THE ENVELOPE PLEASE...
INTRODUCTIONS

- Joanna Jansen, AICP, LEED AP, *PlaceWorks*
- Christian Cebrian, *Cox, Castle & Nicholson – legal framework*
- Andrew Crabtree, Director of Community Development, *City of Santa Clara*
Is it ever ok to analyze something less than full buildout as the “envelope” of development? When and why?

How can you do it defensibly?

Christian: legal framework

Joanna: methodology

Andrew: practitioner experience
Maximum buildout
- Full buildout
- Theoretical buildout
- Long-term buildout

Maximum development of every parcel allowable based on planning policy and regulations

Horizon development
- Projected development
- 2035 development
- Near term buildout

Something less than full buildout; the amount of development that is “reasonably foreseeable” within the lifetime of the plan.
PURPOSES OF CEQA

- Disclosure of Impacts
- Identify Mitigation
- Reduce Impacts

Accountability
THREE STEPS OF CEQA

1. "Project"?
2. Exempt?
3. Document
“The degree of specificity required in an EIR will correspond to the degree of specificity involved in the underlying activity which is described in the EIR[¶]... An EIR on a construction project will necessarily be more detailed in the specific effects of the project than will be an EIR on the adoption of a local general plan....” (Guidelines § 15146.)

A “Project EIR” examines the impacts of a specific development project. (Guidelines § 15161)
PROGRAM LEVEL EIR

- Prepared for a series of actions that can be characterized as one large project
- Includes projects related to adoption of plans.
- Vehicle to analyze broad policy considerations and program-wide mitigation measures at a time of greater flexibility. (Guidelines § 15168(b).)
- If a later activity is within the scope of the program or plan, you can streamline the environmental review of later activities.
ANALYSIS OF IMPACTS

- An EIR must analyze both the direct physical changes to the environment resulting from a project as well as the “reasonably foreseeable” indirect environmental impacts of a project. (Guidelines § 15064(d).)

- Indirect impacts, such as those that could result from a legislative planning action, do not include speculative impacts or impacts that are unlikely to occur. (Guidelines § 15064(d)(3).)
ANALYSIS OF IMPACTS

- An EIR for actions such as a “the adoption or amendment of a comprehensive zoning ordinance or a local general plan should focus on the secondary effects “that can be expected to follow” from that action. (CEQA Guidelines § 15146(b) [emphasis added].)

- An “EIR is not required to engage in speculation in order to analyze a ‘worst case scenario.’” (Napa Citizens for Honest Government v. Napa County Bd. of Supervisors (2001) 91 Cal.App.4th 342, 373.)
“It has long been recognized that premature attempts to evaluate effects that are uncertain to occur or whose severity cannot reliably be measured is ‘a needlessly wasteful drain of the public fisc.’” (Environmental Council of Sacramento v. City of Sacramento (2006) 142 Cal.App.4th 1018.)
ANALYSIS OF IMPACTS

“an EIR must include an analysis of the environmental effects of future expansion or other action if:

(1) it is a reasonably foreseeable consequence of the initial project; and

(2) the future expansion or action will be significant in that it will likely change the scope or nature of the initial project or its environmental effects."

(Laurel Heights Improvement Assn. v. Regents of University of California (1988) 47 Cal.3d 376.)
WHAT IS SUBSTANTIAL EVIDENCE?

- Includes facts, reasonable inferences based on facts, expert opinion based on facts.

- Does not include argument, speculation, unsubstantiated opinion, erroneous information. (CEQA § 21080(e); Guidelines § 15384.)

- A reasonable buildout assumption, reflecting impacts “expected” to occur as a result of a planning action, should be supported by substantial evidence.
Zoning applicable to a residential subdivision project arguably permitted accessory dwelling units by right.

The court held that the EIR was not required to have analyzed the environmental impacts associated with those potential secondary units.

“Even if the building of some second units might be foreseeable, it is impossible to predict how many units will be built, the size of such units, on which lots they might be built, their location within a lot, the visibility of a second unit from outside the subdivision, or how such units might impact the environment.”
Specific Plan EIR not required to analyze maximum buildout.

EIR determined reasonable buildout scenario based on parcels likely to redevelop and reasonable densities on those parcels using market analyses.
BUT SEE . . .

- Bozung v. LAFCO (1975) 13 Cal. 3d 263
- City of Carmel-by-the-Sea v. County of Monterey (1986) 183 Cal.App.3d 229
PROS OF REASONABLE BUILDOUT

- Overestimating development exaggerates potential impacts and scares the community.

- May lead to alteration of land plan that does not meet community’s long term needs due to misperception of the impacts of the proposed plan.

- Overestimating buildout leads to over-mitigating.
The comment will come that assumptions underestimate impacts.

May reduce opportunities for streamlining and tiering.

Might be better to bite bullet on opposition to growth.
- Do a full EIR (not a Neg Dec)
- CEQA requires analysis of full buildout - “the whole of the action.”
- Horizon development assumptions are too low
- Analyzing horizon development misleads public and decision-makers
FORECAST CAREFULLY

- Must be defensible (more on this next)
- Err on the side of overestimating (but not grossly)
- Check against benchmarks and adjust if necessary
Pipeline projects
USE – AND DOCUMENT! - DATA

- Pipeline projects
- Adopted Specific Plans
Pipeline projects
Adopted Specific Plans
Permit history – rate, density
Figure 1: Building Permits in Vacaville by Unit Type, 2000-2009

Note: (a) 2010 data was not included because only partial data is available.
USE – AND DOCUMENT! - DATA

- Pipeline projects
- Adopted Specific Plans
- Permit history – rate, density
- Demographics – past and future
FIGURE 3.6  Age Distribution over Time  
(1990, 2000, 2010 and 2013)

Pipeline projects
Adopted Specific Plans
Permit history – rate, density
Demographics – past and future
Market analyses
<table>
<thead>
<tr>
<th>Population</th>
<th>16,769</th>
</tr>
</thead>
<tbody>
<tr>
<td>Households</td>
<td>5,700</td>
</tr>
<tr>
<td>Family HHs</td>
<td>72%</td>
</tr>
<tr>
<td>Non-Family HHs</td>
<td>28%</td>
</tr>
<tr>
<td>Average HH Size</td>
<td>2.78</td>
</tr>
<tr>
<td>Household Income</td>
<td></td>
</tr>
<tr>
<td>Less than $75,000</td>
<td>60%</td>
</tr>
<tr>
<td>$75,000 to $150,000</td>
<td>33%</td>
</tr>
<tr>
<td>$150,000 or More</td>
<td>7%</td>
</tr>
<tr>
<td>Median Income</td>
<td>$63,723</td>
</tr>
<tr>
<td>Race / Ethnicity</td>
<td></td>
</tr>
<tr>
<td>White</td>
<td>54%</td>
</tr>
<tr>
<td>Hispanic</td>
<td>26%</td>
</tr>
<tr>
<td>African American</td>
<td>10%</td>
</tr>
<tr>
<td>Asian</td>
<td>4%</td>
</tr>
<tr>
<td>Other</td>
<td>6%</td>
</tr>
<tr>
<td>Age</td>
<td></td>
</tr>
<tr>
<td>Under 18</td>
<td>25%</td>
</tr>
<tr>
<td>18 to 64</td>
<td>65%</td>
</tr>
<tr>
<td>65+</td>
<td>10%</td>
</tr>
<tr>
<td>PM Peak Traffic Count a</td>
<td>5,268</td>
</tr>
</tbody>
</table>
Pipeline projects
Adopted Specific Plans
Permit history – rate, density
Demographics – past and future
Market analyses
Industry rules of thumb
PAST PERFORMANCE ≠ FUTURE RESULTS
PAST PERFORMANCE ≠ FUTURE RESULTS
Pipeline projects

Adopted Specific Plans

Permit history – rate, density

Demographics – past and future

Market analyses

Industry rules of thumb

Infrastructure capacity

ABAG projections
Bay Area Employment 2000-2010, Projections Through 2040
1. Calculate **full** buildout
   + Land use designations and density
   + Mix of uses
   + Possibility of subdivision
- Environmental constraints
- Space for roads and infrastructure
- Existing units/sf redeveloped
CALCULATIONS

2. Work backwards to horizon development
+ Vacant sites
+ Underutilized sites
+ Sites very likely or somewhat likely to redevelop
+ Approved and pipeline projects
<table>
<thead>
<tr>
<th><strong>SPREADSHEET COLUMNS</strong></th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Site size</strong></td>
</tr>
<tr>
<td>X Percent of site developable</td>
</tr>
<tr>
<td>X Allowed density</td>
</tr>
<tr>
<td>= Total units or SF</td>
</tr>
<tr>
<td>X Percent built by horizon year</td>
</tr>
<tr>
<td>= Horizon development</td>
</tr>
<tr>
<td><strong>Rationale</strong></td>
</tr>
</tbody>
</table>
QUANTITATIVE VS. SPATIAL

quantitative

spatial
CAUTIONS

- Show your math
- Don’t disregard full buildout
- EIR projections don’t regulate future land use
- Plan should include a trigger for additional analysis if/when horizon development is reached – IF required by CEQA
15604 (b)
The determination of whether a project may have a significant effect on the environment calls for careful judgment on the part of the public agency involved, based to the extent possible on scientific and factual data. An ironclad definition of significant effect is not always possible because the significance of an activity may vary with the setting. For example, an activity which may not be significant in an urban area may be significant in a rural area.
EXAMPLE PROJECTS

- **Vision North San Jose**
- **Envision San Jose 2040**
- **Morgan Hill 2035**
- **Santa Clara General Plan / Housing Element**
VISION NORTH SAN JOSE

2004

2030
VISION NORTH SAN JOSE
VISION NORTH SAN JOSE
VISION NORTH SAN JOSE

Project ??
ENVISION SAN JOSE 2040

- Data Driven
ENVISION SAN JOSE 2040

Ground Truthing
Plan in Context
How Much Growth Capacity?

- **ABAG Projections for 2035**
  - 340K New Jobs, 159K New Dwelling Units
- **San José 2020 General Plan**
  - 256K New Jobs, 82K New Dwelling Units
- **San José 2009**
  - 369K Jobs, 309K Dwelling Units

New Jobs (thousands) vs. New Dwelling Units (thousands)
Envision San José 2040 Study Scenarios

- New Jobs (thousands)
- New Dwelling Units (thousands)
- Jobs/Employed Resident: 0.8, 1.0, 1.1, 1.2, 1.5
- Units / Year: 2.0, 3.0, 4.0, 5.0, 6.0, 8.0

- San Jose 2009: (369K Jobs, 309K Dwelling Units)
- SJ2020:
- Scenarios 1, 2, 3 (ABAG), 4

Legend:
- Blue circle: San Jose 2009
- Green square: SJ2020
Growth Distribution
ENVISION SAN JOSE 2040

ENVISION SAN JOSE 2040 STUDY SCENARIOS

Task Force Land Use Study Scenarios Pie Chart Comparison

<table>
<thead>
<tr>
<th></th>
<th>1-C</th>
<th>2-E</th>
<th>3-K</th>
<th>4-J</th>
<th>5-H</th>
</tr>
</thead>
<tbody>
<tr>
<td>Transit Areas</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Commercial Centers</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Neighborhood Villages</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
ENVISION SAN JOSE 2040

Concept: Regional Employment Center

Existing (Jobs & DU)
- San Jose 2010: 369,000 Jobs, 312,000 DU

Planned Capacity (Jobs & DU)
- SJ 2020 General Plan: 625,000 Jobs, 391,000 DU
- Envision 2040 Plan Capacity: 839,000 Jobs, 429,000 DU
- ABAG 2035 San Jose Projection: 709,000 Jobs, 470,000 DU
- ABAG 2035 SC County Projection: 1,413,000 Jobs, 854,000 DU
“San Jose pays up to settle lawsuit that threatened general plan”
Celebrating Our Past, Present and Future
SANTA CLARA GENERAL PLAN

3 Phases

2010 - 2015
2016 - 2023
2023 - 2035
SANTA CLARA GENERAL PLAN

Job Growth vs. GP Assumption

Sq. Ft. Finaled

- GP Assumption
- Actual

Housing vs. GP Assumption

Units Finaled
- GP Assumption
- Actual


- 2011: 0 units
- 2012: 0 units
- 2013: 500 units
- 2014: 1,000 units
- 2015: 1,500 units
- 2016: 3,000 units

- 2011: 0 units
- 2012: 0 units
- 2013: 250 units
- 2014: 750 units
- 2015: 1,500 units
- 2016: 2,500 units
SANTA CLARA GENERAL PLAN

More Jobs on the Way

Forecast based on projects with planning entitlement

- GP Assumption
- Actual + Forecast
SANTA CLARA GENERAL PLAN

And More Housing on the Way

Forecast based on projects with planning entitlement
SANTA CLARA GENERAL PLAN

Housing Element Capacity Analysis
CONCLUSIONS

Be Logical
CONCLUSIONS

Use Data
CONCLUSIONS

Size Matters
CONCLUSIONS

Consider Boundaries
CONCLUSIONS

Regional Context a Consideration
CONCLUSIONS

Plans don’t determine population growth
CONCLUSIONS

Or do they?

WANTING TO LEAVE
The gap has narrowed sharply between those who say they are likely to leave the Bay Area in the next few years and those who say they are unlikely to leave.

<table>
<thead>
<tr>
<th>Year</th>
<th>Likely to leave</th>
<th>Unlikely to leave</th>
</tr>
</thead>
<tbody>
<tr>
<td>2016</td>
<td>54%</td>
<td>33%</td>
</tr>
<tr>
<td>2017</td>
<td>46%</td>
<td>40%</td>
</tr>
</tbody>
</table>

Source: Bay Area Council poll of 1,000 Bay Area residents conducted at the end of January. Margin of error was +/- 3.1 percentage points.

BAY AREA NEWS GROUP
Use CEQA as a decision making tool