Smart Growth in Rural California:

a working paper outlining
A Land Use and Investment Plan For all California

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Executive Summary

California has embarked upon a new era of land use planning that looks to the smart growth principles of compact and transit oriented development to achieve economic and environmental sustainability while furthering public health and social equity. With the passage of the Sustainable Communities Strategy and Climate Protection Act in 2009 (SB 375) and local public finance proposals, such as SB 1 (Steinberg) that would create sustainable communities investment authorities, local governments are being encouraged and incentivized to plan and invest within this framework of smart growth. Yet, many of these policies and efforts neglect and exclude some of California's most disadvantaged areas: rural, and in particular, unincorporated "legacy" communities.

Hundreds of thousands of Californians live in low-income unincorporated rural communities throughout the state. Often built informally, and subsequently subject to systematic neglect, many legacy communities lack basic municipal infrastructure and essential services and amenities resulting in compromised community health and long commutes for groceries, healthcare and even drinking water. Legacy communities continue to confront myriad and interwoven barriers to investment and are repeatedly excluded from smart growth planning processes and funding streams, as if smart growth principles were not cognizable outside of an urban setting. SB 1 is one of several legislative proposals that would perpetuate this problem by resurrecting redevelopment as a tool for funding smart growth projects, and entirely excluding rural communities.

It would be a significant loss if the State's "new framework for sustainable development" entirely excluded rural unincorporated communities. Legacy communities offer opportunities for compact infill development; walkable, mixed use neighborhoods; and housing choice available to households across a range of incomes. Investing in these communities can advance the goals of SB375 such as reducing greenhouse gas emissions, minimizing loss of farmland, and improving public health. Furthermore, investing in these communities will secure the basic living standards that other Californians enjoy, and will further the environmental and social-equity goals of smart growth.

To facilitate a conversation regarding targeted investment in these communities, we review how investing in legacy communities is consistent with smart growth principles, and propose a smart growth framework that can guide sustainable, equitable investment in legacy communities.

[1] Phoebe Seaton and Veronica Garibay are co-founders and co-directors of Leadership Counsel for Justice and Accountability. Anne Bellows received her JD from UC Berkeley School of Law in May of 2013. Our thinking on this topic was significantly shaped by conversations with residents in legacy communities in the San Joaquin Valley, who fight every day for equitable planning and investment for their communities.

Introduction

Representatives from the grassroots group Community United in Lanare stood at the podium at the Fresno Board of Supervisors meeting in March of this year, thanking the Board for recognizing Lanare as a centennial community and making one simple request: apply for a grant to update the community's 30 year old community plan – a plan that projected the community's slow demise throughout the 1980s – to facilitate affordable housing opportunities, economic development options and improved transportation and walkability.

Lanare is a rural community that developed informally in the 1950s and 1960s as African-American and Latino farmworkers seeking homeownership, community and proximity to their agricultural employment, bought parcels on installment plans from a local landowner. Due to the lack of government involvement during its initial development, the community grew without the benefit of planning, with houses strung along Mt. Whitney Avenue, a major county road, and three cross streets, no public water or wastewater system or other basic infrastructure. Lanare still bears witness to a lack of comprehensive planning as vacant lots are interspersed among homes, residents rely on contaminated drinking water and failing septic tanks, and cars speed down the residential Mt. Whitney Avenue. During the past two years, two residents were killed in pedestrian accidents on Mt. Whitney.

Community United's request to the Board was not Lanare's first attempt to partner with the County Supervisors to pursue grant funding to engage in comprehensive planning. One year earlier, the group asked Fresno County to apply for a grant under the same CalTrans planning grant program. The Board saved itself from rejecting the community's request outright by passing the opportunity off to Fresno's Metropolitan Transportation Organization. Unfortunately, the grant was not awarded in 2012.

This year, though, Community United convinced a reluctant Fresno County to apply for the grant, provided that a non-profit organization complete the grant application and that no county staff time would be used to do so.

In this era of smart growth rhetoric, Fresno County's aversion to grant funding to support a sustainable community plan update for a low-income community should be anomalous. Tragically, it is not. Rural unincorporated communities have been repeatedly refused access to the opportunities provided by smart growth planning processes and funding streams, as if smart growth principles were not cognizable outside of an urban setting.

Pending legislation would perpetuate the problem. For example SB 1 (Steinberg), designed to resurrect redevelopment[2] as a tool for funding smart growth projects, would

[2] Until 2011, redevelopment was a legal tool local governments could use to finance investment in "blighted" areas. *See generally* Cal. Health & Safety Code § 33000 et seq. Among the many powers Redevelopment granted local governments, Redevelopment Agencies (the local agency in charge of administering a Redevelopment in a given jurisdiction) retained the increases in property tax revenue to

entirely exclude rural, unincorporated communities from eligibility for its tax-increment financing scheme.[3]

It would be a significant loss if the state's "new framework for sustainable development" entirely excluded rural unincorporated communities that are among the places in California most in need of investment – particularly because those same communities have historically served, and continue to serve, crucial planning needs: affordable housing, proximity to agricultural jobs, and service catchments for rural populations. The redevelopment framework proposed by SB 1, however, would make it impossible for most rural unincorporated communities to qualify – turning away from the valuable investments that redevelopment has made possible for similar communities in the past.[4]

Ignoring these communities disserves the principles and goals of smart growth, including the crucial goal of reducing greenhouse gas emissions. Continuing to deny growth and investment in rural settlements will only lock in and even lengthen commutes: for rural residents as they are forced to travel to cities for basic goods and services, and for farmworkers as they commute from cities to their jobs in the fields. These communities offer opportunities for compact infill development, walkable neighborhoods mixing residential and commercial uses, access to parks and community space, and housing choice in distinctive, attractive communities available to households across a range of incomes. They are and should be recognized as candidates for smart growth planning.

Smart growth policies have gained a new ascendancy in California, and rightfully so, as part of the state's strategy to reduce greenhouse gas emissions and fight climate change. The 2009 passage of SB 375, the Sustainable Communities Strategy and Climate Protection Act, mandated regional planning across the state to develop land use, housing, and transportation strategies that meet greenhouse gas reduction targets.[5] SB 375 builds on prior legislative efforts that embed smart growth goals in state planning priorities and

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help cover the costs of the investment. §§ 33391, 33670. Redevelopment projects were subject to affordable housing protections and requirements. Governor Jerry Brown's administration led the effort to eliminate redevelopment in California as part of the 2011 Budget Act. AB 1484 and ABX1 26, chaptered at Chapter 26, Statutes of 2012 and Chapter 5, Statutes of 2011-12 First Extraordinary Session, respectively eliminated redevelopment.

[3] SB 1 is effectively a reintroduction of a bill passed by the legislature in 2012, SB 1156. The Governor vetoed the bill, writing in his veto message that he preferred to wait until the wind-down of prior redevelopment agencies was complete to take a "constructive look" at alternatives. (Quoted in Josh Stephens, "Brown Adds Insult to Injury with Redevelopment Vetoes," *California Planning & Development Report*, Josh Stephens Blog (Sep. 30 2012), http://www.cp-dr.com/node/3268 (last access Nov. 11, 2012). A copy of the veto message is on file with the authors of this paper) He did, however, express support for the framework, writing, "the planning and investment that is envisioned by this bill would help to develop and redevelop a California that is sustainable and thriving." (Id.) The author of the bill, Senate President Pro Tempore Darrell Steinberg, has expressed confidence that the legislature can address the wind-down issues mentioned by the governor and move forward with "a new framework for sustainable development."(Letter from Darrell Steinberg to Coalition of Supporters for SB 1156, dated October 2, 2012. Document on file with the authors)

[4] *See generally* Tony LoPresti, *Reclaiming the Authentic Future: The Role of Redevelopment in Unincorporated California*, 44 Urb. Law. 145 (2012).

[5] Stats. 2008, c. 728 (S.B. 375) §4, now codified in Cal. Gov. Code §65080

create funding for local smart growth planning efforts.[6] Municipalities have also adopted smart growth rhetoric – even in some of the unlikeliest corners of the state. In May 2010, the cities in the conservative, Central Valley county of Tulare banded together to oppose the draft update to the county General Plan, invoking SB 375 and smart growth values to justify their opposition to new development on county land, which may have also posed a fiscal threat to the cities in the competition for tax revenue.[7] It is increasingly clear that smart growth is not only an important strategy for addressing the social and environmental harms of flawed land use planning; it is also becoming a dominant paradigm for policy debates at all levels of government.

As this paradigm continues to gain force, and as California begins to implement SB 375 and other smart growth policies, there is an urgent need to consider what smart growth principles can tell us about creating more sustainable rural communities. Smart growth strategies until now have relied on quintessentially urban solutions, like improved public transportation and a preference for transit oriented development.[8] If the state as a whole is going to take on the task of reducing greenhouse gas emissions through land use policy, however, advocates, communities, and planners need strategies that can apply to the places that serve the full range of California's diverse economy. This paper proposes a conceptual framework for smart growth planning in small rural communities, like those that provide housing for agricultural laborers in the San Joaquin Valley.[9]

A Brief Word on Methodology

The perspective we present is rooted in our work with and on behalf of residents of low-income unincorporated communities in rural California.[10] Together with local residents, we have worked to navigate the laws and policies affecting planning and infrastructure investment in an effort to fill crucial service deficits running the gamut from clean water

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[6] See *Eg.* AB 857 and Proposition 84 discussed below.

[7] Letter from Shute, Mihaly & Weinberger on behalf of the Tulare County Council of Cities commenting on the Tulare County Revised Draft General Plan 2030 Update and Recirculated Draft Environmental Impact Report For Tulare County General Plan (May 26, 2010). Document on file with the authors. The cities argued that the plan opened the way for haphazard development that would consume farmland, increase greenhouse gas emissions, and negatively impact air and water quality. The plan, counsel for the cities wrote, missed "a critical opportunity for responsible planning and growth that achieves the goals of [California Global Warming Solutions Act] AB 32 and SB 375 and avoids long term environmental damage."

[8] *See*, *e.g.*, Stats. 2008, c. 728 (S.B. 375) § 14 (creating a CEQA exemption for transit priority projects, which are defined by proximity to high frequency public transportation) now codified in Cal. Pub. Resources Code §§ 21155, 21155.1. *See also* S.B. 1156 § 34191.25(a)(1) (vetoed by Governor Brown) (making transit priority projects from S.B. 375 eligible for investment through tax increment financing).

[9] While we focus on disadvantaged unincorporated communities in the San Joaquin Valley, many of these lessons will be applicable to small incorporated cities and other small communities around the state that have small populations, rural employment, and challenges in gaining access to the services and amenities more readily available in large cities.

[10] Phoebe Seaton, Veronica Garibay are co-founders and co-directors of Leadership Counsel for Justice and Accountability and work on infrastructure and planning equity issues with rural unincorporated communities Anne Bellows has supported the work of the Community Equity Initiative through the Environmental Justice Practice Project at UC Berkeley School of Law and subsequent independent research projects.

access to safe routes for children walking to school. Through this work, we have seen a frustrating tendency of county governments to walk away from opportunities to improve walkability and infrastructure quality in these places, and a failure to plan for these communities as legitimate places with their own authentic futures.

Contrasting our conversations with residents of these communities with the smart growth policy debates carried out at the state level, we have noticed that local residents have a crucial and largely untapped expertise relevant to policy proposals like the reinvention of redevelopment currently percolating in the legislature. Through a series of conversations with residents of Lanare in February through June 2012, we explored the history and geographical function of the community, raised questions about how to reduce driving, and spoke with residents about their planning priorities and policy barriers to investments that would make their community more healthy, safe, and vibrant.

We supplemented these conversations with research into the founding and historical development of Lanare and another low-income, predominantly farmworker community called Raisin City[11]; a review of historical literature regarding the development of similar communities in the San Joaquin Valley; and a review of literature and commentary on smart growth planning and policy.

Our hope is that this paper can help to bring community expertise into academic and policymaking realms where their voices are too seldom heard. As for planning processes with regard to individual counties and localities, legacy residents can speak for themselves and should be consulted.

An Overview of Low-Income Rural Settlements, or "Legacy Communities"

A recent report estimated that more than 300,000 people were living in over five hundred low-income unincorporated communities throughout the San Joaquin Valley and hundreds of thousands more lived in such communities throughout the state.[12] Over half of the low-income unincorporated communities in the San Joaquin Valley are rural settlements located in county territory beyond the anticipated growth plan of incorporated cities, designated "legacy communities" by statute if they are more than fifty years old.[13] They range in population from a handful of homes to15,000[14] and in size from one block to several square miles. Lanare, discussed earlier and throughout this paper, is paradigmatic of legacy communities. Many of these hamlets, set in the middle of the

[11] According to the U.S. Census, Raisin City, located in Fresno County is just shy of 400 residents and 1 square mile http://factfinder2.census.gov/faces/nav/jsf/pages/community_facts.xhtml

[12] Chione Flegal, Jake Mann, Solana Rice, and Jennifer Tran, "Overcoming Exclusion: Mapping Disadvantaged Unincorporated Communities," (document on file with the authors), 7, 14-15

[13] Id.; Cal. Gov. Code § 65302.10(a)(5).

[14] The population of Lamont in Kern County is 15,120 according to the U.S. Census Bureau http://factfinder2.census.gov/faces/nav/jsf/pages/community_facts.xhtml

most productive agricultural land in the nation, are long settled communities serving agricultural workers and their families.[15]

Legacy communities in the San Joaquin Valley developed in the context of the industrialization of California agriculture. Many, like Raisin City in Fresno County, were originally founded as irrigation colonies and townships during the early years of American settlement in the valley, envisioned as communities of small farmers.[16] As agriculture became more capital intensive and agricultural holdings became larger, these small rural communities became home to Dust Bowl refugees and successive new groups of farmworkers.[17] A second group of legacy communities, including Lanare, developed more informally as landowners subdivided parcels to sell to the swelling population of farmworkers and other low-wage workers from the nineteen-thirties through the fifties.[18] Today, legacy communities are long settled places, providing long-term housing tenure and stable communities for farmworker families and others. They are not the transitory places they are too often mistaken for and characterized as being.

Often built informally, without basic municipal infrastructure and services, such as safe drinking water and sewer systems, sidewalks and storm water drainage, safe and affordable housing, many legacy communities remain in similar conditions today[19] due to

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[15] *See*, *e.g.*, Raisin City Community Survey 2001, conducted by West Coast Central Mennonite Committee (reporting that sixty-two percent of households included farmworkers); Lanare Community Survey 2010-2011, conducted by the Community Equity Initiative (finding that forty-six percent of all employed residents worked in agriculture). Both documents on file with the authors.

[16] *See* D.L. Miller, *Just Twenty Years Ago: To the Annual Conference at Harrisonburg Virginia,* Union Pacific Railroad Company: Omaha, Nebraska (1909) (pamphlet archived with the Library of Congress). Raisin City was founded as a small farming colony by the Church of the Brethren in 1907. Additional examples include the unincorporated community of Fairmead in Madera County, which was subdivided and built by the Cooperative Land and Trust Company, an agricultural promotion company that advertised Fairmead's soil, climate and water supply to prospective landowners. Michael Eissinger, FAIRMEAD: A CENTURY OF CHANGE (2012) (self published). Copy on file with authors.

[17] Devra Weber, DARK SWEAT, WHITE GOLD: CALIFORNIA FARM WORKERS, COTTON, AND THE NEW DEAL, 143-44 (Berkeley, 1994) describes how rural San Joaquin Valley communities like Earlimart became identified as "Okie" towns after an influx of Dust Bowl migrants. A similar dynamic appears to have occurred in Raisin City, where community oral histories describe Dust Bowl encampments in the center of town, and the eventual sale of the Methodist Church to the Free Holiness congregation, whose membership was made up primarily of recent arrivals from Oklahoma and Arkansas. Interview with Pastor Denver Wood, Raisin City, March 2012.

[18] Lanare was settled in this manner in the 1950s and 60s as African American and Latino families bought parcels on installment plans from a local landowner named Eugene Tomasetti. Community interviews, March 2012. Mark Arax & Rick Wartzman, THE KING OF CALIFORNIA: J.G. BOSWELL AND THE MAKING OF A SECRET AMERICAN EMPIRE, 270-71 (New York: 2003) at 270-71 describes installment plan subdivisions throughout the Valley undertaken by an man named Edwin Matheny, who sold his land to black and white Dust Bowl families. *See also* Sarah Ramirez & Don Villarejo, *Poverty, Housing, and the Rural Slum: Policies and the Production of Inequities, Past and Present*, 102 Am. J. of Public Health 1664, 1666 (2012) ("In response to the lack of housing in the San Joaquin Valley, landowners and speculators spurred the creation of communities on what many considered cheap, unproductive lands. As a result, agricultural workers had the opportunity to purchase small inexpensive plots of land, dubbed working men's tracts, for as little as a $500 down payment and $10 to $25 a month").

[19] Rubin, Victor, et al, *Unincorproated Communities in the San Joaquin Valley: new Responses to Poverty, Inequality, and a System of Unresponsive Government,* 20-23(2007) (on file with authors)

decades of neglect by local, state and federal government.[20] Legacy communities continue to confront myriad and interwoven barriers to investment, which could be the subject of one if not several papers. Here, though we will focus on just some of those barriers which inclusive smart growth policies could address and eliminate.

Legacy communities are governed by a combination of special purpose districts and county government in some instances and county government exclusively in other instances. Special purpose districts – when they do exist in legacy communities - are generally governed by volunteer boards, ill-equipped to apply for grants and undertake other financing schemes necessary to attract resources to their constituents. Additionally, by their very definition, special purpose districts are limited in authority and scope and are prohibited from providing services they are not authorized to provide.

County government, on which legacy communities rely in some instances for services and technical support and exclusively for long term planning have neglected and, to varying degrees, continue to deprioritize legacy communities' needs, for example, by excluding them from short and long term plans and investment strategies[21] and failing to apply for available grant funds.[22]

Furthermore, the evolution - or devolution - of public finance policy in California increases the burden on low income communities to pay for their own infrastructure[23] without the subsidies that laid the infrastructure of most of our cities and suburbs.[24] However, in spite of the often-heard refrain from county and city officials, 'if you want it, pay for it yourself,' self-assessment is seldom a viable strategy for significant capital investments due to the high costs associated with laying infrastructure absent government subsidies for any community,[25] much less small, low-income legacy communities. Additionally, legacy communities' ability to create assessment districts – a prerequisite to self-taxation – depends on too often non-existent support from county government.[26]

County land use policies prohibiting growth in legacy communities, often rationalized by the lack of necessary infrastructure, further lock in these deficiencies, creating a cycle of

[20] See, *Eg.* 1971 Tulare County General Plan, 2-1 (by withholding majority public facilities such as sewer and water systems, these "non-viable" communities would enter a process of long term, natural decay); Seaton, Phoebe and Veronica Garibay, American Recovery and Reinvestment Act of 2009 (2011) (ARRA's eligibility requirements effectively excluded legacy communities) (on file with authors)
[21] See, *Eg* 1971 Tulare County General Plan
[22] For example, Fresno County failed to apply for a drinking water grant in 2013. There are several examples of counties, including Merced, Tulare and Fresno, that have only agreed to apply for grants after significant political and legal pressure
[23] See, *Eg.* Proposition 13, Proposition 218
[24] Anderson, Michelle Cities inside out.
[25] Id.
[26] Despite many requests from residents of Matheny Tract in Tulare, for example, Tulare County has been unwilling to help the community set up an assessment district that is a pre-requisite to a vote for a lighting assessment, parks assessment or sidewalk assessment – taxes that community residents have expressed interest in supporting.

disinvestment.[27] Agencies that administer state and federal funding programs that can be used to address some of the service deficits impose a similar no-growth mandate, barring any new infrastructure that threatens to be "growth inducing."[28]

Moreover, several state funding programs have heretofore failed to adequately address needs in legacy communities. For example, funding programs that support drinking water projects do not adequately allow for or encourage shared and regional drinking water projects which would directly improve the sustainability of rural California by improving the affordability, efficiency and reliability of potable water. The seemingly perpetual fiscal uncertainty affecting all levels of California government today, of course, doesn't make any of this easier, lending even greater importance to funds that would be made available by proposed tax increment financing plans and other existing and potential laws built upon the framework of 'smart growth.'

There is a pressing need for a multi-level review of how local, regional, and state planning and infrastructure investment programs can break the logjam that has locked so many legacy communities out of the benefits of modern municipal services. Investment in these communities will not only ensure the basic living standards that other Californians enjoy, but will also further the environmental and social-equity goals of smart growth. To facilitate a conversation regarding targeted investment in these communities, we review how investing in legacy communities is consistent with smart growth principles, and propose a smart growth framework that can guide sustainable, equitable investment in legacy communities.

Smart Growth: A Challenge and an Opportunity for Legacy Communities

Smart growth can be understood as a model of land use planning that seeks to promote sustainable communities, integrating environmental, social and economic goals. There are nearly as many lists of smart growth principles as there are smart growth initiatives to implement them – though most coincide with regard to core goals and strategies.[29]

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[27] *See*, *e.g.*, Public Facilities section of Fresno County, "Draft Revised 2000 General Plan Policy Document," p. 2-114: "The County shall limit the expansion of unincorporated, urban density communities to areas where community wastewater treatment facilities can be provided." Residents in the low-income unincorporated community of Lanare, in Fresno County, argue that if housing were added to the community, they would be better able to confront the heavy cost of new infrastructure. Because they currently lack community wastewater treatment facilities, however, the General Plan provision cited above prevents any new residential development.

[28] For example, the California Department of Public Health has resisted infrastructure investments that serve more than the existing population, relying on Cal. Health and Safety Code 116760.20 which limits infrastructure investments that will support growth of up to 10%.

[29] *See* Lin Ye, Sumedha Mandpe and Peter B. Meyer, "What is 'Smart Growth?' -- Really?" 19 Journal of Planning Literature 301 (2005) (parsing smart growth definitions put forward by major federal agencies and smart growth advocacy organizations). One definition that has gained significant traction is the list of 10 "Smart Growth Principles" put forward by the Smart Growth Network (SGN), and integrated into policy initiatives like EPA guidance on smart growth (e.g. "Putting Smart Growth to Work in Rural Communities" (2012), available online at http://www.epa.gov/dced/sg_rural.htm) and regional planning processes in California (e.g. San Joaquin Valley Blueprint, http://valleyblueprint.org/smart-growth-principles.html). SGN's ten principles are as follows: (1) mix land uses; (2) take advantage of compact design; (3) create a range of housing opportunities and choices; (4) create walkable communities; (5) foster distinctive,

Because of the increasing significance of statutory smart growth frameworks to the planning processes and funding streams affecting California communities, this paper focuses on the smart growth priorities emphasized in California law: (1) reducing greenhouse gas emissions; (2) promoting compact development characterized by walkable neighborhoods and mixed residential and commercial uses; (3) preserving farmland and other open space; and (4) promoting social equity, particularly with regard to housing.

1. Smart Growth Legislation in California

The salient principles of 'smart growth' policy in California have evolved through a series of legislative enactments over the last decade. AB 857 (2002) established three "state planning priorities" – the promotion of infill development and equity; the protection of environmental and agricultural resources; and the encouragement of efficient development patterns.[30] This law though "left wholly unaddressed the local and regional governments in whose hands ultimate land use authority lay."[31]

A preliminary step towards connecting state smart growth policy to local planning processes came four years later with the passage of Proposition 84, dedicating $90 million for planning grants and incentives for local governments to "encourage the development of regional and local land use plans that are designed to promote water conservation, reduce automobile use and fuel consumption, encourage greater infill and compact development, protect natural resources and agricultural lands, and revitalize urban and community centers."[32] Proposition 84's implementing legislation built on the ballot initiative's emphasis on social equity by adding a statutory goal of increasing the availability of affordable housing.[33]

California took an important step towards mandated smart growth planning with the passage of SB 375, which requires regional planning organizations to draft "Sustainable Communities Strategies" as part of their Regional Transportation Plans. Complementing SB 375's goal to reduce greenhouse gas emissions from vehicle miles traveled are the goals of meeting state housing goals, preserving natural resources and farmland and

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attractive communities with a strong sense of place; (6) preserve open space, farmland, natural beauty, and critical environmental areas; (7) strengthen & direct development toward existing communities; (8) provide a variety of transportation options; (9) make development decisions predictable, fair, and cost effective; and (10) encourage community and stakeholder collaboration. *See also* Smart Growth Network, "Why Smart Growth?" http://www.smartgrowth.org/why.php.

[30] Set out in Gov. Code § 65041.1 (Stats 2002, ch. 1016 (AB 857)). The full text of the statute adds significant detail to the summary we have provided. For example, the first goal reads, "to promote infill development and equity by rehabilitating, maintaining, and improving existing infrastructure that supports infill development and appropriate reuse and redevelopment of previously developed, underutilized land that is presently served by transit, streets, water, sewer, and other essential services, particularly in underserved areas, and to preserving cultural and historic resources." § 65041.1(a). Embedding these ambitious goals into statute, however, did not necessarily result in any effect on the ground.

[31] John Darakjian, *SB 375: Promise, Compromise and the New Urban Landscape*, 27 UCLA J. Envtl. L. & Pol'y 371, 382 (2009).

[32] Pub. Resources Code § 75001 et seq.

[33] *See*, *e.g.*, §§ 75125(a), 75128(a).

furthering social equity. The Sustainable Communities Strategy ("SCS"), which is at the heart of the bill, is supposed coordinate land use, housing, and transportation planning and "set forth a forecasted development pattern for the region" that will reduce greenhouse gas emissions from car use by a given amount.[34] The SCS should also consider the state housing goals and "gather and consider the best practically available scientific information regarding resource areas and farmland in the region."[35]

SB 375 falls short of mandating land use practices that conform to its ambitious goals. Instead, like Prop. 84, SB 375 seeks to entice local governments into implementing smart growth strategies through the use of incentives. For example, local governments can obtain an exemption from California Environmental Quality Act ("CEQA") environmental review requirements for "transit priority projects"[36] that meet certain criteria including consistency with an SCS or Alternative Planning Strategy (APS).[37] Additionally, certain mixed use or residential projects consistent with an SCS or APS are given preferential treatment under CEQA.[38]

Where we may see SB 375's greatest influence is in regulatory and funding programs – such as SB 1 – that create preferences and prerequisites for the consistency of plans and projects with the SCS. SB 1 seeks to build on the SCS framework by requiring that the proposed "Sustainable Communities Investment Agencies" target their investments to "transit priority projects," as defined by SB 375 (and codified in the Public Resources Code) and small walkable communities within incorporated cities.[39] SB 1 also expressly integrates a list of smart growth goals, including efficiency in transportation infrastructure, reducing combined housing and transportation costs for residents,

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[34] Cal. Gov. Code § 65080(b)(2)(B). Added by Stats. 2008, ch. 728, § 4.

[35] Cal. Gov. Code § 65080(b)(2)(B)(v)-(vi).

[36] Cal. Pub. Res. Code §§ 21155 (b): For purposes of this chapter, a transit priority project shall (1) contain at least 50 percent residential use, based on total building square footage and, if the project contains between 26 percent and 50 percent nonresidential uses, a floor area ratio of not less than 0.75; (2) provide a minimum net density of at least 20 dwelling units per acre; and (3) be within one-half mile of a major transit stop or high-quality transit corridor included in a regional transportation plan. A major transit stop is as defined in Section 21064.3, except that, for purposes of this section, it also includes major transit stops that are included in the applicable regional transportation plan. For purposes of this section, a high-quality transit corridor means a corridor with fixed route bus service with service intervals no longer than 15 minutes during peak commute hours. A project shall be considered to be within one-half mile of a major transit stop or high-quality transit corridor if all parcels within the project have no more than 25 percent of their area farther than one-half mile from the stop or corridor and if not more than 10 percent of the residential units or 100 units, whichever is less, in the project are farther than one-half mile from the stop or corridor.

[37] Cal. Pub. Res. Code §§ 21155, 21155.1. Added by Stats. 2008, ch. 728.

[38] Cal. Pub. Res. Code § 21159.28.

[39] SB 1, Section 1 slightly modifies the definition of Small Walkable Communities in the Public Resources Code, which defines them as: a project that is in an incorporated city, which is not within the boundary of a metropolitan planning organization and that satisfies the following requirements: (A) Has a project area of approximately one-quarter mile diameter of contiguous land completely within the existing incorporated boundaries of the city. (B) Has a project area that includes a residential area adjacent to a retail downtown area. (C) The project has a density of at least eight dwelling units per acre or a floor area ratio for retail or commercial use of not less than 0.50. [Cal. Pub. Res. Code § 21094.5(e)(4)]

improving public health, efficiency in water consumption, conservation of prime farmland, and reduction of VMT.[40]

This statutory framework reveals a set of core smart growth priorities in California law. Along with and supporting SB 375's goal of reducing greenhouse gases through land use and transportation planning are the priorities of promoting compact development and walkable, mixed use neighborhoods; preservation of farmland, open space, and other resource areas, and promotion of social equity, particularly with regard to housing.

2. *The Urban Bias in California Smart Growth Laws*

Despite the statewide applicability of California's smart growth laws, measures meant to further SB 375's goals and proposals like SB 1 primarily address large urban settings. For example, SB 375's CEQA exemption for "transit priority projects" requires proximity to a major transit stop – ferry terminal or rail station – or a "high quality transit corridor" which is a bus route with service intervals of fifteen minutes or less during peak commute hours.[41] Small and even midsize towns, not to mention rural settlements, simply cannot sustain transit service frequent enough to qualify for the CEQA incentives. Continuing down the path of transit-oriented development, SB 1 would largely restrict redevelopment project areas to transit priority projects – though also allowing each city to designate *one* "small walkable community" project area within its borders. This not only underserves rural communities (unincorporated communities are completely ineligible) but also the goals of SB 375.

The statutory emphasis on mass transit is a poor fit for rural landscapes and livelihoods. In agricultural areas like the San Joaquin Valley, employment is anchored in the fields spread across the countryside, where urban-style mass transit would make no sense. The small populations of many rural towns similarly render urban transit strategies like fixed, high frequency bus routes less feasible – and less carbon efficient. Applying smart growth concepts to a rural setting may require adjustments in other areas as well. The challenges rural communities face are frequently different than typical metropolitan concerns: sprawl is a less significant threat, and residents may be more likely to face air pollution from nearby agricultural operations than from congested local roadways.[42]

Yet smart growth and climate advocates cannot afford to ignore rural California, home to 1.88 million people by census standards.[43] Under the census definition, if rural California

[40] SB 1, Section 4.
[41] Cal. Pub. Res. Code § 21155.1(b).
[42] *See*, *e.g.*, Lisa Kresge and Ron Strochlic, "Clearing the Air: Mitigating the Impact of Dairies on Fresno County's Air Quality and Public Health," California Institute for Rural Studies (July 2007), available online at http://www.ncfh.org/pdfs/6940.pdf ("Dairies are responsible for some of the most harmful emissions in Fresno County, including smog-forming volatile organic compounds (VOC) and toxins like ammonia, which are associated with deadly particulate pollution"); Sharon Lee, Robert McLaughlin, Martha Harnly, Robert Gunier, and Richard Kreutzer, *Community Exposures to Airborne Agricultural Pesticides in California: Ranking of Inhalation Risks*, 110 Environmental Health Perspectives 1175 (2002) (describing the air pollution health threats caused by pesticide use in California).
[43] US Census 2010

were a state, it would be more populous than fourteen states in the union – coming in just after New Mexico.[44] Moreover, the census definition greatly underestimates the number of Californians living in rural communities, and thus the scale of the issue. According to the Census, "rural" only includes those who live outside of metropolitan areas or urban clusters" of 2,500 or more. Many cities that most would characterize as rural in nature and even small, unincorporated communities – places like Cutler-Orosi, Mecca, and Arbuckle – would be classified as "urban" under this definition. Those communities, though, would find it nearly impossible to qualify for SB 375's transit priority projects and SB 1's "small walkable communities" programs because of their unincorporated status.[45]

How land-use planning shapes the environmental and social impacts of the built environment in rural California is too significant an issue to disregard. Moreover, the statutory mandate to plan for sustainable communities that reduce vehicle miles traveled, promote efficient forms of development, protect agricultural and environmental resources, and strengthen social equity applies to urban and rural communities alike. As state agencies and regional and local governments begin to incorporate smart growth principles into their planning and investment decisions, they are mistaken to conclude that rural places are inconsistent with the new framework. Rather, smart growth goals should guide a reinvestment in rural communities to create healthy, thriving places while protecting the environment.

A Vision for Smart Growth in Rural California: How Investing in Legacy Communities Serves Smart Growth Principles

Residents of legacy communities in the San Joaquin Valley have long fought for many of the goods promised by smart growth advocates: affordable housing and strong communities near employment opportunities; revitalized, walkable community centers with investments in public spaces; municipal services like sewer and water; and a healthy environment. But Fresno County's reluctance to seek and even accept grant funds to support sustainable planning in a rural community like Lanare, and similar experiences of de-prioritization and disinvestment faced by legacy communities across the San Joaquin Valley, betray the unfortunate reality that many policymakers at both the local and state level resist including rural unincorporated communities in the benefits of smart growth.

It would be an injustice – and a missed opportunity – to deny legacy communities the investment and planning necessary to achieve smart growth's goals. Despite the urban orientation of much of smart growth theory, California's smart growth priorities do have an application in rural parts of the state – and appropriate investment and planning for legacy communities supports rather than undermines those priorities. We envision that planning efforts applying smart growth principles to legacy communities would seek to

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[44] US Census 2010. New Mexico is the 36th most populous state at 2.06 million; West Virginia follows at 1.85 million.
[45] Don Villarejo, "What is the Status of Rural California Today?" California Institute for Rural Studies Blog (Sep. 23, 2011), available online at http://www.cirsinc.org/index.php/rural-california-report/entry/what-is-the-status-of-rural-california-today.html

secure needed public infrastructure, improve walkability, revitalize community centers, and, where appropriate in relation to surrounding agricultural employment, allow for moderate growth that can shorten commutes and improve local opportunities to provide services and amenities that would otherwise require a trip to another town. Such a planning approach would serve smart growth goals of reducing greenhouse gas emissions, promoting compact, walkable neighborhoods, supporting farmland conservation efforts, and advancing social equity through the provision of affordable housing.

1. *Reducing greenhouse gas emissions through jobs-housing balance, transportation alternatives, and "access by proximity"*

Smart growth reduces greenhouse gas emissions by shortening driving distances, enabling transportation alternatives that can reduce single-occupant car trips, and providing "access by proximity" rather than "access through mobility."[46] In a rural setting, the jobs-housing balance at the heart of this formula is necessarily transformed: rather than concentrating jobs and housing in one metropolitan center, a rural jobs-housing balance would build off a network of small communities that function as nodes of development offering housing and services for workers, many of whose jobs are located in the surrounding countryside. Planning for targeted growth in these communities, along with implementing transit-alternatives like vanpool programs and increasing local services and amenities, can help reduce vehicle miles traveled (VMT) in agricultural areas – advancing the core goal of SB 375.

a. *Jobs-Housing Balance: Legacy Communities Are A Crucial Resource for Farmworker Housing*

In California's unparalleled agricultural economy, legacy communities offer location efficiencies for housing and services that can help reduce vehicle miles traveled by the state's 666,000 agricultural and dairy workers.[47] Surrounded by agricultural fields, legacy communities provide farmworker families housing opportunities that are closer to their employment than many incorporated cities, and yet offer a degree of autonomy and stability that would not be available in housing provided by their employers (which, at any rate, is increasingly scarce).[48] Preserving – and where appropriate, growing – legacy

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[46] *See generally*, Urban Land Institute, GROWING COOLER; *see also* Steffen, CARBON ZERO, supra note X. Steffen uses the concept of "access by proximity" to make the point that "[t]he most climate-friendly trip is the one we never take in the first place, because what we want is already close." In a rural context, this concept may translate to saving residents of small rural communities trips to distant, larger cities.
[47] Don Villarejo, *The Challenge of Housing California's Hired Farm Laborers*, in David Marcouiller, Mark Lapping, and Owen Furuseth, eds., RURAL HOUSING, EXURBANIZATION, AND AMENITY-DRIVEN DEVELOPMENT: CONTRASTING THE "HAVES" AND THE "HAVE NOTS," Burlington: Ashgate (2011), p. 194. It is difficult to accurately estimate the number of agricultural workers in California due to the informal and temporary character of much of farm labor contracting. Accordingly, estimates vary. For our purposes, it is sufficient to note that there is a significant population of laborers – and their families – whose employment derives from California agriculture.
[48] Villarejo (2011) at 193.

communities can help to reduce VMT by improving the jobs-housing balance in agricultural areas.

Legacy communities throughout the San Joaquin Valley have served as a crucial housing resource for the low-paid labor that the agricultural industry has always relied on. The community of Lanare, located just north of the county line between Fresno and Kings, was settled in the 1950s by farmworker families who had lived in migratory labor camps or employer housing in the agricultural spreads to the west, and came to Lanare looking for a place to own their own home and raise their families.[49] Residents who arrived in the decades since largely followed the same path, choosing Lanare because it was relatively close to their agricultural employment in the western portion of the county, and provided some access to amenities like groceries and medical services in the east-side cities.[50] Legacy communities that were originally founded as farming colonies during the early 1900s likewise became a crucial housing resource for farmworkers over the decades.[51] Raisin City saw an influx of field-working Dust Bowl refugees during the Depression, and in the latter half of the century came to be home to Mexican-American laborers working in the nearby dairies and vineyards.[52]

In the absence of deliberate investment in housing preservation, the aging, affordable housing stock in legacy communities is eroding.[53] One immediate step the state and local governments can take towards creating healthy, vibrant rural neighborhoods would be an investment in housing preservation efforts in disadvantaged unincorporated communities. For example the Home Assistance Rehabilitation Program (HARP) in Fresno County, which targets low-income families in unincorporated communities, has been used successfully to improve the quality of housing in Raisin City and elsewhere.[54]

Simply preserving existing housing, however, may not be enough. There is good reason to think that, if anything, legacy communities currently undersupply the housing required by the rural economy[55] and prevalence of substandard housing further limits availability of quality housing. While expanded acreage, the increasing emphasis on fruits, vegetables, and specialty crops, and historic growth of the dairy industry have increased demand for agricultural labor in California, employer provided housing has sharply decreased.[56] Growers' labor camps fell by 80 percent during the thirty years from the end of the Bracero program (which required employers to provide housing[57]) to the mid-

[49] Interviews with Lanare community residents, March 2012.
[50] Id.
[51] *Supra* note 15.
[52] Interviews with Raisin City community residents, March 2012.
[53] Look at RHNA, Framing Paper, Upper Kings.
[54] Interviews with Pastor Denver Wood and Lupe Zuniga, Raisin City, March 2012. Details on HARP are available at http://www.co.fresno.ca.us/DepartmentPage.aspx?id=5008.
[55] Fresno County General Plan 2002 Annual Review, Appendix E (on file with authors)
[56] Villarejo (2011) at 194.
[57] Lorenzo Alvarado, *A Lesson From My Grandfather, the Bracero*, 22 Chicano-Latino L. Rev. 55, 63 (2001).

1990s.[58] In 2004, the National Agricultural Workers' Survey found that only three percent of California agricultural workers live in employer provided housing.[59]

There is clear demand for housing opportunities in legacy communities. Because Raisin City has not been allowed to grow, a small community has developed over the last twenty years on a patch of land to the northeast – and it has developed without paved streets, clean water, sewer, or any other modern public health and sanitation services.[60] In Lanare, in the absence of county planning for new growth, continued settlement in the community extended the lines of homes north along the major county roads, outstripping the boundaries of the Lanare Community Services District.[61] Other legacy communities which have increased their housing stock, such as Riverdale, Del Rey, and Laton, have seen healthy population growth while retaining their compact, small community character.[62]

The shortage of housing in rural communities – or in smart growth terms, the "jobs-housing imbalance" in agricultural areas– pushes some farmworkers further from their jobs to living in larger, incorporated cities. Locals in Raisin City say the gas station and market there is a popular spot for agricultural workers to stop for a soda and conversation on their afternoon commute returning from the fields to their homes in Fresno – nearly twenty miles away.[63] Building new affordable housing in places like Raisin City could significantly reduce commutes for some of those laborers.

In places like Fresno County, where farm employment accounted for more than 14 percent of all jobs in 2011, addressing this jobs-housing imbalance will be crucial to realizing the VMT reductions sought through SB 375 and other smart growth initiatives.[64] Planning for targeted housing growth, housing conservation and improving substandard housing in legacy communities can bring farmworker households closer to their agricultural employment, and do so in a way that is planned, supported by appropriate services, and environmentally responsible.

b. Transit Alternatives for Rural Communities

While SB 375 and SB 1 promote transit priority projects defined by proximity to urban mass transit (rail stations and high frequency fixed bus routes), similar policies must promote transportation choices more appropriate to rural communities. One promising

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[58] Villarejo (2011) at 193-94.
[59] Villarejo (2011) at 196.
[60] Interview with Pastor Denver Wood of Raisin City, March 23, 2012.
[61] The only land use plan ever drafted for Lanare, adopted in 1977, forecast without explanation that the population would dwindle from 315 residents in 1974 to a projected 220 by 1990. Instead, the community grew, reaching 590 in the 2010 Census.
[62] Del Rey and Riverdale both had multiple subdivisions added since 2000, and US Census numbers show a healthy increase in population to match. Laton also experienced population growth over the same period (from 1,200 in 2000 to 1,800 in 2010).
[63] Interviews with Raisin City residents, May 2012.
[64] See Fresno County Annual Industry Employment Data from the California Employment Development Department, here: http://www.calmis.ca.gov/htmlfile/county/fresno.htm

model for adapting transit-focused efforts to agricultural areas can be found in the Agricultural Industries Transportation Services (AITS) pilot program, a collaboration between CalTrans and the Kings County Area Public Transit Agency, supported by federal funding. The AITS model dedicated a fleet of passenger vans to a carpool program, where volunteer drivers were responsible for organizing both passengers and routes.[65] Seventy-three percent of the vans commuted to agricultural fields, and others served other agro-industrial employment centers, such as packing, poultry facilities, and food processing.[66]

The pilot program demonstrated the potential for reducing VMT and greenhouse gas emissions through farmworker vanpool programs. Evaluators of the AITS program estimated that the ninety-six vans led to an annual reduction of 89,640 automobile trips, and nearly fifteen million fewer vehicle miles traveled, in addition to significant financial savings for riders.[67]

In 2006, the state legislature approved $20 million in additional funding for farmworker transportation projects. As successful models like AITS are scaled up to serve the state, every effort should be made to include the agricultural labor networks found in legacy communities and expand services to connect residents with educational opportunities and services to further reduce VMTs. Elderly residents of Lanare, for example, suggest a regular van pool that could coordinate residents' trips to medical check-ups in Fresno.[68]

c. "Access by proximity": Strengthening Services & Amenities

A third strategy for reducing greenhouse gas emissions in rural areas would increase the availability of services and amenities within communities. Currently, legacy community households face a heavy VMT burden of frequent trips to larger cities for goods like groceries, water, and medical and other services. According to surveys completed by the Community Equity Initiative, Lanare residents frequently travel thirty miles to Fresno or Hanford for groceries.[69] Other researchers have noted the transportation burdens associated with child-care.[70] And the lack of potable water poses its own transportation burden: an op-ed by the Community Water Center reported that in rural unincorporated communities whose water is contaminated by nitrates, arsenic, and seepage from overflowing septic systems, "residents drive 30 to 50 miles each week just to buy bottled water, effectively doubling the price for this basic need."[71]

[65] CalTrans and the City of Orange Grove. THE AGRICULTURAL INDUSTRIES TRANSPORTATION SERVICES: MEETING THE TRANSIT NEEDS OF RURAL CALIFORNIANS, 2-3 (2006).
[66] *Id.* at 3.
[67] *Id.* at Appendix 5.
[68] Community interviews, March 2012.
[69] CEI Household Survey of Lanare, 2010
[70] *See also* Victor Rubin, Arnold Chandler, Erika Bernabei, Rubén Lizardo, *Unincorporated Communities in the San Joaquin Valley: New Responses to Poverty, Inequity, and a System of Unresponsive Governance*, 16 (2007).
[71] Quoted in Rubin et al (2007) at 18.

In the language of smart growth advocate Alex Steffens, when residents must drive a significant distance to obtain basic goods and services, they are depending on "access through mobility" – increasing the distance traveled by car.[72] The carbon-efficient alternative is "access by proximity," which can be achieved by "building neighborhoods where the things [people] want are nearby."[73]

Legacy communities can and do offer an important planning opportunity as nodes of pre-existing development that can support the local provision of services and amenities. Past and present community initiatives demonstrate this potential. Lanare's community center, founded in the 1970s, became the base of operations for programs as diverse as a community-run preschool, a feeding site for the federal summer lunch program, and employment initiatives ranging from macramé projects for seniors to an agricultural cooperative and greenhouse employing substantial numbers of community residents.[74] Some programs were cut back as anti-poverty funding was reduced, but community leaders today organize a monthly food distribution in partnership with the food bank, serving more than 200 families at their last count.[75]

Counties can work with legacy communities to spearhead other rural service delivery models for goods ranging from groceries to health care. Community supported agriculture programs and corner store conversions increasing the availability of fresh fruits and vegetables in local gas stations and markets could help close the food-access gap and make grocery trips to distant cities less frequent. Mobile medical and dental clinics could take advantage of community spaces like Lanare's community center or Raisin City's public elementary school to provide routine services and check-ups. Community water treatment and delivery systems can eliminate the need to drive to neighboring towns for bottled water, serving important public health goals in the bargain.

Moreover, targeted housing growth in legacy communities can pay double dividends in reducing VMT by both bringing agricultural workers closer to their jobs and making it more feasible to provide services and amenities within the community. Moderately larger, rural unincorporated communities already exemplify this possibility: places like Riverdale and Caruthers in Fresno County and Cutler-Orosi in Tulare County support food stores, small restaurants, hardware stores, banks, health and medical centers, libraries, and even dance and karate studios. Moderate, carefully planned growth can make it easier to sustain services, and creating a market for small, local businesses in legacy communities can enhance the economic vitality of the region – a common smart growth promise.

2. *Promoting compact development and walkable, mixed-use neighborhoods*

Smart growth also envisions a particular pattern of neighborhood design – compact,

[72] Alex Steffens, CARBON ZERO, *supra* note XX.
[73] Id.
[74] Undated community newsletter show-casing the timeline of accomplishments of the Lanare Community Organization. On file with the authors.
[75] Interviews with community residents, March 2012.

higher density development, including through infill strategies that use vacant land within the community; a mix of residential and commercial uses; and easy and safe pedestrian access.[76] Though this model of compact development is often envisioned for neighborhoods within large urban cities, it also has an application in rural areas, where it might be translated into the archetypal small town, with a small community center within easy walking distance of surrounding neighborhoods. Legacy communities are ripe for just this kind of development.

Compact, mixed-use, walkable development is in part a neighborhood-level strategy for reducing vehicle miles traveled and greenhouse gas emissions.[77] But compact development promises other benefits as well. Walkable neighborhoods benefit public health through reduced air pollution, increased physical activity, and improved pedestrian safety.[78] Mixed use developments and pedestrian friendly streets can contribute to revitalization and enriched public spaces.[79]

One of the favored strategies for creating compact, walkable, mixed-use neighborhoods is directing new development towards existing communities. Prioritizing development in existing communities serves at least three purposes. Environmentally, infill and densification reduce greenhouse gas emissions, prevent greenfield development that would otherwise consume farmland or open space, and help to make transit more feasible. Second, these strategies serve a social equity purpose of ensuring that the gains from population and housing growth accrue to existing, frequently disadvantaged communities.[80] A third argument for infill development is that it enables the efficient provision of municipal services and amenities like sewer and water service – a rationale that applies with a twist in legacy communities, as discussed below[81].

Legacy communities offer an ideal opportunity to create and reinvest in small, walkable communities. As small places geographically isolated from incorporated cities, many already have a mix of uses that is impressive for their size –such as shared spaces like a community center or park, one or two churches, and one or more markets and gas stations. Additionally, many legacy communities already have a compact small-town lay-out inherited from the land companies that subdivided them in the early the twentieth century.

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[76] *See*, *e.g.*, Urban Land Institute, LAND USE AND DRIVING: THE ROLE COMPACT DEVELOPMENT CAN PLAY IN REDUCING GREENHOUSE GAS EMISSIONS, 3 (2010).
[77] *See* Urban Land Institute (2010) (reviewing three studies that estimate significant carbon reductions from increased density and compact, walkable neighborhoods with street connectivity and mixed uses).
[78] Surface Transportation Policy Partnership, *Transportation and Health* (factsheet), http://www.transact.org/library/factsheets/health.asp
[79] *See* Smart Growth Network, *Why Smart Growth? Mixed Land Uses*, http://www.smartgrowth.org/principles/mix_land.php
[80] *See*, *e.g.*, Daniel Hutch, *The Rationale for Including Disadvantaged Communities in the Smart Growth Metropolitan Development Framework*, 20 Yale L. & Pol'y Rev. 353, 363 (2002) ("Smart Growth can be viewed as an attempt to help level the playing field by directing investment back to the communities most affected by sprawl-- communities which tend to be of color and with underutilized properties and unused infrastructure capacity"); *see also* Gov. Code § 6041 (AB 857) (emphasizing infill opportunities in "underserved areas" in adding the promotion of "infill development and equity' to the state planning goals).
[81] *See*, *e.g.*, Hutch, *supra* note XX; Gov. Code § 6401.1(a) (promoting infill on land "presently served by transit, streets, water, sewer, and other essential services").

Raisin City is a good example: a densely settled triangle connected internally by a handful of intersecting streets. The community boasts a very small downtown area with three markets, a public park, and an elementary school. Two local churches serve the community. Until recent decades, the downtown area included a library and a barber shop, and a regionally-loved hamburger stand was just the next street over. Everything in the community is within easy walking distance of everything else. Any new housing added to this postage-stamp of a community, whether through infill in the handful of vacant lots or moderate new housing development at the edges of town, would benefit from the walkable, mixed-use space at the heart of the settlement – and by strengthening local purchasing power, would add to the vitality and viability of local enterprises – perhaps even enough to bring back the barbershop.

Other less densely settled communities offer an excellent opportunity for infill development with the potential to both fill some of the housing shortages addressed in the section above and reinforce the viability of walkable downtowns with local services and amenities. Communities like Lanare in Fresno County, Fairmead in Madera County, or Le Grand in Merced County have a small enough overall footprint and significant vacant land such that investments in walkability, infill housing development, and modest new construction for commercial and residential uses could create the kind of mixed-use, pedestrian friendly environment advocated by smart growth theory.

Infill development in legacy communities serves the three goals of infill described above. Compared with housing developments at the edge of incorporated cities, new housing units within the existing footprints of legacy communities would have a smaller greenfield development impact – and would offer workers in the agricultural industry the benefit of proximity to their employment.

Because some of the legacy communities most in need of investment lack basic municipal services like sewer and water systems, the traditional rationale for infill development is turned upside down – however, the logic of producing infrastructure efficiencies by directing new growth to existing development still holds. Rather than infill developments taking advantage of existing sewer and water systems, new modest growth can be part of a strategy for bringing the cost of new infrastructure within a community's reach[82] along with pioneering new models of service provision.

Many legacy communities are currently stuck in a vicious cycle of service deprivation. Often too small to carry the increasing costs of sewer and water systems themselves, they are also shut out from new growth in part due to the lack of those same services. Caught between impossibilities, legacy communities suffer the serious public health impacts of contaminated drinking water and overburdened sewer and septic systems.[83] Improved planning and investment strategies, along with targeted growth, could help them to break out of this vicious cycle. For example, redevelopment funds could be used to leverage additional grants and assistance to develop affordable water delivery and wastewater

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[82] Interviews with residents in Raisin City and Lanare
[83] Harter, Thomas; Balazs, Carolina

treatment systems at a scale that leaves room for residential growth; subsequent housing growth could then help sustain those services assessments. Unfortunately, the current version of SB 1 along with other legislative proposals would deny legacy communities that chance by making them ineligible for the economic benefits that bill envisions providing to qualifying neighborhoods.

Finally, critical walkability gains can and must be made in legacy communities. Appropriate investments in sidewalks, streetlights, and street safety will create an environment where residents can comfortable walk to the store, to the church, or to visit neighbors. The need for walkability investments in legacy communities is urgent. Many residents face unacceptably dangerous roads that have speeding cars, no sidewalks or streetlights, and frequent flooding caused by the lack of drainage. The hit-and-run deaths in Lanare described at the beginning of this article are a particularly tragic illustration of the risks that legacy community residents face. Lanare is not alone. Residents of Tooleville, a small community outside of Exeter in Tulare County, have expressed concern about their children's safety at the school bus stop along busy Spruce Road, where it is not uncommon for cars to pass at 50 miles per hour. Without drainage or sidewalks, school children must often wade through the flooded shoulder of the road in the winter, only to face taunts at school about how the kids of Tooleville come to school with wet clothes.[84]

3. *Investing in legacy communities is consistent with farmland preservation*

Among the environmental goals of smart growth planning is the protection of productive agricultural land and other open spaces from development pressures.[85] Investment in legacy communities supports this goal.

Providing for the housing needs of farmworker communities is an obvious component of protecting agricultural lands and interests through smart growth. As California Rural Legal Assistance wrote in a comment letter to the Southern California Association of Governments regarding the draft SCS for that region: "The preservation of productive farmland will necessarily require providing for the needs of the region's agricultural workforce."[86]

Second, new housing construction in legacy communities does not necessarily intrude onto productive or prime agricultural land. Many potential infill sites are not currently used for agricultural purposes and smart planning can ensure that growth does not compromise prime agricultural land. Resources such as the state Farmland Mapping and

[84] Tooleville community meeting, September 2011.
[85] *See* Gov. Code § 65041.1(b) (making it a state planning goal to "protect environmental and agricultural resources…") (added by A.B. 857); Pub. Res. Code § 75065(c) (Prop. 84 sustainable communities planning grants can fund projects that "protect natural resources and agricultural lands"); Gov. Code § 65080(b)(2)(B)(v) (requiring a Sustainable Communities Strategy to gather and consider "the best practically available scientific information regarding resource areas and farmland in the region.")
[86] California Rural Legal Assistance and Promotores Comunitarios del Desierto, "Comments on Draft 2012-2035 Regional Transportation Plan/Sustainable Communities Strategy," Feb. 14, 2012. Document on file with the authors.

Monitoring program can be used to conduct an inventory of vacant parcels in and around legacy communities that would not threaten significant agricultural resources.[87]

Counties retain all the necessary planning and zoning powers to preserve the rural character of legacy communities and the continued productivity of surrounding agricultural land. Providing needed services like sewer and water, and allowing moderate growth, cannot be equated with initiating uncontrolled suburban sprawl. In partnership with legacy community residents, counties could engage in specific planning processes for each community. In addition to providing appropriate zoning and development standards for new housing growth and revitalized, mixed use community centers, these specific plans could create urban growth boundaries for each community that would prevent unwarranted encroachments on agricultural land.

Farmland preservation advocates, at any rate, face more significant threats from development elsewhere. The Fresno County Blueprint (a forecasted "smart growth" development pattern similar to what will be required for the SCS) expressly contemplates the conversion of agricultural lands into residential developments. The preferred growth scenario for the Fresno County Blueprint shows residential growth filling out the current spheres of influence of incorporated cities, consuming many acres of agricultural land.[88] With such dramatic sprawl envisioned at the fringe of the county's incorporated cities, restricting housing growth in legacy communities under the rationale of farmland preservation raises grave equity concerns. Analyzing efforts by Richland County, South Carolina to restrict rural development, Maya Wiley concluded that the county's "land use vision permits sprawl to continue where it is occurring, while restricting development in poor African American communities, where development and access to opportunities within the metropolitan region are sorely needed." [89] Allowing sprawling greenfield development at the fringe of existing urban communities in the San Joaquin Valley while denying modest housing growth in disadvantaged rural settlements would replicate that injustice here in California.

At least where growth in legacy communities restores a jobs-housing balance, supports walkable, mixed use communities, and takes place within an environmentally conscious planning framework, smart growth principles do not require such inequitable outcomes. In fact, the express adoption of social equity values like the promotion of affordable housing reaffirm the essential bargain that smart growth strikes between protecting the environment and allowing appropriate development that creates healthy, thriving, and just communities.

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[87] More information about the program is available here: http://www.conservation.ca.gov/dlrp/fmmp/Pages/Index.aspx

[88] San Joaquin Valley Blueprint, Fresno County Progress Report: http://www2.co.fresno.ca.us/0110a/Questys_Agenda/MG165078/AS165079/AS165096/AI165480/DO166049/3.PDF, last accessed April 29, 2012, p. 12.

[89] Maya Wiley, "Smart Growth and the Legacy of Segregation in Richland, County, South Carolina," in Richard Bullard, ed., *Growing Smarter: Achieving Livable Communities, Environmental Justice, and Regional Equity*, Cambridge: MIT Press (2007), at 151.

4. *Investing in legacy communities furthers social equity goals of smart growth*

This paradigm that we have laid out – of achieving smart growth's benefits in disadvantaged, unincorporated communities – also furthers SB 375's goal of promoting social equity. Through effective implementation of smart growth's principles, we can achieve greater social equity by investing in housing and basic infrastructure to support affordable, high quality housing for predominantly farmworker communities; providing transit options promotes affordable, safe and reliable access to jobs, education and services; investing in essential services will increase access and opportunity for low income, rural residents and investments to promote walkability will create healthier and again more opportunity rich communities. Thus, by making investments consistent with smart growth in disadvantaged communities, we can further the many goals SB 375 and what follows, including promoting affordable housing and social equity.

Conclusions and Recommendations

It is not simply possible, but rather imperative that we implement smart growth principles and all their promise to communities throughout California – urban and rural alike. To that end, we call for a multi-level, multi-jurisdictional review of public policy to identify barriers to addressing the pressing public health needs of legacy communities and formulate planning and investment strategies, driven by smart growth principles, for meeting those needs.

We are confident that opportunities to achieve these ends abound and will continue to reveal themselves but we start with the following recommendations:

<u>State-Level Policy</u>

State legislation invoking smart growth principles must not facially exclude legacy communities from eligibility for investment and well-planned growth. For example, SB 1 should be amended to explicitly allow sustainable communities investment areas to include small walkable communities projects within disadvantaged unincorporated communities as defined in SB 244.

Similarly, state policies should not effectively exclude legacy communities and other rural communities from investment by establishing criteria impossible to meet in rural communities such as urban density standards and proximity to schools, service centers and high intensity transit and transportation corridors.

The definition of areas deemed eligible as redevelopment areas under SB 1 should be broadened to support investment in low income areas throughout the state. Incorporating AB 1080 (Alejo) eligibility criteria into a new redevelopment paradigm is one mechanism of doing so.

Other incentive programs like CEQA streamlining should promote similar well-planned investments in legacy and other non-urban communities.

State funding programs should target legacy communities for projects that promote smart growth and resource preservation, such as funding that supports sustainable water and wastewater projects, walkability and transit projects in legacy communities. Funding from the Greenhouse Gas Reduction Fund (per AB 1532 and SB 535) should provide a good source for such investments in the immediate future.

Regional Policy Change

At the regional level, Metropolitan Planning Organizations (MPO) should take affirmative steps to consider smart growth strategies for legacy communities during the drafting of their Sustainable Communities Strategies. SCS modeling should include data on agricultural employment and farmworker housing needs and opportunities to reduce car trips and vehicle miles traveled by strengthening service and amenities provision in rural communities. On the basis of that modeling, the SCS can designate appropriate mixed use and residential development for legacy communities, which will facilitate reinvestment by potentially lessening CEQA requirements consistent with CEQA streamlining policies.

Additionally, MPOs and member agencies should implement policies that promote vanpools and other transit programs to reduce automobile trips in rural communities.

County-level Policy Change

Counties should prioritize existing communities – including Legacy Communities – in long and short term planning efforts such as general plan updates. As part of this planning, counties should not only meet the mandates laid out in SB 244 but should go beyond them to include an analysis of the wide array of essential services necessary to support healthy and vibrant communities.

Counties can employ other, more discrete and immediate strategies as well to achieve smart growth goals on a number of fronts. First, counties should partner with service providers, nonprofits, and community development resource agencies to plan for and encourage the delivery of services and amenities in legacy communities. Second, counties should partner with legacy communities residents to draft specific plans that establish urban growth boundaries, plan for appropriate compact housing growth and walkable, mixed use community centers. Third, counties should make every effort to draw down the funds and technical assistance necessary to close the significant service gaps faced by many legacy communities with regard to water, waste-water, and pedestrian safety.

California stands at the threshold of a new generation of planning and investment. We can adjust our current course to ensure that all Californians share in the social, economic and public health benefits of smart and sustainable growth, or we can continue on the trajectory we have begun, a trajectory that promises to perpetuate the exclusion of disadvantaged, unincorporated communities and condemns them – and us – to a truly and irrevocably blighted California.