CP&DR

VOL. 31, NO. 2 — FEB 2016 CALIFORNIA PLANNING & DEVELOPMENT REPORT

Ballot Initiative Takes Aim At Planning in Los Angeles

BY JOSH STEPHENS

On the morning of Wednesday, November 9, while the nation takes stock of its future, its second-largest city will be doing the same. By then, the proposed Hollywood Palladium Residences may be one of two things: a proud testament to a progressive city's embrace of smart growth, or a 28-story symbol of the hubris of Los Angeles' planning and development community.

The number of people who would likely vote in favor of the city's current system of long-range planning and project approvals in the City of Los Angeles hovers around zero. But that is not exactly the question at hand.

Proposed for this November's ballot, the Neighborhood Integrity Initiative, sponsored by a group called the Coalition to Preserve L.A. (CPLA), would upend Los Angeles' approach to both project approvals and long-range planning. CPLA is an offshoot of the AIDS Healthcare Foundation, whose headquarters is adjacent to the Palladium.

Among other provisions, the initiative would effectively place a two-year moratorium on all development that does not conform to adopted plans. It calls for the city to update its Community Plans — of which there are 37 — and forbids the City Council from granting plan amendments, which supporters of the initiative derisively refer to as "spot zoning," to nonconforming projects.

– CONTINUED ON PAGE 8

insight

WILLIAM FULTON

How Scalia Found His Voice

Well, I for one am sorry to see Nino go. We go way back together – all the way back to Justice Scalia's very first term on the court, when he provided CP&DR with great copy for the first big story we ever covered.

But it wasn't just our first big story. It was the case where Nino found his voice. And it marked the beginning of one of the most momentous shifts in modern legal history: When Scalia began to replace

– CONTINUED ON PAGE 15

inside

Coastal Commission Votes to Oust Lester

Charles Lester, former Executive Director of the California Coastal Commission was dismissed from his role after nearly five years Feb. 10. The 7-5 vote took place behind closed doors after seven hours of public testimony, the majority of which supported Lester. Supporters of Lester say pro-development commissioners were hoping to oust him. Lester defended himself by saying he and his staff preserved the coastal resources and public access with rising sea levels, growing populations and increased pressure from developers. However, one of the commissioners who spoke against Lester, Dayna Bochco, complained of the lack of communication on important projects. As commission Chair Steve Kinsey explained to Los Angeles Times, "the decision revolved around leadership and not around an issue of greater flexibility for development." Senior Deputy Director Jack Ainsworth will lead the commission staff until the commission selects a new executive director.

LAO Report Calls for More Private Development

Legislative Analyst's Office released the latest in a series of reports addressing California's worsening housing crisis. The report, "Perspectives on Helping Low-Income Californians Afford Housing," suggests that facilitating more private, market-rate housing development in the state's coastal urban communities would help make housing more affordable for low–income Californians. Existing affordable housing programs assist only a small proportion of low–income Californians. Most low–income Californians receive little or no assistance. Expanding affordable housing programs to help these households likely would be extremely challenging and prohibitively expensive, according to the report. The report recommends that the state focus on programs directed at specialized housing needs—such as homeless individuals and families or persons with significant physical and mental health challenges. The report notes some key findings: 1) California's averaged rents increased more than did rents in places with more home building; 2) areas with low home production had more displacement of low-income than did places with robust private development; and 3) places with inclusionary housing policies had no less displacement than those places without it. The report follows last year's *California's High Housing Costs: Causes and Consequences*, which discusses the housing shortage and need for increasing homes in coastal urban communities.

Obama Creates 1.8 Million Acres of National Monuments

Acting on a proposal originally set forth by Senator Dianne Feinstein, President Obama announced the designation of three new national monuments in the Mojave and Colorado deserts and national forest land. These nearly 1.8 million acres have experienced decades of heavy mining, cattle ranching and off-roading yet maintained their distinct natural beauty. The largest of the three, the Mojave Trails National Monument, spans 1.6 million acres between Barstow and Needles. The Sand to Snow monument includes part of the San Bernardino Mountains, while the Castle Mountains Monument is in a remote corner near the Nevada border. Collectively, the areas are home to many animals, including 250 types of birds, and other unique natural architecture such as volcanic spires and 1,700 petroglyphs. David Lamfrom, director of California desert and wildlife programs for the National Parks Conservation Association told the LA Times that he hopes the next step can be "reintroducing species of a bygone era, starting with pronghorn antelope." The new monuments are meant to expand the conservation efforts begun in 1994 with the creation of Joshua Tree National Park and Mojave National Preserve.

SGC and HCD Post Notice of Funding Availability for AHSC Program

The Strategic Growth Council and the Department of Housing and

– CONTINUED ON PAGE 3

CP&DR

William Fulton
Editor & Publisher

Josh Stephens,
Morris Newman, Kenneth Jost
Contributing Editors

Susan Klipp
Fiscal Officer

Talon Klipp
Office Manager
Graphics & Website

is published semi-monthly by

Solimar Research Group
Post Office Box 24618
Ventura, California 93002

Phone / Fax: 805.652.0695

Subscription Price: $238 per year

ISSN No. 0891-382X

Visit our website:
WWW.CP-DR.COM

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

– CONTINUED FROM PAGE 2

Community Development announced the 2015-16 Notice of Funding Availability (NOFA) and Application for the Affordable Housing and Sustainable Communities (AHSC) Program. A copy of the NOFA is available here (pdf). Application access is available through the Financial Application Assistance Statewide Tool (FAAST); search for 2015-16 Affordable Housing and Sustainable Communities Program. Concept proposals are due via the FAAST system by 5:00 p.m., Weds., March 16. SGC is holding three remaining statewide workshops this week in Riverside, Los Angeles, and San Diego to assist applicants interested in applying for the 2015-16 Affordable Housing and Sustainable Communities program. Small group or one-on-one consultations will also be offered to interested applicants on a first come, first served basis. For more information click here. Agenda, presentation materials, and additional guidance are also available on the AHSC website. AHSC Program Staff will respond to questions sent to AHSC@hcd.ca.gov, with answers to frequently asked questions posted on both the SGC and AHSC websites on a regular basis.

San Francisco Moves towards Moratorium in The Mission

The San Francisco Planning Commission approved unanimously a fifteen-month period of controls on new developments in the Mission District. These new controls will require developers to provide information on how the projects will affect the neighborhoods economic diversity. Developers excused from the new regulations are those with 25 or more units or at least one-third of apartments reserved for low-income residents. Housing projects with more than 75 units must provide additional projections of the affect to the residents, businesses and community. The neighborhood activists pushed for a full moratorium on new developments to keep the affordability in the Mission.

L.A. City, County Pledge Funds and Cooperation on Homelessness

Los Angeles County has the largest chronic homeless population in the country, and the city and county are teaming up together after declaring it reaching emergency proportions. The city has proposed $100 million this year and nearly $2 billion over the next decade for a city homeless coordinator, housing, public restrooms and showers, and providing affordable housing. The county has approved an additional $150 million over two years to help these nearly 44,000 individuals. Los Angeles Mayor Eric Garcetti told the New York Times, "This is the highest priority that we have, to make sure that nobody is living on the streets and nobody is without a home." The mayor says voters will be asked to approve additional funding, and some revenue will come from shifting existing funds.

Survey: Demise of Redevelopment's Impact on Affordable Housing Developers

The Federal Reserve Bank of San Francisco released results of a survey of Affordable Housing Developers on the state of affordable housing in the wake of the 2012 elimination of redevelopment agencies. The survey was designed to "learn how they are faring following RDA dissolution; how their development pipelines have been affected by the loss of RDA funds; and how new legislation, local regulation, or funding strategies have impacted affordable housing development over the past three years." The responses are from 71 development organizations across the state. The report says 83 percent of respondents must pursue more funding sources than they did under RDA, 74 percent have projects that have been postponed or jeopardized, 80 percent of the projects have been negatively impacted by rising cost of lands and 61 percent have had to reduce staff because of funding reductions. Only 26 percent say their jurisdictions have developed post-RDA regulatory reforms for affordable housing.

Court Deals Setback to L.A. Metro Subway Alignment through Beverly Hills

District Judge George Wu ruled that the Los Angeles Metropolitan Transportation Authority failed to property consider environmental studies for a proposed subway tunnel under Beverly Hills High School. Metro originally had a route under Santa Monica Boulevard in Century City, but realized it was in earthquake faults and therefore relocated the alignment. Activists in Beverly Hills have decried the new alignment, citing a range of safety concerns and accusing Metro of a "bait and switch." Beverly Hills listed nine reasons were Metro's EIS failed to meet NEPA requirements. These issues include air quality and public health, methane gas and oil wells, seismic faults, and public land usage to name a few. This section is expected to begin construction soon and be

– CONTINUED ON PAGE 4

– CONTINUED FROM PAGE 3

opened in 2026. Judge Wu's ruling is preliminary, and both parties must respond and return to court March 14 for a finalization of the ruling.

Moreno Valley Considers Massive Annexation

The City of Moreno Valley is considering annexing 30 square miles of rugged, sparsely populated unincorporated Riverside County north of the city, bringing the city limits all the way to the San Bernardino County line. The move would increase the city's size by roughly 60 percent. Backers of the annexation say it would enable the city to promote hillside residential developments and development of vineyards, both of which are largely lacking in Moreno Valley currently. After the study is completed, the City Council must decide to file annexation with the county LAFCO. (See prior coverage of Moreno Valley.)

Bakersfield Hires Firm for Station Area Plan

The Bakersfield City Council voted, 6-0, to hire urban planning and engineering firm Skidmore, Owings, and Merrill to design a station area plan for the High Speed Rail project. The Rail Authority is studying two alignments through Bakersfield: one that would bring the train along the Union Pacific tracks through the middle of the city, or one paralleling the Burlington Northern Santa Fe route north of downtown. The conceptual alignment, along the Union Pacific tracks, would require taking of fewer land parcels but could hurt Kern County's chances of receiving a heavy maintenance facility for the train and the station would not be located in downtown Bakersfield. Bakersfield Planning Director Jacqui Kitchen told the Californian that the city wants "to make sure we get as much functionality out of this effort as we can, and that it's a process that really results in something that is useful regardless of whether the station is built or not." ■

legal digest

Presidio Trust Didn't Violate Historic Preservation Laws In Planning New Development, Ninth Circuit Rules

BY WILLIAM FULTON

The Ninth U.S. Circuit Court of Appeals has ruled that The Presidio Trust can move forward with the construction of a 12-building complex commonly referred to as a "lodge" in the vicinity of the Main Parade Ground. In so doing, the court rejected arguments from the Sierra Club and a variety of historic preservation organizations that doing so would violate the Presidio Trust Act. The court also rejected the argument that the Presidio Trust's actions did not meet the consultation requirements contained in Section 110f of the National Historic Preservation Act.

The Ninth Circuit circumscribed its ruling narrowly, however. The court rejected a claim from The Presidio Trust that it broader power to permit new development based on offsetting demolition of structures across the expanse of the former military base. And the plaintiffs did not appeal other aspects of a district court judge's ruling affecting other buildings.

The lodge project is part of a larger proposal to demolish existing structures and build new ones on the Presidio's "Main Post," next to the Main Parade Ground. This proposal was incorporated into a revised management plan for the Presidio adopted by the Trust in 2011. The "lodge" itself would be constituted of 12 structures totaling 70,000 square feet, built in the style of Civil War barracks that once stood on the same location. The project also calls for expanding both the Presidio Theater and the Presidio Chapel and building an archeology lab.

The Sierra Club and the Presidio Historical Association sued, claiming the plan for the lodge violated the Presidio Trust Act's requirement calling for "replacement of existing structures of similar size in existing areas of development". The plantiffs also claimed that the Trust had violated Section 110f, which calls for federal entities "to the maximum extent possible …undertake such planning and actions as many be necessary to minimize harm to a landmark." The Presidio was landmarked in 1962, long before the Presidio Trust Act was enacted.

After losing in front of Magistrate Judge Laurel D. Beeler on a wide variety of issues, the plaintiffs appealed to the Ninth Circuit on the two issues described above.

On the replacement question, the Presidio Trust actually argued broadly that it had the right under the Presidio Trust Act to "bank" demolished square footage across the base and use that square footage as the basis of its new development plans. The Ninth Circuit actually rejected that claim, largely because the court concluded the law is vague.

A dizzying array of square footage figures offered by the parties hints at deep underlying ambiguity, and nothing in the plain text of the statute—the common denominator for the purposes of our analysis—adds any clarity," wrote Judge Margaret McKeown for the three-judge panel.

Later in in the ruling, McKeown added: "Notably, neither side presents a compelling argument for any definitive, unambiguous definition of what is required of the Trust. In the end, the most that can be said of the statute is that it grants some unspecified discretion to the Trust to undertake new construction projects

– CONTINUED ON PAGE 6

>>> Presidio Trust Didn't Violate Historic Preservation Laws

– CONTINUED FROM PAGE 5

within certain obscure strictures."

However, the court did accept the Trust's alternative argument that it had the right to use demolished square footage as a basis for new development within specific areas of the Presidio. "Ultimately," McKeown wrote, "any reasoned interpretation of the statute must account for the diversity of the Presidio's landscape, the vastly different levels of development in different areas of the park, and the historic nature of the park. For instance, the South Hills planning district is a largely undeveloped natural area, albeit with some small buildings, while the Main Post and Letterman planning districts are relatively urban.

Once that determination was made, the conclusion on this issue was simply a matter of math. The Trust is proposing to demolish 94,000 square feet of built space to replace it with 70,000 square feet in building the lodge complex.

The "lodge" itself would be constituted of 12 structures totaling 70,000 square feet, built in the style of Civil War barracks that once stood on the same location. The project also calls for expanding both the Presidio Theater and the Presidio Chapel and building an archeology lab.

On the question of the National Historic Preservation Act, the court rejected amicus curiae National Trust for Historic Preservation's argument that the Presidio Trust had not complied with the requirements of Section 110f. The National Trust claimed that Congress had intended to model Section 110f after a very similar section of the Department of Transportation Act – which, unlike NHPA, also imposes a substantive obligation to preserve historic buildings rather than simply make best efforts to minimize harm.

Summarizing the court's view on Section 110f, Judge McKeown wrote: "We are satisfied that the Trust met this heightened standard within the planning process. The original lodge proposal changed dramatically over time, from a behemoth building to a smaller, historically appropriate collection of buildings."

The Case:

Presidio Historical Association v. Presidio Trust, No 13-16554

The Lawyers:

For Presidio Historical Association: Deborah Sivas, Mills Legal Clinic, Stanford University

For Presidio Trust, Katherine J. Barton, Environment and Natural Resources Division, United States Department of Justice ■

Cal Supremes Deny Rehearing in Newhall Ranch Case

BY CP&DR STAFF

The California Supreme Court has denied a rehearing in *Center for Biological Diversity v. Los Angeles County*, the major challenge to the environmental impact report on the Newhall Ranch project.

In the ruling on November 30, the Supreme Court ruled that a lead agency could use the baseline statewide target of a 29% reduction in greenhouse gas emissions from a "business as usual" scenario in the EIR but, rather, had to use a more project-specific baseline instead. CEQA practitioners have been scratching their heads ever since about how to actually do this.

Newhall Ranch sought a rehearing on the GHG issue, claiming it was not raised in the administrative record.

Justice Ming Chin, who dissented in the original ruling, voted to grant the rehearing. In his dissent in November, Chin argued that further litigation would cause delays that would eventually require new analysis to meet new standards, thus paralyzing the project's progress ■

Billboard Company Has No Case Against Corona, Court Rules

BY WILLIAM FULTON

An outdoor advertising company that erected a billboard without permits in the City of Corona was not discriminated against and did not have its constitutional rights violated by the city's action, the Fourth District Court of Appeal has ruled.

Corona banned new billboards in 2004 but permitted existing billboards to be relocated. After being denied city permits to construct a billboard along the 91 Freeway in 2014, AMG constructed a billboard over the weekend anyway and threatened to build more throughout the city if it was not given city permits. Corona sued and quickly won a preliminary injunction ordering AMG to remove the existing billboard and prohibiting the company from building more. The appellate court upheld the trial court's ruling. AMG was represented by Ray Haynes, who gained a reputation as one of the most conservative members of the California State Senate while serving there between 1994 and 2002.

In court, AMG argued that the city had acted in a discriminatory manner because it had permitted Lamar Advertising Co. to erect new billboards after passing the ban in 2004. The court rejected this argument, noting that all new Lamar billboards were replacing older billboards that had predated the ban. "Lamar had nine billboards in the City, and each was either a 'grandfathered' billboard that was in place before the 2004 ordinance went into effect, or was traceable to a grandfathered billboard.," wrote Justice Jeffrey King for a unanimous three-judge panel.

AMG was represented by Ray Haynes, who gained a reputation as one of the most conservative members of the California State Senate while serving there between 1994 and 2002.

AMG also made a variety of equal protection and free speech claims under the U.S. Constitution, all of which the Fourth District rejected. The equal protection claim was handily dismissed by simply noting that Lamar had billboards in the city before 2004 and AMG did not.

The free speech claim took the court a little longer to address but relied heavily on the fact that Corona was not seeking to regulate content. "Content-neutral injunctions which do not bar all avenues of expression are not treated as prior restraints," King wrote. He also noted that the ordinance did not give the city "unbridled discretion" to reject billboards because of the grandfathering clause.

AMG also argued that the ordinance was facially invalid under the free speech clause of the California constitution, but King knocked that one down quickly as well by invoking the very first California Supreme Court ruling on the topic -- Metromedia, Inc. v. City of San Diego (1981) 453 U.S. 490. In that case, King reminded AMG, the plurality concluded that the city ordinance banning all off-site commercial billboards satisfied the four-prong, intermediate scrutiny test established in Central Hudson Gas & Elec. v. Public Serv. Comm'n (1980) 447 U.S. 557, 562-566 for determining whether a governmental restriction on commercial speech violates the First Amendment. "Metromedia remains the law of the land," he wrote.

The Case:

City of Corona v. AMG Outdoor Advertising Inc., E062869

The Lawyers:

For City of Corona:
Dean Derleth, City Attorney

For AMG Outdoor Advertising:
Raymond N. Haynes, Cole & Loeterman ■

>>> Ballot Initiative Takes Aim At Planning in Los Angeles

– CONTINUED FROM PAGE 1

Specifically, the 23-page initiative calls for the city to:

- Enact a two-year moratorium on building or demolition permits for projects that do not adhere to existing city planning regulations and/or for which the city granted a General Plan amendment, or zone or height change;
- Permanently halt individual parcel-by-parcel or 'spot zone' amendments and/or building exemptions by outlawing amendments intended to approve projects "where the approval of such projects would otherwise be inconsistent with the General Plan;
- Create a plan for updating the city's Community Plans according to strict principles prescribed by the initiative, including requirements that force developments to conform to size and character of existing developments within a quarter-mile radius, including those surrounding transit hubs;
- Requires the city, not developers, to be responsible for preparation of Environmental Impact Reports; and
- Limit a developer's ability to reduce parking requirements for residential units and limit commercial establishments' use of off-site parking.

The initiative was proposed in November, and supporters are currently gathering the 61,486 signatures they need to qualify it for the ballot. If approved, the City Clerk will likely impose a different name.

The proposed Hollywood Palladium Residences partly inspired the Neighborhood Integrity Initiative.

(Image courtesy of Stanley Saitowitz / Natoma Architects Inc.)

The Improvised City

Generations of planners, developers, and stakeholders have decried Los Angeles' planning scheme as inefficient, Byzantine, and unenlightened. Los Angeles' General Plan has not been fully updated since 1946, and its recent pace for updating all the Community Plans — a feature of the General Plan not mandated by the state but rather imposed by the city on itself — is so slow that every living Angeleno will be dead by the time the job is done. Even the Department of City Planning's own literature refers to as

– CONTINUED ON PAGE 9

>>> Ballot Initiative Takes Aim At Planning in Los Angeles

– CONTINUED FROM PAGE 8

"cumbersome."

The system has stumbled along through periodic updates, overlays, and frequent legislative actions. City planners often recommend zoning amendments for projects that they believe support the spirit of a progressive vision for Los Angeles if not the letter of an existing code.

The wisdom of this type of improvisation is a matter of dispute.

"They amend the city General Plan sometimes on a daily basis," said CPLA Campaign Director Jill Stewart, a longtime and often controversial journalist and most recently editor of LA Weekly. "It's an outrageous practice."

Of chief concern are what CPLA supporters refer to as "mega-projects" that often include luxury condominiums or high-priced rental housing and clash with their conception of Los Angeles' traditional urban fabric. The most contentious of these projects have been in Hollywood, where city planners have been promoting new development to replace the area's formerly seedy image.

CPLA claims that the initiative will preserve existing housing stock. Stewart said that roughly 20,000 units have been lost in the past decade to new, presumably more expensive, developments.

"I don't think they're purposely going after the working class, but that is the outcome—shoving out people who cannot pay these incredible prices, people of color, and actually causing a net loss in Hollywood," said Stewart.

CPLA hope for the initiative to bring predictability to the city's development process and even help combat the city's notorious shortage of affordable and workforce housing. They say that the current system invites developers to pressure the city to approve larger and more luxurious — and therefore more profitable — projects. If developers know that a parcel is zoned only for a certain type of property, developers will avoid the lengthy negotiation process in favor of simply adhering to statute. (The initiative would not affect ministerial approvals such as variances.)

"After the moratorium ends….everybody will know what's going to happen, and there will be no horrible surprises," said Stewart.

Critics say the initiative promotes a regressive vision of Los Angeles as a low-rise, low-density bedroom community when market and cultural forces are promoting density. In so doing, it discounts contemporary planning concepts like smart growth, infrastructure development like subway and light rail lines, as well as cultural shifts that have made urban living attractive once again. While some "mega-projects" have received derision, many of them represent, to planners, the emergence of a more vibrant, more urban Los Angeles.

"All of the urban planners are in on this same idea," said Stewart, referring to increased densities. "It's a religious chant you hear."

Developer Mott Smith, who is acting as an informal spokesperson for several organizations opposing the initiative, sees this coming battle in philosophical terms.

"It's the impulse to fundamentalism that people feel when they sense the world collapsing around them," said Smith. "This is no different than any other fundamentalist movement, whether it's Christian fundamentalism or Islamic fundamentalism. It sounds melodramatic, but when the world ceases to make sense, we retreat to text. Unfortunately, text does a really bad job of putting the world in order, so you end up with this downward spiral."

'Great Wealth' or Slim Margins?

Plan amendments require approval of the Planning Commission and City Council. Council members typically votes in accordance with the council member in whose district a project is located, thus giving elected officials nearly absolute power over development decisions. For planners, it's an imperfect process but more expedient than waiting decades to adopt comprehensive plans.

CPLA claims that these actions amount to "back-room deals" that serve only to enrich powerful developers.

Deals, untoward and otherwise, have a long history in Los Angeles planning, dating back to corruption scandals that came to light in the 1960s. Plan amendments constitute "the power to create great wealth," in the words of Judge Pearce Young, who presided over one of the 1960s corruption trials. Safeguards were put in place to ensure transparency.

Planners dispute CPLA's characterization of the opacity of the process, however. Projects that request plan

– CONTINUED ON PAGE 10

>>> Ballot Initiative Takes Aim At Planning in Los Angeles

– CONTINUED FROM PAGE 9

amendments are subjected to a gantlet of public meetings at which individual stakeholders and organized groups, such as homeowners groups and affordable housing advocates, routinely voice concerns and make suggestions. The creation of the Neighborhood Council system in 1999, when the city updated its charter, added a forum that was absent during the corruption scandals of the 1960s.

"I don't buy the argument that you have favoritism shown to particular developers," said Bell. "Every one has gone through a rigorous review process."

Stewart discounts the legitimacy of that review.

"By the time the public hearing has come around, a tremendous amount of decision-making has already happened," said Stewart. She added that many otherwise idealistic council members get increasingly comfortable with this system as their terms progress and they get re-elected.

Stewart said that many residents have vehemently opposed "mega projects" only to be disregarded by planners and elected officials. The result: projects that serve developers' financial interests but alienate residents from their own communities.

"The biggest thing that I hear is the destruction of neighborhood character," said Stewart. "Most people don't believe that….LA is a good place for a lot of high-rise skyscrapers."

Opponents of the initiative say it has the economics backwards, because high land prices reflect a market that is already constrained by antiquated zoning laws. The moratorium and constrained Community Plans could exacerbate an already dire housing shortage and affordability crisis and stall nascent efforts to solve it.

"Densification occurs because of land prices and land consolidation for really big projects," said Stephanie Pincetl, director of the California Center for Sustainable Communities at UCLA.

The price of land leads to a costly negotiation process in which developers and the city try to determine what should be allowed on a given parcel as developers try to maximize their investments. This process often involves expensive consultants and community outreach, not to mention environmental impact reports for some projects and the omnipresent threat of lawsuits under the California Environmental Quality Act. Several of the initiative's supporters have used CEQA lawsuits to combat projects in Hollywood.

"The market is responding appropriately based on the low-density zoning that we've had in place for such a long time," said Alan Bell, former deputy director of planning (now retired) at the Los Angeles Department of City Planning.

Holding the Centers

City officials maintain that the process is both transparent and in keeping with well-established goals — even if those goals have not yet been codified. In particular, the General Plan Framework, adopted in 1996 and re-adopted in 2001, outlines many of the principles that guide today's plan amendments.

"Nothing could be further from the truth," said Bell, regarding CPLA's characterization of a corrupt planning process. "All of these re-zonings and amendments to the community plans have been consistent with (the General Plan Framework)."

The City Council has often approved plan amendments for projects that it considers forward-looking in lieu of waiting years — and even decades — for the city's long-range planning process to produce updated Community Plans and zoning. The process that CPLA decries is, in short, an attempt to get around antiquated regulations that persist only because the city's process is so slow.

The Framework acknowledges the ongoing development of Los Angeles' mass transit network. Pincetl said that the current disruption and traffic in areas like Hollywood, Downtown, and Mid-Wilshire is temporary and should not dictate long-term policy.

"The impacts of this new development trend are obvious. These gigantic buildings are sprouting up and the public transportation that's being built is very disruptive," said Pincetl. "It's really for a change that's going to happen for the public good in Year Two or Three or Four. It's always difficult for people to keep that in mind."

Bell said that the guidelines themselves have a long lineage, taking inspiration from the Centers Concept that former Planning Director Cal Hamilton drafted in 1974.

– CONTINUED ON PAGE 11

>>> Ballot Initiative Takes Aim At Planning in Los Angeles

– CONTINUED FROM PAGE 10

"I think there's been a consistent message from the Planning Department going back over 50 years that the way L.A. can grow and develop while retaining its special character (is to) channel its growth near transit," said Bell.

The city's growth has always followed a halting pattern. A slow-growth movement arose in the late 1970s and early 1980s before the Centers Concept could take hold. Led primarily by homeowners in the city's suburban-style neighborhoods, it culminated in the passage of 1986's Proposition U, a ballot measure that cut permitted floor-to-area ratios on most of the city's commercial boulevards in half. Constrained by Prop U and other limits adopted in the 1980s, Los Angeles has, by some accounts, built just about as much as current zoning laws allow.

CPLA hope for the initiative to bring predictability to the city's development process and even help combat the city's notorious shortage of affordable and workforce housing.

Those pressures have not been lost on city leaders.

Last year, Mayor Eric Garcetti announced his intention to promote development of 100,000 units between 2013 and 2021. Nearly 40 percent of those units have been already approved, often via plan amendments, with many under construction. Plan amendments have enabled planners and elected officials to push beyond these limits, in certain cases.

"Almost every project that comes to the Planning Commission is about housing," said architect Renee Dake-Wilson, a member of the City Planning Commission. "Policies are coming up in our agenda are all about housing, not only affordable housing, all levels of housing."

The Planning Department is already attempting to hasten its Community Plan updates through its New Community Plans program. The program kicked off in 2006 but was hampered by the recession. In late 2014, the department announced a renewed effort to update the plans.

As well, the last year city adopted a new mobility element, called Mobility Plan 2035, which attempts in part to promote alternative transportation, thereby addressing some of the traffic problems that arise from density. Meanwhile, the city is undergoing a comprehensive review of its zoning code through a process branded as re:code LA.

Perhaps most importantly, Garcetti recently tapped Vince Bertoni to lead the Department of City Planning. The former director of planning in Pasadena – and a former deputy director in Los Angeles -- Bertoni is known for championing long-range planning and is expected to jump-start the process in Los Angeles. Awaiting confirmation, Bertoni declined to comment for this story.

"I really hope that we can get beyond setting policy by ballot measure and start doing it by setting correct policy and reviewing cases," said Dake Wilson, who opposes the initiative.

Regardless of those developments, CPLA says that a wholesale update of Community Plans would engage stakeholders and promote transparency in a way that the current process does not. This process is a main reason why Stewart insists, contrary to critics' accusations, that the initiative does not constitute "ballot-box planning."

"This forces them to have a public process that they've been avoiding for 20-30 years," said Stewart.

Then again, no matter what the public wants, the conversation about a new set of Community Plans would not exactly be freewheeling if the initiative passes. It includes constraints on the plans that the city might adopt, including a requirement that any given new development be in keeping with the character of the existing urban fabric within a quarter-mile radius. That kind of uniformity could curtail transit oriented development and kill the Centers Concept for good.

It could even have unintended consequences, leaving neighborhoods susceptible to all sorts of objectionable uses. At its worst the initiative would perpetuate the city's so-called "high-density sprawl."

"The sorts of development that drive people craziest – the out of scale condos, the ugly strip malls, the fast food joints

– CONTINUED ON PAGE 12

>>> Ballot Initiative Takes Aim At Planning in Los Angeles

– CONTINUED FROM PAGE 11

– those will be the only game in town," said Smith.

It could even cripple the city's social life. Smith said that, according to his reading of the initiative's chapter on parking, new bars and restaurants would be required to meet their parking requirements on-site.

"This means there's never going to be another new bar or restaurant in Los Angeles," said Smith.

Housing Crisis Meets Planning Crisis

What the initiative could do to drinking and dining is nothing, opponents say, compared with what it could do for housing.

CPLA claims that housing affordability is one of the primary motivations behind the initiative, especially for low-income residents and people of color. They predict that stability in the public process will open up opportunities for small developers to produce subsidized and working-class market-rate housing and thereby meet Garcetti's goals.

"The mid-sized and smaller developers who have been shut out of this gamed system will be much more active," said Stewart.

This tactic is at best a gamble, according to opponents. If small developers do not seize the opportunity that the coalition describes and, meanwhile, large developers are shut out, the city's production of new housing may fall to nil — in a city that has been described as the least affordable in the nation as a function of average wages and rental rates.

"It is already true that small developers are building as much as they can in the medium-density residential neighborhoods all over the city," said Smith. He said that small developers do not necessarily have excess capacity to compensate for the units that larger developments would have provided. If so, the city could be looking at least two years of minimal housing production.

"It's the impulse to fundamentalism that people feel when they sense the world collapsing around them," said developer Mott Smith Smith. "This is no different than any other fundamentalist movement, whether it's Christian fundamentalism or Islamic fundamentalism.

"Rather than fighting for housing affordability – which would mean supply – they have put all of their chips in with the NIMBYs and have basically decided that land use is a zero-sum game," added Smith.

Ironically, the Palladium project that inspired the initiative – with 731 units – involves no loss of existing housing. It is to be built on what are currently parking lots. The same is true for most of the high-rise project in South Park, which has the highest concentration of development underway in the city. Stewart said she did not have data to indicate how many of those units were lost to developments that required plan amendments, if any.

Stewart said population growth is slow enough that a slower pace of development, coupled with preservation, would benefit the city.

"L.A. is not a fast-growing city at 1.2 percent (per year)," said Stewart. "There is not a crush of people arriving here."

The Department of City Planning's official numbers anticipate a population of 4.3 million in Los Angeles by 2035, for an absolute increase of 300,000. In a 2014 report, the California Housing Partnership estimated that Los Angeles County already has a shortage of 490,000 affordable units (market rate and subsidized).

"The mayor is concerned that this initiative would dramatically cut housing production in Los Angeles, driving up rents at all income levels at a time when too many Angelenos are already struggling to make ends meet," said Garcetti spokesperson Connie Llanos.

Enter AIDS Healthcare

While battles between civic watchdogs and development interests have been going on for decades, this one has an unusual instigator: the AIDS Healthcare Foundation. The organization does not list the initiative or CPLA on its website, but the two are essentially one in the same. The PDF of the initiative text is hosted on AHF's server.

– CONTINUED ON PAGE 13

>>> Ballot Initiative Takes Aim At Planning in Los Angeles

– CONTINUED FROM PAGE 12

AIDS Healthcare's mission statement is, "Cutting-edge medicine and advocacy, regardless of ability to pay." Though the initiative has nothing explicitly to do with AIDS treatment or prevention, the organization's leaders maintain that so-called over-development and increased density is a matter of public health and therefore falls within its mission.

AHF was initially concerned about Hollywood. The initiative extends those concerns to every corner of the city.

"We felt it was appropriate given that…this is occurring out our front door," said AHF Board Chair Cynthia Davis. "When I drive over to our corporate offices, I can't even find a parking space. I have to drive 20 minutes to find a parking space."

Davis said that the board supports the initiative nearly unanimously. Davis added that the organization considers development, and especially density, to be a public health issue.

"We're concerned about the health of communities whether or not somebody is living with HIV or AIDS," said Davis. "You're talking about too many people living and residing in a particular area where it's going to affect the environment, parking, homeless people on the street… thousands of people moving into an area that's already congested."

Davis said she was not aware of any research that the organization had conducted to assess possible public health benefits of the initiative. Many planners and public health professionals endorse compact, mixed-use, and transit oriented development because they can promote walking and decrease air pollution by reducing residents' dependency on cars.

Though the initiative may be the biggest civic battle that AHF has waged, it has a long history in the AIDS community. With annual revenues of hundreds of millions of dollars, the organization provides care for several hundred thousand patients in clinics nationwide and in 34 foreign countries.

AHF has, however, taken some controversial positions, and Executive Director Michael Weinstein has been called "polarizing and famously litigious." It recently opposed the pre-exposure prophylaxis drug Truveda, which Weinstein dismissed as a "party drug" that promotes casual sex. It has also been accused of predatory business practices, such as opening clinics that crowd out nearby nonprofit clinics. AHF is currently the subject of a federal lawsuit, unsealed in April, claiming that it received improper kickbacks from Medicare.

CPLA is campaigning against what it calls overdevelopment in Hollywood.

Healing Los Angeles

Regardless of AHF's expertise, or lack thereof, in land use, the question remains: Can the Neighborhood Integrity Initiative — or any other movement — bring the reform that so many in Los Angeles have clamored for?

Supporters are expected to include homeowners,

– CONTINUED ON PAGE 14

>>> Ballot Initiative Takes Aim At Planning in Los Angeles

– CONTINUED FROM PAGE 13

homeowners associations, and other groups that are traditionally concerned about traffic and overbuilding. Even opponents admit that the initiative sends an anti-corruption message that may be superficially attractive to voters.

"To the unsophisticated ear, this will be an extremely seductive proposition," said Smith. "What it says is, the city has to stop deviating from its own rules on a case-by-case basis for developers. Who would disagree with that? Only someone who understands the rules have never worked and could never work."

A poll conducted by CPLA early on showed 72 percent of respondents in support.

CPLA has not yet issued a comprehensive list of supporters, aside from an endorsement from former Mayor Richard Riordan. Father Gregory Boyle, beloved in Los Angeles for founding Homeboy Industries, briefly endorsed the initiative but then recanted. Stewart said that CPLA will be reaching out to a diverse range of stakeholders, including Neighborhood Councils. It recently launched a billboard campaign warning stakeholders against "Manhattanwood," a play on the claim that over-development will bring Manhattan-level density and traffic to Hollywood.

Meanwhile, a coalition of opponents is forming under the name Communities United for Jobs and Housing, including business groups, developers groups and building trade associations, architects, and transit advocates. Six sitting City Council members have pledged opposition. Other factions that are often at odds with developers also oppose the measure, including environmental groups, and affordable housing advocates.

"It's a coalition of people who don't necessarily have a financial dog in the hunt," said Kaplan, the coalition's spokesperson. "You might expect real estate developers to opposed the initiative. The people that I'm working with opposite the initiative because it's bad public policy."

Contacts & Resources

Neighborhood Integrity Initiative Text (pdf)

Los Angeles General Plan Framework

AIDS Healthcare Foundation

Alan Bell, Deputy Director of Planning (retired), Los Angeles Department of City Planning

Renee Dake Wilson, Principal, Dake Wilson Architects, Los Angeles City Planning Commissioner, renee@dakewilson.com

Cynthia Davis, Board Chair, AIDS Healthcare Foundation, cynthia.davis@aidshealth.org

Larry Kaplan, Spokesperson, Communities United for Jobs and Housing, larry-kaplan@sbcglobal.net

Connie Llanos, Press Secretary, Office of Mayor Eric Garcettti, connie.llanos@lacity.org

Stephanie Pincetl, Director and Professor-in-Residence at the California Center for Sustainable Communities at UCLA, spincetl@ioes.ucla.edu

Mott Smith, Co-founder and Principal, Civic Enterprise, mott@civicenterprise.com

Jill Stewart, Campaign director, Coalition to Preserve L.A., gedk@aidshealth.org ■

insight WILLIAM FULTON

>>> How Scalia Found His Voice

– CONTINUED FROM PAGE 1

William Brennan as the intellectual leader of the U.S. Supreme Court.

Nollan v. California Coastal Commission, 483 U.S. 825, was one of two land-use cases issued by the U.S. Supreme Court one June day in 1987 that is now remembered as a turning point in the history of property rights. Nollan is often overshadowed by the other case decided that day: *First English Evangelical Church of Glendale v. County of Los Angeles* ,82 U.S. 304. But in the long run, *Nollan* has had far more practical significance. And, boy, was that opinion fun to read.

All through the 1970s and '80s, local governments ramped up their land-use regulations against developers, raising the question of when such regulation becomes a "taking" of property. And especially in California after Proposition 13 limited their property tax revenue, government agencies began requiring "exactions" -- conveyance of land, infrastructure money, or easements in exchange for permits -- thereby raising the question of whether an exaction might also be a taking of property. The Supreme Court had danced around especially the first question for years -- but Chief Justice Warren Burger's retirement in 1986 had allowed President Ronald Reagan to reshape the court, elevating William Rehnquist to Chief Justice and adding Scalia as an Associate Justice.

First English finally established that a property owner who suffers from a regulatory taking of property is entitled to monetary compensation. This was considered the more important issue and it included some novel legal thinking. The sober Chief Justice William Rehnquist wrote the opinion.

Nollan, by contrast, seemed like one of those crazy one-off California land-use cases that nobody would care about east of Pacific Coast Highway. But, partly thanks to Scalia, it turned out to be far more important in the end.

A family near Ventura wanted to expand their beach shack into a two-story home. As a condition of approval, the Coastal Commission required that the Nollan family to provide an easement across the sand in front of their house so that people could legally walk in front of the house. It was a standard condition that the Coastal Commission slapped on everybody in those days.

But James Nollan was a deputy city attorney in Los Angeles and he sued, saying that there was no relationship between the impact on the public created by the two-story home and the Coastal Commission's exaction involving the easement across the front of the property.

In what was pretty clearly a post-hoc rationalization, the Coastal Commission's lawyers said that the two-story house created a psychological barrier between PCH and the beach, a problem that could be mitigated by created a legal easement running along the beach between two nearby beachfront parks. Lower courts had upheld the decision, in large part because California law at the time said that only an indirect relationship between the problem and the exaction was good enough.

And in an opinion that was clearly written to serve as the majority opinion, Brennan – like Scalia now, at the time an 80-year-old intellectual leader with 30 years on the court – wrote that the government deserved great deference in deciding how to ameliorate the problem the Coastal Commission had identified. He said regulation should be shaped "in the context of the overall balance of competing uses of the shoreline."

Brennan (who sided with the majority in the *First English* case on the same day) had built majority opinions around his reasoning for decades and clearly expected to do the same in *Nollan*. But this was the first time he had to contend with Scalia, who had joined the court the previous fall (at about the same time that we were founding*CP&DR*).

– CONTINUED ON PAGE 16

insight WILLIAM FULTON

>>> How Scalia Found His Voice

– CONTINUED FROM PAGE 15

This was Scalia's first big opinion. And Nino was ready for his closeup.

"The lack of nexus between the condition and the original purpose of the building restriction converts that purpose to something other than what it was," he wrote. "Unless the permit condition serves the same governmental purpose as the development ban, the building restriction is not a valid regulation of land use but an out-and-out plan of extortion".

Developers had been calling California's aggressive exactions "extortion" for years. Now a U.S. Supreme Court justice was saying it too.

Developers had been calling California's aggressive exactions "extortion" for years. Now a U.S. Supreme Court justice was saying it too. And he brought with him not just Rehnquist but also Lewis Powell, Kennedy appointee Byron White, and the well-known moderate Sandra Day O'Connor – creating a five-justice majority.

But Scalia didn't stop there. Throughout the opinion, he couldn't resist showing off the operatic range that would characterize his work over the years. He also wrote that "when that essential nexus is eliminated, the situation becames the same as if California law forbade shouting fire in a crowded theater, but granted dispensations to those willing to contribute $100 to the state treasury."

My personal favorite passage came when Scalia speculated as to what would be an acceptable exaction – something he didn't have to do but apparently couldn't resist. An exaction would be acceptable, he said, if it ameliorated the basic problem identified by the Coastal Commission, which in this case was the fact that the two-story house blocked the ocean from the public traveling on PCH. He concluded: "[T]he condition would be constitutional even if it consisted of the requirement that the Nollans provide a viewing spot on their property for passersby with whose sighting of the ocean their new house would interfere."

As I have often said over the years, it's hard to imagine that Scalia actually would have upheld that exaction if the Coastal Commission had imposed it. He probably would have found some other reason to strike it down. But the point was made: Ever after, an exaction required a "direct nexus" to be legal.

Brennan was not happy. In his dissent, he wrote that Scalia's majority opinion "overrul[ed] an eminently reasonable exercise of an expert state agency's judgment, substituting its own narrow view of how this balance should be struck." Which, come to think of it, has pretty much been the liberal critique of Scalia ever since. In any event, Brennan had good reason to be mad: He had just been replaced as the intellectual leader of the Supreme Court. Three years later, he retired.

Over time, Rehnquist's ruling in *First English* has not proven nearly as consequential as everybody thought it would be at the time. It's almost impossible to prove when a regulatory taking has actually occurred as a result of delay or repeated rejection of development applications and only a few developers have ever received compensation.

The whole exactions thing, however, was changed forever. Scalia's opinion hastened the passage of AB 1600, California's first law requiring accountability for impact fees. Nollan led to Rehnquist's ruling in *Dolan v. City of Tigard*, 512 U.S. 374 (1994), which established the "rough proportionality" requirement for exactions, creating the whole Nollan/Dolan doctrine. It formed much of the basis for the California Supreme Court's ruling in *Ehrlich v. City of Culver City*, 12 Cal.4th 854 (1996), which solidified

– CONTINUED ON PAGE 17

insight WILLIAM FULTON

>>> How Scalia Found His Voice

– CONTINUED FROM PAGE 16

California case law around the Nollan/Dolan doctrine.

And eventually Scalia returned to the stage with a bizarre ruling in the complicated *Lucas v. South Carolina Coastal Council* case, 505 U.S. 1003 (1992). In a case involving a property owner who was blocked from constructing on his property by state regulations, the Supreme Court ruled that a landowner denied all "economically beneficial or productive" use of his land is entitled to compensation, unless an argument for the regulation could be found in common law.

Lucas was indicative of how Scalia was evolving. No longer was a direct connection to legitimate public policy sufficient to uphold an extremely restrictive land-use regulation; now a basis had to be found in common law, the unwritten laws that emerged in England through the decades and migrated to the United States prior to the constitution. (Scalia often relied on common law, including in his famous and controversial ruling on handguns in 2008.) There was almost nothing, in Scalia's view, that justified a complete prohibition on developing a piece of property. Though I think it's fair to say that even Scalia had a hard time figuring out how to deal with a nuclear power plant through common law -- a problem he and others have often faced in reaching deep into the legal past to try to wrestle with modern problems.

But that was Scalia. For me as an analyst of land-use law, there will never been a more beautiful moment than that day in June of 1987 when I sat in my home office in Ventura – not 15 miles from the Nollans' house – reading the *Nollan* opinion and imagining how wonderful it would be to be able to pay $100 to the government for the privilege of yelling fire in a crowded theater. Thanks for everything, Nino. I'm gonna miss you a lot ■

Los Angeles's Moral Failing

Whereas a Berkeley resident can cross from exuberance of Telegraph Avenue into the heart of the Cal campus in a few steps, UCLA is an auto-oriented campus surrounded by a moat of driveways, green space, and city streets. Itsneighbors are some of the wealthiest and orneriest an institution could ever have the misfortune to live next to. The university, for all its academic heft, retreats from the city, and the city from it.

UCLA was an ironically illustrative venue for a talk by Michael Storper, lead author of "The Rise and Fall of Urban Economies," that I attended recently. Contrary to its expansive title, Storper's study concerns only Los Angeles and San Francisco. Given that both are booming Pacific Rim metropolises, it may be hard to figure out which is the "rise" and which is the "fall."

Until you consider this: In 1970, the San Francisco Bay and Los Angeles areas ranked, respectively, numbers three and one in per capita income in the United States. In 2009, after both areas grew by more than 50 percent in population, they were, respectively, numbers 1 and 25.

You don't have to have a Ph.D. to wonder: What happened?

Some of the reasons for the divergence of Los Angeles and San Francisco, which he defines by their multi-county metro regions, are obvious. L.A.'s aerospace industry crumbled along with the Berlin Wall. Steve Jobs happened to grow up in Cupertino. Et cetera. Hollywood is Los Angeles' superstar, except that it represents only 2.6 percent of the area's economy, compared with tech's 11 percent in the Bay Area

Those factors are just the start. For virtually any given job function, and controlling for all sorts of variables, Storper, who teaches at UCLA's Luskin School of Public Affairs, finds that a worker in the Bay Area makes more money and does more complex work than her counterpart in Los Angeles does. In other words, they're not just making more in the Bay Area. They're making better. This patterns holds for educated and uneducated, immigrants and non-immigrants, and it trickles down even to unskilled workers.

These are the statistics that back up San Francisco's smugness. Riveting as they are, they describe the only effect but not the cause.

The Intangibles

L.A.'s and the Bay Area's divergence depends largely on what Storper referred to as the "dark matter" of public policy. Lurking behind every data point and every policy are forces like curiosity, relationships, open-ness, diversity, civic self-image, and values. These factors are often disregarded by short-sighted wonks and bureaucrats not because they're not crucial but because they aren't easily quantified.

Storper argues that people in Los Angeles are lousy collaborators. Scholars in L.A. cite each other less often. Patents made in L.A. refer less frequently to other L.A.-based innovations. Los Angeles' great universities – UCLA, USC, and Caltech – are not nearly as entrepreneurial as Stanford, Berkeley, and UCSF. He cites L.A.'s Amgen as a successful, once-innovative biotech company but says that it's nothing compared to the Bay Area's biotechcluster. And it's in Thousand Oaks -- nowhere near a major university.

Storper's analysis indicates that networks of civic leaders in Los Angeles are often mutually ignorant of each other. The Bay Area Council, the region's preeminent civic organization, is three times more "connected" than its closest equivalent in Southern California, the L.A. Area Chamber of Commerce. I know what Storper means. I've been to events at the Chamber, presided over by civic leaders of a certain generation.

Storper said the phrase "new economy" appears in none of L.A.'s economic development literature in the 1980s. At the same time, San Franciscans were shouting it from the rooftops.

Poverty & Pavement

These attitudes are fatal in an era when ideas, and not Fordist production, are the order of the day.

Echoing Enrico Moretti's theories about innovation economies, high-wage jobs generate a multiplier that tends to take care of the workers at the bottom. "If you play to weakness (i.e. poverty) you get a weak economy," Storper said. Interestingly, he said that there's essentially zero good data on the efficacy of any public-sector economic development programs of the last 45 years. He chided Los Angeles' leadership for its obsession with the low-paying logistics industry. A rising tide lifts all boats. Unless the

– CONTINUED ON PAGE 19

Los Angeles's Moral Failing

– CONTINUED FROM PAGE 18

boat is a container ship.

If an individual, firm, or government doesn't have the knowledge or the capital to realize their dreams, so be it. But if they fail because they're not open to the wisdom, energy, diversity, ambition, and creativity of other human beings, well, that's something else.

Los Angeles' economic failing is not just a business failing or a policy failing. It is a moral failing.

What else do you call it when 25.7 percent of residents in the biggest county in the richest state in the richest country in the world live in poverty?

Storper didn't say so explicitly, but L.A.'s economics sins arise, in part, from our built environment. The two regions have plenty in common, especially in their outlying counties. But insofar as the center cities set the tone for their regions, the differences are striking. We have dingbats, setbacks, curb cuts, mini-malls, chain stores, McMansions, Pershing Square, streets like freeways, freeways like parking lots, and other elements of our landscape that push Angelenos away from each other.

How can you collaborate with someone when they're in your way, making your drive longer, pouring pollution into your face? How can you feel as optimistic atop an asphalt sheet as you can strolling down a sidewalk lined with Victorians? How can you make friends when you can't walk to a watering hole? Los Angeles is like a party full of beautiful people who have nothing interesting to say to each other.

Atonement

Atoning for our economic sins must include being a better Los Angeles.

We might not be able to trade Facebook (headquartered in Menlo Park, with 10,000 employees) for Snapchat (headquartered in Venice, with 200 employees). Nor can we can we trade Google for Disney, or the Transbay Tube for the Sepulveda Pass. But we can emulate some of the Bay Area's urban sensibilities. We can use transit more often. We can build more mixed-use projects. We can embrace public space. We can build to the property line. We can plant trees. We can take advantage of our space rather than squander it. As our city changes, so can its culture.

The great news is that improvement is afoot, with downtown development, new transit, new types of development, and an optimistic corps of young planners. By the time Los Angeles comes into its own, today's tech titans might be old news, just as Northrup Grumman and McDonnell Douglas are today. Something will have to replace them, and maybe they'll reside in Los Angeles. We just need to give them a better home.

Postscript: Fortress Westwood

UCLA being what it is, many people who should have attended Storper's talk – captains of industry, thought leaders, and everyday citizens interested in L.A.'s prosperity – are the ones who are least likely to actually have made the trip. Storper was preaching to a choir, mostly of fellow academics and urban nerds.

After the talk there was a reception. Hors d'oeuvres, wine, the usual. It provided a chance to do some of that mixing and mingling that elude us in L.A.

I would love to have stayed. Maybe I'd have developed new ideas or made new connections. But I had to go. My meter was running out.

– JOSH STEPHENS | FEBRUARY 7, 2016

A Housing Incentive That Actually Works

The February 9 Legislative Analyst Office report on California "serious housing shortage" ends on a decidedly depressing note: "Bringing about more private home building … would be no easy task, requiring state and local policy makers to confront very challenging issues and taking many years to come to fruition." The report, which focuses on low-income housing, follows a a March 2015 companion that officially – if obviously – summarized the state's skyrocketing housing costs.

Note the new report's use of "would," not "will." Experts agree that California suffers from a chronic underproduction of new housing that stretches back several decades: an estimated 180,000 to 210,000 additional units would be required in Los Angeles County alone, and 170,000 additional units in the Bay Area, to restore some semblance of a balanced housing market in the State's major urbanized areas. In a well functioning market, this kind of shortage would make new home production a foregone conclusion – future tense – not something to be hoped for in the conditional tense.

Among the key challenges is the lack of incentive for cities to achieve their Regional Housing Need Allocations, the amount of new housing that cities would need to build to accommodate anticipated growth. Currently, there are no penalties for non-compliance with RHNA targets. For many cities, new residential uses are seen as a fiscal drag: capped by Proposition 13, property taxes increases do not keep pace with the cost of providing services to new residents. As a result, many cities are loath to approve the housing they need.

In the absence of penalties, one logical solution would be to reward cities that achieve their RHNAs. It turns out that the state experimented with this elegantly simple approach through a pilot program launched in 2001.

Administered by Department of Housing and Community Development (HCD), the Jobs Housing Balance Incentive Grant Program (JHB) provided modest financial incentives to jurisdictions that voluntarily increased their permitting activity. To qualify for funding, cities were required to achieve a 12 percent increase over a baseline average in permitting activity from the previous 36-month period. If, say, an average of 1,000 units had been permitted annually over the prior 36 months and a given city that issued permits for at least 1,120 units during the pilot period would qualify for incentives.

The pilot produced near-term, cost-effective results. A follow-up report on the JHB Program, issued in 2006 to the Legislature, estimates that participating cities permitted an additional 24,624 units of housing in 2001 compared to their rolling 3-year average. Eighty-six percent, or just over 21,000, of those permitted housing units had been built and occupied five years later. Critically, many coastal communities permitted more housing as a result of the JHB program.

The per-unit grant incentives were relatively low – ranging from $500 to $1,300 per unit ($670 to $1,740 in 2015 dollars), with high-density employment counties receiving higher per-unit incentives. The total award pool was $25 million; the largest award of $3.5 million went to the City of Los Angeles. The JHB program allowed award recipients to spend the funds on new housing-related infrastructure and amenities, creating a virtuous cycle of investment in growing neighborhoods.

We should put these numbers in the context of both the current depth of the state's housing need and the relative effectiveness of other housing subsidy programs:

- Proposition 46 of 2002 and Proposition 1C of 2006 together provided $4.95 billion for the construction, rehabilitation, and preservation of 57,220 affordable apartments, at a cost of over $86,000 per unit.
- Prior to their elimination in 2011, community redevelopment agencies produced only 10,000 affordable housing units over their multi-decade existence.
- The Affordable Housing and Sustainable Communities (AHSC) program spent $122 million last year to subsidize the construction of 1,924 units statewide, at an approximate cost of $63,400 per unit.
- The federal Low Income Housing Tax Credit (LIHTC) program has produced around 7,000 new rental units annually, at an average cost of $165,000 per unit in coastal communities.
- Assemblymember David Chiu's (Dist. 17 – San Francisco) proposed AB 35, to expand the California

– CONTINUED ON PAGE 21

A Housing Incentive That Actually Works

– CONTINUED FROM PAGE 20

Low Income Housing Tax Credit, would have spent up to $100 million per year to leverage an estimated $1 billion in additional funds. The bill passed but was vetoed by Gov. Jerry Brown.

Since subsidized affordable housing projects often receive funding from multiple programs, the total per-unit subsidy is likely higher than the amount shown for any single program. By comparison, the average cost per unit for the JHB program was around $1,180 ($1,580 in 2015 dollars) -- less than the state incentive on some electric cars. On the one hand, it's kind of amazing that cities would be willing to do an about-face on housing approvals for so little money. On the other hand, if that's all it takes, it could be a wise, efficient investment for the state.

Let's address two obvious arguments with these comparisons:

The HCD follow-up report can't quantify how many of these units would have been permitted anyway due to the real estate upcycle then occurring in 2001, and how many of these permits were directly attributable to the incentives. True, but even if only a fraction of the total unit production were directly attributable to the incentives, the JHB program is still dramatically more cost-effective than its next closest peer. It is also more transparent and simple to administer.

This comparison is a case of "apples and oranges:" the cost of permitting a unit of market-rate housing and the cost of producing a unit of affordable housing are not directly comparable or equivalent in their social impact. The Feb. 9 LAO report provides compelling evidence to the contrary. Increased production of market-rate housing would have broad-based affordability benefits for households at all income levels. Strikingly, the LAO report found that cities with abundant market-rate housing production were far less likely to displace low-income residents than cities with slow growth policies. While targeted subsidies for very low- and low-income households will continue to be both morally and economically necessary, everyone wins with an increase in overall supply of housing.

This premise is at the heart of the JHB Program. Whether rooted in NIMBYism, environmentalism, or the fiscalization of land use wrought by Proposition 13, many local governments are reluctant to approve new housing. The JHB Program shows that this reluctance, at least in the near term, may be most easily overcome with cold hard cash. There might even be greater receptivity to such an incentive program now than there was in 2001. In an era of dwindling state and federal assistance to cities, many communities—whether coastal or inland, affluent or low-resource—are highly motivated to pursue every discretionary dollar out there.

In resuscitating the JHB Program, or creating a new program like it, the state wouldn't have to reinvent the wheel – there is already a statutory mechanism in place; it would just need a dedicated, sustainable funding source. While many sources could be considered, there would be a strong policy justification for using a portion of cap and trade funds for this purpose. The construction of new housing in job-rich areas would directly support shorter commutes, a reduction in household VMT, and hence a decrease in greenhouse gas emissions. And, of course, new units means more property tax monies going back to the state, even if taxes are constrained by Prop 13.

Ideally, cities should not have to be bribed into approving new housing. But we are not living in an ideal world. Given the urgency of California's affordability crisis, a program with the potential to produce near-term, cost-effective results deserves to be resurrected from the state's policy graveyard.

– ADAM CHRISTIAN | FEBRUARY 15, 2016 ■

Adam Christian is a senior consultant in infrastructure funding and finance at HDR, Inc and the founder of Urban Insights.