

ROUNDTABLE ■ LAND-USE LAW

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As California runs out of green fields to build on in primary markets, developers are increasingly targeting less desirable, more complex sites either in dense urban locations or in outlying suburban markets.

But new legislation, local ordinances, legal decisions, political sentiments and market

conditions keep changing the rules on whether or how to build on brownfields, former landfills and military bases, areas with limited water access or endangered species and urban-infill locations, among others. A good lawyer may be the only way a developer can find a place to build on, much less build a project that pencils out and appeals to future tenants or buyers. Even with successful

projects, an experienced developer knows to keep an attorney close at hand in the event of legal liability down the road.

Where is the cutting edge in land use? The California Real Estate Journal gathered five real estate experts to answer this and other land-use questions. Moderated by Editor Michael Gottlieb, the panel included:

JOHN CONDAS, partner, Nissaman, Guttner, Knox & Elliot LLP

MITCHELL B. MENZER, partner, Paul, Hastings, Janofsky & Walker LLP

STEPHANIE SHAKHOVSKIY, executive director, The Center for Creative Land Recycling

MARK TARCZYNSKI, senior vice president, CB Richard Ellis

WILLIAM WALLER, partner, Pillsbury Winthrop Shaw Pittman LLP

The New Standard of Development

Q How is statewide redevelopment of a new focus in California housing, or has it become the standard practice? How would you define new high-quality work for the plan market?

A **STEPHANIE SHAKHOVSKIY** It's no longer an emergent field — it has emerged.

The market for urban infill will be increasing what we call the "horizontal effect." Right now we have the young, urban, millennial professionals in one end, and the empty nesters in the other. How can we fit in the middle-aged families who are still looking for a suburban lifestyle? For the urban centers to help urban infill, you need that full range of demographics to restore the community fabric.

A **MARK TARCZYNSKI** The prime consumer of urban infill is the young urban professionals, and the market maker, which is integrating their desires, taking the local city laws from their real estate, zoning if not zoning. They're using their downtown centers that have been...

...the worst probably used to take the best from their existing, for family living, when we have such a wonderful suburban area to accommodate families? We want the downtown working enough that the families will come and stay, but a lot of the ideas that the best is — things, new jobs, the local and downtown job regions — they're always been what I would consider to be very thoughtful about using cities.

SHAKHOVSKIY That would be case in 2000.

SHAKHOVSKIY That, obviously, but we're in a different time zone.

MITCHELL B. MENZER Traditionally we use suburban areas supporting most new residential development. Now it's a new dynamic. New residential investment is going where sites are vacant. It isn't because people will give a job market to market their services. Cities that are creating high-quality jobs can support new, or better housing. The middle areas, where the land is cheap, support retirement housing with 1.7 times long commutes. In SoCal, there's also coming areas for the inner cities, which is the plan has mostly residential, attached houses and relatively increasing jobs, nature is creating high-quality jobs and high-quality housing markets. In Southern California, there are no great previously suburban areas with no density or farm lands, are waiting for higher density and lower costs.

WILLIAM WALLER There's a Los Angeles is different than a lot of cities, as well, because Los Angeles isn't a city as much as it is a region, so we have all these different pockets of commerce. You've got downtown, you've got Century City, you've got the Miramar Corridor, you've got the San Fernando Valley, you've got Orange County, and you've got people who live throughout. So if people will want to be suburbanites, they can live in Orange Park. They can live in Thousand Oaks. They can live in a lot of very nice

neighborhoods and still have the convenience of being close to the office but not being in the downtown city environment, what a lot of us had not to be a suburban environment for being urban.

Q How do urban areas make, and the complexity of developing projects and other resources, are we seeing a shift in the types of companies bringing projects to the market?

A **JOHN CONDAS** There's a disconnect between the kinds of houses that the typical national home builder builds up — suburban family size or two stories, or single-family lots — and the high-density, higher construction houses for cities. And the many home builders are comfortable building a higher product. It's just not in the field yet.

To cope with this, many builders of town with commercial, institutional or apartment developers, companies that build higher office buildings or large apartment buildings, are becoming a part of the mix.

On the suburban market side, it is a lot more complicated than that as well. There's the urban lot of more complicated regional regulatory issues and the issues of environmental sustainability. And state agencies such as the Army Corps of Engineers, the Department of Fish and Game and U.S. Fish and Wildlife Service. The way that the past year, it wasn't common to need a biologist on every project, especially if you were

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community and that is developing/landed. But even in examples, I've been developing a project in Riverside County, you have to comply with the Western Riverside County Multiple Taxable Habitat Conservation Plan, which says every project in Riverside County now requires a survey for other species among other things.

QED: You're also seeing people who have done

WALLACE: These big suburban tract home developers, where a certain product, a certain neighborhood, who also build roads, and now the urban will probably be a very different game.

We're also an informal part of the major home builders in California, and right now most of them have less than 7 percent urban lots in their portfolios. But there's all projecting between 20 and 30 percent urban lots in the next decade. Year 19 is significant. Some of them have made other decisions. The HD Homes and also using Homes, but most of them have created these new positions of "urbanable divisions" and they have all the sort of a graduate school, who know all the low to build techniques and sustainable community things. The large subdivisions are becoming more urban, but it's very difficult particularly when you compare them with companies like Forest City who have been doing urban work for 40, 50 years.

QED: Is a couple of home builders we've heard have not been very comfortable developing high-density, high-rise condominium projects. I may be a little before their time again. In the other hand, other developers take their projects all of the time. For example, we've heard The Hillier Co., which is producing the 27-story condominium in San Diego Hills, and the Performing Arts Center. That's more the typical project for them. They're much more comfortable with that sort of project.

WALLACE: Building higher housing is the goal of development out. There are very few people who want to build these things, and you have to expect them from this.

Seeking Certainty

QED: It's a harder to achieve certainty if you're not sure that in the past it's worth the effort to build. Do you think when you have a guarantee that but just that you're planning is going to be successful is that a real distinction?

WALLACE: It's more complicated than that. Most developers are very comfortable underwriting the development risk and knowing where entitlement risks are high. They understand entitlement risk and they budget an appropriate amount of time and expense, and they demand a reasonable return for the risk.

Some cities and metropolitan agencies have become much better at creating an atmosphere of certainty and reducing entitlement risks. These cities have created leaders who have the vision and who know what they want — they understand that they are competing against other cities to high-quality development. These cities have created specific plans, provided that general plans are underwriting density where development can occur with some certainty. We're seeing more cities taking the initiative to create a vision and implement zoning that gives developers a particular direction in the past, entitlement in most cities also mean it's a major asset, when the rules writer is jurisdiction and every project will submit to the whims of the elected officials.

WALLACE: There's a lot more certainty when it comes to entitlements, and local agencies are trying to get these projects pushed through quickly. The real uncertainty and time delay come from the environmental issues.

And also need to be an industrial site that are now being redeveloped for other residential or use industrial uses. That creates uncertainty that's much out of the hands of the developer. Even the water's market that we're in right now, time periods for the disputes are stretched. There are being forced to make decisions with incomplete information, and there's just not enough time to get your arms around what the environmental risks are on the project.

You can get into a project with the best of intentions and you can have the city behind you, and all

it's better you find that you're going to be underwritten all these that you're going to get the failure on the project. That creates a lot of the risk.

WALLACE: Market risk is the biggest issue in terms of uncertainty. We have something like 18 towns in the entitlement phase of the line in Los Angeles. Are all these towns are going to get built? It's difficult.

WALLACE: Most developers are confident that they can get their project written and that they understand the risks and the market. There's a lot of uncertainty because in making the environmental and the other that entitlement risk. However, they can do a lot more to reduce the time and cost of writing projects and increase the level of certainty before investment will flow to those cities that make a reasonable level of certainty and confidence that entitlements can be obtained relatively easily.

QED: At the same time, in some cities are moving you across stages of maturity and much of it is to reduce development, other markets are not willing to be so careful in support of development.

WALLACE: The city just to a place like Santa Ana, which has been through a market with very more development. It's Newport Beach, where any new development is going to require the approval of a majority of voters. But then other places are trying to reduce the risk to reduce the uncertainty that will bring a new investment in their terms. California is a good example in West Hollywood or Pasadena. They are willing to be so low level support very high, but they are increasing the level of certainty about what kind of investment and development they want and they have a good chance of getting a their way.

The development climate is largely a function of the political economy in those towns. Developers are very good at understanding what the mayors are looking and where they will be well received.

QED: Strong local leadership is crucial. It's important local decision makers are the best because they understand that securing a development can be a vehicle for the city to achieve a lot of its goals — enhanced public facilities and amenities, a stronger local base — it's pretty straightforward economics that if you have the funding, the generally good investment climate, and then the growth and other development will be on the road.

QED: But is the real question for developers today that it has been in the past?

WALLACE: In terms of entitlement risk in Southern California, we haven't had one failed entitlement attempt since 1980, so that's a good track record.

But you do have a tremendous amount of market risk for city developers. Since 2003, construction costs have been on a climb, increasing an average of 25 percent a year since 2003. Now that the Federal Reserve has started raising rates in the past where it's not as affordable to buy a residential home anymore, demand is depressed and housing prices are flat. So construction costs are still rising.

WALLACE: Another factor is land costs — costs that you incur as soon as you start to build but before you can get your project up. That's increasing.

WALLACE: And it's that suffering from urban and you have a better environment. Our clients tell us that people must make sure and also becoming more confident.

It's the same thing, investors have huge supplies of capital on the sidelines and they are eager to get it invested. While capital has become more concerned about the market risk, the ability to exercise of available capital. They are in a competitive business community to build on



High-quality design creates value and can build support for a project in the entitlement process. Cities, both urban and suburban, are requiring a much higher level of design quality and amenities. Developing at higher densities requires even greater design skills. Developers that can deliver high-quality design economically are going to be the most successful, particularly in those cities that are demanding high-quality design as part of the entitlement process.

— MICHAEL E. WALLACE, Vice President, Jackson & Lewis LLP

and all other vital, for example, now trying to be an old line to bring in residential communities to that experience. People are making themselves along residential lines. How do you get a new line to more investors and developers?

QED: Yes, in my experience, there are joint ventures where different entities with different expertise collaborate. Each partner is doing the core pieces of the project that they feel most confident are with, and that they've had the most experience with.

WALLACE: The real issue is seeking equity. In situations in the entitlement process those that need to be willing to communicating with stakeholders, whether it's neighborhood groups, and commercial organizations or other interest groups, and to making the case for the project and making enough dialogue that they can create supporters and at least maintain potential opponents.

Developers also need design skills. High-quality design creates value and can build support for a project in the entitlement process. Cities, both urban and suburban, are requiring a much higher level of design quality and amenities. Developing at higher densities requires even greater design skills. Developers that can deliver high-quality design economically are going to be the most successful, particularly in those cities that are demanding high-quality design as part of the entitlement process.

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communities more than in the past, and there's being some forward progress in some areas. It's a very challenging environment.

Creating NPOs

WILSON: Another real factor for self-development, is the one that first actually made them

study after water issues. Finally, that's a tough, tough task for an CEQ project to try to address. However, the building industry has proposed legislation, Assembly Bill 20, which would permit a local agency from analyzing global warming's impacts in a CEQA document and the state water plan and regulations regarding greenhouse gas emission reduction standards. The legislation would be extremely helpful for the regulatory and development communities.

WILSON: It seems tedious at first, but it's a serious challenge. — It's not just a question of whether a project individually will add to global warming, but whether the project actually has taken into account that there will be global warming, that the water plan in the future may be to insure that the water supply may be less than we would want and the water supply management may be different. This is an area that will have an effect of litigation.

CEQ: We're already seeing lawsuits on that exact topic.

WILSON: The courts are going to struggle to balance a standard as to what is required to comply with CEQA with respect to global climate change. It's an area where legislation would be very helpful but it is doubtful that the legislature will provide any help because it is probably too controversial.

CEQ: How can developers protect themselves from things that are an out of their ability to control? Doesn't that put pressure on the state to not do making changes to CEQA?

WILSON: It's such a complicated and controversial issue, it's going to require the CEQ community and the climate working with their experts, to come up with a way to deal with that impact. One of the early CEQA projects were small, simple developments. Now there's climate after climate, based upon industry and consumer activities. They will start to affect the way where everyone is going to have to do their homework and figure out how to cope with analyzing these types of impacts. The local mitigation programs and CEQA-related activities. Certainly, CEQ would be helpful as a northern catalyst.

WILSON: A meaningful CEQA exemption for other projects — particularly urbanizable housing applications to help large residential projects — would be very helpful to cities that want to do enough CEQA development. I would hope that the playing field when I come to be advantages for the greenfield, suburban areas too.

Only enough environmental groups, what you would find would tend to focus on development and urban areas to improve upon them, how can we be involved in changing CEQA, particularly with respect to expanding the existing CEQA exemption. Hopefully, the legislature will return CEQA to help urban CEQA development — it's a lot of work and we're going to be able to mitigate the environmental impacts of a range of projects, when we can talk with the state and counties.

CEQ: Is there any movement back, Richard?

WILSON: There are discussions going on. Some of the legislation in Sacramento makes the CEQA really doesn't make a lot of sense for urbanizable projects. The climate is very difficult, however, CEQA is the leader and not only of an environmental but community groups, labor and adjacent businesses, too. However, it's the way we can do it and the way to do a development.

So, we have the high-visibility of CEQA and the CEQA. It's a tough fight when you get into the legislature, because, in our hand, the legislature is an institution in a lot of these groups. But, as the other hand, the way to encourage other will. The important part is it doesn't make any sense, even for an environmental perspective, to require CEQ

projects to go through the CEQ process. We're going to have a lot of work to do, but we have got to get it moving.

WILSON: There are different ways to approach CEQA when the approach would be a lot of work for qualifying CEQ development. Another would be to streamline the CEQ requirements for urban CEQ development, like the California Building Industry Association's proposal to allow an urbanizable project to do a simple CEQ that eliminates alternatives analysis, cumulative impacts or greenhouse impacts. That also has merit.

It's not a matter of not wanting them to do it, trying to prevent it from being a mitigated negative development. It may seem they are willing to do a CEQ, despite the fact that I believe most firms and some have more, because the CEQ is easier to do than an EIR. The EIR may be easier and cheaper, but it is extremely challenging. When there is a lot of opposition that may use CEQ to counter a project, the mitigation benefit of using an EIR after doesn't outweigh the risk and an EIR may be worth the additional time and expense.

Doing Due Diligence

CEQ: How has the due diligence requirements changed for land acquisition and preparation for development?

WILSON: The time period, have gotten longer, and that's a good indication of being able to fully understand the project.

How do you have the new CEQ approach to the rule, what was the other (November 1), there the CEQ's rule that defines what "all appropriate inquiry" is in connection with a Phase I investigation of any property.

The new rule has changed how people do their due diligence at a number of ways. It requires a more sophisticated environmental consultation and a more sophisticated investigation of the site. People have to go interview past owners and operators to understand the uses over the site. It requires the environmental consultants to identify site uses and to turn a lot of reports.

The added level of effort not only increases costs, but I believe, the time to get projects done. I want to be that you could start the year with all the reports, and the reports would say they were subject to obtaining the records from the interviewing the CEQ, etc. However, they have to do with time delays. The public agency would not have a lot of the studies on hand and where people can find information about a property.

WILSON: That rule is a good thing, when you're looking at a property where the company or a Phase I report and review eight under ground tanks. I'm working on a property right now where the Phase I under the property was done, my client bought it, and was enough, what he want to sell it, there's a tank. That new regulations are designed to prevent people from just buying a thing and making the use of the site. It's a similar to the property owners and the potential future activities in the future.

WILSON: The use of liability to an innocent purchaser is still the fight, and with the CEQ approach on inquiry rule. Remember that the purchaser has nothing to do with the contamination and should have no liability. While the CEQ approach really rule is a good indication, it is not enough protection for the innocent purchaser. He also has to deal with the potential for liability under state law. That's another area where, to promote the issue of urban and industrial property, we need to be able to make it consistent with the new standards for the property and not have to worry about superficial CEQA.

WILSON: The CEQ administrative rule also is

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Building high-rise housing is the apex of development now. There are very few people who want to toll those dots, and you have to respect those that do.

— JOHN WILSON, CEQ Executive

where by interviewing communities. As new residents move in they create a new constituency who oppose the real project. Look at Livermore in the Bay Area. There are nothing there but a handful of old vacant factories and warehouses, and with some political leadership and a committed real-estate agency they went gangbusters and redeveloped the community. Now they can't get anything built because they've brought in loads of CEQ new residents who don't want any more development.

CEQ: Are WADSWORTH, WADSWORTH any personal favorite — for CEQ? Please describe and be the getting more experienced?

WILSON: We're attracting a substantial population. Take downtown, for instance. We're bringing in the younger professionals. They have strong opinions and a back seat.

WILSON: Another real factor is the relatively high participation that requires time in using CEQA as a tool to increase a delay development, particularly in greenfield projects. The opposition in those areas will challenge the project based on water quality issues, water supply, water quality, air quality and even climate change. Developers are having to write environmental impact reports that are whatever that process, and to budget for time and expense for the project just to make sure it will take to defend the CEQ in litigation. The CEQA has become too just become increasingly technical and expensive and it does not lead to better projects with a better planning.

CEQ: The Center for Biological Diversity has become much more active in reporting and projects. There's been a couple of projects that we've worked on where the CEQ comment in the draft CEQ finding that the CEQ was withdrawn because it takes to address the project's impacts on global warming — which, among other things, would require

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includes a lot that some people may not know about. I want into effect Nov. 1, 2008. Someone who thought his or her project was going to close out by November 1 would still have to take any measures that had to be taken. All those 6 to 7 projects that close on or after Nov. 1, 2008 have to be updated to make sure they're compliant with the new rules if they want to proceed.



You can get into a project with the best of intentions and you can have the city behind you, and all of a sudden you find that you've got an environmental issue that really is going to put the brakes on the project. That creates a lot of the risk.

—MURRAY WILSON, PRESIDENT, MURRAY WILSON & ASSOCIATES

know that the new bill also provides. There's no fee for someone who's not in compliance, but without protection.

There have been attempts to protect the local law enforcement role in the past, some of them successful. In 2006 the same group that passed the Home Defense, which exempts owners from local jurisdiction as long as you have done all the proper steps, but if you missed something and they find it out, it is subject to the 2007 bill of complete recall.

In 2002 they amended the federal Superfund law to establish the lowest standards option. The California Law Review says that because of passage in 2004, there was an attempt to make people feel like they were protected from liability if they did all appropriate steps. But the lower bill has to be ready. Doing a Phase I still tells you what you have to do in a lot of ways.

WILSON: From the broker perspective, are people properly warned about these issues? Will the pressure to close deals quickly and aggressively make strong environmental issues enough that it forces an environmental issue?

SALZMANN: They're properly worried about it. There's a lot of concern, and especially if the deal can't close, the institutional really begin to feel it. The reality here is going to have to take and make sure they know that it's not just that it, because that party doesn't want to be left holding a Superfund bill.

The problem that doesn't have that institutional capital's view of it is because they're less interested in dealing with commercial real estate issues such as hazardous materials.

SALZMANN: There is the value we get from others. I just closed on a piece of property, and there's no get \$1 million worth of contaminated soil to remove. We got that done into a week. It's worth it.

When a property has a viable responsible party somebody will also want to use for the cleanup, but also just flow. It's the incentives that aren't have the viable responsible party credits that are being to decontaminated have to get decontaminated into a lot of trouble.

The institutional buyers have a hard time keep around the credits. They've got government or cleanup and environmental consultants to deal with the multi-institutional work you've got to think through to get these projects cleaned up and cleaned. These deals are harder to structure, and then you also what I call the liability liability game. "It's not the liability," "No, you're the liability."

Some very creative deals are being put together with innovative instruments, like environmental insurance, which has become very important. Still, in the real process, it's the real issue "location, location, location." Marketed property in San Francisco with soil contamination is a very difficult transaction even if the same contamination is both parties' LA.

Regarding liability, we obviously need to address that in California. The bill makes a significant effort in 2007 with the Superfund amendments. A lot of money followed the Superfund bill with state efforts. In California, CCR introduced legislation designed to mirror the federal effort, but what eventually resulted from that effort was a very small, complex and not very useful voluntary program designed to provide some limited liability relief to make sure you're not making a big deal out of the fact. So this is something that absolutely needs to be fixed in California.

WILSON: We need to be the living of it, too. As the laws are set up, the carrying this as being an essential process, and it's not.

SALZMANN: Oh, that's a tremendous program from the administration.

WILSON: It's a matter of time, and it can bring projects down. We need to streamline it. To get the agencies funded enough so that they can do the work and resources to projects. There's got 200 projects in front of you and it's hard to get that attention.

Elegant Density

WILSON: For the community, public agencies, and other stakeholders who feel they have a stake in development, what's the role of their opinion of density? How do they see the role of public agencies in supporting high-density, urban housing and so on?

SALZMANN: Other than the government's role in terms of increasing the number of units with what the community wants, what is to ensure the way things are. In the short answer is that the government's role does include the community doesn't.

WILSON: We have seen a lot of progress in terms of how elected officials, city staffs, and even the neighborhood groups have about density. For example, Los Angeles Mayor Antonio Villaraigosa made an important statement when he said the city needs to approach density intelligently and should have what he called "elegant density," which means density that brings with it other amenities, and not leaving a neighborhood, but also adding the facilities called for smart growth policies. There are some statements that in the past would be hard to imagine a Los Angeles Mayor saying.

—From the Roundtable on the City Planning Council

mean, I can tell you the same if the concept is entirely to density is diminished, particularly when the project is well designed and the developer reaches out to communicate with neighborhood groups. Some city council members are willing to support well-designed projects at higher densities.

San Antonio under the Texas State of Planning created a form letter which was used to inform community, and they are permitting high-density densities that they were 10 or 20 years ago. The price of land is higher, so developers need higher densities to make the project work.

Look at Denver, which is permitting with no density development at what would call medium densities because the city is now sophisticated in the way it thinks about density. There's more worry that about the actual number of units and how to the quality of design, amenities and public facilities to make a lot of an increasing population as well as density.

SALZMANN: I really depends on the site. We are seeing a lot of property that into a big piece of old industrial land, that makes the neighborhood change surrounding it, and those developers don't want a fight in the middle of the community. They want more neighborhood support, and what the city's contribution of the neighborhood type.

WILSON: This bill is a retrograde project that would remove property values. The neighborhood would higher density than in that can happen fast. They're not wanting the same, maybe study that they may have in that town.

SALZMANN: It's more communities.

WILSON: If the project is attractive and doesn't affect the neighborhood, it will have support there.

SALZMANN: I really disagree.

SALZMANN: It's important.

SALZMANN: Make it's somewhat specific. You're right in that it does depend on location. Los Angeles, you're getting communities that want to increase the way it is, if a city that it had become sensitive, and it's open to a school that I just was recently with a form about just south of South Pasadena. The community absolutely absolutely came out against high-density housing. They want to make high-density. It was four or five times in an area. They wanted the sound opinion to justify that it was going to remain a school zone.

WILSON: Is what happened?

SALZMANN: I would be willing to do a school to have a certain had been made that it was going to be a school. So that to go that a school is an issue the thing, instead of a high-density housing densities. I can tell that all the time.

Every high-density housing developer that people is, if they go into the development process that you're the solution for any new conditions other than, you can into a lot of community support to density. They want to keep things the way they are.

SALZMANN: There's too things that California has been density and so on. It's better if you just get it all from, which, you'll be so much better.

WILSON: I don't think I have mentioned anything.

SALZMANN: I agree with what you're saying about Denver and San Antonio, but in my opinion, and I'm not very well-informed in those areas, that's density would be magnets. If not huge in numbers in density.

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CONCRETE FROM THE PAST

If the city of Los Angeles is serious about staged density, officials should consider going back to density that was seen way back in the '50s when the DM was formed and they determined all of downtown Los Angeles had 12 to 1 to 1 to 1.5R.

MINZEN: There's some progress through where



Some of the leadership in Sacramento realizes that CEQA really doesn't make a lot of sense for urban-infill projects. The climate is very difficult, however, CEQA is the favorite tool not only of environmentalists but community groups, labor and adjacent businesses. So, it's the easiest and cheapest way to stop a development. So, you have this huge constituency of folks who love CEQA.

—William Minzen, Sacramento, California, environmental lawyer

ing the number of floor area, what may also be required to get to the same result, or at least a higher density, without requiring something as onerous as a variance or zoning.

WELCH: That is just a matter of selling density against the Convention Center. It's coming to the Convention Center and all of the rest that's been raised up with that.

MINZEN: It is a matter of increasing density downtown. The real challenge will be to get communities to accept greater density if there are design standards. Infill, it is to increase density around an RTD or transit-oriented area. Target areas, including areas served by the Rapid Bus lines, are the right setting for higher density. Los Angeles is now really talking about increasing the fast lane, one way of the operation that was here 20 years ago is now supporting the fast lane.

Can density with it being to get on the fast lane? There's worried that the fast lane may also turn to some less than a large change.

CONRAD: You can place that place where there is a 100-foot, and the idea of increasing density is terrible, but there are many jurisdictions where the environmental and neighborhood claims are higher density is beneficial.

Look at things like, for example, in one town, there has increased density near the airport. Other than that and before we talking out. There are other jurisdictions, which started out as lower density suburbs, but now are almost entirely built out with the only viable development is one consisting of converting into cities.

In the other hand, the county of Riverside's general plan, updated in 2010, allows extremely high density in certain areas, which are not being used for agriculture. There's trying to get through from what is urban and also suburban areas. The issue of the market and the county will accept that, but the point is that these low density/low growth densities that we read about in the other part require in the future of the Riverside Planning Association is getting together among city planners and enlightened citizens. We are going to get higher density, it's the only way to start to get the amenities they want, groceries, the parks, the schools, and to serve the citizens who need housing.

Adding to the Regulatory Toolbox

ONE: What regulatory tools are we missing to facilitate development, but the market has already recognized that we need?

MINZEN: One market thing that could be done is to have more attention paid to the Housing Element update process. We are working on a model in Santa Barbara County and the county was referred to the state Department of Housing and Community Development. But the department would not certify the housing element unless the county provides data for affordable housing. Under California law the housing element has to be adopted and implemented for years, and then it has to be certified by HUD.

In that is at least one, what wouldn't require any legislation at all, is to have HUD jurisdiction to housing that for some of the right's housing needs. If they don't, then they would not get their housing element certified, and certainly that would be enough to get a lot of attention if someone housing needs to compel the city to have a housing element that is at least one complete set of rules.

From that what Santa Barbara County is doing is just a combination of what you just said.

WELCH: The way is to have incentives to private owners from local environmental issues.

MINZEN: Housing in the zoning requirements would be a great but important requirement when adding density usually means integrated or structural zoning. For a number of projects I've been working on, following the zoning requirements in the zoning code frustrated the project's economic.

Integrated zoning, or even deregulated, structural zoning, can be \$20,000 to \$25,000 a year, and after the buyer don't need her zoning issues. Some cities have reduced zoning requirements in downtown areas and for developers to take low many spaces are needed. Other cities, such as San Francisco and Portland, have imposed zoning requirements will allow the fast lane a quarter century per unit locally required. The downtown San Francisco had some units, some are used or more, still more sustainable zoning requirements, as well as to allow to increase density and the flexibility of some projects.

WELCH: The zoning requirements that you're talking about are obvious, and they add these zoning requirements to urban-infill areas that have access to very good mass transit, or mass transit that will be very good in the very near future.

I really believe that, in our urban-infill areas, zoning requirements need to be adjusted downward, instead of the top-down rule, which is just meant to be.

MINZEN: I should be driven by the market, and decisions should be given the flexibility they need, particularly in areas like downtown or areas that have good access to transit.

In other parts, there are the will not do it or now with shared parking, such as by building parking structures that can be used by commercial users

or commercial. Adding the city and residential users at night. We have to have zoning structures that of course at night, in the context of expanding at times, zoning could be utilized to some other residential developments. I would be a big win, and would help address better flexibility.

WELCH: CEQA needs to be reformed and in 10 housing needs to be reformed from the CEQA process.

We just passed the biggest infrastructure and housing needs in the history of the state. The author of the housing bill, Steve Lamm (President for the city), conceptualized not only the need to address affordable housing and affordable development, but to protect people that he would be sure they would get their units built if the land passed. So we need to help him lead the process in that way.

MINZEN: There also can help to updating their zoning codes. The city of Los Angeles has helped build housing by amending the residential zoning code, the smallest ordinance. The HUD mandate does, the zoning housing ordinance and other to follow. All of these measures before needed for entitlement process.

There were problems as well as the method for densities that exist in the zoning codes of around many cities in Southern California that's based on a 1940s or 1970s zoning model. So updating zoning codes would be a great win.

ONE: One tool still in play is rezoning through ambient density. With Proposition 53's failure, how do you see the rest of that issue in the coming year?

WELCH: It is hard. The authors of Prop. 53 do have to see that some rezoning will be viable, and the time there is not focused on the zoning needs, to there is an effort among some of the affected jurisdictions to attempt legislation that would be done in the proposition's aftermath.

Addressing Affordable Housing

ONE: Affordable housing remains a significant and growing challenge in the country. Is there an answer? Does it rest with developers?

MINZEN: Unfortunately, the last general election means just raised the bar for the majority of needed to exist. In Los Angeles, \$1 billion would have been available to increase affordable housing. That's a large majority of \$1 billion, but not enough to meet the need for the need. The same funds would have created the larger number of affordable housing units.

In the future, necessary resources being to going to be very constrained, and even if it were allowed I would not create enough units to begin to meet the need. Therefore, necessary program's begin to address the surface in areas of the number of families that will not have affordable housing.

Necessary resources being available would a few moderate units being built — probably 10 is needed to be used housing. The city also will need to address the higher density before that is possible under Section 170.20 and the need will be a substantial commitment being to building affordable housing.

WELCH: An innovative housing ordinance would be a regulation on all developments. I would suggest housing development, what is the problem is one of need, with all of CEQA and DM and 1990 Plan and stuff like that, I decrease the supply of housing, and that's why we have an affordable housing problem.

One with parts of that and very little regulation to support housing development, such as when, Chicago, Dallas, Denver and San Diego, have high density buildings and no affordable problem. We have an affordable problem because in 20 or 30 years, we have government housing development. —continued on page 42

DEVELOPMENT HAS TO BE

most. We look at how development through housing adds to our demand, as expressed by the number of jobs that have grown, the always-high shortage of housing, and that's why cities continue to go up and efficiently suffer.

The other area that needs to see change is our regulatory process. There is no such thing as a pain-free housing plan. To get your housing plan

passed, you're going to encourage housing production as a means for these governments to achieve certain goals.

WENZEL: An absolute blanket prohibition on rezoning industrial land would be a mistake in my judgment. The city of Los Angeles needs to make thoughtful decisions about whether specific industrial land is truly suitable for modern industrial use.

Los Angeles has some very high-quality industrial sites, with large lots, plenty of parking, wide streets and ample infrastructure to handle the manufacturing and other areas should be protected. I also see industrial land that is marginal at best, with small lots, obsolete buildings, real estate sitting on the street that can be repurposed to create high-quality, transit-oriented, three-story mixed-use developments that can serve a higher use, be more valuable and help meet the need to build more housing, as well as massive projects.

WALSH: It is one of the reasons property owners would like to have an intelligent plan that would allow them to sell off their property at a higher rate for redevelopment, right now though, the city has issued a blanket moratorium that says there shouldn't be any rezoning of industrial land to permit residential use and some limited I, which has essentially blocked everybody's property. Nothing is moving except for industrial use. So there are a lot of very good candidates out there.

WENZEL: There is a need to confer between residential and industrial users and housing, residential and industrial zoning codes, residential users to consider what uses, truck traffic and other industrial effects. Property owners should be able to process zoning requests and if they can mitigate against the effects of being an industrial user.

WALSH: From these discussions, we've formed an industrial advisory task force, which Bill and I took out on. I was a city steering group because the panel needs to have a spectrum of opinions. We have the "Industrial Task Force" on one side who appear to be coming together and getting the message. Then we have the "Industrial Issue Task Force" who appear to be looking at rezoning jobs. In our city and we need to address our industrial base.

Bill and I were in the middle, saying there's probably some industrial space that needs to be preserved and a lot of obsolete space that could be better used. Unfortunately, I have the most difficult time to be done.

WENZEL: The Planning Department is studying industrial areas and will be making recommendations. It will be very interesting to see what, if any thing, is going to happen.

WALSH: I don't know that anything is being pushed other than they're trying to shift some sort of plan and they're trying to distribute it and get public comment on it. The thing to study is just how many high-paying industrial jobs are out there? In the warehouse and distribution world is mostly relatively low-paying jobs. There's no manufacturing in these older low industrial buildings.

WENZEL: Well, there's always the need for high-tech or fashion.

WALSH: It is not.

One of the things that we see after you get residential use is making residential, and it's almost always, health, is the complaint. The first thing these new residents do is call their City Council person about the trucks coming up at 3 a.m., and the results are pretty much the residential use gets and then, so we're seeing a lot of the residential use getting their uses. When they see a sub-

statement, particularly housing, coming in real time, they are getting agitated. So, if you're looking at zoning residential use, you really have to take it very seriously.

Final Thoughts

WENZEL: It is an increasingly complex investment and development marketplace, what are the most vital skills to have today to shepherd these new kinds of projects forward in California?

WALSH: You're going to have a sophisticated real-estate developer.

WENZEL: In addition to expertise in finance, law, environmental, CDD and land use, urban design is critical for creating a project that brings value and will be successful in the entitlement process.

WALSH: You have to have political savvy, especially in Los Angeles. That is why one of the very large development companies are facing a lot of these projects. It's not just the money is at the heart of it, and the culture to go through a few to even get an entitlement process.

WALSH: Politics, and a high amount of money. We're willing to continue every day, we're in, go it again and they are here again that will not, that's what I will come down.

WENZEL: There's a wide area where you can't do zoning, depending on what you're developing. I see a lot of things where you're developing, you're going to have residential construction, you're going to have building high-rise or low-rise building, but you're not.

You're going to have an environmental team that has members in local and national, because there's more likely to be local, national, a lot of time, but they're probably will understand projects such as traffic and suburban infrastructure.

You're going to have really strong architecture and design and planning skills, because so many people will be looking at projects in other ways.

For industrial and residential projects, you need a strong design and a really quality report, because these regulatory agencies aren't subject to state get guidelines when they process permits. These agencies generally don't have a national process for anything as not politically sensitive.

For IIR projects, effective government use beneficiaries are more to focus on government's case on these projects. I can't imagine to give you a project to the city of Los Angeles without an effective government relations team. In addition, an expert in community relations is crucial since other neighborhood groups are not established and influential.

By industrial projects, effective government relations requires also an expert, business deals is more needed if the government will be opposed to neighborhood groups, because most of these areas aren't as developed from a community standpoint.

How intensive and good planning is a thing that all areas and the overall strategies are different. In all areas, it's the design and project components, it involves and suburban development, the key is to provide the parks, schools or use open spaces, because these will help set the project back to the decision-makers and the citizens who are going to be in the community.

WALSH: The final will set is you're going to have good timing.

WALSH: Time and money happens to be it.

WENZEL: There's been some discussions with the business, which reflects the challenges facing the real estate community as it attempts to make deals with the municipalities. There are few things to put our finger on the pulse of land use today. ■



'New initiatives and good planning fit flowing into all areas and the needed amenities are different, in all areas, it's the design and project components, in suburban and suburban development, the key is to provide the parks, schools or use open spaces, because these will help set the project back to the decision-makers and the citizens who end up being in that community.

—WALSH, Senior Vice President

market, and the investor can change it at the end, regardless of what the owner signed. The investor actually has to provide with 20-year that an 11, 11, and 10 percent higher because a some investors had it in the form.

WENZEL: OK, William and the investor process — all the needs to be developed in using or more space. When space will have housing from these used would mean that they become more efficient.

Recycling Industrial

WENZEL: What needs are you seeing in the recycling of former industrial land? Are we going in the right direction to facilitate controlled industrial space?

WALSH: In Orange County with the city of Brea, we are seeing a number of cases. The city of Brea was known for being where they started special zoning and planning regulations for the Placentia Triangle area near Anaheim Stadium, which was an industrial industrial area. The new rules allow very high density for residential use, which is leading to a massive conversion of industrial uses.

There's a lot of things that we see after you get residential use is making residential, and it's almost always, health, is the complaint. The first thing these new residents do is call their City Council person about the trucks coming up at 3 a.m., and the results are pretty much the residential use gets and then, so we're seeing a lot of the residential use getting their uses. When they see a sub-

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Shakofsky began her career as a research hydrologist at the U.S. Geological Survey, where for six years she worked in the contaminant hydrology program advancing the science of contaminant fate and transport. She has also worked as a technical analyst for the California State Legislature, providing analysis of environmental regulation and legislative reports on topical issues including the state of brownfield redevelopment in California.

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Tarczynski provides private capital and institutional property investors with strategic planning, repositioning, and disposition services for their commercial real estate portfolios. He works with investor-owned cooperatives for Adaptive Reuse Housing Development projects and land primarily in Downtown Los Angeles.

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