



# ALSTON & BIRD LAND USE MATTERS

A publication of Alston & Bird's Land Use Group

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Each month, *Land Use Matters* will provide information and insights into legal and regulatory developments, primarily at the Los Angeles City and County levels, affecting land use matters, as well as new CEQA appellate decisions.

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## City of Los Angeles

### **City Council**

#### ***City Council Approves Plan for a Healthy Los Angeles***

The Plan for a Healthy Los Angeles, a new element of the General Plan, was approved by the city council in March 2015. The plan acknowledges the relationship between public health and issues such as transportation, housing, environmental justice and open space. Click [here](#) to review the new Health and Wellness Element.

### **Department of City Planning**

#### ***City Planning Commission Approves Mobility Plan 2035***

On May 28, 2015, the City Planning Commission (CPC) voted to approve Mobility Plan 2035, an update to the 1999 Transportation Element of the General Plan. Mobility Plan 2035 contains a full range of mobility options, including public transit, driving, bicycling, walking and car sharing. The plan includes new street standards and Complete Streets Design Guidelines. A Five Year Implementation Strategy that prioritizes various programs is also provided for informational purposes and is not intended to be adopted by the city council. The CPC directed staff to prepare a report on the implementation strategy for presentation at a future meeting. The plan will be sent to the mayor for approval and the city council for consideration and adoption of the draft resolution. A copy of Mobility Plan 2035 and supporting documents can be found [here](#).

#### ***Clean Up Green Up Supplemental Use District***

In an effort to reduce cumulative health impacts resulting from incompatible land uses, a Clean Up Green Up (CUGU) Supplemental Use District (SUD) is proposed for Boyle Heights, Pacoima/Sun Valley and Wilmington. As proposed, the CUGU SUD will create new development standards, but will not change the allowable uses or density of the underlying zone. The establishment of a citywide conditional use for asphalt manufacturing and refinery facilities is also proposed. The ordinance is opposed by a number of business organizations. In June, the CPC is conducting a series of public hearings on the proposed ordinance, and the last day to submit written comments is July 13, 2015. The CPC hearing is scheduled for August 13, 2015. Click [here](#) to obtain a copy of the draft CUGU ordinance and the public hearing notice.

## ***Exposition Corridor Transit Neighborhood Plan***

The draft Exposition Corridor Transit Neighborhood Plan (Expo TNP) proposes to establish new zoning and development standards and a review process for properties located within a half-mile of the Expo line between the Culver City station and future Expo/Bundy station. A draft of the Expo TNP was released in January 2015, and on May 14, 2015, the CPC released the draft Urban Design Standards, draft Urban Design Guidelines and draft Exposition Corridor Streetscape Plan. Community workshops and a public hearing are anticipated for later this year. Click [here](#) to download the various Expo TNP documents.

## **California Environmental Quality Act**

### ***Keep Our Mountains Quiet v. County of Santa Clara (6th App. Dist., 5/7/15)***

The 6th District Court of Appeal invalidated a mitigated negative declaration (MND) that the county had prepared in connection with its approval of a use permit authorizing 28 special events (e.g., weddings) on a property in the Santa Cruz Mountains. The court found that substantial evidence supported a “fair argument” that significant noise and traffic impacts could occur, thereby requiring preparation of an environmental impact report (EIR). The court mostly relied on testimony from owners of properties surrounding the project site concerning the level of noise during prior special events. The county had concluded that while such noise could be heard by neighboring residences, the level of noise complied with the standards in the General Plan. The court held that the noise standards in a General Plan are not dispositive and that a fair argument can be made that a project would have significant noise impacts “even if other evidence shows the Project will not generate noise in excess of the County’s noise ordinance and General Plan.” (The court particularly relied on the standard in Appendix G in the CEQA Guidelines concerning noise impacts.) The court found that a fair argument could be made that there would be significant traffic impacts because of the increase in the volume of traffic on a “narrow, windy, substandard road with a history of accidents,” even though Caltrans had concluded that the project would pose no significant traffic or road safety impacts.

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### ***Banning Ranch Conservancy v. City of Newport Beach (4th App. Dist., 5/20/15)***

The 4th District Court of Appeal upheld an EIR prepared for a master planned project to be developed on 400 acres of land in the City of Newport Beach (Banning Ranch). Currently, Banning Ranch consists of largely undeveloped coastal property. The property is excluded from the scope of the city’s Coastal Land Use Plan as a “deferred certification area,” which subjects the property to the jurisdiction of the Coastal Commission for issuance of a coastal development permit. The city prepared an EIR for the entitlements to be granted by the city, which included an extensive evaluation of the property and its biological resources. The court rejected the two primary claims advanced against the city’s certification of the EIR and approval of the project. First, the court held that the EIR did not need to determine whether areas on the property constituted an Ecological Sensitive Habitat Area (ESHA) because such determination lies with the Coastal Commission. Second, the court held that great deference had to be accorded to the city’s interpretation of its General Plan regarding the issue of whether the General Plan required the city to obtain Coastal Commission approval of the project prior to acting on it.

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