



March 10, 2009

Senate Bill 375
Regional Targets Advisory Committee
c/o Lezlie Kimura
California Air Resources Board
1001 I Street
Sacramento, CA 95814

Dear Committee Members:

As a practitioner of sustainable development, I have been asked to contribute my thoughts on the important work you are undertaking with respect to S.B. 375. Professionally I have been in pursuit of models for defining sustainable communities for many years. I hope the following suggestions will be of use to you in making your recommendations.

1. **Provide meaningful CEQA incentives for 'smart growth' urban infill.** Attachment A (submitted to CARB on July 7, 2008) sets forth a defined process to strengthen CEQA against suburban sprawl, while employing CEQA to encourage the development of high quality, mixed use transit-oriented infill projects. To engender public support, it will be important to acknowledge that 'smart' infill is not a proxy for 'quality' infill. My suggestion for an expert on urban infill market demand and best practice would be Chris Leinberger.
2. **Reward cities and counties for adopting Sustainable Development General Plans.** Attachment A also provides a conversion framework for those jurisdictions most ready to adopt. Several jurisdictions have voluntarily done so previously, in recognition that truly sustainable commitment is, indeed, its own reward. OPR's own guidelines [Chapter Two] provide California cities and counties with an excellent primer for embracing Sustainable General Plans.
3. **Endorse a place-based, project-specific metric that substantially reduces GHG emissions.** This means *all* subdivisions statewide. Attachment B includes performance thresholds for renewable resource

energy, water conservation and wastewater re-use, public/private funding of transit options, walkable and bicycle friendly mixed use neighborhoods, integration of affordable workforce housing with market rate, green building standards, conservation of environmentally important areas, and the preservation of prime farm land and farm land of statewide importance.

4. **Stress the importance of supporting local economies.** Urban *and* suburban communities that support locally owned agriculture, energy, education, housing, and transportation purveyors can dramatically reduce GHG emissions. Not only through overcoming auto-centric behavior, but with reducing the excessive transportation emissions associated with importing food and electricity. We must also get away from sprawling schools, the multiple-county commute, and waiting for the state to properly fund transit. A.B. 32 provides the vehicle for greening not just our cities but our suburbs as well.

California's citizens are looking to us for meaningful reform in land use development. This recessionary economy is an opportune time to address public disaffection with the negative consequences of Euclidian zoning, economic externalities resulting from subsidized sprawl, and erosion in communal quality of life. It will take courage and patience to unravel the tragically common knots we have tied ourselves in. I ask this esteemed committee to reach beyond the narrow, specialized purview set for you. Please think systemically about what sustainable communities will need to look like in our quest to deliver a 22nd century to our children for which we need not apologize.

Thanks for your consideration.

Sincerely,

A handwritten signature in black ink, appearing to read 'Curt Johansen', with a long, sweeping horizontal line extending to the right.

Curt Johansen
Executive Vice President

Attachment A

Recommendations for Assembly Bill 32: A Proposal for Sustainable Land Use in California

By: Curt Johansen
July 7, 2008

Land use in California for decades has followed the path of least resistance, which has resulted in sprawling single-use development that causes longer commutes, congestion, air pollution, shrinking farmland inventories and exacerbates the overwhelming demands on local government budgets. Sprawling land use is currently recognized as being the most challenging dimension of transportation-related greenhouse gas emissions which, when including oil refining and drilling emissions, represent almost 50% of all greenhouse gas emissions in California. With the ambitious goals set under AB32 and Executive Order S-3-05 to reduce greenhouse gases, a concerted effort must be made to organize the various interest groups and find solutions that will result in better land use and dramatically lower vehicle miles travelled (VMT).

This proposal attempts to suggest two complementary solutions to California's current land use dilemma. The first involves tailoring the California Environmental Quality Act to better suit our collective land use vision and a second that aims to implement sustainable development statewide as specified in the Governor's Office of Planning and Research Guidelines for the General Plan process. It is this author's hope that these proposals will be considered and acted on seriously by a non-partisan commission consisting of local government representatives, regional planning body representatives, real estate developers, environmentalists and other land use experts. Ultimately, important land use legislation that levels the playing field for sustainable development while leaving land use decisions in the hands of local elected officials must be enacted to fully deliver upon the promise and logical necessity of AB 32.

Proposal Solution No. 1: New "Urban" and "Suburban/Rural" CEQA Categories

California needs to streamline its land use decision-making process so as to 'greenlight' sustainable development projects that result in lower VMT and 'redlight' sprawling suburban development projects that exacerbate congestion, air pollution, and municipal fiscal challenges. By tightening up CEQA requirements for sustainable development, expensive land entitlement challenges to Environmental Impact Report certifications by special interest groups can better be avoided, thus facilitating visionary, forward-looking, transit-oriented infill projects which, under the current system, are often the ones that experience the costliest delays.

The proposed CEQA amendment will divide future sustainable development entitlements into two distinct categories for cities and counties that employ sustainable principles in their General Plans. The first category would be an "Urban Environmental Impact Report" which would be required for *"all land use development meeting minimum mixed use density requirements that occur within existing city limits (not requiring annexation), and land not comprised of any State-mapped prime farmland and land that is not currently zoned for agriculture."* Minimum density requirements can vary from city to city, but a minimum State standard of 15 residential dwelling units per acre should be used as a qualifier for the "Urban" category when housing is included in the project. The second category would be a "Suburban/Rural Environmental Impact Report," which would be required for all other land use projects not meeting the above Urban standard. Specific implementation policies can and should be defined by each city and county as they must retain broad discretion where land use entitlements are concerned.

A sub-category of an "Urban Environmental Impact Report" would then be created within CEQA for an Urban "Fully Qualifying Project" (FQP). This will facilitate streamlined environmental review and increased protection from referendum challenge for high-quality sustainable projects. An FQP will be one that fully mitigates all of its environmental impacts to insignificance. This can be accomplished through public/private partnering including green infrastructure technologies and design expertise. As CEQA time, money, and litigation risk represent a prime and insurmountable cost obstacle for high quality, transit-oriented projects, offering an FQP option for developers and cities will shift more opportunities for investment to infill projects. The following guidelines are suggested for an Urban FQP:

- i. Mixing Uses Efficiently - The FQP uses a Specific Plan approach to mixing differing land uses (residential, office, retail, hospitality, etc. – vertically or horizontally) within a project and parameters should be set for ratios that prevent token uses added to a project.
- ii. Integrating Mixed Incomes - The FQP integrates a locally reasonable percentage of affordable housing with market rate units for qualified "moderate income" residents (80% - 120% of MHI). In-lieu fees should not be permitted for such inclusionary units.
- iii. Public Transit Component and Parking - The FQP is within a 10 minute convenient walk of public transit or provides its own shuttle/circulator bus service to connect to public transit in an efficient, cost-effective, and safe manner, irrevocably funded by the private end-users of the project. Parking limits are maximums (not, as currently, minimums), and include shared, timed on-street parking for all street level use (with angled parking, street

- narrowing, traffic calming, etc.) and structured above or below ground parking for all other uses. No surface parking lots are allowed. ¹
- iv. Community Outreach - The FQP is only eligible for entitlement following an extensive community outreach process, including monthly public forums.
 - v. Green Building - The FQP attains LEED (Leadership in Energy and Environmental Design) Silver certification or higher measurement on all constructed facilities.

For cities and counties choosing to amend their General Plans to promote sustainable development under this program, more stringent suburban/rural development standards will apply. A "Suburban/Rural" designated EIR land use application shall not be eligible for a CEQA streamlining process or greater protection from referendum. "Suburban/Rural" projects will be subject to all of the above FQP requirements plus the following additional CEQA requirement:

Community Supported Agriculture on Prime Farmland - Sustainable development includes localizing food production through Community Supported Agriculture (CSA) when prime or unique farmland or farmland of statewide importance is involved (as mapped by the California Department of Conservation). This would occur at a ratio not-to-exceed 25 new project households per new project agricultural acre preserved, permanently supported by a working CSA tied to project landowners and potentially by surrounding bioregional consumers. At least 50% of any "Suburban/Rural" classification project would result in open space, agriculture, or park uses. In all prime, statewide importance, and unique farmland projects, a minimum of 20% of the land set aside for open space, parks, and agriculture must be reserved through covenants in perpetuity and operated for local agricultural purposes. By way of example for prime farmland projects, on a project of 100 acres in size a minimum of 10 acres would be set aside for farming purposes, 40 acres for parks and open spaces, and 250 households would be permitted if the city imposed a density of 7 units per acre (e.g., 36 acres of residential and 14 acres of commercial/civic uses for jobs balance). CSA's would then be required to perform ecosystem services that would result in lowered infrastructure costs for community residents.

¹ This should have the dual benefit of increasing attractive alternatives to the automobile (and reducing parking needs) while supplementing transit ridership because the private sector is paying for the connecting private transit. The cost to the end-user is not necessarily higher because savings in reduced parking structures can be passed along. As our energy costs now become adjusted for the reality of increased demand, the scarcity of supply and escalating costs of production, public transit costs must continue to look more appealing to commuters. All projects should also include an electric car-share program for its residents and commercial workers and prioritize pedestrian and bicycle means of travel.

Proposal Solution No. 2: City and County Sustainable Development General Plans

The equally important complementary action to be taken in conjunction with the above mentioned CEQA amendment is support from the State of California to cities and counties that update their General Plans and ancillary planning policies to encourage sustainable development. This will be necessary to proceed with sustainable public infrastructure development, as well as to prepare cities and counties for the CEQA incentives that will be offered for all FQP projects.

California City and County General Plans follow Office of Planning and Research (OPR) Guidelines provided to municipalities. The 2004 Guidelines currently include an entire chapter on sustainable development and environmental justice (Chapter Two). If Sustainable Development were to become an "Incentivized Goals and Objectives" option for cities and counties as an amendment to their current General Plans, through direct financial or other material support from the State, any developer seeking to pursue an unsustainable conventional project would be resigned to seek out fewer and fewer jurisdictions during the coming decade, specifically those that take longer to amend their General Plans. In time, hopefully, options for unsustainable development would be few.

The cost of State reimbursements to cities and counties that choose to pursue sustainable development might be capped at \$1.0 million per city and county or the equivalent in other material incentives. Commencing in 2010, for example, only 50 cities/counties will be allowed to convert to a Sustainable General Plan annually, creating a sense of urgency for those cities ready to make application. Forward-thinking cities and counties understand that businesses bringing well-paying jobs already look for areas that have a diversity of housing, place-based communities, and higher quality of life indicators for their workers. In other words, areas that embrace sustainable development will benefit from the heightened interest levels of 21st century business leaders and the companies they manage. Other forms of non-cash incentives can also be proposed by State budget officials to provide equally helpful incentives to cities and counties.

By creating General Plan goals and policies that support sustainable development, the net savings benefit to California taxpayers over a 10-year span (to require all cities and counties to apply) will be exponentially greater in the form of reduced costs for everything from pollution clean-up to reductions in roadway and levee repairs to healthier adults and children and less highway congestion, air pollution and greenhouse gas emissions. A cost-benefit analysis will confirm these assumptions. These solutions, or even a close variation thereof, will result in the gradual conversion of highway commercial developers into traditional Main Street developers and tract production home builders and office park developers into sustainable, mixed use,

transit-oriented developers. We can still have 50% of our housing needs met with suburban growth, but it must become sustainable.

The Governor's Non-Partisan Commission on Sustainable Land Use

Currently, land use decision-making in California is in the hands of real estate developers and local governments, with input from regional governments and special interests via CEQA-mandated EIRs. Any of the proposed modifications outlined above to CEQA or to OPR guidelines would require the upfront support of a broad coalition of real estate developers, local government officials, regional government representatives, environmental groups, academics in the area of land use and transportation planning, and other land use experts. While such a coalition may be precedent-setting, already coalitions involving many of these groups have been created. Environmentalists are seeing the need for revisions to CEQA; economic developers see the need for more sustainable development; and an overwhelming majority of academic experts believe that our current exacerbation of VMT through Euclidian land use practice has the potential to become catastrophic. Reducing VMT includes another quality-of-life benefit: it provides more time for family members and friends to spend together, something California needs to reinforce the social contract with its citizens.

The one area where the California Air Resources Board has yet to fully realize the potential for significant greenhouse gas reductions is land use. With the aggressive goals set by Governor Schwarzenegger's Executive Order S-3-05 to reduce greenhouse gas emissions to 1990 levels by 2020 and then, in 2050, to reduce them to 80% below 1990s levels, land use and, thus, transportation patterns will have to change to realize these ambitious goals. Given that these goals have been set by the Governor's order, it seems appropriate that a non-partisan Commission on Sustainable Land Use be under the auspices of the Governor's office.

Attachment B

Place-based, project-specific thresholds for CEQA acceptance of GHG emissions reductions:

The project meets all of the below minimum performance standards, or includes equivalent mitigation measures, thus achieving a presumption of less than significant impacts related to climate change:

Construction

- Meets a GHG performance standard for construction and demolition waste achieving a minimum of 75% diversion of all C&D waste from the landfill.

Operations

- Meets an energy use performance standard defined as CEC's Tier II Energy Efficiency goal.
- Meets a water use performance standard defined as project design systems that achieve at least 30% greater potable water conservation than EPA standards, including provision for wastewater reclamation for all irrigation.
- Meets a waste performance standard defined as requiring separate composting and recycling bins in every detached residential unit and on every floor in all multi-family residential, mixed use, and all commercial structures and it includes community composting and recycling waste pick-up facilities.
- Meets a land use performance standard defined as: 1) mixing residential and commercial uses; 2) integrating of affordable workforce housing (80%-120% of MHI) within market rate units; 3) prioritizing walkable and bicycle friendly neighborhoods; 4) providing for a locally regulated range of transit options (e.g., shuttle/circulator bus and car sharing services, multi-modal transport centers with resource coordinators, bicycle sharing programs, universal transit passes, guaranteed ride-home and ride-matching services); and 5) preserving a minimum of 50% of

the developable acreage in open space, farmland and recreational use.

- All construction to achieve at least LEED Silver or equivalent building certification.
- Meets an agricultural performance standard that limits a project on prime and statewide importance, farmland [as mapped by the California Department of Conservation] to not greater than 75% of its net development acreage [i.e., a minimum of 25% of its development acreage must be conserved and set aside within covenants in perpetuity for Community Supported Agriculture and incorporate principles for sustainable agriculture].