D069638

The Lawyers:

For Citizens for Beach Rights: Craig A. Sherman, mailto:info@craigshermanlawoffice.com

For City of San Diego: Jana Mickova Will, **jwill@sandiego.gov**

>>> Post-Recession, Master Planned Communities Come Back to Life

– CONTINUED FROM PAGE 1

counties, and the far tendrils of the Bay Area boomed with subdivisions and master planned communities — typically dominated by single-family homes. Recently, though, economic conditions and a new regulatory climate put a halt to much of that type of growth as cities turned towards infill development and greenfield development was deemed unsustainable.

"The size and scope of master-planned communities meant that they did take a larger hit because of their size," said John Beckman, CEO of the Building Industry Association of the Greater Valley.

The recession and housing crisis of 2007 onward stopped development, of all types, in its tracks. Meanwhile, the 2008 passage of Senate Bill 375 was intended to usher in a new age of infill development in center cities. Cultural trends, consumer preferences, and environmental concerns inspired the tantalizing notion that, perhaps, sprawl was dead, interred in a cemetery of its own making. (See prior CP&DR coverage here and here.)

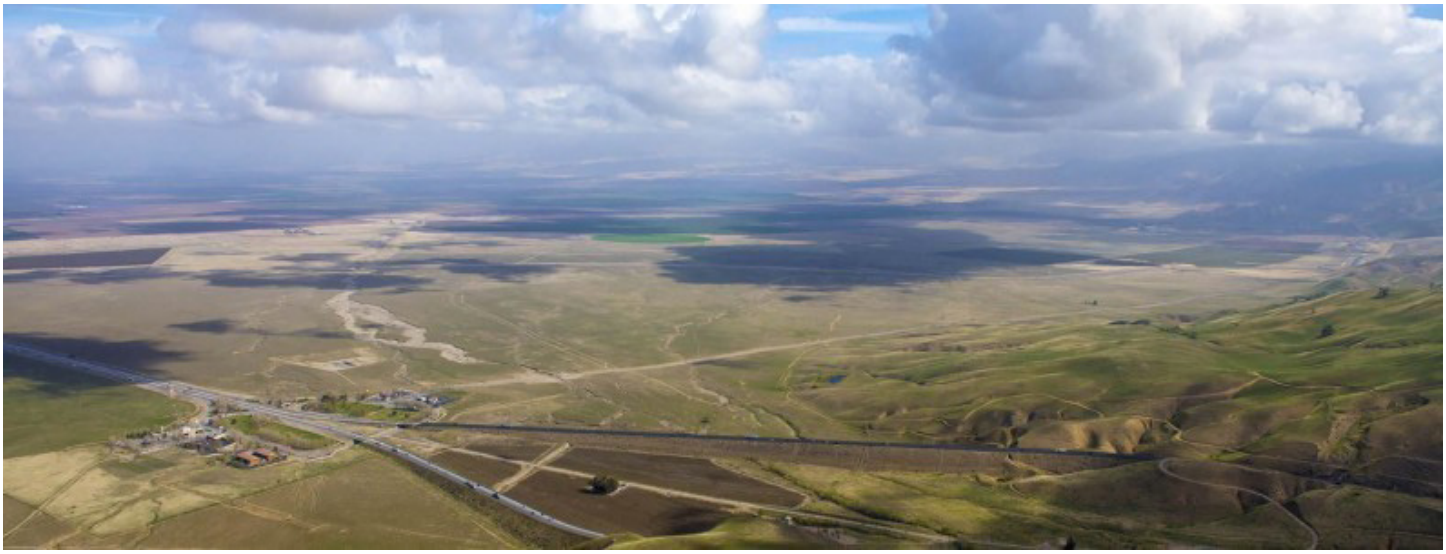
Don't order the headstone yet.

Ontario Ranch is but the most massive of a new generation of large master planned communities that are in various stages of development statewide. Technically, Ontario Ranch is an annexation, consisting of nine master-planned communities that are enormous — on the order of several thousand residential units — in their own right.

They are joined by the likes of Mountain House in San Joaquin County, Otay Ranch (5,300 acres) in San Diego County, The Villages of Lakeview in Riverside County (11,350 homes, 2,800 acres), Tesoro Viejo in Madera County (5,190 homes, 1,600 acres), and Newhall Ranch in northern Los Angeles (21,500 homes, 10,000 acres). The community of Grapevine (12,000 units, 8,100 acres) recently received approval from Kern County; a sister community on the 270,000-acre Tejon Ranch site, Centennial, is awaiting approval from Los Angeles County.

(See sidebar on California›s pending large master planned communities.)

Despite some exceptions, many of these developments aren't so much new as they are remnants of the early 2000s with new funding and old approvals. Mountain House, Newhall Ranch, and Tesoro Viejo have been kicking around since the 1990s.



The community of Grapevine is planned for southern Kern County. Photo credit: Tejon Ranch.

– CONTINUED ON PAGE 13

>>> Post-Recession, Master Planned Communities Come Back to Life

– CONTINUED FROM PAGE 12

Many of these developments are more complete than many of their predecessors, with retail areas, office space, and some "green" features like hiking paths and electric circulator vehicles. Some, such as Newhall Ranch, are being built on virgin ground while others are brownfields. Mountain House, for instance, is taking over a former alfalfa farm.

All told, a population nearly the size of Sacramento could be living in freshly minted sprawl by the time just these developments are built out. That's in addition to countless smaller projects and more traditional subdivisions underway around the state.

"Because of the Great Recession…a lot of what you're seeing now is people who have had communities that had been planned taking advantage of this great economic cycle that we're in now," said John Funderburg, a planner for San Joaquin County who worked on Mountain House.

Now that master-planned communities are back in play, many proponents of smart growth are more concerned than ever -- not because the projects are necessarily worse than they would have been had they been built years ago but because environmental sensibilities and planning trends have evolved so dramatically.

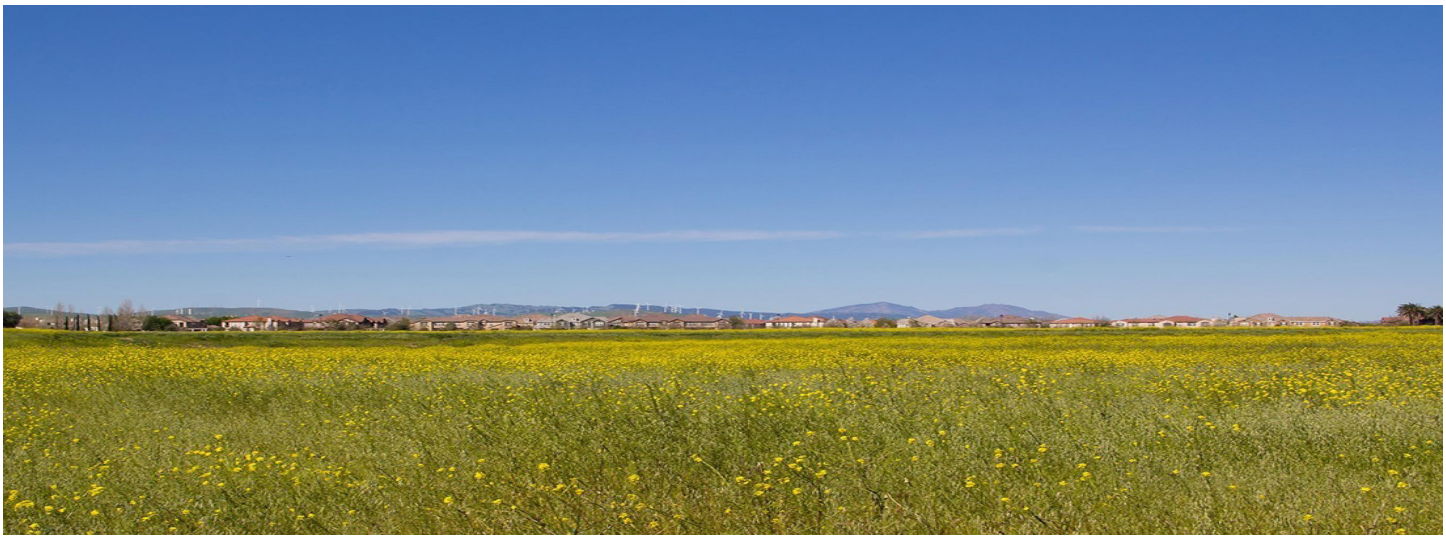
"I think they do tend to reflect kind of outmoded planning and development thinking, that this is a model that might have worked in an area of perceived more abundant resources and unlimited planning horizons," said John Buse, an attorney with the Center for Biological Diversity.

Essentially, some of these "new" developments are relying on outdated designs.

"A lot of what was designed in the early 1990s has come to fruition because of the master plan itself and the specific plan documents," said Funderburg.

"It's the wrong way to develop California," said architect David Mogavero, a board member of the Planning and Conservation League. "Our motivation is not just environmental….it has to do…a plethora of economic and social problems that come out of those developments. They are bad no matter how you slice them."

Many of these projects have been revived for obvious reasons: the economy. With the recession and the state's budget crisis a distant memory, developers — at least those that survived the downtown — have restarted the bulldozers in anticipation of healthy consumer demand. In fact, demand may be more than healthy.



The new city of Mountain House is rising on former alfalfa fields in San Joaquin County. Photo credit: Mountain House.

– CONTINUED ON PAGE 14

>>> Post-Recession, Master Planned Communities Come Back to Life

– CONTINUED FROM PAGE 13

"They were poised to come back a little bit quicker than everything else, because they were there and ready to go," said Beckman. "So they did recover a little bit faster in the sense that they were ready to start building again."

The recession put a halt to most housing development, but it put no such brakes on population growth, so the state has more people to house than ever. Moreover, the economic recovery brought dramatic increases in housing costs, especially in urban areas. Therefore, demand for new, moderately priced housing may be at an all-time high. For some developers of master-planned communities, the recession might have been the best thing that could have happened.

"Back when we were doing the project in the early 2000s…. when home sales started in 2003 through 2006-7, approximately 35 percent of homebuyers were coming from the Bay Area or East Bay," said Duane Grimsman, senior vice president of SunChase Holdings, the parent company of Mountain House. "They viewed Mountain House as a bargain compared to the pricing they were seeing in the Bay Area."

"I think those patterns are still holding," said Grimsman.

While environmentalists may cringe at the thought of development on greenfields and agricultural lands, even projects that were permitted before the recession promise to be nominally more sustainable and more livable than their predecessors are. They incorporate elements like town squares and local retail services to lessen the need for long car trips just to buy groceries or get coffee.

"Because of the Great Recession...a lot of what you're seeing now is people who have had communities that had been planned taking advantage of this great economic cycle that we're in now," said John Funderburg, a planner for San Joaquin County who worked on Mountain House.

Then again, critics say these quasi-New Urbanist features matter little when residents are commuting dozens of miles each way to work, be it from Mountain House to Oakland, Ontario to Los Angeles, or Otay Ranch to San Diego.

"Master planned communities have been repackaged to have a veneer of walkability," said Dan Silver, CEO of the Endangered Habitats League. "But it's really just a veneer. At their heart, they're auto-dependent."

"From a [vehicle miles traveled] standpoint, I think it makes very little difference," said Silver. Silver explained that even if these developments shorten the drive for some errands, daily commutes to work still contribute the majority of greenhouse gas emissions.

(Quay Valley, a proposed eco-city of 75,000 planned in Kings County, is touting a "new ruralism" and claims that it will make aggressive use of technology to be "carbon neutral net zero." The project is stalled pending a lawsuit over its water supply. Meanwhile, Newhall Ranch renamed itself "NetZero Newhall.")

The open question for the state is whether this current wave of master planned communities — whether they pretend to be green or not — represents the last gasp of a decades-long trend in which vestigial projects that were planned and permitted years ago are coming to fruition once and for all — or whether their success will mean that the forces of sprawl are as powerful as ever.

– CONTINUED ON PAGE 15

>>> Post-Recession, Master Planned Communities Come Back to Life

– CONTINUED FROM PAGE 14

On the one hand, sprawl has reached its natural and necessarily conclusion in some places. Open, undeveloped land is simply less abundant than it used to be.

"The projects that we've seen and worked on are typically ones that have been on the books – planned or proposed – for many years, typically decades," said Buse. "We're not seeing totally new, out of the blue mega-greenfield projects for the most part that I'm familiar with at least."

Grimsman, of Mountain House, admitted that his own project may be one of a dying breed, in part because financiers may have been scared off by the recession.

"I don't think you could replicate that model again…it would be very tough," said Grimsman. "Today it's hard to find institutions that will finance the front end of these projects and take that risk," said Grimsman.

"In the short term, I don't see this as a signal of a return to suburbanization. It's just getting a unit built," said Chris Redfearn, professor of real estate at the University of Southern California.

On the other hand, housing shortages mean that overall demand for housing remains high. The slow pace of infill development in center cities makes the urban fringe attractive for developers and residents alike.

Now that master-planned communities are back in play, many proponents of smart growth are more concerned than ever -- not because the projects are necessarily worse than they would have been had they been built years ago but because environmental sensibilities and planning trends have evolved so dramaticallv.

"Master planned greenfields remain a very dominant form of development in Southern California," said Silver. Silver said he is tracking "dozens" of such developments, with particular focus on those that might infringe on sensitive ecological resources.

To Silver, developers are just doing what comes naturally. "Left on their own, they go to a bank and the bank gives them money to build what the bank feels comfortable with," said Silver.

Indeed, despite the vaunted revitalization of cities, suburban areas still lead the nation in growth. According to a recent analysis of census data by Jed Kolko, "low density suburbs" grew at the highest rate in 2016, at 1.3 percent, as compared to five other categories. These areas also had the highest overall growth rates 2010-2015. "Urban counties," containing center cities, grew at 0.9 percent in 2016.

Of course, according to state regulation and progressive planning orthodoxy, this isn't supposed to happen. Senate Bill 375, passed during the recession doldrums, encourages cities and regions to facilitate infill development. Senate Bill 743 will incorporate vehicle miles traveled metrics into environmental reviews. All of this is supposed to discourage developments.

"Now there are many more recognized constraints as well as a much greater interest in serving and development and growing existing communities rather than this step-out development that we see with many greenfield developments," said Buse.

– CONTINUED ON PAGE 16

>>> Post-Recession, Master Planned Communities Come Back to Life

– CONTINUED FROM PAGE 15

To some, then, the persistence of suburbia represents, if not a repudiation of these trends and regulations, at least a stark reminder of their shortcomings.

"I'm sorry to say that SB 375 from my perspective in Southern California has been a failure," said Silver. "I just don't see any difference it's made."

Silver said he is more optimistic about climate action plans that cities are adopting, while Mogavero holds out hope for SB 743. "So many of (impacts of sprawl) are appropriately represented by the VMT metric," said Mogavero.

Perhaps most distressingly, the more these developments sprawl, the greater their environmental impacts may be. Environmentalists are concerned about proposed developments in Los Angeles County like Centennial at Tejon Ranch and Newhall Ranch, which would bulldoze significant pieces of natural habitat.

"They are in areas that tend to be almost like refuges for threatened plants and wildlife," said Buse. "The perception may be that we're conveniently finding species, but it's no accident that the San Fernando Valley spineflower was found on Newhall Ranch – rediscovered there."

To reduce pressure on places like Newhall Ranch, and to achieve all the other anticipated benefits of infill, the moral of the new sprawl may be that cities cannot rely on SB 375 and regional plans alone. Local programs need to be more aggressive and more sensitive to infill developers' needs, and regulations need to be stronger.

"If infill is available and the hurdles that typically go with infill….if a city is willing to assist us with removing those hurdles and barriers, infill is great," said Beckman.

"You need more positive incentives to encourage true infill development favoring existing communities rather than creating new dependencies," said Buse. ■

Contacts

John Buse, Attorney, Center for Biological Diversity, jbuse@biologicaldiversity.org

John Funderburg, Planner, San Joaquin County, jfunderburg@sjgov.org

Duane Grimsman, Sr. VP Sunchase Holdings, www.sunchaseholdings.com

David Mogavero, Board Member, Planning & Conservation League, mogaveroarchitects.com

Chris Redfearn, Associate Professor, USC Price School of Public Policy, redfearn@usc.edu

Dan Silver, CEO, Endangered Habitats League

Master Planned Communities Underway In California

BY JOSH STEPHENS

The following is a selection of the largest master planned communities currently underway in California. See accompanying story, Post-Recession, Master Planned Communities Come Back to Life.

Project: Centennial at Tejon Ranch
Website: tejonranch.com/our-communities/centennial/
County: Los Angeles County
Residential units: 19,000
Projected population: 70,000
Total acreage: 12,300
Commercial/retail: 10.2 million square feet of retail/public/business park/office space/civic development
Amenities: 5,600 acres preserved as open space
Status: Originally proposed 2002; finalizing draft specific plan
(See prior CP&DR coverage.)

Project: Concord Community Reuse (Concord Naval Weapons Station)
Developer: Lennar Urban (Phase 1)
Website: www.concordreuseproject.org/
Location: Contra Costa County (Concord)
Residential Units: 12,272
Area: 2,300 acres
Commercial/Retail: 6.1 million square feet
Amenities: 80 acres of parks and open space; community centers; shuttle bus
Status: Developer approved May 2016; land transfer underway

Project: Grapevine at Tejon Ranch
Website: http://www.grapevineattejonranch.com/
Location: Kern County
Residential units: 12,000
Total acreage: 8,100
Commercial/retail: 5.1 million square feet
Amenities: 3,800 acres for open space, agriculture, and grazing
Status: Approved by Kern County Supervisors Nov. 2016; currently seeking further regulatory approvals

Project: Mountain House
Developer: SunChase Holdings
Website: http://www.mountainhouse.net/
County: San Joaquin County
Number of residential units: 16,000
Projected population: 44,000
Total acreage: 4,800
Amenities: 12 neighborhoods, each organized around a Neighborhood Center containing a neighborhood park, a K-8 school, and a small commercial area; eployment centers will include office and industrial parks; parks and open space network.
Status: Entitled in 1994; roughly one-third built-out

Project: Newhall Ranch/NetZero Newhall
Developer: FivePoint
Website: http://netzeronewhall.com/
Location: NorthernLos Angeles County
Residential units: 21,500
Projected population: 58,000
Total acreage: 10,000 acres
Commercial/retail: 11.5 million square feet of "job-generating uses"
Major Amenities: Water reclamation plant, seven public schools, three fire stations, a regional park, three community parks, golf course, and a 15-acre lake. 6,000 acres of permanent open space, 50 miles of trails developed.
Status: Revised EIR released Nov. 2016
(See prior CP&DR coverage.)

Project: Ontario Ranch
Website: http://ontarioranch.com/
Location: San Bernardino County (Ontario)
Number of residential units: 46,000
Projected population: 162,000
Total acreage: 8,000
Commercial/retail: 16 million square feet
Status: Started 2015; 20-year build-out

– CONTINUED ON PAGE 18

>>> Master Planned Communities Underway In California

– CONTINUED FROM PAGE 17

Project: Riverstone
Developer: Riverstone Development LLC
Website: http://riverstoneca.com/
County: Madera County
Residential units: 6,500
Total acreage: 2,000
Major Amenities: Eightdistricts, community clubhouses, 115 acres of parks & open space, hiking & biking trails, community farm, dog park, sustainable water supply, nearby San Joaquin River and adjacent lake
Status: Proposed in 2004; development underway

Project: Terra Vista
Developer: Lewis Group of Companies
Website: https://lewisgroupofcompanies.com/apartment/terra-vista/
County: San Bernardino County
Residential units: 8,000
Total acreage: 1,340

Project: Tesoro Viejo
Developer: McCaffrey Group
County: Madera County
Residential units: 5,190
Area: 1,600 acres
Commercial/retail: 3 million square feet
Amenities: 400 acres of parks and open space; 15-mile trail system for walking, hiking, and biking; town center, business park, schools
Status: Specific Plan approved and CEQA documentation was certified in 2008; revised Specific Plan was approved in 2012.

Project: Otay Ranch Village
Developer: Baldwin & Sons
Website: http://www.otayranch.com/
Location: San Diego County, City of Chula Vista
Area: 5,300 acres
Amenities: network of trails, paseos; Heritage Towne Center (see prior CP&DR coverage)

Project: Quay Valley
Developer: Grow Holdings LLC
Website: www.quayvalley.com/
Location: Kings County
Residential units: 22,000
Projected population: 75,000
Area: 7,200 acres
Commercial/retail: 20 mllion squre feet of commercial and industrial
Amenities: 2 million square feet of high-energy retail, three themed eco-resorts, convention hotel and facilities; 14 new elementary, 2 middle and 2 high schools, plus a university research campus
Status: Kings County Ventures LLC began project in 2007; approvals pending

Project: Villages of Lakeview
Developer: Lewis Cos.
Website: None
Location: Riverside County
Residential Units: 11,350
Area: 2,800 acres
Commercial/retail: 500,000 square feet
Amenities: Three K-8 schools, 1,000 acres of open space for conservation
Status: Approved 2010; EIR struck down 2012; new EIR under review

>>> Hemet Downtown Plan Taps into History, Mobility

– CONTINUED FROM PAGE 1

The Hemet Downtown Specific Plan envisions a walkable, low-rise streetscape.

Empire. Hemet's downtown — one of the oldest in the region, having been founded in the 1880s and incorporated in 1910 — slid into disrepair. A new Downtown Specific Plan, adopted on a 5-0 city council vote in early April, aims to bring a little urbanism to Southern California's original frontier town.

The plan applies to a 360-acre area covering 58 blocks including the civic center, historic core, and a future Metrolink commuter rail station. It is bisected east-west by the city's main street, Florida Avenue and includes a handful of historic resources, such as the 1921 Hemet Theater.

The plan breaks up the downtown area into seven districts, including a downtown village district, a transit oriented district, and several largely residential districts. It seeks to increase infill development in the downtown district. The district is relatively dense for the Inland Empire and follows a regular grid but includes numerous vacant lots.

"Unlike some communities where in the 1960s they might have obliterated their downtowns, Hemet kept the bones," said Planning Director Deanna Elliano. "The original framework and structures are still there...it's a very walkable grid pattern that's established."

As is typical of the Inland Empire, much of Hemet cordoned off into separate uses, united primarily by automobiles. By contrast, the Downtown Specific Plan attempts to do a little bit of everything. Its explicit goals

– CONTINUED ON PAGE 20

>>> Hemet Downtown Plan Taps into History, Mobility

– CONTINUED FROM PAGE 19

include economic development, social and commercial revitalization, historic preservation, infill development, transit oriented development, improved infrastructure for pedestrians and bicyclists, promotion of arts and culture, and environmental sustainability.

The downtown plan follows the city's 2012 general plan, which calls for "mixed use higher intensity environments that offer opportunities for people to live, work and shop within a compact area." Hemet was following the lead of coastal California cities and following the spirit of pro-infill policies lie Senate Bill 375. But, at that time, prospects for realizing this vision were grim, in part because of the 2011 elimination of redevelopment.

"When redevelopment was still in effect, they did some sign programs and public improvements," said Elliano. "But what was missing was an overall comprehensive framework and vision."

The impetus of the plan hearkens back to Ramona, written just as the Atchison, Topeka, and Santa Fe Railroad arrived in Southern California. In the case of modern-day Hemet, Metrolink currently serves to Perris along the 91/Perris Valley line and is expected to reach Hemet eventually. Metrolink has neither officially adopted plans nor announced a timetable. In the meantime, a bus rapid transit line has been proposed to connect Hemet with the Perris station, 27 miles to the west.

The advent of Metrolink prompted the city to apply for, and win, a Prop. 84 planning grant from the Southern California Association of Governments. Elliano said that, due to budget and personnel constraints, the city never could have undertaken this effort without that financial assistance.

"It wouldn't have happened without the grant program," said Elliano. "The city didn't have the resources, and we're very lean on staff."

Though Mayor Linda Krupa said that the vast majority of the community discussions over the two-year planning process were productive and conflict-free, there was some debate over massing in the downtown village. While some favored three-story buildings, the final draft of the plan calls for two-story buildings that match the existing scale and that capitalize on the existing cityscape.

"Over the years we've done a couple of different plans for downtown," said Mayor Krupa. They involved total façade remodel, extravagant looking buildings, 3-4 story buildings on some of the side streets. That's not a reality for our community."

Modest goals, say the plan's backers, make it more realistic.

"Over the years we've done a couple of different plans for downtown," said Krupa. They involved total façade remodel, extravagant looking buildings, 3-4 story buildings on some of the side streets. That's not a reality for our community."

Potentially, the biggest changes will take place on "opportunity sites" in the transit-oriented district. The mobility hub is surrounded by land that is currently vacant and owned by the city. The plan envisions a new mixed-use community with commercial and residential uses.

Meanwhile, the plan seeks to largely preserve residential neighborhoods. Perhaps the biggest oddity that planners had to contend with was that of the Hemet Stock Farm, a privately owned 36-acre horse farm just west of the future

– CONTINUED ON PAGE 21

>>> Hemet Downtown Plan Taps into History, Mobility

– CONTINUED FROM PAGE 20

Metrolink station. The plan suggests that the farm could be converted to an agricultural-themed tourist attraction.

While the plan has been widely praised both within Hemet and outside of it — it won a Merit Award from the Inland Empire section of the American Planning Association this year — Hemet's economy and municipal finances make implementation an uncertain prospect.

"It's taken Hemet much longer to come out of the recession," said Elliano. "We are a distressed community." The Census estimates covering the years 2009 - 2013 reveal that Hemet's median household income is $32,000 per year; 23 percent of the population lives below the federal poverty line.

"The biggest challenges are going to be finding funding for the public realm improvements," said Elliano. "A lot of things that we believe are the city's responsibility in terms of establishing that streetscape and framework are….laid out in the plan, but needs funding to have it materialize."

Much of the plan's buildout relies on private development. Krupa said that one landowner is particular bullish on downtown Hemet and she hopes that the plan will inspire him to develop his properties. Elliano said that the plan streamlines much of the approvals process in the hopes of making the area more attractive to developers.

Elliano said she is encouraged by the possibility that the city may partner with other public agencies, including Metrolink, on the mobility hub district. Krupa said the city may also look into a substitute for redevelopment, such as an Enhanced Infrastructure Financing District.

For all the work that lies ahead, Elliano believes that Hemet faces a tremendous opportunity: that of becoming the sort of downtown destination that is largely absent from its region.

"Hemet really was one of those core communities with a vibrant commercial downtown. They used to call it the 'hub of the valley', meaning the San Jacinto Valley," said Elliano. "We think there is the opportunity to draw from other areas in the Inland Empire as well." ■

Contacts & Resources

Hemet Downtown Specific Plan

http://www.cityofhemet.org/index.aspx?NID=627

Deanna Elliano, Community Development Director, City of Hemet delliano@cityofhemet.org

Linda Krupa, Mayor, City of Hemet lkrupa@cityofhemet.org

It's Time to Stop Demonization of Developers

A few years ago, Charlie Munger ended up with a piece of property in my neighborhood. He decided to develop an upscale retail center: restaurants, boutiques, nail salons, or whatever. His architect came up with an elegant design of an appropriate scale, and his development company set about getting approvals.

To make a long story short, neighbors bent over backwards to kill the project. Four years later, the site consists of an empty lot and an abandoned building surrounded by chain link.

I thought of Munger whenever I heard an activist rail about «greedy developers» during the recent battle over Measure S in Los Angeles. Munger insisted that he had no interest in profit and just wanted his project to be something «nice for the community,» as he put it at a meeting I attended.

I believe him. See, Munger is Warren Buffet's business partner. He's worth $1.4 billion, and he's ninety-three years old. He has no use for greed.

Needless to say, not every developer is a Charlie Munger. Unfortunately, many people in Los Angeles talk about developers like they're all Charles Manson.

Among the grandiose promises, half-truths, and outright whoppers that sponsors of Measure S proffered, one of the most consistent messages concerned the depravity of real estate developers. They affixed "greedy" to the profession the way the president affixed "crooked" to his opponent. Perhaps most damningly, they referred to developers as "Trump's pals." (Munger, for one, isn't.)

To hear the Measure S coalition tell it, developers, be they individuals or companies, want to exploit the city, corrupt the politicians, and build the biggest, ugliest structures they can, everywhere and anywhere. They foist "luxury" apartments upon and invite gentrification into unsuspecting neighborhoods and drive up rents, as if gentrification depends purely on supply and has nothing to do with demand.

Left unchecked, Los Angeles would suffer "Manhattanization," as if resembling the most prosperous, most exciting city in the world would be a fate worse than death.

***

These accusations came from two angles. Traditional NIMBY's consider anything that blocks their view, slows their commute, or makes it easier for "those people" to live nearby to be a nefarious deed.

On the other end of the political spectrum, advocates for social justice implicate developers in all that is wrong with capitalism. To hear them tell it, every developer is, if not Charles Mason, at least Sherman Potter, gleefully putting up shacks and gouging the good people of Bedford Falls at every turn. Of course, the greedy developer stereotype is grounded in reality. Like many other city-watchers in Los Angeles, I've taken my shots at people like Geoff Palmer. Mall developer Rick Caruso is an affable enough guy, but no one would accuse him of pursuing a modest lifestyle. Don't get me started on Donald Stirling.

Are developers aggressive? Many are. Do they come off as slick rather than earnest? Sometimes. Are they trying to make money? Of course. What I don't get is why their efforts are so much more nefarious than anyone else's.

Grocery stories don't sell food for free. Doctors don't perform surgery for free. Teachers don't go to class for their health. Movie stars don't act for free. Even staff members at charities are entitled to earn a competitive salary. (More on that later.)

Developers make money because they produce something that people are willing to pay for. Unless you built your own house, you are living someplace that was, by definition, built by a developer -- or at least by someone willing to make that knotty leap from use value to exchange value. If you don't like developers, I'm sure A16 has a few tents they can sell you.

Developers get special attention — and special derision — for two related reasons. First, their products are literally visible. We see what they are doing, and we can decide immediately whether we approve or not. Second, their business inherently depends on the public trust and impact the public realm. Land, sky, and infrastructure are public goods, in the strictest, Economics 101 sense of the term. They are not to be handed over wantonly. Developers who manipulate the public process — maybe, as the Yes on S coalition claimed, with the occasional campaign contribution or secret handshake — are classic rent-seekers. I get it: that's not cool.

And yet, if we're going to get all huffy about capitalists, I'd submit that real estate developers are the least of our worries. Sure, you might hate the Hollywood Palladium

– CONTINUED ON PAGE 23

It's Time to Stop Demonization of Developers

– CONTINUED FROM PAGE 22

towers. But at least you see what you're getting. The very quality that makes real estate threatening is the same quality that limits the damage it can do. I'm far more concerned about, say, greedy drug companies, greedy food companies, greedy financiers, and greedy defense contractors than I am about greedy developers.

***

The Carusos and Palmers notwithstanding, many developers are more like regular white-collar professionals than they are captains of industry. They put in crazy hours — nay, years — partly to navigate our regulatory morass, often with uncertainty every step of the way. Many of them make good livings, but few of them make killings.

With that said, from a purely psychological standpoint, do we really expect developers to do good work and to want to cooperate with the city if we're berating them all the time? If you call people "evil" and "greedy" often enough, they're either going to get really uncooperative, or they're just going to say to hell with it and conform to the labels they're given.

In the middle of all of this, you have the pot calling the kettle black. If anyone has committed the sin of avarice, it's the AIDS Healthcare Foundation. They're the ones who created, sponsored, and overwhelmingly funded (if you consider 99 percent overwhelming) the Yes on S campaign. You have to wonder how a nonprofit company manages to sock away so much money that it can spend $6 million on billboards. (The answer: you can do it when you have annual revenue of $900 million, an annual budget of $160 million, and pay the executive director $380,000 per year. How many developers would love to have that kind of balance sheet?)

Developers make money because they produce something that people are willing to pay for. Unless you built your own house, you are living someplace that was, by definition, built by a developer – or at least by someone willing to make that knotty leap from use value to exchange value. If you don't like developers, I'm sure A16 has a few tents they can sell you.

It's usually easy to claim the moral high ground when you're an AIDS charity. Until, of course, you stray so far from your mission that you start seeming like a plague on the city.

And let's not forget about the real power brokers in Los Angeles. In many ways, the Measure S campaign was a smokescreen for homeowners' own greed. Indirectly, their properties become more valuable as supply is constrained. There's rent-seeking capitalism, at work yet again. More directly, homeowners associations are pretty adept at extracting concessions from developers. Developers lop off a few stories from their buildings and add community amenities all the time. Sometimes they even cough up cash payments that fund HOA's own war chests, to be deployed next time someone proposes 22 stories rather than 16.

***

Developers, like the grocery store and the doctor and plenty of other capitalists, serve crucial functions in society. In fact, planning and development — the very name of this publication — are inextricably and symbiotically linked. Plans mean nothing without someone to build them.

Of course, a city's plans can be lousy. That's why Measure S was so potent. It called out Los Angeles' antiquated plans and rightfully highlighted the absurdity of "spot zoning." But, whether plans are outdated or enlightened, most developers are just trying to do their thing.

For too long in Los Angeles, developers have been the only ones actually advocating for more housing. The vast majority of Los Angeles' rent-burdened residents have sat by

– CONTINUED ON PAGE 24

It's Time to Stop Demonization of Developers

– CONTINUED FROM PAGE 23

(probably because they're working three jobs) while slow-growth interests have lobbied against every additional unit. This situation has left developers to fend for themselves, pleading their cases before roomfuls of indignant homeowners, praying that planning commissioners and zoning administrators will see through their protests and acknowledge the greater good. And, yes, I'm sure they make occasional campaign contributions.

My point is, no one is entirely guilty in this mess, and no one is entirely innocent.

***

We who live in the new, ascendant, post-Measure S Los Angeles can choose how to understand each other and how to relate to each other. If we restrict development just because developers are "greedy" or fail to implement policies to reduce their temptations, then the joke's on us. As rents keep rising, it's the landlords – not the developers – who win big.

The way to prevent this is to reject the divisiveness of the Measure S campaign. We 4 million people live in close quarters on a small piece of this earth. We are neighbors, whether we like it or not. And, contrary to the city's history and culture, we're going to have to embrace each other a little bit more. We're going to have to stop the name-calling and tone down the distrust and put aside the rivalries so we can all work towards a better city, compromises and all.

No matter how high the towers of the future rise and no matter how dense certain neighborhoods get, it's the attitude — more so than any single development or any citywide policy — that will help Los Angeles put its past behind it and embrace a new era.

To paraphrase the president, some developers, I assume, are terrible people. But most are not. In this new era, developers deserve the benefit of the doubt. Charlie Munger certainly does. As for the Donalds – Stirling, Trump – and their ilk, not so much.

– JOSH STEPHENS | APR 13, 2017