

Google Goes Urban

BY JOSH STEPHENS

Many of today’s Silicon Valley behemoths famously, and perhaps apocryphally, originated decades ago in humble garages in what used to be the sleepy bedroom communities of the San Francisco Peninsula and South Bay. But for at least one major company, the future may not involve cars, much less garages.

its global headquarters, known as “The Googolplex,” in suburban Mountain View, Google Inc. has announced plans to move a significant portion of its offices and workforce to a decidedly more urban location: downtown San Jose. For the past decade or so, tech companies have either occupied relatively cramped offices in San Francisco or expansive office parks in Silicon Valley. While Google is not the first company to look to San Jose, such an ambitious move

With a reported 11,000 employees currently based at

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Four Takeaways From This Year’s Housing Legislation

Four Takeaways From This Year’s Housing Legislation

Moved by the undeniable statewide housing crisis the California Legislature passed more housing bills this year than

at any time in memory. The legislators – and Gov. Jerry Brown – are clearly taking housing seriously and they’re likely to come back next year with more bills. But what do this year’s bills add up to? Here

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Report Analyzes Racial Diversity and Housing Supply in Bay Area

The San Francisco Bay Area's less racially diverse cities are not being allocated their fair share of moderate- and lower-income housing, according to new research findings from the Haas Institute for a Fair and Inclusive Society at the University of California, Berkeley. According to the report, [Unfair Shares](#), researchers [determined](#) that after controlling for population size, Bay Area housing allocations for moderate- and low-income residents are correlated with the sizes of the cities' white populations. As a whole, the region only permitted 28 percent, 26 percent, and 29 percent of needed moderate-income, low-income and very low-income housing units respectively between 2007 and 2014. [Additionally](#), the researchers found that more than half the local governments in the region permitted less than 25 percent of the total housing units needed for moderate-, low-, and very low-income households between 2007 and 2014. Only 5 percent of local governments permitted between 75 and 100 percent of the moderate-, low-, and very-low income housing needed, and only 8 percent permitted more than 100 percent of what was needed. While San Leandro, Oakley and Richmond permitted more than 100 percent of very low- and low-

income housing, cities like Martinez, Fairfield and parts of Napa and Solano counties permitted less than 10 percent of their allocations of very low- and low-income housing. These findings raise legal questions about a potentially disparate racial impact in the region's housing needs allocation methodology, while elevating concerns about housing equity in other parts of California as well. The report makes two key recommendations: 1) Modify the Bay Area's regional housing needs allocation methodology to incorporate fair housing objectives; 2) Specify additional requirements within state laws to promote racial equity within the housing allocation process that all regional councils of governments must observe.

Oakland A's Choose Stadium Site

After over a decade of false starts, the Oakland A's have [selected](#) a spot near Laney College as their preferred location for a 35,000-seat, privately financed ballpark to replace the Coliseum. The team is hoping to play their first game at the \$500 million stadium in 2023. First, the team must negotiate and buy or lease the land from the Peralta Community College District, which owns the land. The site is off the 880 freeway, nine-minute walk from a BART station, and is on the edge of downtown Oakland. To

appeal the Peralta districts' Board of Trustees the A's are proposing housing and commercial space on an 8-acre Laney parking lot as well as a garage to boost the college's parking capacity.

Newhall Ranch Hit with Lawsuit

Two environmental groups, Friends of the Santa Clara River and the Santa Clarita Organization for Planning and the Environment, have [filed](#) a CEQA lawsuit to block the approvals of the first phase of Newhall Ranch. The 5,500-unit phase of the controversial mega-development northwest of Los Angeles was approved last month by Los Angeles County Supervisors. The suit, filed in Los Angeles County Superior Court, [alleges](#) that developer FivePoint Holdings did not fully take into account effects on plants and wildlife, Native American sites, and the watershed of the Santa Clara River. It also alleges that the environmental impact report did not account for droughts, impact on the area's water table, or for the expansion of a nearby landfill "The Board's finding that the project will not adversely affect health, peace, comfort or welfare of persons residing or working in the surrounding area ... or otherwise constitute a menace to the public health, safety, or general welfare, is not supported by substantial evidence in the record," according to the

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complaint, as quoted in the Daily News.

Los Angeles Measure JJJ May Be Depressing Housing Construction

According to a study [released](#) by the Building Industry Association of Southern California (BIA) developers submitted only 5,117 applications for new housing construction permits in Los Angeles from March to June. The same period last year saw 9,226 permits. CEO of the BIA's Los Angeles branch, Tim Piasky, blames expensive requirements for affordable housing mandated by Prop. JJJ, a citywide ballot measure that passed in November. When Los Angeles voters were considering the proposition, critics from Habitat for Humanity to the Los Angeles Times warned that the measure could lead to less housing constructions because of the mandate. Under the new proposition, the City Planning Department published guidelines on the percentage of affordable housing units required for new development projects. The proposition also added new labor regulations that required developers to pay a prevailing wage and require that 30 percent of construction workers on a project are LA residents and 10 percent of those “transitional workers”. As Piasky says, “not only are they not producing affordable units they aren't producing any housing units.”

Coalition of Environmental Groups, Governments Sue over Delta Tunnels

Several dozen environmental groups, local governments, and others are [suing](#) the state over the proposed Delta water tunnels project. The legal deadline for lawsuits was in mid-

August. One of the groups argues that the \$17 billion tunnels project would take valuable Delta land out of production and create other problems for the county. All of the lawsuits say the tunnels represent a violation of the state's strict environmental law. Experts on CEQA say the lawsuits won't force Gov. Jerry Brown's administration to get rid of the project, instead the courts will require developers to redo some of their EIRs which will delay but not outright cancel the project. Even with the CEQA lawsuits, the project is still facing a vote by south-of-Delta water agencies that will have to pay for the project. Westlands Water District, which serves farmers in Fresno and Kings counties, has already indicated the project might be too expensive.

SACOG Launches Initiative to Promote Transportation Technology

The Sacramento Area Council of Governments [launched](#) Civic Lab, an initiative that takes local teams through workshops with local and national transportation and technology experts to spark innovative solutions to regional and local transportation challenges, as well as pilot testing technology-based solutions. At the program's launch, 130 city and county elected officials and staff, nonprofits, startup innovators, and service providers came together to learn about disruptions in transportation and smart mobility through technology. Civic Lab is accepting applications until Sept. 15 and teams must be led by a public agency. “Civic Lab gives us the opportunity to solve transportation issues through testing and piloting projects in rural, suburban, and

urban communities. With innovative thinking and pilot testing, there might come some failure, but with failure, we grow and learn. Civic Lab is the place for local governments to explore the possibilities of smart mobility and new technologies,” said aid Brian Veerkamp, El Dorado County Supervisor and SACOG Board Chair, in a statement.

San Jose Considers Aftermath of Coyote Creek Flood

The City of San Jose and emergency management consultant Witt O'Brien's released a [report](#) on why the city failed to notify 14,000 residents about the flood threat in February of this year. The report gives the city an “A” for response but “F” for foresight. After Coyote Creek flooded in 1997 the city was advised to install a universal alert system to notify residents, but that never happened. The warnings that did go out were on social media sites, but low-income neighborhood of Rock Springs whose residents speak primarily Spanish and Vietnamese did not see these messages. One reason for the lack of response was the emergency management director position was vacant and had been for months. However since March the city has hired Ray Riordan as the emergency management director, implemented a three-tiered warning system, and deployed an L-RAD (long-range acoustic device) that can notify people farther away.

How Central Valley Cities Can Prepare for High-Speed Rail

Nonprofit land-use think tank SPUR released a report “[Harnessing High-Speed Rail](#)” about the need for Central Valley cities to capitalize on the great

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infrastructure investment of the state. Instead of becoming cheap housing for the wealth populated coastal neighbors, these cities must reverse years of high unemployment and disinvestment and become incubators for new companies looking for cheaper rents. Bakersfield has plans on how to reorient development if the HSR Authority chooses the city's preferred alignment. Fresno has secured \$70 million in state funds to encourage denser development downtown that includes more walking, biking, and public transportation.

California's Poverty Rate Tied to Housing Costs

The U.S. Census Bureau released poverty rates and California has the nation's number 1 spot, with 20.4 percent of residents

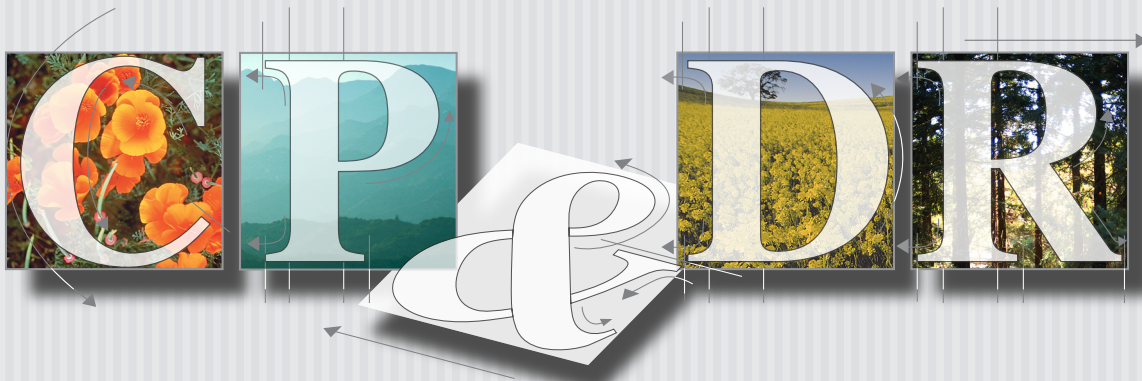
facing economic hardship when living costs such as housing, taxes, and medical costs are included. The California Budget and Policy Center blames high rents for keeping such a large percent of the population in poverty. For instance a minimum wage worker would only be able to budget \$546 a month for housing, but CBPC found that nearly two-thirds of Californians pay more than \$1,500 for a two-bedroom. The U.S. Census Bureau Official Poverty Rate, excludes cost-of-living, puts California in 16th place with 14.5 percent of the population living in poverty.

Bay Area Resiliency Contest Picks Ten Finalists

Ten teams of multi-disciplinary experts have been selected for the

Bay Area Resilient by Design project, a contest funded by the Rockefeller Foundation, which sponsors the 100 Resilient Cities program (see prior CP&DR coverage). The selected teams have a year to come up with solutions against the rising seas and other potentially catastrophic risks associated with the changing climate. The remaining teams were selected from 51 that applied to be part of the program. With funding from the Rockefeller Foundation and others, teams will spend the next few weeks touring several flooding hotspots throughout the bay. Each team will receive up to \$250,000 to come up with a local adaption strategy for a designated area in the bay. ■

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SMART Rail Will Eventually Run 70 Miles, From Larkspur To Cloverdale

BY JOSH STEPHENS

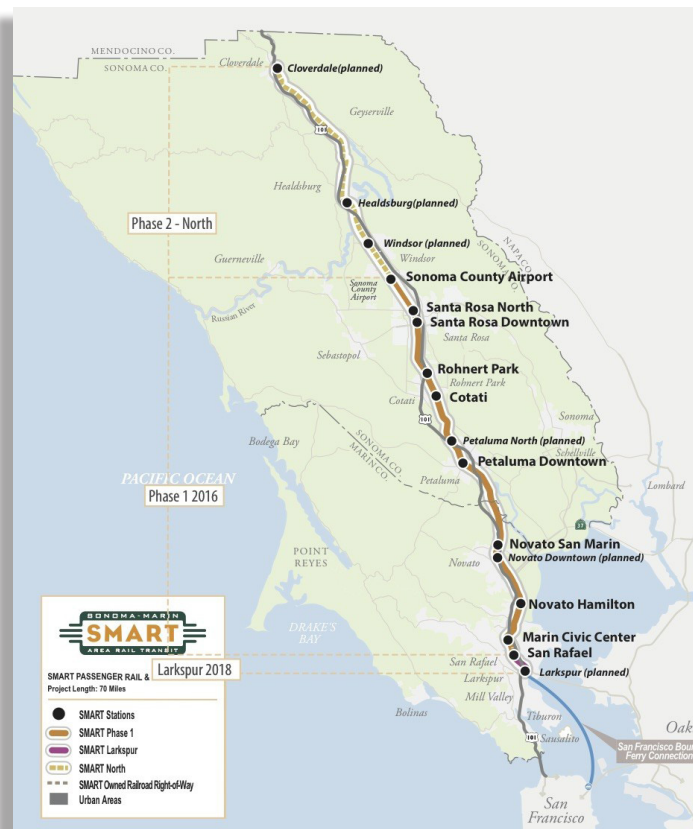
Among the foggy peaks of Mt. Tam, the vineyards of Sonoma County, the spires of the Golden Gate, and the gracious communities that make up the northern fringe of the Bay Area runs a parking lot known as Highway 101. It's not a pretty sight.

Hemmed in by both protected lands and the area's famous environmental conscience, the counties have little ability or inclination to widen the highway that serves a mind-boggling array of commuters traveling into, out of, and within the counties. But a form of relief has recently arrived in Sonoma-Marina Area Rail Transit. SMART rail, as it is known, currently covers 43 miles and includes 10 stations, paralleling the 101 corridor between San Rafael and the Sonoma County Airport. Extensions are underway that will bring the system to 70 miles and 16 stations.

As geographically extensive as it is, SMART rail doesn't carry in a day what a single BART train carries on one trip. Jeanne Mariani-Belding, media spokeswoman for SMART, said that line's projected weekly ridership was 15,600, with the observed number of daily riders "hovering around 2,200 – 2,500."

"We're seeing numbers meet or exceed our projections at this point," said Mariani-Belding.

Despite these modest numbers, and the fact that they



SMART Rail will eventually run 70 miles, from Larkspur to Cloverdale

surely have an imperceptible impact on 101 traffic, SMART could serve as a catalyst for development in a region full of small cities that have often been conflicted about how to celebrate their bucolic setting while responding to the pressures for housing and commercial development that prevail throughout the Bay Area.

Current SMART stations are roughly evenly split between town centers and more suburban or functional locations, such as the Santa Rosa airport. In some cases, cities are viewing SMART stations as catalysts for development, often in keeping with previously adopted general plans or downtown plans. In other cases, cities are not necessarily looking to increase development so much as they are trying to

accommodate stations and integrate them into their urban fabrics.

Arguably, the city that is most aggressively and enthusiastically embracing SMART is Santa Rosa, the largest and northernmost city on the line.

Santa Rosa Planning & Economic Development Director David Guhin said that the city is encouraging development — especially housing development -- throughout its downtown in part though a new station area plan, which complements an existing downtown plan.

"We want to encourage inclusionary, affordable housing,"

>>> SMART Rail Will Eventually Run 70 Miles, From Larkspur To Cloverdale

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said Guhin. “We work with all developers to explore density bonus which would allow them to go higher densities and bring more affordable housing...we’re hoping to go even further than what the station area plan says.”

Downtown Santa Rosa also has a developable parcel of land formerly owned by SMART and used as a staging area during construction. Guhin said that the city is entering into a development agreement for a project of roughly 300 housing units, a ground-floor retail, affordable units, and a pedestrian plaza greeting passengers who alight at the station.

“We’ve been trying to get that developed for years, but there was no movement,” said Guhin. “Now that the train is here, we worked hard over the year to identify a developer, that developer negotiated with SMART, bought the property, and is now going to be working with us to develop that site.”

Aside from that parcel, SMART is not involved in any cities’ development plans.

“Because we’re a new service and very small, we’re focused on getting our service up,” said Mariani-Belding. “For development in the cities, the cities will lead that conversation.”

Guhin said that all of these efforts are taking place against the background of the region’s housing crisis.

“It’s inevitable that if we’re trying to solve the housing crisis and we need the density to solve it in a controlled, responsible way...rather than sprawl, it’s going to happen in a place like Santa Rosa,” said Guhin. “We’re the fifth-biggest city in the Bay Area. We have that responsibility to

create that type of housing product that we can support.”

At the other end of the line, the City of San Rafael has long been promoting density in its downtown area through its Downtown Specific Plan, to which a station area plan has been added. While Marin County has famously resisted what many stakeholders consider excessive development — as evidenced by this year’s Assembly Bill 121, relieving the county of some obligations under the state’s Regional Housing Needs Allocation program — San Rafael Planning Director Raffia Boloyan said that downtown San Rafael can accommodate density.

“San Rafael has always been pretty progressive and forward-thinking about its downtown,” said Boloyan. “Since the mid-1990s we did a downtown visioning process and basically changed a lot of our rules and heights and intensities allowed around downtown ... rather than in the suburbs.”

Boolean said, though, that developers have not fully taken advantage of those regulations. That may be changing with SMART.

“We are seeing more interest in growth in and around downtown,” said Boloyan. “The last two big projects we’ve had inquiries on ... both started out wanting to exceed our current floor-to-area ratios. I think SMART is getting people to want to do more.”

Moreover, Boolean said that developers are encouraged to strive for even greater densities than those outlined in the downtown plan.

“We said mixed-use is good, and you get whatever the maximum residential density is allowed plus whatever the

SMART could serve as a catalyst for development in a region full of small cities that have often been conflicted about development.

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>>> SMART Rail Will Eventually Run 70 Miles, From Larkspur To Cloverdale

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maximum commercial density is,” said Boloyan. “So it’s additive. Now we have the state density bonus stuff.”

As in Santa Rosa, SMART rail is not expected to radically alter commuting patterns but the downtown station does provide a focal point for development and has created new interest in downtown.

“SMART starting has not caused a change in any rule that would increase the number, but it’s definitely drawing interest from the development community,” said Boloyan.

That is, though, only for the time being. Boloyan said that SMART’s planned southern extension to Larkspur will require reconfiguration of the city’s transit hub in order to accommodate through tracks. Currently, the tracks terminate at the San Rafael Station.

Among the cities with multiple SMART stations, Novato has turned traditional transit-oriented development strategies on their head. The city’s suburban station is designed to serve what Novato Community Development Director Robert Brown describes roughly 2,000 jobs and 2,000 housing units at the city’s Hamilton Station, so named for a redeveloped Air Force Base. A vacant 700,000-square-foot corporate campus, formerly occupied by Fireman’s Fund Insurance, is waiting for a new tenant, which could further take advantage of the station.

“That development essentially already has the density you would want surrounding a rail station,” said Brown.

By contrast, the city’s downtown station — which is not

yet open -- was literally an afterthought.

“Novato late in the game decided that they really wanted a downtown station,” said Brown. “They had given up the downtown station in favor of Hamilton.”

Brown said that the city owns a few developable parcels around the station and that the city council will soon be conducting work sessions to consider how to development. Otherwise, Brown said that the downtown station could be a catalyst for cosmetic improvements and possibly some tactical urbanist strategies to enliven the station area.

“We might create some destination spots to encourage people to get off the train,” said Brown. “Possibly come up with a beer garden with a little entertainment space right next to the rail platform, pour some food truck pads... without a lot of investment we can try to create an entry statement and gathering place.” ■

Contacts & Resources

Sonoma-Marin Area Rail Transit

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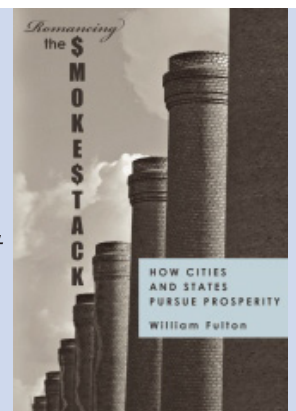
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legal digest

Prop. 13's Two-Thirds Vote May Yet Survive *Upland Ruling*

BY MICHAEL G. COLANTUONO

CP&DR's August 30, 2017 issue [reported](#) on the California Supreme Court decision two days earlier that seemed to upend a major provision of Proposition 13 and its companion laws. Exuberant as it is, that analysis is misguided.

In California Cannabis Coalition v. City of Upland, involving an initiative to legalize marijuana dispensaries and to impose a \$75,000 per year “annual Licensing and Inspection fee.” Although careful reading shows the decision is narrow, some of its language led early commenters — including CP&DR's [Bill Fulton](#) — to predict that local special taxes might be allowed on a simple majority vote, rather than the two-thirds voter approval required by 1986's Proposition 62 (applicable to counties and general law cities), 1978's Proposition 13, and 1996's Proposition 218 (both applicable to charter cities, too.)

I conclude the case maintains the two-thirds-voter-approval requirement for local special taxes.

Upland prohibits marijuana dispensaries. The California Cannabis Coalition circulated an initiative proposal to allow three in Upland. It collected signatures of more than 15 percent of Upland voters on a petition calling for a special election. As

the Elections Code allows, the City Council requested a report on the measure.

The report concluded the city's cost to license and inspect a dispensary would be \$15,000 per year and that the \$75,000 fee therefore included a \$60,000 general tax — i.e., a tax to fund any lawful purpose of the city. Under Proposition 218, general taxes may only appear on general election ballots when city council seats are contested. The city council therefore set the measure for a general election two years later. The coalition sued to compel an earlier, special election. The trial court agreed with the city that the measure imposed a general tax and could not be set for a special election.

The Court of Appeal reversed and — without deciding whether the measure imposed a tax — concluded Proposition 218's general-election rule for general taxes does not apply to initiatives. The Supreme Court agreed. It concludes the measure was not subject to the general-election rule even if it imposes a tax, because that rule applies only to taxes proposed by the city council. The court reasoned that limits on initiatives are disfavored and must be plainly stated and the general-election rule is a procedural requirement that applies

when a government agency legislates, but not to initiative proponents.

The court makes clear, however, that the two-thirds voter-approval requirement for special taxes — taxes which may be spent only for stated purposes — does apply to initiatives: “[F]or example, the enactors [of Prop. 218] adopted a requirement providing that, before a local government can impose, extend, or increase any special tax, voters must approve the tax by a two-thirds vote. That constitutes a higher vote requirement than would otherwise apply. ... [V]oters explicitly imposed a procedural two-thirds vote requirement on themselves in article XIII C, section 2, subdivision (d)”

Language in the opinion leads some to argue the decision imperils the two-thirds rule for special taxes. First, two justices who disagreed with the majority's reasoning characterize the language just quoted as less than definitive: “the majority opinion contains language that could be read to suggest that article XIII C, section 2(d) [the two-thirds rule] should be interpreted differently from section 2(b) [the general election rule].”

Moreover, other parts of the opinion refer to the general-election rule by citing the entire section of which it is a part — article XIII C, section 2.

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That is unhelpfully ambiguous, as section 2 includes both the general election rule and the two-thirds vote requirement, and three other rules. Further, the Proposition 218's article XIII D — governing assessments on property and property related fees, including many retail water, sewer and trash fees. As Propositions 13 and 62 use language very similar to that of Proposition 218, these questions arise under all three measures.

Still more alarming for Proposition 218's advocates is the court's expressly refraining from deciding whether a city council or board of supervisors could adopt an initiative tax proposal without submitting it to voters at all — the “Tuolumne strategy” common in land use disputes (see prior CP&DR [coverage](#)). I expect courts to conclude a city council cannot adopt an initiative tax without voter approval because the court's language preserving the two-thirds rule describes it as a procedural restriction voters imposed on themselves. If voters cannot tax themselves without two-thirds voter approval, governments cannot either.

Upland has sought rehearing to clarify some of the decision's ambiguities and the San Diego Union Tribune has already editorialized that the court should do so. Such petitions rarely lead to new briefing and argument, but sometimes lead to minor clarifications of an opinion.

The court has until November 26 to act on the petition, but it should be decided by mid-November.

A few observations:

“The court makes clear that the two-thirds voter-approval requirement for special taxes — taxes which may be spent only for stated purposes — does apply to initiatives.”

First, the initiative power holds a special place in California's democracy and courts are reluctant to limit it.

Second, while it is often sensible for a local government to refuse to proceed with a plainly unlawful initiative, courts would prefer they did not. Courts would rather local governments let judges decide which initiatives are lawful. Judges view it as their duty to protect initiatives from hostile legislators.

Third, the decision reinforces a distinction between procedural rules for city councils and boards of supervisors and substantive rules intended to limit local government authority generally. The former will not apply to initiatives, the latter commonly will. The hard part, of course, is sorting out dispensable process from mandatory substance. And, the opinion treats the two-thirds rule as procedural, but nevertheless binding on voters acting by initiative.

What next? Rehearing may make helpful clarifications to the opinion. If not, Assembly Republicans have announced an effort to amend the State Constitution to reinforce the two-thirds rule. 2018 brings a hotly contested election to maintain (without the high voter turnout of Presidential elections) Democrats' legislative supermajorities and a contest for the House of Representatives fought in 7 Republican and 4 Democratic California seats. Such a ballot measure might be a useful tool to frame that larger contest.

While the Upland opinion is not as clear as one would hope, I think the two-thirds voter approval requirement for special taxes, and the election requirement for taxes generally, survive the decision. ■

Michael G. Colantuono is a partner in the firm of Colantuono, Highsmith & Whatley, PC.

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may signal a new era in the urbanization of the tech industry.

Google plans to build a campus, presumably in phases, on parcels totaling roughly 126 acres just west of downtown San Jose. The campus of 6 million to 8 million square feet will house up to 20,000 employees. Crucially, the campus will be in easy reach of Diridon Station, which currently is the terminus of Caltrain commuter rail, with an extension of Bay Area Rapid Transit scheduled to open in 2026. The station is also intended to serve California High-Speed Rail.

In June, the City Council voted, 10-1, to negotiate exclusively with Google for the purchase of 16 city-owned parcels. Potential prices have not been disclosed, but city officials say that the entities are negotiating “in good faith.” Google has also acquired nearby privately owned parcels, for a reported \$135 million.

Google officials declined to comment for this story, aside from a statement from a spokesperson reading, “We’re excited to have the support of the San Jose city council as we evaluate our options at Diridon Station.”

City officials in San Jose are welcoming Google wholeheartedly, with the hopes that the development will spur the urbanization of a downtown that, while not destitute, has never enjoyed the vibrancy of San Francisco or Oakland.

“San Jose has been really trying to revitalize downtown, almost since Valley Fair Mall opened in 1956,” said San Jose planner Michael Brilliot, who oversees the Diridon Station Area Plan.

In fact, Google’s plans represent a victory for San Jose after the city experienced what had seemed like a defeat at the hands of Oakland. For several years, the Oakland

In fact, Google’s plans represent a victory for San Jose after the city experienced what had seemed like a defeat when a deal for the A’s baseball stadium on the same site fell apart.

A’s negotiated to move to San Jose and build a stadium on the site being eyed by Google. The A’s bid failed in October 2015 when the United States Supreme Court refused to hear the A’s challenge to Major League Baseball’s rejection of their bid to move away from Oakland. Located in a former redevelopment project area, the property is controlled by the successor agency to the San Jose Redevelopment Agency.

Lacking the power of a redevelopment agency, the city had expected the development of the property to take place slowly, if at all. Indeed, few developers or companies have the funds and inclination to develop the entire area. What the city had hoped to do was provide clear development guidelines, via the Diridon Station Area Plan, to ensure that the area was developed properly.

“We weren’t going to piecemeal it and let it be developed parcel by parcel,” said Scott Knies, executive director of the Downtown San Jose Business Association. “It’s too important of a space and there’s too much potential and promise.”

Google could make that process even easier, and more predictable.

“If someone had told me that Google was going to come in and built 8 million feet and accommodate up to 20,000 Googlers, that would have made me think the ballpark is OK to let go,” said Knies.

In many respects, Google will use the location far more efficiently than the A’s ever could have. What could be transformative for San Jose may also be transformative for the tech industry. Having both created and suffered from the high real estate prices and land shortages of the Peninsula, Google is now sees itself as a city-bulider.

“This is not just the office product of the future for

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Google,” said Knies. “It’s really the example for what a transportation hub and an urban center can be.”

The location signals a commitment to the use of public transit, walking, and bicycling, and possibly to residential development that would enable Googlers to live in an attractive urban neighborhood blocks from their offices. This would be in stark contrast with the torturous commutes that many Google employees currently make from San Francisco and points beyond, often on much-maligned “Google buses” that, according to some, symbolize the gentrification of San Francisco and the fraught relationship between tech firms and long-term stakeholders.

“It’s a new way of thinking about the workplace, departing from the old concept of more suburban campus development,” said San Jose Senior Planner Jenny Nusbaum. “We are very excited at the prospect of any developer who’s supportive of that vision.”

While San Jose benefits directly from Google’s arrival in the form of civic pride, tax revenue, and elimination of blight, the entire region stands to benefit from the move and, especially, from 20,000 more efficient daily commutes.

Google’s move to San Jose promises to exert an outsized influence on the city. Though San Jose has over 1 million residents, making it the third-largest city in California and far larger than its Bay Area sister cities, it has one of the lowest ratios of jobs to residents of any major city in the country.

“It’s one of the few large cities that exports more workers out of its city limits than imports, mostly driving north along the Peninsula,” said Knies. “When San Jose is expected to be the bedroom community for Silicon Valley, there needs to be some balancing of the ledgers.”

This imbalance has led to some nasty disputes among regional cities. Recently, San Jose filed suit against Santa Clara over the CityPlace mega-development (see prior CP&DR [coverage](#)). San Jose alleges that Santa Clara needs to provide housing to complement the project, lest workers are compelled to live in San Jose, increasing housing pressures and adding to cross-jurisdictional traffic.

“Communities are saying they’ve got too much job growth,” said Brilliot. “We’re saying, bring it on. This is where the urban future of Silicon Valley is.”

The city hopes that Google can create a healthier balance between jobs and housing and create far shorter commutes for those Google employees who already live in San Jose or who will move to San Jose once the company arrives. San Jose currently suffers from the same housing crisis that plagues the entire Bay Area, but it has a far larger overall supply of housing than do cities like Menlo Park, Mountain View, and other tech cities. Workers who commute to Google from the north - the proverbial “Google bus” employees — will have abundant rail options.

“The good thing about this proposal is it helps in what is currently a reverse commute for transit, with Caltrain and soon BART both having more capacity in the southbound direction,” said Stuart Cohen, executive director of transit advocacy group Transform. “Getting more evenly distributed ridership should increase farebox recovery for both BART and Caltrain.”

As intense as the development will be, it comes at just the right time. San Jose has recently adopted vehicle miles traveled metrics for its transportation analyses, anticipating Senate Bill 743 (see prior CP&DR [coverage](#)), which is particularly friendly to infill development and mindful of its potential environmental benefits.

“We also see it as being an area that could be the poster child for VMT reduction,” said Nusbaum.

By some accounts, transit options were the catalyst for Google’s move. Regional voters approved a series of transportation funding measures, in 2000, 2008, and 2016, to extend BART. That task became easier with the dedication of federal funds that will support the electrification of the Caltrain line, making it less polluting, quicker, and more efficient. That funding had been in jeopardy earlier in the year, when Transportation Sec. Elaine Chao announced that the federal government was going to review the funds, but they were reinstated in May.

“This is exactly what we want to see from all those

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years of transportation and transit investments,” said Chris O’Connor, senior director for transportation at the Silicon Valley Leadership Group. “Until some of these companies saw the guarantees that these investments were going to come, they couldn’t make those investments.”

The move also comes amid sustained promotional efforts on the part not only of the city but also on of regional organizations like the Silicon Valley Leadership Group. SVLG has gotten increasingly involved with land use and transportation as its member companies have contended with the costs and constraints of doing business in — and attracting workers too — built-out Peninsula cities.

“It’s very much an acute concern of our member companies that there is a drastic shortfall in the housing supply and that it’s so difficult for them to retain their human capital,” said O’Connor. “The only way you can do that in an area that’s already built out the way we are, you need to do very dense infill development.”

(Even as Google looks to San Jose, O’Connor praised the company for promoting nearly 10,000 units of housing near its Mountain View campus.)

The details of that density have yet to be worked out, though. In fact, while Google’s public announcement suggests that the plans will come to fruition — the company has a reputation for getting things done — currently the project is in only the earliest stages. The company has an exclusive agreement to negotiate with the city to acquire the land, essentially giving it right of first refusal, but not much more.

“There is no application on file by Google for development or land uses,” said Nusbaum. “If it’s going to happen, it’s likely to be several years away.”

Even once that application is filed, Google, the city, and various stakeholders will likely go through extensive

“What we understand Google tends to value and envision.... seems to be very in line with the vision we have for Diridon.”

negotiations over the form, look, and mix of uses on the new campus. In some ways, that will be the true test of whether the tech industry is ready to embrace urbanism — or whether it’s going to build the same old office park design in a new location.

The poster child for the latter concern is Apple’s new campus in Cupertino, which looks like a spaceship and has about the same amount of transit connectivity as it would if it were actually in orbit. Despite its inclusion of green elements — such as solar panels — the ring-shaped campus has been derided for its provision of 12,000 parking spaces and suburban orientation. (See prior CP&DR [commentary](#).)

“It’s a neat design and they spent hours arguing over doorhandles, but it’s a futuristic vision from 1956,” said Brilliot. “It’s not that innovative from our point of view. Why is that there? Why isn’t that here?”

San Jose planners insist that Google has different urban sensibilities. And they expect that stakeholders will ensure that Google builds a campus that enhances the city rather than retreats from it.

“For quite some time now, the city’s been clear about how it wants to grow and develop over the long term,” said Rosalyn Hughey, interim director of the San Jose Department of Planning, Building, and Code Enforcement. “We’ve been very deliberate....very public process, with a task force and multiple community meetings.”

“What we understand Google tends to value and envision....seems to be very in line with the vision we have for Diridon,” said Nusbaum.

Even so, a massive, single-company development can come with drawbacks. In fact, without careful planning, Google might not end up with an “urban” campus even if it is in the middle of the city.

“The downside is it’ll be one company with a lot of control. If it’s not done right, it’ll feel like one giant

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campus,” said Brilliot. “Traditionally, urban development is more organic, more fine-grained, which adds to the character and funkiness of it.”

Of course, the city’s vision, or Google’s vision for that matter, does not necessarily have anything to do with what the final result will look like. The city’s planners expect to go through a long negotiation over the development’s form, aesthetics, and uses. And community benefits will surely come into play. Given Google’s wealth and heft, it can singlehandedly transform the area — but it also may become the object of every hope, dream, and demand of local stakeholders.

“The challenge here is, before you know what the deal is and what the project is, is that there are community groups asking for too much,” said Knies.

O’Connor, of the SVLG, said the city should seek appropriate concessions from Google, but it should not to too far.

“Any city should do is strike a balance between understanding the benefits that these companies are going to bring as far as prosperity to the region,” said O’Connor.

One element that the city and community groups are likely to demand is that of housing, particularly affordable

housing. The Diridon Station Area Plan currently allows for up to 3,000 units.

“There’s really this tremendous opportunity to have this city within a city of the future and to do that in a way that embraces income inequality” said Knies. “Those arguments are not going to go away. We’re going to be hearing them every step of the process. But there’s enough room there to incorporate a lot.” ■

Contacts & Resources

Diridon Station Area Plan

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>>> Four Takeaways From This Year's Housing Legislation

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are four takeaways:

1. Forget CEQA Reform

For decades, the California Environmental Quality Act has been the favored whipping boy of the homebuilding industry. If CEQA were eliminated or streamlined, more housing would be built, housing would be affordable, and everything would be fine. In the last few years CEQA reform has been front and center in the Legislature every year.

Not any more. CEQA reform wasn't on the radar – indeed, it was barely even mentioned. The focus of attention has been not on reforming CEQA but end-running it. Gov. Jerry Brown put “by-right” reform of the land-use approval process on the agenda last year and this year a by-right bill got through – SB 35. Other bills encourage cities to create various specific plan-level districts that will limit the need for project-level CEQA review.

Bottom line: CEQA reform is too hot a potato for the legislature. As I've written before, too many constituencies have too much invested in the use of CEQA to extract blackmail of one kind or another from developers. Why fight that battle when you can end-run CEQA instead?

2. Good Luck Finding That “Unicorn” Project

By-right approvals are now legal – but good luck finding a project that meets the many criteria laid out in SB 35. It's a little like those CEQA infill exemptions – looks good in concept but it comes with so many strings attached you'll be hard-pressed to find a developer who can use it.

To qualify, the jurisdiction has to be demonstrably behind in meeting its RHNA numbers with actual construction. The project has to be a multi-family project located in an infill zone that is planned for residential development but hasn't been used for residential in at least 10 years (basically, that's those old commercial or industrial sites near new transit stops). There has to be an affordable component too, and to qualify for the by-right approval you have to use prevailing wage or union labor. Oh, and the project can't be in the coastal zone or on wetlands or ag land or anything like that.

Basically, if it's an infill project on old commercial or industrial land that has affordable housing or prevailing wage as part of its funding requirements anyway – sure, then maybe. But how many projects like that are there?

By the way, you can hold hearings on an SB 35 project – so long as the hearings are confined to compliance with objective standards and you approve the project ministerially in the end.

3. Pay Attention To That Housing Element – Especially The Land Inventory

The legislature paid an awful lot of attention to the land inventory in the Housing Element and using it to top cities from eating up their affordable housing land supply with market-rate projects – or projects with lower densities than called for in the Housing Element.

SB 166 – the so-called “no net loss” bill -- requires that a local jurisdiction must maintain a current stock of available land with appropriate densities for all income groups, including the 40% of the housing supply that typically must be set aside for low- and very-low-income units. This could lead to some pretty gnarly accounting issues – to say nothing of political issues -- for cities and counties, who will have to constantly recalibrate their land inventories and possibly rezone property to maintain an adequate stock of land for affordable housing.

Local government officials say they don't think their state counterparts quite realize what a political challenge this might be. After speaking with legislators and state officials, veteran housing lawyer Barbara Kautz said, “Their view is, cities should just zone a whole bunch more sites than they need.”

Then there are the amendments to the little-known Housing Accountability Act, a law dating back to the '80s that puts bumpers on local governments' ability to deny housing projects. This year's changes – enacted across a range of bills – put a great deal more of the burden for denying projects on the local governments themselves.

One new provision changes the burden of proof on the

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city's findings for denial from “substantial evidence” to “preponderance of evidence”. This gives the courts a lot more leeway to reverse city denials. No longer will they have to give great deference to local government judgments when it comes to findings. Judges can conclude that even if there is substantial evidence on the part of the local government, there may be more or better evidence on the other side.

Other new provisions beef up the requirement that a denial must be based on an “objective standard” and a public health and safety finding – not a welfare finding. These provisions are likely to mean that vague standards such as “character of the neighborhood” will gradually be replaced by more specific standards contained in the development code – and could even limit the role of planning commissions and design review boards in the long run.

On affordable projects, the findings to deny a project include requiring that everything in the RHNA is being

built otherwise, a coastal act override, inadequate water and sewer capacity, and inconsistency with both the general plan and zoning (assuming the jurisdiction has a current housing element).

But the city is also going to have to provide developers with a list of inconsistencies within 30 days (60 days for big projects) or else the project will be deemed consistent with the general plan and zoning. So consistency is going to have to be determined much earlier in the process.

4. **Believe It Or Not, There's Money For All This**

SB 2 is a \$4 Billion housing bond that Gov. Jerry Brown – who doesn't like bonds – says he'll sign. If it goes through, half of the first year money – around \$200 million -- will go to local governments for planning and other efforts that expedite housing projects. So even though the state is going to make jurisdictions tow the line much more carefully on housing elements and certain types of project approvals, there may actually be money to implement the new laws. ■



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Battle Over ‘Bodega’ And Bodegas

A week or so ago, in less time than it takes to pop open a can of Pringles, the Internet fawned over and then recoiled against retail startup Bodega. Promising to do for potato chips what Uber did for transportation, Bodega intends to place what are essentially glorified vending machines all over, well, everywhere. The machines’ inventories will be customized according to location (train station; sorority; gym; tech startup office) so that inhabitants of our new, perfected cyber-world can acquire necessities without having to confront ugly realities of space and distance.

For those among us who are truly that antisocial, agoraphobic, or overworked, I can’t imagine why this system is preferable to home delivery, but whatever. Bodega is making a go of it, crossing off yet another industry on the disruption hit list.

How fast do things happen when you’re not constrained by things like public outreach, CEQA, city council meetings, and construction schedules? Very. On literally the same day that Bodega the company launched — that would be two days ago, Sept. 13 — Fast Company ran a comprehensive [profile](#) of the company, replete with praise and skepticism. By that afternoon, Eater ran an entire [article](#), and then a [follow-up](#), about the backlash against Bodega, calling it “Twitter’s least-favorite startup” and quoting Tweets making fun of its logo (a cat), questioning the ethnic sensitivity of its name, and saying that it should be called “Gentrification Box.” Ouch.

Now that the world knows what Bodega is, residents of California can be forgiven for wondering what a bodega is.

As anyone from an East Coast city knows, a bodega is a corner store. It’s the type of place that sells milk, chips, and ramen in single-serving cups. They are also the types of places where, depending on their selection of malt liquor, you can get panhandled or shaken down. They have neither the placemaking power of a local bar nor the culinary selection of a supermarket. But they’re nice parts

of the urban fabric and often provide economic substance for individual entrepreneurs. And, since they’re generally located in dense neighborhoods, no one ever drives to a bodega.

Fast Company notes that Bodega could present fatal competition for its namesakes:

The major downside to this concept—should it take off—is that it would put a lot of mom-and-pop stores out of business. In fact, replacing that beloved institution seems explicit in the very name of McDonald’s venture, a Spanish term synonymous with the tiny stores that dot urban landscapes and are commonly run by people originally from Latin America or Asia. Some might bristle at the idea of a Silicon Valley executive appropriating the term “bodega” for a project that could well put lots of immigrants out of work.

While this prediction may be exaggerated, what it implies is that cities don’t need fewer bodegas. In fact, they need more of them — especially in California.

Bodegas are essentially illegal in most neighborhoods in California. In California, separation of uses is next to godliness. Our residential neighborhoods, urban and suburban alike, can span dozens of square miles and require drives of many miles to get a quart of milk. And, yet, if anyone were to propose the addition of a corner store in these homogenous neighborhoods — to, you know, cut down on those drives and maybe give neighbors a place to run into each other — orthopedists would be overwhelmed for all the pearl-clutching. And don’t get me started on parking requirements.

A bodega could easily prosper on my nearest corner, and on hundreds of others like it. I’m in the heart of a west Los Angeles neighborhood packed with mid-rise apartment buildings as far as the eye can see. There’s no earthly reason why one of those buildings can’t have a retail space on the ground floor. I can only imagine the number of car trips that would be eliminated if my neighbors and I could walk

Battle Over ‘Bodega’ And Bodegas

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to a bodega rather than drive to the supermarket. And, I can only imagine what it would be like to have a place to bump into neighbors that doesn't include rear-ending them in rush-hour traffic.

My point here is, the question of whether or not this silly startup will “disrupt” the corner store industry is beside the point. Zoning regulations and our stunted notions of what constitutes a “proper” neighborhood have already prevented more bodegas from opening than will ever be run out of business by the likes of Bodega.

It's telling that Eater jumped so quickly to criticize Bodega and to publicize those mean tweets. Eater is a restaurant blog. Its entire existence depends on people going out into the world and doing things — in their case, consuming food, alongside other people who are also consuming

food. So they get rightfully jumpy when yet another cyber-something comes along that would compel people to stay at home and watch *The Bachelor*. (Restaurants themselves [aren't doing so well](#) these days.)

Of course, Eater's mission should be every planner's mission: to promote and celebrate physical places where people can enjoy each other. I hope the current generation of planners will grab a can of Pringles — or whatever else they need to fuel up — and figure out ways to give bodegas a fighting chance.

– JOSH STEPHENS | SEPT 26, 2017 ■

