

LA NEIGHBORS UNITED

128 N. Swall Drive, #304 Los Angeles, CA 90048 www.LAneighbors.org

November 9, 2010

Ed Reyes
Jose Huizar
Paul Krekorian
Members, Planning and Land Use Management Committee
Los Angeles City Council
200 N. Spring Street
Los Angeles, CA 90012

CC: Eric Garcetti, President, Los Angeles City Council
Michael LoGrande, Director, Los Angeles City Planning Department

RE: Council File 09-2199, CPC-2009-437-CA and ENV-2009-438-ND, Otherwise Known as
“Community Plan Implementation Overlay Districts Ordinance”

Zoning Code Update Staff Report on Nine Zoning Code Section Studies

Department of City Planning Recommendation Report on CPC-2010-1572-CA and
ENV-2010-1573-ND, Otherwise Known as “Core Findings Ordinance”

Honorable Councilmembers:

Following on our enjoyable exchange at the Planning and Land Use Management (PLUM) Committee meeting on November 2, 2010, and our extensive comment letter also dated November 2, 2010, we are pleased to provide the following additional comments, expert analysis and other evidence regarding the above-cited policies under consideration by the City of Los Angeles.

Relative to the Community Plan Implementation Overlay Districts Ordinance (“CPIO Ordinance”), which is agendized for action tomorrow by the City Council, we respectfully request:

- That the CPIO Ordinance be remanded to the Planning Department and redrawn to focus on facilitating transit-oriented development around existing transit and planned transit, especially Los Angeles County Measure R funded projects.

The current draft ordinance makes no effort to target growth, including population and housing density and reduced parking requirements, around transit corridors. Rather, the current draft ordinance can be used to effect growth across the entire City, in all 35 Community Plan areas, regardless of the extent to which they are or will be served by transit, including alternative transportation.

Such an approach — which effectively decouples transportation and land use planning in the City of Los Angeles — is reckless, conflicting and incoherent. It jeopardizes the ability of Measure R projects to deliver the performance, including the ridership (e.g., boardings), that is expected. Similarly, these ordinances undermine the ability of the Southern California region to achieve greenhouse gas emissions reductions targets to be adopted as a result of the landmark environmental law SB 375. (These targets can only be achieved through a significant regional reduction in Vehicle Miles Traveled.)

- That the CPIO Ordinance be modified to focus on facilitating development where it can be sufficiently supported by infrastructure, including parks and recreation space and services, library services, and other infrastructure and amenities.
- That the CPIO Ordinance be modified to explicitly exempt Hillsides, canyons, scenic viewsheds and Historic Preservation Overlay Zones (HPOZs) from potential inclusion. We also request that Specific Plan areas be exempt from inclusion in CPIO Districts.
- That the CPIO Ordinance be modified to disallow a new class of project approvals as “exceptions.” Rather, the existing Community Plan regime of Project Permit Compliance - Adjustment - Variance should be maintained.
- That the CPIO Ordinance be modified to disallow single-parcel upzoning (spot zoning).

LA Neighbors United believes the highest City Planning priority should be the updating of Community Plans across the City. It is our view that the community planning process is the best mechanism for incorporating more specific implementation regulations into Community Plans.

We also reiterate our call for a programmatic Environmental Impact Report on the proposed zoning code changes, which collectively represent a wholesale makeover of the Los Angeles City zoning code.

Expert Analysis from Land Use, Transportation and Traffic Planners

Included with this comment letter is additional expert analysis on the CPIO Ordinance and the Core Findings Ordinance from:

- Tom Brohard, PE – Traffic Engineer
- Laura Lake, Ph.D. – Environmental, Land Use and Planning Consultant
- Richard Platkin, AICP – Former Planner, City of Los Angeles
- Arthur Pugsley, Esq. – Counsel, Chatten-Brown & Carstens
- James Rojas – Former Transportation Planner, Los Angeles County Metropolitan Transportation Authority

Unanswered Questions About These Ordinances

- Los Angeles is 469 square miles (U.S. Census Bureau, “State and County QuickFacts, Revised 16-Aug-2010). By our understanding, the entire City area will be subject to Community Plan Implementation Overlay Districts, though in cases where CPIO Districts contain regulations that conflict with Specific Plan regulations and HPOZ regulations, those regulations will prevail. Is this estimate of the land area affected correct?
- Does the City consider all 469 square miles of land area in Los Angeles subject to potential “infill” development under the CPIO? Under the California Environmental Quality Act (CEQA)?
- How much vacant land is there in the City of Los Angeles? How much of that land does the City reasonably expect to be targeted for infill development? For what types of projects?
- Does the City know or can it estimate how many potential projects will be subject to these two ordinances? Projects within CPIO Districts? Projects subject to the Core Findings Ordinance? If the City does not know or has not estimated, why not? Does it have any idea of the scope or dimensions of the anticipated CPIO Districts or projects within those districts? Or how the land area designated for infill projects may change from before the adoption of these ordinances to after their adoption?
- Does the City know or can it estimate what percentage of future projects will qualify for infill exemptions under CEQA, and what percentage of projects will be too large to qualify? (We note that because the CPIO Ordinance allows for the designation of districts on a single-parcel basis, it theoretically provides the City with a tool to try to exempt virtually every project from CEQA review.)
- Los Angeles is home to 7,876.9 persons per square mile (U.S. Census Bureau, “State and County QuickFacts, Revised 16-Aug-2010). Has the City estimated the density and population increases that would result from projects developed in CPIO Districts at allowable higher densities, and net-new projects likely to become allowable as a result of the Core Findings Ordinance, which also makes it easier for the City to approve bigger, denser projects?
- Besides simply checking boxes on the Negative Declarations that accompany the CPIO Ordinance and the Core Findings Ordinance, has the City undertaken any studies to assess the cumulative impacts of these ordinances, including the indirect impacts that are likely to result from growth, including on population and housing development? Impacts on the Los Angeles River, including on stormwater runoff? On air quality? On demand for water and power? On demand for critical services including fire, safety and

emergency services? On existing habitat conservation plans or natural community conservation plans, of which there are many in the City?

- The City of Los Angeles is now in the process of inventorying historic sites across the City. The sites that are not in Historic Preservation Overlay Zones could very well not be protected from development or redevelopment within CPIO Districts. Why is the City not waiting to complete its inventory of historic sites before implementation of the CPIO Ordinance? Or somehow designating that all historic sites not included in Historic Preservation Overlay Zones will be protected?
- Is the City planning to conduct any programmatic analysis in subsequent project-specific EIRs, or is this it (these two Negative Declarations) in terms of policy-level analysis?
- Is the City considering targeting infill development in specific areas over time, or does this one-size-fits-all approach represent the extent of what citizens can expect to see?

Additional Comments and Evidence Regarding the Two Ordinances' Impacts

New Ordinances Undermine Los Angeles County Measure R, Which Is Funding a Multi-Modal Transportation System Across Los Angeles County

By not targeting infill development relative to transportation infrastructure, including alternative transportation modes being built out as a result of Measure R, the City of Los Angeles is decoupling transportation and land use planning in a reckless way that undercuts the potential success of Measure R. The performance of Measure R projects, particularly alternative transportation projects, is in jeopardy as a result of these ordinances.

New Ordinances Undermine California SB 375, Which Is Intended to Reduce Greenhouse Gas Emissions

California's landmark SB 375 intends to reduce greenhouse gas emissions across the State, including through smart-growth planning intended to limit sprawl and encourage development around transit. By not targeting infill development relative to transportation infrastructure, including alternative transportation modes and systems being built out as a result of Measure R, the City of Los Angeles is undercutting the potential effectiveness of SB 375.

New Ordinances Undermine Los Angeles City Housing Element Planning and Community Planning

Among other things, the Los Angeles Housing Element identifies areas and subareas within Community Plans where there is existing capacity for housing development and population. These new ordinances facilitate growth everywhere, with no recognition of where there is and is not existing capacity. In doing so, the ordinances undermine the City's Plan framework, which

is intended to help the City plan for and manage its growth, and which is sensitive to the City's job-housing balance.

New Ordinances Undermine Los Angeles City's "Do Real Planning" Initiative

The Los Angeles City Planning Commission in 2007 launched the "Do Real Planning Initiative," one of the key principles of which is "Require Density Around Transit." These two ordinances fail to target growth and development; rather, they encourage it explicitly, or lower thresholds to make it easier, across the entire City including through spot zoning.

One of the more shameful elements of these ordinances is that they both undermine the new Baseline Hillside Ordinance (BHO), which is intended to protect Hillsides by not facilitating overdevelopment or development of incompatible projects. The BHO was developed over three years with a high level of community input. It now sits in the City Attorney's Office ... while policymakers actively work to subvert it.

New Ordinances Will Create Transitional Zoning Impacts

The two ordinances individually and collectively will generate transitional zoning impacts. There is no language in the CPIO Ordinance stipulating that new CPIO Districts must effectively buffer themselves from and relative to neighboring properties outside of CPIO Districts.

New Ordinances Risk Physically Dividing Established Communities

Similarly, the two ordinances individually and collectively will generate development that risks physically dividing established communities. The CPIO Ordinance is more direct in its likelihood of producing this impact, as a CPIO District could bifurcate an established community by literally running right down the center of it. The Core Findings Ordinance could produce similar results. For example, mini-shopping centers will become allowable in more locations; as a result, new commercial development could divide established residential communities.

New Ordinances Will Increase Population In Already Highly Dense Areas, With Impacts, Including on Parks and Recreation

By not targeting growth with these ordinances, which are effectively one-size-fits-all solutions, the market is likely to further develop housing, and thus add population, in popular areas that already are highly densified. This will create impacts, including on parks and recreation use and library use, and also on core infrastructure including roadways, sewers, water, power, etc.

New Ordinances Are Generally Expected to Decrease Available Parking, With Different Impacts In Different Areas

To the extent there are lower parking requirements in CPIO Districts, an area could be positively or negatively affected. If the area is underserved by transit, effects are likely to be negative, as cars will circle in search of parking. These impacts have not been assessed by the City.

Growth Created By New Ordinances Will Strain the Ability of Adjacent Cities to Help Los Angeles In Crises, and Similarly Strain LA's Ability to Aid Adjacent Cities During Catastrophes

The City of LA's infrastructure today is insufficient in some ways to support the current population. Drive Wilshire Boulevard and the condition of roadways is clear. Similarly, Fire Department spokesmen warn of their concern managing the "Big One" (fire) if and when it strikes the Hillside. Adding housing developments, including population, to a City that cannot service its existing population creates a hazard for adjacent jurisdictions, which will suffer from the demands Los Angeles places on them with more intensified, densified development. They will be asked, by virtue of informal and formal mutual aid agreements, to compensate for Los Angeles' deficiencies, and Los Angeles similarly will not be in a position to aid them because the City will not have sufficient capacity to service itself, let alone adjacent cities in the event of a massive fire, earthquake or subway tunnel explosion.

The City of Los Angeles Has Neither Systems in Place to Ensure the Safety of Communities as a Result of New Developments, Nor to Ensure that the Negative Impacts of New Developments are Mitigated

A March 2009 "Performance Audit of the City of Los Angeles' Process for Planning Conditions for Development," initiated by Los Angeles City Controller Laura Chick, concluded:

"City departments do not consistently track, plan or budget for maintenance of public improvements installed as a result of conditions of approval for development projects. In addition, some City departments do not collect sufficient fee revenues to cover the costs of maintaining public improvements.

"Although project applicants pay the costs of installing public improvements, only some departments track and recover maintenance costs for these improvements. No departments systematically track public improvements imposed as development project conditions of approval as part of their fiscal planning process.

"Some City departments do not collect sufficient revenues to cover the costs of maintaining public improvements, particularly those imposed as conditions of approval for development. Specifically, the Urban Forestry Division of the Bureau of Street Services Street Tree Maintenance, Inspection and Clerical fees, the Bureau of Street Lighting Street Lighting Maintenance Assessment, and the Bureau of Sanitation

Stormwater Pollution Abatement Charge revenues are not sufficient to recover the costs of maintaining public improvements."

Controller Chick herself concluded following the performance audit:

"Ever since the mid 1990s when I was a City Councilmember, I wondered what actually happened with the conditions we imposed when approving development projects. The City often sets requirements to shape and improve a project, promote safety and mitigate negative impacts to communities.

"Now as Controller, I have circled back to answer the question: "Who ensures that the requirements attached to these developments are followed?" The answer is: "No one." We are actually often relying on voluntary compliance by the developers."

Additional Comments from LA Neighbors United on Various Aspects and Impacts of the CPIO Ordinance and the Core Findings Ordinance

Unlawful Designation of Special Use District

The CPIO Ordinance proposes to designate Community Plan Implementation Overlay Districts with no clear-cut basis, certainly no basis in "use." Thus, this constitutes an unlawful designation under the law.

Discussion Between Chairman Reyes and LA Neighbors' Brazeman at November 2, 2010 PLUM Committee Meeting

In testimony and subsequent discussion before the PLUM Committee, LA Neighbors' Brazeman suggested that in lieu of creating CPIO Districts the City focus on updating Community Plans with the greatest potential to accommodate transit, or to narrow the CPIO Ordinance to focus on transit. Chairman Reyes said that the City does not have sufficient staff to accelerate updates to Community Plans beyond the current pace, which is approximately two or three at a time. The idea of focusing planning on transit districts was deemed by the chairman to be generally insufficient to meet community needs. Discussion between the chairman and Planning Department staff confirmed that CPIO Districts can be virtually anything and located virtually anywhere, with no relation to Community Plan updates.

Email from Council Staff to Constituents Regarding CPIO Ordinance

On October 26, 2010, a City Council staff member sent an email regarding the CPIO Ordinance to constituents. It included the following language in its first line:

“The CPIO goes hand in hand with community plan updates”

This is a highly misleading statement. In context, it makes the CPIO Ordinance seem benign.

It was established at the November 2, 2010, PLUM Committee meeting that CPIO Districts can be created at any time, within or outside of the context of Community Plan updates.

This distinction is significant because Community Plan updates necessarily entail a high level of community engagement over a substantial period of time. The initiation of these CPIO Districts, however, will require a far lower level of engagement, including a potentially very limited period of review. Especially since they can be initiated on a single-parcel basis, we are concerned that notice may be limited and there will be little opportunity for community involvement in the decision-making. Similarly, based on the new lower thresholds in the Core Findings Ordinance, it will be difficult to overturn a CPIO District designation. Thus, it is very important that the community now understand and appreciate the implications of this new district designation, which can override underlying zoning through the new CPIO exceptions process.

Article in The Architect's Newspaper on Los Angeles Zoning Code Makeover

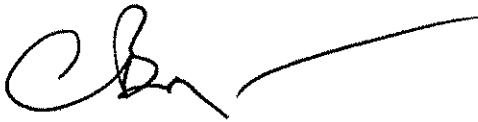
An article headlined "LA Hopes to Blow Up Postwar Zoning Codes ... Planning commission undertaking first top-to-bottom revision in six decades, streamlining and speeding up land-use" was published in the August 12, 2010 edition of The Architect's Newspaper (attached). The article text includes this paragraph:

This marks the first overhaul of codes since their last revision in 1946, points out Senior City Planner Alan Bell, who is overseeing the process. All subsequent changes to the code have been incremental, he said.

This assessment confirms LA Neighbors' contention that the zoning code changes under consideration by the City are not merely incremental or simply changes in "language" that mean the same thing as the current code, as some have asserted, but rather represent a wholesale makeover of the zoning code.

Thank you for your consideration.

Sincerely,



Cary Brazeman
Founder, LA Neighbors United
Former Managing Director, CB Richard Ellis Group, Inc.*
Member, Urban Land Institute – Los Angeles District Council*
Member, Los Angeles Area Chamber of Commerce*
Member, Board of Directors, Mid City West Community Council*

*Titles for Identification Purposes Only

Attachments

cc: Douglas Carstens, Esq.
Daniel Wright, Esq.

Tom Brohard and Associates

November 8, 2010

Mr. Cary Brazeman, Founder
LA Neighbors United
128 North Swall Drive, #304
Los Angeles, California 90048

SUBJECT: Review of the Negative Declaration for the Community Plan Implementation Overlay Districts (CPIO) Ordinance in the City of Los Angeles – Traffic and Parking Issues

Dear Mr. Brazeman:

Tom Brohard, P.E., has reviewed the October 4, 2010 report from the City Attorney of the City of Los Angeles regarding the Proposed Ordinance for the Community Plan Implementation Overlay (CPIO) Districts. I have also reviewed the attachments to this report including the September 3, 2009 report from the Department of City Planning to the Planning and Land Use Management Committee of the City Council as well as the May 28, 2009 report from the Department of City Planning to the City Planning Commission including Exhibit "B", the March 2, 2009 Negative Declaration for the proposed ordinance.

Without any technical evaluation of the increased traffic and reduced parking resulting from adoption of the CPIO Ordinance, the Initial Study checklist indicates there will be "No Impact" in any of the Transportation/Circulation areas. This conclusion is premature without conducting any analyses whatsoever. Enabling unchecked infill development will result in significant traffic impacts, including cumulative impacts, which are greater than the City's infrastructure has been designed to support. These traffic impacts plus those associated with reductions in off-street parking must be fully assessed using reasonable assumptions in an environmental impact report (EIR).

Education and Experience

Since receiving a Bachelor of Science in Engineering from Duke University in Durham, North Carolina in 1969, I have gained over 40 years of professional engineering experience. I am licensed as a Professional Civil Engineer both in California and Hawaii and as a Professional Traffic Engineer in California. I formed Tom Brohard and Associates in 2000 and now serve as the City Traffic Engineer for the City of Indio and as Consulting Transportation Engineer for the City of Big Bear Lake and City of San Fernando. I have extensive experience in traffic engineering and transportation planning. During my career in both the public and private sectors, I have reviewed numerous environmental documents and traffic studies for various projects. Several recent assignments are highlighted in the enclosed resume.

Traffic and Parking Issues

Based on the information that I have reviewed regarding the Community Plan Implementation Overlay (CPIO) Districts and my prior reviews of traffic studies for several development projects in the City of Los Angeles, the following traffic and parking issues and areas of concern require further analyses:

- 1) Transportation Planning Must Be Based Upon Land Use Planning – Proposed land uses and their associated trip generation are the basic drivers of the transportation infrastructure that must be provided for mobility. The roadway system in the City of Los Angeles was sized and constructed based upon land use assumptions from many years ago. Nearly all of the City’s roadways and intersections have been improved to their ultimate widths, and it is generally not feasible to add more capacity for vehicles. In an attempt to provide additional capacity, the City has already implemented a “state of the art” traffic signal control system that enhances intersection capacity by up to 10 percent. From my review of a number of traffic studies for various proposed development projects in the City of Los Angeles, many intersections cannot even handle today’s traffic volumes without experiencing gridlock. While the California Environmental Quality Act (CEQA) requires correlation between transportation and land use planning, the CPIO Ordinance allows more development without assessing the needed transportation infrastructure to support the development growth.
- 2) CPIO Ordinance Allows 20 Percent More Development – While the City has implemented what it reasonably can do to try to maintain vehicle mobility for previously assumed land uses, these measures have not been enough. Many intersections either operate at capacity or have a vehicle demand that exceeds the available capacity. The CPIO Ordinance, if adopted, would allow a 20 percent development bonus (in the form of an adjustment to be approved essentially automatically via Administrative Clearance) beyond what has previously been assumed, and the additional development could occur at any location. No analyses of the impacts of the increased level of development have been conducted, and areas that could possibly support some growth have not been identified.
- 3) 20 Percent Growth Will Create Significant Traffic and Parking Impacts – The CPIO Ordinance allows 20 percent more development on top of what has been planned, with this growth occurring anywhere in the City including those areas with intersections already operating at capacity or worse. There is at least a “fair argument” that 20 percent more development will cause many significant traffic impacts. Decreasing the amount of required off-street parking as envisioned in the CPIO Ordinance will also create further impacts. These adverse environmental impacts are reasonably foreseeable and must

Mr. Cary Brazeman
CPIO Ordinance in the City of Los Angeles – Traffic and Parking Issues
November 8, 2010

be studied in an Environmental Impact Report (EIR) before the CPIO Ordinance is considered.

- 4) Growth Must Be Focused in Areas That May Accommodate Development - LADOT "Traffic Study Policies and Procedures" allow reduction of the number of vehicle trips based on proximity of the development to nearby transit service. Other guidelines such as the "2004 Congestion Management Program for Los Angeles County" and the Trip Generation Handbook, 2nd Edition published by the Institute of Transportation Engineers, also have guidelines for reductions of trips that could use transit service. While some additional growth might be accommodated in proximity to transit service, the number of additional trips together with potential significant traffic impacts must be analyzed in an EIR before the CPIO Ordinance is considered.

The various issues and concerns outlined above must be carefully considered before reaching the conclusion this project has traffic and parking impacts that will result in no significant impacts. The project will clearly have impacts on traffic including cumulative impacts that will be significant. These impacts must be fully assessed using reasonable assumptions in an EIR. If you have questions regarding these comments, please call me at your convenience.

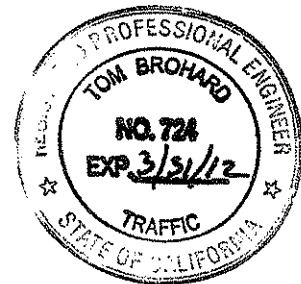
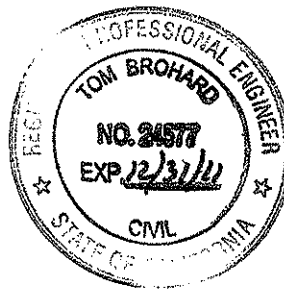
Respectfully submitted,

Tom Brohard and Associates



Tom Brohard, PE
Principal

Enclosure



Tom Brohard, PE

Licenses: 1975 / Professional Engineer / California – Civil, No. 24577
1977 / Professional Engineer / California – Traffic, No. 724
2006 / Professional Engineer / Hawaii – Civil, No. 12321

Education: 1969 / BSE / Civil Engineering / Duke University

Experience: 40 Years

Memberships: 1977 / Institute of Transportation Engineers – Fellow, Life
1978 / Orange County Traffic Engineers Council - Chair 1982-1983
1981 / American Public Works Association - Member

Tom is a recognized expert in the field of traffic engineering and transportation planning. His background also includes responsibility for leading and managing the delivery of various contract services to numerous cities in Southern California.

Tom has extensive experience in providing transportation planning and traffic engineering services to public agencies. Since May 2005, he has served as Consulting City Traffic Engineer three days a week to the City of Indio. He also currently provides “on call” Traffic and Transportation Engineer services to the Cities of Big Bear Lake and San Fernando. In addition to conducting traffic engineering investigations for Los Angeles County from 1972 to 1978, he has previously served as City Traffic Engineer in the following communities:

- Bellflower..... 1997 - 1998
- Bell Gardens..... 1982 - 1995
- Huntington Beach..... 1998 - 2004
- Lawndale..... 1973 - 1978
- Los Alamitos..... 1981 - 1982
- Oceanside..... 1981 - 1982
- Paramount..... 1982 - 1988
- Rancho Palos Verdes..... 1973 - 1978
- Rolling Hills..... 1973 - 1978, 1985 - 1993
- Rolling Hills Estates..... 1973 - 1978, 1984 - 1991
- San Marcos..... 1981
- Santa Ana..... 1978 - 1981
- Westlake Village..... 1983 - 1994

During these assignments, Tom has supervised City staff and directed other consultants including traffic engineers and transportation planners, traffic signal and street lighting personnel, and signing, striping, and marking crews. He has secured over \$5 million in grant funding for various improvements. He has managed and directed many traffic and transportation studies and projects. While serving these communities, he has personally conducted investigations of hundreds of citizen requests for various traffic control devices. Tom has also successfully presented numerous engineering reports at City Council, Planning Commission, and Traffic Commission meetings in these and other municipalities.

In his service to the City of Indio since May 2005, Tom has accomplished the following:

- ❖ Oversaw preparation and adoption of the Circulation Element Update of the General Plan including development of Year 2035 buildout traffic volumes, revised and simplified arterial roadway cross sections, and reduction in acceptable Level of Service criteria under certain constraints
- ❖ Oversaw preparation of fact sheets/design exceptions to reduce shoulder widths on Jackson Street over I-10 as well as justifications for protected-permissive left turn phasing at I-10 on-ramps, the first such installation in Caltrans District 8 in Riverside County; oversaw preparation of plans and provided assistance during construction of a \$1.5 million project to install traffic signals and widen three of four ramps at the I-10/Jackson Street Interchange under a Caltrans encroachment permit issued under the Streamlined Permit Process
- ❖ Oversaw preparation of fact sheets/design exceptions to reduce shoulder widths on Monroe Street over I-10 as well as striping plans to install left turn lanes on Monroe Street at the I-10 Interchange under a Caltrans encroachment permit
- ❖ Oversaw preparation of traffic impact analyses for Project Study Reports evaluating different alternatives for buildout improvement of the I-10/Monroe Street and the I-10/Golf Center Parkway Interchanges
- ❖ Oversaw preparation of plans, specifications, and contract documents and provided assistance during construction of 22 new traffic signal installations
- ❖ Oversaw preparation of plans and provided assistance during construction for the conversion of two traffic signals from fully protected left turn phasing to protected-permissive left turn phasing with flashing yellow arrows
- ❖ Reviewed and approved over 450 work area traffic control plans as well as signing and striping plans for all City and developer funded roadway improvement projects
- ❖ Oversaw preparation of a City wide traffic safety study of conditions at all schools
- ❖ Prepared over 350 work orders directing City forces to install, modify, and/or remove traffic signs, pavement and curb markings, and roadway striping
- ❖ Oversaw preparation of engineering and traffic surveys to establish enforceable speed limits on over 125 street segments
- ❖ Reviewed and approved traffic impact studies prepared for more than 16 major development projects

Since forming Tom Brohard and Associates in 2000, Tom has reviewed many traffic impact reports and environmental documents for various development projects. He has provided expert witness services and also prepared traffic studies for public agencies and private sector clients.

Save Westwood Village

A Business-Community Alliance Dedicated to Quality Revitalization

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November 2, 2010

The Hon. Ed Reyes, Chair , and Councilmembers Krekorian and Huizar
PLUM Committee
Los Angeles City Council

RE: CF 09-2199, CPC 2009-437-CA

ENV-2009-438-ND

Community Plan Implementation Overlay Districts

Think of CPIO's as wannabe Specific Plans without teeth, spot zoning gifts to developers who plead self-imposed hardships in the privacy of the Planning Director's office, without public notice or comment. The Q-Conditions of many specific plans are in fact environmental mitigation measures which cannot be overridden by CPIO's.

CPIO's are not needed. Save limited staff resources to update Community and Specific Plans which are way overdue.

SUMMARY OF ORDINANCE DEFECTS

There are at least ten fatal flaws discussed in the testimony:

- 1. *Denies the public due process for CPIO requests of less than 20 percent.***
- 2. *Creates Spot Zoning***
- 3. *Has a defective environmental clearance: a full EIR is required to analyze the indirect impacts of a 20 percent increase in the build out for Los Angeles.***
- 4. *Increases authority of ZA and Planning Director to grant increased entitlements from ten to twenty percent***
- 5. *Confers special privileges to those requesting less than twenty percent even if it is a self-imposed hardship.***

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6. *Creates an inconsistency between adopted Community and/or Specific Plans;*
7. *Alters or overrides Q-Conditions that may be environmental mitigations for current Community and Specific Plans. A new EIR and a Plan Amendment is required when a mitigation in a certified EIR is altered or eliminated.*
8. *May severely exceed the infrastructure capacity of the City of Los Angeles and thus violate the General Plan Framework Element mandating an Annual Infrastructure Capacity Reports.*
9. *There are notice defects.*
10. *Public outreach was inadequate and is not documented in the file.*

GOOD-BYE DUE PROCESS

This proposed ordinance throws due process under the “streamlining” bus. It is unacceptable to allow requests to be evaluated beyond public scrutiny.

- *There is no required posting, publication in a newspaper, mailed notice or public hearing for a CPIO application or Adjustment.*
- *It’s just the developer and the Director of Planning or ZA who has never seen a project he did not support.*

If you lived next door to the applicant, or a block away, you’d want to know that additional height, FAR, or reduced setbacks, etc., have been requested. **With this proposal, you will not know.** And you’d want to have a voice in that decision. With this ordinance **the public will be excluded from the approval process.**

Without a community benefit, approving 20 percent increases (without notice or comment) the CPIO confers a grant of special privilege up to 20 percent, even when it is a self-imposed hardship.

- This ordinance seeks to supplant Specific Plans, but does not specify which ones (Page A-2: “and some specific plans....”).
- It eliminates due process guaranteed by Specific Plan Exceptions for approvals

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less than 20 percent by creating “a ministerial process” (page A-2).

- “If the project deviates by more than 20 percent from a given development regulation,” p. A-3, a **CPIO Exception** would be required. A CPIO Exception would have public notice and comment, but the findings are weaker than Specific Plan Exceptions. **CPIO Exceptions can be granted for self-imposed hardships**, Specific Plan Exceptions cannot be granted for self-imposed hardships (Section 11.5.7.F(a)).

ZA/PLANNING DIRECTOR AUTHORITY INCREASES FROM TEN TO TWENTY PERCENT

This ordinance increases the Planning Director and ZA authority to grant ***from ten to 20 percent***. For example:

- **ADJUSTMENTS OF RESIDENTIAL FLOOR AREA** (Sec. 12.28.A): “The Zoning Administrator shall also have the authority to grant adjustments in residential floor area of no more than a ***ten percent increase*** beyond what is otherwise permitted by Chapter 1 of this Code.” The ordinance would permit the ZA to grant a 20 percent increase.
- **SLIGHT MODIFICATIONS – DEVIATIONS OF RESIDENTIAL OF REQUIRED LOT AREA REGULATIONS** (Sec. 12.28.B.2): “Deviations of ***no more than ten percent*** from the required lot area regulations.” The ordinance would permit 20 percent deviations.
- **PROJECT PERMIT ADJUSTMENTS** (Director of Planning, Section 11.5.7.E.2(a), Specific Plan Procedures): “Project Permit Adjustments shall be limited to: Adjustments permitting **project height to exceed the designated height limitation on the property involved by *less than ten percent***.”
- **PARKING ADJUSTMENTS** (Director of Planning, Section 11.5.7.E.2(f): “Adjustments from the minimum or maximum number of required parking spaces associated with a project of ***less than ten percent***.”

To call this ordinance a “hybrid tool” makes it sound benign. It does not “re-establish the importance of Community Plans” (Project Analysis, CPC 2009-437-CA, p. A-1) but instead, **sabotages** them by:

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- **Allowing spot zoning** (CPIO Draft Ordinance, Section 13.14.D, "Definitions": "Subareas may be contiguous or non-contiguous parcels characterized by common Community Plan goals, themes and policies and grouped by a common boundary" (Community Plan boundary).
- **Overriding the protections of Community and Specific Plans *may be environmental mitigations for the Community or Specific Plan.***
- **Failing to require Community and Specific Plan Amendments so that the CPIO is consistent with the land-use map of these plans; and**
- **Limiting approval time to 75 days** – this does not take into account environmental clearance time. The correct language should be to start the clock when the application is deemed to be complete – with its environmental clearance.

CONSIDER IMPACT ON THE CITY'S INFRASTRUCTURE

Our infrastructure is crumbling and yet this ordinance essentially proposes a 20 percent increase in development, citywide. Sinkholes, water rationing, gridlock, smog, longer emergency response times, fewer paramedics, are just a few examples of inadequate infrastructure and failed planning. Is there is available infrastructure to support an additional 20 percent build-out? In some communities, it is easy to predict the answer is no.

First things first. Update 20 year old Community Plans and prepare the General Plan Framework Infrastructure Report. Without this information, the city is flying blind and courting disaster. To approve this ordinance in the absence of an Infrastructure Study and an EIR **violates the General Plan, CEQA and requires amending all 35 Community Plans.**

For example, no statement of consistency with the Los Angeles General Plan or several Community Plans (including the West L.A. Community Plans) can be made at this time as the City has not completed its required Annual Report on Growth and Infrastructure. That Report was a specific and essential mitigation cited by the City as part of the General Plan Framework. The Report was to inform the city on all environmental approvals. The Statement of Overriding Consideration stated:

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“Absent the report and its findings on actual versus expected growth, actual versus expected infrastructure improvements and availability of infrastructure, the city cannot provide a statement of consistency with the General Plan, and depending on the area, the local Community Plan.”

Most of the Community Plans in the City rely on the Report. Model language (taken from the West L.A. Community Plan) appears as follows:

“Accordingly, the proposed Plan has three fundamental premises. First, is limiting residential densities in various neighborhoods to the prevailing density of development in these neighborhoods. Second, is the monitoring of population growth and infrastructure improvements through the City’s Annual Report on Growth and Infrastructure with a report to the City Planning Commission every five years on the West Los Angeles Community following Plan adoption. Third, if this monitoring finds that population in the Plan area is occurring faster than projected; and, that infrastructure resource capacities are threatened, particularly critical ones such as water and sewerage; and, that there is not a clear commitment to at least begin the necessary improvements within twelve months; then building controls should be put into effect, for all or portions of the West Los Angeles Community, until land use designations for the Community Plan and corresponding zoning are revised to limit development.”

Any projects which rely on a faulty statement of consistency or rely on growth estimates that are inconsistent with the clear intent of the General and Community Plans may be subject to future legal action. We reserve the right to challenge any faulty statements of consistency issued by the City, including all environmental clearances for this ordinance and all nine Code Revision Ordinances.

In the absence of the Infrastructure Capacity Report, the City has no idea if parts of the city can support a 20% increase in development. The cumulative, growth-inducing impacts of making intensification by-right are significant. **These 20 percent approvals will add up.**

The CPIO Ordinance demonstrates the City’s abdication of its responsibility to safeguard the public welfare, safety. It is abusing the police power to give out gifts, regardless of the consequences to neighbors and communities. And it proposes to do this in secret.

If one-size-fit-all were true, then there be no need for a planning department. But there is a great need. **Each neighborhood has its own unique vision. This ordinance seeks to**

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eliminate that vision and silence neighborhood voices.

Rather than spending staff time gutting planning, spend it the Annual Infrastructure Report mandated by the General Plan, and on updating Community Plans which are woefully behind schedule.

The irony is that big developers with massive controversial projects won't utilize this ordinance because they can get so much more through Community and Specific Plan Amendments, which are easier to obtain. **Plan Amendments are legislative** which require just eight votes in Council and attending a lot of fundraisers....

NOTICE INADEQUATE

In addition to the notice defect stated in the October 26, 2010 email sent to Patrice Lattimore, Clerk, PLUM Committee, I wish to add the additional notice defects:

- A Community Impact Statement was submitted by the Studio City NC on June 20, 2009 in opposition to the proposed ordinance. But **the PLUM Agenda states** "Community Impact Statement: None Submitted." This is incorrect. A copy of the statement is attached.
- The Agenda fails to indicate the Environmental Clearance.

INADEQUATE EVIDENCE OF PLANNING DEPARTMENT OUTREACH

On Page P-1 of Exhibit A, the claim is made that a public workshop was held in City Hall on March 19, 2009 from 5:00-7:00 PM, and that 45 persons attended from NC's and the development community.

If this is true, where is the attendance list? Where are the mailing labels? There are only four names in the file, primarily from Studio City NC. How many NC's were invited, who were the representatives of the development community?

Based on only four mailing labels, and only one speaker's card, the CPC hearing was poorly attended and outreach was woefully inadequate and is not documented in the record.

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ENVIRONMENTAL CLEARANCE INADEQUATE

The Negative Declaration fails to provide evidence in the record that there will be no adverse environmental impacts, including growth-inducing, cumulative and indirect impacts ("Evaluation of Environmental Impacts, 2, page 3, ENV-2009-438-ND).

An EIR is required because the ordinance would eliminate or alter Q Conditions by providing an over-the-counter approval process. **Those Q-Conditions are often required as mitigation measures in the Plan EIR and cannot be removed without a new EIR and a Plan Amendment.**

The inadequacy of this ND is compounded by the failure of the City Planning Department to provide an Annual Infrastructure Capacity Report. In the absence of this General Plan Framework Element requirement, there is no way to reach the conclusion that there is capacity to approve any intensification (e.g., 20 percent increases in height, density, FAR, etc.).

Thus there is no way to make the finding that this proposed ordinance is in conformance with the General Plan or will not have significant adverse impacts in some parts of the city. **CEQA review must be based on evidence in the record.** No such evidence has been provided. The remedy is twofold:

- *Provide the missing annual infrastructure reports since 1998, and*
- *Prepare an EIR for this ordinance (and the Core Findings and related Code Revisions).*

Then, and only then, can the City make a CEQA determination based on data and the Community Plans requirement to limit development if there is inadequate capacity. If this trigger mechanism is not enforced in the event that there is inadequate capacity, then all such approvals would be in violation of the General and Community Plans.

CONCLUSION

The proposed ordinance is not needed. Just update Community Plans and draft new Specific Plans for areas that have unique issues. Produce the Annual Infrastructure Capacity Reports as mandated by the General Plan Framework.

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Do not discard due process, confer special privileges, create spot zoning, and pander to self-imposed hardships. Please remand this back to the Planning Commission for the preparation of a full EIR. Then, and only then, can you make an informed decision.

We incorporate by reference all testimony submitted to this file.

Respectfully,

Laura Lake

Laura Lake, Ph.D.

Co-President

SAVE WESTWOOD VILLAGE

cc: Hon. Paul Koretz, CD5
Jane Usher, City Attorney's Office
Larry Frank, Deputy Mayor

November 8, 2010

TO: LA Neighbors United
128 N. Swall Drive, # 304
Los Angeles, CA 90048

FROM: Richard H. Platkin
City Planning Consultant
6400 W. 5th Street
Los Angeles, CA 90048

RE: Analysis of impacts of proposed Community Planning
Implementation Ordinance

In response to your request for me to review the currently proposed Community Planning Implementation Ordinance (CPIO) recently prepared by the Los Angeles Department of City Planning and now under consideration by the Los Angeles City Council, I have prepared the following analysis. I have divided my assessment of the impacts into three categories:

- Certain Impacts
- Likely Impacts
- Potential Impacts

To review my credentials, I have attached a summary statement of my expertise as a city planner, as well as a more extensive professional resume. In brief, I have:

- Twenty-eight years of professional city planning experience, including 20 years as a city planner for the Los Angeles Department of City Planning and three years as an independent city planning consultant dealing with Los Angeles planning issues.
- Graduate degrees in City Planning from the University of Washington and in Sociology from the University of California, Los Angeles (UCLA).

CERTAIN IMPACTS OF THE PROPOSED COMMUNITY PLAN IMPLEMENTATION ORDINANCE (CPIO)

1) Reduction in Public Participation: In the City of Los Angeles, over the past two decades there has been an evolution in ordinances which overlay additional zoning regulations on top of existing LAMC zoning requirements. The general trend of these new zoning tools is to reduce the role of the public in land use decisions, culminating in the proposed CPIO, which has no public participation, except for the creation of a CPIO District (Draft ordinance,

5.S.3(c)(2)) and CPIO Adjustment and Exception cases. (Draft ordinance, Sec. 5.S.4) The extent to which CPIO Districts limit public participation is noteworthy. Once a District itself has been created, opportunities for the public to engage in land use decisions relative to specific projects and building sites become limited, as will be discussed further later in this analysis.

Specific Plans: The best known of these overlay ordinances are Specific Plans. They are adopted by the City Council as geographic specific ordinances, which are posted on City Planning's website. In most cases, they place restrictions on proposed private developments by limiting their maximum building envelope or other LAMC zoning quantitative and also reducing non-quantitative requirements, such as sign restrictions or the list of allowed uses. In addition, many Specific Plans include Design Guidelines approved by the City Planning Commission, and in several cases Design Guidelines which have been adopted as part of the Specific Plan ordinance (e.g., Vermont/Western Transit Oriented District Specific Plan, Foothill Boulevard Corridor Specific Plan).

In addition, many Specific Plans have an appointed Design Review Board (DRB) which advises the Department of City Planning on all Specific Plan projects for compliance with either the Commission approved or Council adopted design guidelines. In some cases, such as Sunland-Tujunga, Neighborhood Council Land Use Committees have assumed the role of a Design Review Board, but without a formal Specific Plan amendment to establish this advisory role.

Because Specific Plans are discretionary actions established by ordinance, with an accompanying Draft and Final Environmental Impact Report, they are complex to prepare, adopt, and implement. In addition, all Specific Plan projects are approved by a Director's Determination, which means they have the following features:

- A. All Specific Plan cases are filed at a City Planning Public Counter and are listed in the City Planning Early Notification System (ENS) case compilation e-mailed bi-weekly to City officials, Certified Neighborhood Councils, and to members of the public who have signed up for ENS distribution.
- B. In the case of Specific Plans with a Design Review Board, agendas are posted on City Planning's web site, at City Hall, and at the Braude Building in Van Nuys. Hard copies of the agendas are also mailed to all interested parties on record, applicants, public libraries for posting, and adjacent property owners and residents.
- C. Each Specific Plan case subject to a Design Review Board review is then considered at a public meeting where the public can offer testimony regarding each case, as well as offer general, non-case related comments to the Design Review Board.

D. The Director's Determination for each Specific Plan case, with information on appeal procedures and time lines, is mailed to Council Offices, relevant City department, applicants, all interested parties, and adjacent property owners and residents. This provision applies to all Specific Plan Directors Determinations, whether or not the related Specific Plan has a Design Review Board and whether or not a case is approved or disapproved by the Director of Planning.

E. All Director's Determinations can be appealed by an applicant or by the public to the local Area Planning Commission. In some cases, appeals can then be considered by a higher decision making body.

F. Final Specific Plan approvals are then listed on-line through the City's ZIMAS (Zoning Information and Map Access System) interactive GIS system, where the public can view the entire administrative record, including all documents for all discretionary actions attached to a parcel. In most cases, these actions, such as a Directors Determination, have been scanned and linked to the list of relevant cases.

The primary purpose of a Specific Plan is to protect people or a local area from undesirable consequences of citywide zoning ordinances, such as protecting an area's character by virtue of ensuring project compatibility, protecting a scenic viewshed, or protecting a natural conservation habitat. Several Specific Plan areas, including the Mulholland and San Gabriel/Verdugo Specific Plans, serve such purposes. To the extent the proposed CPIO Districts subsume existing Specific Plan areas, they can be used to undermine established protections. These potential impacts have not been analyzed by the City.

Community Design Overlay Ordinances: Because Specific Plans require substantial staff time to adopt and administrate, the Department of City Planning then developed the Community Design Overlay (CDO) ordinance as a less labor-intensive alternative because of its reduced public participation. CDO's have the following characteristics, which is why they are sometimes referred to as "Specific Plans - lite."

A. CDO boundaries are adopted by the City Council through an ordinance, but their design provisions are only adopted by the City Planning Commission as advisory policies. These standards and guidelines are available to the public through City Planning's website. Some CDO's also have several Q conditions attached to them through a Council ordinance reviewed and approved in parallel to a CDO adoption ordinance.

B. CDO projects are listed on the City Planning Department's bi-weekly Early Notification System case compilation list, but Planning staff do not e-mail, postal mail, or physically post any notices of CDO applications. This means that the public can only learn about a CDO case by reviewing the case listings in

each bi-weekly Early Notification System e-mail. In the past, these early notifications were only e-mailed to public officials and Certified Neighborhood Councils, but they can now be subscribed to by the general public, regardless of official status.

C. Because CDO cases are discretionary actions, they require a written Director's Determination, including findings which are mailed to adjacent property owners and residents, but to no one else.

D. Like Specific Plan Director's Determinations, these decisions could be appealed to an Area Planning Commission, but few people are aware of CDO cases.

E. Like Specific Plan cases, CDO Director's Determinations are listed on ZIMAS and accessible to the public as on-line documents, including technical architectural drawings submitted to the Department of City Planning.

F. This entire discussion of the Community Design Overlay ordinance process is now in flux because the Department of City Planning has proposed major changes in CDO procedures and provisions. If adopted, they would transform most CDO clearances into an Administrative Approval, also called a ministerial action. If or when these amendments are adopted, all CDO cases which fully comply with a CDO's design guidelines and standards will be issued a non-appealable administrative clearance. Only those cases which comply with guidelines and not with standards will still require a written and appealable Director's Determination.

It is not clear which, if any, CDO cases would then be listed on the Department of City Planning's Early Notification System and on ZIMAS, but it is clear that the public will only be notified of cases requiring a Director's Determination. These, not administrative clearances, could presumably be appealed to an Area Planning Commission.

Community Plan Implementation Overlay Ordinances (CPIO): The changes proposed for Community Design Overlay ordinances are also being used for a new zoning mechanism, the CPIO. The difference is that all CPIO clearances will be administrative/ministerial actions, and only CPIO cases requiring a 20 percent maximum Adjustment or an Exception will require a Director's Determination.

CPIO's, therefore, represent the next step in this evolving zoning overlay process of reducing the role of the public in land use decisions. This means that after a CPIO ordinance is adopted for a Community Plan area and/or local sub-areas, all CPIO projects will be referred directly to City Planning for clearance (Draft ordinance, Section 13.14.G.1.)

None of the following features inherent to Specific Plans or existing, pre-streamlined Community Design Overlay districts will therefore apply to CPIO's because CPIO cases and clearances are not quasi-judicial actions. Except for CPIO Adjustments and Exceptions, the following would apply:

A. No public notification of a CPIO case. No CPIO cases will be listed on the Early Notification System emails provided to Certified Neighborhood Councils or to interested members of the public.

B. No public hearing or public testimony. Because the public would not know of CPIO cases and because CPIO cases do not involve any public collection of testimony by City Planning, the public would play no role in the review of a CPIO case.

C. No public notification of case after approval. Because CPIO cases not requiring an Adjustment or Exception are not discretionary actions, they have no written Director's Determination, and they do not require written findings. Therefore, no member of the public would be notified of a CPIO case being cleared by the Department of City Planning, and no one in City Planning would need to present a reason (i.e., finding) for approving or denying a CDO case (Draft ordinance, Section 13.14.G.2).

D. No appeal. Because CPIO's are ministerial actions, their approvals have no written action prepared by the Department of City Planning, and therefore there is no CPIO action which could be appealed, except a CPIO Adjustment or Exception. Therefore, the only CPIO actions open to public scrutiny would be a CPIO Adjustment appealed to an Area Planning Commission (Draft ordinance, Section 13.14.G.3) or CPIO Exception initially considered by an Area Planning Commission (Draft ordinance, Section 13.14. G.4).

In addition, if the public nevertheless learned of a CPIO case, it would still have the right to appeal it through a seldom used quasi-appeal action, an application to the Building and Safety Commission to withdraw a building permit because it had been incorrectly issued.

E. No administrative record. At present all actions related to a parcel are listed by corresponding case numbers on the City of Los Angeles Zoning Information and Map Access System (ZIMAS). Because CPIO cases would be ministerial, it is not clear that the administrative record for a parcel would list any City Planning CPIO action, other than the ordinance establishing the CPIO. Actual CPIO cases might lie below the threshold in which ZIMAS maintains a record of case actions for each parcel in the City of Los Angeles. Presumably CPIO Adjustments and Appeals would appear on ZIMAS, but this is in conjecture. It is not addressed in the draft ordinance and cannot, therefore, be confirmed.

2) Increase in the work load of City Planning staff: Although one purpose of the CPIO is to reduce the work load of City Planning staff because of current requirements that property owners must apply for variances, zone changes, and/or plan amendments to obtain relief from the Los Angeles Municipal Code's zoning requirements, the CPIO enabling legislation under consideration by the City Council will result in the exact opposite effect. This is because of the complexity of preparing, adopting, and implementing a CPIO ordinance through mandatory clearances, Adjustments, and Exceptions.

Regarding implementation, each building permit application filed with City's Department of Building and Safety (LADBS) will be referred to the Department of City Planning for clearance, including payment of fees and the presentation of a full set of building plans to the City Planning staff (Draft ordinance, Section 13.14.G.1). Although a CPIO clearance is an administrative/ministerial action, it would nevertheless require a City Planning staff person to carefully look at a project's features, and then go through a check list for a local CPIO's requirements to determine compliance. Once the staff person has determined that the project is compliant by reviewing the full application package and confirming the payment of application fees, he or she would then have to manually enter the administrative clearance onto the on-line building inspection and permit data base maintained by the Department of Building and Safety.

Regarding the preparation and adoption process, since the intention of the enabling legislation for the CPIO is to eventually have a CPIO for the entire land area of each of the City of Los Angeles's 35 Community Plan areas, we can assume that at some point in the future, the entire city would be subject to a minimum of 35 CPIO's. When sub-areas -- as small as a single parcel -- are factored in, as is required by the enabling legislation, the total number of separate CPIO areas and sub-areas could easily exceed 100 (Draft ordinance, Section 13.14.D).

In communities where a proposed CPIO would, in effect, up-zone and up-plan local communities, we would expect a series of legal suits against the City for failing to establish the environmental impacts of a proposed CPIO based on the requirements of the California Environmental Quality Act (CEQA).

Furthermore, other law suits might argue that the in adopting a CPIO ordinance, the City of Los Angeles failed to make a proper finding that the proposed CPIO was, based on City Charter Sections 556-558) in substantial conformance with the goals, purposes, and provisions of the growth neutral General Plan Framework. This is because the General Plan of the City of Los Angeles is growth neutral, and that the findings for any CPIO which had a growth inducing potential could not properly argue that the proposed CPIO was therefore consistent with the purposes of the General Plan.

3) Confusion to City staff and to the public: One intention of CPIO's is to streamline the City of Los Angeles's land use processes for the review of building permits requiring discretionary approvals from the Department of City Planning. While CPIO's could, as intended, replace a host of discretionary actions, especially zone variances, once they are rolled out in existing and new Community Plan areas, they will substantially increase the number of land use zoning categories. For example, most single family homes in Los Angeles are constructed in the R-1 zone, which applies uniformly throughout the entire city. Under a CPIO, each Community Plan area, and in some cases each Community Plan sub-area, could have a unique version of the R-1 zone crafted to reflect the goals of a Community Plan. The resulting local zone could contact higher or lower limits in height, yard requirements, or parking places.

Although the enabling legislation indicates that CPIO provisions shall be more restrictive than existing zones in terms of uses, heights, floor ratios, and signage (Draft ordinance, Section 13.14.B), we should expect to see CPIO's which will, nevertheless, be used for the unintended purpose of establishing more permissive local zones. This is because the enabling legislation also indicates that if a CPIO provision conflicts with the LAMC, the CPIO will prevail (Draft ordinance, Section 13.14.B).

Furthermore, some communities, following citywide ordinances to regulate McMansions, might also have unique Floor Area Ratio (FAR) definitions and limitations intended to restrict the size of single family homes in appropriate zones. If they are able to persuade a local Councilperson or the City Planning Commission to initiate such as CPIO sub-area, then it would become still one more custom zone unique to a local community.

This process, in fact, could apply to the entire list of 45 separate citywide zones now listed in the Los Angeles Municipal Code. If even a small number of them were individualized for an existing or new Community Plan area or sub-area through a CPIO, the result would be the extensive proliferation of local zones in Los Angeles. City staff, applicants, contractors and architects, and of course local property owners and those concerned about the impact of adjacent construction on their property, would be hit by a long list of new zones for small geographical areas. The list of 45 citywide zones could soon number in the hundreds. The current efforts to simplify the zoning code could, therefore, be swamped by the creation of new, local zones in Los Angeles through many CPIO ordinances.

Furthermore, as discussed previously, each of these new zones would have separate administrative procedures explained in a brochure posted on-line and distributed at the two City Planning public counters outlining each CPIO's fees, provisions, submission materials, and clearance processes.

LIKELY IMPACT OF THE PROPOSED COMMUNITY PLAN IMPLEMENTATION ORDINANCE (CPIO)

1. **CPIO's will be used to up-zone and possibly up-plan local communities, including those not subject to a current community plan update.** Although CPIO's should be used as a substitute for Specific Plans and present zoning restrictions which would reduce the quantitative provisions of existing zoning, we know from the two current Community Plan updates now under way – Granada Hills and Hollywood – that the Department of City Planning intends to include implementation ordinances which will up-zone and up-plan these communities as part of the Community Plan Update process.

Since the CPIO is the intended mechanism for implementing Community Plans, we should anticipate many efforts to use the CPIO for less restrictive regulations governing uses, heights, yards, floor area ratios, and signage. This would either require findings to justify this application of a CDO, or amendments to the enabling legislation based on the principle that CPIO provisions will take precedence over other similar provisions in the Los Angeles Municipal Code (Draft ordinance, Section 13.14.B).

In fact, such a draft zoning ordinance was prepared over one year ago for the Hollywood Community Plan update. Therefore, we can assume that future CPIO's will be incorrectly used to up-zone – and potentially up-plan – existing Community Plan areas. While it is theoretically possible to use a CPIO, as intended in the enabling legislation, for down-zoning, based on recent actions and statements from elected officials and representatives of the Department of City Planning, it is unlikely that CPIO's would be used in lieu of restrictive Specific Plans or LAMC amendments which down-zone or down-plan a Community Plan area or smaller sub-areas.

Therefore, the CPIO enabling ordinance portends increases in local densities in existing communities, regardless of work programs to update community plans. As a result of these CPIO's, increased densities would result in long-term, cumulative environmental impacts surpassing local infrastructure capacity. If or when, the CPIO is used as alternative to up-planning, up-zoning, or to substitute for a variance, we should also expect numerous legal challenges based on the existing language in the proposed enabling legislation (Draft ordinance, Section 13.14. B

2. **Circumvention of CEQA – Inadequate Environmental Review and Cumulative Assessments:** Although intended to implement future updates of Community Plans, there is no restriction in the CPIO enabling legislation now under City Council review which would bar the creation of

CPIO's for existing Community Plans, regardless of when they were prepared and adopted.

Since some of these Community Plans were prepared before the current General Plan Framework's 1995 adoption date, and because all CPIO's would be prepared and adopted after the General Plan Framework's current 2010 horizon year (i.e., the final target year for the demographic projections used for the Framework), the Final Environmental Impact Reports (FEIR's) used in the preparation and review of CPIO ordinance would be outdated – unless they were updated or replaced with an entirely new Environmental Impact Report (EIR). While this is certainly possible, it is not likely, and we should expect that old FEIR's will be relied upon for environmental documents used in the preparation and adoption of CPIO districts.

Because the Framework and its FEIR are based on 1990 census data, these environmental documents cannot be reliably extrapolated to the present, much less to the 2010-2030 period when CPIO's would be adopted and applied to local land use cases.

As a result, when CPIO's are adopted for existing Community Plan areas, and they are not -- as expected – accompanied by a new EIR, the City of Los Angeles, as well as the public, would have no way to determine the impacts of a particular project, much less the long-term, cumulative environmental impacts at local, area, or citywide geographical areas of CPIO cases approved through local CPIO ordinances.

Furthermore, because the Department of City Planning stopped monitoring its General Plan in the year 2000, there is no way to assess current growth or infrastructure trends or the appropriateness of policies and programs in old or new Community Plans. Therefore, the implementation of these policies through a CPIO would not be based on accurate environmental data, and it would be impossible to reliably determine the environmental impacts of future CPIO cases.

3. Reduced use of the variance, plan amendment, and zone change to obtain relief from zoning provisions of the Los Angeles Municipal Code: When a CPIO is established for all or part of one of the Los Angeles's 35 community plan areas, the new local zoning categories are designed to replace more cumbersome "one-size fits all" zones used through the entire city of Los Angeles. As a result, each of these custom zones will replace the citywide zone in all or part of a Community Plan area. Since, as discussed above, it is most likely that the new, Community Plan local version of a citywide zone will be less restrictive than the LAMC, this means that in most cases the CPIO will eliminate the need for a property owner to apply for expensive and time-consuming zone changes, zone variances, and/or General

Plan amendments. Since these processes are subject to CEQA, and also require public hearings and extensive staff reports, it is reasonable to assume that CPIO approvals will be issued with much less environmental review than the discretionary actions which they, in effect, replace.

While the CPIO provisions for Adjustments and Exceptions do require a written Director's Determination, only the CPIO Exception would have a staff report. Adjustments would only have an accompanying staff report if they were appealed to an Area Planning Commission (Draft ordinance, Sections 13.14.3 and 4).

POTENTIAL IMPACTS OF THE COMMUNITY PLAN IMPLEMENTATION ORDINANCE (CPIO)

1. De-facto plan amendments: Because a CPIO allows an entire Community Plan area, as well as its sub-areas, to have unique zones (i.e., versions of citywide zones which have been customized to a local area based on the goals of a Community Plan), it is possible that these new zones could be defined to revise the LAMC mandated and building envelope restrictions of an existing General Plan designation. This would be justified as implementing the goal of a Community Plan Update (CPU), such as the promotion of transit on higher density transportation corridors. For example, in the Wilshire Community Plan (initiated in 1997 and adopted in 2001), which includes Wilshire Boulevard, a major transit corridor, the Medium residential plan designation corresponds to the R-3 zone primarily used for apartments.

If a Wilshire Community Plan area CPIO were to modify the RD 3 zone in any of the following ways in order to promote transit use through the construction of transit-oriented apartments, it could result in a combination Zone Change and Plan Amendment (i.e., Batching Case) approved through the mechanism of a CPIO ordinance. In effect, the new Wilshire Community Plan's definition of the R3 zone would make it the equivalent of an R2 zone, which is the **Low Medium II** plan designation. The result would be a de facto plan amendment for a large area, and it could also avoid the requirement for parcel level relief from zoning requirements to be approved through a zone variance.

In this example, transit-inducing CPIO changes which would constitute a combination zone change and plan amendment:

- Reducing front yard requirements from 20 feet to 15 feet
- Reducing minimum lot size from 6000 square feet to 5000 square feet
- Reducing minimum dwelling unit size from 3000 square feet to 2000 square feet.
- Reducing minimum lot width reduced from 60 feet to 50 feet.

- Reducing required parking from 1.5 to 1 space per unit.

2. **Adoption of Core Findings in Conjunction with CPIO ordinances would result in easier CPIO Adjustments and Exceptions.** A parallel package of changes to the Los Angeles Municipal Code's zoning regulations includes comprehensive changes to the legally required findings for all discretionary actions. Because the CPIO enabling legislation includes two such discretionary actions, the new Core Findings would apply.

More specifically, in Section 13.14.G.3 (a) and (b) of the draft CPIO ordinance, five findings are presented for an Adjustment determined by City Planning staff on behalf of the Director of Planning for cases which do not comply with the CPIO, but require less than a 20 percent adjustment over a local zone's quantitative restriction. For example, if a CPIO reduced a height limitation from 33 to 30 feet in an R-1 zone, a mansionizer could build a project to 35 feet through a CPIO adjustment. Because of the liberalization of the five required findings for such as action, the likelihood that the Director of Planning would approve such as action is increased. Similarly, an appeal to an Area Planning Commission could fare less well than at present if the appellant argued that the action of the Director of Planning failed to make one or more of the five required findings in the CPIO's enabling legislation.

The situation for CPIO Exceptions would be similar (Draft ordinance, Section 13.14.G.4 (b) (i through (v)). In the case above, an applicant, such as a contractor building McMansions and facing a 30 foot height limit in a local CPIO zone, could request the height for the McMansion be raised to 45 feet through a CPIO adjustment approved by an Area Planning Commission based on the findings derived from the new Core Findings code amendment. Since such a CPIO Exception would be based on the new findings, and since the Exception would be determined directly by an Area Planning Commission in lieu of the current process, which requires a hearing and formal decision by the Zoning Administrator prior to an appeal to an Area Planning Commission, more Exceptions would undoubtedly be granted than at present.

RICHARD H. PLATKIN

Statement of Professional Credentials as City Planning Consultant

EDUCATION

Master of Arts, Sociology
Candidate in Philosophy, Sociology
University of California, Los Angeles - Los Angeles, California

Master of Urban Planning
University of Washington - Seattle, Washington

Bachelor of Arts, History
University of Michigan - Ann Arbor, Michigan

PROFESSIONAL QUALIFICATIONS

Richard (Dick) Platkin is a city planner and sociologist with three decades of professional experience in urban planning and applied social research. His city planning and research work has included transportation planning, housing policy and programs, economic development, public participation, general and community plans, specific plans and design overlay districts, streetscape plans, and discretionary zoning entitlements and appeals.

His professional planning career includes work in the private sector, non-profit sector, and two large public agencies, the Seattle and Los Angeles departments of city planning. Since retiring from a 20 year career with the Los Angeles Department of City Planning in 2007, Mr. Platkin joined Tierra Concepts to focus on projects with land use, economic development, and public policy components.

At the City of Los Angeles, Mr. Platkin had a wide range of supervisory and staff assignments, including neighborhood council liaison, General Plan public participation, preparation and implementation of numerous Specific Plans and Community Design Overlay Districts, and extensive project review.

His most notable projects included the preparation, adoption, administration, and review of the Ventura-Cahuenga Corridor Boulevard Specific Plan; the training of Los Angeles neighborhood councils to fully participate in the city's planning process, and the creation of joint design districts and streetscape plans for Canoga Park, Pacoima, Van Nuys, and Panorama City. In the case of Panorama City, his work also extended to the preparation of applications for transit projects, liaison with the Los Angeles Community Redevelopment Agency for a comprehensive community streetscape program, and technical support for the creation of a Business Improvement District (BID) established by the local business community.

AWARDS AND AFFILIATIONS

American Institute of Certified Planners (AICP)
Planners Network: Steering Committee and Contributing Editor to Progressive Planning
American Sociological Association
Commendations from Los Angeles Department of City Planning for Ventura Specific Plan, Framework, South Central Task Force, and San Fernando Valley Light Rail Blue Ribbon Committee
Los Angeles City Council Commendations for Ventura-Cahuenga Boulevard Corridor Specific Plan and General Plan Framework
Donald G. Hagman award from APA for City Planning's South Central Task Force
Mellon Fellow at the University of Washington Department of City Planning

PROFESSIONAL RESUME
RICHARD (Dick) H. PLATKIN, AICP
6400 W. 5th Street, Los Angeles, CA 90048-4710
Tel. 213-308-6354 E-mail: rhplatkin@yahoo.com

- ! Professional planning experience in public, non-profit, and private sectors, including current private consulting on planning and zoning issues
- ! Eleven years of managerial and supervisory city planning positions
- ! Eight years of supervisory experience as a Los Angeles City Planner
- ! Planning Department assignments for neighborhood councils and public participation, General Plan elements, community plan updates, personnel issues, project management, case processing and appeals, Community Design Overlay (CDO) and Specific Plan preparation and adoption, streetscape plans, design review, and public hearings and zoning cases
- ! Experienced liaison with Los Angeles City Council offices, City departments, outside agencies, private consultants, media, citizen boards, and community groups
- ! Recognized written and oral communication skills
- ! Strong academic training, including Masters in Urban Planning (MUP) and Masters (MA) and Candidate in Philosophy (C. Phil.) in Sociology
- ! Professional recognition through AICP, awards, and commendations
- ! College level classroom instruction and lectures in Urban Planning and Sociology

PROFESSIONAL EXPERIENCE

Tierra Concepts, Inc., Senior Planner and Policy Analyst (2007 to date)

Private, Los Angeles-based consulting firm specializing in urban planning, applied social research, land use and urban design, and community development projects. Current clients include Silverstein Law Corporation, Sunland-Tujunga Neighborhood Council, Valley Village Neighborhood Council, La Mirada Avenue Neighborhood Association, East Hollywood Neighborhood Council, La Brea Coalition, North Hills Community Council (directed development plan), LA Neighbors United, and UNIDAD/SAJE (Strategic Actions for a Just Economy) to coordinate with City of Los Angeles planning initiatives.

City Planner, Los Angeles Department of City Planning (1999 - 2007)

- ! North Valley Unit (2001-2003, 2005-2007) B Supervised implementation of four Specific Plans, including Design Guidelines; preparation, adoption, and implementation of Interim Control Ordinances; preparation and adoption of Community Design Overlays and companion Streetscape Plans, and preparation and adoption of Sphere of Influence. Hearing Officer. Coordinated inter-departmental planning process for Van Nuys Corridor, include MTA grant applications via Call for Projects.
- ! Neighborhood Council Liaison Unit (2003-04) – Developed and presented training materials to Certified Neighborhood Councils (CNCs), replied to oral and written questions, maintained Early Notification System data base, and compiled monthly CNC contact data.
- ! Specific Plan Unit (1999-2001) B Administration of the Mulholland and Ventura/Cahuenga Boulevard Specific Plans. Supervised preparation of CDOs and Streetscape Plans for Van Nuys, Canoga Park, Panorama City, and Pacoima communities.

City Planning Associate, Los Angeles Department of City Planning (1987 - 1999)

- ! General Plan Framework - Conducted citizen participation and public outreach for development and adoption of Framework and EIR. Reviewed consultant work. Coordinated SCAG=s Access planning data base project for Department.
- ! Citywide Planning - Scoped, researched, and wrote sections of Transportation Element. Represented Planning Department at San Fernando Valley Blue Ribbon Light Rail Committee.
- ! Community Planning - Project manager of Ventura/Cahuenga Corridor Specific Plan. Lead preparation, adoption, implementation, and revisions of plan. Approved Specific Plan and ICO cases. Liaison with City Council offices, City departments, press, and EIR and transportation consultants. Chaired Citizen Advisory Committee (CAC) and established Plan Review Board (PRB). Presented to CAC, PRB, GPAB, CPC, PLUM, and Council. Wrote workshop materials, ordinances, staff reports, findings, procedures manual, and sections of DEIR and FEIR. Revisions of Southeast and South Central community plans.
- ! Design Review Boards - Prepared case analyses, Director=s Determinations, plan approvals, design and streetscape guidelines, and ordinance amendments. Advised applicants; City Council Offices; and City departments on Specific Plan provisions and procedures. Administered case files, agendas, notices, and annual calendar.

L.A. City Department of Transportation, Transportation Planning Associate II (1987)

- ! Administered transit contracts. Conducted workshops for contractors.
- ! Served on Interdepartmental Prop. A - Prop. C Allocation Committee.

Commuter Computer, Senior Planner (1984-87)

- ! Directed technical studies for SCAG, regional commuter surveys, monthly Caltrans reports, and site-specific transportation demand management plans.
- ! Managed section=s annual work program and budget; defined, monitored, and supervised projects; wrote and edited reports; hired trained, and assigned professional staff; conducted personnel reviews and evaluations; designed and trained staff on computer systems; office space planning. Co-prepared agency=s five-year strategic plan.

The Planning Group, Senior Research Associate (1982-1984)

- ! Managed projects and supervised work products related to Metrorail Milestones and Environmental Impact Study (EIS), freeway construction, and economic development.
- ! Prepared and presented responses to RFPs, RFQs, and grant applications.

South Central Economic Research and Development Associates (1977-1981)

- Research Director for Department of Commerce funded agency.
- ! Designed, conducted, and applied original research on South Central Los Angeles for agency=s economic development programs, including employer surveys and industrial land use inventories.
- ! Managed applied research unit, including staff recruitment and training.

City of Seattle Department of Community Development (1972-3)

- ! Program Coordinator II for liaison with Federal Housing Authority and local affordable housing developers in Seattle=s downtown.
- ! Prepared comprehensive report on downtown housing conditions, trends, and policies.

Volunteers in Service to America (VISTA Volunteer) (1969-1970)

- ! Assigned to Seattle Housing Authority, as public housing project community organizer.

AWARDS AND COMMENDATIONS

- ! American Institute of Certified Planners (AICP)
- ! Mellon Fellow at University of Washington Department of City Planning
- ! Commendations from Department of City Planning for Ventura Specific Plan, Framework, South Central Task Force, and San Fernando Valley Light Rail Blue Ribbon Committee
- ! City Council Commendations for Ventura Specific Plan and General Plan Framework
- ! Donald G. Hagman award from APA for City Planning's South Central Task Force
- ! Mayoral Commendation for economic development projects in Panorama City

ACADEMIC TRAINING AND CONTINUING EDUCATION

- ! University of California, Los Angeles. M.A. and C. Phil. in Sociology
- ! University of Washington, Seattle. Master of City Planning (MCP)
- ! University of Michigan, Ann Arbor. B.A. in History
- ! Classes in supervision, project management, administration, citizen participation, business writing, public speaking, computer software, emergency response.
- ! Conferences of American Planning Association, American Sociological Association, Planners Network, Ethnopolis, Livable Communities, and Operation Mainstreet.

COMMUNITY SERVICE

- Beverly Wilshire Homes Association, Board of Directors (2007 – date)
- Interfaith Communities United for Justice and Peace, Board of Directors (2009 – date)
- Planners Network, elected member of national steering committee (1997-2000). Host Committee for 1997 national conference at Cal Poly Pomona
- Engineers and Architects Association, various elected positions (1995 – 2003)

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November 8, 2010

Mr. Cary Brazeman
LA Neighbors United
128 N. Swall Drive #304
Los Angeles CA 90048

RE: Analysis of CEQA Implications of Council File 09-2199, ENV-2009-438-ND,
Proposed City of Los Angeles "Community Plan Implementation Overlay
Districts" (CPIO) Ordinance

Dear Mr. Brazeman:

You had asked this office to review the City's proposed CPIO Ordinance and provide an opinion on whether the City may properly adopt a Negative Declaration (ND) in association with adoption of the Ordinance, or whether the City must first prepare an Environmental Impact Report (EIR) pursuant to the California Environmental Quality Act (CEQA). For the reasons discussed below, it is our opinion that the City must prepare an EIR prior to adopting the proposed CPIO Ordinance.

I. The Ordinance is clearly a "Project" under CEQA, and is part of a larger "Project" known as the "Do Real Planning" Initiative.

CEQA defines "project" broadly, and includes "an activity which may cause...a reasonably foreseeable indirect physical change in the environment" and which activity is undertaken directly by a public agency. (Pub. Res. Code §21065 subd. (a).) In this case, the Ordinance could indirectly alter development patterns throughout the City, and is proposed by the City. It is therefore a "project" under CEQA. The City recognizes that the Ordinance is a "project" since it is proposing a Negative Declaration in conjunction with adoption of the Ordinance.

However, the City does not address the relationship between the CPIO and a related initiative to change nine sections of the zoning code through the "Core Findings Ordinance" and related ordinances, collectively referred to herein as the "CFO." The City Planning Commission Director's Report from September 11, 2008 refers to a "Do Real Planning" Initiative on the part of the City. The CPIO and CFO both appear to be part of a wider effort by the City to update its planning priorities. The CPIO and CFO address overlapping topics, for example, both contain provisions for adjustments and exceptions. It is unclear how the Ordinances will work together, since the standards for

obtaining adjustments and exceptions differ between the CPIO and CFO. However, there is a clearly common theme related to updating the City's planning and zoning framework. Under CEQA, the City cannot "piecemeal" review by separately concluding the impacts of the CPIO are not significant, and the impacts of the CFO are not significant, without also considering the impacts of the two together. "Project" includes the whole of an action (CEQA Guidelines Section 15378) and not simply discrete pieces thereof.

II. Under CEQA, the threshold for preparation of an EIR is low.

A Negative Declaration, such as that proposed by the City here, is "a written statement by the lead agency briefly describing the reasons that a proposed project... will not have a significant effect on the environment and therefore does not require the preparation of an EIR." (14 Cal Code Regs. ("Guidelines") §15371.) The adoption of a Negative Declaration has a "terminal effect on the environmental review process." (*Citizens of Lake Murray Area Assn. v. City Council* (1982) 129 Cal. App. 3d 436, 440.) An EIR, in contrast, is designed to "substitute some degree of factual certainty for tentative opinion and speculation." (*No Oil Inc. v. City of Los Angeles* (1974) 13 Cal. 3d 68, 85.) Since the purpose of CEQA is to both protect the environment and promote governmental accountability (*Citizens of Goleta Valley v. Board of Supervisors* (1990) 52 Cal. 3d 553, 564), an EIR is required whenever substantial evidence in the record supports a "fair argument" that a project *may* have a significant environmental impact. (Pub. Res. Code §21080 subd. (c),(d).) This is a low threshold requirement, "reflect[ing] a preference for requiring an EIR to be prepared." (*Mejia v. City of Los Angeles* (2005) 130 Cal. App. 4th 322, 332.) Thus, if the record contains *any* substantial evidence that the Ordinance *may* have a significant environmental impact, the City *must* prepare an EIR before adopting the ordinance- even if the City can point to contrary substantial evidence in the record. (*Friends of "B" Street v. City of Hayward* (1980) 106 Cal. App. 3d 988, 1000-1003.)

III. The record contains substantial evidence of a potentially significant environmental impact.

The Ordinance would create a new section of the Los Angeles Municipal Code (LAMC Section 13.14) whose purpose would be to "create an approval process to enable infill development." (Proposed LAMC §13.14 subd. (a)(2).) Since the avowed purpose of the Ordinance is to promote development, the text of the Ordinance itself provides substantial evidence of a potentially significant environmental impact. Although the text of the measure itself provides substantial evidence of a potential environmental impact, we also understand additional record evidence is being furnished to document potential impacts and cumulative impacts on areas such as traffic, land use, air quality, aesthetics, and public safety, for example.

The Ordinance would allow site-specific zoning relief (and presumably some type of densification beyond what existing zoning controls would allow) in the City's 35 Community Plan areas. The net result is potentially significant additional development City-wide. These cumulative impacts are subject to CEQA review, even if each individual project, considered separately, would be insignificant or even exempt. (Guidelines §15355 [cumulative impacts can result from individually minor but collectively significant projects taking place over a period of time].) If a project has impacts that are cumulatively considerable, the City *must* find impacts significant and prepare an EIR. (Pub. Res. Code §21083 subd. (b)(2); Guidelines §15065 subd. (a)(3).)

CEQA defines "infill" development as development of a parcel adjacent to existing urban developments, or on a site previously developed with urban development. (Pub. Res. Code §21061.3 subd. (a),(b).) Recognizing the social and relative environmental value of infill development, such projects can qualify for an exemption from CEQA review if the project meets certain limitations. (Guidelines §15332.) However, such projects cannot qualify for an exemption if the project is inconsistent with existing zoning, the site is over five acres in size, if any endangered species, traffic, noise, air quality, or water quality impacts would result, or if existing infrastructure cannot support the project. (Guidelines §15332 subd. (a)-(e).) Additionally, the question of whether any individual infill development may qualify for a CEQA exemption is separate from the question of whether an Ordinance designed to promote such development could itself have potentially significant indirect environmental impacts warranting preparation of an EIR.

The City is proposing the ordinance in conjunction with changes to various zoning code sections. These additional changes are known as the "Core Findings Ordinance" (CFO). The CFO by itself represents a major rewrite of the City's zoning code and such substantial revisions to an existing regulatory scheme could, in and of themselves, support a "fair argument" that implementing the changes may have a significant environmental impact. Thus, the above discussion of case law regarding the EIR threshold and record evidence is equally applicable to both the CPIO and the CFO. In addition, since the two Ordinances are designed to work synergistically to promote infill development and increase the size of such development, the two Ordinances can be fairly argued to have cumulatively considerable impacts, and an EIR should be prepared to address the cumulative growth impacts of adopting both Ordinances.

IV. The City's proposed use of "tiering" with respect to the ordinance is backwards.

The City staff apparently, as stated in a public hearing, believe the use of a Negative Declaration for the CPIO is appropriate on the theory that CEQA review of individual Overlay Districts and/or projects subject to the Ordinance would detail the

programmatic environmental impacts of individual overlay districts and the environmental impacts of individual projects. There are multiple problems with the City's reliance on this mechanism to ensure environmental impacts are studied. The City ignores that now is the most appropriate time for a programmatic review of the entire Ordinance, and by approving the Ordinance the City risks reducing later environmental review of individual overlay districts to an exercise in post hoc justification of establishment of those individual districts. In addition, some of the proposed infill developments will likely qualify for a CEQA exemption under Guidelines Section 15332, and thus the public will not have any opportunity to review those projects as they are proposed, regardless of what happens with the designation of individual districts.

More fundamentally, the City seems to be proposing to use the Negative Declaration as a first tier environmental document, providing programmatic analysis of the Ordinance with programmatic review of individual districts deferred, and detailed project-specific reviews forthcoming on some individual project sites. Such "tiered" environmental review is entirely appropriate when done correctly, and both the legislature and California Supreme Court have recognized the value of tiered review to provide for efficient, yet thorough, CEQA review. (See Pub. Res. Code §21093; Guidelines §15385; *Save Tara v. City of West Hollywood* (2008) 45 Cal. 4th 116, 139.)

However, what the City is here proposing- a bare bones environmental analysis of an Ordinance, then approval of a substantial overhaul of the City's planning and zoning laws, only later followed by more in depth programmatic analysis of overlay districts, followed by detailed project specific environmental reviews as projects are proposed in conformance with that Ordinance- stands the tiering process on its head. The first step is "coverage of general matters and environmental effects *in an environmental impact report* prepared for a policy, plan, program, or ordinance followed by narrower or site-specific environmental impact reports..." (Pub Res. Code. §21068.5, emphasis added.) The Legislature logically presumes the programmatic review of the Ordinance will take place in an EIR, and then projects proposed in conformance with that Ordinance will be subject to later site-specific environmental review. The City, rather, uses the Negative Declaration for the CPIO Ordinance to defer environmental review until specific overlay districts and individual projects are proposed. By that time, it will be too late to evaluate alternatives and mitigation for the environmental effects reasonably foreseeable as a result of adoption of the Ordinance, or to evaluate the City-wide cumulative effects of encouraging much intensified infill development in 35 planning areas around the City, or to evaluate the cumulative effects of the profound changes to the City's zoning and development codes wrought by the combined effects of the CPIO and CFO.

Such deferred environmental review violates CEQA. It is highly unlikely that the City would revisit any programmatic impacts associated with the Ordinance in a programmatic analysis of an individual overlay district, much less a project-specific EIR.

In *Laurel Heights Imp. Ass'n v. Regents of the University of California* (1988) 47 Cal. 3d. 376, the Supreme Court summarized the issue as follows:

the later the environmental review process begins, the more bureaucratic and financial momentum there is behind a proposed project, thus providing a strong incentive to ignore environmental concerns that could be dealt with more easily at an early stage of the project. . . . For that reason, "EIRs should be prepared *as early in the planning process as possible* to enable environmental considerations to influence project, program or design."

(*Id.* at 395, emphasis added.) *Vineyard Area Citizens for Responsible Growth v. City of Rancho Cordova* (2007) 40 Cal. 4th 412, 441 is in accord. The appropriate time to study the effects of the Ordinance is before the Ordinance is adopted, not in any review of an individual overlay district or project-specific environmental review processes that may take place later, since the bureaucratic momentum behind changes to the Ordinances will obviously have built up past the point of no return.

V. Conclusion

The City's proposed adoption of the CPIO has potentially significant environmental impacts, as does the proposed adoption of the CFO. These impacts should be analyzed in an EIR detailing the reasonably foreseeable extent of the effects of the Ordinances, as well as potentially feasible alternatives and mitigation measures that could lessen those environmental impacts.

Sincerely,



Arthur Pugsley

Statement of James Rojas

November 9, 2010

The Community Plan Implementation Overlay Districts Ordinance will negatively impact LA's low-income Latino communities. I am a community activist who works in these communities on transportation, open space, and health.

I have fought hard on many projects to benefit low-income communities such as the Cornfields State Park, Elephant Hill, and Evergreen Cemetery Jogging Path.

In addition I am an advocate for smart transportation planning, especially in low-income communities. Latinos have some of the highest pedestrian and bike fatality rates in Los Angeles because we walk and bike. Our streets are not designed for this activity. Therefore I believe we need to address this issue through smart land use planning.

A transportation system is only as good as the land uses that support it.

The proposed ordinance conflicts with adopted policies, plans and programs relative to Measure R, 30/10 and other efforts by the City to coordinate land use and transportation planning to relieve traffic congestion and encourage affordable housing near transit ... this ordinance and the other zoning code efforts under way decouple land use and transportation planning by not targeting new infill development near transit ... which could have substantial negative effects, such as actually increasing traffic in relation to load and capacity of the street system where Latino populations are most vulnerable to transportation fatalities.

By controlling development we can create safer streets in areas of high pedestrian uses and a lot city scarce city resources.

Even though low-income communities do not get our fair share of planning, I still have hope in the planning process.

James Rojas

Community Engagement

Greater Los Angeles Area

- Current**
- **Founder/Partner at Gallery 727**
 - **Founder at Latino Urban Forum**

- Past**
- Transportation Planner at Los Angeles County Metropolitan Transportation Authority
 - Environmental Advisor to Hungarian NGO at Peace Corps

- Education**
- Massachusetts Institute of Technology

Connections 500+ connections

Industry Architecture & Planning

Websites • Latino Urban Forum

James Rojas's Experience

Founder/Partner

Gallery 727

(Partnership; Fine Art industry)

April 2000 — Present (10 years 8 months)

Gallery 727 seeks to generate dialogue on artistic representations and interpretations of the urban landscape. The building blocks of a city comprise more than simply buildings, streets, and sidewalks. They equally comprise personal experience, collective memory, narratives. These are the less tangible, but no less integral, elements that transform mere infrastructure into place. Through traditional and new media, artists of image, word, space and movement help open our eyes to these elements and heighten our awareness of what makes Place. Gallery 727 is a community resource through events, discussions, lectures, and workshops so that the space has a larger audience to create opportunities for engagement with these ideas, for dialogue and action with unfolding urban issues. Gallery 727 welcomes these artists to its space to help us all better understand the complex nature of cities and the urban landscape.

Founder

Latino Urban Forum

(Non-Profit; Architecture & Planning industry)

January 2000 — Present (10 years 11 months)

Latino Urban Forum (LUF) is dedicated to improving the quality of life and sustainability of Latino communities in the Los Angeles metropolitan area. LUF partners with communities through public education and dialogue, the provision of technical assistance and capacity building, and advocacy on such critical urban issues as planning, land use and the environment and their effects on health and culture.

Transportation Planner

Los Angeles County Metropolitan Transportation Authority

(Government Agency; Civil Engineering industry)

January 1997 — June 2010 (13 years 6 months)

Transportation Project Manager for Metro. Manage and fund Transportation Enhancement Activity (TEA) urban design projects for Los Angeles County. Projects include the Larchmont Village Medians, Cesar Chavez Transit Plaza, Chinatown Gateway and many other streetscape projects. .

Environmental Advisor to Hungarian NGO

Peace Corps

(Government Agency; 5001-10,000 employees; International Affairs industry)

October 1993 — December 1996 (3 years 3 months)

Served as environmental advisor for Levego Munka Kaport, a non-government organization, in Budapest. Developed and implemented public awareness campaigns. Developed sustainable transportation policies for Budapest and critiqued World Bank documents. Advised Hungarian officials and citizens on the negative impacts of air pollution. Organized Eastern European ngos on sustainable transportation campaigns. Reviewed environmental documents for transportation infrastructure projects.

James Rojas's Education

Massachusetts Institute of Technology

1988 — 1991

Additional Information

James Rojas's Websites:

Latino Urban Forum

James Rojas's Interests:

urban planning, design, travel,

James Rojas's Groups:

MIT DUSP Community

American Planning Association

ART AS A VEHICLE TO UNDERSTAND LAND USE PLANNING AND SUSTAINABILITY

Southern California Artists Group

LA APA: American Planning Association, Los Angeles Section

railLA



Nancy Krasne, Councilmember

The Honorable Eric Garcetti
President, Los Angeles City Council
200 N. Spring Street
Los Angeles, California 90012

Monday, November 8, 2010

Dear Councilmember Garcetti:

I am writing to comment on two ordinances under consideration by the Los Angeles City Council that would produce cumulative environmental impacts that have not been appropriately analyzed by the City of Los Angeles in an (EIR) Environmental Impact Report.

These two ordinances are the "Community Plan Implementation Overlay Districts Ordinance" (CPC-2009-437-CA and ENV-2009-438-ND) and the "Core Findings Ordinance" (CPC-2010-1572-CA and ENV-2010-1573-ND), which represent a significant rewriting of the zoning code in the interest of spurring growth through infill development.

By our understanding, the capacity of the City of Los Angeles to service its *existing* population with fire, safety and emergency medical personnel is *already* limited. As an example, there are a limited number of fire stations, with limited schedules, serving the densely populated areas of Los Angeles, including Century City, that are adjacent to the City of Beverly Hills.

Thus, if the City of Los Angeles allows intensified development in the surrounding area, including development that results in population growth, the impacts may produce dire consequences.

As you know, our cities agree to aid each other in the event of catastrophic occurrences, including earthquakes, fires and other disasters. To the extent Los Angeles is unable, through limited infrastructure capacity, to provide emergency services to its own population, an undue burden will be placed on the City of Beverly Hills. In other words, we will be asked to compensate for your city's deficiencies. This is unreasonable.

Similarly, in the event we require the support of Los Angeles to help contain a large-scale disaster in Beverly Hills, the City of L.A. may be insufficiently equipped to assist us.

In the interest of assuring sufficient regional infrastructure capacity, we strongly urge that an Environmental Impact Report be prepared before the City of Los Angeles moves to adopt a major rewrite of its zoning code that would spur growth.

Thank you for your consideration and prompt attention to this matter.

Respectfully yours,

A handwritten signature in cursive script that reads "Nancy Krasne".

Nancy Krasne

Measure R



Measure R:
**You had the vision.
Thanks to Measure R,
now we have the tools.**

[4 New Stations to be Added](#)

[View our Measure R Project Tracker](#)

[View our Measure R Map](#)

[Overview](#)
[Taxpayer Oversight](#)
[FAQs](#)

Overview

Measure R Works for LA

Everyone talks about being stuck in traffic, but Los Angeles County voters did something about it.

In November 2008, Measure R was approved by an amazing two-thirds majority, committing a projected \$40 billion to traffic relief and transportation upgrades throughout the county over the next 30 years.

Measure R will help fund dozens of critical transit and highway projects, create more than 210,000 new construction jobs and infuse an estimated \$32 billion back into the local economy, according to estimates by the nonprofit Los Angeles County Economic Development Corporation.

[Latest Measure R Progress Report \(PDF\)](#)

Immediate benefits

Some of Measure R's most immediate benefits will be for the 88 cities in Los Angeles County. In the first full year of implementation, local jurisdictions are expected to receive a total of over \$100 million for their transportation needs.

These funds may be put to work by cities for projects such as pothole repairs, major street resurfacing, left-turn signals, bikeways, pedestrian improvements, streetscapes, traffic signal synchronization and local transit services.

New Projects, Lower Fares

The remaining Measure R funds will finance dozens of new transit and highway projects countywide and accelerate those already in the pipeline. In addition, fares for Metro bus and rail service will remain the same for a year, while discounted fares for disabled, senior, student and Medicare riders will not be raised for five years.

[Measure R Project Tracker](#)

Taxpayer Oversight

All Measure R funds will be spent in accordance with the plan approved by voters. There will be an annual independent audit and report to taxpayers and ongoing monitoring and review of spending by an independent taxpayer oversight committee.

CEQA

Prior to any approval and commencement of any Measure R project, any necessary environmental review required by the California Environmental Quality Act (CEQA) shall be completed.

Read More About Measure R

- [Expenditure Plan](#) – Details funding sources and expenditure categories.
- [Ordinance](#) - Full text of Measure R as approved by voters.

Keywords: measure r overview

Last Revised: Wednesday December 30, 2009

Printer Friendly Version for '[Overview](#)'

Taxpayer Oversight

Taxpayer Oversight

All Measure R funds will be spent in accordance with the plan approved by voters. There will be an annual independent audit and report to taxpayers and ongoing monitoring and review of spending by an independent taxpayer oversight committee.

- [Expenditure Plan](#) (PDF)
- [Ordinance](#) (PDF)

Keywords: measure r taxpayer oversight

Last Revised: Friday October 09, 2009

Printer Friendly Version for '[Taxpayer Oversight](#)'

FAQs

- Q1.** What is Measure R?
- Q2.** How much money would it generate and for how long?
- Q3.** Exactly what major new transit and highway projects would the money fund?
- Q4.** Will local jurisdictions receive revenue from this tax?
- Q5.** What would be the yearly cost to individuals here in LA County?
- Q6.** What are the economic impacts of Measure R?
- Q7.** How do we know the money will be spent on transportation improvements?
- Q8.** How is the revenue distributed among the County's different sub-regions?
- Q9.** If there's no project in my immediate neighborhood, how does Measure R affect my neighborhood?
- Q10.** How much of the revenues generated will go for Metro administrative costs?
- Q11.** Are there already transportation sales taxes in LA County?
- Q12.** How has the money been used from those sales taxes?
- Q13.** Why did Metro place another half-cent sales tax on the ballot?
- Q14.** How would the sales tax be imposed?
- Q15.** How long will it take to complete these projects?

Q1. What is Measure R?

Measure R is a half-cent sales tax for Los Angeles County that would finance new transportation projects and programs, and accelerate many of those already in the pipeline – everything from new rail and/or bus rapid transit projects, commuter rail improvements, Metro Rail system improvements, highway projects, improved countywide and local bus operations and local city sponsored transportation improvements. The measure garnered the minimum two-thirds vote in the November 2008 election and became law January 2, 2009 with the tax taking effect in July 2009.

Q2. How much money would it generate and for how long?

Measure R is expected to generate \$40 billion in new local sales tax revenues over 30 years.

Q3. Exactly what major new transit and highway projects would the money fund?

Measure R is expected to contribute funds towards the Expo light rail line on the Westside, a light rail connector in Downtown Los Angeles, a Crenshaw corridor transit project, extension of the Metro Gold Line, the Foothill Extension of the Metro Gold Line, a rail connection to LAX, a Green Line Extension to the South Bay, a San Fernando Valley I-405 Corridor transit project, North-South Corridor transit project in the San Fernando Valley, a West Santa Ana Branch corridor project and a Westside subway extension.

Highway projects projected to receive funds include grade separations, soundwalls, high dessert corridor, I-5/SR-14 interchange, I-5 from I-605 to the Orange County Line including the Carmenita interchange, I-5 from SR-134 to SR-170, operational improvements in Arroyo Verdugo and Las Virgenes/Malibu, South Bay freeway ramp and interchange improvements, I-5 capacity enhancements north of SR-14, I-605 hot spot interchanges, SR-710 North gap closure, I-710 South, and SR-138.

In developing Measure R, the Metro Board of Directors approved an expenditure plan detailing how all of the funds will be spent. Measure R does not fully fund all projects. The expenditure plan identifies additional funding sources.

Q4. Will local jurisdictions receive revenue from this tax?

Yes. Beyond the specific projects cited in the expenditure plan, the region's 88 cities and County unincorporated areas will receive 15% of all sales tax revenue for local needs such as major street resurfacing, rehabilitation and reconstruction; pothole repair; left-turn signals; bikeways; pedestrian improvements; streetscapes; signal synchronization; and transit service improvements. In addition, 20% of the sales tax revenue will subsidize County-wide bus operations.

Q5. What would be the yearly cost to individuals here in LA County?

The private nonprofit Los Angeles County Economic Development Corporation (LAEDC) estimates that the tax increase would cost each resident an average of \$25 per person annually.

Q6. What are the economic impacts of Measure R?

The LAEDC also projects the construction of projects listed in Measure R would create over 210,000 new jobs and infuse \$32 billion into the local economy.

Q7. How do we know the money will be spent on transportation improvements?

To determine compliance by Metro with the provisions of this new sales tax measure, the ballot measure calls for an annual independent audit and report to taxpayers, plus ongoing monitoring and review of spending by an independent taxpayer oversight committee.

Q8. How is the revenue distributed among the County's different sub-regions?

The highway, bus and rail projects identified in the expenditure plan are spread throughout the County. In addition, each of the individual cities and unincorporated areas within Los Angeles County will receive a share of the revenue to use at their discretion for local transportation needs.

Q9. If there's no project in my immediate neighborhood, how does Measure R affect my neighborhood?

All of the region's 88 cities and unincorporated areas will receive a portion of the sales tax revenue to use at their discretion for local needs such as major street resurfacing, rehabilitation and reconstruction; pothole repair; left turn signals; bikeways; pedestrian improvements; streetscapes; signal synchronization; and transit service improvements.

Q10. How much of the revenues generated will go for Metro administrative costs?

The measure limits Metro administrative costs to no more than 1.5% each year.

Q11. Are there already transportation sales taxes in LA County?

Yes, there are currently two half-cent transportation sales taxes in LA County.

Q12. How has the money been used from those sales taxes?

Los Angeles County has expanded bus and rail service, freeway carpool lanes and local street improvements over the past decade from the revenue generated by the existing sales taxes. Those projects have helped to meet the increasing transportation needs generated by the region's major growth in population, employment and goods movement.

Metro is now the third largest public transportation system in the nation, carrying 1.6 million passengers on an average weekday, along with the world's largest network of freeway carpool lanes.

Q13. Why did Metro place another half-cent sales tax on the ballot?

The revenue generated from the existing transportation sales tax is inadequate to fund the range of transportation projects that Metro believes the County needs over the next 30 years.

Q14. How would the sales tax be imposed?

The sales tax would be imposed in the same manner as existing sales taxes. The sales tax would be imposed upon all retailers in the incorporated and unincorporated territory of the County of Los Angeles on gross receipts of the retailer, as well as an excise tax on the storage, use or other consumption of tangible personal property purchased from a retailer.

Q15. How long will it take to complete these projects?

There are short, medium and long-term traffic improvements. Street resurfacing and deployment of additional bus and Metrolink service can be done relatively quickly. Construction of new busways, light rail lines, highway and subway projects can take up to five years or longer. The expenditure plan spreads out the anticipated funding with some projects being built in the early years and others being built in the latter part of the 30-year sales tax period.

Keywords: measure r FAQ

Last Revised: Wednesday March 03, 2010

Printer Friendly Version for 'FAQs'

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Ordinance # 08-01

Traffic Relief and Rail Expansion Ordinance

PREAMBLE

Mobility in Los Angeles County is a necessity and requires an aggressive, responsible and accountable plan to meet the transportation needs of its more than 10 million residents.

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1. **RAIL EXPANSION:**
Expand the county's Metro rail system, including direct airport connection
 2. **LOCAL STREET IMPROVEMENTS:**
Synchronize signals, fill potholes, repair streets, and make neighborhood streets and intersections safer for drivers, bicyclists, and pedestrians in each community
 3. **TRAFFIC REDUCTION:**
Enhance safety and improve flow on L.A. County freeways and highways
 4. **BETTER PUBLIC TRANSPORTATION:**
Make public transportation more convenient and affordable - especially for seniors, students, disabled and commuters
 5. **QUALITY OF LIFE:**
Provide alternatives to high gas prices, stimulate the local economy, create jobs, reduce pollution and decrease dependency on foreign oil

SECTION 1. TITLE

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This Ordinance shall be known and may be cited as the Traffic Relief and Rail Expansion Ordinance, Imposing a Transactions and Use Tax to be Administered by the State Board of Equalization. The word "Ordinance," as used herein, shall include Attachment A entitled "Expenditure Plan" which is attached hereto and incorporated by reference as if fully set forth herein.

SECTION 2. SUMMARY

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This Ordinance provides for the establishment and implementation of a retail transactions and use tax at the rate of one-half of one percent (.5%) for a period of thirty (30) years and an expenditure plan.

SECTION 3. DEFINITIONS

1 The following words, whenever used in this Ordinance, shall have the meanings as
2 set forth below:

3 "Board of Equalization" means the California State Board of Equalization.

4 "Capital Project" means a project or program described in Attachment A as a
5 "Capital Project."

6 "Expenditure Plan" means that expenditure plan for the revenues derived from
7 a Sales Tax imposed pursuant to this Ordinance, and any other identified state and
8 local funding, as required under proposed amended Section 130350.5(f) of the
9 Public Utilities Code.

10 "Gross Sales Tax" means the amount of Sales Tax collected by the Board of
11 Equalization pursuant to this Ordinance.

12 "Interest" means interest and other earnings on cash balances.

13 "Metro" or "MTA" means the Los Angeles County Metropolitan Transportation
14 Authority or any successor entity.

15 "Net Revenues" means Sales Tax Revenues minus any amount expended on
16 administrative costs pursuant to Section 10.

17 "Sales Tax" means a retail transactions and use tax.

18 "Sales Tax Revenues" means the Gross Sales Tax minus any refunds and any
19 fees imposed by the Board of Equalization for the performance of functions incident
20 to the administration and operation of this Ordinance.

21 22 SECTION 4. STATUTORY AUTHORITY

23 This Ordinance is enacted, in part, pursuant to:

24 a. Part 1.6 (commencing with Section 7251) of Division 2 of the California
25 Revenue and Taxation Code;

26 b. Division 12 (commencing with Section 130000) of the California Public
27 Utilities Code;

28 c. Proposed amendments to Section 130350.5 of the California Public
29 Utilities Code adopted during the 2007-2008 legislative session.

30 31 SECTION 5. IMPOSITION OF RETAIL TRANSACTIONS AND USE TAX

32 a. Subject to the limits imposed by this Ordinance, Metro hereby imposes,
33 in the incorporated and unincorporated territory of Los Angeles County, a Sales Tax
34 at the rate of one-half of one percent (.5%) for a period of thirty (30) years beginning

1 on the first day of the first calendar quarter commencing not less than 180 days after
2 the adoption of this Ordinance by the voters.

3 b. This Sales Tax shall be in addition to any other taxes authorized by law,
4 including any existing or future state or local Sales Tax. The imposition,
5 administration and collection of the tax shall be in accordance with all applicable
6 statutes, laws, and rules and regulations prescribed and adopted by the Board of
7 Equalization.

8 c. Pursuant to proposed amended Section 130350.5(d) of the Public
9 Utilities Code, the tax rate authorized by this section shall not be considered for
10 purposes of the combined rate limit established by Section 7251.1 of the Revenue
11 and Taxation Code.

12 d. Pursuant to the provisions of Section 7262.2 of the Revenue and
13 Taxation Code, the required provisions of Sections 7261 and 7262 of that Code as
14 now in effect or as later amended are adopted by reference in this Ordinance.

15 e. This Ordinance incorporates provisions identical to those of the Sales
16 and Use Tax Law of the State of California insofar as those provisions are not
17 inconsistent with the requirements and limitations contained in Part 1.6 of Division 2
18 of the Revenue and Taxation Code.

19 f. The Sales Tax shall be administered and collected by the Board of
20 Equalization in a manner that adapts itself as fully as practicable to, and requires the
21 least possible deviation from, the existing statutory and administrative procedures
22 followed by the Board of Equalization in administering and collecting the California
23 State Sales and Use Taxes.

24 g. This Sales Tax shall be administered in a manner that will be, to the
25 greatest degree possible, consistent with the provisions of Part 1.6 of Division 2 of
26 the Revenue and Taxation Code, minimize the cost of collecting the transactions and
27 use taxes, and at the same time, minimize the burden of record keeping upon
28 persons subject to taxation under the provisions of this Ordinance.

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30 **SECTION 6. ADMINISTRATION BY BOARD OF EQUALIZATION**

31 a. **CONTRACT WITH STATE.** Prior to the operative date, Metro shall
32 contract with the Board of Equalization to perform all functions incident to the
33 administration and operation of this Ordinance; provided, that if Metro shall not have
34 contracted with the Board of Equalization prior to the operative date, it shall

1 nevertheless so contract and in such a case the operative date shall be the first day of
2 the first calendar quarter following the execution of such a contract.

3 b. TRANSACTIONS TAX RATE. For the privilege of selling tangible
4 personal property at retail, a tax is hereby imposed upon all retailers in the
5 incorporated and unincorporated territory of Los Angeles County at the rate of one half
6 of one percent (.5%) of the gross receipts of any retailer from the sale of all tangible
7 personal property sold at retail in said territory on and after the operative date of this
8 Ordinance.

9 c. PLACE OF SALE. For the purposes of this Ordinance, all retail sales are
10 consummated at the place of business of the retailer unless the tangible personal
11 property sold is delivered by the retailer or his agent to an out-of-state destination or to
12 a common carrier for delivery to an out-of-state destination. The gross receipts from
13 such sales shall include delivery charges, when such charges are subject to the state
14 sales and use tax, regardless of the place to which delivery is made. In the event a
15 retailer has no permanent place of business in the State or has more than one place of
16 business, the place or places at which the retail sales are consummated shall be
17 determined under rules and regulations to be prescribed and adopted by the Board of
18 Equalization.

19 d. USE TAX RATE. An excise tax is hereby imposed on the storage, use or
20 other consumption in Los Angeles County of tangible personal property purchased
21 from any retailer on and after the operative date of this Ordinance for storage, use or
22 other consumption in Los Angeles County at the rate of one half of one percent (.5%)
23 of the sales price of the property. The sales price shall include delivery charges when
24 such charges are subject to state sales or use tax regardless of the place to which
25 delivery is made.

26 e. ADOPTION OF PROVISIONS OF STATE LAW. Except as otherwise
27 provided in this Ordinance and except insofar as they are inconsistent with the
28 provisions of Part 1.6 of Division 2 of the Revenue and Taxation Code, all of the
29 provisions of Part 1 (commencing with Section 6001) of Division 2 of the Revenue and
30 Taxation Code are hereby adopted and made a part of this Ordinance as though fully
31 set forth herein.

32 f. LIMITATIONS ON ADOPTION OF STATE LAW AND COLLECTION OF
33 USE TAXES. In adopting the provisions of Part 1 of Division 2 of the Revenue and
34 Taxation Code:

1 1. Wherever the State of California is named or referred to as the
2 taxing agency, the name of Metro shall be substituted therefor. However, the
3 substitution shall not be made when:

4 A. The word "State" is used as a part of the title of the State
5 Controller, State Treasurer, State Board of Control, State Board of Equalization, State
6 Treasury, or the Constitution of the State of California;

7 B. The result of that substitution would require action to be
8 taken by or against Metro or any agency, officer, or employee thereof rather than by or
9 against the Board of Equalization, in performing the functions incident to the
10 administration or operation of this Ordinance.

11 C. In those sections, including, but not necessarily limited to
12 sections referring to the exterior boundaries of the State of California, where the result
13 of the substitution would be to:

14 i. Provide an exemption from this Sales Tax with
15 respect to certain sales, storage, use or other consumption of tangible personal
16 property which would not otherwise be exempt from this Sales Tax while such sales,
17 storage, use or other consumption remain subject to tax by the State under the
18 provisions of Part 1 of Division 2 of the Revenue and Taxation Code, or;

19 ii. Impose this Sales Tax with respect to certain sales,
20 storage, use or other consumption of tangible personal property which would not be
21 subject to this Sales Tax by the state under the said provision of that code.

22 D. In Sections 6701, 6702 (except in the last sentence
23 thereof), 6711, 6715, 6737, 6797 or 6828 of the Revenue and Taxation Code.

24 2. The phrase "Los Angeles County Metropolitan Transportation
25 Authority or any successor entity" shall be substituted for the word "State" in the
26 phrase "retailer engaged in business in this State" in Section 6203 and in the definition
27 of that phrase in Section 6203 of the Revenue and Taxation Code.

28 g. **PERMIT NOT REQUIRED.** If a seller's permit has been issued to a
29 retailer under Section 6067 of the Revenue and Taxation Code, an additional
30 transactor's permit shall not be required by this Ordinance.

31 h. **EXEMPTIONS AND EXCLUSIONS.**

32 1. There shall be excluded from the measure of the transactions tax
33 and the use tax the amount of any sales tax or use tax imposed by the State of
34 California or by any city, city and county, or county pursuant to the Bradley-Burns

1 Uniform Local Sales and Use Tax Law or the amount of any state-administered
2 transactions or use tax.

3 2. There are exempted from the computation of the amount of
4 transactions tax the gross receipts from:

5 A. Sales of tangible personal property, other than fuel or
6 petroleum products, to operators of aircraft to be used or consumed principally outside
7 the County in which the sale is made and directly and exclusively in the use of such
8 aircraft as common carriers of persons or property under the authority of the laws of
9 this State, the United States, or any foreign government.

10 B. Sales of property to be used outside Los Angeles County
11 which is shipped to a point outside Los Angeles County, pursuant to the contract of
12 sale, by delivery to such point by the retailer or his agent, or by delivery by the retailer
13 to a carrier for shipment to a consignee at such point. For the purposes of this
14 paragraph, delivery to a point outside Los Angeles County shall be satisfied:

15 i. With respect to vehicles (other than commercial
16 vehicles) subject to registration pursuant to Chapter 1 (commencing with Section
17 4000) of Division 3 of the Vehicle Code, aircraft licensed in compliance with Section
18 21411 of the Public Utilities Code, and undocumented vessels registered under
19 Division 3.5 (commencing with Section 9840) of the Vehicle Code by registration to an
20 address outside Los Angeles County and by a declaration under penalty of perjury,
21 signed by the buyer, stating that such address is, in fact, his or her principal place of
22 residence; and

23 ii. With respect to commercial vehicles, by registration
24 to a place of business outside Los Angeles County and declaration under penalty of
25 perjury, signed by the buyer, that the vehicle will be operated from that address.

26 C. The sale of tangible personal property if the seller is
27 obligated to furnish the property for a fixed price pursuant to a contract entered into
28 prior to the operative date of this Ordinance.

29 D. A lease of tangible personal property which is a continuing
30 sale of such property, for any period of time for which the lessor is obligated to lease
31 the property for an amount fixed by the lease prior to the operative date of this
32 Ordinance.

33 E. For the purposes of subparagraphs (C) and (D) of this
34 section, the sale or lease of tangible personal property shall be deemed not to be

1 obligated pursuant to a contract or lease for any period of time for which any party to
2 the contract or lease has the unconditional right to terminate the contract or lease upon
3 notice, whether or not such right is exercised.

4 3. There are exempted from the use tax imposed by this Ordinance,
5 the storage, use or other consumption in Los Angeles County of tangible personal
6 property:

7 A. The gross receipts from the sale of which have been
8 subject to a transactions tax under any state-administered transactions and use tax
9 ordinance.

10 B. Other than fuel or petroleum products purchased by
11 operators of aircraft and used or consumed by such operators directly and exclusively
12 in the use of such aircraft as common carriers of persons or property for hire or
13 compensation under a certificate of public convenience and necessity issued pursuant
14 to the laws of this State, the United States, or any foreign government. This exemption
15 is in addition to the exemptions provided in Sections 6366 and 6366.1 of the Revenue
16 and Taxation Code of the State of California.

17 C. If the purchaser is obligated to purchase the property for a
18 fixed price pursuant to a contract entered into prior to the operative date of this
19 Ordinance.

20 D. If the possession of, or the exercise of any right or power
21 over, the tangible personal property arises under a lease which is a continuing
22 purchase of such property for any period of time for which the lessee is obligated to
23 lease the property for an amount fixed by a lease prior to the operative date of this
24 Ordinance.

25 E. For the purposes of subparagraphs (C) and (D) of this
26 section, storage, use, or other consumption, or possession of, or exercise of any right
27 or power over, tangible personal property shall be deemed not to be obligated
28 pursuant to a contract or lease for any period of time for which any party to the
29 contract or lease has the unconditional right to terminate the contract or lease upon
30 notice, whether or not such right is exercised.

31 F. Except as provided in subparagraph (G), a retailer
32 engaged in business in Los Angeles County shall not be required to collect use tax
33 from the purchaser of tangible personal property, unless the retailer ships or delivers
34 the property into the County or participates within the County in making the sale of the

1 property, including, but not limited to, soliciting or receiving the order, either directly or
2 indirectly, at a place of business of the retailer in County or through any representative,
3 agent, canvasser, solicitor, subsidiary, or person in the County under the authority of
4 the retailer.

5 G. "A retailer engaged in business in Los Angeles County"
6 shall also include any retailer of any of the following: vehicles subject to registration
7 pursuant to Chapter 1 (commencing with Section 4000) of Division 3 of the Vehicle
8 Code, aircraft licensed in compliance with Section 21411 of the Public Utilities Code,
9 or undocumented vessels registered under Division 3.5 (commencing with Section
10 9840) of the Vehicle Code. That retailer shall be required to collect use tax from any
11 purchaser who registers or licenses the vehicle, vessel, or aircraft at an address in Los
12 Angeles County.

13 4. Any person subject to use tax under this Ordinance may credit
14 against that tax any transactions tax or reimbursement for transactions tax paid to a
15 district imposing, or retailer liable for a transactions tax pursuant to Part 1.6 of Division
16 2 of the Revenue and Taxation Code with respect to the sale to the person of the
17 property the storage, use or other consumption of which is subject to the use tax.

18 i. AMENDMENTS. All amendments subsequent to the effective date of this
19 Ordinance to Part 1 of Division 2 of the Revenue and Taxation Code relating to sales
20 and use taxes and which are not inconsistent with Part 1.6 and Part 1.7 of Division 2 of
21 the Revenue and Taxation Code, and all amendments to Part 1.6 and Part 1.7 of
22 Division 2 of the Revenue and Taxation Code, shall automatically become a part of
23 this Ordinance, provided however, that no such amendment shall operate so as to
24 affect the rate of tax imposed by this Ordinance.

25 j. ENJOINING COLLECTION FORBIDDEN. No injunction or writ of
26 mandate or other legal or equitable process shall issue in any suit, action or
27 proceeding in any court against the State or Metro, or against any officer of the State
28 or Metro, to prevent or enjoin the collection under this Ordinance, or Part 1.6 of
29 Division 2 of the Revenue and Taxation Code, of any tax or any amount of tax
30 required to be collected.

31 SECTION 7. USE OF REVENUES

32 a. All of the Net Revenues generated from the Sales Tax plus any Interest
33 or other earnings thereon, less any funds necessary for satisfaction of debt service
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1 and related requirements of all bonds issued pursuant to this Ordinance that are not
2 satisfied out of separate allocations, shall be allocated solely for the transportation
3 purposes described in this Ordinance.

4 b. Metro shall establish and administer a sales tax revenue fund with
5 appropriate subfunds to account for the allocation categories defined in this
6 Ordinance. All Net Revenues and Interest on Sales Tax Revenues shall be credited
7 into the sales tax revenue fund and credited to the appropriate subfunds pursuant to
8 the allocation ratios described on page 1 of Attachment A. The moneys in the sales
9 tax revenue fund shall be available to Metro to meet expenditure and cashflow needs
10 of the projects and programs described in Attachment A. Metro may expend
11 additional funds from sources other than the Sales Tax imposed pursuant to this
12 Ordinance on the projects and programs described in Attachment A. Funds shall be
13 available for projects and programs described in Attachment A beginning in the fiscal
14 years identified in Attachment A as "Funds Available Beginning."

15 c. Metro shall establish the following subfunds of the sales tax revenue
16 fund:

- 17 1. Transit Capital Subfund
- 18 2. Highway Capital Subfund
- 19 3. Operations Subfund
- 20 4. Local Return Subfund

21 d. Funds in the Transit Capital Subfund shall be allocated to Capital
22 Projects identified in Attachment A as "Transit Projects."

23 1. For those Capital Projects identified in Attachment A as "Transit
24 Projects" and identified as "Escalated \$," Metro shall expend no less than the amount
25 of Net Revenues identified in Attachment A as "New Sales Tax – Total" for each
26 Capital Project so identified.

27 2. For those Capital Projects identified in Attachment A as "Transit
28 Projects" and identified as "Current 2008 \$," Metro shall expend no less than an
29 amount of Net Revenues equal to the value of the amount identified in Attachment A
30 as "New Sales Tax – Total" for each Capital Project so identified. The amount of Net
31 Revenues equal to the value of the amount identified in Attachment A as "New Sales
32 Tax – Total" shall be determined by adjusting the amount identified as follows, at the
33 discretion of Metro:

1 A. Up to four percent (4%) annually for the fiscal years 2010
2 through 2014; and

3 B. Up to three percent (3%) annually for the fiscal year 2015
4 and all fiscal years thereafter.

5 3. Metro shall allocate no less than the amount of Net Revenues
6 identified in Attachment A as "New Sales Tax – Total" for the project identified in
7 Attachment A as "Capital Project Contingency (Transit)." Funds allocated to "Capital
8 Project Contingency (Transit)" shall be expended as needed to provide additional
9 funding for Capital Projects identified in Attachment A as "Transit Projects." Metro
10 may expend such funds for debt service, excluding payments for principal, to offset
11 the costs of inflation, or for any other purpose. Metro shall not expend an amount of
12 Net Revenues from Capital Project Contingency (Transit) that is greater than the
13 amount permitted in paragraph (d)(2) for any Capital Project.

14 4. In the event that a Capital Project identified in Attachment A as a
15 "Transit Project" is completed without the expenditure of the amount of Net
16 Revenues allocated by this Ordinance, any surplus Net Revenues allocated to that
17 Capital Project shall be credited to the Transit Capital Subfund and expended for
18 Capital Projects located within the same subregion as the project so completed. The
19 Board of Directors of Metro shall determine by a two-thirds vote whether a Capital
20 Project is complete.

21 e. Funds in the Highway Capital Subfund shall be allocated to Capital
22 Projects identified in Attachment A as "Highway Projects."

23 1. For those Capital Projects identified in Attachment A as
24 "Highway Projects" and identified as "Escalated \$," Metro shall expend no less than
25 the amount of Net Revenues identified in Attachment A as "New Sales Tax – Total"
26 for each Capital Project so identified.

27 2. For those Capital Projects identified in Attachment A as
28 "Highway Projects" and identified as "Current 2008 \$," Metro shall expend no less
29 than an amount of Net Revenues equal to the value of the amount identified in
30 Attachment A as "New Sales Tax – Total" for each Capital Project so identified. The
31 amount of Net Revenues equal to the value of the amount identified in Attachment A
32 as "New Sales Tax – Total" shall be determined by adjusting the amount identified as
33 follows, at the discretion of Metro:

1 A. Up to four percent (4%) annually for the fiscal years 2010
2 through 2014; and

3 B. Up to three percent (3%) annually for the fiscal year 2015
4 and all fiscal years thereafter.

5 3. Metro shall allocate no less than the amount of Net Revenues
6 identified in Attachment A as "New Sales Tax – Total" for the project identified in
7 Attachment A as "Capital Project Contingency (Highway)." Funds allocated to
8 "Capital Project Contingency (Highway)" shall be expended as needed to provide
9 additional funding for Capital Projects identified in Attachment A as "Highway
10 Projects." Metro may expend such funds for debt service, excluding payments for
11 principal, to offset the costs of inflation, or for any other purpose. Metro shall not
12 expend an amount of Net Revenues from Capital Project Contingency (Highway) that
13 is greater than the amount permitted in paragraph (e)(2) for any Capital Project.

14 4. In the event that a Capital Project identified in Attachment A as a
15 "Highway Project" is completed without the expenditure of the amount of Net
16 Revenues allocated by this Ordinance, any surplus Net Revenues allocated to that
17 Capital Project shall be credited to the Highway Capital Subfund and expended for
18 Capital Projects located within the same subregion as the project so completed. The
19 Board of Directors of Metro shall determine by a two-thirds vote whether a Capital
20 Project is complete.

21 f. Funds in the Operations Subfund shall be allocated to the projects and
22 programs described in Attachment A as "Operations." Metro shall expend the
23 percentage of Net Revenues identified in Attachment A as "Percent of New Sales
24 Tax" for each project and program described in Attachment A as "Operations."

25 g. Funds in the Local Return Subfund shall be allocated to the projects
26 and programs described in Attachment A as "Local Return." Metro shall expend the
27 percentage of Net Revenues identified in Attachment A as "Percent of New Sales
28 Tax" for each project and program described in Attachment A as "Local Return."

29 1. No Net Revenues distributed to a local jurisdiction pursuant to
30 Paragraph (g) shall be used for other than transportation purposes. Any jurisdiction
31 that violates this provision must fully reimburse Metro, including Interest thereon, for
32 the Net Revenues misspent and shall be deemed ineligible to receive Net Revenues
33 for a period of three (3) years.

1 2. To the extent that funds are returned to local jurisdictions
2 pursuant to this paragraph, the receipt, maintenance and expenditure of such funds
3 shall be distinguishable in each jurisdiction's accounting records from other funding
4 sources, and expenditures of such funds shall be distinguishable by program or
5 project. Interest earned on funds allocated pursuant to this paragraph shall be
6 expended only for those purposes for which the funds were allocated.

7 h. Metro may enter into an agreement with the Board of Equalization to
8 transfer Sales Tax Revenues directly to a bond trustee or similar fiduciary, in order to
9 provide for the timely payment of debt service and related obligations, prior to
10 Metro's receipt and deposit of such Sales Tax Revenues into the sales tax revenue
11 fund; provided, however, that such payments of debt service and related obligations
12 shall be allocated to the appropriate Capital Project Contingency line item or to such
13 subfund within the sales tax revenue fund consistent with the expenditure of the
14 proceeds of the corresponding debt.

15 i. Metro shall propose the projects and programs in Attachment A for
16 inclusion in the Long Range Transportation Plan.

17
18 SECTION 8. OVERSIGHT

19 a. Commencing with the 2009-2010 fiscal year, and in accordance with
20 Section 8(a)(1) of this Ordinance, Metro shall contract for an annual audit, to be
21 completed within six months after the end of the fiscal year being audited, for the
22 purpose of determining compliance by Metro with the provisions of this Ordinance
23 relating to the receipt and expenditure of Sales Tax Revenues during such fiscal
24 year.

25 1. Prior to entering into a contract with an auditing firm to perform
26 any audit required under Section 8(a), Metro shall solicit bids from at least three
27 qualified firms. Notwithstanding any other provision of law, the cost of performing
28 and publishing any audit required under Section 8(a) of this Ordinance shall be paid
29 from Sales Tax Revenues.

30 b. There is hereby established a Proposition R Independent Taxpayers
31 Oversight Committee of Metro ("Committee"). The Committee shall meet at least
32 twice each year to carry out the purposes of this Ordinance.

33 c. The Committee shall be comprised of three persons, each of whom
34 shall be a retired Federal or State Judge. Committee members shall be selected as

1 follows: one member shall be appointed by the Los Angeles County Board of
2 Supervisors; one member shall be appointed by the Mayor of the City of Los
3 Angeles; and one member shall be appointed by the Los Angeles County City
4 Selection Committee. The members of the Committee must reside in Los Angeles
5 County. No person currently serving as an elected or appointed city, county, special
6 district, state, or federal public officeholder shall be eligible to serve as a member of
7 the Committee.

8 d. The Committee shall select and consult with an advisory panel when
9 performing its responsibilities required under this Ordinance. The advisory panel
10 shall consist of at least one representative, and not more than two, of the following
11 professions or areas of expertise:

- 12 1. Construction trade labor union representative
- 13 2. Environmental engineer or environmental scientist
- 14 3. Road or rail construction firm project manager
- 15 4. Public and private finance expert
- 16 5. Regional association of businesses representative
- 17 6. Transit system user

18 e. All meetings of the Committee shall be held within Los Angeles County.
19 All meetings of the Committee shall be held in compliance with the provisions of the
20 Ralph M. Brown Act (Section 54950 et seq. of the California Government Code).

21 f. Each member of the Committee shall serve for a term of two years, and
22 until a successor is appointed. No member of the Committee shall be entitled to any
23 compensation, except that Metro may reimburse actual expenses of members
24 arising out of the performance of their duties as Committee members.

25 g. Members of the advisory panel may be replaced by the Committee at
26 any time by a majority vote of the Committee. No member of the advisory panel
27 shall be entitled to any compensation, except that Metro may reimburse actual
28 expenses of members arising out of the performance of their duties as advisory
29 panel members.

30 h. Metro may adopt further guidelines to govern the operations of the
31 Committee.

32 i. The Committee shall have the following responsibilities:

- 33 1. Review the results of the audit performed pursuant to Section
34 8(a) of this Ordinance and make findings as to whether Metro has complied with the

1 terms of the Ordinance. Such findings shall include a determination as to whether
2 recipients of Net Revenues allocated to the Local Return Subfund have complied
3 with this Ordinance and any additional guidelines developed by Metro pursuant to
4 Section 9(b).

5 2. Prepare an annual report to the Metro Board of Directors
6 presenting the results of the annual audit process and any findings made. The report
7 shall include an assessment of the consistency of the expenditures of Sales Tax
8 Revenues with this Ordinance, including Attachment A. The Committee shall cause
9 a summary of the report to be published in local newspapers and the entire report
10 and annual audit to be made available to every library located within Los Angeles
11 County for public review. The Committee shall hold a public hearing on each audit
12 and annual report and shall report the comments of the public to Metro.

13 3. Review any proposed amendments to this Ordinance, including
14 the expenditure plan, and make a finding as to whether the proposed amendments
15 further the purpose of this Ordinance. Metro shall make any proposed amendments
16 available to the Committee at least 30 days prior to any vote to adopt the proposed
17 amendments.

18 4. Review all proposed debt financing and make a finding as to
19 whether the benefits of the proposed financing for accelerating project delivery,
20 avoiding future cost escalation, and related factors exceed issuance and interest
21 costs.

22 5. Any findings made by the Committee shall be submitted to the
23 Metro Board of Directors in advance of the next regular Board meeting
24

25 SECTION 9. MAINTENANCE OF EFFORT REQUIREMENTS

26 a. It is the intent of the Legislature, as stated in Public Utilities Code
27 proposed amended Section 130350.5(e), and Metro, that revenues provided from
28 this Ordinance to local jurisdictions in Los Angeles County under the projects and
29 programs described in Attachment A as "Local Return" be used to augment, not
30 supplant, existing local revenues being used for transportation purposes.

31 b. Metro shall develop guidelines which, at a minimum, specify
32 maintenance of effort requirements for the local return program, matching funds, and
33 administrative requirements for the recipients of revenue derived from the Sales Tax.
34

1 SECTION 10. COSTS OF ADMINISTRATION

2 Gross Sales Tax revenues may be appropriated by Metro for administrative
3 costs, including contractual services; however in no case shall the Gross Sales Tax
4 revenues appropriated for such costs exceed more than one and one-half percent
5 (1.5%) of the Gross Sales Tax revenues in any year.
6

7 SECTION 11. AMENDMENTS

8 a. Metro may amend this Ordinance, including Attachment A, with the
9 exception of Section 11, for any purpose, including as necessary to account for the
10 results of any environmental review required under the California Environmental
11 Quality Act of the individual specific projects listed in Attachment A. Any such
12 amendments shall be approved by a vote of not less than two-thirds (2/3) of the
13 Metro Board of Directors. Metro shall hold a public meeting on proposed
14 amendments prior to adoption. Metro shall provide notice to the Los Angeles County
15 Board of Supervisors, the city council of each city in Los Angeles County, and the
16 public of the public meeting and proposed amendments, and provide them with a
17 copy of the proposed amendments, at least 30 days prior to the public meeting.
18 Amendments shall become effective forty-five days after adoption.

19 b. Notwithstanding Section 11(a) of this Ordinance, Metro shall not adopt
20 any amendment to this Ordinance, including Attachment A, that reduces total Net
21 Revenues allocated to the sum of the Transit Capital Subfund and the Highway
22 Capital Subfund. Not more than once in any ten (10) year period commencing after
23 the year 2019, Metro may adopt an amendment transferring Net Revenues between
24 the Transit Capital Subfund and the Highway Capital Subfund.

25 c. Notwithstanding Section 11(a) of this Ordinance, Metro shall not adopt
26 any amendment to this Ordinance, including Attachment A, that reduces Net
27 Revenues allocated to the Operations Subfund or the Local Return Subfund.

28 d. Metro may amend Section 11 of this Ordinance if such amendments are
29 approved by a vote of not less than two-thirds (2/3) of the Metro Board of Directors
30 and are approved by a simple majority vote of the electors voting on a measure to
31 approve the amendment. Metro shall hold a public meeting on proposed
32 amendments prior to adoption by the Board. Metro shall provide notice to the Los
33 Angeles County Board of Supervisors, the city council of each city in Los Angeles
34 County, and the public of the public meeting and proposed amendments, and

1 provide them with a copy of the proposed amendments, at least 30 days prior to the
2 public meeting. Amendments shall become effective forty-five days after adoption by
3 the electors.
4

5 SECTION 12. ESTABLISHMENT OF BONDING AUTHORITY

6 Metro is authorized to issue limited tax bonds, from time to time, payable from
7 and secured by Sales Tax Revenues to finance any program or project in the
8 Expenditure Plan, pursuant to Sections 130500 et seq. of the Public Utilities Code, and
9 any successor act. As additional security, such bonds may be further payable from
10 and secured by farebox revenues or general revenues of Metro, on a basis
11 subordinate to Metro's existing General Revenue Bonds, or any other available source
12 of Metro's revenues, in each case as specified in a resolution adopted by a majority of
13 Metro's Board of Directors. The maximum bonded indebtedness, including issuance
14 costs, interest, reserve requirements and bond insurance, shall not exceed the total
15 amount of the Gross Sales Tax. Nothing herein shall limit or restrict in any way the
16 power and authority of Metro to issue bonds, notes or other obligations, to enter into
17 loan agreements, leases, reimbursement agreements, standby bond purchase
18 agreements, interest rate swap agreements or other derivative contracts or to engage
19 in any other transaction under the Government Code, the Public Utilities Code or any
20 other law.
21

22 SECTION 13. APPROPRIATIONS LIMIT

23 Article XIII B of the California Constitution requires certain governmental entities
24 to establish an annual appropriations limit. This appropriations limit is subject to
25 adjustment as provided by law. To the extent required by law, Metro shall establish an
26 annual appropriations limit and expenditures of the retail transactions and use tax shall
27 be subject to such limit.
28

29 SECTION 14. ELECTION

30 Pursuant to California Public Utilities Code Section 130350, Metro hereby calls
31 a special election to place this Ordinance before the voters. The ballot language
32 shall read as follows:
33

34 **Traffic Relief. Rail Extensions. Reduce Foreign Oil Dependence.**

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To:

- Synchronize traffic signals;
- Repair potholes;
- Extend light rail with airport connections;
- Improve freeway traffic flow (5, 10, 14, 60, 101, 110, 138, 210, 405, 605, 710);
- Keep senior / student / disabled fares low;
- Provide clean-fuel buses;
- Expand subway / Metrolink / bus service;
- Dedicate millions for community traffic relief;

Shall Los Angeles County's sales tax increase one-half cent for 30 years with independent audits, public review of expenditures, all locally controlled?

SECTION 15. STATUTORY REFERENCES

References in this Ordinance to proposed amendments to Section 130350.5 of the Public Utilities Code are to Section 130350.5 as amended or added by Assembly Bill 2321 of the 2007-2008 legislative session.

SECTION 16. EFFECTIVE AND OPERATIVE DATES

a. This Ordinance shall be effective on January 2, 2009, if:

1. Two-thirds (2/3) of the electors voting on the measure authorizing the imposition of the Sales Tax vote to authorize its enactment at the statewide general election scheduled for November 4, 2008; and

2. A California state statute that provides for all of the following is adopted by the California Legislature and becomes effective prior to January 2, 2009:

A. Requires Metro to include in Attachment A the following projects, programs, and funding levels,:

i. Exposition Boulevard Light Rail Transit Project from downtown Los Angeles to Santa Monica. The sum of nine hundred twenty-five million dollars (\$925,000,000).

1 ii. Crenshaw Transit Corridor from Wilshire Boulevard
2 to Los Angeles International Airport along Crenshaw Boulevard. The sum of two
3 hundred thirty-five million five hundred thousand dollars (\$235,500,000).

4 iii. San Fernando Valley North-South Rapidways. The
5 sum of one hundred million five hundred thousand dollars (\$100,500,000).

6 iv. Metro Gold Line (Pasadena to Claremont) Light
7 Rail Transit Extension. The sum of seven hundred thirty-five million dollars
8 (\$735,000,000).

9 v. Metro Regional Connector. The sum of one
10 hundred sixty million dollars (\$160,000,000).

11 vi. Metro Westside Subway Extension. The sum of
12 nine hundred million dollars (\$900,000,000).

13 vii. State Highway Route 5 Carmenita Road
14 Interchange Improvement. The sum of one hundred thirty-eight million dollars
15 (\$138,000,000).

16 viii. State Highway Route 5 Capacity Enhancement
17 (State Highway Route 134 to State Highway Route 170, including access improvement
18 for Empire Avenue). The sum of two hundred seventy-one million five hundred
19 thousand dollars (\$271,500,000).

20 ix. State Highway Route 5 Capacity Enhancement
21 (State Highway Route 605 to the Orange County line, including improvements to the
22 Valley View Interchange). The sum of two hundred sixty-four million eight hundred
23 thousand dollars (\$264,800,000).

24 x. State Highway Route 5/State Highway Route 14
25 Capacity Enhancement. The sum of ninety million eight hundred thousand dollars
26 (\$90,800,000).

27 xi. Capital Project Contingency Fund. The sum of one
28 hundred seventy-three million dollars (\$173,000,000).

29 xii. Alameda Corridor East Grade Separations. The
30 sum of two hundred million dollars (\$200,000,000).

31 xiii. MTA and Municipal Regional Clean Fuel Bus
32 Capital (Facilities and Rolling Stock). The sum of one hundred fifty million dollars
33 (\$150,000,000).

1 xiv. Countywide Soundwall Construction (MTA
2 Regional List and Monterey Park/State Highway Route 60). The sum of two hundred
3 fifty million dollars (\$250,000,000).

4 xv. Local return for major street resurfacing,
5 rehabilitation, and reconstruction. The sum of two hundred fifty million dollars
6 (\$250,000,000).

7 xvi. Metrolink Capital Improvements. The sum of
8 seventy million dollars (\$70,000,000).

9 xvii. Eastside Light Rail Access. The sum of thirty million
10 dollars (\$30,000,000).

11 B. Authorizes Metro to impose an additional one-half of one
12 percent (.5%) Sales Tax in the incorporated and unincorporated areas of Los Angeles
13 County.

14 C. Provides that any tax imposed by Metro pursuant to the
15 authority granted in the statute shall not be considered for the purposes of the
16 combined rate limit established by Section 7251.1 of the Revenue and Taxation Code;
17 and

18 3. No California state statute that requires Metro to provide funding from
19 revenues derived from the Sales Tax imposed pursuant to this Ordinance for any
20 projects or programs other than those listed in this Section or provide a level of funding
21 greater than described in this Section, is adopted by the California Legislature in the
22 2007-2008 legislative session and becomes law.

23 b. The operative date of the Sales Tax imposed by this Ordinance shall be
24 July 1, 2009, which is the first day of the first calendar quarter commencing not less
25 than 180 days after the adoption of this Ordinance by the voters.

26
27 SECTION 17. SEVERABILITY

28 If any tax or provision of this Ordinance is for any reason held invalid or
29 unenforceable by a court of competent jurisdiction, that holding shall not affect the
30 validity or enforceability of the remaining taxes or provisions, and Metro declares that
31 it would have passed each part of this Ordinance irrespective of the validity of any
32 other part.

30/10 Initiative



[Click here for more information](#)

[Click here to view fact sheet](#)

The Concept
Funding
30/10 Projects
From The Source

The Concept

Simply stated, 30/10 means accomplishing 30 years' worth of transit projects in just 10 years.

The Concept is simple:

The concept of the 30/10 Initiative is to use the long-term revenue from the Measure R sales tax as collateral for long-term bonds and a federal loan which will allow Metro to build 12 key mass transit projects in 10 years, rather than 30. Accelerating construction of these 12 key Metro projects will result in substantial cost savings. Successful implementation of the 30/10 Initiative will also deliver immediate benefits like hundreds of thousands of jobs to improve the local economy, reduce greenhouse emissions and ease traffic congestion. The 30/10 Initiative is both an unprecedented step forward for LA County and a model of progress for the entire nation.

Employment Benefit:

- 160,000 new jobs will be created

Annual Benefits with 30/10:

- 77 million more transit boardings
- 521,000 fewer pounds of mobile source pollution emissions

- **10.3 million** fewer gallons of gasoline used
- **191 million** fewer vehicle miles traveled

Keywords: 30/10

Last Revised: Thursday June 17, 2010

Printer Friendly Version for 'The Concept'

Funding

Here is the Plan:

- Transit Improvement Bonds
- Transportation Infrastructure Finance and Innovation Act (TIFIA)
- Early Systems Work Agreement (ESWA)

Last Revised: Thursday June 17, 2010

Printer Friendly Version for 'Funding'

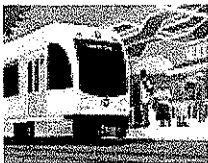
30/10 Projects



Orange Line Extension



Westside Subway Extension (to be opened in segments)



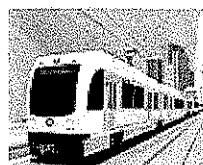
Exposition Transit Corridor Phase 2



West Santa Ana Transit Corridor



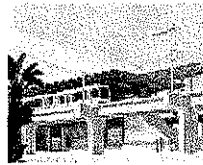
Gold Line Foothill Extension



Eastside Transit Corridor Phase 2



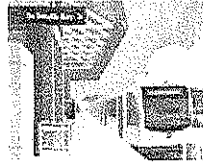
East San Fernando Valley North-South Transit Corridors



Green Line LAX Extension



Crenshaw/LAX Transit Corridor



South Bay Metro Green Line Extension



Regional Connector Transit Corridor



Sepulveda Pass Transit Corridor

Keywords: 30/10

Last Revised: Wednesday August 25, 2010

Printer Friendly Version for '30/10 Projects'

Showing the latest posts relating to: **30/10 Initiative**



Transportation headlines, Friday, Nov. 5

Posted by Steve Hymon on November 5, 2010 10:24 am

Here is a look at some of the transportation headlines gathered by us and the Metro Library. The full list of headlines is posted on the library's blog. California's first high-speed rail ...



Transportation headlines, Wednesday, Nov. 3

Posted by Steve Hymon on November 3, 2010 9:00 am

Here is a look at some of the transportation headlines gathered by us and the Metro Library. The full list of headlines is posted on the library's blog. House chairman of transportation committee ...

Fully underground route for Regional Connector approved by Metro Board of Directors

Posted by Steve Hymon on October 28, 2010 1:06 pm

A project that has long been on the chalkboard but could never gain political or funding traction took a major step forward Thursday when the Metro Board of Directors selected a route for the ...

It's official: Metro Board of Directors selects Wilshire route for Westside Subway Extension, moves project into final study phase

Posted by Steve Hymon on October 28, 2010 11:33 am

The map shows the subway project as it will be further studied in a final environmental impact report. After literally decades of talk, false starts, community resistance and funding dead-ends, a ...

Mayor Villaraigosa talks up 30/10 Initiative to local press

Posted by Steve Hymon on October 27, 2010 3:33 pm

Los Angeles Mayor and Metro Board of Director member Antonio Villaraigosa just finished up a phone call with members of the local press about the 30/10 Initiative and tomorrow's Board vote on ...



Transportation headlines, Thursday, Oct. 21

Posted by Steve Hymon on October 21, 2010 9:45 am

Here is a look at some of the transportation headlines gathered by us and the Metro Library. The full list of headlines is posted on the library's blog. A new Expo Line video (Curbed LA) The ...

Public officials celebrate federal loan for Crenshaw/LAX light rail line

Posted by Steve Hymon on October 20, 2010 3:22 pm

From left, Sen. Barbara Boxer, Supervisor Mark Ridley-Thomas, Rep. Diane Watson, Rep. Jane Harman, Rep. Maxine Waters and L.A. Mayor Antonio Villaraigosa. Photo by Luis Inzunza. With these words, ...



Transportation headlines, Tuesday, October 19

Posted by Gayle Anderson on October 19, 2010 12:51 pm

Here is a look at some of the transportation headlines gathered by us and the Metro Library. The full list of headlines is posted on the library's blog. In the news: L.A. Green District ...



Transportation headlines, Monday, October 18

Posted by Gayle Anderson on October 18, 2010 9:45 am

Here is a look at some of the transportation headlines gathered by us and the Metro Library. The full list of headlines is posted on the library's blog. Gas-Tax Revamp Pushed to Fund ...

Federal loan advances light rail for Crenshaw/LAX Transit Corridor project

Posted by Gayle Anderson on October 15, 2010 4:11 pm

Metro plans to build a light rail line from the intersection of Exposition and Crenshaw boulevards to the Metro Green Line's Aviation/LAX station. A \$546-million federal loan that will enable ...



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Richard Katz Details SB 375 Targets, 30/10 Political Process



Richard Katz

California's delayed water bond and high-speed rail are also included of policy issues under the purview of Richard Katz that made news this month.

*With leadership roles at several powerful organizations, Richard Katz is well known to readers of TPR/MIR as a policy maker driving the future of the region and the state. The past few months have seen several of the issues dear to Richard reaching benchmarks of implementation, including CARB's recommendations for GHG reductions under the auspices of SB 375 and the emergence of the 30/10 plan on the national transportation policy radar, among others. In order to detail the status of these and other critical policy issues falling under his considerable purview, TPR/MIR is pleased to present the following exclusive interview with **Richard Katz**.*

This month, the California Air Resources Board (CARB) released staff recommendations for emission reductions targets mandated by SB 375. You've been involved in this issue for some time now. Talk about your role as a member of the Regional Targets Advisory Committee (RTAC). What should our readers know about where the SB 375 process stands today?

It's still in front of ARB. They're still looking at recommendations, doing hearings, and working to finalize their recommendations. There are a few concerns that a lot of us have, particularly for areas like L.A. L.A. has already done a lot of things to reduce vehicle miles traveled, moving in the direction of SB 375. We want to make sure that when it comes time to measure, folks who didn't wait for the state mandate don't get carded for what they've already done. On the other hand, we want to make sure that the targets that are set in accord with SB 375 can be achieved. It doesn't do anyone any good to have pie in the sky targets that no one has a hope of meeting. We tried to walk a fine line in terms of achieving greater benefit for everyone in the region, making sure we can get there.

What might those targets look like? What has the RTAC been focused on?

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- Doug Gardner, Formerly of Related Companies Grand Avenue Project

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- Robert Garcia, Center for Law in the Public Interest

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The RTAC focused on the part of SB 375 that I disagreed with, and it's part of the bigger question that we all have to grapple with. SB 375 sets out a target, but they've also been building into SB 375 an alternative planning process, which is what you go through if you can't meet the target. That to me has always sounded like a prescription to fall short. If you give people a layout that's less, that is where folks are going to end up. I would much rather see a process—much like we did years ago with gas tax dollars that encouraged self-help counties—that says, "Here's our target. If you exceed that target, there are additional revenues or additional regulatory relief." That provides an incentive to go above and beyond.

Even if we meet SB 375 when it is set, we still have a long way to go to have the kind of air quality and mobility we want in Southern California. The way the process was set up is a little frustrating. Having said that, we will soon have goals and targets, and then we can discuss strategies for getting there.

The RTAC didn't believe we should be prescribing solutions because they are going to be different in every part of the state. We should, however, set performance goals and let local areas decide the best way to get there. Solutions will be different in agricultural areas, rural areas, urban areas, or desert areas—wherever it may be.

Was there a consensus from the RTAC?

The RTAC report that was forwarded to the ARB a while ago had, pretty much, a unanimous vote from the RTAC by the time we were done. We spent a year doing hearings around the state. We spent way too much time discussing modeling, which is like angels dancing on the head of a pin. At the end of the day, the recommendations going forward for VMT reductions and strategies are solid; they recognize how different the state is from one end to the other.

CARB estimated that Southern California, along with other metropolitan regions in the state, should reduce GHG emissions per capita by 7-8 percent from 2005 levels and by 13-16 percent by 2035. How achievable, in this new economic environment, are these Southern California targets, and what might it take on the part of utilities and consumers and business to get there?

For instance, if 30/10, the mayor's transportation vision for building 12 mass transit projects in the next ten years in L.A. County, is enacted and we build those projects, we will beat the target for Southern California. One of the great inconsistencies from the governor and the legislature is in passing things like AB 32 or SB 375 and then eliminating funding for mass transit operations—for the bus drivers and the mechanics that keep the buses and the trains going. Mass transit is the easiest way to meet those targets. On the one hand the legislature mandates targets and goals that we all would like to achieve, but on the other hand they are taking away one of the primary funding sources for meeting those targets and goals.

A lot of good words are being said locally and in Washington D.C. about 30/10, but it seems to be stuck, without a conclusion. What is your assessment of where 30/10 stands?

30/10 is making progress, and we are already seeing results from the effort. Federal DOT has said that the subway expansion will be treated as one project, even though we are going to build it in three segments. That is critical because it saves time: probably two years in the EIR process. It saves money because we are doing it as one project. It makes the project much more competitive because the overall number of boardings on the subway makes it a very, very cost effective project. If you did it in segments, it would be less so.

There was the announcement by Congresswoman Harman yesterday about some airport money that is getting re-directed for airport access and the Crenshaw Line. There are going to be more announcements coming up regarding TIGER dollars. We are getting things moving as a result of 30/10 already.

We expect several more announcements by DOT before the end of the year. Senator Boxer has been taking the lead on this Washington—just pounding on everybody. We are getting better and better responses, and we are picking up more and more support because, as Secretary LaHood has said, this is a new way to think about transportation funding and a new way to think about urban renewal and rebirth: using smart investments in mass transit and creating projects as a way to also stimulate the economy and improve health through better air quality, particularly for children and in environmental justice communities.

A companion interview with Congressman Blumenauer (D-Oregon) in this issue of MIR confirms the precedent setting value of the 30/10 plan. Do we have the capacity here in the basin to deliver these projects?

I wish we had a Congress full of Earl Blumenauers. If we did, good policy like this would be the standard, not the exception. He is a great leader, particularly on the transportation side and mass transit advocacy.

We do have the capacity. I also get the question from very conservative republicans who have an unbridled faith in the free enterprise system. If anyone should look at this as a challenge, the private sector will. Very conservative free enterprise folks all believe that we are going to get the money, and I believe the capacity will be there. Because we have money to spend over a ten-year period, folks looking to do business will find us.

That is on top of the fact that we have close to 20 percent unemployment in the city of L.A.—even higher in some parts of the city and the county. Because of that, the Labor Department and federal DOT are looking at giving us more flexibility with local hire provisions as part of 30/10, which will also help bring us out of the recession.

The irony is that the budget crisis in our local governments has created furloughs and lay-offs, with the threat of more on the way. Does the public sector, in light of these circumstances, have the capacity to take advantage of the acceleration of projects?

For folks who ride bikes or climb mountains, every time you think you are at the top of a ridge, there is always a bigger one behind it. The 30/10 effort reminds me of that. Ultimately it will come to, once we get the funding mechanism and get the dollars, the ability of the city and the county to process the paper fast enough to move these projects. Mayor Villaraigosa has been thinking about that for a while. We're looking at some things in this budget and the next city budget where we can create a task force, if you will, of city employees necessary to process the 30/10 paper to be sure that we deliver those projects on time. We are looking at a lot of creative public-private partnerships. We are looking at different ways to do program management. All of that is designed to maximize the opportunity under 30/10. I can assure you that if the federal government does their part, we will do our part to make sure these projects get built.

Prop. 23, which would suspend AB 32, is on the ballot in November. The VERDEXCHANGE, which you have been a part of, will be in January, and a lot of international and national players are trying to appreciate what the November election will mean in terms of the pace of the green economy. How do you think AB 23 will do in November, and what will be the pace of California's efforts to lead the green economy will be going forward?

Prop. 23 is sponsored by two oil companies. It not only rolls back the clock in terms of California's progress, it penalizes businesses that have already greened their business practices. Prop. 23 rewards those who are staying with the old way of doing things at the expense of those who have been enlightened and progressive in going environmental. Prop. 23 would be a huge set back nationally and internationally, not just in California, for the movement to clean the air and for the movement to be innovative.

You have been a leader, though VERDEXCHANGE, for the last several years, in highlighting the new technologies and companies. Each year, your program gets bigger and attracts more people, not just because it is a great program, but there are more people with more interest and more action. If California were to repeal AB 32 by passing Prop. 23, it would be a huge setback. You would see a lot of folks questioning investments in R&D and green technologies because they would figure that if California is walking away from it, a lot of other folks are going to follow. This is very important for all of us who live and work here. But it is also important for the message it sends to world about not retreating from improving the environment where we live.

TPR/MIR did an interview with California High Speed Rail CEO Roelof van Ark in June. What is the status of high-speed rail in California?

High-speed rail is evolving. You were one of the first to interview Roelof van Ark because he appreciated the outreach and the good stuff that you and TPR/MIR have done on these issues and bringing them to the forefront of people's minds. He has brought a very, very good business sense and a track record of having built complicated, large international projects in high speed rail. He is evaluating everything that has been done before. At the same time, we are moving forward to meet the ARRA deadlines to spend money over the next two years. I believe we are going to do that.

We will start with, probably, L.A. because L.A. to Anaheim is the furthest along. But the federal government is encouraging us to look at a number of the different projects and use all our money to start one or start a couple at the same time. It is complicated. It is difficult. It is huge. There is a new report that just came out today from the University of California of Irvine showing the economic benefit to Southern California of high-speed rail between L.A. and Anaheim. It is significant. We are going to get this done.

The Federal Railroad Administration has put forward strict requirements for the delivery of planning and construction to receive the promised ARRA funds for high-speed rail. Is that just one of a number of challenges?

High-speed rail faces challenges everywhere. Part of it is because in the early years the Authority focused on passing the bond measure and keeping it alive, while the engineers were still working on the project. They tended to do a lot of work in isolation, without as much public outreach as they should have done. As a result, there are a lot of areas in the state that feel like haven't had their chance to have their say. We have the dual challenge, which we are trying to meet, of going back and getting more public input at the same time as pressing forward with the schedule for routes and EIRs so we can keep on the schedule that the federal government has laid out.

Web Exclusive

Water is another matter you have been deeply involved with. At the governor's urging, the Legislature approved a bill that removes Prop 18, the Safe, Clean, and Reliable Drinking Water Supply Act of 2010, from the November ballot. What are its prospects in the years to come?

We need to pass the measure. We need the environmental and the water fixes contained in that measure. The voters need to approve it. It is understandable that people are fearful that bonded indebtedness is a problem in this economy. But you need to take a long-term view. The water bond is similar to the kinds of investments that our parents, Governor Pat Brown, and his administrations made in infrastructure for the future of California. The Delta, which is the main piece of the water puzzle and a very, very environmentally sensitive habitat, is criss-crossed with critical infrastructure—from gas pipelines to fiber optics to electricity—all of which is at risk. The levees in New Orleans were eight feet

below sea level. Most of the highlands in the Delta are more than 20 feet below sea level. If there is a tsunami, an earthquake, or a major storm that disrupts that system, Southern California could be without access to its main water supply for ten years or more. The fixes that are embodied in that water bond for the Delta and water supplies for California are critical to our future as a state—not just to accommodate growth, but also to accommodate people who live here today.

The Department of Water and Power in the city of Los Angeles has been in turmoil for quite a number of years now. What is DWP's potential for future leadership?

The DWP reflects the challenges and the difficulties that most cities are facing throughout the country. As with most things, because it is Los Angeles, it is larger, harder, and more complicated than in other places. Frankly, it is more transparent than most places, if you see all the warts and blemishes along with the good news. L.A. DWP and the citizens in L.A. have done some remarkable things. We use the same quantity of water in Los Angeles today that we used in 1990, yet there are millions more people living here. We accomplished that through conservation and smart investment in low flow toilets, shower heads, and irrigation. That saves us water, and because we are using the same amount of water, we avoided spending \$400 million on a water treatment plant to process water for all those additional people who have come since 1990.

The DWP has done a lot of things and is on the cutting edge. It will be a leader in the renewable portfolio standard. The DWP today averages about 20 percent. The mayor's initiative pushed that to 20 percent. They are trying to push it higher. We have challenges. We have an older system. We have pipes that are old. But the DWP has the ability to be on the cutting edge and set a new standard.

The city recently announced that they are in the process of working out an agreement between the city of Los Angeles DWP and the State Water Board on the issue of once-through cooling. As this agreement is finalized over the next month or two, you are going to see DWP leading the way and showing how you get off ocean water cooling and still cool power plants reliably but in a much more environmentally sensitive manner.

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L.A. Can't Legally Tax Pot -- But Laws Doesn't Stop City Council from Trying

By [Ron Kaye](#) on November 3, 2010 2:24 PM | [Permalink](#) | [Comments \(1\)](#) | [TrackBacks \(0\)](#)

It took LA's former top cop, Bernard Parks, to blow the whistle Wednesday on the City Council's latest attempt to show its contempt for the rule of law.

But his efforts were to no avail, only getting support from fellow law-abiders Jan Perry and Greig Smith. The rest of the Council voted to support Janice Hahn's proposal to draft a measure for the March 2011 to impose a 5 percent tax on the money taken in by the city's hundreds of "medicinal marijuana cooperatives" -- a \$3 million to \$5 million pot of gold.

Since the cooperatives are theoretically charities, a gross receipts tax isn't legal so Hahn did contortions to come up with language referring to the "reimbursements" they receive.

Parks questioned how the city can impose a tax on a product that is illegal to grow or possess under federal law and illegal to sell under state law, sort of like taxing shoplifters, embezzlers, corporate criminals and anyone else who profits from illegal activity.

And he brought out the opinion of City Attorney Carmen Trutanich -- whose war on illegal pot shops has forced hundreds of the city's nearly 1,000 marijuana dispensaries to close -- in that regard as well the illegality of taxing charities among other problems.

Did Janice or her colleagues care?

Of course not, the Council violates the law on a daily basis so what's one more crime.

Richard Alarcon, a guy who knows a lot about disrespect the law, suggested maybe the city could get back the full cost of regulating the pot shops although that would hardly bring in the princely sums Hahn is seeking, presumably for other more noble purposes of her own.

The upshot was the City Attorney will draft the ballot language and we'll see by the Nov. 17 deadline for approving ballot measures whether the Council really wants voters to pass judgment on their illegal actions.

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LA's Planning War: Showdown Looms

By [Ron Kaye](#) on November 3, 2010 8:38 AM | [Permalink](#) | [Comments \(1\)](#) | [TrackBacks \(0\)](#)

Editor's Note: No doubt planning issues are the most difficult to understand which is why the leadership of Cary Brazeman of LA Neighbors United is so important. Brazeman took out full page ads in the Times and Daily News last month and led the fight that won a 90-day reprieve from the Planning Commission from drastic zoning code changes that would short-circuit processes and limit public input on new developments. On Tuesday, he challenged another drastic change and published this open letter along with his submission to the City Council. Planning is holding workshops this months on the Core Findings Code Amendment ([Code-Wksp.pdf](#)).

As some of you know, today LA Neighbors United submitted the attached comment letter (Brazeman-Planning.pdf), and testified before the PLUM Committee, on the proposed new Community Plan Implementation Overlay Ordinance ("CPIO Ordinance").



"WHERE'S RON"

Catch Ron on the Kevin James wShow on KRLA 870 at midnight Wednesdays and as a regular commentator on NBC's innovative news sho "The Filter with Fred Roggin." "The Filter" is broadcast on NBC's Raw Channel 225 at 7:30 p.m. Monday-Thursday.

Here's links to the latest appearances on The Filter <http://tinyurl.com/27747as> and on the Kevin James Show <http://tinyurl.com/37usgdz> and a recent appearance on Off The Presses Radio with Brendan Huffman and Edward Headington <http://tinyurl.com/2w886ub>

Upcoming Events

No upcoming events.

More of [ronkayela's events](#)

Hot Topics

FYI: ADS by GOOGLE beyond my control

CLEAN UP CITY HALL

Support the "LA Clean Sweep" campaign to end corruption at City Hall by electing candidates who will serve the public interest -- not special interests. For too long, concerned residents throughout Los Angeles have fought their own separate battles against the powerful forces that run City Hall and control our elected officials. The city's financial crisis, cuts in core services, layoffs of city workers, selling valuable assets, massive subsidies to insiders -- we have reached the point of no return. Only you can save LA. Join the Clean Sweep campaign and come together with people from all over the city to make a difference. Get more information on volunteering your time or contributing to at lacleansweep.com <http://lacleansweep.com> or contact me at ron@ronkayela.com.

Clean Sweep Training for Activists & Candidates

This Sunday, Aug. 29, LA Clean Sweep will provide training sessions from professional politician consultants to help you become a more effective activist and help candidates mount successful campaigns in the March 2011 or future elections. The sessions will be held at the Mayflower Club, 11110 Victory Blvd., North Hollywood. The morning session from 9 a.m. to noon is for activists; the afternoon session from 1 p.m. to 5 p.m. is for potential candidates. Lunch will be provided to all participants at noon. For more information or to register for this invaluable training go <http://lacleansweep.com/#/events>.

About Ron



This ordinance is significant both on its own and in conjunction with the zoning code makeover, including the first code amendments on Core Findings. A couple things to note about the CPIO Ordinance:

* In new Community Plan Overlay Districts, an applicant will be able to get project approval for zoning plus 20% via an Administrative Clearance with no hearing. (Today in Community Plan areas hearings on adjustments are discretionary, and some adjustments are limited to 10%.) This makes 20% upzones by-right.

* In new Community Plan Overlay Districts, there will be Community Plan "exceptions" like there are now in Specific Plan areas. This is new and is a clear attempt to circumvent ever having to require a variance in these Districts. The new Core Findings are likely to be the threshold for approving these exceptions, which means significantly lower thresholds than are required for variances.

* The new Community Plan Overlay Districts will trump all other district designations except HPOZs. Implementing regulations in CPIOs will prevail over conflicting regulations in CDOs, PODs, NSOs, ICOs and Q conditions (pardon the alphabet soup).

If the Core Findings Ordinance marks the beginning of the end of Specific Plan protections and protections against incompatible conditional uses, this marks the beginning of the end of Community Plan protections where these districts are overlaid. Notably, even a single parcel can be designated a Community Plan Overlay District ... so this really does open the door to spot zoning.

The PLUM Committee approved the CPIO Ordinance today, voting 3-0. I am concerned this is going to be fast-tracked through Council ... let us watch the Council calendar carefully. In the meantime, we are weighing options on how to proceed.

Bruno, LA's Watchdog: Welcome Back Jimmy Blackman, We Sorely Missed You

By [Ron Kaye](#) on November 2, 2010 5:11 PM | [Permalink](#) | [Comments \(6\)](#) | [TrackBacks \(0\)](#)

Back in July, Jimmy Blackman, in one of the most bizarre resignation letters in the history of resigning, described his 13 years as an aide to Antonio Villaraigosa as a "long and incredible journey."

He ain't seen nuthin yet!

This dog has confirmed a rumor that Blackman is in salary negotiations with City Councilman Dennis Zine to return to City Hall as the umpteenth chief of staff to the Z Man, as he likes to refer to himself, or Super Z, as he likes others to refer to him

Word is that Z Man (God, it's dumb!) wants to be City Controller, which is as laughable as calling yourself Z Man. I guess Blackman wants a job - and any job will do, even as an aide to some guy who thinks he's some kind of super hero when he's more often being cast as a super villain, as growing numbers of malcontents disturbed by his double dealing describe him.

Blackman, you might remember, handled the chores for Antonio that some found a tad unsavory, like making sure his boss's office holder account was full and that political favors got repaid.

And, of course, Blackman quit at the height of the furor over Antonio taking tens of thousands of dollars in free tickets, leading cynics to jump to the conclusion the bag man had become fall guy. His long and somewhat [insane goodbye letter](#) now being used in suicide prevention clinics.

Although he denied he was involved in the ticket scandal, we still don't know that for certain because the Ethics Commission and FPFC still haven't announced just how big the fines will be for his former employer's contempt for the law.

But it looks like Jimmy's ready to venture back into the building and join his old friends.

Who knows? Maybe the Z Man wants to sit courtside at the Lakers, or at least get a closer look at the Lakers Girls.

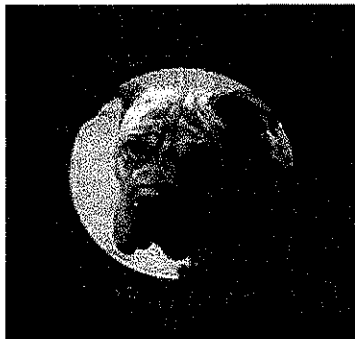
Adding to the complete weirdness of this story is how it surfaced, which says a lot about how "news" works nowadays.

Emma Schaefer, a fixture in City Hall for decades, who is best known for conducting networking lunches featuring "news makers," first reported the "rumor" in an email.

Emma Schaefer is no Maureen Dowd, so when her previously unknown newsletter -- reported the Blackman "rumor," good old Kevin Roderick at LAObserved.com wasted no time to get the word out to a somewhat larger audience.

Not that anything was safe with Ron around, anyway.

Ain't the Internet grand! Rumormongers spread the word without qualms and it takes a rumor-mongrel like Bruno to actually confirm it.



[Antonio's Million Trees, Part 2: Why Dirty Deals Don't Make the Mayor or L.A. Green](#)

[Antonio's Pale Green Record: Why a Million Trees Don't Grow in L.A.](#)

[Read This and Weep: They Fiddled While You Got Burned Economically](#)

[In City Hall's Animal Farm, One Pig Is More Equal Than All the Others](#)

[Three Questions for the City Council -- Will They Deign to Answer?](#)

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Daily News who has become a community activist, helping to found the Saving LA Project. He writes on city issues in Los Angeles and is a frequent speaker at community groups on the need to get informed and involved in the effort to make LA a city of great schools and neighborhoods, a city with a healthy business climate and good jobs, a city where the people are respected and have a seat at the table of power.

Email Ron at ron@ronkayela.com

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Wolves in Sheep's Clothing Are Still Predators -- City Council Set to Cloak Itself as Reformers

By [Ron Kaye](#) on November 2, 2010 9:08 AM | [Permalink](#) | [Comments \(5\)](#) | [TrackBacks \(0\)](#)

UPDATE: The City Council moved forward on various Rate Payer Advocate-Analyst-Public Administrator Charter reform proposals as well as changes in the DWP Commission and other changes on Tuesday, setting up a public committee to sort out the differences. Here's what Richard Alarcon, who dismissed most of the changes as "musical chairs," and Interim DWP General Manager Austin Beutner had to say during a lengthy hearing.



Don't let anybody tell you that your City Council doesn't have a heart -- no brain and no courage maybe -- but a heart definitely yes.

Today, for instance, nine days before America honors its veterans, an especially important event at a time of endless war, the Council is taking up a motion by indicted felon Richard Alarcon "to explore additional ways to honor our veterans, such as special rates for veterans who use the City's golf courses on Veterans Day."

Given that rates have nearly doubled in recent years under the mayor and Council's leadership, I'm sure every man and woman who served in our country's military will be happy for any discount just as long as they don't have to play in uniform.

Of course, it's hard to believe the city will be able to bestow this favor on veterans by this Nov. 11, maybe next year or the year after.

Today, though, they will provide more specific honors posthumously on Steve McQueen and Dr. James Andrew Brooks by naming intersections after them. And what would election day be like without the Council getting around to endorsing Prop. 21, the \$18

surcharge for state parks, after nearly everyone has voted.

Time doesn't mean much at City Hall since everybody involved, including the politicians, feel they have an entitlement to a lifetime position no matter what.

That is surely why the Council has waited until the last day for action to decide on a stew of charter reforms and ballot measures for the March 2011 election.

You can understand why the six Council members up for re-election and the staff member anointed by the machine for the seventh seat want to drape themselves in the cloak of reformers.

The last four years have not gone well so they can hardly run on their record of service to the public, not when they have gutted core services, pushed the city to the brink of bankruptcy, failed to confront what is broken, given away fortunes to insiders while destroying the quality of life by subsidizing over-development and increased rates, taxes and fees to the breaking point.

Other than AEG, CIM Group and all the other insiders who fund the politicians in exchange for favors, would anybody in LA answer affirmatively this question, "Are you better off than you were four years ago?"

If you look at the [Council regular agenda for today](#) or the [supplemental agenda](#), you will find everything from a tax on marijuana to no less than a dozen proposals to reform the DWP from a Rate Payer Advocate to requiring independence and competence of the commission members.

Trust me on this, whatever DWP measures makes it to the ballot will be as watered down as the city's water supply to reduce the toxicity level without actually cleaning it up.

Last week, the Council eliminated universal mail-in voting in city elections from consideration but now is looking at ballot measures for instant runoff voting even though it's not technologically feasible and to lift the cap on matching funds for candidates of city offices -- a great idea but they haven't come close to defining how that will move us to fair elections that are totally public financed.

Then, there's the taxes on marijuana businesses, on oil extraction, and for libraries -- not to mention the billboard tax that they shied away from last week.

Although City Hall is moving to make community plans and public input on new developments irrelevant, the Council is considering a Charter amendment that would "require all of the City's Community Plans to be updated every ten years" -- a good idea but they fired most of the planners when there's already a 20-year backlog and they have ignored for a decade the legal requirements to report on the cumulative impacts of development on the infrastructure.

There's measures to short-circuit competitive bidding by allowing "competitive negotiation or best value selection process for major design-build construction projects" -- in other words, the bigger the project, the easier it will be to cut deals in back rooms.

Finally, there's a series of six Charter amendment changes in the rules for city employment, including a provision that would make deputy fire chiefs subject to political control like other top managers and one that would eliminate the need to actually test applicants for some civil service positions -- presumably to make patronage and political control that much easier.

There are even more measures lurking out there like weak pension reform for new hires -- as if there will be very many for years to come -- and a requirement for a two-thirds vote to raid the dwindling emergency reserve fund -- as if that is much of a safeguard with a Council that votes 99.93 percent unanimously.

All in all, it's pretty clear that if everyone in town is mad as hell at the failures of the mayor and City Council, the only strategy left is to make the March 2011 ballot so long and complicated that voters will grow weary and confused that they ignore what's important -- the election of better people for a better government.

Personally, I think they are making a big mistake and welcome the opportunity to confront their failures and the largely meaningless proposals they are offering to a variety of problems without actually dealing with the No. 1 issue: They have lost all credibility and are incapable of dealing with the monumental problem of their overspending and under-performing.

Were These the Worst Political Campaigns Ever?

By [Ron Kaye](#) on November 2, 2010 8:10 AM | [Permalink](#) | [Comments \(1\)](#) | [TrackBacks \(0\)](#)

Here's the segment from NBC's The Filter with Fred Roggin on Monday night in which Charlotte Laws and I talked about the campaigns for Governor and U.S. Senate and the advertising strategies Jerry Brown, Meg Whitman, Carly Fiorina and Barbara Boxer used to actually avoid engaging anything the public cares about or making any commitments of substance about what they would do in office. The show is broadcast on Time Warner's Channel 225 and will be re-broadcast tonight at 7:30 p.m.



Antonio's Million Trees, Part 2: Why Dirty Deals Don't Make the Mayor or L.A. Green

By Ron Kaye on November 1, 2010 9:54 AM | [Permalink](#) | [Comments \(15\)](#) | [TrackBacks \(0\)](#)

Once upon a time in a land not faraway, dozens of elderly and working class people tilled the soil in a 14-acre farm in South Central LA and grew healthy food for their families and brought pride to their whole neighborhood.

As a Councilman and as mayor, Antonio Villaraigosa made one promise after another to protect their little plots of land from all comers.

But politics is politics and dirty deals for money are the engine that drives politics in a broken city like LA.

The story of how City Hall conspired to destroy the [South Central Farm](#) to make way for a [Forever 21](#) warehouse that was never built provides a window into just how corrupt and dishonest our officials are.

The 2009 Academy Award nominated documentary film "The Garden" relates the story of City Hall corruption with far more clarity, specificity, power and impact than all the thousands of stories I edited on the subject over the last 30 year or the endless stream of words I've written here.

Director Scott Hamilton Kennedy provides heart-breaking details of the struggle of dozens of elderly and poor Latinos and blacks to save the farm at 41st and Clausen, a struggle .

The villains are many -- including those who exploited ugly racial tensions -- but Councilwoman Jan Perry and Mayor Antonio Villaraigosa stand out.

Perry used Juanita Tate's Concerned Citizens of South Central, a "non-profit" that she has steered millions of dollar in public money to in exchange for its political support to undermine efforts of Tezozomoc and other farm leaders. The wedge was Tate's call for a soccer field in a portion of the site, a soccer field that never was much more than a patch of dirt.

Black or brown, which side are you on? Truth be told, the mayor and his colleagues were not on either side, never were, never will be.

Race was simply a cover story to their real intent which was to free the land owned by Ralph Horowitz for the mayor's pals at Forever 21 who so generously had [contributed \\$1.3 million to Villaraigosa's One Million Trees initiative and other political games.](#)

Using a ploy so often favored by our city leaders, Forever 21, then a booming young woman's clothing maker, threatened to flee LA and take its jobs with it unless it got City Hall and public subsidies to buy the site for its new facility.

Despite his promises, Villaraigosa stood passively by and let that happen, wringing his hands sympathetically as the bulldozers leveled the farm while almost certainly enjoying a fine bottle of vintage wine or two with his pals at Forever 21.

Proving even the most nefarious of schemes can sometimes go awry, Forever 21 ran into financial troubles and abandoned the project before the deal was finalized.

Horowitz still owns the empty plot of land and has backed down on his threat that he would never sell to the farmers.

Perry holds the key to the site's future and could clear the way any time she wants for the South Central Farmers to get the \$12 to \$14 million in donations and foundation

grants needed to buy it

The mayor, shameless as always, is ready to take more than \$4 million from DWP ratepayers to keep on funding his failed million trees initiative even as his policies have virtually stopped the removal of dead trees and the planting of new ones on street lawns and other areas that are the city's responsibility.

So much for the mayor's claims to being America's greenest mayor, unless he meant greenbacks he solicits from special interests to prop up his political career.

As for the South Central Farmers, they were not defeated by the political machinations of City Hall.

They set up a for-profit cooperative in Kern County, north of Bakersfield, where the farmers share in the ownership of organic produce they grow on 150 acres and sell to Whole Foods Markets and at farmer's markets in LA.

Just as this story is a prime example of the destructive policies and actions of our elected officials so is what the farmers have done a prime example of how people can rise up from this kind of abuse and still achieve their goals.

There are many stories of redemption like this in LA, stories about ordinary people empowering themselves and ignoring the political system to achieve great things.

I'll be telling more stories of redemption in the days ahead so email me at ron@ronkayela.com if you are involved in a community action that is achieving public benefits without the help of

REDACTED

Antonio's Pale Green Record: Why a Million Trees Don't Grow In L.A.

By [Ron Kaye](#) on October 31, 2010 4:42 PM | [Permalink](#) | [Comments \(14\)](#) | [TrackBacks \(0\)](#)

"Each tree planted needs water and care for its entire life. It's worth the work. Over its lifetime, that tree will pay you back in lower energy bills, higher property values, cleaner air and water. "

Mayor Antonio Villaraigosa, May 2006

That was the commitment Antonio Villaraigosa made to the people of Los Angeles when he announced he was America's greenest mayor and would plant a million trees.

"I love this amazing city, and I know you do too. As part of a larger effort to make Los Angeles greener, cleaner, healthier and more beautiful for us all to enjoy, I have launched the Million Trees LA initiative; the plan is to plant one million trees over the next several years," the mayor promised.

How's he done?

For a man with visions of high office, fantastically. He got great publicity on NPR and other local and national media for his million trees and sparked imitators like New York Michael Bloomberg who's meeting his tree planting targets.

But Antonio always has begrudgers.

When he passed the 200,000 tree mark last year and staged a press event for planting 55 more, the LA Weekly mocked his effort under the headline "55 Down - 799,945 to Go" and said, "At L.A.'s current planting rate Mayor Villaraigosa would not only be long out of City Hall by the time the millionth tree is put in the ground, but also out of the governor's mansion as well, should he end up there.

Best laid plans like Antonio's ambition to be governor haven't worked out any better than his million trees initiative.

At this point, he's handed out less than than 300,000 seedlings without knowing if they



©2009 Peter Bennett/GreenStockPhotos.com

actually got planted or are surviving today -- or what it would take to accomplish such a feat in a city so over-built there's only room for 1.3 million trees, according to a U.S. Forest Service aerial reconnaissance and computer analysis reported by the Washington Post.

The Forest Service found "the space is actually quite tight" and that "realistically" the only places available are in the yards of private homes.

A study on "Trees of Los Angeles" early in this decade noted LA didn't have a sidewalk repair program for 22 years, leaving 4,300 miles in sidewalks broken in 2001 while 262 miles were being fixed annually, "preserving approximately 7,000 trees that would have otherwise been removed."

"The City of Los Angeles included trees as one of the major infrastructure elements in the General Plan Framework in the 1980's," the study city and Forest Service experts noted.

"Although expanding the City's 'green infrastructure' was a stated policy in the Plan, implementation of this major step lagged behind. Frequently, trees were the last consideration during design and development but the first consideration for removal when they conflicted with other infrastructure."

So the neglect of basic services and critical interests of the community didn't start with Antonio but he's taken it to new heights of political posturing while gutting basic services to depths never before reached.

The problem is that the mayor has slashed funding to nothing for tree trimming and maintenance, resulting in the loss of untold numbers of trees, and cut staff so deeply into the budget that the city's trees on street lawns are dying or left dead in place by the tens of thousands.

Here's what he called for in his budget for this year:

Reduced Services

Street Tree Maintenance (3,330,732) (4,705,008)

Delete funding and regular authority for 60 positions due to the City's fiscal constraints. These positions were previously assigned to perform proactive street tree maintenance. Tree pruning services will be provided with the remaining staff on an emergency, as needed, basis. This service reduction will increase the annual tree trimming cycle to an undetermined number of years. Related costs consist of employee benefits.

Far more damaging was the loss of trained staff to the sweetened Early Retirement Incentive Package and the transfers of dozens of tree specialists to the Department of Water and Power.

Sorry, city workers now say, if they aren't an imminent danger, dead trees are just left standing there, no staff to chop them down, remove stumps or plant new ones. Of course, residents can file applications, pay fees up to \$400 for each of those privileges and pay a contractor to do the city's work.

But don't fear, America's greenest mayor has a plan to tap into his cash cow, the DWP, to serve his purely political purposes even as he shines off his responsibility to provide a basic service to the public.

Here's item 28 on the agenda of the obedient DWP Commission for Tuesday:

"Recommended by Chief Operating Officer and Senior Assistant General Manager - Sustainability Programs and External Affairs) (Approved by General Manager) Resolution authorizing execution of the Memorandum of Understanding with Board of Public Works of the City of Los Angeles to fund a single Citywide Tree Planting Program in support of the Million Trees Los Angeles Initiative. Funding shall not exceed \$4,450,000 for a term of two years."

Get it? There's no money to maintain the basic service of trimming the city's trees, keeping them alive, chopping them down or replacing them on street lawns -- a core city service.

But the money you pay in soaring rates for water (another increase on Tuesday's DWP Commission agenda) and power is coming in handy to keep his failed million trees fantasy alive..

Like the sidewalks that are crumbling, the mayor's and City Council's solution is to rid themselves of all responsibility and charge property owners of that what a decent neighborhood -- the same people who pay a lot in taxes for tree trimming, tree maintenance, tree replacement, sidewalk repair, not to mention libraries and parks and street sweeping and everything else that has been sharply cut or eliminated.

What passes for the rule of law in Los Angeles works something like this:

If you're an ordinary person, you pay through the teeth and get no services but if prop up your failed city officials with your money or political clout, you get whatever you want.

2010/11/3

Trutanich Calls for Reform of Neighborhood Council Elections

By [Ron Kaye](#) on October 29, 2010 3:01 PM | [Permalink](#) | [Comments \(22\)](#) | [TrackBacks \(0\)](#)

While the City Council ran circles around Jose Huizar's "Voter Bill of Rights" on Friday, City Attorney Carmen Trutanich was proposing how to reform the Neighborhood Council election process to give the system more legitimacy.

With the deadline for action looming Tuesday, Huizar's colleagues stalled votes on his proposals for Charter reforms to provide more money in city matching funds to candidates and instant runoff voting and watered-down the effort to extend mail-in ballots automatically to all registered voters to a possible ordinance for a test in the next Council special election.

That could come sooner than many might expect if Richard Alarcon is convicted of perjury and voter fraud.

Trutanich honed on three changes to NC elections:

- 1) clarifying the term "factual basis" stakeholder
- 2) establishing voter pre-registration, which will allow Neighborhood Council leaders to take a greater role in the determination of stakeholders eligibility to vote, while streamlining the election process for the City Clerk
- 3) requiring documentary proof of stakeholder status rather than granting voting privileges based on the voter's self-affirmation of his or her stakeholder status.

"The stakeholder definition allowed individuals to assert any basis for their involvement with a Neighborhood Council," Trutanich said in his letter to the City Council.

"Stakeholders" should be required to show "an ongoing and significant interest in a community," he said.

"The key problem is the City Council's 2008 change that expanded the definition of a stakeholder to include anyone "who lives, works or owns property in the neighborhood and any individual who declares a stake in the neighborhood and affirms the factual basis for it."

"Accordingly, the definition should provide criteria upon which to demonstrate a nexus with the neighborhood in order to ensure that a voter's stake in the neighborhood is not merely incidental, but ongoing and continuous."

Read the full letter ([trutanich-NC.rtf](#)).

ROMA EX

Naked City: Another DWP Scandal, Gatto's Gutless Play

By [Ron Kaye](#) on October 29, 2010 9:35 AM | [Permalink](#) | [Comments \(18\)](#) | [TrackBacks \(0\)](#)

Your DWP at Work: They Drink, Go to Sex Clubs and Steal Your Money

Shocked and amazed -- that's the official position of the Department of Water and Power over revelations that its employees are accused of running a six-year, \$3 million scam with the utility's credit cards.

"We are outraged by these alleged crimes and will seek to recover at least \$3 million that was stolen over a six-year period," DWP spokesman Joe Ramallo told [the LA Times](#).

Prosecutors filed one felony count of conflict of interest, one felony count of misappropriation of public funds and two felony conspiracy counts against Anthony Carone, 49, and Akbar Fonooni, 55.

They allegedly used about a dozen DWP to buy at least \$3 million in products -- including furniture for executive offices -- between 2003 and 2009 at inflated prices from dummy companies they set up.

Four felony charges also were filed against Troy Mitchell Holt, 45, whom investigators described as a friend of Carone. At least \$1.4 million in purchases were routed through J.J. & R. Sales, a company set up by Holt, authorities said.



Assemblyman Gatto Squelches Mayor Sam -- What's He Afraid of?

The most viewed and emailed story at [dailynews.com](#) today is "Mike Gatto forces blogger to remove postings."

[Kevin Modesti tells the story](#) on the front page off how the San Fernando Valley are Democrat, elected in a special election in June and facing Sunder Ramani again on Tuesday, has his lawyer threaten Mayor Sam's mastermind Michael Higby with a cease and desist letter and threats of a libel suit.

Like most bloggers, Higby didn't have the money to fight and took down the five items about Gatto written by Scott "Red Spot" Johnson.

"If he was in fact libeled, he's entitled to use the courts just like anybody else," said Peter Scheer, executive director of the San Rafael-based First Amendment Coalition. "But he needs to remember he's now a public official, and public officials have to have thick skins.

"If (Gatto) is going to threaten lawsuits every time somebody posts something he doesn't like or may be false and defamatory, he's going to spend all of his time in court and none of his time being an effective assemblyman."

Thanks to the wonder of the Internet, the stories are still available in cached copies on Google so you can see for yourself what Gatto didn't want people to read.

[1. Gatto's link to La Colectiva Scandal.](#)

[2. Gatto's past Domains Ownerships.](#)

[3. Gatto's \\$5,000 Campaign Consultant Kevin Harrop.](#)

[4. Mike Gatto links to Big Insurance.](#)

[5. Mike Gatto lives with Mom.](#)

Wanted: A Thousand Citizen Watchdogs

By Ron Kaye on October 28, 2010 12:15 PM | [Permalink](#) | [Comments \(14\)](#) | [TrackBacks \(0\)](#)

The mayor's only claim to fame is the sharp reduction in gang crime that has occurred under his watch, an achievement attained by ceding the turf of the city's poorest areas, throwing tens of millions of dollars at the problem and giving jobs to ex-hoodlums that could have gone to the half million unemployed and underemployed law-abiding people.

It would prove far more costly and difficult to achieve the same result with regards to official corruption in the city, county, schools, MTA and other political institutions.

There would have to be an honest cop in every office and back room, bugs monitoring every email, phone call and conversation and GPS on every car of the thousands of "players" who make up the incestuous system of politicians, political operatives, lobbyists, consultants, contractors and developers.

The system's answer when its nefarious dealings are under suspicion is to appoint citizen watchdogs that come from the same vested interests or an inspector general when thoroughly exposed.

It started in the 1990s when the MTA's corruption on rail construction projects was revealed in great part by gadfly John Walsh's efforts.

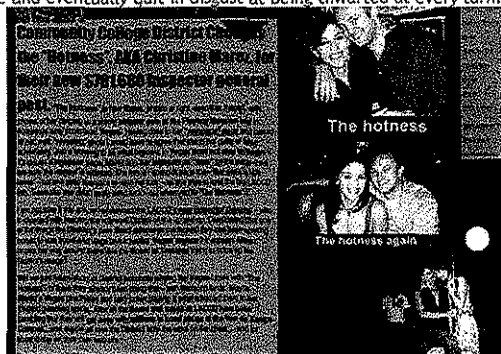
The inspector general's office was created and succeeded in quelling the flames of public anger by making sure the appearance of corruption was cleaned up without actually delving into what was going on behind the scenes.

The money kept flowing from special interests into political campaign coffers with healthy "commissions" being taken along the way by the operatives who arrange the deals.

After passage of Measure BB, the first in a series of school construction bond issues now totaling more than \$20 billion, LAUSD ran into the same problems, the answer was to appoint an ex-FBI agent, Don Mullinax, as inspector general.

For a year or so, he had free reign but once the public concerns subsided, he started running into interference and eventually guilt in disgust at being thwarted at every turn.

Today, with the heat on the DWP, the mayor and City Council are working out the final terms for a Rate Payer Advocate to protect the public from the scandalous abuses that have gone on for so long. [marezhot.jpg](#) It's a tricky game but you can be sure that what is approved next week for the March 2011 ballot will do more to create the appearance of reform than actually protect the public's money and make sure it is spent for the public's benefit.



Yet another institution subject to reports of misspending the \$6 billion in public taxes for construction and rumors of far worse misdeeds -- the LA Community College District -

- has just resorted to the fig leaf of creating an inspector general to restore the appearance of order.

Earlier this month, LACCD named Christine Marez to be its newly-created inspector general with a \$705,000 a year five-year contract for her newly-created firm

This sparked a lot of controversy for Marez, a 46-year-old single mother who was given to posting her business activities on Facebook and her dating activities like pole dancing at the Playboy Mansion on My Space where she described herself as "The Hotness" -- a view of Marez that was captured at HollywoodHighlands.org.

Obviously embarrassed by the lurid display, Marez's My Space page now says, "Oops, we couldn't locate the page you are looking for."

She's a curiously interesting choice for inspector general given her background. She is a Cal State L.A. and USC-trained electrical engineer who says on her Linked In site that her experience includes 10 years as a "senior construction manager" at the DWP, eight years with an engineering company with the last three as a consultant on LAUSD's construction program.

For the past four years, she lists herself as "Director of Policies" on construction, formally known as the Director of the Office of Construction Management Standards.

In June, she says she formed Policy Masters Inc. and is its president and CEO. Her Facebook page, now only available to friends, tells a somewhat different story starting with a New Year's resolution to "double my income" in 2010.

By mid-January, she was telling friends she had started Policy Masters and by May 12, she posted this: "I am looking for an auditing firm to partner on a Proposal due this Thursday. Creating this to happen by noon today. Worth 4300k a year..."

On May 19, she posted this: "My new firm is at the top of the list for an amazing contract!! Asking for your love and support...tomorrow at 2 p.m. they choose us unanimously!"

Apparently successful in winning that contract, she went after the college inspector general contract in August and was awarded it on Oct. 6 by the LACCD board.

"By employing an inspector general who reports directly to us, the Board will be improving our oversight of the District's bond program and hopefully will be increasing efficiencies over the remaining years of the construction projects," said [Georgia L. Mercer, president of the Board of Trustees](#).

Maybe, but a lot of the problems in the LAUSD construction program involved the use of consultants and the lack of policies and standards, according to a [Feb. 24, 2009 audit by then Inspector General Jerry Thornton](#).

In 2006-07, shortly after Marez went from being a consultant to an LAUSD employee, he found there were 1,277 contractors in the Facilities Division earning \$186 million -- 1.7 times the cost of full-time employees.

He noted the lines of authority between staff and consultants were "blurry," causing a "lack of accountability" and hiring other consultants from their own firms as well as signing their time sheets.

Fourteen months later, an LAUSD consultant was indicted for allegedly funneling business from the construction program to a business he co-owned and Superintendent Ramon Cortines asked LA City Controller to conduct an audit for other possible conflicts of interests.

On Wednesday, Greuel released her audit which some might call a whitewash or at the least a burying of a decade of mismanagement and giving a clean bill of health to the district -- and presumably Marez, who shared responsibility for the policies and standards of the construction program.

"While we found some potential conflicts of interest during an earlier era at the district, it appears that the LAUSD under its current leadership has made significant progress in reforming the process for awarding construction projects," said [City Controller Greuel](#). "The district still has room for improvement, but they appear to be on the right path."

It's part of the lore of L.A. that it's not what you know but who you know.

Nowhere is that truer even in Hollywood than in the political arena.

It's a small world that connects every government institution from the judiciary to the elected officials and all the players circling around the system with their hands out for some of the tens of billions of dollars in public money.

Cleaning it up and restoring honesty and credibility is a monumental task and it can't be done with Rate Payer Advocates under the system's control our outside consultants hired as inspector generals reporting to the same people responsible for the problems.

It's going to take citizen watchdogs tearing into every agency and bringing to light the information that exposes wrongdoing and it's going to take some of our elected officials finding the courage to stand up to the system that is failing the people.

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NEWS

08.12.2010

LA Hopes To Blow Up Postwar Zoning Codes

Planning commission undertaking first top-to-bottom revision in six decades, streamlining and speeding up land-use



WILSHIRE BOULEVARD IN THE 1940S. LA HAS NOT FULLY UPDATED ITS ZONING CODES SINCE THEN.
 USC ARCHIVES/COURTESY SKYSCRAPERPAGE.COM

The most sweeping reforms of Los Angeles' zoning codes in over half a century were recently reintroduced to the LA city planning commission. The efforts, to streamline several code-related processes, had been sidetracked for over a year in favor of medical marijuana and signage ordinances, among other matters.

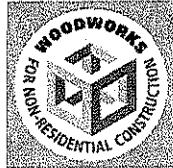
This marks the first overhaul of codes since their last revision in 1946, points out Senior City Planner Alan Bell, who is overseeing the process. All subsequent changes to the code have been incremental, he said.

The effort was a major initiative of former Los Angeles Planning Director Gail Goldberg, who resigned a few days after they were reintroduced. Bell will carry on efforts to reorganize the department into new geographic areas and new sub-departments, eliminating redundancies. "This will streamline things and also help produce better projects," Goldberg said, who lauds the idea of project-tailored zoning.

These efforts are especially important now that the city planning staff "has been reduced by 40 percent, Bell said. "We have to do things differently," he explained. "Things have to be more effective and efficient." The amendments focus on simplifying the city's zoning codes, rendering them clearer, more standardized, and up-to-date. Currently, projects in LA often stall for months and even years.

Key changes include elements such as creating consistent timelines for land-use approvals; making zoning

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review more flexible and consistent; allowing for abbreviated review processes for minor deviations from the zoning code; creating consistent procedures for modifying existing projects; and streamlining zoning approval for projects that meet specific plan standards.

"This is really, really good stuff," said Planning Commission President Bill Roschen, only the second architect to serve in that position. He and others seemed encouraged by the prospect of projects undergoing planning in a more predictable and expedited manner. "Anyone who has gone through a project knows it's a nightmare, taking six months to a year," said Father Spencer Kezios, another member of the commission.

While some doubters wondered if the changes would precipitate too much development or allow for too little oversight, most welcomed the long-overdue changes. "Just because things take more time doesn't mean they're more thorough," Bell said, referring to the many contradictions and the outdated language of the postwar codes. "You can spin your wheels looking at the wrong things."

As for the perennial development question: "Things grow inevitably," commission member Diego Cardosa said. "But you can guide growth." Bill Roschen added that making development easier is not a bad thing. "We're not predisposed to more or less development," Bell said. "This is just process reform."

The amendments will be formally presented to the city planning commission this fall, and if things go as planned, voted on by Thanksgiving.

Sam Lubell

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Los Angeles changing zoning codes

First major reform since 1946

Jon Boyd, Aug 23, 10.

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Los Angeles is in the process of overhauling its post-modern zoning codes, as reported in the Architect's Newspaper (via Planetizen):

The most sweeping reforms of Los Angeles' zoning codes in over half a century were

recently reintroduced to the LA city planning commission. The efforts, to streamline several code-related processes, had been sidetracked for over a year in favor of medical marijuana and signage ordinances, among other matters.

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Key changes include elements such as creating consistent timelines for land-use approvals; making zoning review more flexible and consistent; allowing for abbreviated review processes for minor deviations from the zoning code; creating consistent procedures for modifying existing projects; and streamlining zoning approval for projects that meet specific plan standards.

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[Read the rest of the story](#)

(Photo credit: National Archives, posted by [army.arch](#))

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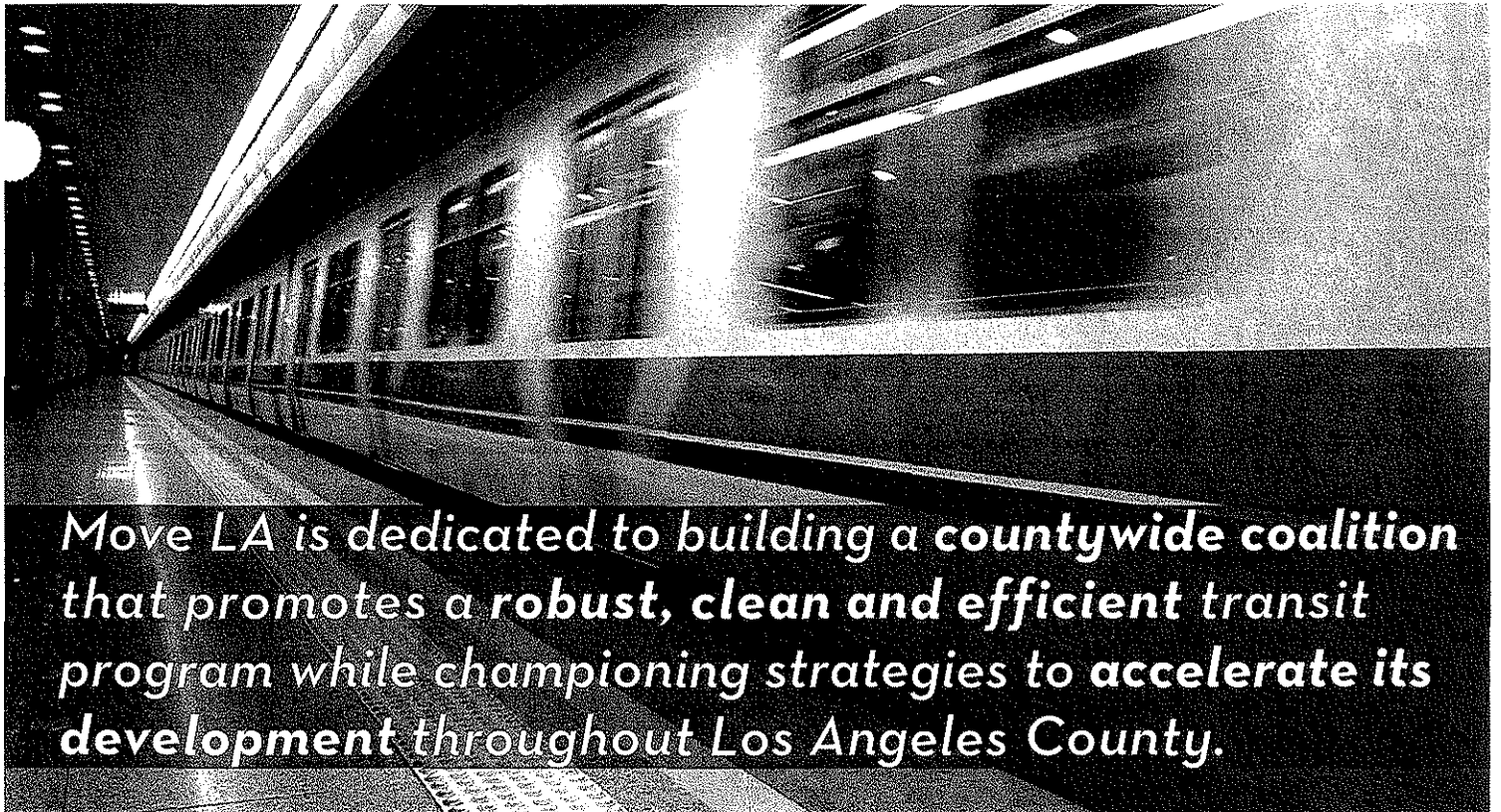


It's time to Move LA

- > **68:** percentage of voters that approved Measure R in November 2008.
- > **70:** approximate share of Measure R funds that will be used for public transit.
- > **79:** miles of new rail transit Measure R will build - more than double what currently exists.
- > **40 billion:** dollars Measure R will supply for LA County transportation over the next 30 years.

Move LA Works To:

- > Maintain ongoing dialogue and cooperation among business, labor, environmental and other constituencies.
- > Identify new funding opportunities for transportation at local, state and federal levels.
- > Ensure that countywide goals drive transportation decision-making.
- > Ensure that transit-oriented land use policies are fully integrated into transportation planning and implementation programs.
- > Support broad-based economic growth and job creation, as well as social and environmental justice.
- > Promote opportunities to expand the use of zero-emission transportation technologies and renewable power generation.



Move LA is dedicated to building a countywide coalition that promotes a robust, clean and efficient transit program while championing strategies to accelerate its development throughout Los Angeles County.

We work to enhance the quality of life for all Los Angeles County residents by:

- Relieving traffic congestion on roadways and expanding public transportation options.
- Growing the economy and providing badly needed short- and long-term jobs.
- Reducing greenhouse gases and minimizing pollution for improved air quality and public health.

Move LA regularly convenes leaders from **business, labor and environmental** constituencies for ongoing dialogue on key transportation issues at the local, state and national levels. We also encourage social justice, governmental, academic, student and faith-based groups to **voice concerns and propose plans** for achieving our goals.

No other organization has successfully brought together such a broad base to collaborate on improving Los Angeles County's transit program. Our objective is to help these core constituencies find **common ground and unified action** while facing our county's transportation issues.

I cannot thank you enough for your impassioned and successful advocacy for Measure R and your vigorous support for the 30/10 initiative. Your work to develop a broad coalition of business, environmental and labor organizations has been outstanding. We are building momentum and I believe that our message is being heard. I am confident that together we will put transit construction on a fast track.

- LA Mayor Antonio Villaraigosa



LA's Transit Challenge

Los Angeles County is one of the most important economic and cultural engines in the United States. It is also the most auto-dependent community in the nation, with the most congested highways and worst air pollution. Traffic is becoming increasingly severe while lack of public transit is negatively affecting our quality of life, prompting public outcry and legitimate worries about economic and environmental decline.

Concerns are heightened by the anticipation of 3 million additional residents expected to live in Los Angeles County within the next 30 years. Without a greatly improved public transit system, LA is unlikely to sustain its historic role as an economic leader and fulfill its responsibility to reduce greenhouse gases.

Measure R & the 30/10 Plan

In 2007, the Los Angeles County Metropolitan Transportation Authority (LA Metro) announced that without a new source of significant funding, no additional money would be available to address transportation needs for at least 30 years.

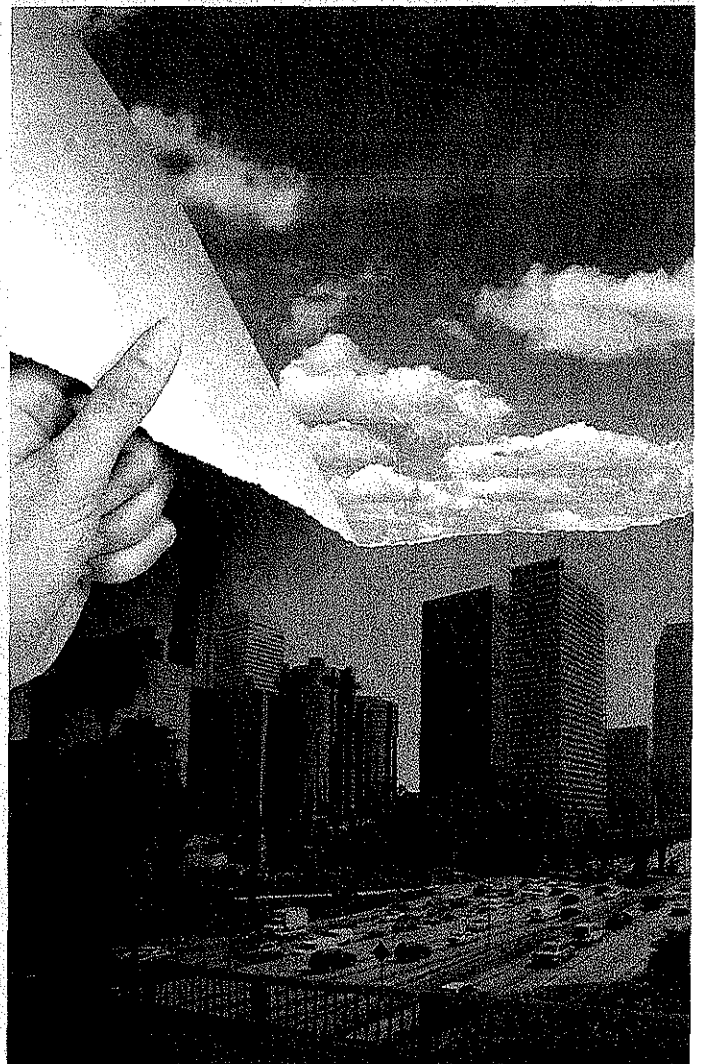
The subsequent "Traffic Relief and Rail Expansion Ordinance," otherwise known as Measure R, was placed on the November 2008 ballot by LA Metro and promoted by the Move LA coalition through a wide-reaching, successful campaign. The result: voters approved a ½-cent sales tax increase that will provide LA County's transit program with a 30-year revenue stream of an estimated \$40 billion, about 70% of which will be used for public transit.

Actions are now underway to seek federal support for the 30/10 Plan, which will allow all Measure R transit projects to be completed in 10 years instead of 30. It calls for a low-interest federal loan to LA Metro, secured and repaid by Measure R dollars. The plan is gaining attention as an innovative concept that will satisfy the need for transit funding and jobs without increasing the federal deficit.

Our Vision for the Future

Imagine a future free of traffic congestion, air pollution and economic stagnation. As a result of Move LA's work, Los Angeles County's transit program now has an entirely new and vastly more hopeful future, which will improve the quality of life for all residents and put us well on our way toward making that imagined future a reality.

But Move LA's vision doesn't stop there. Through strategic planning, collaboration and public investment, Move LA's creative leadership intends to expand its capacity and take on the challenge of effecting profound positive change beyond Los Angeles County. Imagine if we could *move California*.





Denny Zane *Move LA Executive Director*

Move LA Executive Director Denny Zane has significant experience in political and community organizing, as well as in land use, transportation and air quality policy. He is a former council member and mayor for the City of Santa Monica, and a well-respected leader lauded for his ability to successfully convene business, labor and environmental groups.

In the 1980s, Zane initiated one of California's earliest and most successful examples of mixed-use urban redevelopment: the Third Street Promenade in Santa Monica. As Executive Director of the Coalition for Clean Air, during the 1990s, he led efforts to ensure the use of clean, natural gas buses at LA Metro.

In 2007, Zane created Move LA to unite a broad base of business, labor and environmental constituents to raise support for innovative transportation solutions in Los Angeles County. He has assembled a committed, passionate staff and board, and continues working tirelessly to realize Move LA's goals.

Please Join Us!

Together, we will get LA moving.

*To get involved, visit
www.moveLA.org and look for:*

- > Steps you can take right now.
- > Ways to donate and sponsor events.
- > Volunteer opportunities.
- > Reports on current initiatives and past activities.
- > Upcoming events.
- > News bulletins and helpful links.
- > Contact information.



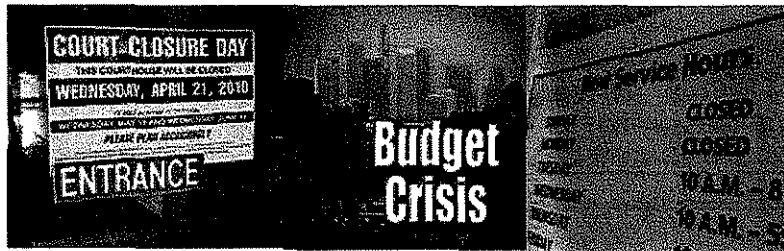
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Do You Trust City Hall to Manage Your Money?

LA's FINANCES FACE CATASTROPHIC FUTURE

Jack Humphreville



The City has projected budget deficit of \$319 million for the fiscal year beginning July 1, 2011.

The elimination of this deficit will require some very tough and painful decisions involving not only personnel and programs, but the pressing need to fund the \$16 billion unfunded pension liability and \$10 billion need to repair and maintain our failing infrastructure.

In the past, the City, and the Mayor in particular, has played it fast and loose, relying on one-off transactions and gimmicks. The City altered the assumptions underlying the pension plans by extending the smoothing period and expanding the market value corridor, "saving" \$400 million last year. It adopted the Early Retirement Incentive Program that increased LACERS' unfunded pension liability. It has dumped 1,600 employees along with their pension liabilities on the Department of Water & Power.

It has also deferred spending that was necessary to maintain our infrastructure: streets, sidewalks, street lights, parking buildings, and IT systems. And in its desperation, it has taken to selling revenue producing assets at fire sale prices pay daily operating expenses.

The City Council needs to start addressing the budget NOW. It cannot wait for our checked out Mayor to present another tricked-out budget in mid-April. The City cannot afford to make unsound, but politically expedient decision that will further jeopardize the financial health and reputation of the City.

The City Council also needs to develop a long range solvency plan, based on REALISTIC assumptions, which address the City's core services, staffing and efficiency, unfunded pension liabilities, and our rapidly deteriorating infrastructure.

What the City Council needs is an experienced team of advisors that reports directly to the Council that will provide objective advice and reasonable alternatives.

This is very similar to the City Council's hiring of PA Consulting to advise the Council on the issues surrounding the Energy Cost Adjustment Factor. In the turmoil and confusion surrounding the ECAF Fiasco, the City Council was in the driver's seat because its information was more reliable and timely than that of the Mayor and even the DWP.

While a team of independent advisors who have the necessary operational and financial expertise is expensive, it is the context of a \$7 billion budget (not including the three proprietary departments with revenues of almost \$5 billion and the increasingly controversial Community Redevelopment Agency with assets of \$1 billion) and \$26 billion of liabilities associated with unfunded pensions and a deteriorating infrastructure.

The City Council needs to step up to the plate and control the agenda in an open and transparent manner. We all recognize it is a no win situation and that everybody's ox is going to be gored.

City employees are going to be laid off and furloughed. Benefits are going to be cut. And Angelenos will be receiving fewer and less frequent services, but paying more fees and taxes.

If the City wants to avoid the May 5 predictions of Mayor Riordan and Alex Rubalcava, it needs to develop and implement a well thought out short term and long range solvency plan that is based on solid and reliable information. Otherwise, the financial markets will not be receptive to the June offering of Tax and Revenue Anticipation Notes and the City will be viewed as an unacceptable credit risk.

The fate of the City is in the City Council's hands. And remember, elections are in less than 140 days.

Note: The Mayor's Community Budget Day is Saturday October 16. Every Angelino should make his/her voice heard. [Click here for details.](#)

(Jack Humphreville writes LA Watchdog for CityWatch He is the President of the DWP Advocacy Committee and the Ratepayer Advocate for the Greater Wilshire Neighborhood Council. Humphreville is the publisher of the Recycler . www.recycler.com . He can be reached at: lajack@gmail.com) -cw

CityWatch
Vol 8 Issue 82
Pub: Oct 15, 2010

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1 DEMAND a walkable city The answer to one question, more than any other, will tell us whether a project has it right: Does the proposal actively welcome its own users, its neighbors, its passersby? The planning history of Los Angeles exposes our failure to analyze buildings in context. Smitten by the automobile, we trivialized our daily role as pedestrian, our need for inviting storefronts, broad sidewalks, plentiful benches, graceful lighting. We must prioritize the human scale of our built structures and street environments. We must insist that each new project visibly knit people together.

Every movement has its moment. Its beginning. Mayor Antonio Villaraigosa and Planning Director Gail Goldberg have challenged each of us to do more. It is our privilege to follow their lead. The time for inspired, principled land use planning in Los Angeles is now.

2 OFFER basic design standards Too many rules are a bane to growth and development. But too few rules, or misguided rules, can invite shoddy product and shabby boulevards. We must strike the right balance by announcing a handful of fundamental design requirements. Our goal should be to eliminate the sea of stucco boxes, blank walls, street-front parking lots, and other inhospitable streetscapes.

Do Real

4 ELIMINATE department bottlenecks The volume of permit applications, our caseloads, and processing time have risen exponentially. Yes, these increases have occurred during years of hiring freezes and unaddressed attrition. But, this Mayor and City Council have pledged to strengthen our numbers. We must respond by ferreting out our permit slowdowns. Our delayed responses abet inferior projects and kill quality development.

3 REQUIRE density around transit We need more jobs and housing, for our current residents and for those whose arrival is imminent. At the same time, we must foster our fledgling rail system and its bus partner, to untangle our worsening traffic. The planning solution is elementary: concentrate additional density at train and rapid bus stops, and discourage new density where we anticipate no mass transit relief valve.

5 ADVANCE homes for every income We own a prized commodity: the power to increase the value of land by making its zoning more lucrative. The property owner need not be the exclusive beneficiary of our pen stroke. In this time of housing crisis, let's unabashedly exploit this asset for the common good. Every upzoning should carry with it an obligation to provide, preferably through on-site units but at least via monetary contribution, housing for the poor and middle class. We can all win.

6 LOCATE jobs near housing The time for segregating jobs from housing in Los Angeles has passed. The age of unrelenting sprawl has met its match in intolerable commute times. Fortunately, we have several stale business boulevards and districts that are ripe for renovation; in these traditionally commercial-only locations, we must include both jobs and housing in the new mix.

7 **PRODUCE green buildings**

We are late to the party. The City's codes must be overhauled to require, or at the very least incentivize, building materials, systems, and methods that are health conscious and environmentally friendly. We planners should not wait for such new rules to hit the books. Let's announce today a menu of benefits that any developer who will commit to building a LEED certified project can expect in return from our department.

9 **ARREST visual blight** Amidst the clutter of power lines, slapdash signage, and the demolition of our historic gems, it is difficult to find visual calm on our streets. The Planning Department has a key role to play in reducing the built intrusions into the lives of our residents. We must seek phased elimination of utility poles and wires, controlled limitation of signage to appropriate districts, numbers, and sizes, and preservation of our historic resources.

8 **LANDSCAPE in abundance** The Mayor has challenged us to plant a million trees. But most development proposals still only offer to meet the minimum requirements for landscaping; many do not even rise to that level. We must rewrite our project submission requirements and our landscaping mitigation measures to show our seriousness and solidarity of purpose on adding shrubs, vines, and trees to create an urban forest.

Planning!

10 **NEUTRALIZE mansionization**

Neighborhoods zoned single family deserve our protection. The most pervasive threat they face is the replacement of existing homes with residences whose bulk and mass is significantly larger than the street's current character—sacrificing greenery, breathing room, light, and air. Let's be the champions of a city-wide solution to prevent out-of-scale residences.

11 **NURTURE planning leadership** Professional planning advice has been supplanted in this City with politically engineered compromise. Decades of this behavior have produced a reticent Planning Department that bends freely to both elected officials and fellow departments. We must alter this culture by standing strong for one thing at all times: advocacy of sound planning. Courageous and cogent planning must be rewarded and its practitioners promoted to positions of leadership.

12 **IDENTIFY smart parking requirements** Our long-standing love affair with the automobile has led us to mandate acres of parking spaces and parking lots that often occupy prime street frontage. We must revisit our "one size fits all" suburban parking standards, and replace them with project and location-specific tools such as parking maximums, pooled parking, automated stacked parking, and other emerging techniques.

13 **NARROW road widenings** The most overused mitigation measure in the City is the requirement that the road adjacent to a project be widened to appease the introduction of additional people. This rarely solves, and often invites, more passenger car congestion, and typically undermines our walkability goals. We must categorically reject nonsensical road widenings.

14 **GIVE project input early** A hallmark of our passivity has been to offer our advice so late in the development process as to be irrelevant. We routinely hear "the plans have been finished for months" or "the cost of making that change would be prohibitive." The Planning Department must reorganize its case intake process and provide preliminary guidance, or outright rejection of the case as incomplete, within sixty days after an application is filed.



WHY LANLT

overview | **LA: starved for green** | inequitable distribution of green | existing measures are ineffectual | environmental reasons for LANLT | opportunistic strategy

Parks and open space are fundamental to the livability of cities and their neighborhoods. But in Los Angeles, a city historically conceived as a place of low-density homes each with its own private garden, civic leaders set aside extraordinarily modest amounts of land for open space and park/recreational purposes. As the city has grown and become increasingly dense, concern about lack of adequate park and recreation space for city residents has grown rapidly. Except for a few big parks, the City of Los Angeles is lacking in enough parks and green space considering the population. (See Map 1 of "Parks and Park Funding", in PDF format).

historically . . . civic leaders set aside extraordinarily modest amounts of land for open space and park/ recreational purposes.

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WHY LANLT

overview | LA: starved for green | inequitable distribution of green | existing measures are ineffectual | environmental reasons for LANLT | opportunistic strategy

Smiling children, family pachangas, access to fresh vegetables, and improved aesthetics are a few of the obvious benefits created by parks and community gardens. More complex psychological and economic

Los Angeles . . . ranks last among major cities in per capita open space. benefits have been documented by numerous studies,

which have proven a positive correlation between green spaces and improved mental health, lower crime rates, and stronger communities. As an example, parks can be a vehicle in steering at-risk youth into positive activities. Providing the place is the first step; creating programming at these places to serve and meet the needs of the surrounding neighborhoods is an equally important second step.

Angelenos understand the benefits of parks as registered by the repeated support for bond measures for the creation of parks. **Los Angeles, however, ranks last among major cities in per capita open space.**

The National Recreation and Parks Association recommend 10 acres of park space per 1,000 residents. Los Angeles barely reached 10% of this national standard with a mere 1.107 acres per 1,000 residents. In a recent study, the Trust for Public Land found that only 34% of children in Los Angeles were within one-quarter of a mile of a park. This compares with Boston where 78% of children are within one-quarter of a park; New York with 59% and Atlanta with 43%.

The Los Angeles Neighborhood Land Trust (LANLT) works with communities to create neighborhood parks and community gardens as a way to strengthen and empower the residents in underserved areas. LANLT utilizes a community-based planning model to empower community residents to create, program and sustain these neighborhood parks and gardens, while providing resources to ensure the success of projects. These projects will assist in neighborhood revitalization and economic development for the existing residents of the community.



The realization of the vision of a park in every neighborhood would mean that the simple joy of walking to the park would be available to every resident of Los Angeles. LANLT is harnessing the resources, creativity, diversity and expertise available in the City of Los Angeles to ensure this vision.

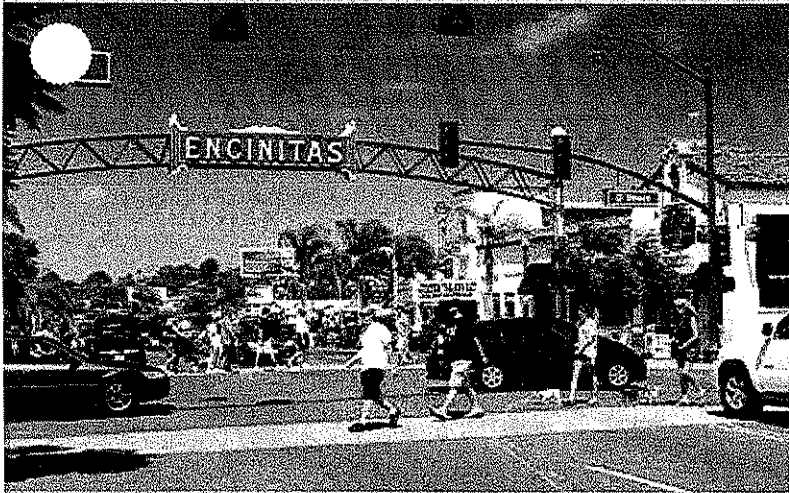
[next page: LA: starved for green](#)



Communities Tackle Global Warming

A Guide to California's SB 375

June 2009



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Natural Resources Defense Council



About NRDC

The Natural Resource Defense Council (NRDC) is a national nonprofit environmental organization with more than 1.2 million members and online activists. Since 1970, our lawyers, scientists, and other environmental specialists have worked to protect the world's natural resources, public health, and the environment. NRDC has offices in New York City, Washington, D.C., Los Angeles, San Francisco, Chicago, Montana, and Beijing. Visit us at www.nrdc.org.

About CLCV EF

California League of Conservation Voters Education Fund (CLCV Ed Fund) is a nonpartisan 501 (c)(3) organization dedicated to improving the quality of the environment for all Californians. Our programs elevate the importance of environmental issues by educating Californians and involving them in the democratic process. In addition, we build the capacity of environmental organizations by developing and providing tools and resources to help them more effectively protect the environment.

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- Housing California
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"Most of the serious work on climate change has occurred in the states, and no state has worked harder than California. The latest example of California's originality is a new law—the nation's first—intended to reduce greenhouse gas emissions by curbing urban sprawl and cutting back the time people have to spend in their automobiles."

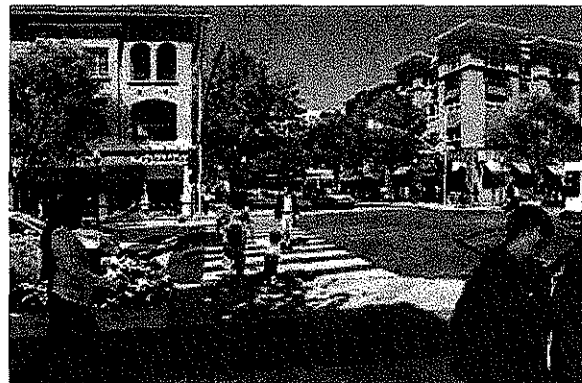
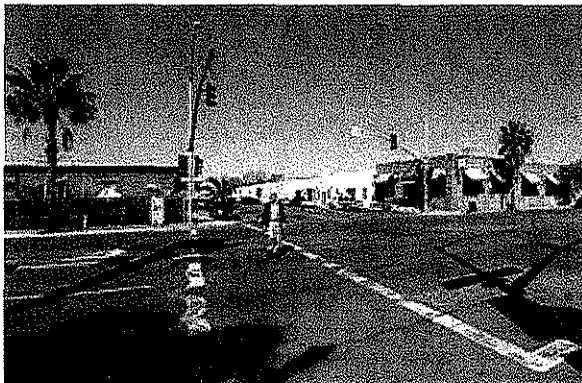
— New York Times editorial, October 7, 2008

"If California is going to get serious about fighting global warming, it must confront the fact that its land-use patterns have been dooming us to long commutes and dependence on the automobile for simple daily tasks. Passage of SB375 would represent a significant step toward identifying and addressing a major source of greenhouse gas emissions."

— San Francisco Chronicle editorial, August 7, 2008

"The No. 1 example [of good legislation] was Sen. Darrell Steinberg's steering into law his sweeping "smart growth" proposal to control suburban sprawl, build homes closer to downtown and reduce commuter driving, thus decreasing climate-changing greenhouse gas emissions. There'll be incentives for communities and developers to compress growth. Communities will get first dibs on government transportation money. Residential home-builders will be granted relief from environmental red tape."

— Los Angeles Times, October 5, 2008



URBAN ADVANTAGE

This photo simulation shows how the streets of Barrio Logan, a San Diego neighborhood, could come alive after mixed-use development and improved street design bring pedestrian activity into the area.

Executive Summary

California's Sustainable Communities and Climate Protection Act, or SB 375, is the nation's first legislation to link transportation and land use planning with global warming.¹ SB 375 is an important step toward a cleaner, healthier, and more prosperous California. This groundbreaking measure shows us that where we live and how we get to work, go about our daily business, and take our kids to school matters a great deal in the fight against climate change. In fact, household transportation in California is the single-largest and the fastest-growing source of global warming pollution in the state. Locating housing closer to jobs and transportation choices and creating walkable communities can reduce commute times and cut millions of tons of global warming pollution, while improving quality of life.

SB 375 Creates Livable Neighborhoods

The bill is intended to foster development patterns that will reduce the need to drive. California households could reduce their transportation-related climate pollution by 30 percent or more from reduced fuel use alone if development patterns between now and 2020, both inside and outside the urban core, were more efficient.² This means additional compact single-family detached housing, apartments, condominiums, townhouses, and new developments that are served by good, reliable transit.

Successful implementation of SB 375 could also produce many benefits beyond reducing greenhouse gas pollution:

- ▶ **Taxpayer savings:** The costs of infrastructure to support our urbanized areas can be lowered, potentially saving taxpayers \$16 billion in the Sacramento region, for example, and \$48 billion in Southern California.³
- ▶ **Household savings:** Reductions in fuel, infrastructure, energy, and water costs could save the average family \$3,000 to \$4,000 per year.⁴ The average cost to own, maintain, and operate a private auto is \$8,670 per year; households that reduce their need to drive can realize substantial savings.⁵
- ▶ **Reduced air pollution:** 50 percent of air pollution comes from motor vehicles.⁶ Compact development could reduce air pollution by 84,000 tons every year.⁷
- ▶ **National security:** Better land use patterns could conserve 1 billion gallons of petroleum per year by 2020, and more than double that amount annually by 2050. Cars and trucks currently account for 70 percent of petroleum consumption in California.

- ▶ **Water conservation:** Compact development patterns could reduce water consumption up to 20 percent. Saving water also reduces greenhouse gas emissions.⁸
- ▶ **Farmland and habitat protection:** SB 375 could save more than 1,500 square miles of land from development by 2020.⁹
- ▶ **Quality of life improvements:** SB 375 could reduce commute times while increasing overall mobility. And compact development patterns better reflect changing demographics and create more of a mix of housing choices than are currently provided.
- ▶ **Improved public health:** Walkable communities improve residents' physical fitness and reduce obesity.

Left unchecked, global warming will have a serious effect on our health, our economy, and our communities. In California, SB 375 holds the promise of a more sustainable prosperity. By creating more livable communities and more transportation choices, SB 375 can reduce the miles we travel in our cars—one of the largest sources of the greenhouse gases that cause global warming. Realizing the promise of SB 375 through successful implementation and incentives will once again make California a model for reducing global warming pollution throughout the nation. SB 375 relies primarily on process and incentives rather than mandates, with the expectation that in the complex, controversial universe of land use and transportation planning, process and incentives will produce faster and more enduring outcomes than mandates. Changes in political leadership, market demand, and public opinion will fill the sails of the process—that is the promise of SB 375.



The Crossings community of Mountain View, California, allows easy access to transit and offers plenty of opportunities for walking and biking.

© CALTHORPE ASSOCIATES

Quick Guide to Key Elements of SB 375

SB 375 Changes California Planning and Transportation Law in Four Basic Ways:

1. It adds a sustainable communities strategy that links climate policy with transportation and land use planning to the regional transportation plan (RTP)
2. It aligns the program for the regional distribution of housing to be consistent with the sustainable communities strategy
3. It adds new provisions to the California Environmental Quality Act to encourage land use decisions that implement the sustainable communities strategy
4. It adds new modeling provisions to accurately account for the transportation impacts of land use decisions

The Sustainable Communities Strategy—Regional Greenhouse Gas Emissions Targets:

- ▶ The Air Resources Board, after an interactive process with the regions, sets greenhouse gas emissions reduction targets for each region from the car and light truck sector
- ▶ The Air Board must take into account other strategies for reducing greenhouse gas emissions, such as fuel efficiency standards and low-carbon fuels

Contents of the Sustainable Communities Strategy:

- ▶ Identifies areas for housing and development for all of the region's population
- ▶ Identifies and considers significant resource areas and farmland
- ▶ Sets forth an integrated development pattern and transportation network that will achieve the greenhouse gas emissions reduction targets, if there is a feasible way to do so
- ▶ Provides for an alternative planning strategy if it is not possible to achieve the targets within the sustainable communities strategy
- ▶ Complies with the federal clean air and transportation laws

Aligning the Regional Distribution of Housing With the Sustainable Communities Strategy:

- ▶ Provides that councils of government allocate housing within a region to be consistent with the sustainable communities strategy
- ▶ Establishes that housing elements will be updated every eight years, instead of five
- ▶ Provides that allocations of housing units by the Department of Housing and Community Development to regions must be consistent, to the extent feasible, with the jobs-housing balance per the regional transportation plan
- ▶ Mandates that local governments must complete housing elements within 18 months after receiving their housing allocation
- ▶ States that local governments have three years to complete rezoning of sites to be consistent with the designations in the housing element
- ▶ Determines that a court can compel local governments to complete the rezoning if the statutory deadline is not met; if the rezoning is not completed, there are new restrictions on its power to deny or condition affordable housing projects

Aligning the California Environmental Quality Act With the Sustainable Communities Strategy:

- ▶ Provides a new exemption for transit priority residential and mixed-use residential projects that qualify as sustainable communities projects
- ▶ Includes a new sustainable communities environmental assessment process for transit priority projects if the environmental impacts of the project can be fully mitigated
- ▶ Authorizes a focused environmental impact report (EIR) process for transit priority projects if there are environmental impacts; findings of overriding consideration must be considered
- ▶ Elevates traffic mitigation for transit priority projects to a policy decision instead of a project-by-project determination
- ▶ States that residential and mixed-use residential projects that would implement Air Board regional targets do not need to do project-level EIR analysis of certain climate impacts, growth inducing impacts, and impacts on the regional transportation network

CHAPTER 1

Introduction: SB 375 Offers a Path to Sustainable Prosperity

The current recession kicked into gear when gasoline hit \$4 a gallon in the summer of 2008. It is notable that the recession hit far-flung sprawl communities first and hardest. For example, transportation costs for families living in sprawl locations in the Sacramento region rose to 25 percent of the family budget. Many families had purchased housing with irresponsible, even predatory, financing. The combination was destructive. Mortgage defaults and then mortgage foreclosures climbed rapidly, especially in the outlying suburbs.

The market is helping reduce sprawl development. The *Wall Street Journal* reports that in 2007, 25 percent of the new homes constructed in the Denver area were in the central city, as opposed to 5 percent in the early 1990s. In Chicago, it had increased to 40 percent from 7 percent.¹⁰

In California from 1998 through 2004, compact development (attached units plus small lot detached) constituted 40 percent of the market. In 2008, attached units alone accounted for almost 50 percent of the units developed.¹¹ The total market share of compact development in 2008 would be an even larger number.

These market shifts are not due simply to the financial crisis. They are also the result of long-term demographic changes that are driving housing demand. In the 1960s, 48 percent of households consisted of couples with at least one child; today that number is 33 percent. By 2030, 73 percent of households will consist of single adults or couples without children.¹²

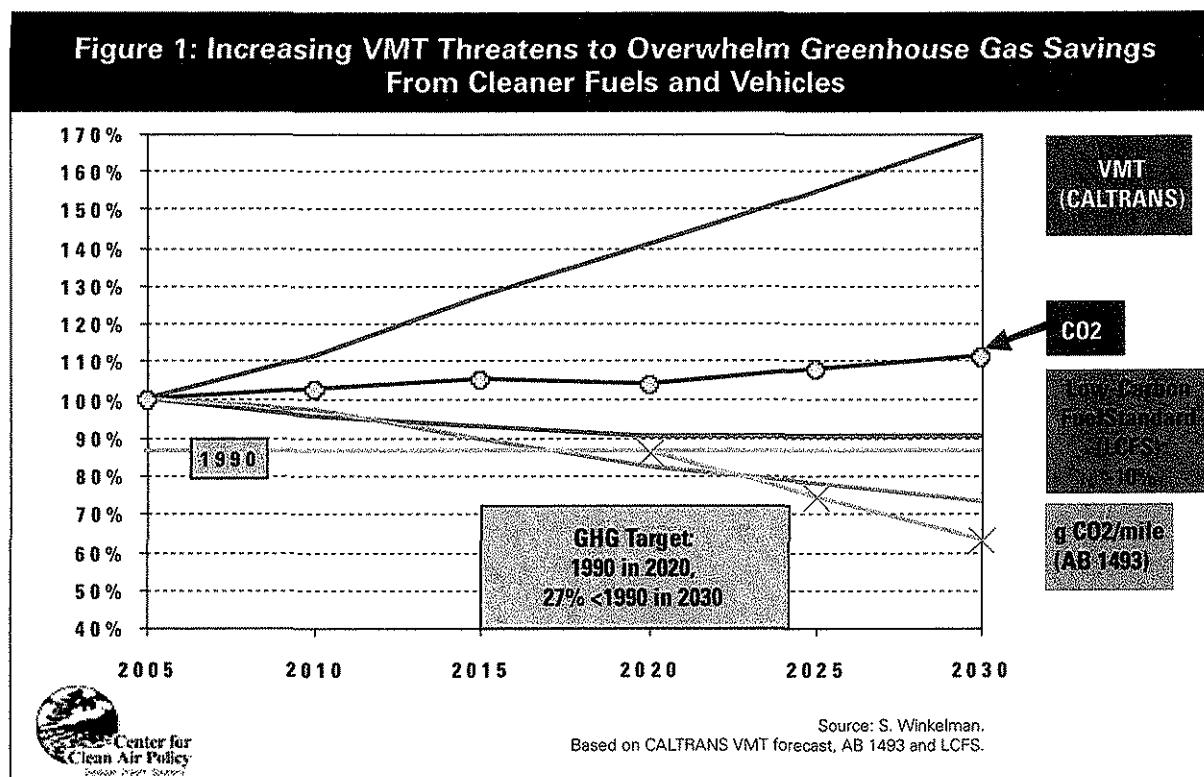
The Benefits of a New Approach

The multiple benefits of successfully implementing SB 375 cannot be overlooked. The central purpose of SB 375 is to address the crisis of global warming, but these additional benefits may help public officials

The Recession Hits the Exurbs First and Hardest

In August 2008, 75 percent of the existing home sales in Merced County were of foreclosed properties. By October 2008, the average home prices in the Central Valley towns of Manteca and Los Banos had fallen 50 percent and 66 percent, respectively. Both communities are far—upward of 75 miles—from the job centers in the San Francisco Bay Area, but, incredibly enough, they had become sites of commuter subdivisions. By November 2008, 90 percent of the houses in Mountain House, a huge commuter subdivision in western San Joaquin County, were worth less than the mortgages on them. By the time of this writing (April 2009), defaults, foreclosures, and price declines are more widespread. Nevertheless, the effects in the urbanized core of the San Francisco Bay Area, for example, are much more muted than in the distant exurbs.

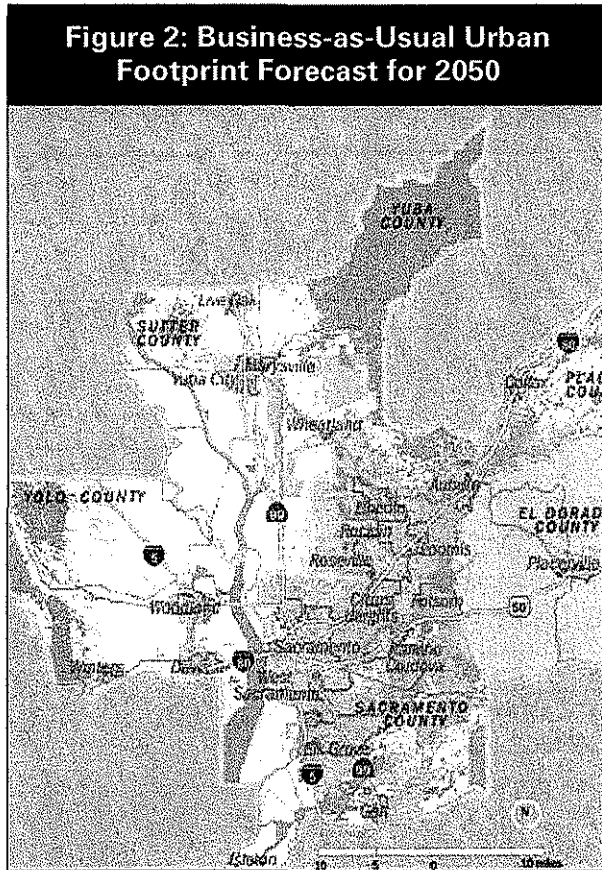
make good decisions. Household transportation causes 30 percent of all greenhouse gas emissions in California. As the graph below shows, even with much greater fuel efficiency and low-carbon fuels, California will not be able to achieve its climate goals unless it can reduce the rate of growth in vehicle miles traveled (VMT). Because of the growth in VMT, CO₂ emissions never drop to 1990 levels and resume rising after 2020.



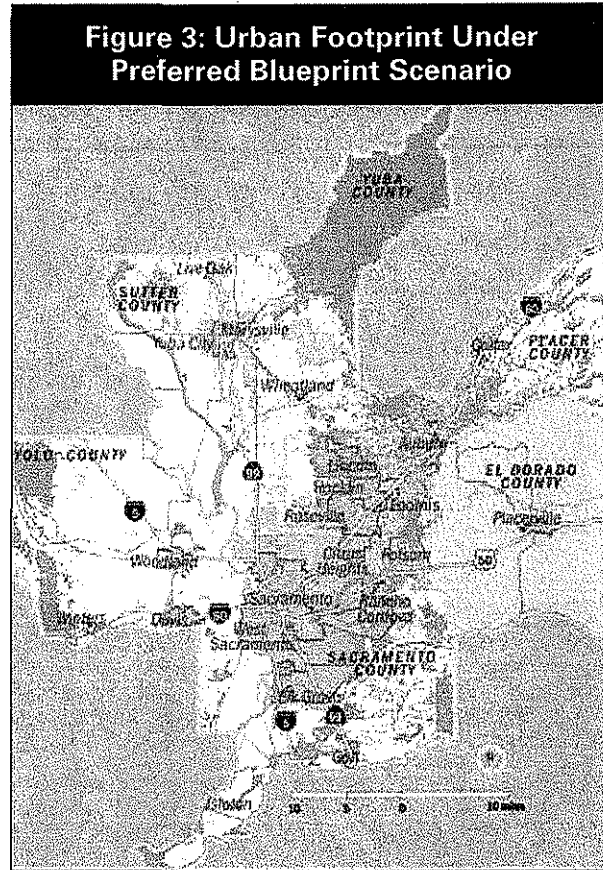
A Tool for Reducing Vehicle Miles Traveled (VMT) and Revitalizing Neighborhoods

Compact urban form and other neighborhood design characteristics can play an important role in reducing VMT while also ensuring the vibrancy and functionality of communities. Innovative techniques to help people picture what new growth patterns would look like are increasingly available. The Natural Resources Defense Council and Urban Advantage have developed a new tool to show how communities in California and across the country can revitalize neighborhoods and build vibrant new streetscapes. This tool can be accessed at: www.nrdc.org/smartGrowth/visions/default.asp. This website lets readers see what our neighborhoods and landscapes could look like in an SB 375 future. Some examples are also included on pages 4 and 23 of this report.

SB 375 builds upon the leadership of the Sacramento region. With extensive public participation, the Sacramento Area Council of Governments (SACOG) designed a regional blueprint that provided the same number of housing units and jobs, and served the same population as did the business-as-usual scenario, yet with a much smaller urban footprint.



Source: Sacramento Area Council of Governments.



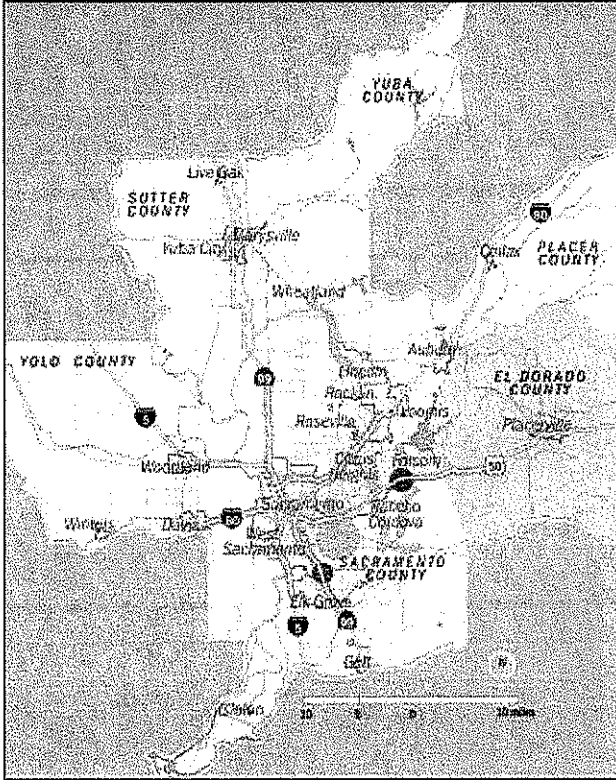
Source: Sacramento Area Council of Governments.

In contrast, the map in Figure 3 shows the smaller urban footprint of the new scenario. It serves the same population but occupies 360 square miles less land.

Not only does the preferred scenario occupy much less land, but because of a much better (and cheaper) transportation network, it also reduces congestion. Figure 4 shows the congestion resulting from the business-as-usual scenario, and Figure 5 shows how this congestion could be reduced.

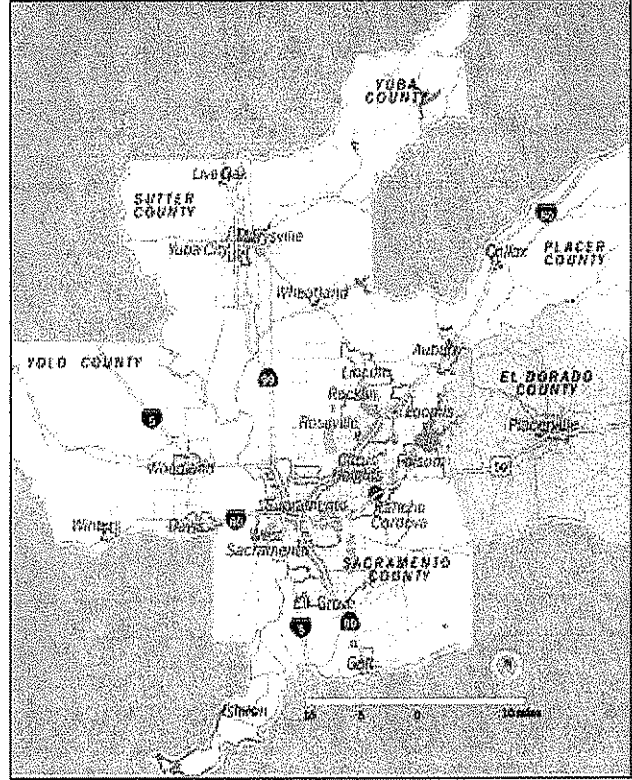
Getting to a better, more sustainable future is no easy matter. In developing SB 375, we had to confront several serious barriers. First, it was essential to create the link between global warming, on the one hand, and transportation and land use, on the other. Second, we had to align several major programs that were pushing the state's growth patterns in inconsistent ways. Finally, if growth patterns were going to be designed that would locate housing closer to employment centers and transportation opportunities and away from resource lands, it was essential to emphasize planning on a regional scale.

Figure 4: Traffic Congestion From Business-as-Usual Transportation



Source: Sacramento Area Council of Governments.

Figure 5: Better Planning Can Lead to Reduced Congestion



Source: Sacramento Area Council of Governments.

The Impossible Coalition

SB 375 was sponsored by environmental groups and gained the support of local governments, builders, affordable housing advocates, major employers, and labor unions. This coalition was not easily assembled. That it came together at all is a tribute to the political leadership of the bill's author, Senator Darrell Steinberg. It also came about because parties were willing to face new realities. AB 32 had been passed and the state was poised to enact far-reaching policies to reduce greenhouse gas emissions. The present land use system was broken and in need of reform. By focusing SB 375 on an open process and incentives rather than complex mandates, all the interests were able to realize gains: The Air Board was given a role to set targets for land use and transportation planning. The funding incentives embedded in the regional transportation plan were employed. Adjustments to the California Environmental Quality Act (CEQA) were made. The housing element process was placed on a longer schedule to coincide with transportation planning and was made more enforceable. SB 375 enjoyed a process of principled compromise that can produce more widespread success in the legislative arena. Reaching agreement on complex, large-scale, and controversial issues is the strongest path for durable achievements.

Making the Global Warming Link

SB 375 links land use and transportation patterns to greenhouse gas emissions by adding a new element to existing regional transportation plans, known as the sustainable communities strategy (SCS). The California Air Resources Board (Air Board) is authorized to set regional greenhouse gas emissions reduction targets to be achieved from the household transportation sector (cars and light trucks) for each of the metropolitan planning regions in California. The regions are then obligated to design an integrated land use and transportation network within the regional transportation plan that achieves the targets if there is a feasible way to do so.

Aligning Programs for Action

SB 375 aligns three major programs that address growth patterns in California: regional transportation plans, regional housing allocations, and the California Environmental Quality Act (CEQA). State law now requires that housing be allocated to local governments in a pattern consistent with the sustainable communities element of the regional transportation plan. SB 375 also adjusts the timetables for adoption of housing elements so that the housing allocations occur over the same time frame and on a consistent calendar with the adoption of the regional transportation plan. It also contains several new provisions in the CEQA that improve the environmental review of projects that will assist California in attaining its major strategic environmental goals.

More Planning on a Regional Scale

An emphasis on planning at the regional level is essential, and this might be one of the signature achievements of SB 375. It is not feasible to do planning on a city-by-city basis to locate housing close to employment centers or transportation choices. This can be accomplished only when the patterns of the region as a whole are examined.

The shift to the regional scale is needed in part because of the paradox of perspective. At the regional level, it can be quickly seen that locating more housing in an urban center near employment opportunities will reduce VMT, greenhouse gas emissions, air pollution, and gasoline consumption as compared with locating that housing on the urban fringe. Yet, when the local government analyzes that same housing in the urban core, it will estimate the number trips generated as a result of a specific development project. From the local government's perspective, it will appear that reducing the density of that project will reduce the number of trips and hence reduce climate emissions, air pollution, and gasoline consumption—the exact opposite of the conclusion reached by an analysis on the regional scale.

Balancing Regional Planning and Local Authority

In California, local governments are essentially the only entities with land use authority. Development occurs only when and where local government approves it. Implementation of SB 375 ultimately depends on the land use approvals of local governments. Striking a balance between local authority and regional planning is crucial.

SB 375 starts with the existing regional transportation planning process, which is conducted by representatives of local governments within the region. The bill is also explicit: Metropolitan planning organizations do not have land use authority; only local governments do. The role of the regional transportation plan will be what it has always been: Transportation projects are eligible for funding if they are contained in the regional transportation plan.

Local governments have long recognized the importance of the regional transportation plan. They obviously want transportation infrastructure for the land use developments they approve. They already have an incentive to approve developments that will be eligible for transportation infrastructure funding. SB 375 does not change either the role of the regional transportation plan or the role of local governments. What SB 375 does do is make the regional transportation planning process much more robust. Now it must include specific steps to address the global warming impacts of land use and transportation planning.



Emeryville Marketplace is the first LEED for Neighborhood Development (LEED-ND) platinum certified development in California. The photograph on the left shows the parking lot before development; the image on the right illustrates the mixed-use, environmentally sensitive design of the new community. LEED-ND certification is independent verification that buildings and developers meet high levels of environmentally responsible, sustainable development. LEED-ND is a collaboration among the U.S. Green Building Council, the Congress for the New Urbanism, and the Natural Resources Defense Council.

SB 375 does not create a mandate that the Sustainable Communities Strategy (SCS) achieve greenhouse gas reduction targets. Instead it is designed to achieve its goals through a process in which regions are required to examine the relationship between land use and transportation policies on the one hand, and greenhouse gas reduction targets on the other.

Changing Public Opinion

The public clearly supports change, and it may be ahead of many elected officials. In November 2008, despite the terrible recession, more than two-thirds of the voters in Los Angeles, Marin-Sonoma, and Santa Clara counties approved a tax increase to fund transit. Statewide voters also approved issuing bonds for high-speed rail.

A 2007 poll by the National Association of Realtors shows strong public support for growth, land use, and transportation issues:¹³

- ▶ **71 percent** are very concerned about the impact of development on climate pollution.
- ▶ **57 percent** agree that “business and homes should be built closer together” so stores and shops are within walking distance.
- ▶ **61 percent** agree that new home construction should be limited in outlying areas and encouraged in very urban areas.
- ▶ **81 percent** want to redevelop older areas rather than building new ones.
- ▶ **83 percent** support “building communities where people can walk places and use their cars less.”
- ▶ **88 percent** support more public transportation.

In addition to addressing climate, SB 375 will achieve multiple benefits:

- ▶ Increased household budget savings
- ▶ More housing choices
- ▶ More housing closer to work
- ▶ Cheaper transportation infrastructure
- ▶ Shorter commutes
- ▶ Greater mobility
- ▶ More walkable commercial and civic amenities
- ▶ Better air quality
- ▶ More energy conservation
- ▶ More water conservation
- ▶ More farmland conserved
- ▶ More habitat preserved

CHAPTER 2

The Sustainable Communities Strategy

The sustainable communities strategy is the heart of SB 375. Prior to SB 375, the regional transportation plan consisted of three elements: a policy element, an action element, and a financial element. SB 375 added a new element to the plan—a sustainable communities strategy. SB 375 makes it explicitly clear that the regional transportation plan “shall be an internally consistent document” (Government Code §65080[b]). Thus the list of projects in the action element, the funding for transportation projects, and the sustainable communities strategy will have to be consistent with one another.

Setting Regional Greenhouse Gas Emissions Reduction Targets

SB 375 creates a link between global warming policies and land use and transportation planning through regional greenhouse gas reduction targets that become a design parameter for the regional transportation plan. Setting these targets is the responsibility of the Air Board, which is the lead agency for the implementation of AB 32, California’s landmark Global Warming Solutions Act of 2006.

The Air Board is required to provide each of California’s 18 federally designated metropolitan planning regions with greenhouse gas emissions reduction targets for 2020 and 2035 by September 30, 2010. These targets are aimed at reducing greenhouse gas emissions from cars and light trucks only. Greenhouse gas emissions associated with other sectors, such as industrial and energy production, are beyond the scope of SB 375 and will be addressed by the Air Board under the provisions of AB 32.

SB 375 is not the exclusive strategy for addressing the emissions from cars and light trucks. The Air Board has already approved standards to increase vehicle efficiency under AB 1493, the landmark bill sponsored by Senator Fran Pavley. The Air Board has also adopted rules to reduce the carbon content of fuels. However, as noted earlier, fuel efficiency and better fuels will not by themselves be enough. Unless other measures are taken to reduce the growth in VMT, California will be unable to achieve its climate goals. In setting the targets for the regions, the Air Board is required to consider how much can be achieved through fuel efficiency, better fuels, and other possible strategies (Government Code §65080[b][2][A][iii]).

Establishing an Iterative Process

Giving the Air Board a role, any role at all, in land use and transportation planning is one of the innovations of SB 375, and understandably it raised concerns. To address those concerns, the bill includes very substantial process provisions. During development of the bill, these provisions were colloquially referred to as creating an “iterative

process.” In other words, the process does not consist of parties simply presenting their concerns to the Air Board. Instead, there are a series of steps so that there is an interaction between the Air Board and interested parties in a variety of ways.

Regional Targets Advisory Committee

As a first step, the Air Board appoints the regional targets advisory committee (RTAC), which must consist of specified parties, including local governments, homebuilders, environmental groups, affordable housing organizations, local transportation agencies, and others. The RTAC is tasked with recommending “factors to be considered and methodologies to be used” for setting the targets and must present its report to the Air Board by September 30, 2009 (Government Code §65080[b][2][A][i]).

Setting the regional targets involves a host of complicated issues. Not only must the Air Board establish a target to be achieved in total by the metropolitan planning organizations (MPOs), but also it must allocate that total among the regions. The Air Board will no doubt consider the projected growth rates of the various regions along with how to handle the knotty issue of interregional travel. In the San Francisco Bay Area in particular, there are a large number of commuters who live outside the region but drive to one of many employment sites within the region. To a lesser extent, that problem also affects the other three major metropolitan regions of Southern California, San Diego, and Sacramento. The RTAC will offer advice on these issues, and the Air Board must “consider” its advice (Government Code §65080[b][2][A][i]).

Regional Consultation

In addition to creating the regional targets advisory committee, SB 375 provides that the Air Board shall “exchange” information with each affected MPO and air district. Each MPO can recommend what its target should be. The bill intentionally did not include this provision within the ambit of the RTAC because of the committee’s very substantial workload and the relatively short calendar for its report, among other reasons.

The MPO must hold at least one public workshop within its region after receipt of the report from the RTAC. The Air Board is also required to release draft targets for each region by June 30, 2010. This will give each region and interested parties a reasonable period to see the direction the Air Board is intending to go, and will allow enough time to prepare comments prior to the final adoption of targets by September 30, 2010.¹⁴

Target Adjustment

Finally, the bill recognizes that adjustments to the targets may be needed. Every four years, the Air Board can adjust the targets because of changes in the fuel efficiency of vehicles, changes in fuel composition, or other policies that will reduce greenhouse gas emissions. Every eight years, the Air Board can also adjust the targets to make sure that the region is on schedule to achieve its goals for 2050, at which time California is supposed to have reduced statewide greenhouse gas emissions to a level that is 80 percent below the 1990 levels (Executive Order S-3-05).

Developing a Sustainable Communities Strategy

Existing federal law already requires regional transportation plans (RTPs) to include a land use component. These plans must have a minimum 20-year planning horizon during all parts of their useful life (23 USC §134[g][2]). It is simply impossible to do responsible transportation planning, especially for such a long time period, without understanding how and where a region is growing. Furthermore, these plans must consider how to “protect and enhance the environment” and “promote energy conservation” (23 USC §134[f]). Federal regulations require that the RTP:

Reflect, to the extent that they exist, consideration of: the area’s comprehensive long-range land use plan and metropolitan development objectives; national, State, and local housing goals and strategies, community development and employment plans and strategies, and *environmental resource plans*; local, State, and national goals and objectives such as linking low income households with employment

opportunities; and the area's overall social, economic, *environmental, and energy conservation goals and objectives* (23 CFR §450.322[b][9]; emphasis added).¹⁵

Under existing federal regulations, the plan must also explicitly consider and analyze: The likely effect of transportation policy decisions on land use and development and the consistency of transportation plans and programs with the provisions of all applicable short- and long-term land use and development plans (the analysis should include projections of metropolitan planning area economic, demographic, *environmental protection*, growth management, and land use activities consistent with metropolitan and local/central city development goals [community, economic, housing, etc.], and projections of potential transportation demands based on the interrelated level of activity in these areas) (23 CFR §450.316[a][4]; emphasis added).

Under the federal Clean Air Act, regions whose air emissions do meet the federal standards must show that the regional transportation plans meet an air quality conformity test. The federal air quality conformity regulations for regional transportation plans have a series of similar provisions in order to assure that the conformity analysis is based upon a realistic set of planning assumptions. The regulations provide that:

Assumptions must be derived from the estimates of current and future population, employment, travel, and congestion most recently developed by the MPO or other agency authorized to make such estimates and approved by the MPO. The conformity determination must also be based on the latest assumptions about current and future background concentrations (40 CFR§93.110[b]).

Federal air quality conformity regulations also require, in regions with more than 200,000 persons, that for each horizon year:

The transportation plan shall quantify and document the demographic and employment factors influencing expected transportation demand, including land use forecasts, in accordance with implementation plan provisions and the consultation requirements specified by Sec. 93.105 (40 CFR §93.106[a][2][i]).

Taken together, these federal regulations constitute a set of significant land use planning provisions.

The Role of the Local Land Use Authority

Local land use authority has to play a crucial role. Local governments in California have the authority to approve or disapprove general plans, subdivision maps, and zoning ordinances and to issue building permits for private development. Land uses in a regional transportation plan cannot be effectuated unless a local government approves them. Local land use decisions are a *sine qua non* of land use development. Others can make plans, but only local governments can approve development permits.

However, it is a common misconception that the most accurate way to prepare the land use component of a regional transportation plan is to assume that all of the local government plans and zoning ordinances should be treated as though they were frozen in place for the entire planning horizon of the RTP. This is definitely not a realistic assumption. Those local government plans will be changed many times over the 20+ years of an RTP, sometimes on a community-wide basis or perhaps in response to an individual development application.

It is also essential to recognize the limitations of local land use planning. Funding for comprehensive planning has been severely constrained since the passage of Proposition 13 in 1978. Not surprisingly, many local governments struggle to keep their general plans up to date. According to the 2009 Planners Book of Lists published by the Governor's Office of Planning and Research, 55 percent of general plans have at least

one mandatory element that is more than 10 years out of date. The plans that do exist are often unrealistic. For example, they include far more tax-revenue-generating land uses (hotels, auto dealerships, regional shopping centers) than the market will support and frequently do not identify enough land to meet medium- and long-term housing demand.

The balance struck in the federal regulations is that existing local planning must be “considered” along with local, state, and national goals that “link low-income households with employment opportunities and overall social, economic, environmental, and energy conservation goals and objectives.” Federal regulations provide that planning assumptions “must be derived from the estimates of current and future population, employment, travel, and congestion” most recently developed “by the MPO” or, if by another agency, “approved by the MPO.” Out-of-date local plans or plans with no realistic market would presumably not qualify under this language.

SB 375 creates a vital opportunity for local governments, MPOs, and multiple stakeholders to take a realistic look at the future of their region. This should include an examination of changing demographics over the planning horizon and the consequences of those changes on housing demand. As noted earlier in this report, these demographic shifts could lead to dramatic changes in housing demand.

SB 375 doesn’t mandate how any particular sustainable communities plan should look. That is left to the region and the local governments to decide. The regional process will identify the locations for growth that will help achieve our vitally important climate goals. Local governments will design the communities.

Sustainable Communities Strategy Tasks

- 1. Map**—Identify the general location of uses, residential densities, and building intensities within the region. Presumably this will be done in the form of a land use map. SB 375 does not require parcel-specific maps. Only the “general” locations need be identified.
- 2. Housing for all**—Identify areas sufficient to house all the population of the region, including all economic segments, over the course of the planning period of the regional transportation plan, taking into account net migration into the region, population growth, household formation, and employment growth. This provision is not atypical for growth projections, but SB 375 makes two significant changes. First, the SCS must accommodate all the population growth of the region within the region.¹⁶ Shipping residential growth to adjacent regions is no longer allowed. Second, the population growth projections must include the increased housing demand caused by employment growth. These provisions recognize the crucial linkage between a regional-scale jobs-housing balance and reduced VMT. The housing projects in the first horizon year of the plan (presumably eight years out) must be consistent with the regional housing need identified in the regional housing needs allocation (RHNA) program. This provision is part of the effort to align these programs.
- 3. Natural resources and farmland**—Gather and consider the best practically available scientific information regarding resource areas and farmland in the region as defined in subdivisions (a) and (b) of Section 65080.01. SB 375 requires that information on these impacts be gathered and considered. The information must be the “best practically available scientific information.” MPOs will presumably want to make sure this effort is coordinated with their obligations under the California Environmental Quality Act. Under CEQA, a lead agency can be required to do a reasonable level of research.¹⁷
- 4. Greenhouse gas reduction development pattern**—Set forth a forecasted development pattern for the region, which, when integrated with the transportation network and other transportation measures and policies, will reduce the greenhouse gas emissions from automobiles and light trucks to achieve, if there is a feasible way to do so, the greenhouse gas emissions reduction targets approved by the state board. This final step is obviously the crux of the SCS. The plan must contain a forecasted development pattern. That pattern must be integrated with the transportation network and other transportation measures and policies (parking, employer shuttles, etc.). The plan must reduce GHG emissions from cars and light trucks to achieve, if there is a feasible

way to do so, the GHG targets approved by the Air Resources Board. SB 375 does not require a region to achieve the targets if, for example, it would cause a violation of federal regulations and jeopardize federal transportation funding. “Feasible” is broadly defined, using the same definition that is currently found in CEQA (Government Code §65080.01[c]).

Alternative Planning Strategy

If an MPO cannot feasibly achieve the targets within its sustainable communities strategy, it must show how it would do so in another document called an alternative planning strategy (APS) (Government Code §65080[b][2][H]). SB 375 specifically provides that the APS is not part of the RTP. In that way, the APS is not subject to the federal regulations. It can thus show, for example, greater levels of transit service than would be allowed under a fiscally constrained analysis.

However, the APS is not purely aspirational. First, it must be adopted by the MPO; as such, it represents an institutional statement about how a region could achieve its climate targets. Second, it must set forth the principal impediments to achieving the climate targets within the SCS. Third, it must also show why the development pattern, transportation measures, and policies it presents are the “most practicable choices for achievement” of the targets (Government Code §65080[b][2][H][iii]).¹⁸

SCS or APS Review Process

The determination of whether an SCS or an APS actually would, if implemented, achieve the targets is not left solely to the MPO. The MPO must submit its strategy to the Air Board for review. This is a crucial step for many reasons, not the least of which is transparency. The determinations of how well a strategy works will necessarily rely on modeling. As discussed later, SB 375 reforms how state transportation models are generated to better capture the benefits of close-in development. The Air Board, with its substantial modeling expertise, will review the regional modeling.

There was concern, however, that the Air Board might require specific changes in land use or transportation policy in order to achieve the climate targets. Therefore, SB 375 attempts to create an open, interactive process with the Air Board. Prior to developing an SCS, a region must submit to the Air Board its technical methodology for estimating the effects of its strategy on greenhouse gas reductions. The Air Board must respond to this submittal in writing with its specific concerns and suggested remedies. As a result of this exchange, presumably the Air Board’s technical concerns can be addressed long before a strategy is formally submitted.

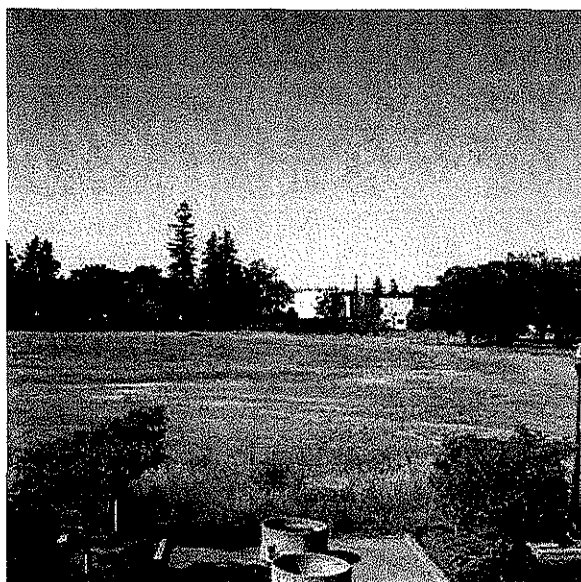
Once a strategy is submitted, the Air Board can only accept or reject the MPO’s determination whether the strategy would, if implemented, achieve the GHG target for that region. Nothing in SB 375 gives the Air Board authority to revise any land use or transportation plan. However, if the Air Board determines that the strategy submitted would not achieve the targets, the region must revise and resubmit its strategy until it at least has an APS that has been approved by the Air Board.

Public Participation

SB 375 promotes transparency through several public participation provisions for the development of both the SCS and the APS. Each MPO must conduct at least two forums specifically for local government elected officials. Additionally, a public participation plan must include outreach to a wide variety of potential stakeholders, including private groups and public transportation entities. Provision is made for public workshops with urban simulation computer modeling, if practicable. There must be a minimum 55-day comment period on a draft SCS or APS and at least two or three public hearings, depending on whether the MPO is single-county or multicounty.

Funding Incentives

Since an MPO does not have actual land use authority, the implementation of the SCS must be through transportation funding and other incentives. Existing federal law requires that all projects with federal funding or projects that are regionally significant be consistent with the regional transportation plan (23 USC §134[h][3][C]);



LOIS FISHER, FISHER TOWN DESIGN



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The town of Windsor, California, has implemented plans and policies that reduce sprawl, preserve farmland, and revitalize the downtown area.

23 CFR §§450.324[f][3] and [5]). By placing the SCS inside the regional transportation plan, transportation funding becomes a powerful incentive for its implementation.

While local governments remain free to make land use decisions, they presumably will be seeking funding for transportation infrastructure to support them. The availability of transportation infrastructure funding to support the development pattern in the SCS should encourage local governments to make land use decisions consistent with that plan. This would normally be expected to affect all but the smallest land use projects.

In fact, in recognition of the role played by regional planning, nearly a third (157 out of 536) of California's local governments are already taking steps to align their general plans with the preferred land use pattern identified in the regional blueprint plan.¹⁹ This trend should accelerate under SB 375.

Environmental Review Incentives

It is also the case that the new CEQA benefits provided under SB 375 are available only for residential and mixed-use residential projects consistent with a strategy that achieves the regional targets. If the SCS does not achieve the regional targets, there may very well be several development projects that will not be eligible for the improved environmental review SB 375 allows. It is reasonable to expect that developers will want both the transportation funding and the CEQA benefits. The only way to get both is to have the development project set forth in an SCS that achieves the state-assigned target. This provides a meaningful incentive for project developers to advocate on behalf of an SCS that will achieve the targets.

Special Circumstances

Southern California

The Southern California region is an especially large and diverse area, including the City of Los Angeles as well as Orange County and the Inland Empire. The MPO for the region is the Southern California Association of Governments (SCAG). Several of the counties in SCAG are themselves larger than most of the rest of the MPOs in California. This region contains almost 50 percent of the state's population, including some of its poorest as well as richest neighborhoods.²⁰ There are significant interregional relationships among many of the entities within SCAG. No region is more complex, and the creation of a single SCS for this enormous area will be the most challenging.

SB 375 contains a special provision for the SCAG area (Government Code §65080[b][2][C]) that allows for the initial development of the SCS and APS to be done by the subregional council of governments (COGs) within the region. There are 14 subregional COGs.²¹ SCAG itself would be required to adopt a framework for the subregional planning process. This framework would provide guidance for how the subregional COGs would address the intraregional land use, transportation, economic, air quality, and climate policy relationships. SCAG must also develop overall guidelines, create public participation plans, ensure coordination, resolve conflicts, and make sure that the overall plan complies with applicable legal requirements. SCAG retains a significant role.

Nothing requires a subregional COG to prepare its own SCS. The option is left to the subregional COG. Some of these COGs may not have the staff or other institutional capacity to prepare their own SCS. However, if the COG elects to proceed in preparing an SCS or an APS, it must do so in conjunction with the county transportation commission. SCAG must include any prepared subregional SCS or APS in the appropriate regional strategy, provided that it is consistent with federal law and the requirements of §65080.

The Central Valley

Another set of special circumstances exists in the Central Valley. The California Department of Transportation (Caltrans) and the Governor's Office of Planning and Research (OPR) made a significant effort to encourage the valley's eight counties to design a common blueprint for growth.²² The effort was important, albeit with mixed results. During the real estate boom these counties had high growth rates, although the total population numbers are not large relative to the population of the state as a whole. A very significant number of these housing units were for commuters who worked in another region, especially the San Francisco Bay Area.

The valley is a patchwork—each of the counties is a federally designated MPO. If they wish to do so, SB 375 provides an opportunity for these counties to build upon the blueprint process. It authorizes, but does not require, two or more counties to prepare a multiregional SCS or APS to the extent it is consistent with federal law. Counties working together in this process would develop and adopt multiregional goals and policies to address interregional land use, transportation, economic, air quality, and climate relationships.

Regions in Attainment With the Federal Clean Air Act

Under federal law, regions that are designated as nonattainment under the federal Clean Air Act must prepare a regional transportation plan at intervals no longer than four years. As previously noted, SB 375 aligns the regional transportation planning process and the regional housing needs allocation process by coordinating the schedules. Attainment regions are permitted to prepare RTPs at intervals no longer than five years. SB 375 gives attainment regions the option to participate in the eight-year housing planning cycle by electing to adopt the RTP at intervals of no longer than four years. This election must be made no later than June 1, 2009, or 54 months prior to the deadline for adoption of housing elements by local governments within the region.

Transportation Projects in the Pipeline

SB 375 exempts transportation projects contained in the 2007 or 2009 Federal Statewide Transportation Improvement Program, or funded under what is known as Proposition 1B, or projects funded by a local sales tax approved prior to December 31, 2008, from being subject to the provisions of the sustainable communities strategy. These projects must also be "programmed" for funding on or before December 31, 2011. "Programming" is performed by the California Transportation Commission (CTC) when it commits funds for projects and schedules the expenditures of those funds. This does not require that all the funds on a project be spent prior to December 31, 2011; it merely requires that the CTC has taken the action to program those funds.

Finally, a transportation sales tax authority is not required to change the funding allocations for "categories" of transportation projects that are approved by voters before December 31, 2010. How this will work will depend on the project categories identified by the voters. Funds may be dedicated to local streets and roads, interchanges, transit, parkways, or other categories. Under this provision, no individual projects are exempted from the SCS process, but if, for example, 30 percent of the funds raised were designated by the voters for transit, SB 375 could

not require a change in that percentage. Nothing in SB 375 would prevent a transportation sales tax authority from altering the percentages dedicated to a category if the voters gave it that authority.

Overall, we do not expect these exemptions to alter significantly the ability of the SCS to meet the goals of SB 375. Since the Air Board will not have designated regional targets until September 2010, the SCS process will commence for regional transportation plans adopted after that. Assuming that a project has not yet commenced construction but that it is programmed for funding prior to December 31, 2011, it could be included in the regional transportation plan, but not within the SCS. Presumably the climate impacts of this project would not need to be included with the SCS to determine if the SCS meets the regional targets.

However, as was pointed out by numerous transportation officials during the development of SB 375, the entire regional transportation plan is and will continue to be subject to CEQA. Under the law prior to the adoption of SB 375, the CEQA analysis will need to address the impacts on climate of all the projects, including the exemptions referenced above. If the exempt projects cause the RTP to have a significant effect on climate, the region will have to examine whether there is a feasible way of mitigating that effect. All of this will have to be done in the context of CEQA and outside the benefits of the regional target process.

Resource Areas and Farmland

SB 375 requires increased attention to protection of natural resource lands. MPOs in California have creatively used various funds to support fundamental transportation investments, such as subsidies for transit-oriented development projects. SB 375 recognizes that there is another side to the same coin: decisions to keep farmland and resource areas in open space. Financial incentives should be considered for transportation investments that encourage, for example, farm-to-market transportation needs. SB 375 also requires MPOs to consider financial assistance to counties that contribute to greenhouse gas emissions reductions by implementing policies that encourage growth in cities.

Savings Clauses

SB 375 contains several important savings clauses. It provides that neither an SCS nor an APS regulates the use of land and that neither of them supersedes the land use authority of local governments. There is no requirement for local governments to conform their land use plans to an SCS or an APS. Except for the specific approval role of the Air Board, neither an SCS nor an APS is subject to any state approval. Nothing in the statute authorizes the abrogation of any vested right. Nothing requires a region to approve an SCS that is inconsistent with applicable federal regulations. Nothing in SB 375 relieves any public or private entity from compliance with any other local, state, or federal law. Nothing in SB 375 limits the authority of the Air Board under any other provision of law, including AB 32.

Modeling

Travel Demand Models

As California's 18 federally designated MPOs develop their sustainable communities strategies to reduce greenhouse gas emissions, each will run its SCS through some form of travel-demand model to predict the impacts of its proposed growth patterns and investment decisions. These models will predict how many new trips will occur; which transportation mode is used and at which times of day; where congestion will occur; and how the new plan will affect air quality, levels of greenhouse gas emissions and traffic congestion, vehicle hours of delay, and other measures of mobility.

Models are built upon certain assumptions about how many new trips will be generated by different types of development, which mode of travel will be selected, and how much pollution will be emitted during the trips. The models must also be able to predict the impacts of different policies, such as HOV lanes, increased transit, or the imposition of fees. The models should be sensitive to different essential factors that have been demonstrated in the literature to affect VMT. Since SB 375 provides benefits to regions that develop Air Board-approved sustainable

communities strategies, it becomes very important that the models used to predict the impacts—particularly the greenhouse gas emissions—of proposed growth patterns be as accurate as possible.

Travel models are relied upon all the time when making transportation investment decisions. If a region faces traffic congestion that worsens air quality, impedes economic growth, and frustrates residents, the models can be used in an effort to direct investments to reduce congestion. Certain travel models will indicate that building new road capacity will improve congestion and reduce emissions by speeding up traffic, but those models may fail to account for the increased congestion and emissions caused by induced demand. Other models are land-use-parcel based and sufficiently detailed to pick up the travel benefits of a mixed-use, higher-density development with proximity to a transit stop. Under SB 375, the regions will be motivated to upgrade their models for greater sensitivity and accuracy. New models will show that investment in higher-density development and transit will lead to more lasting congestion relief and emissions reduction.

Transportation Commission Guidelines

Recognizing the importance of accurate transportation models, in January 2007 Senate President Pro Tempore Don Perata requested that the California Transportation Commission (CTC)—which maintains guidelines that MPOs use to create their regional transportation plans (RTPs)—review its RTP guidelines in order to ensure that MPOs utilize models that accurately measure the benefits of land use strategies aimed at reducing vehicle trips.

In response to Senator Perata's request, in the fall of 2007, the CTC convened a multi-stakeholder working group to examine the CTC's RTP guidelines to determine whether regions were receiving proper direction on the ability of their models. The group included representatives from congestion management agencies, academic institutions, state agencies, MPOs, cities and counties, and environmental organizations. After a six-month process, this stakeholder group agreed to recommend that the CTC amend its guidelines to provide clearer direction to MPOs on the models they use to make investment decisions.

Revisions Needed

The CTC process concluded that many regions currently lack the capacity to accurately predict the trips generated by different types of development and further lack the ability to model the impacts of other policies regions might use to improve air quality and reduce greenhouse gas emissions. A recent in-progress study by the MPOs under the auspices of the RTAC provides detailed confirmation of this finding.

Some of the models are insensitive to the type of land use projected for the region and instead simply use a formula where a certain number of trips are generated for each new housing unit, regardless of location, proximity to transit, or density of surrounding uses. Clearly the shortcomings of the models are a disservice to the regions. If a region invests heavily in a new light rail system, for example, its model should be able to predict whether the residents of new housing units around the stations, complemented by a pedestrian infrastructure and a mix of commercial amenities, are very likely to drive less than would the residents in a sprawl development. But in many cases the model would predict exactly the same amount of vehicle miles traveled from these two very different types of development.

The models also fall short in their ability to predict land use changes that result from certain types of transportation investments. There is no question that government transportation investments drive land use development. An owner of a parcel of land at the urban fringe may be interested in developing the land, but is unable to do so because residents of the new development would lack transportation infrastructure. If the transportation agency chooses to build a new artery or extend a freeway through this piece of land, the developer is more likely to develop it. Most models have historically failed to account for this phenomenon, called induced growth or induced development. It is important for models to be able to capture induced growth and use it to predict changes in VMT.

SB 375 Modeling Provisions

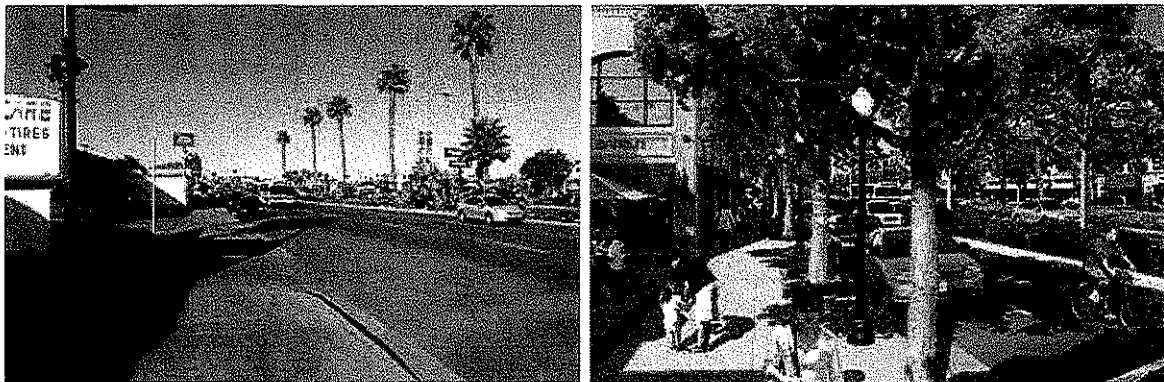
Land use and transportation decisions last for decades. Because the design of communities affects people's choice to drive and how much to drive, SB 375 seeks to help regional agencies understand accurately the impacts of their investment decisions on future residents' need to drive and, consequently, the ability of the region to reduce its greenhouse gas emissions in accordance with AB 32 and SB 375. In this regard, SB 375 reinforces the important work of the CTC stakeholder committee and directs the CTC to maintain RTP guidelines to ensure that the models can accurately account for certain factors, including:

- ▶ The relationship between land use density and household vehicle ownership and vehicle miles traveled in a way that is consistent with statistical research.
- ▶ The impact of enhanced transit service levels on household vehicle ownership and vehicle miles traveled.
- ▶ Induced travel and land development likely to result from highway or passenger rail expansion.
- ▶ Mode splitting that allocates trips among automobile, transit, carpool, bicycle, and pedestrian trips. If a travel demand model is unable to forecast bicycle and pedestrian trips, another means may be used to estimate those trips.
- ▶ Speed, frequency, days, and hours of operation of transit service.
- ▶ Effect of pricing strategies on vehicle miles traveled and greenhouse gas emissions.

Models that can accurately account for these factors should have a much higher degree of predictive power over the actual outcomes of particular investment decisions.

Federal Legislative Proposals

The ability of transportation models to accurately predict VMT is receiving much attention—even on a national scale. In March 2009, Representative Matsui (D-Calif.) introduced the Smart Planning for Smart Growth Act of 2009, which specifically highlights the need for improved models that can more accurately capture the VMT-reduction benefits of various land use and transportation investment decisions. Senators Carper (D-Del.) and Specter (D-Pa.) and Representatives Blumenauer (D-Ore.) and Tauscher (D-Calif.) introduced CLEAN-TEA to allocate 10 percent of emissions allowances under a cap-and-trade program to fund better transportation planning to reduce GHG emissions. Improved data collection and modeling is specifically described as an important preliminary step to inform any future planning efforts.



The photo simulation on the right illustrates how a stretch of Imperial Beach in San Diego County could be transformed into an eclectic and walkable community.

CHAPTER 3

The California Environmental Quality Act

The California Environmental Quality Act (CEQA) is California's premier environmental disclosure statute. It requires public officials to identify and consider the environmental impacts of projects in a structured and enforceable process. CEQA has a long history of environmental achievement. Not surprisingly, it is not without controversy.

Limitations of CEQA

Since enactment of the California Global Warming Solutions Act of 2006 (AB 32), it is generally acknowledged that CEQA requires consideration of a project's potential impacts on global warming. Project proponents attempt to identify a wide variety of measures to mitigate or avoid a project's contribution to global warming. CEQA now plays an important role imposing global warming mitigation prior to adoption of the final set of policies by the Air Board pursuant to AB 32. Yet, because CEQA is focused on "projects," it faces limitations, especially for achieving effective mitigation of the global warming impacts associated with VMT.

As an example, suppose that a greenhouse gas reduction strategy is devised at the regional level and that strategy includes locating 10,000 residential units in the urban core to significantly reduce VMT and avoid many tons of emissions. However, when the projects to provide those housing units come to the local government for approval, CEQA is triggered. Typically, a specific analysis of the automobile trips generated by the project would be done. Those trips would generate a number of tons of greenhouse gas emissions and air pollution. When viewed from the perspective of the project alone, it would seem that reducing the density would result in fewer trips and reduced emissions. Yet that is exactly the opposite of the conclusion reached by examining VMT on a regional scale. From the regional perspective, greenhouse gas reductions are best achieved by maintaining the density of the project.

Not all projects are the same when it comes to their global warming impacts. Because CEQA is focused on projects and on mitigating the impacts of those projects, it is not suited to the type of large-scale, comprehensive analysis required to effectively reduce VMT. In fact, in the hands of opponents to a high-density project, CEQA could threaten the implementation of an effective greenhouse gas reduction strategy.

Even CEQA review of a citywide general plan is not sufficient. That is mainly because, even at the city level, the perspective is not broad enough to design land use and transportation policy that will effectively address global warming impacts. As discussed earlier, the principal way to reduce VMT is to locate housing closer to transportation choices and employment centers, thereby reducing the need to drive. A city that is primarily a bedroom community, for example, probably doesn't have enough options to accomplish such a strategy.

SB 375 gives people a tool to act locally while thinking globally when it comes to transportation and land use planning.

Challenging the environmental impact report on the city's general plan based on its analysis or proposed mitigation of the VMT contribution is inadequate because a single city does not have sufficient mitigation tools. Petitioners can sue a sprawling city repeatedly, but that city itself does not have the authority to mitigate its VMT impacts by transferring density to another city's urban downtown. Even if some creative way could be found to transfer housing units between two local governments, the CEQA process lacks the comprehensive planning that is really required to identify a development pattern, integrated with a transportation network, to reduce greenhouse gas emissions.

This is why SB 375 operates within the context of the regional transportation plan. Fewer and fewer Californians live, work, shop, and recreate within the city limits of just one community. Instead, most *regions* contain an integrated economy with housing, industrial parks, office centers, commercial areas, and a transportation network. Designing a development pattern that can reduce VMT requires working at that scale.

CEQA will, of course, apply to the adoption of the regional transportation plan itself, and its application there makes sense. Under CEQA, individuals will be able to comment on the proposed regional-scale decisions and question whether they are the best way to achieve the climate objectives of the region. But with respect to project-level analysis, SB 375 adjusts CEQA so that it functions more effectively regarding global warming. It is important to note that the changes in SB 375 are to CEQA, not to a local government's zoning authority. It is still up to the local government to decide whether or not to approve these changes. If it does, SB 375 creates a better CEQA process to review those proposals.

Environmental Review Benefits

As noted earlier, a region is not mandated by SB 375 to achieve the regional greenhouse gas emissions reduction targets in the sustainable communities strategy. If the region is unable to achieve the target in its SCS, it will prepare an alternative planning strategy to achieve the target. SB 375 provides CEQA benefits only for projects that are consistent with a strategy that the Air Board determines would actually achieve the regional targets. These review benefits are discussed below.

Residential Vehicle Trip Analysis

Residential and mixed-use residential projects²² that are consistent with a strategy that would achieve the targets are not required to consider the impacts of passenger vehicle trips generated on global warming (§21159.28(a)). Since these trip emissions will have already been fully considered at the regional level when the EIR for the RTP is adopted, there is no need to consider the emissions again at the project level. More importantly avoiding CEQA analysis of the trip emissions at the project level will prevent the potentially perverse consequences discussed earlier where a local decision that appears to reduce GHG emissions would actually undermine an effective regional strategy and result in increased emissions. CEQA will still require analysis of other global warming issues associated with the project, such as building efficiency, water consumption, electricity consumption, and others.

Regional Transportation Network Impacts

SB 375 also relieves these projects of the obligation to discuss either project-specific or cumulative impacts on the regional transportation network. Once again, this avoids duplication since these issues will have already been thoroughly analyzed in the regional transportation plan. This provision also prevents another set of perverse consequences. A strategy that would reduce greenhouse gas emissions will not necessarily eliminate congestion at all locations on the regional transportation network, even though it is very likely to reduce congestion overall. It will, however, locate congestion. It would be inconsistent with a VMT-greenhouse gas reduction policy if CEQA forced choices on congestion mitigation that were different from the choices made in the regional transportation plan. SB 375 does not affect analysis under CEQA of a project's impact on local streets and roads.

Growth-Inducing Impacts

Additionally, CEQA relieves residential and mixed-use residential projects of the requirement to consider their growth-inducing impacts. This analysis is not needed at the project level because a decision will have already been made at the regional level that it is important for climate policy to put growth in these locations. CEQA should not be a tool to undermine important climate decisions. However, it is worth noting that this relief applies only to residential and mixed-use residential projects. It does not apply to the construction, for example, of a sewage treatment plant or a new freeway, either of which might have very significant growth-inducing impacts.

Transit Priority Projects

Increasing housing development with access to transit will be central to achieving reduced GHG emissions from vehicles. SB 375 enlists CEQA in this effort by creating special provisions for review of transit priority projects.

A transit priority project must be consistent with a strategy adopted by the region that would, if implemented, achieve the regional targets set by the Air Board. The project must be residential or mixed-use residential, at a density of at least 20 units per acre, and within a half mile of a major transit stop or a high-quality transit corridor.²⁴

Benefits for Transit Priority Projects

There are four new benefits for transit priority projects under SB 375, including a CEQA exemption, a provision for a sustainable communities environmental assessment, provisions for environmental impact reports on these projects, and opportunities for addressing traffic impacts. Each of these provisions has been specifically drafted to preserve public transparency and accountability as well as protection of the environment. These benefits are discussed in more detail below.

The transit priority CEQA exemption—The new CEQA exemption (Government Code §21155.1) is the narrowest and is available only for projects that meet a list of environmental and land use criteria and include one optional policy. The list of criteria was carefully designed to be specific and comprehensive enough to assure that these projects will not have an adverse effect on the environment.

The list of criteria is fairly long, as is appropriate for a CEQA exemption. But lessons have been learned since the enactment of SB 1925 in 2002, which created the current urban infill exemption (Government Code §21159.24). The transit priority project in SB 375 will assure protection of the environment while making it applicable to more projects than would be covered by the urban infill exemption.²⁵ First, there is no requirement that a community-level environmental impact report must have been completed within the last five years. This requirement is now unnecessary because there will be an EIR done on the regional transportation plan every four years. Second, it applies to larger projects: 200 residential units on eight acres as opposed to 100 units on four acres. Additionally, the project can be located along a transit corridor instead of being limited to proximity to a transit stop. Putting density along a transit corridor will create an incentive for high-quality, walkable urban communities. The project is not required to include affordable housing; provision of affordable housing has been moved to the list of optional policies. It is not clear that the inclusionary housing requirement of the existing urban infill exemption was effective in increasing the supply of affordable housing. On an overall basis, SB 375 improves opportunities for affordable housing by strengthening the housing element process and increasing the minimum density requirements. The transit priority exemption can apply to projects that are only 50 percent residential; the urban infill exemption instead requires that the projects be 85 percent residential.

Perhaps most importantly the current urban infill exemption is a “soft” exemption because it can be lost if there is a reasonable possibility of a project-specific effect on the environment due to unusual circumstances (Government Code §21159.24[b]). In contrast, if a project satisfies the long list of environmental and land use conditions, it qualifies for the transit priority exemption. However, in order to make sure that this exemption is applied properly, SB 375 imposes a requirement not found in the urban infill exemption, namely that the transit priority exemption can be approved only at a public hearing.

There are also other provisions in the transit priority exemption that are more rigorous than the current infill exemption. The transit priority project must be at least 20 units to the acre. In addition, the buildings must achieve energy efficiency and water conservation standards. The natural resource protection provisions have been reworded to reflect current terminology.

The sustainable communities environmental assessment—SB 375 creates a new CEQA document, the sustainable communities environmental assessment (Government Code §21155.2). It generally parallels the process for a mitigated negative declaration. Thus it applies only to projects that are able to mitigate their environmental impacts to a level of insignificance. The new environmental assessment is subject to a longer public comment period (30 days instead of 20). It also requires that the assessment be considered at a public hearing. There is a \$500 limit on the fee that can be charged for an appeal to the local legislative body. Currently, appeal fees can be thousands of dollars. A reduced fee makes it more likely that these issues will be heard by elected and politically accountable leaders.

However, the major change is in the standard of review on a challenge to approval. In the case of the mitigated negative declaration, the standard of review is the fair argument standard. In contrast, the standard of review for a sustainable communities environmental assessment is the substantial evidence standard, a more rigorous standard. This means that transit priority projects that are able to mitigate their environmental impacts will be subject to the same standard of review as is a full environmental impact report. Project opponents will still be able to sue, but if the project is a transit priority project, they will have to make a greater showing in order to succeed.

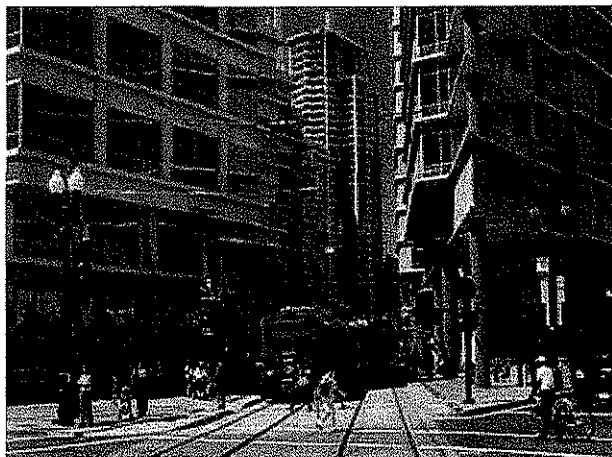
The transit priority project environmental impact report—In the event the project cannot mitigate all its impacts, an environmental impact report (EIR) will have to be prepared so that the lead agency can decide whether there are overriding considerations that justify approving the project despite its significant effect on the environment.

In the case of a transit priority project, SB 375 recognizes the value of projects with good transit proximity and relieves these projects of analyzing any off-site alternatives to the project. These projects also do not have to consider cumulative impacts that were addressed and mitigated in a prior EIR (Government Code §21155.2[c][1] and [2]).

Traffic impacts—Traffic is often the single most contentious issue for urban infill projects. The traffic impacts of these projects are real and need to be addressed. Yet the costs of traffic mitigation can be substantial; infill developers face the uncertainty that traffic mitigation costs may not be established in advance and may only be discovered at the end of a lengthy public process.

SB 375 provides local communities with the option of making traffic mitigation a matter of legislative policy instead of a project-by-project fight. Local governments are authorized, but not required, to set traffic mitigation policies in advance. Transit priority projects that comply with those policies cannot be required to do additional traffic mitigation as a result of the CEQA process (Government Code §21155.3[b]). The traffic mitigation measures can be adopted only after a public hearing and must be reconsidered every five years.

SB 375 authorizes local governments to require project developers to provide street or road improvements, traffic control improvements, transit contributions, transit passes, or other measures. SB 375 does not limit the authority of a local government to determine what mitigation measures are appropriate for different types of transit priority projects.



Downtown San Diego's "Smart Corner" is built to support pedestrian activity and includes convenient trolley service.

SAN DIEGO ASSOCIATION OF GOVERNMENTS (SANDAG)

CHAPTER 4

The Regional Housing Needs Allocation

California's regional housing needs allocation (RHNA) program is intended to make sure that the state's local governments are approving enough housing for the full range of the population's housing needs. Every five years the California Department of Housing and Community Development (HCD) provides each of the state's regions with the projected housing needs of that region. The council of governments for the region then distributes those housing units among the local governments. The local governments are then supposed to adopt amendments to the housing elements of their general plans to provide for the amount of housing the state says is needed. This program is complex and has been very controversial. Despite the efforts of the program, and partially for reasons beyond its control, California does not provide the zoning capacity—especially affordable housing units in the locations called for—to meet the housing needs of California.

Aligning RHNA and Regional Transportation Planning

SB 375 aligns RHNA housing projections with the regional transportation planning process. The RHNA program essentially functions as a growth forecast by identifying the number of housing units allocated to regions and local governments. Yet it is not explicitly tied to the growth forecast of the regional transportation plan. Thus without aligning the two programs, it would have been possible for the RHNA program to require local governments to approve housing under one growth forecast and to fund transportation infrastructure under a different growth forecast. Even worse, there was concern that this system was being gamed. Local governments could project significant population gains in order to get more transportation funding while claiming they could not support larger populations when it came to receiving an allocation of housing units. These competing forecasts needed to be aligned. SB 375 aims to adjust this system for the purpose of aligning the regional transportation and regional housing allocation programs.

Linking Housing and Employment

First, there is an elaborate process for determining the number of housing units to be assigned to a region, including information exchange between the region and HCD. However, if that process does not result in an agreed-upon number, HCD assigns a number to the region. HCD bases that number on Department of Finance

projections, which are—somewhat problematically—basically trend lines developed from past growth patterns. In particular, the Department of Finance methodology does not explicitly take into account the housing demand generated by employment growth within a region. SB 375 addresses this by requiring that HCD assign the regional housing need to achieve a jobs-housing balance within a region to the extent feasible using the employment projections contained in the regional transportation plans (Government Code §65584.01[d][1]).

Aligning Housing Forecasts

As noted earlier, SB 375 requires the housing forecast for the first horizon year of the RTP to be consistent with the housing need identified through the RHNA process.

Distributing Housing Needs

There is a complex process for the regions to distribute housing needs to the local governments. Numerous factors including infrastructure availability and environmental issues must be considered. Prior to SB 375, there was no specific requirement that the housing units be distributed to be consistent with the development pattern in the regional transportation plan. SB 375 changes that by requiring the region to demonstrate that the final housing need allocation plan is consistent with the sustainable communities strategy in the regional transportation plan (Government Code §65584.04[i][3]). This alignment means that transportation investments will now be consistent with the obligations of local governments to enact zoning.

Aligning Planning Schedules

There was also no coordination in the schedule for adoption of the regional housing need allocation and the regional transportation plan. The housing need allocation was done every five years on a schedule that varied according to region. For regions that are in federal Clean Air Act nonattainment areas, the regional transportation plan must be updated not less than every four years. The regions around the state are all on different four-year RTP schedules. For attainment areas, the plan must be updated not less than every five years. SB 375 makes several changes to adjust these schedules. It changes the schedule for housing need allocations so that they are made every eight years instead of every five years. It also adjusts all the housing need allocations so that they occur on a calendar consistent with the updates of the regional transportation plans.

Previously, the regions distributed a proposed housing allocation to the local governments, which had an 18-month period to appeal that allocation (Government Code §65584.05[a]). The deadline for revision of the housing element was at the end of the 18-month period. SB 375 adjusts that so the regions distribute the housing allocations to the local governments at the time that every other regional transportation plan is adopted. Since most regional transportation plans are adopted every four years, this effectively puts the housing allocation program on an eight-year schedule (Government Code §65588[b]). The local governments then have 18 months after the adoption of every other RTP to appeal the allocation and to complete their new housing element (Government Code §65588[c][7]).²⁶

Providing Affordable Housing

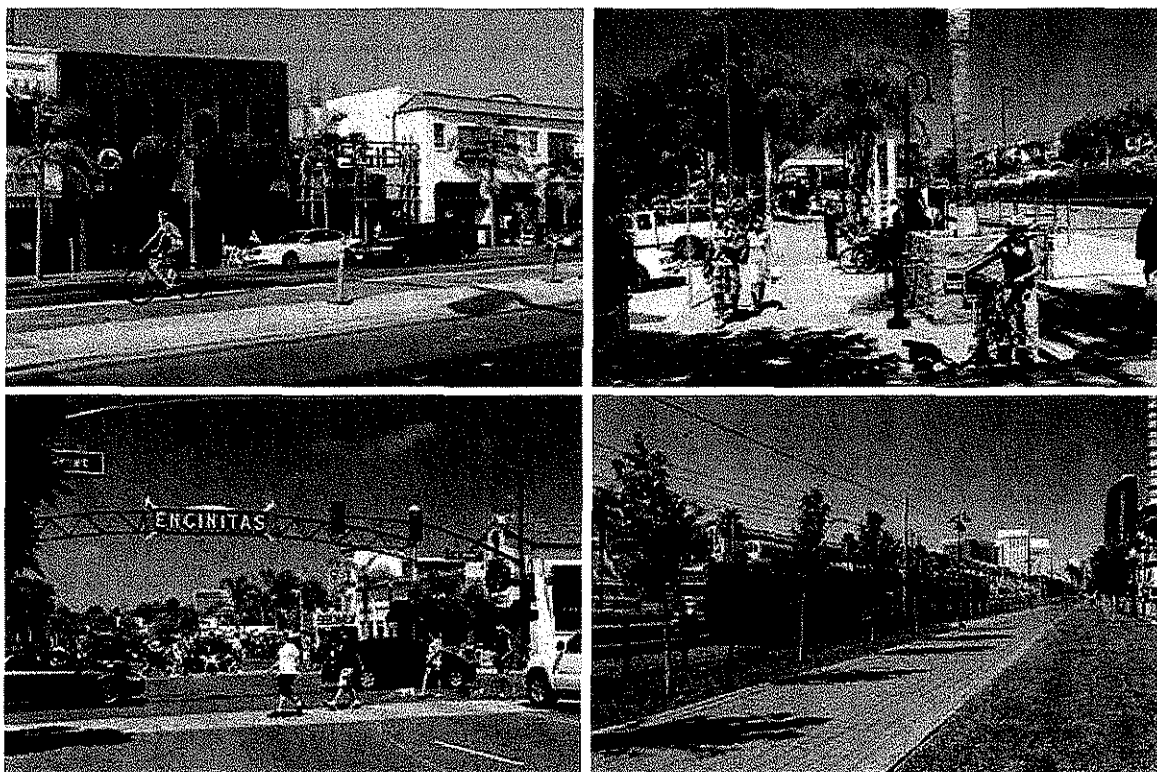
SB 375 includes several additional provisions to improve consideration of affordable housing needs and development. It requires local governments to make their zoning ordinances consistent with amendments to the housing element. If the inventory of sites in the housing element does not identify adequate sites for housing for *all* income levels, local governments must, in general, complete the rezoning within three years of the adoption of the new housing element (Government Code §65583[c][1][A]). A local government may receive a one-year extension if it can show that it has made specified progress (Government Code §65583[f]).

Local governments are also required to prepare an annual report describing the actions taken to comply with housing element requirements and to consider this report at a public meeting where members of the public have a chance to comment (Government Code §65400[B]).

Enforcing the Law

SB 375 adds two new enforcement provisions to the law. First, if a local government has not completed the rezoning as required by SB 375, there are significant restrictions on that local government's ability to disapprove or condition a housing development project if at least 49 percent of the units are for very-low, low-, and moderate-income households. If the local government does disapprove or condition the project in violation of these provisions, the applicant or any interested person may sue. A court may issue an order requiring compliance (Government Code §65583[g]).

Second, any interested person may bring an action to require a local government to complete the rezoning within the deadlines required by SB 375. A court may require a local government to complete the rezoning within 60 days or the earliest time consistent with public hearing notice requirements. The court is authorized to impose sanctions on a local government after consideration of the equities of the circumstances (Government Code §65587[c]).



San Diego communities offer walkability and transportation choices. Clockwise from top left: Mission Hills Commons includes multi-family housing and mixed-use development (photo 1); Downtown Encinitas boasts a Main street atmosphere with retail, pedestrians, and a lively streetscape located near transit (photos 2 and 3); conveniently located transit reduces car traffic and shortens commutes (photo 4).

CHAPTER 5

Conclusion and Recommendations: SB375 Puts California on a Path to Prosperity

By enacting SB 375, California made history again by becoming the first state in the country to tie greenhouse gas emissions to transportation funding, land use planning, and housing policy. But passage of the law is just the first step. Its successful implementation relies on the actions of many. CARB must set “ambitious achievable” GHG reduction targets for regions. Regions must weigh the benefits of various alternative planning scenarios and select the plan that achieves their greenhouse gas target while maximizing co-benefits to their region. Environmental advocates must participate in development of local and regional plans to ensure targets are achieved. Developers must take advantage of the environmental review provisions provided by SB 375 to meet the rising market demand for new neighborhoods near transit and near jobs. And local governments must update their general plans and zoning codes to reflect the current and shifting market realities in California.

The eyes of the nation are now on California as it takes up the task of implementing this landmark legislation. The timing is perfect for California’s efforts to inform federal policymaking. The 111th Congress will debate and hopefully pass new federal climate legislation and reauthorize a six-year transportation spending bill. The American Clean Energy and Security Act of 2009 (ACES) includes a structure that tracks SB 375 by requiring regions to prepare GHG reduction plans in coordination with their current regional transportation plans. Members of Congress are also interested in blueprint planning. State legislators in several other states have also introduced legislation, this year, modeled on SB 375.

But the degree to which SB 375 is adopted as a model depends entirely on how successful we are in our efforts to realize the promise of this new law. Countless diverse interests have a stake in the creation of sustainable and livable communities. The incentive-based approach of SB 375 encourages citizens and local leaders to shape the sustainable future of their community through a participatory planning process. There is good reason and ample evidence to believe that this approach will be effective in delivering the expected benefits. Now, as the rest of the California story unfolds, advocates for sustainable development have a great opportunity to show that this blueprint planning process can work in virtually any community to address many interrelated challenges and advance locally preferred solutions. Changing political leadership, market demand, and public opinion mean that the time is right for a new approach to land use planning. SB 375 provides a new planning paradigm, putting California on the path to a new, more sustainable prosperity as well as a cleaner environment.

Endnotes

- 1 The Sustainable Communities and Climate Protection Act was authored by California Senate Pro Tem Darrell Steinberg and cosponsored by the California League of Conservation Voters (CLCV) and the Natural Resources Defense Council (NRDC). It was signed into law by Governor Arnold Schwarzenegger on September 30, 2008.
- 2 Ewing, R., Bartholomew, K., Winkelman, S., Walters, J. and Chen, D. 2009, "Growing Cooler: The Evidence on Urban Development and Climate Change," Urban Land Institute.
- 3 Sacramento Area Council of Governments, <http://www.sacregionblueprint.org>; Southern California Council of Governments, <http://www.scag.ca.gov>.
- 4 Modeling performed by Calthorpe Associates, 2009.
- 5 American Public Transportation Association, http://www.apta.com/media/releases/090408_transit_report.cfm.
- 6 California Air Resources Board: <http://www.arb.ca.gov/msprog/zevprog/factsheets/driveclean.pdf>.
- 7 Modeling performed by Calthorpe Associates, 2009.
- 8 U.S. EPA, http://www.epa.gov/dced/pdf/growing_water_use_efficiency.pdf.
- 9 Modeling performed by Calthorpe Associates, 2009.
- 10 Gold, R. and Campoy, A., "Oil Industry Braces for Drop in U.S. Thirst for Gasoline," *Wall Street Journal*, 13 April 2009, pp. 1,12. <http://online.wsj.com/services/article/SB123957686061311925>.
- 11 Ewing, R., University of Maryland and Nelson, A., University of Utah, 2008, "CO₂ Reductions Attributable to Smart Growth in California."
- 12 Nelson, A., 2007, "Preparing for the Next Building Boom," FAICP <http://www.mi.vt.edu/uploads/Nelson%20Smart%20Growth%20Conf%202009-07>.
- 13 National Association of Realtors, [http://www.realtor.org/smart_growth.nsf/docfiles/transportationSurveyFall2007.pdf/\\$FILE/transportationSurveyFall2007.pdf](http://www.realtor.org/smart_growth.nsf/docfiles/transportationSurveyFall2007.pdf/$FILE/transportationSurveyFall2007.pdf)
- 14 The RTAC was appointed January 23, 2009, and the proceedings are on the Air Board's website: <http://www.AirBoard.ca.gov/cc/sb375/rtac/rtac.htm>.
- 15 These references to environmental and energy conservation goals and objectives are sufficiently broad that a region with the political will to do so might have been able to incorporate greenhouse gas reduction goals in the RTP even without SB 375.
- 16 This must be consistent with the federal regulations.
- 17 See e.g., *Sundstrom v. County of Mendocino* (1988), 202 Cal. App.3d 296, 311.
- 18 In addition, the CEQA benefits of SB 375 are available only for projects consistent with a strategy that would achieve the regional targets. See Public Resource Code §§21155, 21159.28. Even if a region adopts an APS, these CEQA provisions should create incentives for developers to proceed with projects that would help implement the APS.
- 19 Governor's Office of Planning and Research, 2009, California Planners' Book of Lists, p. 118.
- 20 California Department of Finance, http://www.dof.ca.gov/research/demographic/reports/estimates/e-5_2001-06/.
- 21 Arroyo Verdugo Cities, City of Los Angeles, Coachella Valley Association of Governments (CVAG), Gateway Cities Council of Governments (GCCOG), Imperial Valley Association of Governments (IVAG), Las Virgenes Malibu Council of Governments, North Los Angeles County, Orange County Council of Governments (OCCOG), San Bernardino Associated Governments (SANBAG), San Gabriel Valley Council of Governments (SGVCOG), South Bay Cities Council of Governments (SBCCOG), Ventura Council of Governments (VCOG), Western Riverside Council of Governments (WRCOG), Westside Cities Council of Governments (WCCOG).
- 22 The eight counties are Fresno, Kern, Kings, Madera, Merced, San Joaquin, Stanislaus, and Tulare.
- 23 A mixed-use residential project is defined as one where 75 percent of the total building square footage is residential or where the project qualifies as a transit priority project (§21159.28[d]).
- 24 A high-quality transit corridor is a corridor with fixed-route bus service with service intervals no longer than 15 minutes during peak commute hours. A transit stop has the same definition that it does under current CEQA except that it also includes stops that are included in the RTP. Since the transit stops in the RTP are subject to the "fiscally constrained analysis" requirements of federal law, these stops are not merely "planned." Funding for them has been identified and programmed.
- 25 It is worth noting that there are important social equity goals that will also be served by making special provision for transit priority projects. Working families are significant users of transit, and this will increase their housing choices. Additionally, the minimum density requirement means that these provisions should encourage more affordable housing.
- 26 A special provision had to be made for those regions that are in attainment areas and under a five-year RTP schedule. Those regions are authorized, but not required, to convert their RTP schedule to a four-year time frame. If they make the conversion, they can then avail themselves of the eight-year housing element schedule. If not, they stay on the five-year schedule under existing law (§65588[b]).



www.nrdc.org

Cary Brazeman

From: la brea [labreacoalition@gmail.com]
Sent: Friday, October 29, 2010 2:05 PM
To: Barbara Broide
Cc: Christopher Koontz; Cary Brazeman; Michael LoGrande; jeff jacobberger; Michael Barba
Subject: Re: FW: Corrected document for PLUM consideration tomorrow/community plan implementation overlay districts

thanks, this helps a great deal, barbara and chris.

again at mcw pluc last tuesday, the hew and cry went out about "not enough time."

what are we to do about it after at least half the speakers at the core/code findings hearings before the cpc (14 oct) took time from their precious 1-minute to lament about inadequate time on these policies?

lucille saunders

On Fri, Oct 29, 2010 at 1:32 PM, Barbara Broide <bbroide@hotmail.com> wrote:

From: chris.koontz@lacity.org
Date: Tue, 26 Oct 2010 10:08:45 -0700
Subject: Re: FW: Corrected document for PLUM consideration tomorrow/community plan implementation overlay districts
To: bbroide@hotmail.com

Barbara,

The CPIO goes hand in hand with community plan updates, its not intended to be something individual applicants would request. It would not be an indirect route to SB1818 or any other entitlement. What it is intended to do is provide more detailed zoning to actually implement the community plan. It fixes the problem of policies like "be harmonious with surrounding structures" being completely unenforceable by adding an overaly (not unlike a Q condition) that would say something like "if adjacent to a one or two story building all height shall be limited to X and stepped back Y feet for every foot over Z."

It doesn't reflect changes in the sign code because those are not yet made. Procedurally the City Attorney can only draft the ordinance in relation to the law that exist today. When the sign ordinance update goes through the City Attorney will update any related code sections so they are all consistent.

I do not know why the notice section does not include neighborhood councils, but will find out. The CPIO would always be done in connection with a zone change or plan amendment both of which require neighborhood council notice.

I hope this helps,

Christopher Koontz
Planning Deputy
Office of Councilmember Paul Koretz
200 N. Spring St., Room 440

Los Angeles, CA 90012
(213) 473-7005
chris.koontz@lacity.org

For more Council District 5 news, please sign up at <http://cd5.lacity.org/NEWSLETTERSIGNUP/index.htm>

CONFIDENTIALITY NOTICE

PLEASE NOTE: This electronic mail message and any attachments hereto are intended solely for the review of the designated recipient(s) and originate from the office of Los Angeles City Councilmember Paul Koretz (the "Councilmember"). This message and any attachments may not be used, reviewed, copied, published, disseminated, redistributed, or forwarded without the express written permission of the Councilmember or his Chief of Staff. The information in this electronic mail message and any attachments is confidential and may be privileged. If you are not a designated recipient of this communication or if you have received this communication in error, please contact the sender by reply mail, then destroy any and all copies of this message and attachments and delete them from your system.

On Tue, Oct 26, 2010 at 6:03 AM, Barbara Broide <bbroide@hotmail.com> wrote:
Chris,

We seem to be jumping from one thing to the next.... I haven't had time to review this in detail and I know neither WSSM or the WNC has had a chance to look at it. I know it has been around for a while but we haven't gone over it. I have some questions.

I was wondering whether the process here as it pertains to sign districts will be in conflict with what is being proposed in the new sign ordinance. (In all the CPC discussions on the sign ordinance, there was the intent to have sign districts have certain size integrity. They wanted to get away from "spot" zoning.) Would this yield to whatever is specified in the sign ordinance?

Given what we know about neighborhood council turnaround time, is 75 days adequate notice?

In the notification section, there is no mention of neighborhood councils.

NOTIFICATION: There is no mention of notifying neighborhood councils:

(c) Action on the Initiation or Application .

., "L

(1) Authority. Notwithstanding the provisions of Subsection C, only the City Planning Commission is authorized to make recommendations regarding approval or disapproval in whole or in part on an application for or the initiation of the establishment of a supplemental use district to the Council.

(2) Notice. Notice of the public hearing shall also be given to the Bureau of Engineering and Department of Transportation for an application or initiation to establish a supplemental use district.

TIMING: Does the timeframe give NC's adequate time to be noticed and involved?

ii) Time for Commission to Act on Application. The City Planning Commission shall act on an application to establish an "O", "S", "G", "K", "CA", "POD", "COO", "MU", "FH", "SN", "RFA", or "CPIO" within 75

days from the date of the filing of the application. The City Planning Commission shall act on an application to establish an "RPD" District within 75 days from the receipt of the Subdivision Committee report and recommendation. The City Planning Commission shall act on proceedings initiated by the Council within 75 days of receipt of that action from the Council, or within the time that the Council may otherwise specify

SEC. 13.14. "CPIO" COMMUNITY PLAN IMPLEMENTATION OVERLAY DISTRICT

A. Purpose. This section sets forth procedures, guidelines, and standards for establishment of the "CPIO" Community Plan Implementation Overlay Districts within any zone in the City. The purpose of the CPIO District is to provide for supplemental development regulations tailored to each Community Plan area to:

- 1. Ensure that development enhances the unique architectural, environmental, and cultural qualities of each Community Plan area, integrates improvements and enhancements to the public right-of-way, and maintains compatible land uses, scale, intensity, and density;*
- 2. Create an approval process to enable infill development that will positively impact communities.*

WHO DEFINES WHAT IS POSITIVE IMPACT?

BETTER NEWS:

l. B. Relationship to Other Zoning Regulations. Where the provisions of a GPIO District conflict with those of a Specific Plan or Historic Preservation Overlay Zone (HPOZ), then the provisions of the Specific Plan or HPOZ shall prevail.

also note that there is a 20% discretionary allowance given to the director which I know is not unusual. There is also language about rights to be granted to a property owner when they cannot enjoy uses that other similar properties enjoy and I was wondering whether that meant, for example, that the eldercare facility owner who has the underground utility beneath his lot on Greenfield would somehow be allowed special compensation because he cannot enjoy the uses of his property as do his neighbors (even though he knew that the utility was there when he purchased the property).

(ii) An exception from the CPID regulation is necessary for the preservation and enjoyment of a substantial property right or use generally possessed by other property within the CPID District and/or Subarea in the same zone and vicinity but which, because of special circumstances and practical difficulties or unnecessary hardships, is denied to the property in question;

Could the eldercare developer obtain SB 1818 bonus rights and also seek additional rights under this ordinance?

Where is the CD 5 office on this?

Thanks,
Barbara

From: cary@laneighbors.org
> To: cary@laneighbors.org
> Subject: Corrected document for PLUM consideration tomorrow

> Date: Mon, 25 Oct 2010 11:33:36 -0700

>

> Folks, hi.

>

> The PLUM Committee staff fixed the technical problem with the document I wrote you about on Friday regarding the proposed new "Community Plan Implementation Overlay Districts" ordinance, which is being considered in Committee tomorrow.

>

> Here is a link to the complete document:

> http://clkrep.lacity.org/onlinedocs/2009/09-2199_rpt_ATT_Y_10-4-10.pdf

>

> I am neither endorsing nor not endorsing this at the moment ... just making sure you have the information to assess the ordinance yourself.

>

> Regards,

>

> Cary

>

> Cary Brazeman

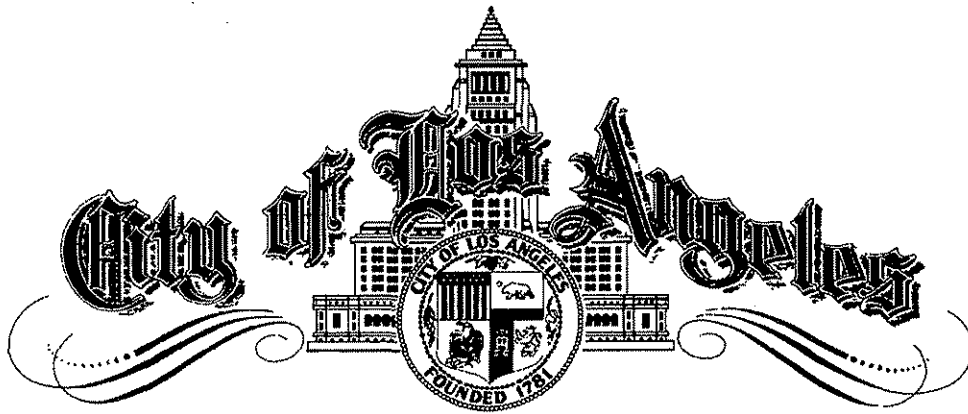
> LA Neighbors United

> 310 205 3592

> cary@laneighbors.org

> www.laneighbors.org

>



OFFICE OF
CONTROLLER

LAURA N. CHICK
CONTROLLER

200 N. MAIN STREET
ROOM 300
LOS ANGELES 90012
(213) 978-7200

March 23, 2009

The Honorable Antonio Villaraigosa
The Honorable Rockard J. Delgadillo
The Honorable Members of the City Council

Ever since the mid 1990s when I was a City Councilmember, I wondered what actually happened with the conditions we imposed when approving development projects. The City often sets requirements to shape and improve a project, promote safety and mitigate negative impacts to communities.

Now as Controller, I have circled back to answer the question: "Who ensures that the requirements attached to these developments are followed?" The answer is: "No one." We are actually often relying on voluntary compliance by the developers.

My report found that, in general, there is no single Department in charge of development projects from beginning to end. The Planning Department is indeed the lead agency in imposing conditions. However other Departments, such as Building and Safety, can add or change conditions without including the Planning Department.

The Planning Department's new data management system was intended to be a central database that tracked conditions for approval. However, this is not the cure-all it was intended. Instead we have ended up with three stand-alone systems that are neither integrated nor coordinated. Further, a new computer system alone won't solve the problems in the current development process, unless accompanied by key changes in our business processes.

It is clear some significant changes must be made here. If projects are approved with conditions attached, is it not in the City's best interest to ensure those conditions are met? Certainly that is what the public expects.

Sincerely,

LAURA N. CHICK
City Controller





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CONTROLLER

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LOS ANGELES 90012
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March 23, 2009

S. Gail Goldberg, Director of Planning
City Planning Department

Cynthia M. Ruiz, President
Board of Public Works

Andrew A. Adelman, P.E., General Manager
Department of Building and Safety

Enclosed is a report entitled "Performance Audit of the City of Los Angeles' Process for Planning Conditions for Development". A draft of this report was provided to your departments on February 18, 2009. Comments provided by your departments at various meetings and discussions held between February 26, 2009 and March 5, 2009, were evaluated and considered prior to finalizing the report.

Please review the final report and advise the Controller's Office by April 23, 2009, of actions taken to implement the recommendations. If you have any questions or comments, please contact me at (213) 978-7392.

Sincerely,

A handwritten signature in black ink, appearing to read "Farid Saffar".

FARID SAFFAR, CPA
Director of Auditing

Enclosure

S. Gail Goldberg, Director of Planning
Cynthia M. Ruiz, President, Board of Public Works
Andrew A. Adelman, General Manager, Department of Building and Safety
March 23, 2009
Page 2 of 2

cc: Robin Kramer, Chief of Staff, Office of the Mayor
Jimmy Blackman, Deputy Chief of Staff, Office of the Mayor
Raymond P. Ciranna, Interim City Administrative Officer
Karen E. Kalfayan, Interim City Clerk
Gerry F. Miller, Chief Legislative Analyst
William Roschen, President, City Planning Commission
Gary Lee Moore, City Engineer, Bureau of Engineering
Enrique C. Zaldivar, Director, Bureau of Sanitation
Ed Ebrahimian, Director, Bureau of Street Lighting
William A. Robertson, Director, Bureau of Street Services
Independent City Auditors

**Performance Audit of the City of Los Angeles'
Process for Planning Conditions for Development**

Prepared for the Los Angeles City Controller by

Harvey M. Rose Associates, LLC

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March 16, 2009

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public sector management consulting



March 16, 2009

Ms. Laura N. Chick
City Controller
City of Los Angeles
200 North Main Street, Room 300
Los Angeles, CA 90012

Dear Ms. Chick:

Harvey M. Rose Associates, LLC is pleased to present this *Performance Audit of the City of Los Angeles' Process for Planning Conditions for Development*. This report was prepared in response to your office's request for an evaluation of the effectiveness and efficiency of the City's systems, controls and processes governing imposition of and compliance with conditions on development projects.

Thank you for providing our firm with the opportunity to conduct this audit for the City of Los Angeles. Upon your request, we are available to present the report to the City Council or other City officials and to respond to any questions about this report from you and your staff.

Sincerely,

A handwritten signature in cursive script that reads 'Fred Brousseau'.

Fred Brousseau
Project Manager

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Performance Audit of the City of Los Angeles’ Process for Planning Conditions for Development

EXECUTIVE SUMMARY

Background

In the City of Los Angeles, the General Plan and the Planning and Zoning Code govern land use. The City's General Plan contains the City's goals, objectives, policies, and programs for the development of the City, and serves as the guide for the physical development of the City. The Department of City Planning is responsible for implementing the General Plan through application of the Planning and Zoning Code and other land use regulations.

Most construction projects receiving building permits from the Los Angeles Department of Building and Safety can be constructed “by-right”, indicating that the project complies with the City’s Planning and Zoning Code requirements and does not require further approval. However, a development project is discretionary if the project or site has special circumstances for which strict application of the Planning and Zoning Code provisions is impractical.

Under the Planning and Zoning Code, the Director of Planning, Zoning Administrator, Area Planning Commissions, City Planning Commission, or City Council, each have authority as a decision maker to approve discretionary development projects. In approving discretionary projects, the decision maker may impose conditions to remedy any disparities that may result from the development, specifically to protect health and safety and ensure general compliance with the objectives of the General Plan. If the decision maker approves the discretionary development project, the Department of City Planning can issue a land use permit (“entitlement”) to the applicant once the conditions of approval have been met.

City Departments’ Roles in the Development Process

Several City departments participate in development project review and oversight. The Department of City Planning is the lead agency for approving discretionary development projects and land use entitlements. Other City departments recommend conditions of approval if the project impacts the public right of way, or other requirements within their jurisdiction.

- The Department of Public Works is responsible for the public right of way and each of the Department’s bureaus - Engineering, Streetlighting, Street Services, and Sanitation - review project applications and recommend conditions for public right of way improvements as necessary.
- The Department of Transportation is responsible for reviewing development projects’ impact on traffic, and recommending improvements.

- Other City departments, such as Housing, Fire, and Water and Power, review development project applications and recommend conditions of approval appropriate to their jurisdictions.

Once the decision maker has approved the development project with conditions and the Department of City Planning has reviewed the project plans for compliance with the conditions of approval, the Department of Building and Safety approves the final project plans for compliance with the City's building and zoning requirements. The Department of Building and Safety oversees construction of the project on private property, including compliance with the project's conditions of approval, and issues the Certificate of Occupancy.

The Department of Public Works Bureau of Engineering approves the final project plans for construction in the public right of way, including compliance with the project conditions. The Department of Public Works Bureau of Contract Administration oversees construction in the public right of way.

The Department of Transportation approves any project traffic plans and oversees construction and completion of traffic improvements.

Objectives and Scope

The Controller initiated the audit to evaluate the effectiveness and efficiency of the City's process to ensure that conditions placed on development projects are met by developers. The specific areas assessed during this performance audit included:

- An evaluation of how the Department of City Planning determines that public improvements will be conditions to be satisfied by developers;
- An assessment of the adequacy of the Conditions Development and Management System (CDMS) controls to meet the intended system capabilities and provide timely, accurate and complete information related to development project conditions;
- An assessment of how City departments confirm that conditions have been met and how instances of non-compliance by developers are handled, and specifically, how CDMS facilitates and ensures that conditions are cleared at the development phase;
- A determination of how the City tracks and accounts for all developer installed public improvements; and specifically, how CDMS facilitates and ensures that conditions have been met when development projects are completed;
- A determination of how the City incorporates developer-financed public improvements into Citywide plans and budgets; and
- An assessment of whether the City's process for identifying, monitoring and enforcing development conditions is efficient and effective and how it compares to other large urban areas.

Methodology

We conducted the performance audit in accordance with *Government Auditing Standards, July 2007 Revision* by the Comptroller General of the United States. In accordance with these standards and best practices for conducting performance audits, we conducted the following key tasks:

- We held an entrance conference with the Director of Planning and her staff on August 21, 2008, to introduce HMR staff, describe the performance audit process and protocol, and request general information on the program.
- We reviewed (1) the conditions development and tracking process, including interviews with key City officials, community members, and developers, and (2) documentation provided by City departments. At the conclusion of these activities, we developed a more detailed plan for conducting subsequent performance audit activities.
- We conducted field work to research key elements of the City's program with additional interviews, and collection and analysis of data. At the conclusion of field work activities, we developed preliminary findings, conclusions and recommendations.

SUMMARY OF AUDIT RESULTS

The City of Los Angeles has not established an adequate process for reviewing, approving, and overseeing development projects that ensures that the final project conforms to the intent of the decision maker. No single City department manages development projects from the project review through project construction and completion. The Department of City Planning does not manage other City departments' review of proposed projects, and does not actively monitor compliance with the projects' conditions of approval once the building permits have been issued. In the absence of a single point of management, development projects can materially change during the project plan review and project construction and completion, resulting in the final project being different from the project as it was approved by the decision maker.

Key audit findings are noted below:

Key Findings

The City of Los Angeles' community plans, which represent the Land Use Element of the General Plan, are outdated and not specific enough to consistently and predictably direct the development project approval process.

Though the City's development project approval process allows for discretion on the part of the decision makers for proposed projects not covered by the Planning and Zoning Code, projects are subject to a larger degree of case-by-case discretion than would be necessary if community plans were well-developed. Most of the City's 35 community plans were last updated in the mid-1990s, with some dating from the 1980s. The Department of City Planning is in the early planning process to update 12 of the 35 community plans. The New Community Plan Program is expected to extend over ten years.

Decision makers use administrative procedures to address perceived shortcomings in the Planning and Zoning Code and the community plans. While discretion and flexibility in imposing conditions is often cited as a means to achieve compromise, using internal policies rather than Planning and Zoning Code or specific plan requirements to impose conditions can result in subjecting different applicants to different requirements.

The Department of City Planning recommends conditions of approval that are not clear or specific.

The Department of City Planning has not established quantitative criteria to use as the basis of conditions of approval for common development issues for which there are no standards in the Planning and Zoning Code. Consequently, decision makers impose conditions without clear justification. Our audit disclosed, for example,

- Planning staff recommended conditions requiring a number of parking spaces for a college campus without clear criteria, resulting in far more spaces than required by the Code.
- Use of conditions that lack specificity, such as "attractively landscaped", which risk misinterpretation by the public, applicants, contractors, and City staff.

The Department of City Planning does not actively manage other City departments.

Though Planning is the lead agency for approving applications for discretionary development, other City departments often do not provide recommendations for public improvements prior to the public hearing and issuance of the determination letter, resulting in an approval without all requirements being fully disclosed and documented.

Conditions are redundant in some instances and the numbering system is cumbersome, resulting in project applicants, their contractors, and City staff not being able to easily track compliance with these conditions. Non-uniform application of conditions results in

ad hoc rather than standardized procedures, subjecting different applicants to different requirements.

The Mayor established a "12 to 2" Committee to address problems in interdepartmental processes to approve and oversee development projects. While it was intended to address the leadership role of the Planning Department in the land use entitlement process and be a forum for discussing interdepartmental oversight of development conditions, it currently appears to be focused on systems processes, rather than management issues.

Department of Building and Safety's modifications can materially alter the project from the initial project plans that were submitted to and approved by the decision maker.

After the decision maker approves the project the applicant must submit the final project plans, incorporating the conditions of approval, to the Department of City Planning. At the same time, the applicant submits detailed building plans to the Department of Building and Safety for approval of building permits. While the Department of Building and Safety cannot modify conditions imposed by the decision maker, it can modify building plans to meet building or zoning requirements.

- For a mixed-use, 350 residential unit project that was subject to numerous conditions of approval, the applicant later submitted a request to the Department of Building and Safety to permit exterior balconies. While it was appropriate that the request was submitted to Department of Building and Safety because the balconies would be close to the property line, potentially in violation of building codes, the addition of balconies significantly changed the exterior appearance of the project, and may have impacted Planning's initial approval decisions.

The Department of City Planning lacks department-wide documentation standards for clearing conditions on development project plans and maintaining records.

Each staff planner documents his or her plan review differently. Although the planner stamps and signs the final project plans, indicating that the plans incorporate the conditions of approval, auditors were unable to determine how the plans conformed with each condition of approval.

Also, although the Department of City Planning has procedures for organizing formal files, no standards exist for required document retention. For example, copies of approved project plans for six of the 17 completed development projects reviewed could not be located.

The Department of City Planning does not actively monitor project compliance with the determination letter's conditions of approval once the building permits have been issued.

In the absence of a single point of management, development projects can materially change during construction and completion, with the final project being different from the project as it was approved by the decision maker. These material changes can result

from changes to project plans to meet building code requirements or address design errors, unforeseen field conditions or other construction problems. Neither the Department of City Planning nor the Department of Public Works have established procedures to ensure that the Department of City Planning reviews project changes.

- For example, the Department of Public Works Bureau of Engineering approved Interim Change Authorizations that changed specific conditions of approval without notifying the Department of City Planning, including (1) reducing a pedestrian walkway from six feet to four feet, and (2) changing street lights from ornamental to a different type.

None of the City departments directly involved in the development process have adequate controls to ensure that the project complies with the conditions of approval.

The Department of Building and Safety does not have the expertise to enforce specific landscape and architectural design conditions, and the Department of City Planning does not review implementation of these conditions in the constructed project.

- Although the Department of Building and Safety requires the project's landscape architect to certify compliance with the conditions of approval, we found inconsistent documentation of this process.
- Also, while the project architect or engineer certifies to the Department of Building and Safety that the project complies with structural design requirements, it does not certify compliance with other architectural design related conditions.

The Department of Public Works does not ensure that conditions of approval for public improvements are implemented.

- A school received a temporary Certificate of Occupancy although it had not installed required traffic improvements, potentially in violation of existing City ordinances.

The Department of City Planning's new data management system (Condition Development and Management System, or CDMS) automates many of the Department's manual processes but the system alone does not fully address processes for managing development project conditions of approval in an adequate manner.

Envisioned as a centralized database to manage the City's conditions of approval and ensure post-approval review for land-use entitlements, CDMS will provide an automated tracking tool, but will not change current processes for distributing hard copies of project applications to other City departments, nor give the Department of City Planning the ability to require City departments to review project applications and submit recommendations for conditions of approval in a timely manner, nor ensure conditions have been met.

- Though the Department of City Planning intends for applicants to eventually be able to submit their applications electronically, allowing for electronic distribution of site plans to all approvers through CDMS, there is currently no specific funding or implementation plan to develop this capacity.
- While CDMS can facilitate creating conditions and track their approval by responsible City departments, it will not ensure that conditions are clearly written or contain the necessary specificity. Further, although CDMS allows for electronic clearing of conditions, it does not create documentation standards for staff to note when approving that conditions have been met.
- CDMS will add a third City departmental system to track development conditions; however, there is no formal plan to coordinate these systems, or ensure all systems will contain the same information regarding approval status. CDMS system design did not consider integration with other citywide systems because the City's Information Technology Agency has not played a role in its development.

City departments do not consistently track, plan or budget for maintenance of public improvements installed as a result of conditions of approval for development projects. In addition, Some City departments do not collect sufficient fee revenues to cover the costs of maintaining public improvements.

Although project applicants pay the costs of installing public improvements, only some departments track and recover maintenance costs for these improvements. No departments systematically track public improvements imposed as development project conditions of approval as part of their fiscal planning process.

Some City departments do not collect sufficient revenues to cover the costs of maintaining public improvements, particularly those imposed as conditions of approval for development. Specifically, the Urban Forestry Division of the Bureau of Street Services Street Tree Maintenance, Inspection and Clerical fees, the Bureau of Street Lighting Street Lighting Maintenance Assessment, and the Bureau of Sanitation Stormwater Pollution Abatement Charge revenues are not sufficient to recover the costs of maintaining public improvements.

TABLE OF RECOMMENDATIONS

RECOMMENDATIONS	PAGE REFERENCE
1. Imposing Entitlement Conditions	9
The Director of Planning should: 1.1 In consultation with the City Planning Commission, develop internal policies that clarify the Department's roles, responsibilities and authority for recommending development project conditions not addressed by the Planning and Zoning Code or specific plans, and submit these policies to the Mayor for approval. 1.2 Recommend to the City Council new or updated Planning and Zoning Code provisions when the Planning and Zoning Code fail to address current zoning or development needs. 1.3 Develop and implement formal written quantitative standards for recommending conditions covering common development issues that are not addressed by the Planning and Zoning Code or specific plans. 1.4 Develop guidelines for development project site plan review and sign-off for development project conditions that are by definition qualitative and non-specific, such as design review.	

RECOMMENDATIONS	PAGE REFERENCE
2. Imposing Conditions for Public Improvements	25
<p>The Mayor should:</p> <p>2.1 Direct the 12 to 2 Committee, in conjunction with the Director of Planning, to define the role of the Department of City Planning in managing the development process including consideration of the costs and benefits of delegating authority to the Department over all departments in terms of their roles in the development project approval process(see Recommendation 4.1).</p> <p>The Director of Planning, in conjunction with the 12 to 2 Committee, should:</p> <p>2.2 Establish procedures to ensure timely submission of specific recommendations for conditions of approval to the Department of City Planning (see Recommendations 4.5 (a) and 5.2).</p> <p>2.3 Evaluate City departments' standard conditions to ensure specific, non-redundant, and clearly numbered conditions of approval in the determination letter.</p> <p>2.4 Develop procedures for uniform application of conditions of approval to comparable development projects.</p>	
3. Ensuring that Conditions of Approval are Met Before the Building Permit is Issued	31
<p>The Director of Planning should:</p> <p>3.1 Develop and implement formal written department-wide documentation standards for clearing conditions on final project site plans, including a system to identify how the site plan conforms to the specific conditions of approval (see Recommendation 5.5).</p> <p>3.2 Develop and implement a formal written department-wide document retention policy.</p> <p>3.3 In conjunction with the General Manager of the Department of Building and Safety, develop formal written guidelines and control procedures to ensure that the Department of City Planning (1) is notified of all project modifications that materially change the project and (2) reviews all material project modifications made by the Department of Building and Safety.</p>	

RECOMMENDATIONS	PAGE REFERENCE
4. Monitoring Project Construction and Completion	38
<p>The Mayor should:</p> <p>4.1 Define the role of the Department of City Planning as the project manager for development projects.</p> <p>4.2 Direct the 12 to 2 Committee to define the responsibility of the Department of City Planning, Department of Public Works, and Department of Building and Safety for resolving disputes.</p> <p>The Director of Planning should:</p> <p>4.3 In conjunction with the General Manager of the Department of Building and Safety, City Engineer, and Director of the Bureau of Contract Administration, develop procedures and control processes to ensure notification of the Department of City Planning for project changes during construction.</p> <p>4.4 Evaluate potential expansion of the Department's enforcement function and present a report to the City Council prior to the FY 2010-11 budget review that includes: (a) a definition of the Department of City Planning's enforcement function and its relationship to the Department of Building and Safety and Department of Transportation's enforcement functions; (b) costs of additional staff resources necessary to expand the Department's enforcement function; (c) potential fee- or fine-based revenues to pay the costs of additional staff resources; and (d) expected benefits of the expanded enforcement function.</p> <p>The City Engineer should:</p> <p>4.5 In conjunction with the Directors of the Bureau of Street Services, Sanitation, and Street Lighting, establish procedures to ensure: (a) timely submission of specific recommendations for conditions of approval to the Department of City Planning (see Recommendation 2.2 and 5.2); and (b) completion of all conditions of approval during project construction and prior to the Certificate of Occupancy.</p> <p>4.6 In conjunction with the Director of Planning and the General Manager for the Department of Building and Safety, establish procedures to ensure: (a) notification of the Department of City Planning for material project changes (see Recommendation 4.3); and (b) Department of City Planning review of the final project for compliance with entitlement conditions prior to the Certificate of Occupancy.</p>	

RECOMMENDATIONS	PAGE REFERENCE
5. CDMS Implementation	48
<p>The Director of Planning should:</p> <p>5.1 Develop and implement written department-wide procedures for distributing development project applications to other City departments.</p> <p>5.2 Develop monthly reports no later than June 30, 2009 for submission to the Mayor and City Council: (a) identifying standards for City departments' timely submission of recommendations for conditions of approval; and (b) tracking City departments' compliance with these standards.</p> <p>5.3 Review the Department of City Planning's standard conditions entered into CDMS and revise or delete non-specific or unclear conditions.</p> <p>5.4 Develop and implement written department-wide procedures for writing specific and clear conditions (see Recommendation 1.2).</p> <p>5.5 Develop and implement written department-wide procedures for: (a) documenting how the final development project site plan addresses the project's conditions of approval (see Recommendation 3.1); and (b) retaining site plan documentation in the Department's formal files (see Recommendation 3.2).</p> <p>5.6 Develop a long-term implementation plan for CDMS that: (a) includes the Information Technology Agency in the planning and coordination of CDMS with the Department of Building and Safety's and Bureau of Engineering's systems; (b) identifies the costs and timelines for coordinating systems among the Department of City Planning, the Department of Building and Safety, and the Bureau of Engineering; (c) identifies the costs and timelines for implementing CDMS capabilities to generate determination letters; and (d) identifies the costs and timelines for entering case data for completed projects into CDMS.</p>	

RECOMMENDATIONS	PAGE REFERENCE
6. Costs of Maintaining Public Improvements	54
<p>The Mayor should:</p> <ul style="list-style-type: none">6.1 Direct the City Administrative Officer to require department and bureau directors to evaluate all public improvement maintenance revenues annually to ensure coverage of maintenance costs.6.2 Direct the City Administrative Officer to develop a fee structure that includes maintenance fees for all public improvements resulting from development project conditions of approval. <p>The City Council should:</p> <ul style="list-style-type: none">6.3 Take actions to ensure that special services are fully covered by related fees, including a requirement for all fees for special services to be updated on a periodic basis based on the U.S. Department of Labor Consumer Price Index.6.4 Determine the feasibility of increasing assessments in accordance with the requirements of Proposition 218, to ensure that all assessments are updated on a periodic basis based on the U.S. Department of Labor Consumer Price Index.	

Introduction

Harvey M. Rose Associates, LLC (HMR) is pleased to present this *Performance Audit of the City of Los Angeles' Process for Planning Conditions for Development*. This report was prepared at the request of the City Controller in accordance with the powers and duties prescribed for the City Controller in Article II, Section 261(e) of the City Charter.

Objectives and Scope

The Controller initiated the audit to evaluate the effectiveness and efficiency of the City's process to ensure that conditions placed on development projects are met by developers. The specific areas assessed during this performance audit included:

- An evaluation of how the Department of City Planning determines that public improvements will be conditions to be satisfied by developers;
- An assessment of the adequacy of the Conditions Development and Management System (CDMS) controls to meet the intended system capabilities and provide timely, accurate and complete information related to development conditions;
- An assessment of how City departments confirm that conditions have been met and how instances of non-compliance by developers are handled, and specifically, how CDMS facilitates and ensures that conditions are cleared at the development phase;
- A determination of how the City tracks and accounts for all developer installed public improvements; and specifically, how CDMS facilitates and ensures that conditions have been met when development projects are completed;
- A determination of how the City incorporates developer-financed public improvements into Citywide plans and budgets; and
- An assessment of whether the City's process for identifying, monitoring and enforcing development conditions is efficient and effective and how it compares to other large urban areas.

Methodology

We conducted the performance audit in accordance with *Government Auditing Standards, July 2007 Revision* by the Comptroller General of the United States. In accordance with these standards and best practices for conducting performance audits, we conducted the following key tasks:

- We held an entrance conference with the Director of Planning and her staff to introduce HMR staff, describe the performance audit process and protocol, and request general information on the program.
- We reviewed (1) the conditions development and tracking process, including interviews with key City officials, community members, and developers, and (2) documentation provided by City departments. At the conclusion of these activities, we developed a more detailed plan for conducting subsequent performance audit activities.
- We conducted field work to research key elements of the City's program with additional interviews, and collection and analysis of data. At the conclusion of field work activities, we developed preliminary findings, conclusions and recommendations.
- We surveyed nine cities and counties regarding best practices in developing and monitoring development project conditions: (1) Henderson, Nevada, (2) New York City, New York, (3) Phoenix, Arizona, (4) Pierce County, Washington, (5) San Diego, California, (6) San Jose, California, (7) San Francisco, California, (8) Tallahassee, Florida, and (9) Vancouver, British Columbia.

City of Los Angeles Oversight of Land Use and Development

Various U.S. Supreme Court and California Supreme Court decisions have established the legal basis for local governments to regulate land use. Generally, local governments can regulate land use to protect public health, safety, and welfare.

Los Angeles General Plan and Planning and Zoning Code

In the City of Los Angeles, the General Plan and the Planning and Zoning Code govern land use. The City's General Plan contains the City's goals, objectives, policies, and programs for the development of the City, and serves as the guide for the physical development of the City. The Department of City Planning is responsible for implementing the General Plan through application of the Planning and Zoning Code and other land use regulations.

The Department of City Planning's Review of Proposed Development Projects

According to the Planning and Zoning Code, the Department of City Planning is responsible for reviewing and approving development projects to:

- Promote orderly development;
- Evaluate and mitigate environmental impacts; and
- Promote public welfare and safety by ensuring the adequacy of infrastructure and reducing environmental impacts.

Development projects include the (1) construction of, addition to, or alteration of any building or structure, or (2) change of use of an existing building or structure that:

- Requires a building permit; and
- Results in a (1) net increase in floor area, or (2) increased impact of vehicle traffic to the site.

Process for Discretionary Approval of Development Projects

When a development project conforms to the Planning and Zoning Code, the property owner can construct the project “by-right” without Department of City Planning review. A development project is discretionary if the project or project site has special circumstances for which strict application of the Planning and Zoning Code provisions is impractical.

Under the Planning and Zoning Code, the decision makers review and approve discretionary projects, imposing conditions of approval (“land use entitlements”) to:

- Ensure that the project generally complies with the General Plan;
- Remedy any disparity of privilege arising from the discretionary approval; and
- Protect the public safety, health, and welfare.

The process for discretionary approval of development projects can include:

- Project application;
- Review by Department of City Planning staff;
- Environmental review¹;
- Referral to other City departments, such as the Departments of Building and Safety, Transportation, and Public Works, for review;
- Public hearing if the proposed project impacts neighboring properties; and
- The decision maker’s approval or disapproval, including the determination letter imposing conditions of approval.

¹ The Municipal Code requires environmental review under the California Environmental Quality Act (CEQA) for (a) large development projects of more than 50,000 square feet, or more than 50 residential units, (b) drive-through fast food restaurants with increases in daily vehicle trips specified in the Code, and (c) housing units in the Greater Downtown Housing Incentive Area. The Department of City Planning cannot issue planning permits (and the Department of Building and Safety cannot issue building permits) until conditions for these projects have been cleared. The Municipal Code exempts development projects from environmental review if the special plan, which contains the land use requirements for a specific neighborhood or location within the City of Los Angeles, has a certified environmental impact report. The Municipal Code exempts other development projects from environmental review if they meet specified conditions.

Decision Makers

Under the Planning and Zoning Code, the Director of Planning, Zoning Administrator, Area Planning Commissions, City Planning Commission, or City Council, each have a designated authority as a decision maker to approve discretionary development projects and impose conditions of approval. Exhibit I describes the authority of each decision maker in approving discretionary development projects and imposing conditions.

In addition, development projects requiring the subdivision of land, such as tentative tract or parcel map² applications, are decided by the Deputy Advisory Agency, appointed by the Director of Planning. The California Subdivision Map Act requires that subdivision decisions are separate from other land use entitlement decisions, but a 2003 City Council action allows joint hearings for subdivision and other discretionary approvals.

City Departments' Roles in the Development Process

The Department of City Planning

The Department of City Planning is the lead agency for approving discretionary development projects.

- The Director of Planning is the chief administrative officer of the Department. In addition to administrative duties, the Director is responsible for preparing the General Plan and amendments to the General Plan; all zoning and other land use regulations and requirements; investigating and acting on the design and improvement of all subdivisions of land; and additional powers and duties as provided by the ordinance.

The Department has three Deputy Directors:

- The Deputy Director, Citywide and Administration, is responsible for (1) the records counter, (2) information systems, (3) department operations, (4) Area Planning Commission and City Planning Commission support, and (5) liaison to the Mayor and City Council.
- The Deputy Director, Zoning Administration, is responsible for (1) environmental review, (2) zoning administration, (3) urban design, (4) historic resources, (5) subdivision mapping, and (6) public counter activities.
- The Deputy Director, Community Planning Bureau, is responsible for (1) community plans, (2) long range planning, (3) case processing, and (4) public counter activities.

The Department of City Planning is undergoing an organizational change. The new organizational structure currently in the initial implementation will incorporate seven planning

² Subdivision of land includes parcel map or tract map applications. Under the California Subdivision Map Act, generally a parcel map subdivides the property into four or fewer parcels and a tract map subdivides the property into five or more parcels.

areas for all department responsibilities, including long-range planning, case processing, zoning administration, environmental review, and subdivision of land. These seven planning areas will each have a specific geographic location. The reorganization will also include some City-wide oversight to ensure consistency. The Department of City Planning's intent in reorganizing into geographic teams corresponding to the Area Planning Commissions is to improve services to constituents.

In FY 2008-09, the Department City Planning budget is approximately \$34 million, of which \$10 million, or approximately 30 percent, is allocated to processing development project applications. In each of the last three fiscal years, the number of development project applications submitted to the Department of City Planning has decreased, as shown in the table below.

Table 1

Development Project Applications: FY 2005-06 through FY 2007-08

Decision Maker	Total Applications			Three Year Decrease	Percent
	FY 2005-06	FY 2006-07	FY 2007-08		
Director of Planning	1,674	1,616	1,499	-175	-10%
Zoning Administrator	1,999	1,933	1,741	-258	-13%
Deputy Advisory Agency	2,578	1,054	688	-1,890	-73%
Area Planning Commissions	137	125	99	-38	-28%
City Planning Commission	150	153	105	-45	-30%
TOTAL	6,538	4,881	4,132	-2,406	-37%

Source: Planning Case Tracking System (PCTS)

Other City Departments

Recommending Conditions of Approval

Other City departments recommend conditions of approval to the decision maker if the project impacts the public right of way or other City requirements, as discussed in Sections 2 and 3 of this report.

- The Department of Public Works is responsible for the public right of way and each of the Department's bureaus - Engineering, Streetlighting, Street Services, and Sanitation - review project applications and recommend conditions for public right of way improvements as necessary.
- The Department of Transportation is responsible for reviewing development projects' traffic impacts and recommending traffic improvements.

- Other City departments, such as Housing, Fire, and Water and Power, review development project applications and recommend conditions of approval appropriate to their jurisdictions.

Overseeing Implementation of Conditions of Approval

Once the decision maker has approved the development project with conditions and the Department of City Planning has reviewed the project plans for compliance with the conditions of approval, the Department of Building and Safety approves the final project plans for compliance with the City's building and zoning requirements. The Department of Building and Safety oversees construction of the project on the private property, including compliance with the project's conditions of approval, and approves the Certificate of Occupancy.

The Department of Public Works Bureau of Engineering approves the final project plans for construction in the public right of way, including compliance with the project conditions. The Department of Public Works Bureau of Contract Administration oversees construction in the public right of way.

The Department of Transportation approves any project traffic plans and oversees construction and completion of traffic improvements.

Sections 3 and 4 discuss project plan approval and construction oversight in more detail.

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Exhibit I: Role and Responsibilities of Decision Makers

Decision Maker	Description	General Responsibilities	Role in Quasi Judicial Land Use Decisions	Role in Legislative Land Use Decisions
Director of Planning	Chief Administrative Officer of the Planning Department	Responsibilities include (a) preparing the General Plan and General Plan amendments; (b) overseeing subdivisions and mapping; and (c) overseeing land use and zoning regulations.	<ol style="list-style-type: none"> 1. Approves proposed development projects that comply with the specific plan. 2. Approves proposed development projects that have minor adjustments to the specific plan subject to limitations of the Municipal Code. 3. Approves zone boundary adjustments. 	Recommends on planning issues to the City Planning Commission
Chief Zoning Administrator	Oversees the Office of Zoning Administration within the Planning Department	Responsibilities include investigating and making decisions on all applications for zoning variances, some conditional uses, and other special zoning permits.	<ol style="list-style-type: none"> 1. Hears conditional use requests for projects not under the jurisdiction of the City or Area Planning Commissions. 2. Hears requests for zoning variances. 3. Approves slight adjustments to building line, density, height, and other requirements. 	None

Decision Maker	Description	General Responsibilities	Role in Quasi Judicial Land Use Decisions	Role in Legislative Land Use Decisions
Area Planning Commissions	Seven Area Planning Commissions consisting of five private individuals serving without pay	Responsibilities include (a) hearing appeals on actions taken by the Director of Planning or the Zoning Administrator; (b) decision maker on some zoning requirements; and (c) reviewing and making comments to the City Planning Commission and City Council on the General Plan.	<ol style="list-style-type: none"> 1. Can grant exceptions to the specific plans with conditions to ensure General Plan conformance. 2. Hear conditional use requests for mixed commercial/residential developments. 3. Hear appeals on the Director of Planning's and Zoning Administrator's development project decisions. 4. Review and comment to the City Planning Commission on zoning changes to the City Planning Commission. 	Review and comment on land use ordinances and zoning changes to the City Council.
City Planning Commission	Consists of nine private individuals serving without pay	Responsibilities include advising the Mayor, City Council, Director of Planning, and other City agencies on the General Plan and associated legislation.	<ol style="list-style-type: none"> 1. Hears conditional use requests for large projects. 2. Makes decisions on proposed development projects that cross Area Planning Commission boundaries. 	<ol style="list-style-type: none"> 1. Recommends General Plan and specific plan amendments and other land use ordinances to the City Council. 2. Makes recommendations on projects involving both quasi-judicial and legislative action.

Exhibit I: Role and Responsibilities of Decision Makers

Decision Maker	Description	General Responsibilities	Role in Quasi Judicial Land Use Decisions	Role in Legislative Land Use Decisions
City Council	Elected legislative body of the City of Los Angeles		<ol style="list-style-type: none"> 1. Hears appeals on the Area Planning Commissions' decisions on special plan exceptions. 2. Hears appeals on conditional use decisions by the Area Planning Commissions or City Planning Commission. 3. Hears appeals on Area Planning Commissions' decisions on zoning variances. 	<ol style="list-style-type: none"> 1. Decides on specific plan amendments recommended by the City Planning Commission. 2. Decides on zoning changes. 3. Decides on projects involving both quasi-judicial and legislative action.
Mayor	Elected executive of the City of Los Angeles		Hears final appeal on zoning variances and conditional use permits subject to City Council override.	Makes recommendations on legislative actions.

1. Imposing Entitlement Conditions

- **The City of Los Angeles' community plans, which represent the Land Use Element of the General Plan, are outdated and not specific enough to direct the development project approval process consistently and predictably. Though the City's development project approval process allows for discretion on the part of the decision makers for proposed projects not covered by the Planning and Zoning Code, development projects are subject to a larger degree of case-by-case discretion than would be necessary if community plans were well-developed.**
- **The Department of City Planning recommends conditions of approval that often are not clear or specific. For example, a college development project determination letter failed to specifically define additional parking required as a condition of approval. The City Planning Commission had specified that dormitory parking should be provided within the project's parking garage pursuant to Planning and Zoning Code requirements but the Director of Planning's modification requiring a minimum of 84 parking spaces was less than Planning and Zoning Code requirements. An alternative reading of the Code could have required 116 parking spaces. The City Planning Commission's determination letter should have specified the exact parking requirements to reduce the risk of misinterpretation.**
- **Further, the Department of City Planning has not established quantitative criteria to use as the basis of conditions of approval for common development issues for which there are no standards in the Planning and Zoning Code. For example, Department of City Planning staff recommended to the City Planning Commission the college parking requirements that exceeded the Planning and Zoning Code requirement without a quantitative basis for the recommended number of parking spaces.**
- **Decision makers use administrative procedures to address perceived shortcomings in the community plans. However, by imposing conditions based upon the Department of City Planning's administrative procedures, the decision makers may be acting without the authority granted by the Planning and Zoning Code. For example, Department of City Planning staff recommend conditions requiring guest parking for multi-residence projects in the absence of Planning and Zoning Code or specific plan requirements based on the Department of City Planning's Division of Land's internal policy.**

- **Prior to the completion of new community plans through the Department of City Planning’s ten-year community planning process, the Director of Planning should clarify the Department of City Planning’s authority in recommending development project conditions, such as guest parking, and ensure that conditions are imposed uniformly to development projects. Also, the Director of Planning should develop (1) procedures for ensuring specific and clearly written conditions and (2) quantitative standards for imposing conditions.**

The California Government Code defines a development project as any project undertaken for the purpose of development, including projects requiring construction permits but not projects requiring operating permits. In the City of Los Angeles, the General Plan governs development. The City has 35 community plans that serve as the Land Use Element of the General Plan. Individual neighborhoods within the community plans may have specific plans that define the zoning requirements for that neighborhood. Additionally, the City’s Planning and Zoning Code sets forth (1) zoning requirements for the City as a whole and (2) procedures for approving development projects.

Most construction projects receiving building permits from the Los Angeles Department of Building and Safety can be constructed “by-right”, indicating that the project complies with the City’s zoning requirements and does not require further approval. However, a development project is discretionary if the project or project site has special circumstances for which strict application of the Planning and Zoning Code provisions is impractical.

Discretionary Development Projects

In approving discretionary projects, the decision maker¹ imposes conditions to remedy any disparities that may result, protect health and safety, and ensure general compliance with the objectives of the General Plan. If the decision maker approves the discretionary development project, the Department of City Planning can issue a land use permit (“entitlement”) to the applicant once the conditions of approval have been met.

The Planning and Zoning Code outlines the process for reviewing discretionary development projects and imposing conditions to ensure that the project conforms to the intent of the General Plan. For the land use entitlement, the decision maker imposes conditions specific to the entitlement. If the proposed development project impacts the public right of way or must meet some other City requirement, such as providing affordable housing, the appropriate City department recommends conditions to meet these requirements to the decision maker for inclusion in the determination letter.

¹ As discussed in the Introduction and shown in Exhibit I, the decision maker can be the Director of Planning, Zoning Administrator, Area Planning Commission, City Planning Commission, or City Council, depending on the type of discretionary approval.

Land Use Entitlements

Land use entitlements are of two types:

1. Quasi-judicial entitlements include specific plan exceptions, zoning variances, conditional use requests, adjustments to height, density, yard set back, and other changes to zoning requirements. Quasi-judicial decisions are supported by written findings of fact based upon evidence, in accordance with the Planning and Zoning Code.
2. Legislative entitlements require approval by the City Council through an ordinance, upon recommendation by the Area Planning Commissions or City Planning Commission, including zone or height district changes and specific plan amendments.

The Department of City Planning's process for reviewing development projects and imposing conditions varies depending on the type of discretionary approval and decision maker.

- For projects requiring legislative action, planners in the Department of City Planning's Community Planning Division recommend conditions for approval to the City Planning Commission and Area Planning Commissions, based on their review of the project and testimony gathered in the public hearing. Community Planning Division planners also review development projects requiring special plan permits and recommend conditions to the Director of Planning or the respective Area Planning Commission.
- For projects requiring zoning adjustments, variances, and certain conditional use approvals, Zoning Administrators write their own conditions based on their review of the project, including reports by the zoning investigators and testimony gathered in the public hearing.
- For projects requiring land subdivision, the Deputy Advisory Agency imposes conditions for improvements in the public right of way, as discussed below. Applications for land subdivision can be combined with applications for other discretionary actions. For combined applications, the Deputy Advisory Agency will decide subdivision as well as other discretionary actions, including imposing conditions on the development project.

In FY 2007-08, the Department of City Planning received more than 4,000 development project applications, of which the Director of Planning and the Zoning Administrator were the decision makers for more than three-quarters of the applications. The Area Planning Commissions and the City Planning Commission were the decision makers for only 5 percent of the development project applications.

Table 1.1
Development Project Applications by Decision Maker
FY 2005-06 through FY 2007-08

Decision Maker	FY 2005-06		FY 2006-07		FY 2007-08	
	Total Applications	Percent	Total Applications	Percent	Total Applications	Percent
Director of Planning	1,674	26%	1,616	33%	1,499	36%
Zoning Administrator	1,999	31%	1,933	40%	1,741	42%
Deputy Advisory Agency	2,578	39%	1,054	22%	688	17%
Area Planning Commissions	137	2%	125	3%	99	2%
City Planning Commission	150	2%	153	3%	105	3%
TOTAL	6,538	100%	4,881	100%	4,132	100%

Source: Planning Case Tracking System

Imposing Conditions on Discretionary Development Projects

The Planning and Zoning Code requires the decision maker to impose conditions on discretionary development projects to (1) remedy any resulting disparity that may arise from an exception to the community or specific plan or provisions of the Planning and Zoning Code, (2) protect the public health, safety, and welfare, and (3) assure compliance with the objectives of the General Plan. Although conditions for land use entitlements are specific to the development project, the Department of City Planning has developed standard conditions that can be imposed on similar projects.

Standard Conditions

The Community Planning Division developed a *Standard Conditions Manual* in October 2001 that outlines the standard conditions for projects under the jurisdiction of the Director of Planning and the City and Area Planning Commissions. The *Standard Conditions Manual* outlines four types of conditions:

- *Entitlement Conditions* are mandatory for all reports and describe the basic features of the project approval.
- *Administrative Conditions* are required for most reports and describe the guidelines and procedures for interpreting, implementing, and enforcing the conditions of approval.
- *Environmental Conditions* are mandatory for all reports accompanied by a Mitigated Negative Declaration or Environmental Impact Report.
- *Other Conditions* are included as appropriate for the specific project.

Entitlement conditions include: (1) the use of the property; (2) the site plan; (3) the building's floor area; (4) the density, or number of buildings or residential units on the property; (5) the height of all buildings; and (6) parking.

Other conditions can include: (1) specific dwelling or housing requirements, such as senior housing; (2) building attributes, such as balconies and façade; (3) detailed parking requirements; (4) traffic, transportation, and pedestrian plans; (5) construction mitigation measures; (6) public improvements; (7) walls and fences; (8) operational conditions, such as hours of operation or noise levels; and (9) other conditions specific to the type of project.

The *Standard Conditions Manual* provides a template for writing conditions specific to the project.

Zoning Administration has a template for the determination letter that outlines five standard conditions for projects requiring zoning decisions. These standard conditions include requirements that: (1) the project's use, height, and area comply with the Planning and Zoning Code; (2) the project conform with the plot and floor plans submitted with the application; (3) the property use be conducted with due regard for the character of the surrounding district; (4) graffiti be removed within 24 hours; and (5) conditions be imprinted on the project plans.

Finding #1: Outdated Community Plans Contribute to Discretion in Approving Development Projects

The City of Los Angeles' community plans, which represent the Land Use Element of the General Plan, are outdated and not specific enough to direct the development project approval process consistently and predictably. The majority of the 35 specific community plans were last updated in the mid 1990s, with some that have not been updated since the 1980s. Further, many provisions of the Planning and Zoning Code are outdated. While the City Council periodically adopts new or revised Planning and Zoning Code provisions, many Code provisions have not been updated since the 1950s and 1960s. Though the City's development project approval process allows for discretion on the part of the decision makers for proposed projects not covered by the Planning and Zoning Code, development projects are subject to a larger degree of case-by-case discretion than would be necessary if community plans were well-developed.

The Department of City Planning implemented the New Community Plan program in 2007 to update the plans, and is currently in the early stages of updating 12 of the 35 community plans. The Department of City Planning expects the New Community Plan Program to extend over ten years. The City Council allocated \$4.8 million in FY 2008-09 for the New Community Plan Program. The Department of City Planning intends to initiate the community planning process for four community plans each year, requiring up to three years for each new community plan. According to the Director of Planning, the development project approval process will be streamlined and less discretionary once the new community plans are implemented.

The Director of Planning should also recommend to the City Council new or updated Planning and Zoning Code provisions when the Planning and Zoning Code fail to address current zoning or development needs.

Decision Makers Address Shortcomings in the Planning and Zoning Code and the Community Plans Administratively

Decision makers use administrative procedures to address perceived shortcomings in the Planning and Zoning Code and the community plans. By imposing conditions based upon the Department of City Planning’s administrative procedures, the decision makers may be acting without the authority granted by the Planning and Zoning Code.

For example, decision makers often impose guest parking conditions for residential condominium projects although neither the Planning and Zoning Code nor specific plan for the project’s specific plan area require guest parking. The Department of City Planning’s Division of Land has an internal policy requiring guest parking for multi-residence projects requiring land subdivision.

The auditors reviewed 26 development projects, of which 14 were multi-residence projects. As shown in Table 1.2, nearly two-thirds of these projects had guest parking conditions which were not part of a specific plan. Two projects with guest parking conditions not included in a specific plan were not subdivision applications covered by the Department’s internal policy.

Table 1.2

Guest Parking Conditions for Multi-Residence Projects

Multi-Residence Development Projects with Guest Parking Requirements	Land Subdivision Applications	No Land Subdivision Application
Guest Parking Requirements in the Specific Plan	5	n/a
No Guest Parking Requirements in the Specific Plan	9	2
Total	14	2

Source: Case Review of 26 Development Projects

Also, decision makers impose conditions for projects in the Mount Washington/Glassell Park Specific Plan area for which they have no clear authority. Decision makers require that development project applicants in the Mount Washington/Glassell Park Specific Plan area (1) install the landscape and irrigation system prior to a final site visit by the Department of City Planning, and (2) submit photographs to the Department of City Planning’s Community Planning Division at project completion. These conditions are intended to provide Department of City Planning oversight over landscape and architectural conditions prior to project completion, although the Mount Washington/Glassell Park Specific Plan does not provide for these conditions. Two of the 26 development projects contained this provision.

While discretion and flexibility in imposing conditions is often cited as a means to achieve compromise between new development and community concerns, current practices, intended to address perceived deficiencies in the community plans, blur the authority by which decision makers impose conditions. Imposing such conditions can also result in ad hoc rather than standardized procedures, creating different criteria for different parts of the City and subjecting different applicants to different requirements.

Decision Makers Impose Conditions on Development Projects without Clear Criteria

The Department of City Planning has not established quantitative standards for recommending conditions of approval for development projects. For example, the City Planning Commission imposed parking conditions for a college dormitory project based on Department of City Planning recommendations without criteria for the specific number of parking spaces.

The City Planning Commission approved an unclearly-written condition, requiring a minimum of 235 parking spaces for a 274-bed student dormitory project on the college campus although the Planning and Zoning Code required 84 parking spaces. The November 10, 2005 City Planning Commission Meeting approved:

“A minimum of 235 parking spaces shall be provided. Parking for the proposed dormitory shall be provided within the project’s parking garage pursuant to L.A.M.C. (Los Angeles Planning and Zoning Code) Section 12.21.A.4.(b). Spaces in excess of L.A.M.C. requirements can be provided elsewhere on-site, within the existing campus boundary”.

Although the college wrote a letter on November 2, 2005 prior to the City Planning Commission meeting, stating that the proposed parking space requirement was “overly restrictive and focused on automobile parking contrary to efforts being made by the community and the college to promote bicycle, scooter, and motorcycle trips,” the City Planning Commission approved the 235-parking space requirement. The City Planning Commission’s determination letter does not explain the criteria for the additional parking requirement.

The Director of Planning issued a modification to the proposed dormitory plans on behalf of the City Planning Commission on June 15, 2006. The modification required a minimum of 84 parking spaces to be reserved for students living in the new dormitory, plus 151 parking spaces to serve as additional parking for students on campus, totaling 235 parking spaces. In the written finding, the Director stated that the parking spaces should consist of 127 standard spaces, 71 compact spaces, 7 spaces for disabled access, and 30 motorcycle, bicycle, and scooter spaces.

However, the college was unable to receive a Certificate of Occupancy for the modified parking spaces. In May 2008, the Department of City Planning had to issue a notice to the Department of Building and Safety, clarifying the condition and allowing the college to receive the Certificate of Occupancy for the reduced dormitory parking.

Finding #2: Decision Makers Impose Conditions of Approval that Are Unclear and Not Specific

Decision makers imposed unclearly-written or non-specific conditions on more than one-half of the 26 development projects. As shown above, conditions that are not clearly written or specific can lead to misinterpretation. The parking requirement imposed on the college not only exceeded the Planning and Zoning Code requirements but was not clearly defined. Although the Director of Planning later clarified the condition, this clarification may not necessarily have been the intent of the City Planning Commission.

- The Director of Planning’s clarification required a minimum of 84 parking spaces to be included in the new dormitory project, but the City Planning Commission required the number of parking spaces included in the Planning and Zoning Code. Although the Director of Planning identified the Planning and Zoning Code requirement as 84 spaces, an alternative reading of the code could have required 116 parking spaces.²
- Further, the Director of Planning’s clarification specified that 30 spaces were for motorcycle, scooter, and bicycle parking although the City Planning Commission did not authorize this use as part of the 235 required parking spaces.

The Department of City Planning’s *Standard Conditions Manual* Contains Language for Conditions that Is Not Specific

The use of non-specific language in writing conditions creates difficulties for both developers and planners. Use of terms such as “attractive” or “decorative” do not provide specific guidelines for drawing project plans or clearing conditions on the project plans. The Community Planning Division’s *Standard Conditions Manual* contains several instances of non-specific language, including:

- “solid decorative walls or decorative baffles” , in reference to parking structures page 8,
- “solid decorative mason masonry wall”, in reference to walls on page 17, and
- “attractively landscaped”, in reference to the landscape plan on page 22.

The Department of City Planning Decision Makers Impose Non-Specific Conditions of Approval in the Determination Letters

The determination letters for the 26 development projects contained frequent instances of non-specific language, some of which were incorporated from the *Standard Conditions Manual*.

² Based on Section 12.21.A.4.(b), we calculated the parking requirement as 30 parking spaces for the first 30 dormitory rooms, 15 parking spaces for 31 to 60 dormitory rooms, and 71 parking spaces for 61 to 274 dormitory rooms, totaling 116.

- Nine of the determination letters used non-specific language taken directly from the *Standard Conditions Manual*.
- Six of the determination letters also included non-specific language, such as “fast-growing plants”, “high quality fencing”, or “maximize trees”.

According to interviews, planners cannot verify non-specific conditions when checking the project’s site plans for compliance. The Department of City Planning has no guidelines to define such terms as “attractive”, “high quality”, or “decorative”. Also, according to interviews with developers, when conditions are not explicit the project cannot explicitly address the condition. Neither the planner nor the developer can ensure that the decision maker’s intent will be represented in the approved site plans or completed project.

Conclusions

In the absence of well-developed community plans, decision makers use administrative procedures to address perceived shortcomings in the community plans. By imposing conditions based upon the Department of City Planning’s administrative procedures, the decision makers may be acting without the authority granted by the Planning and Zoning Code. Although the Department of City Planning is creating new community plans, intended to decrease discretion in development project approval, the community planning process is extended over ten years. In the interim, the Director of Planning should recommend procedures to the City Planning Commission to address deficiencies in the community plans. In this way, the City Planning Commission can define the Department of City Planning’s authority in recommending development project conditions, such as guest parking, and ensure that conditions are imposed uniformly to development projects.

Also, the Department of City Planning has not developed quantitative standards for imposing conditions. Consequently, decision makers impose quantitative conditions, such as a specific number of parking spaces not required by the Planning and Zoning Code or specific plan, without clear justification.

Further, the Department of City Planning does not have procedures to ensure that conditions are specific and clearly written, risking misinterpretation by the public, project applicants and contractors, and City staff.

Recommendations

The Director of Planning should:

- 1.1 In consultation with the City Planning Commission, develop internal policies that clarify the Department’s roles, responsibilities and authority for recommending development project conditions not addressed by the Planning and Zoning Code or specific plans, and submit these policies to the Mayor for approval.

- 1.2 Recommend to the City Council new or updated Planning and Zoning Code provisions when the Planning and Zoning Code fail to address current zoning or development needs.
- 1.3 Develop and implement formal written quantitative standards for recommending conditions covering common development issues that are not addressed by the Planning and Zoning Code or specific plans.
- 1.4 Develop guidelines for development project site plan review and sign-off for development project conditions that are by definition qualitative and non-specific, such as design review.

Costs and Benefits

The Department of City Planning will need to allocate existing staff time to develop formal written procedures as recommended above. Improved procedures and management oversight should result in recommendations for conditions of approval that are clear and specific, and conform to the General Plan and Planning and Zoning Code, reducing the risk of misinterpretation and ad hoc and non uniform conditions of approval.

2. Imposing Conditions for Public Improvements

- The Department of City Planning serves as the lead agency in reviewing and approving applications for discretionary development projects, including receiving recommendations from other City departments for public improvements and incorporating the recommendations as conditions of approval in the determination letter. However, the Department of City Planning does not actively manage other City departments in reviewing and recommending public improvements and City departments do not always respond with timely review of proposed development projects. Consequently, City departments often do not provide recommendations for public improvements to the Department of City Planning prior to the public hearing and the determination letter, though they subsequently impose them on the applicant, resulting in projects being approved without all public improvement requirements disclosed and documented.**
- Development project decision makers do not consistently impose conditions for public improvements that are clearly-written, specific, and uniform across projects. When conditions are not clear or specific, City department staff cannot ensure that the project plans meet the intent of the decision maker when reviewing and clearing conditions of approval on the project plans. Conditions are redundant in some instances and the condition numbering system is cumbersome, resulting in project applicants, their contractors, and City staff not being able to easily track compliance with these conditions. Non-uniform application of conditions results in ad hoc rather than standardized procedures, subjecting different applicants to different requirements.**
- While the “12 to 2 Committee”, comprised of representatives of the primary City departments involved in the development project approval process, was intended to address how the Department of City Planning and the Department of Building and Safety serve as lead agencies for the development process, the current focus of the 12 to 2 Committee is more limited. The 12 to 2 Committee is currently focused on City departments’ processes for reviewing development project applications and submitting recommendations for conditions to be entered into the Department of City Planning’s Condition Development and Management System (CDMS). If the 12 to 2 Committee is the forum for discussing interdepartmental oversight of development projects, this Committee needs to better define its role in identifying and solving interdepartmental problems. Further, the Mayor, with the assistance of the Department of City Planning and the 12 to 2 Committee, needs to define the role of the Department of City Planning in managing the development process.**

Applicants can be required to make public improvements to mitigate the impact of the project on the surrounding community or the City. According to the Department of Public Works' Land Development Manual:

“Local agencies have a long history of exacting requirements in exchange for permission to develop, but this practice became more prevalent after the passage of California Proposition 13 in 1978. Proposition 13 greatly reduced local governments' ability to raise property taxes leaving less money to finance infrastructure improvements. Local agencies in turn have increasingly looked to applicants to fund the improvements that will be needed to serve the development.”

Finding #3: The Department of City Planning has Inadequate Procedures to Distribute Project Applications

The Department of City Planning serves as the lead agency in reviewing and approving development project applications, referring applications to other City departments for their review. The Department of City Planning does not have well-established procedures for referring applications unless the application requires the subdivision of land.

Applicants submit their development project application at the public counter at the central location or at one of the district locations.¹ Public counter staff provide the applicant information on the different City departments that may be responsible for reviewing the development project and “strongly suggest” that the applicant obtain permit information from the respective City departments.

City departments become involved in development projects if:

- The project requires subdivision of land;
- The environmental review process recommends conditions with oversight from other City departments; and
- The project requires a zone change, including adequate streets, drainage, sewers, utilities, and parks or recreation facilities; or
- The project impacts the public right of way, requiring Department of Public Works permits.

Other City departments can also become involved if the project is located in a redevelopment zone, includes affordable housing, cultural or archaeology resources, or other issues specific to the project.

¹ Generally, applicants submit their development project application to the Department of Building and Safety. If the project requires discretionary approval, the applicant will be referred to the Department of City Planning, which shares the public counter at both the 201 N. Figueroa Street and 6262 Van Nuys Boulevard locations. Applicants may also submit their applications directly to the Department of City Planning's public counter.

The Department of City Planning lacks a formal written procedure for distribution of development project applications to other City departments for review. Only the Department's Division of Land, which processes subdivision applications, has a formal procedure to distribute applications for land subdivision to other City departments.² If the applicant requests to subdivide the property, the subdivision application is reviewed concurrently with the development project application.

If the proposed development project requires environmental review, the application may be referred to the Department of Transportation for a traffic assessment as part of the environmental review. Otherwise, the Department of City Planning, with the exception of the Division of Land, does not actively distribute applications to other City departments, monitor application review, or solicit recommendations for public improvements.

As discussed in Section 5, implementation of the Department of City Planning's new Condition Development and Management System (CDMS) will allow the planner to assign other City departments access to a project's electronic case file. However, implementation of CDMS does not change the Department of City Planning's current process for distributing hard copies of project applications, including proposed site plans, to other City departments for review

Finding #4: The Department of City Planning Does Not Actively Manage Application Review by Other City Departments

The Department of City Planning Requires Other City Departments to Submit Recommendations for Conditions of Approval Prior to Land Subdivision Hearings

The Planning and Zoning Code defines the process to identify public improvements required for the subdivision of land. The Director of the Division of Land is the "Deputy Advisory Agency" appointed by the Director of Planning to decide on subdivision cases. A Subdivision Committee consisting of representatives from the Departments of Public Works, Transportation, Water and Power, Building and Safety, and Fire make recommendations on parcel map and tract map applications. Public improvements required by the Subdivision Committee can include streets, street lighting, and street trees. Although the subdivision application is separate from other applications to develop the property, under the 2003 City Council action the applications are considered jointly. The Deputy Advisory Agency does not conduct public hearings for subdivision cases prior to receiving the report and recommendations from the Bureau of Engineering.

² Subdivision of land includes parcel map or tract map applications. Under the California Subdivision Map Act, generally a parcel map subdivides the property into four or fewer parcels and a tract map subdivides the property into five or more parcels.

The Department of City Planning Does Not Actively Solicit Recommendations for Public Improvements for Development Projects Not Requiring Land Subdivision

Other City departments review project applications and recommend project conditions of approval to the Department of City Planning based on their own procedures. For example:

The Department of Public Works' Bureau of Engineering

The Department of Public Works' Bureau of Engineering reviews zone change and other development project applications as well as subdivision applications. The Bureau of Engineering reviews the development project's proposed plot plan, outlining the project and radius map, and showing the relationship of the project to the surrounding properties. The applicant must pay a fee at the time of application, covering the Bureau of Engineering's costs for investigating street dedication and improvement requirements and submitting a report to the Department of City Planning.

The Bureau of Engineering's review includes:

- Street design standards set by the Street Design Standards Committee composed of representatives from the Department of Transportation, Department of City Planning, and Bureau of Engineering, which sets right of way minimum width and roadway improvement standards;
- Conformance with specific plan requirements;
- City Engineer street improvement standards; and
- Widening of existing substandard roadways.

The Bureau of Engineering also reviews applications for storm drain and sewer requirements and recommends storm drain or sewer improvements to the Department of City Planning if necessary.

The Bureau of Engineering's timeline for reviewing projects and submitting recommendations to the Department of City Planning is 39 days from the date of the fee collection. According to the Bureau of Engineering's Land Development Manual, priority for review is given to applicants who have paid the engineering investigation fee.³

³ According to the City Engineer, in general the Bureau of Engineering does not review the application until the fee has been paid. However, the Bureau of Engineering will review and prepare a report and recommendation to the Department of City Planning without the fee payment if the Department of City Planning staff request or if the Division of Land has scheduled a hearing. In these instances, the Bureau of Engineering requests that payment of the fee be included in the project's conditions of approval.

In the 2005 *Performance Audit of City Planning's Case Processing Function*, the Controller found that other City departments submitted their project recommendations to the Department of City Planning an average of 101 days for non-expedited development projects, although the City's performance standard allows for 39 days. While this audit did not specifically address review timeline, according to interviews, City departments continue to not submit recommendations for project conditions of approval to the Department of City Planning prior the issuance of the determination letter.

CDMS can track timelines for City departments' submission of recommendations for project conditions to the Department of City Planning, as discussed in Section 5. Although the Director of Planning, in conjunction with other City departments, is developing performance and reporting standards, the Department of City Planning has not yet developed the standards or begun generating management reports.

Because the Bureau of Engineering does not consistently provide recommendations to the Department of City Planning within the timeline, decision makers will conduct public hearings and issue determination letters for zone change and other project applications without receiving recommendations from the Bureau of Engineering. In these instances, the determination letter will contain placeholder language and the Bureau of Engineering will impose conditions for public improvements when the applicant applies for permits.

The Department of Public Works' Bureaus of Street Lighting and Street Services

The Bureau of Street Lighting and the Bureau of Street Services (which manages street trees) receive and review development project applications separately, although neither bureau generally submits recommendations for conditions to the Department of City Planning prior to the decision maker's determination letter.

The Department of Transportation

The Department of Transportation provides recommendations for project conditions to the Department of City Planning if the project is expected to have traffic impacts. If the development project is expected to increase traffic above a certain threshold, the Department of Transportation will conduct a traffic study, and as part of the study, the Department of Transportation will review the project's site plan and floor area calculations to calculate the increase in trips, and consult with the Bureau of Engineering to determine street requirements.

The Department of Transportation will consider traffic mitigation measures to be implemented by the applicant, including:

- Vehicle trip reduction incentives for employees and visitors;
- Financial support for increased public transit or vanpool services;
- Providing on-site bicycling and other facilities to reduce car use; and
- Other measures reducing car use.

The Department of Transportation also considers traffic signal improvements, and street widening and other improvements to be implemented by the applicant.

Other City Departments

Other City departments review specific aspects of a development project and may recommend conditions to the Department of City Planning as appropriate, for example:

- The Fire Department reviews fire hydrant placement and access by fire vehicles to the completed building.
- The Department of Water and Power reviews power transmission, encroachment into the public right of way, and adequate water access.
- The Department of Housing monitors affordable housing requirements.
- Under the Planning and Zoning Code, development projects in redevelopment areas are exempt from site plan review by the Department of City Planning if the Community Redevelopment Agency enters into an owner participation agreement or development and disposition agreement⁴ with the applicant.

Finding #5: The Decision Maker Includes Non-Specific or Place Holder Conditions for Public Improvements in the Determination Letter When Other City Departments Fail to Provide Recommendations

The Department of City Planning often does not impose conditions for public improvements that are specific to the project because:

1. The Department of Public Works and other City departments do not recommend conditions for public improvements prior to the issuance of the determination letter; and
2. The Department of City Planning's *Standard Conditions Manual* contains non-specific language for conditions for public improvements.

Development projects that require subdivision of land or zone changes also require public improvements, such as widening of streets, installation of street lights, planting of trees, or implementation of traffic signals and improvements. If the Department of Public Works or other City departments fail to submit recommendations for improvements to the decision maker prior to the public hearing or the determination letter, the decision maker will include place holder language in the determination letter, pending review of the application by the appropriate department or bureau within the department. Because the Deputy Advisory Agency does not

⁴ The owner participation agreement allows the applicant/owner to develop property owned by the applicant. The development and disposition agreement involves the sale of land owned by the Community Redevelopment Agency.

conduct public hearings or write the determination letter without submission of recommendations by the Department of Public Works, Department of Transportation, or other appropriate City department, the determination letters for development projects generally contain specific recommendations for public improvements.

While development projects that require zone changes require public improvements⁵, and development projects that require modification of the Planning and Zoning Code or specific plan may require public improvements, the Department of Public Works, or other City departments often do not submit recommendations for public improvements prior to the public hearing or issuance of the determination letter. Consequently, the decision maker will issue a determination letter with non specific requirements for public improvements, generally stating that street, street lighting, street tree, traffic, or other improvements are to be completed to the “satisfaction of the City Engineer, Bureaus of Street Lighting or Street Services (which is responsible for street trees), or the Department of Transportation”.

In our review of 26 development projects, we found that while the determination letters for projects requiring subdivision of land generally contained specific language for street, street lighting, and traffic improvements, determination letters for other types of projects did not. Very few determination letters contained specific recommendations for street tree improvements.

As shown in Table 2.1 the 26 development projects varied by type of discretionary action.⁶

Table 2.1

Type of Discretionary Action Required for 26 Development Projects

Type of Discretionary Action	Total Cases by Type	Percent of Total Cases
Subdivision of Land	14	54%
Zone Changes and Other Actions	11	42%
No Public Improvements	1	4%
Total	26	100%

Source: Case Review of 26 Development Projects

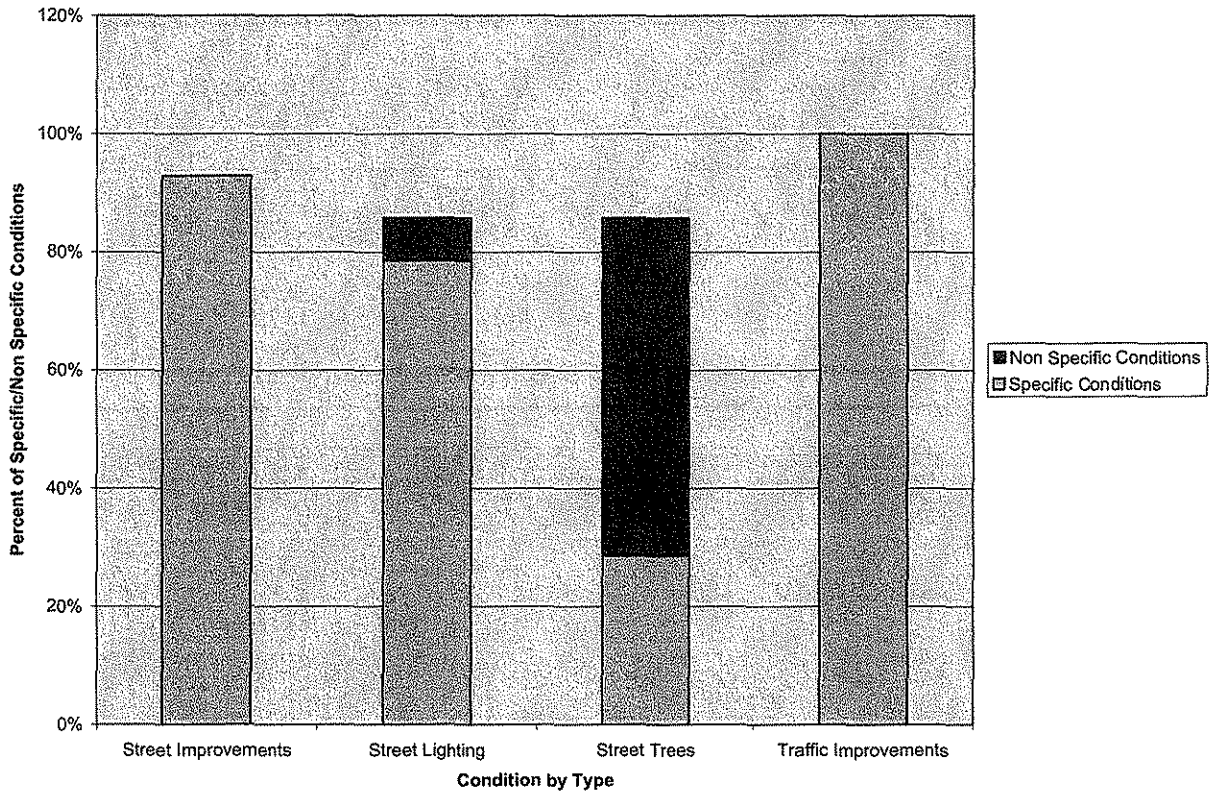
⁵ According to the Planning and Zoning Code, a proposed zone change may require provisions for adequate streets, utilities, and other public improvements. The subject property is designated as a “T (or Tentative) classification” pending completion of the public improvements and recording of the final map.

⁶ In 2007, approximately 18.5 percent of Department of City Planning cases involved land subdivision. Under the California Subdivision Map Act, subdivision cases are independent actions. In 2003 the City Council approved Municipal Code amendments that allowed for combined hearings on development projects that required subdivision and zone change or other discretionary action, although the decision maker issues separate determination letters for each action. Generally, only the larger development projects require public improvements, and these larger projects can be combined with actions on land subdivision. In our review of 26 development projects, 50 percent required land subdivision in conjunction with other discretionary actions.

As shown in Chart 2.1, the development projects requiring subdivision of land generally contained specific conditions for street, street lighting, and traffic improvements.

Chart 2.1

Percent of Specific and Non-Specific Conditions for Public Improvements in 14 Development Projects with Combined Subdivision and Other Discretionary Actions ¹



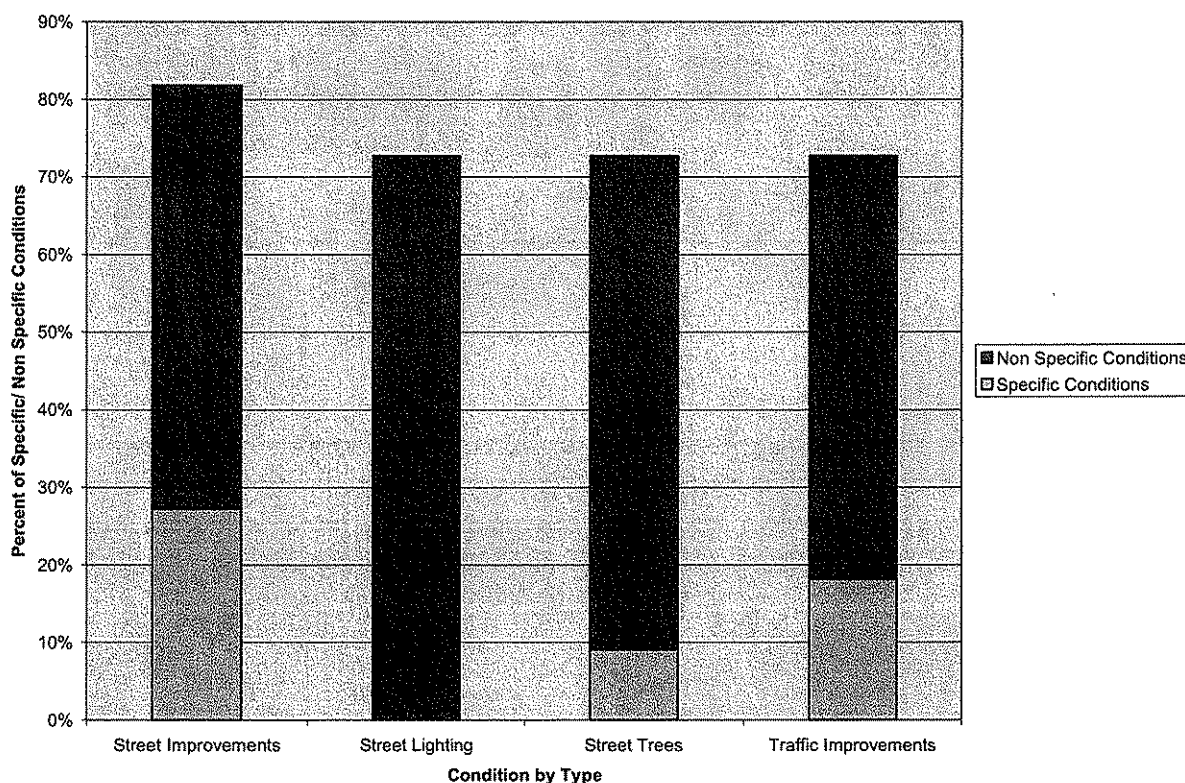
Source: Case Review of 26 Development Projects

¹ Fourteen of the 26 development projects that we reviewed combined land subdivision actions with zone changes, variances to the Planning and Zoning Code, or other discretionary actions, such as an exception to a specific plan.

As shown in Chart 2.2, most development projects not requiring subdivision of land did not contain specifically defined conditions for public improvements.

Chart 2.2

Percent of Specific and Non-specific Recommendations for Public Improvements in 11 Development Projects with Discretionary Actions Not Including Land Subdivision ¹



Source: Review of 26 Development Projects

¹ Eleven of the 26 development projects that we reviewed were discretionary actions that did not require land subdivision. One project did not require public improvements because of the project characteristics: an addition to an existing house in an Historic Preservation Overlay Zone. In addition to specific or non-specific conditions, the determination letter for these 11 projects might contain no condition referencing street, street lighting, street trees, or traffic requirements.

The Planning and Zoning Code calls for public hearings for the City or Area Planning Commissions and other decision makers to hear evidence that forms the basis of the decision. The determination letter becomes the public document that records the decision. If the recommendations for public improvements are neither submitted to the public hearing nor included in the determination letter, the decision maker is effectively removed from the decision making process for public improvements associated with the development project. Further, the applicant and public lack full information on the nature of the project and its requirements. Both

the applicant and the public can appeal the decision maker's determination, but the appeal process is less transparent if the public improvement requirements are not specified in the determination letter.

Finding #6: The Decision Maker Can Impose Non-Specific, Unclear, and Non-Uniform Conditions for Public Improvements

Decision makers may impose conditions for public improvements that are non-specific, unclear, or non-uniform.

City Departments Impose Conditions for Public Improvements after the Determination Letter Has Been Issued

When the determination letter contains non-specific language for conditions for public improvements, the Department of Public Works and other City departments impose conditions for public improvements after the decision maker issues the determination letter. As shown in Chart 2.2, the determination letters for the eleven development projects not requiring land subdivision did not have specific conditions for 50 to 75 percent of the street, street lighting, street tree, and traffic conditions.

The Department of City Planning's *Standard Conditions Manual* language for public improvements states only that improvements are to be made "to the satisfaction of the City Engineer" or other appropriate City representative. This language is incorporated into determination letters for development projects requiring zone changes or other modifications to the Planning and Zoning Code or specific plans. Consequently, the applicant must seek information from the Department of Public Works and other City departments after the determination letter has been issued regarding public improvement requirements.

For the projects that contained non-specific or no recommendations, the Department of Public Works imposed street improvement conditions after the decision maker issued the determination letter for more than one-half of the projects.

Table 2.2

Public Improvement Conditions Imposed after Issuance of the Determination Letter

	Street Improvements		Street Lighting Improvements		Street Tree Improvements		Traffic Improvements	
	Number	Percent	Number	Percent	Number	Percent	Number	Percent
Projects with No or Non-Specific Conditions with Public Improvement Conditions Imposed after the Determination Letter	4	57%	1	8%	4	20%	0	0%
Projects with No or Non-Specific Conditions with Public Improvement Conditions Not Imposed after the Determination Letter	3	43%	12	92%	16	80%	0	0%
Total	7	100%	13	100%	20	100%	7	100%

Source: Review of 26 Development Projects

The Department of Public Works may have imposed additional street lighting and street tree requirements after the determination letter was issued but these requirements are not routinely documented on the “Clearance Summary Worksheet” - the Department of Building and Safety’s tool to identify that all development project conditions have been cleared before issuing building permits. For example, for a new school, the Department of Public Works Bureau of Contract Administration construction inspector noted in the “Construction Inspector’s Daily Job” work sheet that “street trees still need to be planted” although the street tree requirement was not documented in the Department of City Planning or Department of Building and Safety Clearance Summary Worksheet.

Development project conditions of approval in the determination letter are printed on project plans, allowing Department of Building and Safety and Department of Public Works plan checkers and construction managers to compare the project plans and actual project construction with the conditions. When the determination letter does not contain specific conditions for public improvements, then these public improvement requirements are not clearly stated on the project plans and readily visible to plan checkers and construction managers, increasing the risk that the project’s conditions of approval are not implemented.

The Determination Letter Imposes Redundant, Cumbersome and Non Uniform Conditions for Public Improvements

Redundant Conditions for Public Improvements for Projects Requiring Land Subdivision

Because development projects requiring subdivision of land must comply with provisions of the California Subdivision Map Act, subdivision decisions are considered concurrently with other discretionary decisions, resulting in two determination letters: one for the subdivision and one for the other discretionary actions. Determination letters for projects requiring subdivision of land contain both specific conditions and “standard” conditions, resulting in redundant conditions within one determination letter. For example, the Director of the Division of Land wrote a determination letter approving the subdivision of land for a six town house development at that contains specific conditions for street improvements, parking and driveway requirements, street light installation, and street tree removal or replacement, as well as standard but redundant and non-specific conditions to (1) “install street lighting facilities...as required by the Bureau of Street Lighting”, and (2) “plant street trees and remove any existing trees...as required by the Bureau of Street Services”.

In addition, the City Council approved the zone change for the six townhouse development project, issuing a second determination letter. This determination letter included conditions for non-specific conditions for street improvements, parking and driveway requirements, street light installation, and street tree removal or replacement that were required for the zone change.

Cumbersome Numbering Systems

Many of the larger development projects can have a large number of conditions imposed, complicated by different numbering systems for conditions, depending on the City department or division within a City department recommending the condition. For example, the determination letter for subdivision of the six townhouse property contained the following numbering sequence for Conditions 1 through 18:

- Condition 8 contained sub-conditions 1 through 21,
- Condition 14 contained sub-conditions a through h,
- Condition 17 contained sub-conditions MM-1 through MM-21, and
- Condition 18 contained sub-conditions CM-1 through CM-21.

In addition the determination letter for subdivision of the six townhouse property contained:

- Department of City Planning Standard Condominium Conditions numbered C-1 through C-5, and

- Bureau of Engineering Standard Conditions numbered S-1 through S-3. Condition S-1 had sub-conditions (a) through (l); Condition S-2 had sub-conditions (a) through (3); and Condition S-3 had sub-conditions (a) through (i).

The City Council's determination letter contained additional conditions for public improvements numbered 1 through 9.

Project applicants, construction contractors, and City staff cannot easily track compliance when conditions are redundant with cumbersome numbering systems. Consequently, conditions may not be accurately implemented during the construction of the project.

Non-Uniform Conditions

Six of the 26 sample development projects had conditions requiring the project to incorporate design guidelines for security, including secured building access and parking lot features. These conditions were applied to (a) three schools, (b) one 350 residential unit complex, (c) one 51 residential unit affordable housing complex, and (d) one 16 residential unit condominium complex. Although the schools, affordable housing complex, and large 350 residential unit complex differed from the other 26 development projects in scope or purpose, the 16 residential unit condominium complex was similar in scope and purpose to several of the 26 development projects. However, no explanation was provided as to why the security design guidelines were imposed on the 16 residential unit condominium complex but not on other comparable properties.

When conditions are not clear or specific, City department staff cannot ensure that the project plans meet the intent of the decision maker when the City department staff review project plans and clear the conditions on the project plans.

When conditions are redundant or the numbering system is cumbersome, then project applicants, their contractors, and City staff can not easily track compliance with these conditions.

Finally, non-uniform application of conditions results in ad hoc rather than standardized procedures, subjecting different applicants to different requirements.

Finding #7: Neither the 12 to 2 Committee Nor the Implementation of CDMS Address Timely, Clearly-Written, or Specific Conditions of Approval

The Mayor has established a 12 to 2 Committee to address problems in interdepartmental processes to approve and oversee development projects⁷, and define the roles of the Department

⁷ The 12 to 2 Committee consists of: (1) Department of City Planning, (2) Department of Building and Safety, (3) Department of Public Works Bureau of Engineering, (4) Department of Public Works Bureau of Sanitation, (5) Department of Public Works Bureau of Street Lighting, (6) Department of Public Works Bureau of Street Services,

of City Planning and Department of Building and Safety as lead agencies in the development process. In July 2008 the Mayor issued a memorandum to the 12 to 2 Committee instructing the Committee members to complete specific tasks, including:

- Decrease the review time for Environmental Impact Reports;
- Decrease the time to complete and issue determination letters;
- Implement CDMS by October 2008;
- Develop a system to track overall application timelines; and
- Establish a new fee-based pre-development counseling program by January 1, 2009.

The 12 to 2 Committee is currently focused on City departments' processes for reviewing development project applications and submitting recommendations for conditions to be entered into CDMS.

Although implementation of CDMS can facilitate the Department of City Planning's process for tracking other City departments' review of project applications and timely submission of recommendations for conditions for public improvements, the Department of City Planning has not yet implemented management reports tracking timelines. Also, implementation of CDMS does not give the Department of City Planning authority to require timely submission of recommendations for development project conditions (see Section 5).

Further, while most City departments involved in development projects have submitted standard conditions for integration into CDMS, the system itself does not ensure that determination letters will have clearly written and numbered, or non-redundant conditions. The Department of City Planning should lead the 12 to 2 Committee in developing standard policies on writing and presenting conditions in the determination letters.

Conclusions

Although the Charter designates the Department of City Planning as the department responsible for implementing the General Plan, which governs land use and development in Los Angeles, the City's practice limits the Department of City Planning's role to reviewing development projects for compliance with the General Plan and approving land use entitlements. Under current City practice, the Department of City Planning does not actively manage the Department of Public Works, Department of Transportation, or other City departments in reviewing development projects for impact on the public right of way and recommending public improvements.

(7) Department of Transportation, (8) Department of Water and Power, (9) Recreation and Park Department, (10) Fire Department, (11) Housing Department, and (12) Community Redevelopment Agency.

Because the 12 to 2 Committee is intended to address problems in interdepartmental processes for approving and overseeing development projects, this Committee should also be the forum for defining the role of the Department of City Planning as the lead agency in the development process. The Mayor, with the assistance of the Department of City Planning and the 12 to 2 Committee, needs to define the role of the Department of City Planning in managing the development process.

Recommendations

The Mayor should:

- 2.1 Direct the 12 to 2 Committee, in conjunction with the Director of Planning, to define the role of the Department of City Planning in managing the development process including consideration of the costs and benefits of delegating authority to the Department over all departments in terms of their roles in the development project approval process (see Recommendation 4.1).

The Director of Planning, in conjunction with the 12 to 2 Committee, should:

- 2.2 Establish procedures to ensure timely submission of specific recommendations for conditions of approval to the Department of City Planning (see Recommendations 4.5 (a) and 5.2).
- 2.3 Evaluate City departments' standard conditions to ensure specific, non-redundant, and clearly numbered conditions of approval in the determination letter.
- 2.4 Develop procedures for uniform application of conditions of approval to comparable development projects.

Costs and Benefits

Implementation of these recommendations will require existing staff resources to evaluate current practices, and develop and implement new policies and procedures. Implementation should lead to an improved process for imposing conditions for public improvements and increased oversight over the development process.

3. Ensuring that Conditions of Approval are Met Before the Building Permit is Issued

- After the decision maker approves the project proposal but before the Department of Building and Safety issues the building permits, the project applicant must submit the final project plans incorporating the conditions of approval to the Department of City Planning for review. At the same time the project applicant submits detailed building plans to the Department of Building and Safety for simultaneous review. While the Department of Building and Safety cannot modify conditions imposed by the decision maker, the Department of Building and Safety can modify building plans to meet building or zoning requirements. Although the Department of Building and Safety's modifications can materially alter the project from the initial project plans submitted to the decision maker, the Department of City Planning lacks procedures to ensure Department of City Planning review of these modifications.
- For example, in a mixed use, 350 residential unit development project, the project applicant submitted a request to the Department of Building and Safety to permit exterior balconies. The applicant submitted the request, which was documented on the Department of Building and Safety's "Request for Modification of Building Ordinances", to the Department of Building and Safety because the balconies would be close to the property line, potentially in violation of building codes. Both the Fire Department and the Department of Building and Safety reviewed and approved the request, but even though the addition of balconies materially changed the project, the Request for Modification of Building Ordinances does not show a referral to the Department of City Planning for sign-off of this change.
- The Department of City Planning lacks department-wide documentation standards for clearing conditions on development project plans and maintaining records. In the absence of department-wide standards, each staff planner documents his or her plan review differently. Although the planner stamps and signs the final project plans, indicating that the project plans incorporate the conditions of approval, during our review we were unable to determine how the plans conformed with each condition of approval.
- Also, although the Department of City Planning has procedures for organizing formal files, no standards exist for required document retention. For example, we were not able to find copies of approved project plans for six of the 17 completed development projects that we reviewed.

When the applicant submits an application for a development project to the Department of City Planning, the applicant generally must submit project plans, including:

- (1) A site plan showing the property boundaries, yard set backs, floor area of buildings to be constructed on the property, parking, landscaping, and other project components;
- (2) An elevation plan showing building height, property slope, and other elevation components;
- (3) A building floor plan; and
- (4) Other plans as required, such as landscape plans.

These plans are presented as exhibits at the public hearing and reviewed by the Department of City Planning staff and decision maker.

After the decision maker approves the project proposal but before the Department of Building and Safety issues the building permits, the project applicant must prepare and submit final project plans to the Department of City Planning and Department of Building and Safety incorporating the conditions of approval. The applicant submits detailed building plans to the Department of Building and Safety and a project site plan to the Department of City Planning for simultaneous review.

The Controller's 2005 *Performance Audit of the Department of City Planning's Case Processing Function* found that the Department of City Planning had last updated its policies and procedures manual for Zoning Administration, Subdivision, and Commission case processing functions in 1997, resulting in staff creating their own desk manuals and relying on more experienced staff to help ensure that their work is performed correctly. The Department of City Planning continues to lack department-wide policies and procedures for many of its core functions.

The Department of City Planning lacks standard department-wide procedures for reviewing final project site plans. The separate divisions of the Department of City Planning - Community Planning, Zoning Administration, and the Division of Land - have developed different procedures for processing development project applications and clearing conditions on the project plans. These differences stem in part from the different requirements for development projects processed by each division but also indicate the absence of central management over the development project approval process to ensure consistency in core functions and processes. Each division may have some written procedures for its specific activities, but in general the Department of City Planning relies on the Planning and Zoning Code to direct its activities, and has not developed department-wide standards for (1) documenting the clearing of conditions on the final project plans, and (2) ensuring that the Department of City Planning reviews project modifications made by the Department of Building and Safety.

Finding #8: The Department of City Planning Lacks Standard Review and Documentation Procedures

Responsibility for reviewing and approving site plans varies among the Department's divisions.

- If the project requires legislative action, such as a zone change, the Community Planning Division's Plan Approval Unit planners review and approve the final project plans.

3. Ensuring that Conditions of Approval are Met Before the Building Permit is Issued

- If the project requires land subdivision, the Division of Land planners review and approve the final project plans.
- If the project was decided by the Zoning Administrator, the Associate Zoning Administrator who served as the decision maker reviews and approves the final project plans. The Zoning Administrator's Case Management Unit will also review and approve final project plans in some instances.
- If the project was decided by the Area or City Planning Commissions, the Community Planning Division's planner who reviewed the project and wrote the staff report also reviews and approves the final project plans.

The Department of City Planning lacks department-wide documentation standards for clearing conditions on development project plans and maintaining records. The Department of City Planning should have formal department-wide policies and procedures for its core functions to ensure uniform approaches to similar functions, maintain quality, and reduce the risk of errors in clearing conditions on development project plans.

In the absence of department-wide standards, each staff planner documents their review of final project plans differently. Under Department of City Planning policy, the conditions of approval are imprinted on the final project plans' title page. The planner stamps and signs the final project plans, indicating that the project plans incorporate the conditions of approval imposed by the decision maker. However, the Department of City Planning has no standard documentation to show that each condition was reviewed and cleared. Although the Community Planning Division's Plan Approval Unit drafted a manual that addresses documentation standards in 2000, these standards are not followed department-wide.

When we reviewed approved plans, we were unable to determine how the plans conformed with each of the conditions in the determination letters. Some planners have developed an informal process to note on the determination letter how the planner identified conformance to each condition. Other staff planners use a single sign-off for all conditions with no detailed explanation on how compliance with each condition was considered as being achieved.

The planners may maintain their notes on clearing conditions in their personal files, but the Department does not include this documentation of clearing conditions in the Department's archived files. This lack of adequate documentation of clearing conditions poses risks to the City if the project applicant or City department staff, including Department of Building and Safety and Department of Public Works, misunderstand or misinterpret the project's conditions of approval. The actual project could differ significantly from the proposed project reviewed by the decision maker, especially if the conditions are unclear or non-specific (see Section 1).

The planner reviewing and approving the final project plans should ensure "substantial compliance" with the plans reviewed by the decision maker, but project components not specifically addressed in the conditions of approval can change in the final project plans, altering the appearance of the project. In the absence of documentation of plan review and clearing of conditions, the Department of City Planning cannot show how the final project plans and the

completed project substantially comply with the project plans reviewed by the decision maker and with the conditions of approval.

Also, although the Department of City Planning has procedures for organizing formal files, no standards exist for required document retention. For example, we were not able to find copies of approved project plans for six of the 17, or 35% of the completed development projects¹, reviewed..

Finding #9: The Department of City Planning and Department of Building and Safety Lack Coordinated Project Plan Review

As noted above, once the decision maker has issued the determination letter with all the conditions of approval, the applicant submits detailed project plans incorporating project conditions to the Department of Building and Safety to obtain building permits. At the same time, the applicant submits the site plan, including the landscaping plan, to the Department of City Planning to show compliance with the conditions of approval.

The Department of Building and Safety reviews the project plans for compliance with building and zoning requirements but does not issue building permits until the Department of City Planning approves the site plan for conformance with conditions in the determination letter.² If the Department of Public Works or other City departments must also clear conditions specific to their jurisdiction, the Department of Building and Safety does not issue building permits until all the conditions have been cleared by the respective departments.

The Department of Building and Safety cannot modify conditions imposed by the decision maker, but can modify zoning requirements up to 20 percent for some building renovations. Although the Department of Building and Safety's modifications can alter the project from the initial project plans submitted to the decision maker, the Department of City Planning lacks procedures to ensure Department of City Planning review of these modifications.

There is a risk that actual development project plans will not conform fully to development project conditions in the determination letter, because:

- Modifications to the project plans by the Department of Building and Safety to conform to building and zoning or construction requirements that can materially change the project but are not reported to the Department of City Planning; and

¹ Of the 26 development project files reviewed for this audit, 17 projects had been completed.

² The Department of Building and Safety reviews project plans and issues building permits for private property only. The Department of Public Works reviews public right of way plans, issuing a "B-permit" for construction in the public right of way.

- Non specific or unclear language in the determination letter requiring significant interpretation by the Department of City Planning or Department of Building and Safety plan checkers as to the intent of the conditions (see Section 1).

The Department of City Planning and the Department of Building and Safety review project plans independently of one another. The process does not provide sufficient checks to ensure that the Department of City Planning (a) knows of modifications to the project plans by the Department of Building and Safety and (b) reviews modifications to the project plans to ensure continued conformance to the conditions in the letter of determination. The Department of City Planning should have formal policies that address the Department's responsibility in reviewing project modifications to ensure compliance with the project plan presented to the public hearing and decision maker and the conditions in the determination letter.

According to interviews, the Department of Building and Safety generally notifies the Department of City Planning of modifications in the plans, but the Department of City Planning has no established procedure to (a) ensure that it is notified of all modifications and (b) review all project modifications made by the Department of Building and Safety. Although the Department of City Planning ends its participation in the development project process once the Department of City Planning approves the project plans, the Department of Building and Safety can approve project modifications both during and after the issuance of the building permits.

For example, in the mixed use, 350 residential unit project in Westwood Village, the project applicant submitted a request to the Department of Building and Safety to permit exterior balconies along the west and south exterior walls of the West Building, and along the south exterior wall and interior court in the East building. The applicant submitted the request, which was documented on the Department of Building and Safety's "Request for Modification of Building Ordinances", to the Department of Building and Safety because the balconies would be close to the property line, potentially in violation of building codes. Both the Fire Department and the Department of Building and Safety reviewed and approved the request, but the Request for Modification of Building Ordinances does not show a referral to the Department of City Planning. Because the Department of City Planning's determination letter did not contain specific conditions regarding balconies, approving the balconies did not conflict with the project's conditions of approval. However, the balconies did materially change the appearance of the building from the building drawings submitted to the decision maker as part of the proposed project plans.

Conclusions

The Department of City Planning does not adequately document its review of project plans for conformance to the determination letter, nor does it adequately retain documents. In the absence of documentation of plan review and clearing of conditions, the Department of City Planning cannot show how the final project plans and the completed project substantially comply with the project plans reviewed by the decision maker and with the conditions of approval.

Because the Department of City Planning lacks sufficient checks on the plan review prior to issuing building permits, development projects could be modified to not substantially conform

with the project plans presented at the public hearing and reviewed by the decision maker. Although both Department of City Planning and Department of Building and Safety staff stated that the Department of Building and Safety notifies the Department of City Planning of project modifications, project modifications can result from (a) the Department of Building and Safety's modifications to project components that are not specifically identified in the letter of determination, or (b) different interpretations of architectural and other qualitative features.

Recommendations

The Director of Planning should:

- 3.1 Develop and implement formal written department-wide documentation standards for clearing conditions on final project site plans, including a system to identify how the site plan conforms to the specific conditions of approval (see Recommendation 5.5).
- 3.2 Develop and implement a formal written department-wide document retention policy.
- 3.3 In conjunction with the General Manager of the Department of Building and Safety, develop formal written guidelines and control procedures to ensure that the Department of City Planning (1) is notified of all project modifications that materially change the project and (2) reviews all material project modifications made by the Department of Building and Safety.

Costs and Benefits

Development and implementation of new policies, procedures and guidelines will require existing staff resources. Implementation of formal procedures will ensure consistent review and documentation of project plans.

4. Monitoring Project Construction and Completion

- No single City department manages development projects from the project review through project construction and completion. The Department of City Planning does not manage other City departments' review of proposed projects (as discussed in Section 1) and does not actively monitor project compliance with the determination letter's conditions of approval once the building permits have been issued.
- In the absence of a single point of management, development projects can materially change during the construction and completion, with the final project different from the project approved by the decision maker. These material changes can result from changes to project plans to meet building code requirements or address design errors, unforeseen field conditions or other construction problems. Neither the Department of City Planning nor the Department of Public Works have established procedures to ensure that the Department of City Planning reviews project changes.
- For example, the Department of Public Works Bureau of Engineering approved Interim Change Authorizations that changed specific conditions of approval without notifying the Department of City Planning, including (1) reducing a pedestrian walkway from six feet to four feet, and (2) changing street lights from ornamental to a different type. Because the determination letter's conditions of approval are binding, project applicants and City staff do not have authority to alter specific conditions of approval without review by the Department of City Planning.
- None of the City departments directly involved in the development process have adequate controls to ensure that the project complies with the conditions of approval. The Department of Building and Safety does not have the specific expertise to enforce landscape and architectural conditions, and the Department of City Planning does not review implementation of these conditions in the constructed project. Although the Department of Building and Safety requires the project's landscape architect to certify compliance with the conditions of approval, we did not find consistent documentation. Also, the project architect or engineer certifies that the project complies with structural design requirements but does not certify compliance with other architectural conditions.
- The Department of Public Works does not ensure that conditions of approval for public improvements are implemented. For example, a school received a temporary Certificate of Occupancy although it had not installed required traffic improvements, potentially in violation of existing City ordinances.

- **The Mayor needs to define the role of the Department of City Planning in managing development projects and ensuring consistent project oversight from approval to completion.**

The Department of City Planning not only does not manage other City departments' review of proposed projects, as discussed in Section 1, but does not actively monitor project compliance with the determination letter's conditions of approval once the building permits have been issued. The Department of Building and Safety oversees building construction on private property and the Department of Public Works Bureau of Contract Administration oversees construction in the public right of way. If the project has traffic conditions, the Department of Transportation oversees traffic improvements, such as installation of traffic signals at adjacent intersections.

Once the Department of Building and Safety issues building permits, the Department of City Planning has no further involvement in the project. Consequently, no one City department manages development projects from the project review through project construction and completion.

Finding #10 The Department of City Planning Lacks Monitoring of Landscaping or Architectural Conditions

Because the Department of City Planning has no formal role in reviewing development projects during construction and completion, the Department cannot ensure that entitlement conditions, such as architectural effects or landscaping, are met.

Although the Department of Building and Safety manages compliance with construction requirements on private property, its staff lack qualifications for monitoring compliance with landscape or architectural conditions of approval during project construction. According to the Department of Building and Safety, field inspectors require the project architect and landscape architect to certify in writing that the completed project complies with the project plans submitted to the Department of City Planning. However, in our detailed review of three projects, we did not find consistent documentation of compliance with architecture or landscape architecture conditions. These three projects were:

- A single family residence in the Mount Washington/ Glassell Park Specific Plan area,
- Eight residential townhouses in Venice, and
- A mixed commercial and residential development with 350 residential units.

Landscaping Conditions

The Department of Building and Safety requires the project's landscape architect to certify the project's compliance with the landscaping conditions of approval. However, we were not able to find memoranda from the landscape architects for these three projects even though the determination letters required submission of landscape plans by a landscape architect. The absence of the memorandum from the landscape architect for the single family residential development at or the single family development was offset partially by the Department of City Planning's requirement, specific to the Mount Washington/Glassell Specific Plan area, requiring that (1) the landscape and irrigation system be in place and working order prior to a final site visit by the Department of City Planning, and (2) submission of photographs to the Department of City Planning at project completion.

Architectural Conditions

The determination letters for all three projects imposed conditions for architectural requirements or effects.

- For the single family residence, the determination letter required that the building be designed to include the architectural effects in the initial project drawings presented to the decision maker. According to an interview with the Principal Planner for the project, neither the Department of City Planning nor the Department of Building and Safety can ensure compliance with this condition in the completed project. Because this project is in the Mount Washington/Glassell Park Specific Plan area for which the Department of City Planning has established additional review requirements, as discussed in Section 1, the Department of City Planning staff requested the applicant to provide notice of (1) project changes and (2) project completion to allow a final Department of City Planning site visit prior to the Certificate of Occupancy.
- For the eight residential townhouses, the determination letter required that the buildings "be designed with visual breaks or architectural features, including balconies or terraces, with a change of material or a break in the plane every 20 horizontal feet and every 15 vertical feet". Prior to construction of the project, the project architect submitted a memorandum to the Department of City Planning stating that the architectural plans met the buildings' physical design requirements.
- The mixed use, 350 residential unit project was constructed in the Westwood Village Specific Plan area, with design review by the Westwood Design Review Board. According to the September 27, 2006 determination letter, the Director of Planning has the discretion to review and advise changes to the project's design. The September 27, 2006 determination letter contained several conditions for the project's design, including (1) stucco consistency, (2) size and location of the utility boxes, (3) landscaping, and (4) setbacks.

According to Department of Building and Safety staff, State law requires that the project architect or engineer certify that the project meets the City's structural design requirements. For

all three projects, the project engineer or architect submitted a memorandum to the Department of Building and Safety at completion of the project, certifying that the project met the City's structural design requirements. However, these memoranda do not address other architectural features or conditions.

Finding #11: The City Has No Interdepartmental Process to Resolve Disputes

No City department has authority to resolve conflicts in the development process. According to an interview with the project applicant for a student housing project, the current City process did not allow for conflict resolution when the Department of Transportation's project conditions conflicted with other project conditions. In this instance, a Mayor's Office staff person served as the project liaison to resolve the conflict.

While the 12 to 2 Committee was intended to (1) break down bureaucratic silos, (2) remedy long standing conflicts between City departments, and (3) find solutions to chronic problems in the City's entitlement and permitting process, the Committee has not defined the roles of the Departments of City Planning and Building and Safety as the lead agencies. The Department of City Planning does not currently have the authority as a lead agency to resolve conflicts in the development process.

Finding #12: Non-Specific Conditions of Approval Are Not Consistently Implemented in the Completed Project

Conditions for public improvements are not consistently implemented during construction and project completion to meet the intent of the decision maker. The Department of City Planning plays no role in monitoring actual adherence to these conditions since they occur after the building permit is issued.

For example, one condition often included in the determination letters for subdivision of land is:

"Removal and/or replacement of all trees in the public right of way shall require approval of the Board of Public Works. Tree replacement shall be to the satisfaction of the Street Tree Division of the Bureau of Street Services".

The intent of this condition is unclear. According to the initial project drawings for the eight residential townhouse development, the project was to remove nine sidewalk trees. According to an interview with the decision maker, the trees would be replaced in a ratio of 2:1 in compliance with City policy. However, the Department of Public Works Bureau of Street Services Urban Forestry Division was unable to provide a written policy.

According to a memorandum from the Department of Public Works Bureau of Engineering, "street trees are required and all street tree fees have been paid". According to the Urban Forestry Division, the street tree fees represented a cash bond. If the applicant did not plant the required trees, then the Department of Public Works would use the cash bond to hire a contractor

to plant the trees.¹ However, at project completion and issuance of the Certificate of Occupancy, the Bureau of Street Services reported that no trees were planted.

Finding #13: The Department of City Planning Lacks Oversight of Construction Project Interim Change Authorizations

Neither the Department of City Planning nor the Department of Public Works have procedures to ensure that changes to the project during construction of public improvements comply with the project's conditions of approval. The determination letter's conditions for public improvements are incorporated into the final project plans for street, street lighting, and other public right of way improvements. During construction, if the project requires changes to the plan due to unforeseen conditions in the field, design errors, or other project problems, the Department of Public Works Bureau of Engineering can approve the changes as an Interim Change Authorization. The Department of Public Works Bureau of Contract Administration oversees the changes during construction.

Although the Interim Change Authorization can alter project conditions, the Department of Public Works does not have procedures to notify the Department of City Planning of the change. For example, for two of the projects that we reviewed in detail, the Bureau of Engineering authorized project changes that revised the project's condition of approval without the Department of City Planning's review of the authorized change.

- For the eight residential townhouses, the determination letter included a condition to construct a minimum six-foot pedestrian walkway between adjacent streets. The Bureau of Engineering approved the Interim Change Authorization reducing the walkway from a minimum of six feet to four feet. The walkway that was constructed was approximately four feet wide.
- For the mixed use, 350 residential unit project, although the determination letter included a condition requiring ornamental street lights, the Bureau of Engineering approved the Interim Change Authorization to allow installation of two street lights of a different type. According to the Interim Change Authorization, the contractor requested the change because he had installed street light foundations per an approved street lighting plan that did not show street lights at the two locations. The requested change was to avoid having two street light poles in too close proximity.

¹ In September 2008 the Board of Public Works adopted a revised policy requiring the developer to plant street trees rather than posting a cash bond.

Finding #14: The Department of Public Works Did Not Enforce Completion of Public Improvements Prior to the Temporary Certificate of Occupancy

The Department of Building and Safety issued a temporary Certificate of Occupancy to a school project prior to completion of required public improvements. The Department of Building and Safety may issue a temporary Certificate of Occupancy, which can be renewed for up to six months at a time. According to Ordinance 165081, the Superintendent of Building may issue a temporary Certificate of Occupancy if all required public improvements have not been completed if the “failure to complete the public improvements was due to circumstances over which the person applying for the Certificate of Occupancy had no control”. The Department of Building and Safety cannot issue a permanent Certificate of Occupancy until all public improvements have been completed.

The Department of Building and Safety issued a temporary Certificate of Occupancy to the School, which was initially set to expire on January 10, 2009 but was extended until July 13, 2009. The applicant failed to complete street and traffic signal improvements at two street intersections located near to the school. The decision maker had required the intersection improvements because of the expected increase in traffic from the new 550-student high school.

Although Ordinance 165081 allows a temporary Certificate of Occupancy if the public improvements have not been completed due to circumstances over which the applicant had no control, the failure of the applicant to complete the street improvements does not appear to meet this standard. According to a letter to the City Planning Commission from a private attorney regarding the school project, the applicant’s request for relief on “ the grounds of financial hardship...is infeasible...the applicant is currently seeking a conditional use permit for a complex of new athletic fields and sports facilities on a ten acre site adjacent to the school.

In response to our request for information, the Department of Public Works Bureau of Engineering stated that Bureau of Engineering staff met with the applicant on November 17, 2008, informing the applicant that the public improvements must be completed before the final Certificate of Occupancy can be issued.

Finding #15: The Department of City Planning Lacks Enforcement Resources

The Department of City Planning lacks resources to enforce compliance with development project conditions of approval. The Department of City Planning does not have a well-defined enforcement role to ensure that applicants comply with project conditions of approval. Not only does the Department of City Planning play no role in monitoring actual adherence to conditions of approval during project construction once the Department of Building and Safety issues the building permit, but the Department of City Planning has limited functions to enforce ongoing or operational conditions. The Department of City Planning has a Nuisance Abatement Unit with

authority to revoke conditional use permits, such as alcohol permits, if the ongoing use creates a public nuisance, but otherwise has limited enforcement functions.

The Department of Building and Safety is responsible for investigating operational or use requirements for completed projects in response to complaints. The Department of Transportation is responsible for enforcing traffic requirements. Neither department actively inspects projects once they are completed. Although the Department of Building and Safety will respond to complaints about a completed project, according to interviews the Department staff do not feel qualified to enforce operational requirements, such as limited hours of operation or limits to the number of students allowed on a school facility. The Department of Transportation requires the developer to annually certify compliance with traffic requirements but only conducts site visits if the Department of Transportation receives complaints.

Conclusions

The City's development process involves several City departments, but no single department oversees the project in its entirety. Because large development projects can undergo changes during the planning, design, construction, and completion, the completed project can vary materially from the original plans presented to the decision maker.

The City's existing procedures to monitor development projects in their entirety are inadequate. The Department of City Planning's role ends with the issuance of building permits, and the City's procedures do not ensure that the Department of City Planning knows of material changes to the project. Because conditions in the determination letter are binding on the applicant, the Department of City Planning, Department of Building and Safety, and Department of Public Works should ensure compliance with the conditions during construction of the project and prior to issuing the certificate of occupancy.

To ensure coordination of project review and compliance with project requirements, the City should establish a critical point of project management responsibility for the Citywide development process.

Recommendations

The Mayor should:

- 4.1 Define the role of the Department of City Planning as the project manager for development projects.
- 4.2 Direct the 12 to 2 Committee to define the responsibility of the Department of City Planning, Department of Public Works, and Department of Building and Safety for resolving disputes.

The Director of Planning should:

- 4.3 In conjunction with the General Manager of the Department of Building and Safety, City Engineer, and Director of the Bureau of Contract Administration, develop procedures and control processes to ensure notification of the Department of City Planning for project changes during construction.
- 4.4 Evaluate potential expansion of the Department's enforcement function and present a report to the City Council prior to the FY 2010-11 budget review that includes:
 - (a) A definition of the Department of City Planning's enforcement function and its relationship to the Department of Building and Safety and Department of Transportation's enforcement functions;
 - (b) Costs of additional staff resources necessary to expand the Department's enforcement function;
 - (c) Potential fee- or fine-based revenues to pay the costs of additional staff resources; and
 - (d) Expected benefits of the expanded enforcement function.

The City Engineer should:

- 4.5 In conjunction with the Directors of the Bureau of Street Services, Sanitation, and Street Lighting, establish procedures to ensure:
 - (a) Timely submission of specific recommendations for conditions of approval to the Department of City Planning (see Recommendation 2.2 and 5.2); and
 - (b) Completion of all conditions of approval during project construction and prior to the Certificate of Occupancy.
- 4.6 In conjunction with the Director of Planning and the General Manager for the Department of Building and Safety, establish procedures to ensure:
 - (a) Notification of the Department of City Planning for material project changes (see Recommendation 4.3); and
 - (a) Department of City Planning review of the final project for compliance with entitlement conditions prior to the Certificate of Occupancy.

Costs and Benefits

These recommendations are intended to increase the Department of City Planning's oversight of development projects through the project construction and completion. Although expanding the

Department of City Planning's role could require new staff and new costs, these increased costs could be limited if the Department of City Planning's oversight role is "by exception". In other words, the Department of City Planning staff would not actively oversee projects but would be notified of any project changes for review. The Department of City Planning already reviews projects in the Mt. Washington/ Glassell Park Specific Plan area for compliance with architectural and landscape requirements. The City of Los Angeles – through the Mayor and the City Council – would need to formally define the Department of City Planning's role and responsibility to ensure that the Department of City Planning's project management function conforms to City policy and ordinances.

The Department of City Planning has been reviewing their fee structure to assess their fees for cost recovery. The Department of City Planning could pay for the costs of project management through their fee structure, protecting the City from any increased General Fund costs. However, the Department of City Planning also needs to look at efficiencies and possible cost-savings from implementation of CDMS (see Section 5) and geographic reorganization (see the Introduction). More efficient Department of City Planning practices could offset the increased costs of an expanded project management role.

5. CDMS Implementation

- The Department of City Planning's new data management system (Condition Development and Management System, or CDMS) automates many of the Department's manual processes but the system alone does not fully address inadequate processes for managing development project conditions of approval. Implementation of CDMS does not change the Department of City Planning's current process for distributing hard copies of project applications to other City departments, nor give the Department of City Planning the ability to require City departments to review project applications and submit recommendations for conditions of approval in a timely manner. Also, CDMS can facilitate creating conditions, but it does not ensure that they are specific or clearly written. Further, although CDMS allows electronic clearing of conditions, it does not create documentation standards for clearing conditions.
- Implementation of CDMS will add a third City department system to track development project conditions of approval without (1) a formal plan to coordinate these systems or (2) controls in place to ensure that these three systems will all contain the same information about the status of conditions of approval. The City's Information Technology Agency has not played a role in developing CDMS to ensure a Citywide perspective on coordination of these systems.
- The Director of Planning needs to develop formal, written procedures to address inadequate Department of City Planning processes for managing development project conditions, some of which would be incorporated into CDMS. The Director of Planning also needs to develop a long-term implementation plan for CDMS, including (1) the costs and timelines for implementing CDMS capabilities and interfaces with the Department of Building and Safety's and the Bureau of Engineering systems, and (2) incorporating the Information Technology Agency in coordinating interdepartmental systems.

The Department of City Planning's Manual Processes

The City Council approved funding to implement the Conditions Development and Management System (CDMS) beginning in FY 2006-2007, allowing the Department to more efficiently develop and track conditions imposed on development projects. The costs of developing CDMS are approximately \$1 million, as shown in Table 5.1. The Department of City Planning estimates ongoing costs of approximately \$300,000 annually.

Table 5.1
Actual Expenditures for Developing CDMS
FY 2006-07 to FY 2008-09

	FY 2006-07	FY 2007-08	FY 2008-09	Total
Personnel Costs ¹	\$238,634	\$277,264	\$282,262	\$798,160
Non-Personnel Costs ²	131,694	41,423	24,000	197,117
Total	\$370,328	\$318,687	\$306,262	\$995,277

Source: Department of City Planning, Information Technology Unit

¹ Personnel costs include contractor costs and Department of City Planning staff (Systems Analyst II).

² Includes computer hardware, software, and all equipment associated with the implementation of CDMS.

As reported to the City Council, CDMS is an enterprise system for the collection, processing, management, and dissemination of development project information, especially the project's conditions of approval. While CDMS implementation will substitute more efficient electronic processes for many of the Department of City Planning's existing manual processes, it does not address many of the City's inadequate procedures.

The Department of City Planning's Existing System Has Limited Electronic Case Processing

Prior to implementation of CDMS, the Department of City Planning's Planning Case Tracking System (PCTS) has allowed tracking but not electronic management of planning cases. PCTS contains information about the:

- Property location, including address, zone, census tract, City Council district, Area Planning Commission, neighborhood council, and community plan area;
- Property owner, developer, or project applicant;
- Case information and tracking references, including case number, application and action dates, hearing dates, decision maker actions, and appeals; and
- Special instructions for development plan approvals.

Case information in PCTS includes the determination letter (scanned into PCTS) with the conditions imposed on the development project, as well as other pertinent property, zoning, and land use or community plan information. This case information is imported electronically to CDMS.

CDMS Automates Many of the Department of City Planning's Manual Processes

CDMS both creates and manages development project conditions of approval electronically, replacing many of the City's manual processes for:

- Distributing development project applications within the Department of City Planning and to other City departments;
- Developing recommendations for entitlement conditions to decision makers,
- Soliciting recommendations for conditions for public improvements from other City departments, and
- Clearing entitlement conditions.

According to the *CDMS Users Guide*, the purpose of CDMS is to determine what conditions an applicant must meet in the processing of Department of City Planning cases, and to track which of those conditions have already been met.

Finding #16: CDMS Can Improve Inefficient Procedures But Cannot Fix Inadequate City Processes

As noted in Section 2, the Department of City Planning lacks effective procedures for (1) distributing development project applications to other City departments, and (2) ensuring that other City departments review project applications and provide recommendations for conditions of approval to the Department of City Planning in a timely manner. Although CDMS will improve these procedures, the system alone cannot fix inadequate City processes.

CDMS Does Not Fully Address the Department of City Planning's Existing Processes for Distributing Project Applications and Ensuring Timely Response from Other City Departments

Implementation of CDMS does not change the Department of City Planning's current process for distributing hard copies of project applications, including proposed site plans, to other City departments for review (see Section 2)¹. Implementation does allow the primary planner for the proposed project to (1) assign access to CDMS case files to other

¹ According to the Deputy Director of Planning, Citywide and Administration, the Department of City Planning intends for applicants to submit their applications electronically, allowing for electronic distribution of applications and site plans. However, the Department of City Planning does not yet have a plan or funding for electronic applications.

City departments, and (2) receive recommendations for project conditions of approval from other City departments electronically.

The primary planner determines who can access the CDMS case files, including determining which City departments have primary access to the case. Under CDMS, primary departments will initially review the project and recommend conditions. Once the primary department conditions are completed, secondary departments can review and recommend project conditions. By allowing other City departments to send their recommendations for conditions of approval electronically, CDMS simplifies the procedure for City departments to recommend and for the Department of City Planning to receive recommendations for project conditions of approval.

CDMS does not give the Department of City Planning the ability to require City departments to review project applications and submit recommendations for conditions of approval in a timely manner. CDMS, however, does give the primary planner tools for tracking other City departments' submission of recommendations for conditions of approval. The primary planner can (1) view other City departments' entries for draft conditions of approval into the system, and (2) set up a task list as a reminder of other City departments' dates for submission of recommendations for conditions of approval.

According to the Director of Planning, the Department of City Planning intends to generate monthly CDMS reports tracking City departments' time lines for submitting recommendations for development project conditions. The Department of City Planning and other City departments are discussing time line standards but have not yet agreed to a specific standard. According to the Director of Planning, these monthly reports will be submitted to the Mayor.

CDMS Can Facilitate Creating Conditions But Does Not Ensure Specific or Clearly Written Conditions

The Department of City Planning and other City departments have submitted standard conditions to be entered into CDMS. This enables the primary planner to select conditions from a menu, simplifying condition writing and ensuring more standardized language. As of November 2008, 13 City departments, including the Department of City Planning, had submitted standard conditions to be entered into CDMS, of which 12 had been integrated into the system.

In October 2008, the Department of City Planning set up a working group to evaluate the Department's existing procedures for writing conditions and to develop standardized conditions. The Department of City Planning provided a copy of the standard conditions entered into CDMS to the auditors, totaling 258 pages. While these standard conditions generally contribute to uniform and specific language for writing conditions of approval, they also carry forward the non-specific language contained in the *Standard Conditions Manual* and discussed in Section 1. Further, the Department has not developed department-wide procedures for writing clear and specific recommendations for conditions of approval when decision makers impose conditions on development projects that are not standard CDMS conditions.

Although CDMS Allows Electronic Clearing of Conditions, It Does Not Create Documentation Standards

The Department of City Planning lacks department-wide case file and documentation standards for processing development project applications, clearing conditions on development project plans, and maintaining records, as discussed in Section 3. In the Department of City Planning's proposed FY 2006-07 budget, the Department of City Planning acknowledged the lack of standardized clearing of conditions and proposed CDMS as a more efficient system:

“Clearance of ... conditions are ... currently administered through a manual process. Further complicating the process are various methods employed to collect and record the voluminous mitigation measures.

Even within the confines of a distinct organization, it is not uncommon to discover that from workgroup to workgroup this process is disjointed and non-standard. Some workgroups transmit completed paper clearance forms signed by authorized City staff indicating the conditions cleared in detail; while other workgroups place hand-written check marks next to the condition(s) that is being cleared on a photocopy of the decision letter.

In the Planning Department, condition clearance is done manually on paper by various autonomous units, making the case clearance process difficult to standardize.”

Although clearing conditions electronically in CDMS is more efficient than manually clearing conditions, CDMS implementation does not substitute for case file and documentation standards. The Department of City Planning still needs to develop formal procedures for (1) identifying how the final project site plan addresses the project's conditions of approval and (2) retaining site plan documentation in the Department's formal files.

Finding #17: Implementation of CDMS Creates Multiple City Systems to Track Development Project Conditions of Approval without a Plan to Coordinate Systems

Implementation of CDMS will add a third City department system to track development projects' conditions of approval. Both the Department of Public Works Bureau of Engineering and the Department of Building and Safety have existing systems to electronically monitor development project conditions of approval.

- The Bureau of Engineering's Map Status Tracking System creates a conditions list for parcel and tract maps, tracking the status of conditions for public improvements imposed on projects requiring land subdivision.

- The Department of Building and Safety's Plan Check and Inspection System (PCIS) creates the Clearance Summary Worksheet, which contains a high-level summary of conditions of approval. Other City department staff, including the Department of City Planning, Department of Transportation, and the Bureau of Engineering, can access PCIS electronically to clear conditions prior to issuance of the building permits. PCIS tracks only the summary of conditions rather than specific conditions.
- The Department of Building and Safety's Automated Certificate of Occupancy System (ACOS) tracks clearing of conditions by the Department of Public Works, Fire Department, and Air Quality Management District prior to issuing the Certificate of Occupancy.

Although the Department of City Planning staff can access the Bureau of Engineering's Map Status Tracking System and PCIS to electronically clear entitlement conditions, and other City departments can access CDMS directly to electronically clear conditions specific to their department, CDMS does not have automatic links to other City systems. Nor do these three City department systems have controls in place to ensure that the systems' contain the same information about the status of conditions.

The City's Information Technology Agency has not Played a Role in Developing An Interdepartmental Systems Interface

According to the Information Technology Agency's Mission Statement, the Agency is responsible for ensuring efficient government business through reliable information systems. Although the Information Technology Agency could reasonably play a role in coordinating interdepartmental business systems, the Department of City Planning developed CDMS internally with little Information Technology Agency involvement.

A systems interface with the Department of Building and Safety and Bureau of Engineering is included in the Department of City Planning's informal CDMS implementation schedule, although according to the Director of Planning, the Bureau of Engineering's Map Status Tracking System will be replaced by CDMS. At this time, the City departments with an ongoing stake in developing interfaced systems - Information Technology Agency, Department of City Planning, and the Department of Building and Safety - do not have a plan in place or the requisite funding to develop a systems interface.

Although CDMS Was Expected to Be Implemented in April 2008, Full Implementation Occurred in January 2009

Department of City Planning staff had not begun to actively use CDMS during the course of this audit. In their February 28, 2008 report to the City Council, the Department of City Planning stated that CDMS would be implemented in April 2008. At the same time, the City Council appropriated \$18,000 for the Department of City Planning to assess the costs of entering case information for completed development projects into CDMS.

Department of City Planning staff began creating conditions for three types of cases in September 2008 and other City departments were oriented to entering case data for these three types of cases in October 2008. The Department of City Planning and other City departments were able to create conditions in CDMS for all development projects by the end of January 2009. The Department of City Planning is creating new cases in CDMS that were assigned to planner staff after September 29, 2008, but does not plan to include prior case information at this time.

Table 5.2

CDMS Implementation Schedule

	Start Date	End Date
Department of City Planning staff to begin creating development project conditions of approval in CDMS	11/17/2008	12/19/2008
Other City departments to submit recommendations for development project conditions of approval electronically in CDMS	12/22/2008	1/23/2009

Source: Department of City Planning, Information Technology Division.

CDMS Has the Capability to Generate Determination Letters but the Department of City Planning Does Not Currently Plan to Generate Determination Letters Electronically

The Mayor's July 2008 letter to City departments directed the 12 to 2 Committee to decrease the time to complete and issue determination letters. Currently, the decision maker writes the determination letter on his or her personal computer, cutting and pasting standard conditions from other sources and writing new or specific conditions as necessary. The Department does not have a standard format for writing determination letters. Although CDMS has the capability to generate determination letters, the Department of City Planning does not have a plan or funding to implement this capability at this time.

Conclusion

The full implementation of CDMS in January 2009, in which the Department of City Planning and other City departments will be able to electronically create and clear development project conditions of approval for all types of development projects, will create more efficient procedures but not address the City's inadequate processes. The Department of City Planning has not yet developed department-wide policies and procedures for several of its core procedures. Nor has the Department of City Planning developed a plan or identified funding to interface CDMS with the Department of Building and Safety's and Bureau of Engineering's systems. The Information

Technology Agency has played no role in ensuring that these three City systems are linked efficiently.

Recommendations

The Director of Planning should:

- 5.1 Develop and implement written department-wide procedures for distributing development project applications to other City departments.
- 5.2 Develop monthly reports no later than June 30, 2009 for submission to the Mayor and City Council:
 - a. Identifying standards for City departments' timely submission of recommendations for conditions of approval; and
 - b. Tracking City departments' compliance with these standards.
- 5.3 Review the Department of City Planning's standard conditions entered into CDMS and revise or delete non-specific or unclear conditions.
- 5.4 Develop and implement written department-wide procedures for writing specific and clear conditions (see Recommendation 1.2).
- 5.5 Develop and implement written department-wide procedures for:
 - a. Documenting how the final development project site plan addresses the project's conditions of approval (see Recommendation 3.1); and
 - b. Retaining site plan documentation in the Department's formal files (see Recommendation 3.2).
- 5.6 Develop a long-term implementation plan for CDMS that:
 - a. Includes the Information Technology Agency in the planning and coordination of CDMS with the Department of Building and Safety's and Bureau of Engineering's systems;
 - b. Identifies the costs and timelines for coordinating systems among the Department of City Planning, the Department of Building and Safety, and the Bureau of Engineering;
 - c. Identifies the costs and timelines for implementing CDMS capabilities to generate determination letters; and
 - d. Identifies the costs and timelines for entering case data for completed projects into CDMS.

Costs and Benefits

The Department of City Planning will have to allocate existing staff time to implement these recommendations. The Department of City Planning will incur future additional costs for CDMS coordination with the Department of Building and Safety and the Bureau of Engineering, as well as for implementing CDMS capabilities to generate determination letters and entering case data for completed projects. Such costs will be subject to appropriation by the City Council.

These existing or additional costs will be offset in part by more efficient CDMS implementation. City policy makers, City staff, and the public should receive benefits from more timely case processing and better developed project conditions.

6. Costs of Maintaining Public Improvements

- City departments do not consistently track, plan or budget for maintenance of public improvements installed as a result of conditions of approval for development projects. Although project applicants pay the costs of installing public improvements, only some departments track and recover maintenance costs for these improvements. Other departments do not track these costs separately or recover ongoing costs. No departments systematically track public improvements imposed as development project conditions of approval as part of their fiscal planning process.
- Some City departments do not collect sufficient revenues to cover the costs of maintaining public improvements, particularly those imposed as conditions of approval for development. Specifically, the Urban Forestry Division of the Bureau of Street Services Street Tree Maintenance, Inspection and Clerical fees, the Bureau of Street Lighting Street Lighting Maintenance Assessment, and the Bureau of Sanitation Stormwater Pollution Abatement Charge revenues are not sufficient to recover the costs of maintaining public improvements.

Well-run government agencies anticipate, plan and budget for changes in service costs by forecasting and tracking changes in conditions that affect their workload such as newly approved development projects. The Government Finance Officers Association recommends that public charges and fees be reviewed and updated periodically based on factors such as the impact of inflation, other cost increases, the adequacy of the coverage of costs, and current competitive rates.¹ City budget instructions direct departments to complete and submit an annual review of fees for services with their proposed budget.

Finding #18: City Departments Do Not Consistently Track and Budget for Public Improvements Imposed as Conditions of Approval for Development Projects

City departments do not consistently plan and budget for the maintenance of public improvements imposed as conditions of approval for development projects. City departments budget these costs in various ways including absorption into departmental budgets, one-time fee assessments, and periodic maintenance or usage fees. Although the City has no mechanism in place to actively track public improvement costs that result from conditionally approved development projects, department directors are instructed by the City Administrative Officer to submit an annual analysis of fee(s) for services that estimates the amount of cost recovery. These analyses appear to be of limited analytical value to City policy makers.

¹ Government Finance Officers Association, Setting of Government Charges and Fees. Available online at: <http://www.gfoa.org/downloads/budgetSettingofGovernmentChargesandFees.pdf>

Some Departments Do Not Track or Recover Costs

The Department of Transportation does not systematically track or budget for its additional maintenance costs resulting from private development such as for traffic signals, geometric design improvements, and additions to the Automated Traffic Surveillance and Control network (ATSAC). Developers fully pay for the costs of design, construction, and activation of transportation improvements (other than for ATSAC²) resulting from development project conditions of approval. However, developers do not pay for the ongoing maintenance of such improvements.

Department of Transportation representatives have indicated that the maintenance costs for these improvements are nominal relative to the amount spent overall on maintaining the City's transportation infrastructure. For instance, there are approximately 4,400 traffic signals in the City with seven new signals installed in FY 2007-08 (or approximately 0.16 percent of the total). Since the Department of Transportation does not track improvements resulting from conditions of approval, the City has no way to know what proportion of the new signals resulted from development project approvals. Assuming that 100 percent of the new signals resulted from development project approvals, the additional maintenance costs added per year could be as much as \$11,726.³ However, given that less than 100 percent of new traffic signals are installed by developers and that new signals tend to require less maintenance, it is likely that maintenance costs of such signals are significantly lower.

Similarly, the Bureau of Street Services does not track or budget its additional street maintenance costs due to private development. Representatives from the Bureau of Street Services assert, however, that the additional maintenance costs associated with these public improvements is minimal and therefore not cost-effective to track. One representative asserted that newly paved streets would not require any substantive maintenance work for at least five to seven years.

Planning and Tracking Varies Among Departments that Recover Costs

The Bureau of Street Lighting, the Urban Forestry Division of the Bureau of Street Services and the Bureau of Sanitation collect either one-time or ongoing revenues intended to recover public improvement maintenance costs resulting from conditions of approval imposed on development projects. However, these departments do not consistently review such costs or incorporate these costs into the budgetary planning process.

All City departments that charge special service fees⁴ are instructed by the City Administrative Officer to submit an analysis of fees for services with their proposed budget. Departments are

² To mitigate significant impacts on traffic, developers may contribute to the costs of expanding the ATSAC system. The contributions from developers generally range from about 5.5% to 8.3% of initial costs per project with the bulk of funding coming from the State or County. All maintenance costs are covered by the City's general fund.

³ LADOT had estimated expenditures of \$7,329,000 on signal supplies and repairs in 2007-08. 0.16 percent of this amount is \$11,726.40.

⁴ A special service fee is generally defined as any service provided to an identifiable segment of the population or to one of the independent City departments (Harbor, Airports, and Water and Power).

instructed that the analysis should consist of CAO 638-A and CAO 638-B forms, other working papers, and a calculation of division overhead rates. This annual review presents the status of cost recovery efforts for the previous and current fiscal years in order to inform budget decisions for the next fiscal year.

The annual review of fees for services does not always reflect the true proportion of costs recovered. The Urban Forestry Division submitted the annual review of fees for services for FY 2008-09, but the analysis did not accurately present the Division's true proportion of costs recovered for street tree maintenance. The projected fee revenue used in the analysis was based on an anticipated fee increase that was not in place the preceding fiscal year (2006-07) and never came to pass in the two fiscal years projected in the analysis. Further, these annual reviews do not include assessment funds such as the Street Light Maintenance Assessment Fund.

Finding #19 Some City Departments do not Collect Sufficient Revenues to Fully Recover Costs Associated with Public Improvements

The Urban Forestry Division, the Bureau of Street Lighting and the Bureau of Sanitation maintenance revenues are not sufficient to recover the costs of maintaining public improvements, regardless of whether they are due to private development. Fees and assessments do not fully recover costs associated with maintaining public improvements primarily due to the extended length of time between increases. The inability of City agencies to recover costs associated with increased infrastructure will require more revenue and/or restructuring to cut costs.

The Street Light Maintenance Assessment is steadily losing its capacity to recover costs associated with maintaining street lights.⁵ The Street Lighting Assessment Fund ending balance has decreased from approximately \$17.1 million in FY 2006-07 to \$16.4 million in FY 2007-08 to a projected balance of \$11.1 million by the end of FY 2008-09, representing a 35 percent decrease in fund balance over three years. Because only street light fees initially assessed after July 1, 1997, or less than two percent of all such fees, are subject to annual adjustments based on the U.S. Department of Labor's Consumer Price Index, the majority of street lighting fee assessments do not keep pace with rising costs associated with inflation and fluctuating energy costs. The fees initiated prior to July 1, 1997 cannot be increased or indexed to inflation without a majority vote within street light assessment districts, or a two-thirds vote of City residents per Proposition 218 requirements.

The Street Tree Maintenance, Inspection and Clerical fees, administered by the Urban Forestry Division, also do not fully recover ongoing costs of public improvements installed due to private development. The Division's estimate of the annual cost of street tree maintenance in FY 2007-08 is approximately \$302,000. However, the estimated revenues collected in 2007-08 were

⁵ If the Department of City Planning and/or the Bureau of Street Lighting determine that installation of street lights are necessary for a development, the owner must make a good faith effort via a ballot process for the formation or annexation of the property within the boundary of the development into a Street Lighting Assessment District. Property owners within the district are assessed fees to cover the costs of operating and maintaining such street lights.

\$229,000, leaving a \$73,000 or 24 percent gap in cost recovery. Although the fee has not been updated in over ten years, the Division has proposed an increase in the maintenance fee from \$382 to \$504 to the Board of Public Works for approval to close the gap.

The Bureau of Street Services revised its policy regarding the method in which the Urban Forestry Division discretionary project street tree planting requirement is cleared. In September 2008 the Board of Public Works revised the policy from collecting fees from developers for the installation of street trees and having the Urban Forestry Division contract the installations. The new policy will terminate the collection of fees for the purpose of installing street trees and will make developers responsible for the installations. Developers will continue to be assessed inspection, clerical and maintenance fees to cover the Bureau's associated costs.

The Storm Water Pollution Abatement Charge, administered by the Bureau of Sanitation, is also steadily losing its capacity to recover costs associated with maintaining public improvements.⁶ The fee collects approximately \$30 million annually from property owners to maintain storm drains and treat and abate storm water, but it is not enough to cover the associated costs. According to the adopted 2008-09 budget, the Storm Water Pollution Abatement Fund ending balance has decreased from approximately \$7.7 million in FY 2006-07 to approximately \$3.0 million in FY 2007-08 to a projected zero balance by the end of FY 2008-09. According to staff at the Bureau of Sanitation, compliance, system and facilities, and operations and maintenance costs have risen while fee assessments have remained stagnant since 1993. In order to raise the assessment fee the City would have to follow Proposition 218 requirements to garner either a majority of property owners or two-thirds of a Citywide vote.⁷

Conclusions

City departments do not consistently track, plan or budget for public improvements installed as a result of conditions of approval imposed by City Planning decision makers for development projects. Although project applicants pay the costs of installing public improvements, only some departments track and recover maintenance costs for these improvements. Other departments do not track these costs separately or recover ongoing costs. No departments systematically track requirements for new development projects imposed by City Planning decision makers as part of their fiscal planning process.

Some City departments do not collect sufficient fee revenues to cover the costs of maintaining public improvements imposed as conditions of approval for development projects. Specifically, the Urban Forestry Division of the Bureau of Street Services, the Bureau of Street Lighting, and in the Bureau of Sanitation maintenance fee revenues are not sufficient to recover the costs of maintaining public improvements.

⁶ According to the Bureau of Sanitation, other fees administered by the Bureau of Sanitation recover costs, but these fees were not reviewed by auditors.

⁷ California Constitution Article 13D, Section 6(c)

Recommendations

The Mayor should:

- 6.1 Direct the City Administrative Officer to require department and bureau directors to evaluate all public improvement maintenance revenues annually to ensure coverage of maintenance costs.
- 6.2 Direct the City Administrative Officer to develop a fee structure that includes maintenance fees for all public improvements resulting from development project conditions of approval.

The City Council should:

- 6.3 Take actions to ensure that special services are fully covered by related fees, including a requirement for all fees for special services to be updated on a periodic basis based on the U.S. Department of Labor Consumer Price Index.
- 6.4 Determine the feasibility of increasing assessments in accordance with the requirements of Proposition 218, to ensure that all assessments are updated on a periodic basis based on the U.S. Department of Labor Consumer Price Index.

Costs and Benefits

The costs to departments associated with the recommendations would be minimal given that department and bureau heads are already required to submit annual reviews of fees for services. Adjusting the collection of fees will, in many cases, require a public vote and therefore could require a considerable sum.

Table 1: Questions 1-3

	1	2	3
Question	How many planners are currently employed for project approval?	How many total FTE does your Department have?	How many approved development applications received in FY 2007-08?
Henderson, NV	NA ¹	NA	NA
New York City	18	275	380
Phoenix	27 FT, 11 PT	NA	Rezone: 132 ZA: 891 B. permits: ~41k
Tacoma, WA (Pierce County)	17	166.7	1,123
San Diego	60	NA	300
San Francisco	~160	~180	NA
San Jose	NA	55+ support staff	~500
Tallahassee, FL	15	78	NA
Vancouver, BC	3	NA	~600
Summary	N/A ²	N/A	N/A

¹ NA= No Answer Given or Answer Unintelligible

² N/A= Not Applicable or Concise Summary Not Possible

Table 2: Questions 4-6

	4	5	6
Question	How does planning determine which agencies & departments should review project application?	Procedures to ensure like projects are reviewed by same departments?	Every condition of approval have associated department responsible for sign-off/enforcement?
Henderson, NV	Routine List	Yes	Yes
New York City	Other	Yes	No
Phoenix	Routine List	Yes	No
Tacoma, WA (Pierce County)	Other: Routine List & Staff Planner Determination	Yes	Yes
San Diego	Routine List	Yes	Yes
San Francisco	Staff Planner Determination	No	No
San Jose	Other	No	Yes
Tallahassee, FL	Routine List	Yes	Yes
Vancouver, BC	Staff Planner Determination	Yes	Yes
Summary	4: Routine 2: Planner determines 3: other	7: Yes 2: No	6: Yes 3: No

Table 3: Questions 7-9

	7	8	9
Question	How departments notified of project applications they should review?	How are development project files and plans circulated?	Is the review process by external departments/agencies simultaneous or sequential?
Henderson, NV	Electronic & Hard Copy	Hard Copy	Simultaneous
New York City	Hard Copy	Hard Copy	Simultaneous
Phoenix	Electronic	Electronic & Hard Copy	Simultaneous
Tacoma, WA (Pierce County)	Electronic & Hard Copy	Hard Copy	Simultaneous
San Diego	Electronic & Hard Copy	Hard Copy	Simultaneous
San Francisco	Hard Copy	Hard Copy	Simultaneous
San Jose	Other	Hard Copy	Simultaneous
Tallahassee, FL	Electronic	Electronic	Simultaneous
Vancouver, BC	Hard Copy	Hard Copy	Simultaneous
Summary	3: Hard Copy 2: Electronic 3: Both 1: Other	7: Hard Copy 1: Electronic 1: Both	9: Simultaneous

Table 4: Questions 10-11*

	10	11	11*
Question	How do external agencies & depts submit conditions for project applications to planning?	Are there set timelines for external depts to review & submit proposed conditions?	If yes, how are these timelines enforced?
Henderson, NV	Other	Yes	DSC Manager prints a daily on-time report for all DSC submittals
New York City	Hard Copy	Yes	By statute
Phoenix	Electronic	Yes	NA
Tacoma, WA (Pierce County)	Electronic & Hard Copy	Yes	By Code, General Provisions, Title 18.60 Review Process
San Diego	Electronic	Yes	Performance Standards
San Francisco	Hard Copy	No	N/A
San Jose	Electronic & Hard Copy	Yes	Deadlines given with original referrals. Project Mgrs request critical info. before initial comment letter sent to applicant
Tallahassee, FL	Electronic	Yes	Reports outlining each dept's conditions is due 10 days prior to Development Review Committee meetings and at the meeting for Type A site plan meetings.
Vancouver, BC	Electronic	Yes	A target date is set for an opinion/comments
Summary	2: Hard Copy 4: Electronic 2: Both 1: Other	8: Yes 1: No	N/A

Table 5: Questions 12-14

	12	13	14
Question	Do applicants ever receive contradictory conditions from two or more departments?	If yes, how are these contradictions resolved?	Are open-ended conditions ever included in initial approvals as a placeholder?
Henderson, NV	No	N/A	NA
New York City	Yes	Other: Negotiation	Yes
Phoenix	NA	Planner is Responsible	Yes
Tacoma, WA (Pierce County)	Yes	Planner is Responsible	Yes
San Diego	Yes	Planner is Responsible	No
San Francisco	Yes	Other: Code Enforcement	No
San Jose	Yes	Planner is Responsible	Yes
Tallahassee, FL	Yes	Planner is Responsible	Yes
Vancouver, BC	Yes	Planner is Responsible	Yes
Summary	7: Yes 1: No 1: NA	6: Planner 2: Other 1: N/A	6: Yes 2: No 1: NA

Table 6: Questions 15-15B

	15	15A	15B
Question	What is the process for clearance and sign-off of planning conditions:	Before Building Permit is issued?	During Building Permit approval phase?
Henderson, NV	N/A	Before a building permit is submitted for - developer submits a Design Review application to Community Development. This entitlement process includes a collective real time review of the submittal by all development related departments, where comments and conditions are made on the application. Immediately following the staff review, applicants have the opportunity to meet with the group to clarify conditions placed prior to submittal to Planning Commission and/or City Council.	Only upon approval of necessary entitlements can the developer submit for a building permit. Each team with a condition placed on the application must sign off during the review phase to confirm the design meets their conditions of approval. Building permit will not be issued until all plan review teams have signed off on the clearance checklist.
New York City	N/A	CPC sends materials describing conditions of approval by mail to Buildings Dept.	Buildings Department has an electronic system into which some conditions, but not all, are data-entered for sign-off
Phoenix	N/A	Electronic preliminary site plan approval	Electronic final site plan approval
Tacoma, WA (Pierce County)	N/A	NA	NA
San Diego	N/A	Hooked depending on type of condition through electronic system	NA
San Francisco	N/A	NA	NA
San Jose	N/A	Planners confirm that Building plans match those approved in Planning. Public Works Department Clearance is pursued. Environmental Mitigation measures are implemented, confirmed by applicable groups. Park fees are paid.	Fire and Building confirm conformance with code. Planners confirm that Building plans match those approved in Planning (plan review only, no field inspections). Public Works Development Clearance is pursued. Environmental Mitigation measures are implemented, confirmed by applicable groups.
Tallahassee, FL	N/A	Yes unless simultaneous review is requested.	NA
Vancouver, BC	N/A	Electronic clearance by departments before building permit is issued	All contained within development services; some discussion/interaction with project coordinators
Summary	N/A	N/A	N/A

Table 7: Questions 15C-16

	15	15C	16
Question	What is the process for clearance and sign-off of planning conditions:	During Certificate of Occupancy/Completion Approval Phase?	Does Planning have an ongoing responsibility to ensure that Planning conditions are met during the construction phase?
Henderson, NV	N/A	Process works the same as permit issuance. COFO process must be signed by all departments prior to issuance - we use a checklist tied to the conditions of approval.	Yes
New York City	N/A	Buildings Department has an electronic system into which some conditions, but not all, are data-entered for sign-off	No
Phoenix	N/A	Site and building inspection sign off	Yes
Tacoma, WA (Pierce County)	N/A	NA	No
San Diego	N/A	NA	Yes
San Francisco	N/A	NA	No
San Jose	N/A	Environmental Mitigation measures are implemented, confirmed by applicable groups. Public Works Development Clearance is obtained.	No
Tallahassee, FL	N/A	NA	Yes
Vancouver, BC	N/A	Then shifts to licensing and inspection staff; monitor on-site work and issue COO; another branch that looks backwards to ensure that planning conditions are met; conditions for each permit are attached to the plans	Yes
Summary	N/A	N/A	5: Yes 4: No

Table 8: Questions 17-19

	17	18	19
Question	Does Planning have a responsibility to ensure Planning conditions are met prior to the completion of the project and issuance of the Certificate of Occupancy?	What procedures are in place to ensure that ongoing conditions are met after construction is complete & cert. of occupancy is awarded?	Which department(s) is responsible for giving final approval when a development project is completed?
Henderson, NV	Yes	No Procedures	Building
New York City	No	No Procedures	Building
Phoenix	Yes	Other: Complaint Driven	Building & Development Services
Tacoma, WA (Pierce County)	Yes	Other	Building
San Diego	Yes	Code Enforcement Unit Monitors	Other: Development Services
San Francisco	NA	No Procedures	Building
San Jose	Yes	Other	Building
Tallahassee, FL	Yes	Code Enforcement Unit Monitors	Building
Vancouver, BC	Yes	Other	Other: Development Services
Summary	7: Yes 1: No 1: NA	3: No Procedures 4: Other 2: Code Enforcement	6: Building 1: Building & Devp. Serv. 2: Devp. Serv.

Table 9: Questions 20-22

	20	21	22
Question	How are ongoing conditions monitored?	Is there a City employee assigned to liaison between neighborhood groups and Planning?	Are developers required to report major changes in design of development, which occur after a project has been approved by Planning, to neighborhood groups?
Henderson, NV	Code Enforcement (Complaint Driven)	Yes, among other tasks	Yes
New York City	Complaint Driven	Yes, among other tasks	No
Phoenix	Code Enforcement (Complaint Driven)	Yes, among other tasks	Yes (only if listed in conditions)
Tacoma, WA (Pierce County)	Complaint Driven	Yes, among other tasks	Yes
San Diego	Code Enforcement (Complaint Driven)	No employees assigned to this responsibility	Yes
San Francisco	Decentralized by Departments	No employees assigned to this responsibility	Yes
San Jose	Code Enforcement (Complaint Driven)	Yes, full-time	Yes
Tallahassee, FL	Code Enforcement Unit	Yes, full-time	Yes
Vancouver, BC	Time-limited permits; Complaint Driven	Yes, among other tasks	No
Summary	4: Code Enforcement/ Complaint 2: Complaint Driven 1: Code Enforcement 1: Decentralized	5: Yes among other tasks 2: Yes, full-time 2: No	6: Yes 2: No 1: Yes with caveats.

Table 10: Questions 23-25

	23	24	25
Question	Do neighborhood groups have any legal recourse against developers who do not follow approved design aspects that have been negotiated with such groups?	Are there any formal written policies or procedures that Planning employees follow when writing conditions?	Are there any formal written policies or procedures that City Planning employees follow when clearing conditions?
Henderson, NV	NA	No	Yes
New York City	NA	No	No
Phoenix	NA	Yes	No
Tacoma, WA (Pierce County)	No	No	No
San Diego	No	Yes	No
San Francisco	Yes	No	No
San Jose	No	No	No
Tallahassee, FL	Yes	No	No
Vancouver, BC	No	Yes	Yes
Summary	2: Yes 4: No 3: NA	3: Yes 6: No	2: Yes 7: No

Table 11: Questions 26-27

	26	26A	27
Question	Are there any controls in place to ensure that imposed conditions are lifted only when those conditions are met?	If yes, please explain.	Are there any controls in place to ensure that operational conditions are monitored and enforced?
Henderson, NV	Yes	Tied to our clearance checklist- created within our modified KIVA	No
New York City	Yes	Environmental Requirements are only conditions that are lifted pursuant to regulatory protocol and the process is a combination of paper & electronic.	No
Phoenix	NA	Conditions of preliminary site plan approval required for final site plan approval.	No
Tacoma, WA (Pierce County)	Yes	Case Planner reviews building permits for compliance with land use case.	No
San Diego	No	N/A	No
San Francisco	No	N/A	No
San Jose	Yes	Triggers are included, so that specified steps in a process cannot be obtained prior to completion of the condition.	NA
Tallahassee, FL	Yes	Permit tracking system allows reviewers to place "locks, holds, and notices" on permits to ensure that conditions are met	Yes
Vancouver, BC	Yes	NA	Yes
Summary	6: Yes 3: No	N/A	2: Yes 6: No 1: NA

Table 12: Questions 27A-29

	27A	28	29
Question	If yes, please explain.	Do you know of any audits conducted in your City relating to the imposition, clearance, monitoring, or enforcement of conditions for development?	Has your city taken any steps to increase the efficiency of processing development applications?
Henderson, NV	N/A	No	Yes
New York City	N/A	No	Yes
Phoenix	Code Enforcement is conducted in response to complaints filed	No	Yes
Tacoma, WA (Pierce County)	N/A	No	Yes
San Diego	N/A	No	Yes
San Francisco	N/A	No	No
San Jose	Code Enforcement inspects Downtown bars/nightclubs and does an inspection of multi-family (rental) housing units on a 3 or 6 year cycle. Other enforcement is complaint driven.	No	Yes
Tallahassee, FL	Code enforcement, inspectors in field, etc.	No	Yes
Vancouver, BC	Followed up with subsequent reviews	Yes	Yes
Summary	N/A	8: No 1: Yes	8: Yes 1: No

Table 13: Question 29A

	29A
Question	If yes, please explain.
Henderson, NV	Service Guarantee Program
New York City	Allow public to view status via website. Training for applicants so applications are complete/ accurate & be processed quicker. Train staff to increase efficiency.
Phoenix	Joint pre-app/preliminary site plan review. 3rd party building plan review. Expedited plan review. (3x's plan review fees)
Tacoma, WA (Pierce County)	Working on condensing/simplifying development regulations to ensure consistency with implementation/interpretation. Current Planning has policy manual that documents policy decisions, and is in the process of creating a Standard of Operations manual.
San Diego	NA
San Francisco	N/A
San Jose	*See Answer to the right*
Tallahassee, FL	Reports, expedited reviews, simultaneous reviews, etc.
Vancouver, BC	Some new positions aimed at facilitating major projects-single point of contact; single liaison for community groups
Summary	N/A

San Jose Answer to 29A
<p>We have established timelines for various projects based on type, complexity, and environmental clearance method. Project Mangers talk with applicants within 3 days of project submittal and offer a meeting for the project proponent to explain their project within 14 calendar days of submittal, both of which add to an early understanding of the applicant's perspective. We have templates for some of the documents we use. For others, we have merge documents that pull information from our permit tracking system and insert it into appropriate places in a MS Word document. We have some written procedures that help guide Project Managers. For example, we have written instructions that outline the various steps needed in an EIR process. We have various Design Guidelines, strong Neighborhood Initiative Plans, and Specific Plans that provide detailed information beyond that specified in the General Plan/Zoning that provide developers with certainty and Planners with a benchmark for evaluating projects. Under development is a Guide for Project Managers that covers best practices for PMs to sue for a project throughout its life cycle.</p>

Table 14: Questions 30-30A

	30	30A
Question	Does your jurisdiction have a mechanism in place to budget for the costs associated with implementation of conditions of approval that create ongoing maintenance costs (e.g., project approval requires public landscaping improvements and this generates ongoing maintenance costs for your jurisdiction).	If yes, please explain.
Henderson, NV	No	N/A
New York City	No	N/A
Phoenix	No	N/A
Tacoma, WA (Pierce County)	No	N/A
San Diego	Yes	Department has been undergoing engineering since early 1990s; looking for best practices; recently had a "business process reengineering" review.
San Francisco	No	N/A
San Jose	Yes	We have fees for environmental mitigation monitoring and reporting, which in some cases involves maintenance of project elements by the private developers. We don't require private developers to maintain public parks, but we do have assessment districts that help fund public improvements such as infrastructure expansion. Our Public Works Dept. charges a one-time fee to cover inspections (by our Environmental Services Dept.) of some stormwater control devices but the fee is not currently adequate to fund lifetime inspections of the devices.
Tallahassee, FL	No	N/A
Vancouver, BC	No	N/A
Summary	N/A	N/A

Table 15: Additional Comments

	Additional Comments?
Henderson, NV	Our organizational structure provides for separation between the entitlement process and the permit process. Entitlement staff work directly for the Community Development Department. Permitting staff come from City Clerk's Office, Building & Fire Safety, Public Works, Utility Services, and the DSC Manager's Office. Attached is a link to our CABR - under the performance budget section are detailed descriptions and related staffing numbers.
New York City	Planning Department and Building Department are separate agencies. Most development in NYC is "as of right" and does not require approval by Planning Department. Buildings Department is responsible for all construction permit issuance and for enforcement of all zoning requirements.
San Jose	Written policies for writing conditions are being developed as part of the Project Management guide referenced earlier.
Tallahassee	It is important to note that I work for the Growth Management Department—not the Planning Department. Growth Management handles site plans, environmental permits, concurrency, and building permits. All of my answers to the questions above about “planning” were answered from the perspective of Growth Management. In other words, I answered as if I were substituting Growth Management for planning.

Ranking of Recommendations

Section Number	Summary Description of Findings	Ranking Code	Recommendations
1. Imposing Entitlement Conditions	<p>Finding #1: Outdated community plans contribute to discretion in approving development projects.</p> <p>Finding #2: Decision makers impose conditions of approval that are unclear and not specific.</p>	N	<p>The Director of Planning should:</p> <p>1.1 In consultation with the City Planning Commission, develop internal policies that clarify the Department's roles, responsibilities and authority for recommending development project conditions not addressed by the Planning and Zoning Code or specific plans, and submit these policies to the Mayor for approval.</p>
		N	<p>1.2 Recommend to the City Council new or updated Planning and Zoning Code provisions when the Planning and Zoning Code fail to address current zoning or development needs</p>
		N	<p>1.3 Develop and implement formal written quantitative standards for recommending conditions covering common development issues that are not addressed by the Planning and Zoning Code or specific plans.</p>
		N	<p>1.4 Develop guidelines for development project site plan review and sign-off for development project conditions that are by definition qualitative and non-specific, such as design review.</p>

Section Number	Summary Description of Findings	Ranking Code	Recommendations
<p>2. Imposing Conditions for Public Improvements</p>	<p>Finding #3: The Department of City Planning has inadequate procedures to distribute project applications.</p>	N	<p>The Mayor should:</p> <p>2.1 Direct the 12 to 2 Committee, in conjunction with the Director of Planning, to define the role of the Department of City Planning in managing the development process including consideration of the costs and benefits of delegating authority to the Department over all departments in terms of their roles in the development project approval process(see Recommendation 4.1).</p>
	<p>Finding #4: The Department of City Planning does not actively manage application review by other City departments.</p>		<p>The Director of Planning, in conjunction with the 12 to 2 Committee, should:</p>
	<p>Finding #5: The decision maker includes non-specific or place holder conditions for public improvements in the determination letter when other City departments fail to provide recommendations.</p>	N	<p>2.2 Establish procedures to ensure timely submission of specific recommendations for conditions of approval to the Department of City Planning (see Recommendations 4.5 (a) and 5.2).</p>
	<p>Finding #6: The decision maker can impose non-specific, unclear, and non-uniform conditions for public improvements.</p>	N	<p>2.3 Evaluate City departments' standard conditions to ensure specific, non-redundant, and clearly numbered conditions of approval in the determination letter.</p>
<p>Finding #7: Neither the 12 to 2 Committee nor the implementation of CDMS address timely, clearly-written, or specific conditions of approval.</p>	N	<p>2.4 Develop procedures for uniform application of conditions of approval to comparable development projects.</p>	

Section Number	Summary Description of Findings	Ranking Code	Recommendations
<p>3. Ensuring that Conditions of Approval are Met Before the Building Permit is Issued</p>	<p>Finding #8: The Department of City Planning lacks standard review and documentation procedures.</p>	<p>N</p>	<p>The Director of Planning should:</p> <p>3.1 Develop and implement formal written department-wide documentation standards for clearing conditions on final project site plans, including a system to identify how the site plan conforms to the specific conditions of approval (see Recommendation 5.5).</p>
	<p>Finding #9: The Department of City Planning and Department of Building and Safety lack coordinated project plan review.</p>	<p>N</p>	<p>3.2 Develop and implement a formal written department-wide document retention policy.</p>
		<p>N</p>	<p>3.3 In conjunction with the General Manager of the Department of Building and Safety, develop formal written guidelines and control procedures to ensure that the Department of City Planning (1) is notified of all project modifications that materially change the project and (2) reviews all material project modifications made by the Department of Building and Safety.</p>

Section Number	Summary Description of Findings	Ranking Code	Recommendations
<p>4. Monitoring Project Construction and Completion</p>	<p>Finding #10: The Department of City Planning lacks monitoring of landscaping or architectural conditions.</p> <p>Finding #11: The City has no interdepartmental process to resolve disputes.</p> <p>Finding #12: Non-specific conditions of approval are not consistently implemented in the completed project.</p> <p>Finding #13: The Department of City Planning lacks oversight of construction project interim change authorizations.</p> <p>Finding #14: The Department of Public Works did not enforce completion of public improvements prior to the temporary Certificate of Occupancy.</p> <p>Finding #15: The Department of City Planning lacks enforcement resources.</p>	<p>N</p> <p>N</p> <p>N</p>	<p>The Mayor should:</p> <p>4.1 Define the role of the Department of City Planning as the project manager for development projects.</p> <p>4.2 Direct the 12 to 2 Committee to define the responsibility of the Department of City Planning, Department of Public Works, and Department of Building and Safety for resolving disputes.</p> <p>The Director of Planning should:</p> <p>4.3 In conjunction with the General Manager of the Department of Building and Safety, City Engineer, and Director of the Bureau of Contract Administration, develop procedures and control processes to ensure notification of the Department of City Planning for project changes during construction.</p>

Section Number	Summary Description of Findings	Ranking Code	Recommendations
4. Monitoring Project Construction and Completion (continued)		N	<p>The City Engineer should:</p> <p>4.6 In conjunction with the Director of Planning and the General Manager for the Department of Building and Safety, establish procedures to ensure: (a) notification of the Department of City Planning for material project changes (see Recommendation 4.3); and (b) Department of City Planning review of the final project for compliance with entitlement conditions prior to the Certificate of Occupancy</p>
5. CDMS Implementation	<p>Finding #16: CDMS can improve inefficient procedures but cannot fix inadequate City processes.</p> <p>Finding #17: Implementation of CDMS creates multiple City systems to track development project conditions of approval without a plan to coordinate systems.</p>	<p>N</p> <p>N</p> <p>N</p> <p>N</p>	<p>The Director of Planning should:</p> <p>5.1 Develop and implement written department-wide procedures for distributing development project applications to other City departments.</p> <p>5.2 Develop monthly reports no later than June 30, 2009 for submission to the Mayor and City Council: (a) identifying standards for City departments' timely submission of recommendations for conditions of approval; and (b) tracking City departments' compliance with these standards.</p> <p>5.3 Review the Department of City Planning's standard conditions entered into CDMS and revise or delete non-specific or unclear conditions.</p> <p>5.4 Develop and implement written department-wide procedures for writing specific and clear conditions (see Recommendation 1.2).</p>

Section Number	Summary Description of Findings	Ranking Code	Recommendations
5. CDMS Implementation (continued)		N	<p>The Director of Planning should:</p> <p>5.5 Develop and implement written department-wide procedures for: (a) documenting how the final development project site plan addresses the project's conditions of approval (see Recommendation 3.1); and (b) retaining site plan documentation in the Department's formal files (see Recommendation 3.2).</p>
		N	<p>5.6 Develop a long-term implementation plan for CDMS that: (a) includes the Information Technology Agency in the planning and coordination of CDMS with the Department of Building and Safety's and Bureau of Engineering's systems; (b) identifies the costs and timelines for coordinating systems among the Department of City Planning, the Department of Building and Safety, and the Bureau of Engineering; (c) identifies the costs and timelines for implementing CDMS capabilities to generate determination letters; and (d) identifies the costs and timelines for entering case data for completed projects into CDMS.</p>

Section Number	Summary Description of Findings	Ranking Code	Recommendations
6. Costs of Maintaining Public Improvements	Finding #18: City departments do not consistently track and budget for public improvements imposed as conditions of approval for development projects.	N	The Mayor should: 6.1 Direct the City Administrative Officer to require department and bureau directors to evaluate all public improvement maintenance revenues annually to ensure coverage of maintenance costs.
	Finding #19: Some City departments do not collect sufficient fee revenues to fully recover costs associated with public improvements.	N	6.2 Direct the City Administrative Officer to develop a fee structure that includes maintenance fees for all public improvements resulting from development project conditions of approval.
		N	The City Council should: 6.3 Take actions to ensure that special services are fully covered by related fees, including a requirement for all fees for special services to be updated on a periodic basis based on the U.S. Department of Labor Consumer Price Index.
		N	6.4 Determine the feasibility of increasing assessments in accordance with the requirements of Proposition 218, to ensure that all assessments are updated on a periodic basis based on the U.S. Department of Labor Consumer Price Index.

Description of Recommendation Ranking Codes

U - Urgent - The recommendation pertains to a serious or materially significant audit finding or control weakness. Due to the seriousness or significance of the matter, immediate management attention and appropriate corrective action is warranted.

N - Necessary - The recommendation pertains to a moderately significant or potentially serious audit finding or control weakness. Reasonably prompt corrective action should be

taken by management to address the matter. Recommendation should be implemented no later than six months.

D - Desirable - The recommendation pertains to an audit finding or control weakness of relatively minor significance or concern. The timing of any corrective action is left to management's discretion.

N/A - Not Applicable