CP&DR

VOL. 30, NO.1 — JANUARY 2015 CALIFORNIA PLANNING & DEVELOPMENT REPORT

SGC Approves Cap-And-Trade Program

BY CP&DR STAFF

The Strategic Growth Council has unanimously approved the Affordable Housing and Sustainable Communities program – the program that will distribute tens of millions of dollars in cap-and-trade funds – with only one minor amendment.

The program now kicks into high gear, with six workshops in a row starting next week and prospective applicants required to submit "concept proposals" by February 19th. The SGC plans to select and fund projects by the end of this fiscal year.

As adopted by the SGC on January 20, the competitive criteria was re-weighted to give greenhouse gas (GHG) "emissions reductions per... dollar requested" the greatest significance, contributing 55% of the total score. Otherwise "project readiness and feasibility" would contribute 15% of the total and all other criteria, grouped under "policy considerations," would contribute 30%.

The prior full version of proposed guidelines, as circulated in September, would have weighted scores 35-40% for "feasibility and readiness", 40-45% for "connectivity and improved access" and 15-20% for "community orientation".

The SGC also passed much smaller Sustainable Agricultural Lands Conservation program. The only

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insight

WILLIAM FULTON

CEQA Still Polarizes

I've been gone from San Diego for five months now, but the whole scene there – especially with regard to the California Environmental Quality Act – keeps coming back to haunt me.

The most recent example was the a dueling set of commentaries on San Diego's great news web site Voice of San Diego between Cory Briggs, the CEQA plaintiffs' lawyer in San Diego that everybody loves to hate, and developers lawyer Richard Schulman. It's a good example of how polarizing CEQA can be – even when it doesn't have to be.

In a short commentary titled, "CEQA Isn't the Reason You're Sitting in Traffic in

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inside

Development in Sacramento-Area Flood Zone May Resume

Developers are awaiting a federal decision that may allow them to start building again in the Natomas region of Sutter and Sacramento Counties. The region, which sits between the Sacramento and American Rivers, was one of the most active areas of development in the Sacramento metro region in the early and mid-2000s. Based on concerns over levees whose solidity has been likened to that of toothpaste, the Federal Emergency Management Agency imposed a moratorium on the area in December 2008. That order put a halt to the development of up to 5,000 homes that had been issued building permits.

Improvements to the levees reportedly have satisfied FEMA criteria for lowering the moratorium. The Sacramento Flood Control Agency has spent $410 million to upgrade 18 miles of levees, with the U.S. Army Corps of Engineers set to spend $760 million on 24 remaining miles. Developers are expected to revive many of their plans when the moratorium is lifted in June, though many do not expect demand to be as robust as it was prior to the moratorium's imposition.

Some in the Sacramento area, including Sacramento City Council Member Angelique Ashby, see the resumption of development in the area as an opportunity to pursue more sustainable development, as opposed to the traditional low-density subdivision model that had been pursued there in the past.

Los Angeles Considers 'Infrastructure District'

City officials in Los Angeles are considering the creation of an "infrastructure district" to fund a $ billion revitalization plan for the Los Angeles River. The district has been made possible by a new tax-sharing law designed to replace tax-increment financing that had been used by the hundreds of redevelopment agencies shut down by Sacramento in 2012.

The Enhanced Infrastructure Financing District will funnel a portion of future property taxes in the district into the revitalization project. Funds will go towards creating wetlands and wildlife habitats, landscaping near the interstate and constructing a new tributary. However, the districts will likely only be able to collect about 60 percent of what the now-defunct redevelopment agencies collected, partially because, unlike with redevelopment, funds cannot be diverted from schools and other special districts without the districts' approval. Acknowledging the limitations of this type of financing, attorney Jon E. Goetz told the Los Angeles Times, "Redevelopment was a power tool, and this is more like a hand tool."

San Diego Faces $3.9 Billion Infrastructure Backlog

The City of San Diego has released a comprehensive report estimating that the city needs $3.9 billion in infrastructure upgrades including roads, sewers, and storm drains. The report contends that, over the past several decades, the city's infrastructure has crumbled as politicians have dragged their feet in creating any long term plans for repairs. Officials now face the task of finding sources of funding for the repairs, with only $2.2 billion available, leaving a $1.7 billion gap. A significant portion of the needed funding comes because of new state rules requiring upgrades to storm drains to decrease pollutant discharge.

Court Validates Sale of Ontario Airport to L.A.; Dispute Rages On

In the ongoing battle between the City of Ontario and Los Angeles World Airports, a San Bernardino county judge tentatively ruled that the regional airport should not have been sold to Los Angeles in the 1980s. However, the statute of limitations governing the sale ended in 1989, thus validating Los Angeles' ownership. The decision is a setback for Ontario, which is trying to regain control of the airport. The city has offered LAWA $250 million while LAWA is asking for nearly double that amount, contending that it has outstanding liabilities from a 1998 renovation of the airport. Litigation will continue as Ontario claims that LAWA breached its contract by allowing traffic to drop precipitously, from 7.2 million annual passengers in 2007 to 3.9 million in

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CP&DR

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is published semi-monthly by

Solimar Research Group
Post Office Box 24618
Ventura, California 93002

Fax: 805.652.0695

Subscription Price: $238 per year

ISSN No. 0891-382X

Visit our website:
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2013.

Monterey County Settles General Plan Suit

Monterey County has settled a lawsuit over its General Plan filed by the LandWatch advocacy group. The settlement includes a commitment to addressing water supply problems and paying more than $400,000 in LandWatch's legal bills. The settlement commits the county to addressing Salinas Valley basin overdraft, seawater intrusion and falling groundwater levels if those remain issues by 2030. The county also agreed to place restrictions on wineries, including limitations on agriculture on steep slopes and stiffening permitting requirements for stand-alone inns and restaurants.

No General Plan Update for Irvine

The Irvine City Council voted not to pursue a general plan update in the near future, meaning the city will continue to operate under the plan adopted in 1999. The state recommends that cities update their general plans every five years, but transportation and housing are the only elements those updates are mandatory. In voting against pursuing a plan update, a split city council cited several concerns, including Orange County's control of 100 acres inside the city and the ongoing problems with development of the Great Park. These unresolved issues would make the drafting of a new general plan premature, according to council members who voted against the motion. Some 27 development projects are currently under way in Irvine.

San Franciscans Fight Against Shadows

Residents in San Francisco concerned about access to daylight scored a resounding victory this month. For residents near Victoria Manalo Draves Park in San Francisco, sunshine is a precious resource. So when a developer proposed a six-story residential project that would cast a shadow on the park, residents pleaded with the Recreation and Park Commission to reject the project. Officials voted 5-0 to reject the project, recommending that the Planning Commission do the same. It is the one multi-use park in the neighborhood, which has much less acreage of green space than other San Francisco districts. Residents who spoke out against the development also cited gentrification as a reason for their opposition to the development. "Some may laugh about the importance of sunlight and the relevance of a shadow on land processes," San Francisco Supervisor Jane Kim told the S.F. Examiner. "But let's face it, San Francisco is a cold city and affected by sunlight."

Lemon Grove Planning Commission May Dissolve

The mayor of the San Diego County city of Lemon Grove is seeking to dissolve the city's Planning Commission, saying that the City Council can do the job of the planning commissioners and save the city time and money. However, the city council has been hesitant to carry out this request. This week it called on city staff to determine the costs and effectiveness of the planning commission. Mayor Mary Sessom claims that having the City Council perform the duties of the planning commission could save the city thousands of dollars in wages. However, Former Planning Commissioner Racquel Vazquez said that it was important to have an additional "layer between special interests and those who are in elected office" in the city through the planning commission.

Walnut Creek Specific Plan Unveiled

Walnut Creek residents got their first glimpse of the West Downtown specific plan, which includes proposed higher-density development in the corridor from Downtown to the Walnut Creek BART station. The plan, produced by PlaceWorks, calls for 2,400 new housing units in addition to 1,700 already in place. The plan not meet with universal support at the rollout meeting. Said one resident of the plan's increased densities: "I don't see character; I see Emeryville, I see San Ramon, and I don't want to live in those towns."

L.A. Considers Fix for Housing Trust Fund

The Affordable Housing Trust Fund for the City of Los Angeles, which was never particularly robust, has shrunk to the point of irrelevance. Since 2000, the fund has gone from $108 million to a current $19 million, as the fund's two biggest sources of contributions have both been curtailed. Contributions from the Department of Housing and Urban Development (HUD) dropped from $54 million in 2008 to $19 million this year, and contributions from the local Community Redevelopment Agency evaporated with the dissolution of redevelopment in 2011.

The fund's crisis comes at a time when rising rents and stagnant wages have made Los Angeles the most unaffordable rental market in the country, according to a 2014 UCLA report. Los Angeles City Council

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Members Felipe Fuentes and Gil Cedillo recently proposed that funds collected in former redevelopment project areas be directed, as they once were, to the trust fund. Strategies using these so-called "boomerang funds" are being considered in several California cities hit hard by the loss of redevelopment. The City Council is expected to discuss the proposal this month.

Once Developers' Promises Are Made, Who Enforces Them?

The *L.A. Times* has an investigative report out on cases of promises made by developers to win approvals that are afterward kept slowly or not at all. Instances mentioned include two already-famous fights: over facade preservation at the Old Spaghetti Factory building in Hollywood that was in fact demolished, an employment center at The Grove shopping mall, and promised extra-strength air filters at the Da Vinci apartment complex next to the 110 freeway, -- the latter being arguably a moot point, since the project recently burned to the ground.

Handover of Chumash Land Approved by Feds

As anticipated, the Bureau of Indian Affairs has approved the application by the Santa Ynez Band of Chumash Indians to have its 1400-acre Camp 4 property taken into federal trust. The Tribe has stated intentions to build housing, a community center and related buildings on the property. Local critics have expressed fears about what could happen after trust status takes the property out of state and county jurisdiction and exempts it from local taxation. The *Santa Barbara Independent* reported county officials were preparing to follow through on the Supervisors' prior decision to appeal such a ruling. A December 30 report by the *Lompoc Record* quoted at length from antagonistic comments by two central spokespersons in the matter, Tribal Chairman Vincent Armenta and Santa Barbara County Supervisor Doreen Farr. The "Stand Up for California" organization, which monitors California gaming issues, has posted a copy of the Notice of Decision. The text includes extensive rebuttals to public comments critical of the fee-to-trust application. For CP&DR's pre-approval news feature on of the fee-to-trust controversy see http://www.cp-dr.com/node/3650.

San Jose Buyer Makes Steep Resale of Redevelopment Property

A San Jose real estate company has apparently made a tidy profit buying and selling a 1.25-acre former redevelopment property. Nate Donato Weinstein reported in the *Silicon Valley Business Journal* that Next Realty bought a parking lot on Fountain Alley from the San Jose Redevelopment Agency for $6.2 million in 2011 and resold it in December 2014 to System Property Development Co., which he described as "a parking lot owner and operator based in Southern California." A few days later on Twitter, he reported the new sale price was $16 million. ■

Smart Growth Advocates in Fresno Have a General Plan, if They Can Keep It

BY MARTHA BRIDEGAM

The 2035 General Plan adopted by the City Council on December 18 puts the city's foot down on sprawl. Supporters see the approval as a major victory for Smart Growth principles.

A strong coalition joined Mayor Ashley Swearengin in backing the plan but the version that passed had critics on left and right. Environmental justice and equity activists asked how strongly the plan would really limit suburban expansion, and how low-income Fresnans would benefit from planned infill development. They sought policies for housing affordability and against displacement, and attention to industrial polluters such as the notorious Darling International rendering plant southwest of downtown. Local developers and small-government advocates questioned whether the plan would curtail property rights or personal lifestyle choices, and asked if a middle class accustomed to suburban densities and private auto use would really remain in Fresno if it meant accepting denser housing, especially in long-stigmatized neighborhoods such as downtown.

Something new

It is new in Fresno, and uncommon in the Central Valley, that the 2035 General Plan refuses to expand the city's existing 157-square-mile sphere of influence. It projects about half of future growth within city limits; delays expansion in a southeast growth area; requires developers to study and share costs of peripheral projects, and meets regional housing growth goals through infill construction. One-to-one mitigation requirements apply to lost farmland.

The plan raises densities on two anticipated bus rapid transit (BRT) corridors. Of those, a BRT grant proposal was recently submitted for the Blackstone Avenue arterial -- visible in satellite view as a flat gray blur running north from downtown into the city's leafy newer suburbs. The Blackstone line, at its downtown terminus, forms an "L" with the eastward Ventura/Kings Canyon BRT corridor, for which a plan is in progress. Fresno's hoped-for high-speed rail station would be at the corridors' hinge, to draw passengers and businesses to the city's demolition-ravaged, stigmatized downtown.

The General Plan redesignates some land uses to separate future residential and industrial expansions while streamlining permitting for commercial, light industrial and business park uses. Further goals include fairer access to parks and healthy food.

Keith Bergthold, who led the General Plan process as the city's Assistant Director of Planning until his move to the Fresno Metro Ministry in February 2014, said the new General Plan expresses its intent more clearly than predecessors that stated similar goals -- an effect to be "further supported" by the imminent update of the Development Code, which was last fully rewritten in the 1960s.

He said, "I'm not sure there was always a clear way to say no in the previous General Plan" to development that didn't fit the city's overall goals. Whereas now: "There are some ways to say no if appropriate and be more clear about it."

At the same time Bergthold looked forward to seeing some city permits granted more easily, notably for mixed-use projects. He said "the zoning code was almost incapable of implementing the infill policies of the General Plan adopted in 2002." Or rather, it worked well for suburban subdivisions at five units to the acre. "It was just fine for the kind of development that became predominant and became unbalanced." The existing code authorized mixed-used development in some commercial zones but didn't describe it specifically so the category was rarely used.

Bergthold wrote that the "playing field" for five or six decades "has been more in favor of edge development than interior development." But the new General Plan "calls for fair and proportional payments to support public services and infrastructure, and fiscal impact analyses from development at the city's peripheries requiring annexation or asking for a General Plan amendment."

(A remaining question is whether the General Plan factors in enough added costs from peripheral development for police, fire and maintenance services.)

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>>> Public Health Activists Played Role in Fresno General Plan

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Public health, urban planning and activism

Adoption of such a plan in an auto-oriented city reflects a shift in local thinking, though what kind is debated.

As discussed in the recent dissertation of Miriam Zuk, now Project Director at the UC-Berkeley Center for Community Innovation, the past decade saw a partial reunion of the public health and urban planning fields as part of New Urbanist and Smart Growth principles and, in Fresno, a revival of neighborhood community activism.

The plan raises densities on two anticipated bus rapid transit (BRT) corridors.

Fresno-area organizing for public health has been better funded in recent years than usual, notably by the California Endowment, which began funding a Building Healthy Communities (BHC) Initiative in Fresno in 2009.

The dissertation sees some remaining distance among goals pursued, whether by BHC grantees or other organizations: air quality; Smart Growth infill and healthy land use principles such as reducing auto use; campaigns for affordable housing and other economic equity; environmental justice efforts to redress geography-based wrongs such as industrial pollution in disadvantaged neighborhoods.

A key question has been how much the General Plan's framers feel it can or should do to redress Fresno's long history of de jure and de facto racial segregation, which the dissertation recounts. People of color were historically restricted to the south and southwest sides of downtown by "whites-only" deed restrictions and redlining. Racial and economic disparities persist between the north and south parts of the city. Prevailing winds bring south and southwest Fresno the worst of freeway emissions. The worst industrial polluters have been shunted there. CalEnviroScreen 2.0 identifies California's most environmentally and socioeconomically burdened census tract as the one across the downward-opening triangle between Highways 99 and 41 south of downtown.

Among much else, the dissertation finds health goals were promoted largely where they were complementary to economic development goals. It notes that campaigns to add affordable housing or social services to disadvantaged neighborhoods have sometimes been opposed by other civic activists as bad for economic development or for deconcentration of poverty.

Ashley Werner, an attorney with Leadership Counsel for Justice and Accountability, was working on General Plan advocacy with a coalition of social justice groups associated with the BHC Initiative. She said the coalition sought more economic equity guarantees, including affordable housing, and more enforceability for "visionary language." Werner said hints had appeared already that the city might make exceptions for some further expansion requests.

Arguments for fiscal responsibility, pointing out the service and infrastructure costs of expanding the city, reportedly got farther than equity arguments in winning over business-minded constituencies to the General Plan design, especially because an agreement with the county would reduce tax revenues in any expanded sphere of influence.

Drama in December

The 2035 General Plan design took four years. As columnist Mark Arax suggested before the recent vote, a key turning point was reached in 2012 with the City Council's approval of the "modified Alternative A" framework, to maintain existing sphere of influence boundaries and emphasize infill.

But a lot remained to decide in the dramatic last weeks before the December 2014 approval. Some players, including the *Fresno Bee* editorial board, viewed the final approval calendar as rushed.

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>>> Development Code, Housing Element on Deck in Fresno

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In a published op-ed December 14, Fresno City Council president Steve Brandau (elected since the 2012 vote) criticized "social engineers," wrote that density increases would create "regional sprawl" by driving population to neighboring towns, and complained, "some pansy in Sacramento thinks we need to live closer together and ride the bus". A *Fresno Bee*'s news photo of the December 18 approval meeting showed Brandau glowering behind a tray of flowers. A Fresno Pansy Association appeared on Facebook.

Christine Barker, who is Project Manager, Resilient Communities with the Fresno Metro Ministry, commented (speaking as an individual), "People are angry because he seems to think that only outsiders from Sacramento (i.e. state government and federal agencies) want to have a nice downtown, investment in existing communities and walkable neighborhoods." She wrote that some had responded by claiming the term "pansy" -- "Then, fine, call me a pansy. But I'm a local pansy."

Granville Homes development company was among property owners seeking land use designation changes, a few of which remained to resolve after the meeting. (Granville's proponent, the legendary developers' advocate Jeff Roberts, declined to comment.) The city's December 5 "land use change requests" document, shows many requests to lower residential densities on peripheral land. City staff opposed many; often the City Council backed the staff.

A further cascade of processes

The General Plan's approval clears the way for a further cascade of planning processes.

The next process ahead is the long-delayed city Development Code overhaul, essentially an implementation phase for the General Plan. A public draft is expected around April.

The next process ahead is the long-delayed city Development Code overhaul, essentially an implementation phase for the General Plan.

Bergthold looked forward to the mixed-use zoning and to provisions "to connect authorized development density/intensity to specific designated areas and realistic infrastructure capacities." He wrote that density would depend in turn on a water system upgrade adding treated surface water and looping transmission grid mains to the existing well-based system.

The city can now resume work on the Downtown Neighborhoods Community Plan, designed to include a form-based code, greater planned densities and flexibility for business growth. Begun before the General Plan but suspended pending its approval, the downtown plan process now has to refresh documents last visited in 2011, with added planning for the high-speed rail station. A Fulton Corridor Specific Plan process will likewise resume.

Additional plans will follow, notably for Southwest Fresno. A plan by consultant Peter Calthorpe, not yet adopted, is on hold for the Southeast Growth Area, where the General Plan defers development.

Housing element on deck

Later in 2015, revision of Fresno's housing element will help decide who gets to live in the new infill housing.

It's debated whether gentrification and displacement are dangers in Fresno. Werner wrote that a few low-income people live downtown, and "we are concerned about potential displacement downtown as well as in surrounding neighborhoods targeted for revitalization and around the BRT corridors." Homelessness is a major issue; Mayor Swearengin has presided over demolition and dispersal of large encampments south of downtown.

Bergthold viewed the pressures differently: "Fresno is so stressed because of the urban decay and lack of

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>>> Housing Element to Follow General Plan in Fresno

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safety in certain neighborhoods and resulting lack of private investment that I haven't been concerned about gentrification or displacement yet." He supported an affordable housing policy "that distributes affordable units throughout the entire metro area." He wanted to see "a little bit of a trend" of increasing rents and property values "to attract private market development into areas that have been disinvested and neglected."

Werner argued that density is not in itself enough to guarantee affordable housing though it often is necessary to allow it. She wrote that people in disadvantaged neighborhoods "have asked for grocery stores, retail outlets and more housing, including mixed-income and mixed use housing," so infill could help "long-abandoned and distressed neighborhoods." But she said displacement concerns were real in the absence of affordable housing commitments. She argued there were not enough high-density designations in growth areas. While the housing element is "the home for" affordable housing policies, Werner said the coalition had hoped for some in the General Plan.

Suggestions for inclusionary zoning did not gain traction during the General Plan process. Barker said a former Council member called the idea "a bomb".

Bergthold wrote: "I have personally stayed away from thinking about inclusionary zoning because of the urban decay we want to mitigate through market mechanisms and the hope that the new GP land use map with significant multiple-family shown as part of mixed income, mixed housing type, and mixed density neighborhoods designated throughout the growth areas and in infill target areas would provide a better platform for achieving the ultimate goals of inclusionary zoning without the fight."

Making it stick

On housing as on other issues, the General Plan will gain meaning from debates yet to take place.

"If there's anybody who thinks we're through, then we are really through," said Bergthold. He said the city now needs "constant encouragement" from an involved public to monitor the plan and ensure it takes effect. ■

BART's Four-Station Extension In San Jose Hits Rocky Patch

BY LARRY SOKOLOFF

The Bay Area Rapid Transit (BART) system is slowly making its way to San Jose, although the journey there continues to be bumpy. The first trains will arrive to one northeastern San Jose neighborhood in 2017, but whether they'll ever serve more of the city remains an open question.

BART trains began running in 1972, when San Francisco was the biggest city in the region, and many workers commuted to jobs there from newly-built East Bay suburbs. But in recent years, much of the job growth has been in tech jobs in the South Bay. BART currently ends in the middle of Fremont, which is about 15 miles from downtown San Jose.

A new ten-mile extension to San Jose, through Fremont and the city of Milpitas, is expected to be completed in 2017.

BART added miles of new track throughout Alameda and Contra Costa Counties in recent years, and came south to San Francisco International Airport in San Mateo County in 2003. It is now 109 miles long.

During the same period, San Jose grew to become the largest city in Northern California, and Santa Clara County became a prime commuting spot for thousands of Silicon Valley jobs. But decisions made in the 1950s by the Santa Clara County Board of Supervisors to stay out of BART still reverberate to this day, and have kept the county out of the regional system. Santa Clara County has its own light rail transit system and is part of Caltrain, a commuter train service that runs through San Mateo County to San Francisco. Light rail and buses in Santa Clara County are operated by the San Jose-based Santa Clara Valley Transportation Authority (VTA), which is now the agency responsible for bringing BART to the county.

Santa Clara County voters agreed twice to increase their sales tax to bring BART to the South Bay, in 2000 and 2008. As a result, a new ten-mile extension to San Jose, through Fremont and the city of Milpitas, is expected to be completed in 2017. The first station on the extension is expected to open in Fremont's Warm Springs neighborhood in late 2015, close to that city's Tesla factory.

The $2.3 billion extension will also continue several miles into San Jose, terminating at the Berryessa station on the city's East Side when it opens in 2017. But since San Jose spreads out over 176 square miles, adding one BART station is not expected to provide much traffic relief or impact development patterns. In comparison, BART has eleven stations in Berkeley and Oakland, two cities whose population is less than half of San Jose's -- as noted by John Pastier, a noted architectural critic now retired in San Jose.

Pastier spoke at a recent VTA-sponsored forum, encouraging the district to add more stations. "We have to look at things in a more urban way," he said.

But BART isn't sure how it will pay for the next four promised stations in a proposed six-mile expansion. (For a map of the four-station plan as reviewed in 2004, see below or click here.) Proponents of South Bay expansion have long dreamed of the day when BART would circle more of the South Bay, crossing underground through downtown San Jose, and ending in the city of Santa Clara. Initial campaigns for sales tax increases promised this benefit. But plans for that six-mile stretch were shelved in 2009 when funding dried up from a variety of sources.

Questions of how well BART will serve the South Bay were raised again in October, when a VTA staff report analyzed whether the six-mile extension could ever be built as planned, with four stations. To keep costs lower, the report suggested cutting two of the four stations, one on the city's East Side and one at the terminus at Santa Clara, while still tunneling under downtown San Jose. The proposal triggered widespread community criticism, especially from the East Side, a poor area where long existing plans called for transit-oriented office and residential development around the Alum Rock station. Plans for revitalizing the

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>>> BART Debates Four-Station Plan in San Jose

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area suggest building 845 residential units and 1.2 million square feet of office space around the station.

The six-mile extension is expected to cost $4.7 billion, and cutting two stations would shave $1.3 billion from the project. That lower cost was expected to help attract federal funding to the project.

But at recent VTA forums, its staff and elected officials said they now intend to move forward with the four-station plan, with federal assistance. VTA Chairman Ash Kalra, who is also a San Jose City Councilman, said that VTA has not cut any stations from its plans.

"The board is committed to all four stations," he told CP&DR. "I'm committed to all four."

"We have some grand plans, and some grand costs," Kalra said.

BART Director Zachary Mallett of San Francisco recently questioned whether BART needs to go underground through downtown San Jose,

VTA officials are now working on environmental studies and identifying funding sources for the proposed extension. That work is supposed to last into 2016.

One possible way to fund the project is through another sales tax measure in 2016, Kalra and other VTA officials said.

BART Director Zachary Mallett of San Francisco recently questioned whether BART needs to go underground through downtown San Jose, noting that many of the city's tech businesses are located north of that area, closer to the city's airport. He suggested an alternative plan in a recent op-ed in the Mercury News.

"It would also build on pre-existing real estate and development plans…rather than necessitating new development projects for the mere purpose of justifying an extension designed to aid the parochial dreams of Downtown San Jose," he wrote.

VTA staff said the majority of BART's board remains committed to the current plan to go through downtown, despite Mallett's opposing view.

Even if BART makes it to Santa Clara, the system will probably never ring the rest of the Peninsula to San Francisco International Airport. The Santa Clara station, if and when BART gets that far clockwise around the Bay from Fremont, will connect with Caltrain, just as the Millbrae station does at the peninsula BART line's current southernmost point near San Francisco Airport. (Also, if the BART branch from Fremont gets as far as the Diridon Amtrak/Caltrain station in downtown San Jose, then there may be no need for BART to continue from there northwest to Santa Clara.)

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>>> BART Also Plans Alameda County Extension

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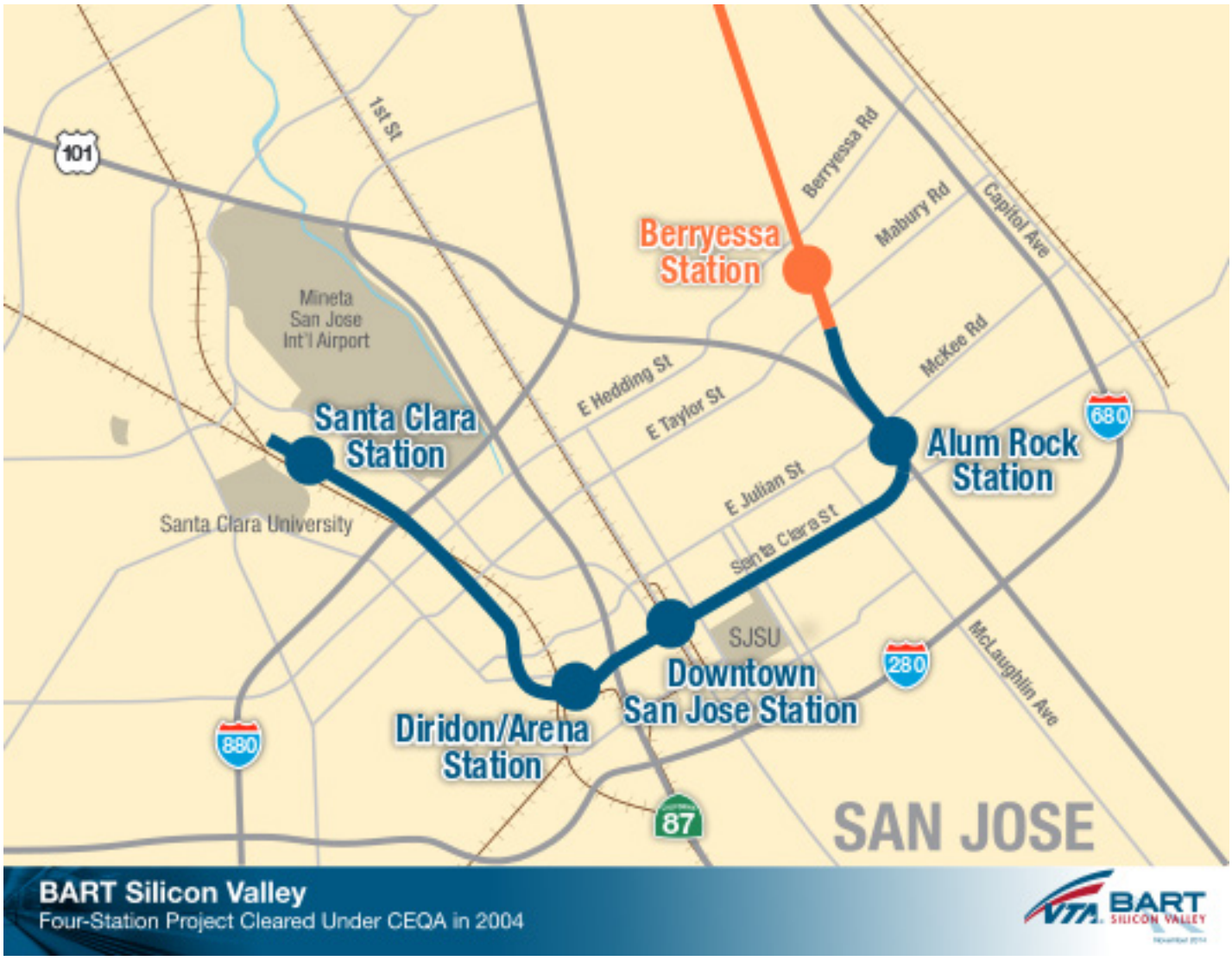
Over the years, BART expansions have often been opposed by Caltrain advocates, who have argued that upgrading existing rail lines and bus service is more cost-effective. There's still considerable skepticism whether it is worth the expense to run a BART train directly all the way from Fremont through San Jose to Santa Clara, when the route to Santa Clara from Diridon Station in downtown San Jose is already served by Caltrain. According to executive director Adina Levin, the Friends of Caltrain organization is among supporters of a BART extension from Fremont as far as the Diridon station in downtown San Jose.

Further north, BART continues to grow into Alameda County, where voters in November approved Measure BB, a sales tax increase. The measure included $400 million in funding to extend BART five miles from its current Tri-Valley terminus station of Dublin-Pleasanton to the city of Livermore. The total cost of the project is expected to be $1.15 billion. In addition, BART opened a 3.2-mile rail link between its existing Oakland Coliseum station and the city's airport in November, with a starting fare of $6 per ride. That controversial project cost $484 million to build. ■



Land Use Designations Set Off False Alarm On San Diego Waterfront

BY MARTHA BRIDEGAM

The Coastal Commission has approved two possible future industrial land use designations for San Diego after the Commission and city staff reassured industrial waterfront business representatives that the designations were unlikely to affect the shipyard areas around Barrio Logan.

The business anxieties mostly concerned a new overlay zoning designation, IP-3-1, which would allow "co-location of residential and industrial uses," where the industrial uses would consist of light manufacturing or research and development, housing would be allowed on up to 49% of the land, and the same area would be further regulated by a Business Park Residential Permitted Community Plan Implementation Overlay Zone. The IBT-1-1 zone would be specific to development on the international border with Mexico.

As a preview analysis by NBC San Diego suggested, the proposal appeared against the background of tensions over interaction between residential and industrial uses in the Barrio Logan neighborhood near the shipyards. Shipyard businesses that last summer successfully used the referendum process to overturn the Barrio Logan Community Plan for its residential protections similarly opposed the IP-3-1 zone as possibly limiting heavy industry.

Objections were led by the Working Waterfront Group, which described itself in a letter on file as "a coalition of water-dependent industrial business located proximate to San Diego Bay including a large constituency in the Barrio Logan Community Plan Area." The organization's letterhead lists entities from the ILWU longshore union to General Dynamics NASSCO. The Navy and Port of San Diego objected separately. Sharon Cloward of the San Diego Port Tenants' Association was among speakers complaining of short notice but expressing gratitude for the city's reassurances.

Senior Planner Dan Normandin with the City of San Diego said both new zones came up in discussion of the Otay Mesa Community Plan update. He said IP-3-1 was a "research and development zone," not "appropriate" for application to a heavy industry area such as Barrio Logan. He said the proposal before the Commission in January was only to create new zoning categories, whereas a choice to apply them to an area within the Coastal Zone would require extensive further public notice and review.

Also in San Diego, the Commission easily approved amendments to the Centre City and Marina Planned District Ordinances on relatively minor changes to standards including those to permit outdoor entertainment uses such as sidewalk cafés.

Two Laguna Beach Dramas Decided in a Day

Laguna Beach activists have been fighting a couple of projects all year -- and on January 8, the Coastal Commission approved both.

The Commission unanimously approved a 30-unit "work/live" project for artists in Laguna Canyon. Commissioner Jana Zimmer said she felt "a strong obligation to support" the housing because it would help provide affordable housing for artists in the area.

John Erskine and Bonnie Neely of the Nossaman LLP firm worked on the matter for the project proponents. Erskine introduced the project team at the hearing, including sculptor Louis Longi. (Neely formerly served on the Coastal Commission during her tenure as a Humboldt County Supervisor.) The proponents had accepted some conditions including native plant restoration work and removal of initially proposed cantilevered extensions to maintain a 25-foot minimum setback from the creek. A neighbor favoring the project said it had been through an "unbelievably protracted process" of seven years.

Julie Hamilton, a former local planning staff member, represented three of four appellants including leading appellant Devora Hertz. On Hamilton's request for a show of hands, a large proportion of the crowd in the Santa

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Monica meeting hall raised hands to oppose the project. (Many were present for a later hearing on the Laguna "Ranch" project.) A letter in the hearing file from Hertz objected that the project as initially proposed contained eight units but "Somewhere in the twilight this project grew to be a 30-unit apartment complex."

Objectors said the project was too close to the creek for both habitat and flood danger reasons, and was out of scale for the rural area. Hamilton said the adjacent animal hospital was undermined in a prior flood and "they had to dash madly to save its life, holding the building up with a bulldozer." Further objections said the project was one in a larger series under consideration whose cumulative impact should be considered, and that traffic impacts had not been fully considered. Appellant Jackie Gallagher said that, from experience in "the art industry" locally, "the artists came to paint the canyon, they didn't come to live in the canyon." Compared with small beginnings in the 1920s, she said, "there are thousands of artists in Laguna Beach and they're all living well."

The San Diego debate appeared against the background of tensions over interaction between residential and a uses in the Barrio Logan neighborhood near the shipyards.

Deputy Director Sherilyn Sarb said the project's flood protections were adequate for a hundred-year storm and was in a developed area of the canyon. She said the restoration plan would require Fish and Wildlife as well as Commission review.

On the same day, the perennially disputed Ranch at Laguna Beach project got its permit to finish renovations of the existing mid-century family vacation spot and upgrade the property for high-end resort use, splitting existing suites into smaller rooms and adding a penthouse for a total increase from 64 to 97 rooms. The *Laguna Beach Independent* reported the Commission held a five-hour hearing before approving the permit.

Under the final deal, owner Mark Christy agreed to grant an easement for a trail plus $250,000 for its design and construction, and agreed to keep noise down and restore habitat. He also agreed to host overnight camping events for youth at the former scout camp on the property. However, the paper reported the Commission did not adopt earlier staff recommendations that would have required the Ranch to run a shuttle across the property until the trail could be built and possibly also to pay in-lieu fees to compensate for the increase in room rates. Appellant Mark Fudge and area activists had alleged that new uses of the property were disturbing neighbors, disrupting habitat, and reducing public access to formerly affordable amenities.

In Other Commission News --

- The Commission found no substantial issue on a major Dana Point Harbor "commercial core" reconstruction but the parties looked forward to considering the matter further in future. Two appellants had objected to the proposed relocation or removal of businesses renting jet skis, boats and kayaks -- a form of recreation available to people who don't own boats themselves -- and also to boat storage and parking provisions. Commission staff said the city had not as yet approved a dry boat storage building that would cause the displacement opposed by the appellants.

- The *Orange County Register* reported negotiations began for purchase by the Orange County Water District of desalinated water from the the Poseidon Water plant. The *Register* reported it would likely cost twice as much by volume as "water imported form Northern California" but the *Huntington Beach Independent* reported the prices quoted have varied.

- The Commission approved an expansion of the Cowgirl Creamery in Point Reyes Station, also described as "the

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Barn Project", over objections from the Environmental Action Committee of West Marin.

- The January 1 effective date of of SB 968 brought a new challenge to tech billionaire Vinod Khosla in the Martins Beach coastal access dispute. Despite heavy lobbying on Khosla's behalf, the bill by State Sen. Jerry Hill requires the State Lands Commission to negotiate with Khosla for public purchase of the access road that he has closed to the popular San Mateo County surfing beach. If purchase negotiations fail after a year the Commission is authorized to acquire beach access for the public by eminent domain. Aaron Kinney of the *Mercury News* and *Santa Cruz Sentinel* has details. Kinney notes the legislation is "one of four fronts" in Khosla's battle to block access to the beach. Two court cases are pending on the matter, and the judge in one of them has ordered Khosla to open the gate. So has the Coastal Commission. Writer and cartoonist Susie Cagle has a column on the dispute's context in the *Pacific Standard*. Meanwhile, literal access to the site has become inconsistently possible again. The *San Mateo Daily Journal* reported that Jim Deeney, the property's former owner and current manager, was sometimes allowing people to drive to the beach -- but not walk there -- for a $10 fee, and only when someone was available to collect it. The paper reported one local surfer who tried to walk to the beach was turned away, and another man who walked to the beach was met by a sheriff's deputy who threatened to cite him for trespassing -- though the sheriff's department "said it is not turning people away from the beach" and was looking into the deputy's action.

- A legislative report to the Commission mentioned a quietly enacted new climate change law alongside more prominent items. The new AB 2516 requires the Commission to report twice a year to the Natural Resources Agency on each Local Coastal Program's progress in planning for sea level rise.

- The Director's Report for January included an update on progress toward certifying LCPs for remaining segments of the Los Angeles County coast now that the difficult Santa Monica Mountains process is concluded. Yet to complete are LCPs for the six segments of the City of Los Angeles coastal area (the Port of Los Angeles has its own certified LCP) and for the cities of Santa Monica, Hermosa Beach and Torrance. ■

legal digest

Appellate Court Gives Emeryville Big Redevelopment Win

BY WILLIAM FULTON

In an important victory for local governments, the Third District Court of Appeal has ruled that the state Department of Finance improperly rejected Emeryville's action to re-enter into several redevelopment agreements with its successor agency.

The case is perhaps the first big win in the post-redevelopment era for local governments, which have battled DOF daily since the elimination of redevelopment three years ago.

Writing for a unanimous three-judge panel, Justice Elena Duarte concluded that the re-entry agreements for five redevelopment projects were permissible under AB 1x 26, the original redevelopment law, and that the subsequent clean-up law, AB 1484, does not apply retroactively to the situation.

Emeryville, a small city located between Oakland and Berkeley, used redevelopment aggressively for decades and took aggressive action to protect its redevelopment investments while the end of redevelopment was pending. In 2011, the city and the redevelopment agency entered into 27 agreements to protect redevelopment assets. The passage of AB 1x 26 invalidated these agreements, so in June of 2012 Emeryville executed five agreements with the successor agency on five individual redevelopment projects.

The case is perhaps the first big win in the post-redevelopment era for local governments,

Such agreeements were permitted under AB 1x 26 -- specifically Health & Safety Code § 34178, subd. (a) – so long as the successor agency's oversight board approved. This power was eliminated by AB 1484. However, Emeryville's oversight board approved the five agreements on June 26, 2012 – the day before AB 1484 went into effect. These projects were included in the Recognized Obligation Payment Schedule (ROPS) sent by Emeryville to the Department of Finance two days later.

In July 2012, DOF rejected these changes and Emeryville sued. Sacramento County Superior Court Judge Michael P. Kenny ruled in favor of Emeryville and DOF appealed.

On appeal, DOF made two arguments: First, that AB 1x 26 did not grant Emeryville permission to enter into the five agreements; and, second, that AB 1484 should be applied retroactively to the situation. The Court of Appeal ruled against DOF on both claims.

On the issue of AB 1x 26, DOF cited several pieces of AB 1x 26 that clearly suggested that the law's intent was to "restrict the scope of the authority to reenter into agreements under section 34178." However, the appellate court noted that AB 1x 26 explicitly permitted some agreements with successor agencies to move forward. Furthermore, Emeryville acknowledged that the power to enter into these agreements was limited by AB 1x 26. The appellate court found that this acknowledgment "undermines the Department's argument that if section 34178 allows reentry of *some* redevelopment agreements, *all* redevelopment agreements could be reentered, undermining the point of Assembly Bill 1X 26."

The appellate court rejected a number of other arguments claiming that AB 1x 26 prohibited the re-entry agreements in one way or another.

The appellate court also ruled that AB 1484 should not be applied retroactively to the Emeryville situation. ■

First District Upholds Calfire Timber Plan

The First District Court of Appeal has upheld Calfire's Nonindustrial Timber Management Plan to permit logging of a 17-acre parcel of land in Mendocino County. The First District also rejected the Center for Biological Diversity's claim that the California Department of Fish & Wildlife can be sued under the California Environmental Quality Act over its role in the approval of the NMTP.

At issue in the case is Calfire's approval of an NMTP for a 17-acre parcel owned by the John and Margaret Bower and the North Gualala Water Company, which consists primarily of second-growth redwood and Douglas fir. All sides agree that the parcel is potentially a functional nesting habitat for the marbled murrelet, an endangered species that has been the subject of much litigation throughout California.

In 2009, Calfire approved the NTMP, concluding that the marbled murrelet and other species would not be adversely impacted. DFW did not object.

Along with local plaintiffs, the Center for Biological Diversity – one of the most astute and successful environmental law firms in the West – threw a wide range of legal objections at Calfire's action. Among other things the plaintiffs argued that:

- The project applicant "falsely denied" marbled murrelet sightings in the NTMP's Biological Assessment Area, or BAA.
- The logging would fragment the habitat.
- The logging would harm the restoration of the forest, part of which is technically a "late seral habitat" that is re-emerging after timbering of the old growth forest.
- The NTMP did not contain an analysis of how to protect potential nest trees so that a functional nesting habitat would be retained.
- The NTMP did not include analysis of feasible alternatives that would have minimized the impact of the logging.

The appellate court rejected all these arguments and found that Calfire had addressed all these concerns adequately in the NTMP. The court's critical conclusion is as follows: "While Petitioners seek to frame the issues as failure to provide adequate information and analysis, the real question presented is whether CAL FIRE's conclusions are supported by substantial evidence. We find that they are."

The court continued: "Petitioners' challenges to the NTMP's adequacy ultimately arise from fundamental disagreement with the conclusions reached by CAL FIRE in its approval of the plan." Quoting *North Coast Rivers Alliance v. Marin Municipal Water Dist. Bd. of Directors* (2013) 216 Cal.App.4th 614, the court stated: "[M]ere disagreement is insufficient. The burden is on the petitioners to *affirmatively show* there was no substantial evidence in the record to support [CALFIRE]'s findings."

The appellate court also rejected the Center for Biological Diversity's attempt to obtain ordinary mandamus against the Department of Fish & Wildlife, which claimed that the public had the right to a judicial determination as to whether DFW's lack of "nonconcurrence" was against the law. Said the court: "We find no authority, and Petitioners cite none, for the proposition that approval of an NTMP is subject to review, directly or indirectly, through traditional mandamus under Code of Civil Procedure section 1085, particularly when the petition is not directed to the only agency with authority to approve or reject the project. The Petition as to DFW therefore fails on this ground alone."

The Case: Center for Biological Diversity v. California Department of Forestry and Fire Protection, No. A138914, filed December 2, 2014; published December 30, 2014.

The Lawyers:

For Center for Biological Diversity: Michael W. Graf (mwgraf@aol.com) and Justin J. Augustine (jaugustine@biologicaldiversity.org)

For Calfire: Anita Ruud (anita.ruud@doj.ca.gov) and Michael W. Neville (michael.neville@doj.ca.gov).

For NORTH GUALALA WATER COMPANY (real party in interest): James F. King, Mannon, King & Johnson, jim@mkjlex.com ■

>>> SGC Approves Cap-And-Trade Program

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amendment at the meeting was a strengthening of the program guidelines dealing with agricultural and natural resources land. As presented to the SGC, the program guidelines called for a "no net loss" ag and natural resources policy. The SGC adopted a flat prohibition on using AHSC money to build on ag or natural resources land.

The workshops will be held as follows:

Feb. 4: San Diego

Feb. 5: San Bernardino

Feb. 6: Los Angeles

Feb. 9: Bakersfield

Feb. 10: Stockton

Feb. 11: Oakland

To register, go here.

SGC's meeting material can be found here.

Most stakeholders who spoke on January 20th acknowledged that it was time to move forward with the program even though many of them still had some concerns about it.

The new criteria place greater emphasis on GHG emissions reduction and less on project readiness.

Ten days before the meeting, SGC staff proposed changing the definition of "Qualifying High Quality Transit" that would allow transit-oriented development projects to be located one mile away from a transit stop – as opposed to the half-mile previous proposed. An "affordable housing development" (possibly funded by other means) would still need to be within half a mile of the transit stop. The half-mile definition is common in state law.

The new definition looks to a looks requirement for peak-hour headways of 15 minutes or less and seven-day-per-week service, but otherwise requires relatively flexible "dedicated right-of-way" or Bus Rapid Transit (BRT) characteristics. The prior September 2014 draft had emphasized specific transit modes: rail, BRT or "express bus".

These criteria will help determine eligible projects in the transit-oriented development (TOD) grant category, which is to receive at least 40%, and as much as 70%, of total AHSC grant funds.

The change might be a concession to housing and equity advocates, who argued that the program as originally conceived would favor transit-oriented development (TOD) in areas that were already well served by major transit systems, to the disadvantage not only of less dense areas but also of less transit-favored (likely poorer) parts of large cities.

Also new are promises of technical assistance, both immediately for 2014-15 applicants and in a less defined longer-term effort. Technical assistance had been an issue in workshops and comment letters; advocates had argued that without it, success would beget success for well-budgeted big-city nonprofits, edging others out.

The SALC program grant applications would be scored primarily based on need (40%), "integration of entities and existing resources" (25%) and "community involvement and participation (20%). Lesser scores would go to organizational capacity (10%) and "disadvantaged community impacts" (5%).

The AHSC program was allocated $130 million for the 2014-15 fiscal year (for the main program and SALC together). It has been promised 20% of the cap-and-trade proceeds placed into the Greenhouse Gas Reduction Fund in each future year. Governor Jerry Brown's new budget proposal, also released January 9, assumes the AHSC program will have $200 million for the following 2015-16 fiscal year.

The posted materials include 82 pages of public comment letters on the SALC guidelines and a five-page table of contents for the much larger volume of AHSC comments, which were not posted as of this writing. Comments from organizations in the agricultural easement field included recommendations to connect the AHSC and SALC programs more closely together and objections that the proposed 50% matching requirement on easement acquisition grants would be too high for some organizations. The proposed final guidelines provide for consideration of "compelling

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applications which include a lesser match".

A number of changes that SGC first circulated for informal review in December appear in the January 9 proposed final version. Notably, the new draft removes minimum criteria for project size and reduces minimum unit densities to a range of 15 to 30 units per acre, as proposed in December. It drops a requirement for a public agency to be a co-applicant unless the agency has a direct "interest or stake" in the project; allows award size limits by place or developer to be lifted "if needed to meet statutory affordable housing or disadvantaged community set-asides," and allows up to 30% or $500,000 of an award to be spent on "program uses". On the other hand, planning costs are limited to 15% of the requested amount or $250,000.

As proposed in December, "Anti-Displacement Strategies" would be part of all scoring criteria. However, scoring in that area would affect only one point out of 100. That one point would be part of the 30% of scoring given to "policy considerations." Others would include 6.5% for service to lower and moderate-income households and 3% for promotion of bicycling.

The new draft makes a rule more prominent that also appeared in the September proposal: making projects with "Qualifying High Quality Transit" eligible *only* for TOD grants and ineligible for ICP grants. The distribution of grants between the two categories retains the originally proposed leeway: 40% must go to TOD projects and 30% to ICP projects; the rest can go to either.

An "affordable housing development" is still defined as one with 20% of the units "affordable".

As initially proposed in December, the guidelines call for quantification of GHG reductions using the California Emissions Estimator Module (CalEEMod) for most projects and the Congestion Mitigation and Air Quality Improvement (CMAQ) guidelines projects serving a large area or otherwise falling outside the expectations of the CalEEMod approach.

As also proposed in December, metropolitan planning organizations (MPOs) would have rights to review proposals and make recommendations, but in a role firmly defined as advisory.

Having more time to public review than was originally calendared, the AHSC and SALC programs are now jammed against the part of their timetable that calls for the SGC to review and select grant applications by the end of the 2014-15 fiscal year in June. ■

insight WILLIAM FULTON

>>> CEQA Still Polarizes

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Mission Valley," [http://voiceofsandiego.org/2015/01/05/ceqa-isnt-the-reason-youre-sitting-in-traffic-in-mission-valley/] Briggs argues that CEQA is simply an information disclosure law – providing information about a project's impacts and listing possible mitigations to help government decisionmakers determine whether to approve a project or deny it.

In response, Schulman – a developers' lawyer with Hecht Solberg Robinson Goldberg & Bagley -- says that the information and the proposed mitigations are a means to an end. He writes: "The point of all those disclosures and comments is to protect the environment from the project: to identify potential impacts and require that the impacts either be eliminated or require something in exchange." He said many mitigations are "ridiculous."

And here's the thing: They're both right – as far as they go. But there's more to it than either of them are willing to admit in their mano-a-mano commentaries.

Briggs isn't wrong when he says the purpose of CEQA is to disclose and inform. That *is* the primary purpose. I often call CEQA the "If only we'd known" law. Back in 1970 when it was written, environmental disasters such as the Santa Barbara oil spill were strong recent memories. The people who wrote CEQA – and its federal counterpart, the National Environmental Policy Act, or NEPA – believed that if people knew the potential environmental consequences of governmental decisions, they were lose likely to choose environmental damage.

But that's not the whole story. The part of Briggs's commentary that produced the headline was his argument that CEQA basically doesn't have anything to do with traffic. He wrote: "When it comes to things like traffic, as with almost all environmental impacts, the constraints on a development proposal are not dictated by CEQA. The CEQA process identifies the constraints, but it is laws and expert advice *outside* CEQA that impose the constraints."

He goes on to note that all the standards against which traffic is measured in the typical CEQA document are standards created not by CEQA but by local – or in some cases – federal policies.

Like so many lawyerly statements, this one is technically true, but it's not really accurate. Traffic analysis drives virtually all CEQA analysis – it's the 800-pound gorilla and typically consumes half the budget of an environmental impact report. And therein lies the true leverage of the CEQA plaintiffs that Briggs typically represents.

Yes, CEQA contains no substantive standards for environmental protection. But here's what Briggs left out:

Government agencies have to set their own "significance thresholds" – that is, they establish the tripwire that determines when an environmental impact needs mitigating. Most cities and counties use their own traffic Level of Service standards. Once traffic impacts are identified under CEQA as "significant," this drives a much more detailed level of analysis, as well as a much stronger requirement for mitigations and makes it more difficult for the city or county to override the impacts and approve the project (though this is still possible).

And once the city or county has identified a traffic impact as significant, this puts citizen groups, environmental groups, and other CEQA activists in a much stronger position to challenge everything in court – the level of impact, the feasibility of mitigation, the justification for the override. At that point it's much more likely that a project will be killed or significantly downsized, or that the cost of the mitigations will get jacked up. And it gives CEQA activists a much better chance to prevail if they sue.

That's why the current debate over switching from a Level of Service standard to a Vehicle Miles Traveled standard in the CEQA guidelines is so important. [http://www.cp-dr.com/node/3560]. If the state makes this switch, it will be much more difficult for a local government – or

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CEQA activists – to gain leverage over a project because of traffic congestion.

From the other side of the aisle, Schulman too is correct as far as he goes. But he can't resist throwing a couple of hand grenades as well.

For example, Schulman writes: "Cities simply can't approve a project that's subject to CEQA unless the decision-makers are sure that all impacts have been mitigated, or that another agency should mitigate them, or that mitigation is infeasible." He's right about this, and it's a good counterpoint to Briggs's very narrow assertion.

Debating the effect of CEQA with half-truths and narrow lawyerly arguments doesn't do anybody any good.

But Schulman wouldn't be a developers' lawyer if he didn't have his favorite war stories about unfair mitigations. He notes that mitigations cost money and they

"can range from installing a stop sign to building an ugly noise wall to paying millions of dollars for habitat." He points to one example – he doesn't say when or where – where "hundreds of thousands of dollars" were demanded for a library "when the proposed project would have had no impact on the existing library."

Here too Schulman is a bit disingenuous. A sound wall may be ugly, but it clearly benefits nearby residents who otherwise would have to live with noise. Habitat may be expensive, but protecting it is required under the federal Endangered Species Act (in this case Briggs is right – the standard comes from the feds, not from CEQA).

And note that Schulman doesn't say that his client had to *pay* the mitigation money for libraries – only that it was demanded. This lack of specificity isn't surprising: Since mitigations can only be used to offset actual impacts, paying money for libraries when libraries aren't impacted would be, um, illegal under CEQA.

It's easy to argue that CEQA is, at the least, antiquated – passed in 1970 to address a lack of knowledge about environmental degradation that existed a half-century ago. And it could certainly be reformed and otherwise cleaned up to function more efficiently and cleanly than it does. But debating the effect of CEQA with half-truths and narrow lawyerly arguments doesn't do anybody any good. ■

The Battle Between Football and Brunch

I went to brunch a few Sunday mornings ago at Louie's, a place that I will unironically describe as a gastropub. My Sunday rituals usually consist of visits to the farmers market and worrying about deadlines. So I was surprised to find, bellied up to the bar at the ripe hour of 11 a.m., a line of folks dressed in jerseys of the New Orleans Saints.

Who dat? indeed.

Louie's is one of many L.A. bars that on Sundays look like they've been airlifted from other cities. I'll be damned if I know anyone in L.A. from New Orleans. And yet, if you look hard enough, you'll find a bar for every team. Actually, you don't have to look hard at all. Here's a list (it's a partial list at that – some teams have more than one local "headquarters").

Such is life in a city that is (a) full of transplants; and (b) bereft of its own team.

Our city's culture has evolved endearingly in the NFL's absence, embracing all those other teams and becoming very good at yoga.

I grew up in the Los Angeles of the Raiders and Rams. My father and I even made a few intrepid journeys to the Coliseum each season to see the Raiders beat up on someone and to watch Raider fans beat up on each other. But then 1995 came and the teams went and, to be honest, I wasn't exactly crushed. Neither were many other people in Los Angeles.

Among L.A.'s many oddities is its relative indifference to pro sports rivalries. I'd no sooner wear a Ravens jersey in Pittsburgh than I would a meat vest in a wolverine lair. But I'd wager that L.A. is the only city in the country where you stroll down the street unmolested and unnoticed wearing a hat or t-shirt of any major league team in the country (excepting, perhaps, the San Francisco Giants). It's just one (superficial) example of our famed diversity.

Of course, as everyone in Los Angeles knows, many rich and powerful people have been trying to correct our football deficiency for quite some time. At last count, at least five stadium projects – the Coliseum, the Rose Bowl, something in Irwindale, something at Dodger Stadium, and the fictional Farmer's Field at the L.A. Convention Center (snarky commentary by Morris Newman here and myself here) -- have been proposed by different developers. No one has yet proposed a floating stadium off Santa Monica, but I wouldn't be surprised if it's in the works.

This week we got the most promising news of all: Stan Kroenke, owner of the St. Louis (neé Los Angeles) Rams, bought part of the former Hollywood Park racetrack in Inglewood last year. On Monday, he announced a partnership with Stockbridge Capital, the owner of the rest of the former race track site, to develop an NFL stadium. Stockbridge is already developing a roughly 200-acre mixed use master-planned fantasia (it was the subject of one of my firstarticles for *CP&DR*, when the project was owned by Wilson Meany Sullivan). The stadium would be, to Kroenke's and Stockbridge's credit, privately funded.

The entire project must be approved via a city ballot measure, for which Kroenke and Stockbridge are gathering signatures. Folks in Inglewood, a blue-collar city whose star is already on the rise, are giddy about it. Adding a football stadium would be a natural fit. It would be roughly the size of the racetrack and, though the uses would be more intense, it would likely have fewer events than the racetrack did.

This plan seems realistic one yet because, unlike the others, it has the advantage of being attached to an actual football team.

I'm just not sure if I, or L.A., wants that. Our city's culture has evolved endearingly in the NFL's absence, embracing all those other teams and becoming very good at yoga. To our collective credit, we have refused to pay the extortionate amounts of money that other cities have paid in order to appease their teams.

I love civic pride and I respect the excitement of football. That's all good. But the people of Inglewood, and football fans around the L.A. metro, need to remember that huge institutions that promise local economic development --

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think Walmart, which Inglewood voters thwarted in 2007 – do not conjure revenues out of thin air. Proponents cite $1 billion in economic development if the Rams move to Inglewood. But these things can easily be zero-sum games, especially when profits ultimately get shipped out of town.

Many of the dollars that would go to the L.A. Rams will be dollars that don't go to Louie's, Bru Haus (Steelers), Mom's (Packers), Sonny's (Patriots) and O'Brien's (Giants), to mention just a few places that are a lot cozier than anything that will be built in Inglewood. Even current the Rams have a watering hole: Malecon. We can do better than to wear the same jerseys and cheer in lockstep so that some person or company – be it Stan Kroenke or AEG – can reap tens of millions of dollars each year. We can have our fun, eat our brunches, and drink our beers in places that seat fewer than 60,000 people. In other words, I'd rather give my money to a local barkeep than to a global brand that pretends to be a nonprofit.

Unfortunately, if the Rams *don't* come to L.A., Missouri may still lose, fiscally at least. Four days after Kroenke cryptically announced his Inglewood deal, Missouri Gov. Jay Nixon conveniently presented a plan for a new 64,000-seat stadium on the banks of the Mississippi. Of the estimated $900-ish million cost, 40 percent would be borne by the state.

Ultimately, I'd rather let St. Louis have its team and its stadium. "Build it and they will come" -- one of the most overused cliches in land use -- referred to apparitional baseball players, not to football fans or to anyone else. We in L.A. have plenty other places to go and other things to do.

Rams fans, I'll see you at Malecon some Sunday morning.

– JOSH STEPHENS | JAN 10, 2015 ■