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East Attacks Growth On State Level

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Growth Control
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Driven by growth pressures similar to those in California, Atlantic states from Maine to Delaware have enacted statewide land-use laws in recent months — creating the most active period of state land-use planning since the so-called "Quiet Revolution" in the early 1970s.

Though some of these laws simply create procedural requirements already in place in California, all have grappled with the question of accommodating state and regional needs while retaining home rule for local governments. The most far-reaching new laws have come in New Jersey, the Atlantic state most like California in the growth pressures it faces. In need of regional planning but faced with 600 highly independent local governments, the state legislature has pinned its hopes on the idea of "cross-acceptance," a semi-voluntary process by which state and local land-use plans are reconciled.

But there are differences between the "Quiet Revolution" and its new successor. "The Quiet Revolution was environmentally based," says John DeGrove, who ran the Florida state land planning program for two years. "This one is based on infrastructure, ugliness, and traffic. That's why it's moving in places you'd never expect it to move."

Indeed, the state planning laws of the early '70s moved to protect beautiful and sensitive locations, such as Vermont, Oregon, Florida, Hawaii, California's Pacific Coast, and New York's Adirondack Park. The new "Quiet Revolution" appears to be *Continued on page 3*

S.D. Voters May See Five Growth Measures

San Diego city and county voters will be offered a choice of at least four — and perhaps five — different growth proposals this November, thanks to the decisions of local officials to place measures on both city and county ballots that will compete with initiatives sponsored by Citizens for Limited Growth.

In late July, the city council approved a measure that would impose a construction cap of 7,590 residential units per year — more than the Citizens for Limited Growth proposal of 4,000-6,000 per year, and slightly less than the temporary limit of 8,000 units per year approved by the council last year.

Just a few days later, the board of supervisors placed a measure on the ballot to preserve sensitive lands and restrict growth in unincorporated parts of the county. Earlier, Citizens for Limited Growth had placed the first initiative in more than a decade on the countywide ballot. The supervisoss were expected to act later in the month on an advisory measure to create a regional planning board to coordinate growth management.

Meanwhile, in Orange County, slow-growth forces recouped slowly from June's surprising defeat of Measure A, the growth control initiative. Although the county's growth task force did recommend an ordinance similar to Measure A, slow-growth leaders dropped several lawsuits against major development agreements, essentially settling the cases for lawyers' fees. *Continued on page 4*

Redevelopment Trial May Last Three Months

Anti-redevelopment forces have taken the Hollywood redevelopment plan to court, and a trial on whether the plan is legally defective could take up to three months.

The trial, forced by a group called Save Hollywood Our Town, or SHOT, began in early June and is expected to continue until late September, including vacation time for Superior Court Judge Barnet Cooperman. But the trial is proceeding at a snail's pace, as SHOT's attorney, Christopher Sutton, tries to prove that the Los Angeles Community Redevelopment Agency misled local citizens into supporting the plan.

Sutton and other citizen activists who object to eminent domain have successfully killed several redevelopment plans throughout Southern California, including Anaheim and Huntington Beach last year. (*CP&DR*, September 1987.) Earlier this year, these activists, along with local citizens, killed a proposed redevelopment area in Redondo Beach, even though the city proposed eliminating eminent domain and cutting down on the property included in the project area.

The Hollywood case, however, has turned out to be a long and expensive trial. The Hollywood redevelopment plan was among the largest and most ambitious in state history, involving some $1 billion in tax-increment revenue over a 30-year period. The L.A. City Council approved the plan in 1986 amid great hullabaloo over a revival of the Hollywood area. *Continued on page 6*

COURT CASES

Public Agencies May Sue for 'Taking,' Court Rules

One governmental entity may sue another in an inverse condemnation proceeding, a state appellate court ruled in late July.

Ruling in *City of Mill Valley v. Marin Municipal Water District*, the First District Court of Appeal in San Francisco ordered Mill Valley to pay $33,809 in damages to the Marin Municipal Water District for damage resulting from a landslide in 1983.

The case began when a street in Mill Valley collapsed and slid onto two parcels of land owned by John T. Swayne. Swayne subsequently filed inverse condemnation proceedings against both the city and the water district.

Inverse condemnation lawsuits allege that a governmental entity's regulatory action have, in effect, "taken" a private owner's property. Swayne claimed the landslide occurred because the water district did not maintain its pipes and the city did not maintain the roadway over the pipes.

Both governmental entities settled the case with Swayne for about $16,500 each. However, they then sued each other, each claiming that the other should pay the entire cost of the settlement. A jury ruled that the city should pay the water district's half of the settlements, plus about $17,000 for the district's own losses.

The city then appealed the decision, claiming that one governmental entity may not file an inverse condemnation suit against another, because public property cannot be "taken" by a governmental entity's action.

In ruling against the city, the appellate court said that a public entity could, in fact, suffer a property loss at the hands of another public entity. "When the public entity fails to construct or maintain its improvement property, it takes a calculated risk that damage to private property may occur," wrote Justice William R. Channell. "If damage to private property results, it is proper to require the entity that took this risk to bear the loss when damage occurs. We see no reason why these principles should not apply to compensate for damage to property owned by another public entity. To paraphrase the California Supreme Court, a public suffers no less a taking merely because of its public entity status."

The full text of City of Mill Valley v. Marin Municipal Water District, No. A038728, appeared in the Los Angeles Daily Journal Daily Appellate Report on July 22, 1988, beginning at page 9474.

Marin County Landowner Loses Appeal in Federal Court

A federal appellate court has upheld a lower court ruling that agricultural zoning in Marin County is not an unconstitutional taking of the landowner's property.

In *Barancik v. County of Marin*, the Ninth U.S. Circuit Court of Appeals affirmed last year's ruling regarding the zoning of a 561-acre parcel of land, known as Loma Vista, owned by Richard Barancik.

Agricultural zoning first limited the land to one unit per 60 acres in 1972. When Barancik purchased the property in 1980, he began making repeated attempts to persuade the county to increase the residential density, which permitted him to build nine units. According to Deputy County Counsel Robert San-Chez, the county advised Barancik to purchase development rights from other owners of agricultural property, but Barancik could find no sellers. Barancik also proposed building a 28-unit subdivision, which the county rejected.

In 1985, Barancik sued in federal court, claiming the county's action had effectively taken his property, violating the equal protection and due process clauses of the constitution. Last year, U.S. District Court Judge Thelton Henderson ruled that the county had not made a final administrative decision on the property, as required to establish a taking, and said Barancik "knew or should have known that protection of agricultural lands was one of)Marin County's) highest planning and zoning priorities." (*CP&DR*, May 1987.)

On appeal, Ninth Circuit Judge John T. Noonan Jr. ruled that the equal protection and substantive due process clauses of the federal constitution had not been violated by Marin County. Furthermore Noonan rejected Barancik's claim that *Nollan v. California Coastal Commission*, 107 S.Ct. 3141, which was issued after the lower court's ruling in this case, makes the county's scheme for transferrable development rights suspect.

"A finite amount of development is permitted in the area," Noonan wrote. "The county is rightly indifferent as to who does the development."

The full text of Barancik v. County of Marin, No. 87-1982, appeared in the Daily Journal Daily Appellate Report on July 5, beginning at page 8528.

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SPECIAL REPORT

Eastern States Attack Growth Issue with State Legislation

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different. Now, though states such as Maine and Vermont appear to be concerned with preserving rural life, the vast majority of these state efforts are driven by frustration with traffic congestion and the other consequences of intense urban and suburban growth.

For this reason, most of the Atlantic states' growth management efforts are patterned, in some fashion or another, after Florida's. The fastest-growing state on the Atlantic Coast, Florida began the second Quiet Revolution in 1985, when the state legislature passed a tough series of second-generation state planning requirements. In 1972, the state had passed laws requiring creation of a state land-development plan and setting up a process for handling "developments of regional impact" — that is, developments straddling more than one county. In 1985, the state got much tougher, adopting a statewide plan and requiring that local comprehensive plans be approved by the state planning agency. The state also appropriated several million dollars to assist in the rewriting of local plans.

According to DeGrove, the state program has had three policy emphases: (1) move away from coastal development; (2) encourage more compact urban development; and (3) tie new development permits to infrastructure plans.

"I can't tell you whether it works yet," DeGrove told a Conservation Foundation gathering in Texas last June. In fact, DeGrove said, encouraging compact urban development has proven to be a tough order, and so a state commission has been established to deal with the issue further.

While it has served as a model for other states, however, the Florida program's top-down nature has proven unpalatable for many other states with strong local government structures, particularly New Jersey. Here, then, is a rundown of action in five Atlantic states, virtually all of which has been taken in the last year.

Delaware

The nation's second-smallest state is feeling growth pressures as part of the prosperous Boston-Washington Northeastern axis. In particular, says state planner Mark Chura, state laws seeking to lure banks into Delaware have been all too successful. The result is that Delaware is the seventh most densely populated state in the union and is experiencing rapid suburban job growth, particularly along the Route 202 corridor near Wilmington, only 35 miles from Philadelphia.

With the sponsorship of Gov. Michael N. Castle, the state legislature passed a large package of bills dealing with land use and roads this year. Though Delaware has a tough Quiet Revolution-era law regulating coastal development, other state planning requirements were minimal.

The key state planning law passed this year is similar to California's general plan laws, requiring each of the state's three counties to revise its comprehensive plan every five years and laying out the elements that must be included. "Our philosophy was, we didn't want to take over the process," Chura said — but even so, some local officials complained that the state was usurping local power.

Local government has also responded to the growth pressures, and, at the state's instigation, may take more steps in the future. Newcastle County, in the state's rapidly growing northern section, has already imposed a moratorium along the Route 202 corridor. Chura said the county has reached an agreement with the state tying new development to traffic congestion, and the state is seeking similar agreements with the other two counties.

The other key element of Castle's package of bills involves highway funds. A transportation trust fund has been established with revenues from the state's turnpike tolls, gas taxes, and other related sources of funding. The total: $1.1 billion over 10 years, a large sum in a state of 600,000 people.

Contact: Mark Chura, Delaware state planning agency, (302) 571-2333

Maine

Like Delaware, Maine passed a package of state planning bills this year aimed at forcing local governments to conduct more thoughtful land-use planning.

As in several other states, the Maine laws came about as the result of a state commission appointed to respond to growth pressures. According to Everett Carson of the Natural Resources Council of Maine, who was active in working on the legislation, the Maine laws contain four parts:

1. The state's 493 towns all must prepare and enact land-use ordinances by 1996. Carson said most towns do not have a comprehensive plan or an up-to-date land-use ordinance.

2. The legislation includes broad and general goals an guidelines about planning.

3. The state will provide financial assistance ($3.5 million the first year) and technical assistance (in the form of the State Office of Comprehensive Land-Use Planning) to local governments in formulating their plans.

4. The state planning office will coordinate state review of local plans. Although state approval is not required, "voluntary certification" will make localities eligible for a number of state programs, including revenue from Maine's $35 million land-purchase bond issue.

Contact: Everett Carson, Natural Resources Council of Maine, (207) 622-3101.

Massachusetts

With Gov. Michael Dukakis running for president, attention has been focused on the state's economic development policies, which have channeled money into cities and towns in hopes of directing new development to those areas. This year, however, Massachusetts has taken two new steps in the land-use area. First is a state commission called "Blueprint 2000," chaired by Lt. Gov. Evelyn Murphy, which has a broad focus but includes a major focus on land-use and develoment issues. Second, and potentially more important, is the Special Commission on Growth Policy, charged with writing a package of legislative bills establishing a state growth policy.

According to Robert D. Yaro, director of the planning program at the University of Massachusetts, Amherst, the legislative package arose from a conference at Amherst dealing with patterns of urban development. Conferees discovered that, unlike Florida, Massachusetts has no control over the regional impacts of new development. So the commission is working on bills that would implement a similar system, with proposals due to the legislature early next year.

Contact: Robert Yaro, University of Massachusetts, Amherst, (413) 545-2255.

New Jersey

The most extensive recent effort to incorporate state and local planning in rapidly urbanizing areas has come in New Jersey.

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SPECIAL REPORT

San Diego Voters Will Get Wide Choice in Growth Measures

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The San Diego City Council came to agreement July 29 after a week of intense debate. The resulting measure has several novel components, most notably a separation of the 7,590 units into two categories: projects that are already in the planning pipeline (3,990 per year) and new projects (3,600). The measure also exempts low-income and redevelopment housing projects, and includes a "killer clause" declaring that whichever measure garners the most votes in November will prevail.

Growth-control advocates in San Diego are skeptical of the council planning proposal, saying it would accommodate more growth than their own plan. "It's heavily weighted in favor of exemptions and discretionary review," said Linda Martin, chairman of Citizens for Limited Growth.

Agreement on the council-sponsored growth measure came shortly after Mayor Maureen O'Connor advanced her own growth-control proposal, which was designed to both limit growth and protect the legal rights of property owners whose projects were partway through the planning process. O'Connor had shown little interest in a numerical cap on housing construction until she learned of the vast number of projects that may have a legal claim to construct.

Up until the last week in July, the city council was considering a cap that would limit construction to about 7,600 units per year, but would exempt projects with a legal right to build. On July 22, O'Connor indicated she would be willing to accept a growth cap, but did not want the total number of homes built — including those exempt from the cap — to exceed 7,000-8,000 units per year.

A week later, the council adopted a similar approach. The council measure would limit construction to 7,590 units per year, the city's "fair share" as determined by the San Diego Association of Governments. But that figure would be split between projects with a legal right to build and new proposals.

"The recognition is that vested units are going to have the right to proceed anyway," said Assistant Planning Director Michael Stepner.

The 3,990 figure represents the city's estimate of the number of units that will be constructed each year by builders with some legal claim to construction. Presently, developers hold vested rights to construct about 28,000 units, though some of those units are contained in large, long-term tracts. If more than 3,990 units are required to accommodate vested rights in one year, the city will reduce the vested allocation for the following year. But, Stepner said: "We don't think we're going to use anywhere near 3,990 units in any given year."

The remaining 3,600 units would be allocated to new projects, with priority given to inner-city communities, low-income housing, and construction that does not require new land subdivision. If vested developers demand less than 3,990 units in any one year, the remainder may be given to new projects.

The measure also includes provisions that virtually prohibit construction on steep hillsides. The council eliminated requirements that the city meet performance standards relating to water, air quality, sewage treatment, and solid-waste disposal, a provision that is in the citizen initiative. However, the council measure does tie new development to traffic congestion and public facilities.

Eastern States Attack Growth Issue with State Legislation

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New Jersey is the most densely populated state in the union, and since 1980 suburban office development, particularly in the Route 1 corridor between Princeton and New Brunswick, has led to traffic jams and a governmental crisis. The state had 567 independent-minded municipalities, already angry over state control of affordable housing as a result of the *Mt. Laurel* court ruling, yet the effects of growth spread far beyond each municipality's boundaries.

In 1986, the state legislature attacked the problem head-on by passing a state planning act, which established a state-local planning process and created the New Jersey Planning Commission.

The crux of the legislation is a process called "cross- acceptance." Under cross-acceptance, state and local plans are reconciled — not with top-down approval, as in Florida, but in a mutual and somewhat voluntary process.

According to Michael Neuman of the state planning office, the state coordinates the planning activities of the entire state and uses the state's capital improvement program to control land development to a certain extent. But when it comes to specific land-use plans, the state, with the counties acting as its agents, negotiate out the differences with the municipalities.

The state's plan divides New Jersey into seven planning "tiers". Four are designated for growth, including older cities and transportation corridors, while the other three — rural areas, farmland, and preservation areas — are tagged for only limited growth.

In the end, the municipalities are not required to reconcile all differences with the state plans, only those they can agree to. But, Neuman said, the capital improvement funds and other state aid will be doled out in accordance with the state plan, providing incentives to local governments to go along with state plans.

One side-effect of the state planning act may be to give more power to New Jersey's 21 counties, which are well positioned to handle regional growth issues but do not traditionally handle land-use planning. For example, another new bill, known as "transplan," gives counties the authority to review development along state highways.

Neuman acknowledged that there are skeptics, particularly in local government. But, he said, "we think it will strengthen home rule" by helping overburdened municipalities sort out which land-use tasks they can perform best.

Contact: Michael Neuman, state planning office, (609) 292-2662.

Vermont

Vermont was a pioneer in the original Quiet Revolution, acting in 1970 to pass Act 250, which established a state land-use plan and required state approval for projects over a certain size. The boom in the Boston and New York areas in the early '80s, however, led to renewed concern over development in the state; in particular, the state suffered an alarming loss in the number of operating dairy farms. So Gov. Madeline Kunin appointed a commission, chaired by former EPA Administrator Douglas Costle (now dean of the Vermont Law School), to deal with the growth issues.

The result was a commission report and, subsequently, a state legislative bill linking land-use planning to concern for the farmer. The bill had two critical pieces: First, a land conservation and housing trust fund of $20 million, and, second, a requirement to build a new statewide plan "from the ground up," as Costle puts it. Both efforts will be funded in large part by an increase in property transfer tax.

The $20 million will be divided between affordable housing subsidies and purchase of open space and agricultural land. The statewide plan will attempt to respond to developer complaints that local governments use heavy permitting authority to kill projects arbitrarily.

Costle said statewide planning was the weakest link in the implementation of the original Act 250 because of local opposition. That is why the new statewide plan must be built from the bottom up. "Politically that was the only way we could see this process working," Costle said.

The planning part of the bill includes state guidelines, "carrots" to develop local plans, and "sticks" to compel local planning — among them, a provision that regional plans will prevail if local plans are not developed.

Contact: Douglas Costle, Vermont Law School, (802) 763-8303.

Orange County

Suffering financially following the June 7 defeat of Measure A, the growth control initiative, slow-growth leaders are settling several lawsuits relating to development agreements and, apparently, concentrating on attacking three large development agreements, including one permitting development of the Aliso Viejo area near Laguna Beach.

Greg Hile and Belinda Blacketer, the Laguna Beach lawyers who drafted Measure A, filed 12 lawsuits challenging development agreements, claiming they were passed hastily just before the election on Measure A. In the process they piled up $96,000 in legal fees, so their slow-growth clients have settled several cases for about $10,000 in legal fees each. (Other groups filed several other lawsuits related to the development agreements.)

Blacketer indicated that Citizens for Sensible Growth and Traffic Solutions will probably continue to pursue litigation against three development agreements: Aliso Viejo, Laguna Laurel, and Cota de Caza. The Aliso Viejo case may be strengthened by the fact that the city of Laguna Beach, represented by Shute, Mihaly & Weinberger, has also challenged the development agreement in court. Essentially, the litigation charges that outdated information was used in preparing the environmental impact report, and the development agreement is inconsistent with the county's general plan, as state law requires.

Meanwhile, however, a county task force on growth recommended that the Board of Supervisors adopt a growth-management plan similar to Measure A, and the supervisors were scheduled to consider the proposal at their Aug. 3 meeting.

And slow-growthers continued to be active in several cities in Orange County. In Seal Beach, where an identical version of Measure A failed by 32 votes, a recount turned up 25 fewer absentee ballots. Though the outcome of the election was apparently unaffected, slow-growth advocates planned to ask Secretary of State March Fong Eu to investigate the election.

In San Clemente, the city's voters will have the chance in November to vote on clarified sections of Measure E, also an identical proposal to Measure A which passed overwhelmingly on the June ballot. Residents attending city council meetings had been complaining that Measure E was confusing, and one developer had been collecting petitions in hopes of putting the whole thing on the ballot again. But city officials say they will merely "clean up" certain portions and place those on the ballot.

In Costa Mesa, Superior Court Judge Gary Taylor threw out a slow-growth group's attempt to place Arnel Development Co.'s $90 million Metro Pointe Phase 2 office project on the ballot. The judge ruled that the council resolution in question was an administrative act and therefore not subject to initiative and referendum. City Attorney Tom Wood said the council's legislative acts regarding the property, a general plan amendment and rezoning, took place in 1984 and no attempt was made to place them on the ballot. Rezoning of the Metro Pointe property was the subject of the famous *Arnel* decision by the California Supreme Court in 1980, which established the broad power of citizen groups to place rezonings on the ballot.

The same citizen group, Costa Mesa Residents for Responsible Growth, is also seeking to place C.J. Segerstrom & Sons' latest proposal for the Home Ranch project on the ballot as well. A referendum on one version of the project is already on the ballot.

Chula Vista

The city council has agreed to place a growth control initiative on the ballot in November in Chula Vista, although the city staff claims it adds little to existing city law.

City ordinance already establishes thresholds that must be met before development may occur, and ties the rate of growth to the availability of public services. In addition, the city is revising its general plan.

The most significant difference appears to be that the initiative would make it far more difficult for the city council to amend the required threshold levels. The ordinance would require a public hearing, a unanimous vote of the council, and a determination that the amendment "is in keeping with the intent of the ordinance" to be changed.

Folsom

A fight over growth control in Folsom has wound up in the hands of the Sacramento County district attorney's office.

In mid-July, growth-control supporters in Folsom charged that one of their co-sponsors, Richard Gray, "sabotaged" their campaign in return for a zoning change that Mayor Jack Kipp tried to arrange.

Two growth control supporters then hired an attorney to file a formal complaint with the Folsom police, which turned the case over to Sacramento County District Attorney John Dougherty. The growth-control advocates claim that state election codes may have been violated.

A growth initiative had been in the works in Folsom for several months. According to the *Sacramento Bee*, Gray told the press during the signature-gathering campaign that he had as many as 3,000 signatures; however, when he turned his petitions over to other growth-control supporters, they contained only 826 valid signatures. He then pulled out of the petition campaign, about six weeks before signatures were due, and the initiative measure failed to quality for the ballot by 30 signatures.

According to the complaint filed by other growth-control advocates, Gray sought a rezoning (from single-family to multi- family) of a 1.4-acre parcel in Folsom in which he holds 25% interest. Mayor Kipp recommended the rezoning, though he denies that it had anything to do with Gray's role in the initiative campaign. Despite Kipp's recommendation, the Folsom Planning Commission rejected the rezoning request on July 11.

SPECIAL REPORT

BRIEFS

The Mojave Desert protection plan fell apart during July because of disagreements between California's two senators, Democrat Alan Cranston and Republican Pete Wilson.

Cranston's bill would have created a new, 1.5-million-acre park, largely in San Bernardino County, and 82 new wildnerness areas encompassing another 4.5 million acres. The aim was to protect the desert from mining and off-road vehicles.

But in June and July, Cranston suffered several attacks. First, Interior Secretary Donald Hodel went on a helicopter tour of the desert area and defended the Bureau of Land Management's stewardship of the area, saying off-road vehicles and mining were not ruining the desert. Then the Air Force and Navy said the desert bill could harm their need to use the vast airspace over the desert for military training fights.

Finally, Cranston locked horns with Wilson, who sided with off-road enthusiasts in wanting to permit more wilderness to wilderness areas. All through late June and early July, Wilson and Cranston went back and forth on the issue, until finally, on July 7, both legislators admitted that the bill was dead for this year.

During the debate, Wilson's senate opponent, Lt. Gov. Leo McCarthy, tried to use the desert issue to differentiate himself from Wilson on environmental issues, as they are in general agreement on most other environmental matters. At about the same time, the Sierra Club announced its endorsement of McCarthy over Wilson, though the club had praised Wilson's environmental efforts in the past.

The Coastal Commission won't drop resale controls on subsidized units in Orange County, despite requests from 44 homeowners to do so.

On July 13, the commission rejected the request to eliminate resale controls on almost 600 coastal Orange County units, ruling instead that the homeowners can sell their homes but must turn most of the profits over to the state.

Problems began in 1984, when the Coastal Commission hired Community Housing Enterprises of Santa Ana to handle resale of the low-priced units. The non-profit organization folded last year and the budget-strapped Coastal Commission was left with no way to administer the program. As a result, homeowners had no way to sell their condominiums and comply with the resale price controls imposed when the units were built.

San Francisco's Mission Bay project will be expanded under the terms of a land swap between the city and Santa Fe Pacific Realty, the developer.

The Port Commission has already approved the deal, under which Santa Fe will receive 24 acres of waterfront property adjacent to the Mission Bay project and, in return, give the city 50 acres of less valuable property farther south.

While city and Santa Fe officials praised the swap as another step toward completion of the Mission Bay project, community activists criticized the fact that the Port Commission approved the deal at a closed meeting on July 13. The swap still must be approved by the state lands commission.

Developers James Rouse and Wayne Ratkovich will team up for a $1-billion mixed-use project on the site of the former Long Beach Pike Amusement Park.

The 13-acre site will be designed principally by New York's Stanton Eckstut, one of the designers of Battery Park City in Manattan. It will eventually include some 3 million square feet of space, though Phase 1 is scheduled to include 200,000 square feet of office space, 200 hotel rooms, 200 units of housing, and 30,000 square feet of retail and restaurant space.

Center for Law in the Public Interest, a prominent Los Angeles land-use law firm, will be reorganized into a private law firm and a non-profit fundraising organization this fall.

According to co-director Carlyle Hall, the nonprofit center has had to turn away many clients because it is prohibited by the Internal Revenue Service from accepting fees from private clients. The IRS does permit the center to collect up to 60% of its budget from court-awarded attorney fees.

The center was formed in 1971 with a grant from the Ford Foundation and has received millions of dollars in fees under the state's "private attorney general" law, which it helped draft a decade ago. In recent years, however, the market for land-use legal services among paying clients such as local governments, environmental groups, and homeowners groups has grown substantially. For example, the San Francisco-based firm of Shute, Mihaly & Weinberger represents many such clients in Southern California.

Under the reorganization plan, Hall said, the center's 10 lawyers will create a private firm, Hall & Phillips, to represent private clients much as the Shute Mihaly firm does. Meanwhile, Ruthann Lehrer, the center's administrator, will remain at the center as a fundraiser, and the center will hire Hall & Phillips at reduced rates to do public-interest legal work.

ROUNDUP: The L.A. County Grand Jury calls for **an audit of Irwindale's $395 million bond issue** for a waste-to-energy facility that was never built....Amid rumors that the Los Angeles Rams are considering returning to the L.A. Coliseum, **lawyers for the team and the city of Anaheim** have asked an Orange County judge to clarify his ruling in their lawsuit with Angels' owner Gene Autry....Charging that the city's Design Review Board places overly tight control on development in the city, **a citizen group in Laguna Beach** mounts a recall campaign against members of the city council there....The Yorba Linda City Council has given final approval to construction of the **Nixon Presidential Library**, with completion expected next summer.

Hollywood Redevelopment Trial

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However, some small merchants in Hollywood objected to the plan and hired Sutton to sue the CRA. Sutton's lawsuit claimed the CRA had defrauded the Project Area Committee (a group of local citizens set up to advise CRA) about their ability to influence the project.

For example, the testimony of cafe owner Doreet Rotman (who was on the stand for a week in July) was designed to prove that the CRA deliberately misled the PAC about the committee's powers to maintain an office, hire a staff, and retain a lawyer. (Sutton himself serves as counsel to several PACs in Southern California.) However, the questioning of Rotman was interrupted by almost constant objections by CRA's lawyers, as well as careful questioning of the witness by Cooperman himself.

The Hollywood case went to trial after the city council rejected a settlement offer that would have virtually eliminated eminent domain from the project and given the PAC far more power over the future of the project.

Meanwhile, as the trial was under way, the city planning department proposed dramatic cuts in future growth in Hollywood, both inside the redevelopment area and outside of it. Inside the redevelopment area, the zoning revisions would cut potential commercial development from 45 million to 21 million square feet. Extensive cuts in proposed residential growth were also proposed.