

San Diego Community Plans At Odds With General Plan, Climate Plan

BY ANDREW KEATTS

Over the past few years, the City of San Diego has passed a handful of policies committing to increase density citywide in order to meet housing needs and environmental goals. So far, so good.

Implementation of these plans relies, in turn, on adoption of the city's 51 community plans. As it turns out,

the citywide goals have prompted a game of “not it!” as individual communities have been reluctant to accept their fair share of density.

The city adopted a general plan in 2008 calling for transit-focused development to accommodate anticipated population growth. Just over a year ago, the city adopted

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insight
WILLIAM
FULTON

Creeping Incrementalism In Housing Policy?

As an endless parade of recent reports has suggested, California is in the midst of an unprecedented housing crisis. The average home price is **over \$400,000** – more than twice the national average. Meanwhile, the new **state housing assessment** concludes that the state is down 1.5 million affordable units, meaning production will have to be

ramped up, not down, in the next decade.

And this may be the year that we see some action on housing in Sacramento. In his budget address, Gov. Jerry Brown laid out **some high-level ideas** on regulatory reform that might increase housing production, though he yanked \$400 million in housing money that he included in last year's budget

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HCD Releases Statewide Housing Assessment

The California Department of Housing and Community Development released the 2025 [Statewide Housing Assessment](#) Public Draft, entitled “California’s Housing Future: Challenges and Opportunities,” at the recent [California Housing Forum](#). The report found annual housing production over the last decade has fallen to 100,000 new homes short of demand; homeownership rate are at lowest since the 1940s; one-third of the state’s renters spend more than half their incomes on housing costs; and the state has 12 percent of the nation’s population but 22 percent of the country’s homeless population.

The report presents a variety of broad solutions including streamlining local and state land-use and environmental rules and boosting funding for low-income housing. Broad categories of responses include the following: reforming land use policies to advance affordability, sustainability, equity; addressing housing and access needs for vulnerable populations through greater inter-agency coordination, program design, and evaluation; investing in affordable home development and rehabilitation, rental and homeownership assistance,

and community development. HCD will hold a webinar Jan. 13, and workshops will be held in San Diego Jan. 23, Fresno Jan. 30; workshop dates in Sacramento, Bay Area, Redding and Los Angeles are to be announced.

Los Angeles Density Bonus Program Not Used Well

An [audit](#) of the City of Los Angeles’ affordably-priced housing program and density bonus program finds that they have been relatively ineffectual. Los Angeles City Controller Ron Galperin completed the audit to determine how well the “density bonus” program was performing since its inception in 2008. The audit found that 21 percent of new multi-family projects of five units or more, built between 2008 and 2014 (169 of 790 projects) utilized some aspect of the density bonus program -- resulting in 4,463 units designated as affordable. However, just 329 of these units were created in market-rate projects throughout the city. Galperin calls this “an arguably minimal impact when considering the city’s overall affordable housing needs.” The rest of the units were in entirely affordable housing projects.

The audit recommends that the city

create additional incentives, such as additional density or permitting micro units; streamline processes through modifications to the current process of site plan review and expedited processing of environmental impact reports; conduct a legal analysis of what opportunities might exist, within the density bonus program, to allow market-rate developers to create income-restricted units off-site -- or to pay equivalent values into a fund which would build income-restricted units throughout Los Angeles; Review how income levels are defined. The audit also examined oversight and monitoring of the city’s overall stock on 28,482 income-restricted units. While auditors found reasonably adequate monitoring by the city’s contractor, and a 93 percent compliance rate, better oversight tools are needed to deal with conditions of some owners collecting more rent than allowed and some tenants exceeding income guidelines.

San Diego Seeks to Increase Urban Forest

The San Diego City Council unanimously [approved](#) a five-year urban forestry plan that would significantly increase the city’s stock of street trees, especially those in low-income and urban areas. The

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WWW.CP-DR.COM

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

William Fulton
Editor & Publisher

Josh Stephens,
Morris Newman, Kenneth Jost
Contributing Editors

Susan Klipp
Fiscal Officer

Talon Klipp
Office Manager
Graphics & Website

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city's Climate Action Plan calls for increasing percentage of San Diego covered in trees from 13 to 35 percent over the next 20 years. Those in favor of the plan say it will boost property values, improve air and water quality, enhance wildlife habitat, and shrink energy costs by reducing the heat island effect. The city is using a \$750,000 grant from the California Department of Forestry and Fire Prevention to plant 500 trees in urban areas. The next step for the city is creating an updated tree inventory of the existing urban forest to create a better strategy.

Federal Funding Rule Puts High Speed Rail in Bind

The Federal Railroad Administration, under the Obama administration, **modified** the \$928-million grant deadline for the California bullet train from 2018 to 2022. A recent risk analysis shows the California High Speed Rail Authority may need until 2024. The modification requires the state to pay its matching share of the stimulus grant, estimated at \$2 billion, before drawing on the grant. This means the state must start funding construction out of state funds instead of relying on federal grants. California can draw on carbon tax fees, which are projected to generate about \$500 million annually but have been below projections. It is still unclear what direction Transportation secretary Elaine Chao will do under President Trump.

Lawyers from both sides said they would appeal to the California Supreme Court if they lose.

'Rouge' Bike Share Company Walks Back Plans in S.F.

Bluegogo, a Chinese-backed bike-sharing startup, has **abandoned** plans to deposit hundreds of bikes on San Francisco streets without city permits, approval, or letting anyone know its plans. Rather than use permitted bike stations, Bluegogo would have parked bikes haphazardly around the city. The program was scheduled to launch this week. Instead, it intends to operate as a conventional bike share service, with dedicated stations. The San Francisco Bike Coalition says the original plan would have left "thousands of uninspected and unpermitted bicycles to be stored unattended for long periods of time on sidewalks, in parks and on our streets." A Bluegogo official told the Mercury News, "We didn't want to be that startup that literally shows up to the city first and then deals with all the problems later."

Falconer Outlines Land Use Goals in 'State of the City' Address

In this the annual State of the City address, San Diego Mayor Kevin Faulconer **proposed** an array of policies related to land use: a hotel tax hike to pay for a convention center expansion, more homeless programs, increased spending on road repairs, expanded density bonus program, a revitalization of Balboa Park, and a boost in the city's technology industry. The hotel tax would increase from 12.5 percent to 16 percent, with majority of the money going to the convention center and the remainder to homeless programs and road repairs. Faulconer said he is confident a ballot measure with

multiple initiatives that poll well with voters will be able to get the two-thirds support required for approval. The mayor mentioned affordable housing as one of the main problems in San Diego.

Sacramento Gives Boost to Rail Depot Redevelopment

The Sacramento City Council has **dipped** into its Innovation and Growth Fund to add \$2.4 million the rehabilitation of the historic Sacramento Valley Station. This project will serve as an Amtrak depot, as well as office space for startups and high-tech companies, retail outlets, cafes, rooftop terrace and brew pub. The project was expected to cost \$30 million but has already grown to \$36.5 million due to unexpected issues in construction phases. The project ran into difficulty while looking for tenants of the 29,000 square feet of available space. All the interested tenants said they wanted the city to pay for additional improvements to make the spaces move-in ready; these costs weren't in the budget, as tenants often absorb these costs. The Innovation Fund provides financial incentives to help entrepreneurs, startup companies, and tech companies in Sacramento. The depot should be completed next month.

California Cities Ranked on Pedestrian Danger Index

According to a report from Smart Growth America, between 2005 and 2014 more than 45,000 pedestrians **died** in the U.S. because of cars. The group examined 104 metro regions and created a "pedestrian danger index." This index calculated

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the total number of pedestrian deaths relative to the number of pedestrian commuters in the region. Houston was the least safe largest metro in the country at 15th, Los Angeles was 51st and New York City 95th. In California, Bakersfield was 12th and Riverside-San Bernardino-Ontario as 18th. The Bay Area did best among California metros, ranking 85th out of 104. The study also reviewed 51 metro areas that had been studied in 2015 and found 18 grew more dangerous with Riverside having one of the largest increases (21.2 percent). The report also found people of color represent only 35 percent of the population but 46 percent of pedestrian deaths.

Oakland Curbs Evictions in Improvised Artists' Residences

Oakland Mayor Libby Schaaf issued an executive order intended to ease the threat of eviction for artists and makers occupying improvised residences and work spaces. The City inspectors are ordered to give landlords with illegal units 60 days to come up with safety plans, and more time to make necessary improvements. Schaaf says the city has money from a housing bond and other sources to help landlords pay for safety improvements, as long as the rents remain affordable. A related issue arising is the question of how to legally throw a party in Oakland. The current permitting procedure is considered [arcane](#), with some provisions coming from the Prohibition era. These moves are, in part, responses to the Ghost Ship fire.

Report Details Redevelopment of Central Soma Neighborhood of S.F.

The City of San Francisco hopes a new neighborhood plan for 17-blocks of Central Soma will increase property values according to a [report released](#) by the city's planning department last month. A portion of the funds generated would pay for affordable housing, parking, open space, and other public benefits. The report looks at a few specific sites and found zoning changes and the subsequent new development would affect their values. In all the cases, more than 50 percent of the added value goes towards public benefits. This plan assumes that land-owners and developers of under-built sites elect to take advantage of the new opportunities. Under the plan, the city hopes to add 25,000 new residents, 40,000 new jobs, and 7,500 new homes to the neighborhood. However, residents are worried about similar gentrification fears that occurred in the Mission neighborhood.

others.

Court Forces Los Angeles Measure S Opponents to 'Scale Back' Ballot Language

Opponents of Los Angeles's Measure S, known as the Neighborhood Integrity Initiative, have [agreed](#) to scale back some of the claims submitted in the city voter guide after being sued by the initiative's supporters. The claims were concluded to be misleading and bought and paid for by the opponents of the measure. According to the agreement, the opponents' study,

conducted by Beacon Economics, can no longer be called "independent" and the disputed wording must be changed. Measure S would place a two-year moratorium on all developments that do not conform with existing zoning and community plans, and it would require the city to update its community plans within that time frame. Measure S will appear on the March ballot. (See prior [CP&DR coverage](#).)

Supreme Court to Resolve Property Tax Dispute between San Jose, Santa Clara

San Jose and Santa Clara County have been [battling](#) in court for four years over \$40 million in property taxes. The money comes from a special property tax voters approved in 1944 to fund Santa Clara County's retirement obligations. However, it applied differently in redevelopment areas. San Jose's redevelopment agency, established in 1956, was receiving about \$7 million a year from the additional tax levy. In 2012, when redevelopment agencies were abolished Santa Clara County withheld the revenue from San Jose. The tax in recent years has been 33.8 cents for every \$1,000 of assessed property value. The California Supreme Court will decide whether to hear the case by mid-February, if they decline the appellate ruling against the county would stand.

East Palo Alto Sues Menlo Park over General Plan Update

The City of East Palo Alto is [suing](#) Menlo Park over changes to its general plan and zoning code,

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claiming that they were adopted in violation of CEQA. The changes in Menlo Park’s M-2 industrial zone would allow up to 2.3 million square feet of nonresidential uses, up to 4,500 residential units, and up to 400 hotel rooms. The lawsuit includes concerns about how the general plan update will affect East Palo Alto, including displacement of residents, traffic, and housing. Facebook recently announced it will donate \$20 million to East Palo Alto community organizations to help provide affordable housing however \$4.5 million is contingent on any challenge to Menlo Park’s general plan update being “resolved in a manner that is reasonably acceptable to Facebook.” Menlo Park City Council voted to

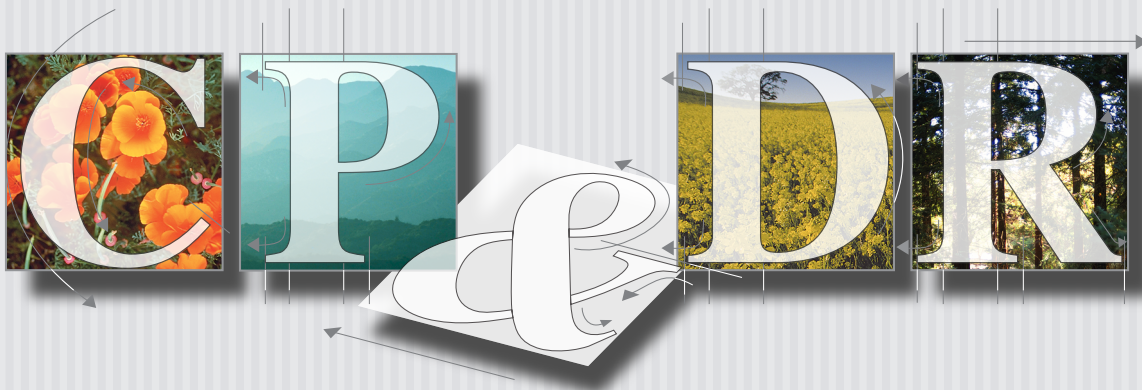
adopt the general plan update, 4-1, which would add as many as 11,570 residents and 5,500 workers between now and 2040.

Review Calls for Administrative Reform at Coastal Commission

A recent “[non-audit review](#)” (PDF) of the California Coastal Commission by the Department of Finance urges the agency to [clean up](#) its books. The audit came in response to the commission’s request for a \$1.46 million loan from the state in June to cover operating expenses. The commission claims that the loan was needed simply because, at the time, it did not have the staff to collect grant payments and reimbursements it was owed. The loan in June was

the second loan in two years. The audit found the commission has a billing system that results in half of its invoices staying open for more than 121 days. The agency says last year was a particularly difficult year with the dismissal of executive director, staff turnover, and adoption of a new accounting system. The finance department recommends the commission centralizes its billing practices, develops written procedures, adopts an invoice schedule and increases the frequency of its billings to speed up collection. ■

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Budget Draft Includes Policy Principles, But Little Money, For Housing

BY JOSH STEPHENS

In his second-to-last budget, Gov. Jerry Brown has not set aside money for affordable housing -- but he has proposed a broad set of policies to reduce cost and regulation and increase supply.

Last year Brown proposed a \$400 million expenditure on affordable housing. That was tied to the passage of a “streamlining” bill that would have eliminated certain discretionary reviews that often tie up infill housing developments. Brown has taken that \$400 million off the table and instead presented a suite of principles and reforms meant to spur market-rate development statewide.

“What we can do is cut the red tape, cut the delays, cut whatever expenses we can afford to do without to make housing more affordable and therefore increase the stock and therefore hopefully bring down the costs,” said Brown at the [press conference](#) in which he discussed the budget.

These reforms include the following:

Streamline Housing Construction Reduce local barriers to limit delays and duplicative reviews, maximize the impact of all public investments, and temper rents through housing supply increases.

Lower Per-Unit Costs Reduce permit and construction policies that drive up unit costs.

Production Incentives Those jurisdictions that meet or exceed housing goals, including affordable housing, should be rewarded with funding and other regulatory benefits. Those jurisdictions that do not build enough to increase production should be encouraged by tying housing construction to other infrastructure-related investments.

The housing proposals in the budget come on the heels of the release of the draft state housing assessment, which said that the state must produce almost 2 million additional units in the next 10 years -- most of it affordable housing.

Accountability and Enforcement Compliance with existing laws — such as the housing element—should be strengthened.

The housing proposals in the budget come on the heels of the release of the [draft state housing assessment](#), which said that the state must produce almost 2 million additional units in the next 10 years -- most of it affordable housing. Housing production dropped precipitously in the Great Recession and has never really recovered.

Overall, Brown’s budget prediction was dour. Brown has alluded to a possible economic downturn after a half-decade of sustained growth, and he has expressed uncertainty about how the economy will perform and about how much federal monies California will receive under the administration of President-elect Donald Trump.

“This year’s budget will be the most difficult that we have faced since 2012,” wrote Brown in his cover letter to the legislature. “The surging tide of revenue increases that we enjoyed the past few years appears to have turned. Instead, we now face a budget deficit of \$2 billion. While this amount pales in comparison to the \$27 billion deficit we faced in 2011, it demands our attention.”

The budget proposes a total of \$122.5 billion in general fund spending.

“We’ve got to bring down the cost structure of housing and not just find ways to subsidize it,” Brown said in a press conference Tuesday, according to the Los Angeles Times.

The budget accounts for \$3.2 billion in state and federal

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funding that is already authorized, but it includes no new funding because “[i]ssuing further General Obligation bonds would be an inefficient and ineffective use of General Fund resources.” The budget cites the passage of several laws last year intended to promote affordable housing as well as the approval of a total of \$2.7 billion in local bond measures.

In other categories related to land use, the budget includes \$4.3 billion in new funding for transportation. It also calls for legislation to renew the state’s commitment to the cap-and-trade program. The budget includes \$2.2 billion from auction proceeds to be spent on a variety of projects, with an emphasis on disadvantaged communities.

The budget kicks off a 10-year cycle of a total of \$43 billion of expenditure for the following projects and programs:

Active Transportation Program \$1 billion Cap and Trade for Caltrans to expand the grant program for local projects that encourage active transportation such as bicycling and walking, with at least 50 percent of the funds directed to benefit disadvantaged communities.

Local Streets and Roads/Local Partnership Funds About \$11.4 billion in Shared Revenues to be allocated by the Controller to cities and counties for local road maintenance according to existing statutory formulas, and over \$2.2 billion in state-local partnership grants.

Sustainable Transportation Grants An increase of \$25 million annually for competitive planning grants to assist regions and local governments in achieving the sustainable transportation requirements in Chapter 728, Statutes of 2008 (SB 375), and other State objectives.

Corridor Mobility Improvements An increase of over

\$2.7 billion for multi-modal investments on key congested commute corridors that demonstrate best practices for quality public transit and managed highway lanes such as priced express lanes or high-occupancy vehicle lanes. Included is also \$25 million annually to expand the freeway service patrol program.

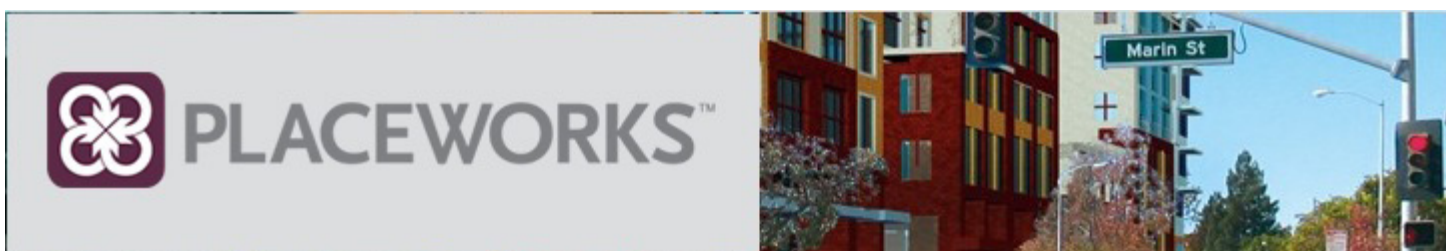
Transit and Intercity Rail Capital Program An increase of over \$4.2 billion (including \$4 billion in additional Cap and Trade as well as \$256 million from loan repayments) for transit capital investments that provide greenhouse gas reductions, with at least 50 percent of the funds directed to benefit disadvantaged communities.

Highway Repairs and Maintenance An increase of almost \$18 billion (including \$1 billion from Caltrans efficiency savings) for Caltrans to fund repairs and maintenance on the state highway system.

State Transportation Improvement Program (STIP) An augmentation and stabilization to the STIP, which should not only allow the California Transportation Commission to restore funding for \$750 million worth of projects cut from the program in 2016, but also program approximately \$800 million in new projects in the 2018 STIP.

Trade Corridor Improvements An increase of over \$2.8 billion (including \$2.5 billion in new revenues and \$323 million from loan repayments) for Caltrans to fund projects along the state’s major trade corridors, providing ongoing funding for a program originally established with \$2 billion in one-time Proposition 1B bond funding.

The legislature will now consider the budget proposal, with a revision in May, and the deadline for final approval July 1. ■



legal digest

Brown Act Defect Invalidates Walmart Initiative

BY WILLIAM FULTON

An appellate court has nullified the result of a 2013 initiative that approved a Walmart in the Town of Apple Valley, saying the town violated the Brown Act in accepting a gift from Walmart to pay for the election.

The initiative to adopt the “Dale Evans Parkways Commercial Specific Plan” – which authorized construction of a large retail store on property owned by Walmart – passed with 58% of the vote. But Apple Valley resident Gabriel Hernandez sued, claiming the town violated the Brown Act in a variety of ways. Hernandez was represented by Cory Briggs, who often files public interest cases on development projects in both San Diego and San Bernardino County.

The Fourth District Court of Appeal rejected most of Hernandez’s Brown Act claims but did say Apple Valley accepted the gift to pay for the election with no prior notice as required by the Brown Act, thus invalidating the outcome of the election. In addition, the court rejected Hernandez’s claim that the initiative violated the state constitution by favoring an individual company. The court also upheld Briggs’ attorneys fees even though his client’s memorandum of costs was filed late.cw

The most important issues in

the case involved the Brown Act. The Apple Valley Town Council considered a series of actions with Walmart in August of 2013 that led to

**The court wrote:
“Here, Town’s
action of putting
the Initiative on
the ballot was
properly found
null and void by
the trial court as
the Town council’s
decision to put the
Initiative on the
ballot was done
so in violation of
the Brown Act.”**

specific plan initiative being placed on the ballot in November of that year. Hernandez claimed a wide variety of Brown Act violations, stating among other things that the agenda for the meeting did not contain enough detail to pass muster under the Brown Act even though detailed information was included in the underlying agenda packet. He also noted that the agenda called for the town council to provide

direction the staff, but the town council actually approved placing the initiative on the ballot.

San Bernardino County Superior Court Judge David Cohn ruled in favor of Hernandez on the Brown Act issues, concluding among other things that simply calling the matter the “Walmart Initiative” on the agenda because another such initiative had been considered in 2011. The appellate court curt back on Cohn’s ruling, saying that enough information about the agenda items had been included in the agenda and packet to satisfy the Brown Act – with the exception of the gift from Walmart to pay for the election.

The appellate court noted that Walmart did not make the offer until after the agenda was posted. The town council approved a motion to adopt a memorandum of understanding with Walmart about the gift even though the MOU was not on the agenda.

“In none of the documents was the ‘item of business’ that Town council was going to accept a gift from Walmart in order to pay for a special election to pass the Initiative,” wrote Justice Douglas Miller for a unanimous three-judge panel. “Hernandez was given no notice that this important ‘item of business’ was going to be voted on at the Town council meeting.

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Miller added: “Here, Town’s action of putting the Initiative on the ballot was properly found null and void by the trial court as the Town council’s decision to put the Initiative on the ballot was done so in violation of the Brown Act.”

However, the appellate court overturned Judge Cohn’s ruling that the initiative violated Article II, Section 12 of the California Constitution, which prohibits an initiative from conferring favored status on an individual business.

The initiative was commonly known as the “Walmart Initiative”. Although the text of the initiative did not mention Walmart, Hernandez argued – and Judge Cohn agreed –

that because most voters understood that Walmart was the property owner, the initiative actually did violate the constitution,

But the Fourth District overturned Cohn’s decision because the land use designations contained in the specific plan would benefit not just Walmart but any subsequent owner of the Walmart property. In that sense, the court said, it is no different than any other legislative act involving land use.

“As a practical matter ... Walmart as the owner and developer of the property would be responsible for the acts under the Initiative,” wrote Justice Miller. “However, since Walmart could sell the property, it

would have no superior right over the subsequent owner or developer of the property.” ■

The Case:

Hernandez v. Town of Apple Valley, No. E063721 (January 5, 2017)

The Lawyers:

For Hernandez: Cory Briggs, Briggs Law Corporation, cory@briggslawcorp.com

For Apple Valley: Piero C. Dallarda, Best, Best & Krieger, Piero.Dallarda@bbklaw.com

For Walmart: Keli N. Osaki, Manatt, Phelps & Phillips, kosaki@manatt.com



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a Climate Action Plan pledging to halve greenhouse emissions by 2035. These plans seek to increase urban density or change residents' commuting behavior for the good of the environment.

Then the city approved four new community plans in 2016, though it's unclear that any of those plans honored San Diego's citywide commitments. The new plans are in Golden Hill, North Park and Uptown – three urban neighborhoods adjacent to downtown – and in San Ysidro, a largely low-income community along the Tijuana border crossing.

Together, the new plans increase the zoned capacity for new housing units in the four areas by only four percent – whereas the general plan projects an increase of 35 percent by 2030. A city study last fall showed none would meet the targets for residents who commute to work via biking, walking, or transit laid out in the city's Climate Action Plan.

Part of the Climate Action Plan's promise to cut the city's carbon footprint in half by 2035 relies on shifting the way people commute; of people living within transit-priority areas, the plan envisions 25 percent taking transit to work, 18 percent biking and 7 percent walking. The primary way the city would do that was through changing land uses in its community plans.

After being pressured first by environmental activists and later by the city's Planning Commission, the city hired a consultant to determine whether the new plans met those standards.

None of them do.

North Park already comes closest to achieving San Diego's ideal of denser, less car-dependent neighborhood. It is close to downtown and adjacent to Balboa Park, the city's cultural center. It is full of historic craftsmen homes but also modern mixed-use projects scattered throughout a thriving, walkable commercial district. It isn't served by the city's trolley, but has a new quasi-BRT line that was unveiled three years ago.

According to citywide plans, North Park is ripe for a significant increase in density.

There are 25,000 housing units in the community today. The new plan, if fully built out, would raise that to over 36,000 units – but that's just seven percent more homes than could already have been built under the pre-existing community plan.

"We've made very minor tweaks to this," city planner Lara Gates said in a hearing on the plan.

Jeff Murphy, the city's planning director, said at the same hearing that growth in the plan respected the neighborhood's existing state.

"Staff finds growth in the plan is properly balanced, given the historic character of North Park," he said.

San Ysidro, the poorest community of the four, shouldered most of the total density increase the city approved last year. The new plan allows 19 percent more homes than the previous plan did. But there's little demand for new development in San Ysidro, given the cost differential with adjacent Tijuana. The new plans in Golden Hill and Uptown – both of which are adjacent to downtown – didn't increase density at all.

The process to update the Uptown plan faced especially tough local opposition to new development. The community planning group fought against upzoning and had in fact endorsed a version of the plan that would have downzoned the community by nearly allowable 2,000 units. Last minute moves by the Planning Commission and the City Council to adopt a higher density alternative staved off that prospect. In the end, maintaining the existing zoning was treated as a victory by pro-development elements.

"There was a strong anti-growth feeling in Hillcrest," said Leo Wilson, the group's longtime chair, on one of most controversial neighborhoods in Uptown. "It just blew up."

Even maintenance of the status quo was not enough for local historic preservation groups. The Save Our Heritage

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Organization and Mission Hills Heritage are suing over the plan, arguing the environmental review was inadequate.

“We were fighting a downzone, so we hail the outcome although it is unfortunately now in the courts,” said Borre Winkel, president of San Diego’s Building Industry Association. “We saved a chunk of housing that we would have lost to those who were promoting a downzone. We didn’t, and so for us that has to be good.”

Joe LaCava was chair of the city’s Community Planners Committee, a sort of umbrella group for all of the city’s community planning groups.

It was possible to get more density in North Park, LaCava said, after members in the community had warmed to the benefits of upzoning along transit corridors and preserving other areas. But promoting enough density to turn Uptown into would have required a political fight that city officials were not prepared to wage.

“I think there was more of a sense of ‘let’s just get it done,’ instead of ‘here is an opportunity to get our first line of urban communities to set the tone for the entire city,’” LaCava said.

His concern isn’t just that the new plans aren’t optimal. Now that the city is embarking on updates in more suburban communities like Kearny Mesa, Mission Valley, and eventually Clairemont and University City, he said, there is no precedent for pushing the dramatic density increases that the general plan needs.

“My idea is, if you don’t do it here, where will you do it?” he said. “The rush to get it done, I understand. But I think it hurts (the citywide process), and they should have

The city, for its part, maintains that the community plans can be successful. Planners say the zoning changes will shift density into more appropriate areas, and make it more likely that the zoned development will actually be built.

taken more time to push the numbers up.”

The city, for its part, maintains that the community plans can be successful. For one, they are shifting from neighborhood-specific zoning classifications to citywide zones, which they expect will make it easier on city administration. Plus, the plans include programmatic environmental reports, which should take concerns under the California Environmental Quality Act off the table for at least some development projects in the community, even if it doesn’t allow them to build bigger projects. They say the zoning changes will shift density into more appropriate areas, and make it more likely that the zoned development will actually be built.

“While the plan guides development, it does not mandate development,” Murphy said at a hearing on the North Park plan. “We do not require that property owners redevelop their property at the densities in

the plans. A community plan only provides the opportunity, the ability to grow. Many of our plans have not reached their buildout potential.”

But the plans weren’t just criticized for their lack of new housing capacity. The lack of increased density also translated into a failure to hit the climate plan’s targets for mode-share shifts.

Under the new Golden Hill plan, for instance, eight percent of commuters would rely on bikes, 10 percent on walking and 18 percent on transit. Over 60 percent of commuters in areas subject to the mode share targets would still drive to work if the plan was fully built out.

“They made very small steps to revitalizing urban neighborhoods, but not nearly enough to achieve the grand

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urban village we always hear about,” said Nicole Capretz, an environmental activist who worked on the city’s climate plan as a city employee before starting a nonprofit that advocates for implementing it.

Brian Schoenfisch, a city planner working to implement the climate plan, emphasized in public hearings that the climate plan doesn’t rely on each community plan perfectly adhering to its overall goals.

“Community plans are only one strategy to reach our citywide mode-share targets,” he said. “We are in the first year after adoption of the plan. The numbers show we are moving in the right direction.”

The city has stressed that whatever isn’t accomplished in the already-adopted plans can be made up for in those that are soon to be adopted – like upcoming updates in Kearny Mesa and Mission Valley. Plus, it could pursue other policies to shift commuting behavior – like encouraging employers not to provide free parking, subsidizing car or vanpools, cutting parking minimums citywide, enhancing biking facilities throughout the city or encouraging flexible work hours.

Even so, the communities that were just updated may very well be those that are most promising for transit, biking and walking, given their proximity to downtown and their existing urban street grid.

“I think it’ll be even harder in those neighborhood,” Capretz said. “To me, it’s a losing battle. No one is taking a citywide view, looking away from these individual plans, and saying, “what are we doing?”” ■

Contacts & Resources

Link to Citywide GP: <https://www.sandiego.gov/planning/genplan#genplan>

Link to Climate Plan: https://www.sandiego.gov/sites/default/files/final_july_2016_cap.pdf

Golden Hill: https://www.sandiego.gov/sites/default/files/golden_hill_community_plan_2016-reduced_file_size.pdf

North Park: https://www.sandiego.gov/sites/default/files/north_park_community_plan_full_document.pdf

Uptown: https://www.sandiego.gov/sites/default/files/uptown_community_plan_full_version.pdf

San Ysidro: https://www.sandiego.gov/sites/default/files/october_2016_hearing_draft_san_ysidro_community_plan.pdf

Joe LaCava, former Chair, Community Planners Committee

Lara Gates, Chief of Policy, San Diego City Council District 9

Brian Schoenfisch, Program Manager, San Diego Planning Department

Nicole Capretz, Founder and Executive Director, Climate Action Campaign

Jeff Murphy, Planning Director, City of San Diego

<https://www.sandiego.gov/planning/community/plans>

Jeff Murphy: murphyj@sandiego.gov

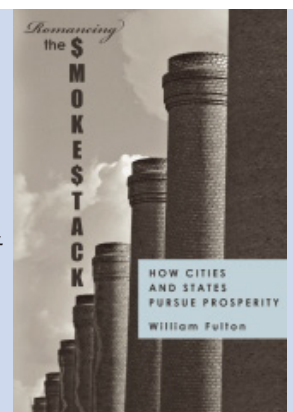
Brian Schoenfisch: bschoenfisch@sandiego.gov

Lara Gates: LGates@sandiego.gov

Nicole Capretz: Nicole@ClimateActionCampaign.org

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

Bill Fulton’s Book On Economic Development



>>> Creeping Incrementalism In Housing Policy?

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because of a looming deficit.

Meanwhile, Assembly Speaker Ed Rendon and Assembly Housing Committee Chair Stephen Chiu have teamed up to [introduce a package of four bills](#) dealing with housing, including two bills that would generate new revenue sources not dependent on the general fund. Those bills might finally create the long-sought “permanent source of funding for affordable housing,” which has been kind of a holy grail for affordable housing advocates in Sacramento for a long time.

All this commotion raises two related questions: First, is there a political deal in the offing on housing in Sacramento? And second, whatever the deal is, will it actually help put a dent in the housing production problem?

Let’s go to the politics first and look at what’s on the table.

In his budget message, Brown placed the blame for low housing production squarely on local governments, whose permit delays he claimed drives up unit costs and discourages construction. He laid out four policy principles he would like to see adopted:

1. *Streamlined housing construction.* He proposed “reducing local barriers,” maximize the impact of public investments, and “temper rents through housing supply increases. Last year Brown unsuccessfully proposed by-right construction for certain types of affordable housing projects.

2. *Lower per-unit costs.* He proposed finding ways to “reduce permit and construction policies” that drive up per-unit costs.

3. *Production Incentives.* He proposed providing jurisdictions that meet or exceed housing goals with cash or regulatory relief of some kind. This is similar to

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the [Jobs Housing Balance Incentive Grant program](#) that the state used to use to provide cash incentives to local governments for housing production.

4. *Accountability and Enforcement.* He proposed that enforcement of existing laws such as the housing element should be strengthened.

However, because of a looming budget deficit Brown took \$400 million in affordable housing money off the table. He proposed the \$400 million in general fund dollars last year as part of the by-right proposal. This year, to the consternation of affordable housing advocates, he said that no general fund revenue could be used for housing.

Meanwhile, Rendon, Chiu, and others have come forth with [a package of four bills](#), one of which would provide a permanent source of funding for affordable housing and two of which pick

up on ideas contained in Brown’s budget message.

AB 71 would eliminate the mortgage interest deduction on second homes, creating a revenue stream of \$300 million. The bill would dedicate these funds to increasing the state’s pool of low-income housing tax credit money.

AB 72 would appropriate funds for the attorney general to enforce the housing element law and other state housing laws.

AB 73 would provide local governments with breaks under the California Environmental Quality Act and cash incentives to do up-front pre-planning and zoning for transit-oriented development that has an affordable component, though the projects would have to be built using prevailing wage.

AB 74 would pay for housing chronically homeless individuals who are on Medicare and receive services through certain programs.

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You can see how the first three bills in particular try to flesh out Brown’s ideas: more money for affordable housing without hitting the general fund, cash incentives to local governments, and more state enforcement of housing element law. You can also see the outlines of a political deal: Prevailing wage is required to buy labor in and money for affordable housing is required to buy in the affordable housing advocates. Providing CEQA breaks is always an iffy proposition, although buying labor in through prevailing wage may blunt some of the opposition.

So, a deal may actually be possible. But how much difference will it really make? As Brown noted in his budget message, the state projects that almost 200,000 housing units per year will be required over the next decade – and I think that may not include closing the past deficit of almost 2 million – but recent annual production has been less than 100,000. No matter how significant these changes are, can they really generate 100,000 units per year and make up the backlog?

Probably not. The housing deficit is the result of a wide variety of factors, including a lack of land in job-rich coastal areas, a wide range of state and local regulatory constraints, and a complicated interplay between the boom cycle of the ‘00s and the bust cycle of the ‘10s.

Homebuilders often blame CEQA for a lack of housing supply, even if CEQA were repealed tomorrow developers would still face stiff regulations – and often ballot-box

zoning—in coastal areas. And anyway, homebuilders are often looking to make it easier to build single-family homes in inland areas – where land is plentiful and cheap – even though the resulting neighborhoods are far, far away from job centers.

More affordable housing money is good, but it’s really just a drop in the bucket. Affordable housing developers are politically powerful and their support is necessary to get anything passed, but even operating at maximum capacity they can’t possibly close the gap themselves.

And the state’s own policy layers don’t always line up. The state has never effectively implemented the 15-year-old AB 857, which requires state agencies to align all their actions with what used to be called “smart growth” goals. The Strategic Growth Council’s work is commendable in providing capital for development projects near transit, but it’s mostly turned into another layer of affordable housing financing now that redevelopment has gone away. SB 375, which requires regional coordination of transportation investments and land-use policies, isn’t binding on local general plans. And so on.

Yet the lesson we have learned since terms limits were passed in California more than 20 years ago is that comprehensive policy change is impossible. As legislators rush through the Capitol on their way to their next job, incremental change is the most we can hope for. So maybe this year’s incremental change on housing will be a start. ■



A Key Ingredient In Placemaking Faces Peril

I had two distressing conversations on the same topic with two different people last week. The first worked at the headquarters of a medium-sized California-based chain of fast-casual restaurants that specializes in salads and other plant-based meals. The second used to run her own casual lunch restaurant in downtown Culver City.

I say that the second person “used to work” at her own place, because she doesn’t anymore. After many years in business, she closed up shop a few months ago. The salad chain, meanwhile, is going gangbusters. They’ve slowly raised their prices, with no drop in sales. They are swimming in investor money and have bullish plans for expansion.

Despite their disparate experiences, they both agreed that these two examples represent the foreseeable future of the restaurant industry: chains will prevail while mom-and-pops and other one-off, idiosyncratic places face [increasing peril](#). Indeed, many independent restaurants are already running deficits. Their failure will be a lagging indicator of a trend that is already well underway. Chains and high-end “groups” with multiple outlets (often under different names) will fill the void.

Case in point: that Culver City restaurant was one of eight that closed in the city’s tiny downtown last year. Los Angeles Magazine [referred](#) to it, mixed metaphor and all, as the “epicenter of the restaurant apocalypse.”

This means that something else is in peril: the vibrancy of American cities, and, especially, of coastal California cities.

The economic pressures facing independent restaurants aren’t hard to imagine. Labor costs and some wholesale costs are rising. Competition is fierce, and not just from other restaurants. The food truck revolution (which I think has been, on balance, a good thing for cities) competes with lunch-oriented places. Interestingly, the cost of groceries

has remained relatively low, so eating in is a better option than ever. Add services like Blue Apron, and every one of those blue-and-white boxes equals up to six seats that will go empty in restaurants.

But let’s get to the meat of the matter. Restaurants are getting clobbered by the same thing that is clobbering everyone else in coastal California: real estate prices. In many cases, landlords are raising rents by amounts that are simply untenable for small businesses. When they move out, many of landlords prefer to let storefronts lie vacant, waiting for a deep-pocketed tenant.

There’s only so much restaurants can do. They can’t start mail-order businesses. They can’t take on roommates or rent sofas on Airbnb. They can’t give up square footage and let some workers telecommute. They’re not allowed to sell their parking lots. They can’t move to the suburbs.

Of course, cities have weathered the loss of book stores, video stores, stationary stores, and the rest. But, as much as I mourn those losses, there’s a difference between a restaurant and, say, a typewriter repair business. For one thing, restaurants are exactly what have filled the the places of many of those forlorn businesses.

More importantly, restaurants are deeply, uniquely intertwined with the fabrics of their respective communities. Urban planners may not always refer directly to restaurants, but I’ve rarely heard a discussion of “place-making” that didn’t implicitly refer to some purveyance of food and drink. Mixed-use buildings need businesses for those ground-floor units. Walkable neighborhoods need places worth walking to.

I suppose Starbucks and Chipotle are places. But you’d have to be a pretty narrow-minded capitalist to argue that they are richer and more interesting than their equivalent mom-and-pop places. Moreover, independent businesses are at the heart of urban economies. They embody all the

In cities that that don’t treat new development like E. Coli, an increase in supply will, hopefully, lead to a flattening out of rental rates. But that’s a long game that goes far beyond the shelf life of many restaurants.

A Key Ingredient In Placemaking Faces Peril

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benefits of entrepreneurship, from abstract virtues like creativity and initiative to the very real economic benefits of keeping profits at arm's length rather than sending them to Wall Street.

And yet, Blue Apron notwithstanding, everyone still has to eat. That means that someone will fill those spaces. This means that the chains are only going to get bigger and, collectively, stronger. They can afford the rents and onerous startup costs (often made more onerous by municipal regulations). They have backing of investors and can maintain their profit margins through economies of scale and tightly run back offices.

Short of holding bake sales to support their local [watering holes](#), what can planners do?

In cities that don't treat new development like E. Coli, an increase in supply will, hopefully, lead to a flattening out of rental rates. But that's a long game that goes far beyond the shelf life of many restaurants.

San Francisco has recently experimented with protections and aid for "[legacy businesses](#)." Their effectiveness is as yet uncertain, and the city's definition of "legacy" protects only the most longstanding businesses. Though residential rent control is surging in California, I see no appetite for a retail equivalent. I'd love to see disincentives for empty storefronts, since many landlords currently would prefer to

let them lie fallow while they wait for big-money tenants than let an incumbent stay on at a manageable rate. My personal favorite anti-chain ordinances that pretend not to be anti-chain ordinances are those that restrict the large, garish signs that many fast food places rely on.

Of course, even tepid versions of these options would cause landlords to go apoplectic. In the political battle between aspiring restaurateurs and grizzled property owners, that's like bringing a whisk to a gunfight.

Ironically, the resurgence of urban life over the past decade or so has corresponded almost perfectly with the artisanal, locavore, organic, small-batch, multiethnic, hipster-led resurgence in the culinary industry. There's probably never been a better time to be a chef, mixologist, restaurateur, or "foodie." That goes double for California — a hotbed of culinary diversity and probably the farmer's market capital of the world.

But planners need not enjoy bone marrow or roasted dandelion greens to care about this trend. They need only care about the places they are trying to create — and bring as much imagination to their jobs as today's chefs do to theirs.

– JOSH STEPHENS | JAN 30, 2017 ■

