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INSIDE

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AG Cracks Down on 47 Cities with Bad Housing Elements

State Threatens Lawsuits; Localities Say Action Is Unfair

By Morris Newman

Forty-seven cities have received letters from the state Attorney General's Office, admonishing them for ignoring the state law in updating housing elements and hinting at further legal action. The move startled many local officials and provoked charges of unfairness in some cases. It was the first time in more than a decade that the attorney general has become involved in housing element disputes.

The letters furor also spotlights vagueness in the housing element law, as well as a persistent disagreement between Sacramento and local communities on the best approach to the creation of affordable housing.

The general plan law requires local governments to update their housing elements every five years with a program targets affordable housing goals through zoning and pro-active strategies. Cities typically model their housing goals on numbers supplied by regional councils of governments, which in turn receive numbers from the state Department of Housing *Continued on page 4*

Slow-Growth Views Fare Well in November Election

Despite Recession Limited Growth Forces Win 56% of Local Ballot Measures

Despite the lingering recession, slow-growthers prevailed in most growth-related issues on local ballots around the state in November.

In fact, long-term trends identified by CP&DR held constant, as slow-growthers won 14 of 25 growth-related issues on local ballots — a pass rate of 56%. According to records compiled by *CP&DR* coverage over the past seven years, an average of 24 growth-related issues have appeared on November ballots each year since 1986, and an average of 14 have passed. (See Numbers column, page 11.)

Chinks in the trend have begun to appear, however. For example, while slow-growth measures won overwhelmingly (12 of 17 passed, for 71% pass rate), most pro-growth measures also passed (6 of 8, or 75%). And anecdotal evidence about ballot measures and electoral victories shows mixed results. For example:

• In slow-growth Marin County, a proposal to subject . *Continued on page 9*

Factions Jockey for Control of Large Sutter Project

By Morris Newman

Developers, county officials, and local residents are racing to gain control over a huge proposed development in south Sutter County, just a few miles north of the Sacramento Metropolitan Airport.

In November, the Sutter County Board of Supervisors approved the specific plan — and vesting tentative map — for Sutter Bay Village, a 1,071-acre development project that would open up a 25,000-acre planning area in south Sutter County. At the same time, the county's Local Agency Formation Commission approved the incorporation of the entire 25,000 acres into the Town of Pleasant Grove, even though the area currently has only 1,600 residents and does not currently "pencil out" as a city government. In a virtually unprecedented step, Sutter Bay's developers have offered to underwrite the new city's general fund until the city receives enough development to become financially solvent.

Continued on page 10

In Brief

The Regents of the University of California are **going forward with plans to select and build a new $300 million campus** in the San Joaquin Valley, although construction now seems unlikely to start before 1998. At a November 20 meeting, the Regents decided to limit the selection process to three sites: Lake Yosemite in Merced County; Table Mountain in Madera County; and the Academy site, 30 east miles of Fresno. In March, the regents are expected to decide whether to commission EIRs on one or possibly all of the sites. A final determination is expected between 12 and 24 months after the EIR process starts. The regents expect the land to be donated, and to share infrastructure costs with local governments....

The Eagle Mountain landfill's environmental impact report **has been rejected by the state's Integrated Solid Waste Management Board**. The board, which passes on landfill projects throughout the state, posed questions on a variety of environmental issues, including how the Riverside County landfill would divert recyclable and compostable materials from going to the dump. Located in the Coachella Valley, Eagle Mountain would be able to accommodate 20,000 tons of trash per day, making it the world's largest landfill. After a long and controversial fight, Riverside County supervisors had approved the landfill by a 3-2 vote. (CP&DR, November 1992)....

Burbank City Councilman Michael Hastings **has been accused of a possible conflict of interest** in the city's proposed $100 million sports arena. Hastings failed to disclose that actor-developer Wayne Rogers, who has proposed to build the stadium in partnership with Lew Wolff, owns a minority stake in the business that employs Hastings. The councilman, however, excused himself from all discussion and votes regarding the project. City Attorney Joseph W. Fletcher said Hastings' alleged failure to disclose his relationship may have violated the California Political Reform Act....

The Oakland Planning Commission **has unanimously approved a controversial plan to build 341 homes** along a scenic ridge in the Oakland hills, despite protests by environmentalists and the San Leandro City Council. The 132-acre site is near the San Leandro border. The development partnership, Hayward Exchange Inc., includes former Hayward Mayor Jack Smith and former San Jose Vice Mayor Robert Miller.....

The Riverside City Council voted 5-2 to designate **a three-year period during which businesses would be allowed to convert homes to places of businesses in the city's historic district**. Businesses have been allowed relative freedom with the interiors of buildings, but must maintain the exteriors in their original form. No further conversions would be allowed after the expiration of the period. The move is an apparent compromise both to maintain the integrity of the Prospect Place Historic District and to encourage business growth in an area of largely dilapidated housing....

The San Joaquin Hills tollway in Orange County has **received the approval of the Coastal Commission**, which required that the Transportation Corridor Agencies spend an additional $400,000 on wetlands mitigation. The vote clearly reflected economic considerations — spurred on by a newspaper advertising campaign suggesting that the road project was the sort of public investment advocated by President-elect Bill Clinton.

Seeking to fill up vacant office buildings, **the City of Ventura has decided to waive fees** — not on new development, but on businesses moving into vacant space. The city requires up to 18 different permits for such businesses, and the fees — which will be waived until the end of the fiscal year in June — can total up to $2,000. City officials said they know of no other city in the state that has taken similar action.❑

CALENDAR

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- **6: CEQA: An Update.** Davis. Sponsor: UC Davis Extension. Call: (916) 757-8887.
- **18-20: Housing California '93 Conference.** Sacramento. Sponsor: California Homeless and Housing Coalition. Call: (916) 447-0390.
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Sacramento Approves Revised North Natomas Plan

By Morris Newman

After years of negotiation, the Sacramento City Council has approved a plan for the development of North Natomas, a 12,000-acre agricultural zone and flood plain that is the city's last undeveloped area.

The new plan eliminates the sports-facilities requirement contained in a 1986 plan negotiated with erstwhile sports mogul Gregg Lukenbill. It also calls for a less costly and presumably more environmentally sensitive flood-control system, as well as a neo-traditional community design.

Located along Interstate 5 between downtown Sacramento and the Sacramento airport, North Natomas has long been regarded as a logical location for intense urban development in Sacramento; indeed, the city has grown up around it, making it something of an infill site. However, the low-lying area is prone to flooding — it has been called "a bathtub without a drain" — and environmental groups in Sacramento used environmental concerns as a lever to negotiate a the new plan.

In 1987, the Environmental Council of Sacramento sued the city over alleged inadequacies of the prior plan, including inadequate traffic mitigation for already-developed South Natomas and air-quality issues. The new plan is the product of a 11-month public process that involved environmentalists, developers and city officials. ECOS president Tom Whitney had praise for plan's approach to transportation planning. "In most plans, the transportation planners wait until everything else is done and then decide where transportation is to be located in the parts that are left over. This is the first plan that I'm aware of in which the transportation planning was done first, and everything else fitted around it," Whitney said.

The new plan differs from the earlier document by encouraging comparatively high densities of residential development around planned transit stations. The plan also envisions a grid pattern of streets, intended to free residents from reliance on major arterials. The plan does not ban cul-de-sacs outright, however, since many properties would border non-residential uses, but it does limit the cul-de-sacs to 600 feet in length. The plan also encourages a series of small parks, enabling about 80% of envisioned homes to be within 880 feet of open space.

The other important feature of the new plan is a less-costly flood control system. Planners had asked for revised system, since fees on new development seemed unlikely to contribute enough to pay for the concrete culverts specified by the U.S. Army Corps of Engineers. The previous system of concrete-lined drainage ditches had been projected to cost $130 million; the new system is expected to cost about $65 million. The new flood-control technology involves a series of earth-lined retention ponds, which can also be used as recreational sites, since the slopes of retention ponds are planted. By themselves, the retention ponds would occupy 200 acres.

Perhaps the most notable change in the plan, however, is the change of a novel requirement originally placed on developer Lukenbill and his partners when they controlled most of the land. Lukenbill was required to complete at least 50% of the Arco sports complex before any other development in the area could occur. The intent was to prevent the developers from building commercial real estate projects in the area before he fulfilled his promise to the public of building the sports complex.

Lukenbill, who later ran into financial trouble and sold much of his holdings to other developers, had completed the Arco Arena, where the Sacramento Kings currently play, but was unable to find financing to build more than the foundation of the football-sized stadium. ❑

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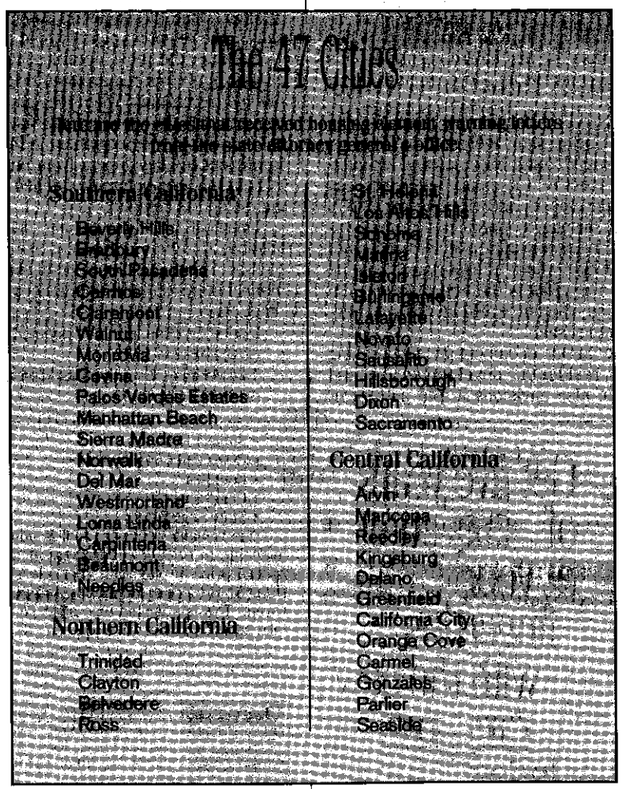
State Threatens Housing Element Lawsuits Against Delinquent Cities

Continued from page 1

and Community Development.

In the standardized letter, Deputy Attorney General Kathleen W. Mikkelson tells officials from the 47 cities — most often mayors — that "we have been informed by (HCD) your jurisdiction has failed to submit even a draft housing element" by the statutory deadline of July 1, 1991. "Unless your jurisdiction immediately takes action to comply with state housing element," the letter continues, "you are vulnerable to a legal challenge as a result of an inadequate general plan."

HCD Deputy Director Tom Cook said some planning officials in cities that received the attorney general letters told him privately they were pleased to see pressure put on decision makers. "One planner said that the housing element has been on the agenda for years and the city council kept deciding not to act on it, so he was glad for the letter."



But that was not the public attitude of city officials who were subject to the AG's warning. Mayor Pro Tem Lara Blakely of Monrovia said the state's action seemed designed to "embarrass" the targeted cities. Monrovia's letter, she said, was addressed not to city hall but to the mayor's private residence, and she added that she did not like the fact that HCD issued a press release announcing that the letters had been sent. "That's a good way to embarrass cities or slap officials around, but in our case it was unfair." Blakely said her city had failed to submit an updated housing element, because Monrovia's entire general plan is being updated. She claimed that the city was actually in compliance in the creation of affordable housing: the city has built about 770 units.

The letters underscore the tension between HCD and local government regarding the best way to fulfill the state's Fair Share housing policy. According to Joe Carreras, housing program manager for Southern California Association of Governments, Sacramento's stress has been on planning, while local government is often more focused on actual housing programs and goals. He pointed out that crucial terms in the housing element law, including "housing need" and "fair share," are not defined.

Under the housing element law, each city must update its housing element every five years and submit the document to HCD for review. HCD has no administrative power to enforce the housing law, but must instead rely on lawsuits, either from citizen groups or from the attorney general. Local governments are often accused of ignoring the law because low- and moderate-income housing is an unpopular political issue in most cities. At the same time, however, the law has frequently been criticized as a "paper tiger," requiring extensive paperwork but no results.

Applauding the letters are such housing advocates as Marc Brown of the Sacramento Housing Alliance. "We've been encouraging them to do (write the letters) for 10 years," he said. Brown added the letters will "put a few teeth in housing policy." Brown observed that housing-element compliance is a "new priority" for the attorney general's office, which under former AG John Van de Kamp had not taken a strong stand on housing-element enforcement.

Cook described the letters as an "effort to make this law effective and to help make local governments realize they are significant players in affordable housing." He said cities can play a constructive role both through rezoning areas of the city for affordable or high-density housing, and by supporting the creation of housing through redevelopment set-aside funds, such as land write-downs for non-profit developers.

But the response of planner Rick Tooker of Carmel was typical of the counterattack by cities. In a November 2 letter in reply to the AG's office, Tooker wrote that "while the letter was correct that Carmel by had not submitted its housing element update, the city had not submitted an update, since it was waiting for adequate U.S. Census figures, which were not available until the spring of '92. (Carmel has chosen to model its housing element directly on census data, rather than the projections created by the local council of governments, the Association of Monterey Bay Area Governments.) If Carmel had based its housing figures on 1980 figures, "the update would have been obsolete within a few months after its adoption."

The California Chapter of the American Planning Association has convened a task force on the issue, and has hosted meetings for the past four months regarding possible revisions in the state's housing element with representatives from HCD, the building industry and staff members of both the assembly and senate housing committees. ❑

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CP&DR

LEGAL DIGEST

State Supreme Court Upholds LAFCO Law

But Opinion by Mosk Seems to Call For U.S. Supreme Court Review

By William Fulton

Overturning an appellate court ruling, the California Supreme Court has upheld the constitutionality of the state's procedures for forming new cities. Yet the ruling contained undertones indicating that the high court was not really pleased with the outcome it apparently felt obligated to reach.

Ruling in the celebrated Citrus Heights case, the Supreme Court said that incorporations do not need the approval of voters in nearby unincorporated areas, even though the county government will lose tax money as a result of the incorporation. The Court of Appeal in Sacramento had previously overturned the constitutionality of the Cortese-Knox Act, Government Code §56000 *et. seq.*, saying other voters should have a say in the incorporation because they would suffer "significant effects" from such an incorporation (*CP&DR*, November 1991).

"To deny the legislature the authority to let the potentially incorporating territory's voters have the final say in the matter would be to lessen political participation, not to increase it," wrote Justice Stanley Mosk for a unanimous court. The court concluded that the incorporation law does not violate the U.S. Constitution's guarantee of equal protection under the law.

But the decision was not quite as indisputably clear as Mosk's pronouncement might suggest. Indeed, Mosk — well-known as a defender of liberal voting rights — left the distinct impression that he did not really want to uphold the law but had no choice given the "playing field" given him by the U.S. Supreme Court.

Mosk wrote that the court would have overturned the Cortese-Knox Act if he and his fellow justices had concluded that they should apply the stringent "strict scrutiny" test, rather than the "rational basis" test. Under this test, the court needed to find only a "rational basis" for excluding other county voters from the incorporation process. In this case, the court concluded, the argument that voters outside a proposed city have less of a stake in its incorporation is, indeed, a rational basis for excluding them.

By contrast, the strict scrutiny test, which is typically applied in equal protection cases, requires that a discriminatory law be overturned unless a series of extremely difficult tests are met. The reason for the strict scrutiny test is that voting is considered a "fundamental right" deserving of special protection. In the Citrus Heights ruling, however, Mosk wrote that "the essence of this case is not the fundamental right to vote, but the state's plenary power to set the conditions under which its political subdivisions are created. For this reason, the impairment of the right to vote is insufficiently implicated to demand the application of strict scrutiny."

As a result, the court ignored — if it did not exactly overturn — two apparent precedents from 1982, *Citizens Against Forced Annexation v. Local Agency Formation Commission*, 32 Cal.3d 816, and *Fullerton Joint Union High School District v. State Board of Education*, 32 Cal.3d 779. Indeed, it may be that Mosk and his colleagues are subtly sending a message to the U.S. Supreme Court to clarify the question of which standard of review should be apply.

Sacramento County, which brought the lawsuit against its own Local Agency Formation Commission, seems to be leaning toward an appeal to the U.S. Supreme Court. Brent Bleier, the county's lawyer in the case, said the county supervisors fear a domino effect in Sacramento County, where two-thirds of the residents live in unincorporated areas and no new cities have been incorporated since 1946. "The question is, should it be only the beneficiaries who vote?" Bleier said.

City incorporation has become more popular in California since the passage of Proposition 13 in 1978 because taxpayers suffer no financial penalty. A new city is prohibited from imposing additional property taxes, so a portion of the county's property tax is simply shifted to the city treasury. More importantly, all sales-tax revenue generated within the new city's borders is shifted from the county to the city.

In Sacramento County, the attempted incorporation of Citrus Heights, an unincorporated suburb, has now dragged on for six years. County officials — and the county's labor unions — oppose the city's incorporation because it would cost the county an estimated $7 million in annual tax revenue, including $2 million from the Sunrise Mall shopping center alone.

In the Court of Appeal's ruling, the justices applied the strict scrutiny test and found that the Cortese-Knox Act violates the equal protection clause of the U.S. Constitution. The court found that, unlike many counties, Sacramento County governs so many unincorporated areas in the suburbs of Sacramento that it functions, essentially, as a city government for those areas. Indeed, several attempts to merge city and county governments in Sacramento have been launched, though all have failed.

In dealing with the Citrus Heights case, the state Supreme Court addressed the question of whether California's incorporation law infringes on unincorporated residents' right to vote so extremely that the equal protection clause of the constitution is violated. In the opinion, Mosk noted that the court is required to view the unincorporated residents as "similarly situated" with the residents of the Citrus Heights, but added, quoting the U.S. Supreme Court, that states have "extraordinarily wide latitude" in creating smaller political subdivisions.

Seeking guidance from the U.S. Supreme Court, Mosk turned to *Lockport v. Citizens for Community Action*, 430 U.S. 259 (1977), a case which challenged as unconstitutional a New York law prohibiting the implementation of a county charter unless it was approved by a majority of both the city and non-city residents of the county. The Supreme Court applied the "rational basis" test in the *Lockport* case and upheld the law.

The California Supreme Court chose to use the rational basis test in the Citrus Heights case in spite of the fact that in the *Fullerton* and *Citizens* cases the strict scrutiny test was applied. *Fullerton*, a case involving a change in school boundaries, and *Citizens*, an annexation case, were essentially decided together by the Supreme Court a decade ago. In *Fullerton*, a plurality of three justices, including Mosk, concluded that "nothing in *Lockport* endorses measures which deny the vote entirely to residents of one of the areas, nor permits such measures to escape strict judicial scrutiny." In a dissenting and concurring opinion, Justice Otto Kaus disagreed with this conclusion, saying that *Lockport* and other U.S.

Supreme Court rulings "establish that states enjoy very broad discretion in devising procedures for the formation of reorganization of local political subdivisions" and therefore such situation are not subject to strict scrutiny.

Because *Fullerton* decided by a mere plurality, the Supreme Court was not bound to use it as precedent. However, the *Citizens* case presented more of a problem, because it was decided by a clear majority (with Kaus dissenting for the same reasons in *Fullerton*), and the court had to ignore it in order to uphold the constitutionality of the LAFCO law in the Citrus Heights case.

Citizens involved the question of whether all 40,000 residents of Rancho Palos Verdes were required to vote on an annexation expanding the city by another 10,000 people in the unincorporated community of Eastview. (Ordinarily, approval is required only from those voters in the proposed annexation area.) Although applying the strict scrutiny test, the Supreme Court concluded that the state has a "compelling interest" in annexation to promote "orderly and logical community development" even if the current city residents oppose the annexation.

In the Citrus Heights opinion, however, Mosk called the court's own reasoning in the *Citizens* case "questionable." He said the Supreme Court now cannot regard the city residents' interest as "insubstantial" when the city's population would have been increased by a one-quarter as a result of annexation. And he said that the court's reliance on orderly community development as a compelling goal was false. Implicitly, he said, the Supreme Court acknowledged in *Citizens* that the reason to deny voting rights to current city residents was the fact that they might veto the annexation — and thus thwart the state's interest. Mosk added that excluding citizens from voting because they might veto the annexation is "constitutionally impermissible." In essence, Mosk, who sided with the majority a decade ago in *Fullerton* and *Citizens*, adopted the reasoning of dissenting Justice Kaus in choosing to ignore those earlier opinions.

But Mosk's dismissal of the *Citizens* case was a necessary prelude to the court's decision to uphold the LAFCO law in the Citrus Heights case. Mosk went on to say that "if we were to follow *Citizens* ... and apply strict scrutiny, we would not be compelled to declare §57103 (of the Government Code) invalid on constitutional grounds. Such a holding would greatly unbalance the legislature's careful accommodation of competing local governmental and private interests in the subsequently enacted Cortese-Knox Act and would undermine the lawmakers' power over the existence of cities and counties." Under such circumstances, he said, "stare decisis" — the requirement that the *Citizens* precedent be followed "carries less weight."

In conclusion, Mosk wrote: "The (Cortese-Knox) act's accommodating of competing local interests may be imperfect, but that is not enough, by itself, to offend constitutional principles." ❑

■ The Case:
Board of Supervisors v. Sacramento LAFCO, No. S023805, 92 Daily Journal D.A.R. 15115 (November 11, 1992).

■ The Lawyers:
For Sacramento County: Brenton Bleier, (916) 444-5994.
For Sacramento County LAFCO: Nancy Miller, Hyder & Miller, (916) 447-7933.
For the Citrus Heights Incorporation Committee: Patrick Borchers, Downey Brand Seymour & Rohwer, (916) 441-0131.

TAKINGS

So. Carolina Supreme Court Rejects Nuisance Argument in Lucas Case

In the latest wrinkle in an important case, the South Carolina Supreme Court has found that landowner David Lucas suffered a temporary taking when the state's Coastal Council refused to let him build two houses on beachfront lots on the Island of Palms. The state Supreme Court has returned the case to the circuit (trial) court to determine damages.

In so doing, the state Supreme Court rejected the Coastal Council's argument that building the houses on a beach prone to erosion constitutes a nuisance under common law. "Coastal Council has not persuaded us that any common law basis exists by which it could restrain Lucas's desired use of his land; nor has our research uncovered any such common law principle," the court wrote.

The state Supreme Court had earlier ruled that South Carolina's Beachfront Management Act served a legitimate public purpose and did not "take" Lucas's property by preventing him from building on it. But the U.S. Supreme Court overruled the South Carolina court last summer. In *Lucas v. South Carolina Coastal Council*, 505 U.S. ___, 112 S.Ct. 2886, the nation's highest court ruled that the South Carolina law did indeed create a taking of Lucas's property unless the Coastal Council could find a basis in nuisance law for preventing the construction of the two houses. The case was remanded to the South Carolina Supreme Court for further action. (*CP&DR*, July 1992.)

According to Cotton Harness, the Coastal Council's lawyer, the Supreme Court gave little indication about the reasoning contained in its five-page order and, in fact, did not ask for written briefs prior to oral argument on November 19. The order was handed down the next day.

Subsequent amendments to the Beachfront Management Act have given Lucas the ability to seek a permit from the Coastal Council to construct his two houses. Nevertheless, he apparently will ask the circuit court for temporary damages, plus interest during his four-year court odyssey totaling some $700,000. Originally, a circuit judge awarded him approximately $1.2 million for the loss of his property. ❑

■ The Case:
Lucas v. South Carolina Coastal Council, written order of the South Carolina Supreme Court dated November 20, 1992.

■ The Lawyers:
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For the South Carolina Coastal Council C. C. Harness III, general counsel, (803) 744-5838.

CEQA

Court Upholds Alternative Analysis On San Francisco Aquarium Project

The Bay Conservation and Development Commission and the City of San Francisco acted properly in concluding that there was no alternative site away for a new aquarium that would require additional fill in San Francisco Bay, the First District Court of Appeal has ruled.

A citizen group had challenged BCDC's decision on a wide variety of grounds under the California Environmental Quality Act, claiming that the administrative record did not contain "substantial evidence" that any location away from the bay was infeasible. But the court rejected all of the citizen group's arguments.

"The administrative record reveals that the city, as the lead agency, analyzed every alternative site brought to its attention, considered its location and size, its treatment in local land use plans, its environment, and its potential for minimizing or eliminating the adverse impacts associated with the Pier 39 site, including bay fill," wrote Justice Zerne P. Haning for a unanimous three-judge panel. "Appellants have not pointed to a single location brought to the city's attention that was disregarded."

The case involves the proposed aquarium known as Underwater World, which would be built at Pier 39 by a company that manages a similar aquarium in New Zealand. The aquarium would feature saltwater fish only. Approval by BCDC, among others, was required because the aquarium will be built on new concrete pilings in the bay. Pier 39's existing platform would not support the weight of the aquarium's tanks.

After the project was approved, both the city and BCDC were sued by the Save San Francisco Association, San Francisco Tomorrow, and Friends of Fisherman's Wharf. The main complaint by these environmental groups was that the environmental review under both CEQA and the McAteer-Petris Act — the law that enacted BCDC — did not deal extensively enough with alternative sites away from the bay.

The city's environmental impact report discussed four alternatives, including were Pier 35, which would require no new pilings in the bay but would displace planned open space; Piers 30-32, which would generate more auto trips because of its relatively remote location; use of Pier 39 without extending the platform into the bay, which still would have required new pilings to reinforce the current platform; and a gas station site across the street from Pier 39, which would have presented the problem running pipes underneath the Embarcadero to ship bay water into the aquarium. As required by law, the EIR also discussed the "no project" alternative.

The citizen groups claimed that the EIR erred by not identifying an alternative site that would have permitted the project to be located along the bay without placing any new fill in the bay. But the appellate court rejected this argument, saying that the city had "made a comprehensive analysis of numerous alternative sites for the project," most of which were not discussed in the EIR because their impacts were not substantially different from the four alternatives that were discussed.

But the citizen groups made a further argument about BCDC's review of alternative sites. In approving the project, BCDC made a finding that the aquarium site constitutes "water-oriented recreation" — one of the few uses for which filling the bay is permitted under the McAteer-Petris Act. Yet the citizen groups argued that BCDC had "artificially manipulated the definition of the 'purpose' of the project" to ensure that no site away from the bay could possibly fulfill the requirements.

The appellate court found no fault with BCDC's analysis of alternative sites under the McAteer-Petris Act. The nature of the project, the court said, virtually dictated a bayside location. Furthermore, the court said, BCDC's finding that no "upland" location was available for the project was supported by the available evidence.

Under the McAteer-Petris Act, filling the bay is permitted only when no alternative upland location is available. In its findings, BCDC acknowledged that "it is always physically possible to place a project outside of the Bay if enough money is spent," but added that "such an extreme result is not intended" by the law.

The appellate court agreed. "By imposing a requirement that alternative upland locations be given preference in the selection process, we cannot believe the Legislature meant that a site meeting the rigorous requirements of the (McAteer-Petris Act) related to fill has to automatically be discounted simply because the project could theoretically be located at an upland location." ❑

■ The Case:
Save San Francisco Bay Association v. San Francisco Bay Conservation and Development Commission, No. A054720, 92 Daily Journal D.A.R. 14635 (October 30, 1992)

■ The Lawyers:
For Save San Francisco Bay Association: John Roger Beers, (415) 391-2710.
For BCDC and other government agencies: Melba Yee, Deputy City Attorney, (415) 554-3911.

Judge Shouldn't Have Permitted Supplemental Findings on EIR

A judge in Contra Costa County should have remanded a defective environmental impact report to the Contra Costa County Board of Supervisors, rather than allowing the board to adopt additional findings, the First District Court of Appeal has ruled.

The case involves the county's consideration of a specific plan for 6,500 acres in the Bethel Island area along the Delta at the eastern edge of the county. One-quarter of the land lies in wetlands. As adopted by the county, the specific plan called for approximately 3,000 housing units, including about 1,000 on Bethel Island itself.

However, the Sierra Club and other environmental groups sued, challenging the alternatives analysis in the environmental impact report. Other than the required "no project" alternative, the EIR did not consider any alternatives less than 3,000 units.

Contra Costa County Superior Court Judge William A. O'Malley found this analysis faulty, but he did not remand the EIR to the Board of Supervisors for reconsideration. Instead, he instructed the board to "delineate a better range of environmental alternatives" through administrative findings rather than preparing a subsequent EIR. The board subsequently adopted a two-page "Supplemental Statement of Findings on Project Alternatives for the Bethel Island Area Specific Plan," which concluded that any alternative smaller than 3,000 units was infeasible..

On appeal, the environmentalists argued that a portion of CEQA — Public Resources Code §21168.9 — requires a judge who finds a public agency has not followed CEQA to issue a writ of mandate directing the administrative agency to reconsider the issue. The environmentalists also argued that O'Malley's action denied them the ability to challenge the adequacy of the new findings.

The appellate court agreed, writing: "Once those two pages of supplementary findings were made the trial court apparently concluded that they were sufficient to cure the defects in the EIR's discussion of alternatives. The result of that procedure has been effectively to insulate those findings from any meaningful challenge."

In unpublished portions of the decisions, the court upheld the EIR's discussion of cumulative impacts and mitigation findings. ❑

■ The Case:
Sierra Club v. Contra Costa County, No. A056311, 92 Daily Journal D.A.R. 15037 (November 9, 1992).

■ The Lawyers:
For the Sierra Club: Kathryn Burkett Dickson, (415) 864-1725.
For Contra Costa County: Silvane Marchesi, Assistant County Counsel, (510) 646-2054.

LEGAL FYI

The state Supreme Court has granted review in a case involving the eminent domain value of several lots in San Diego. The Fourth District Court of Appeal ruled that the lots could be valued based on the assumption of "future unity of use" among them even though they are not currently developed together. *City of San Diego v. Neumann*, S029018. (*CP&DR Legal Digest*, October 1992.)

The Supreme Court also moved to decertify a case from Carpinteria in which the appellate court ruled that the applicant of a coastal permit has the burden of proof in showing that the project in question will not encroach on public land. *Antoine v. California Coastal Commission*, Supreme Court No. S028698, Second District Court of Appeal No. B051709, 92 Daily Journal D.A.R. 14672. A description of the case appeared in the *CP&DR Legal Digest* in September 1992..

Lawsuits filed:

• A Hindu congregation has sued the City of Norwalk over the city's refusal to issue a conditional use permit for a temple. The temple argued that its religious freedom was infringed upon and that the city's standards for CUPs are vague. *International Swaminarian Satsang Organization v. City of Norwalk*, L.A. County Superior Court No. BS019843. ❑

County-By-County Results of November Ballot Measures

Alameda County

Emeryville

Emeryville voters approved the creation of a joint planning authority to work with the City of Oakland in coordinating planning for a retail center between the two cities.

Measure J: Yes: 54.1% No: 45.9%

Hayward

Hayward voters urged the construction of Route 238 as a six-lane freeway between Interstate 580 and Industrial Parkway.

Measure L: Yes: 51.4% No: 48.6%

Butte County

Paradise

In an advisory measure, Paradise voters rejected the idea of a formal sewer system in those areas in need of sewerage.

Measure U: Yes: 43.9% No: 56.1%

Contra Costa County

Hercules

Hercules voters overwhelmingly rejected an attempt to overturn the city council's approval of 822-home development in Franklin Canyon. The Save Franklin Ridge group placed measure on the ballot even though council reduced size of project from 1,100 units.

Measure G: Yes: 37.6% No: 62.4%

Orinda

Voters in Orinda decided against retaining right-of-way for Gateway Boulevard into Moraga. Proposed Gateway development includes 300 houses, a conference center, and a golf course.

Measure J: Yes: 46.9% No: 53.1%

Fresno County

Fresno

Fresno voters decided to forbid the use of metered water rates. In accordance with new state law, most new developments are outfitted with water meters. Also, the city has spent more than $600,000 on structuring a metered rate for water. But the new meters will simply go unused.

Measure I: Yes: 59.3% No: 40.7%

Los Angeles County

Hermosa Beach

Hermosa Beach voters agreed to approve the rezoning of the controversial oceanfront Biltmore site for open space use. The Biltmore site has been the subject of a long series of ballot measures in Hermosa Beach.

Measure D: Yes: 63% No: 37%

Lawndale

Voters overwhelmingly passed a revised general plan which deleted downtown residential component and eminent domain power for redevelopment projects. A previous version of the general plan failed last spring.

Measure F: Yes: 71% No: 29%

Pasadena

Voters in Pasadena approved a new general plan put together by the city council, repealing numerical limits on commercial and residential growth passed in 1989.

Measure O: Yes: 53% No: 47%

Marin County

Measure A, which passed overwhelmingly, calls for voter approval for any buildings added to the Marin County Civic Center — a move aimed at stopping construction of a new county jail. However, the jail is already under construction.

But Marin County voters overwhelmingly rejected Measure B, which would have required a countywide vote for any conversion of agricultural land in the county to urban use.

Measure A (Civic Center):
Yes: 61.8% No: 38.2%
Measure B (agricultural land):
Yes: 37.2% No: 62.8%

Monterey County

Monterey

Under the terms of a 1986 ballot measure, voters agreed to rezone a hotel site for office use.

Measure G: Yes: 61.0% No: 38.9%

Orange County

Mission Viejo

Voters in Mission Viejo rejected a $2 million general-obligation bond issue to buy and preserve 2.4 acres of open space in the city.

Voters also rejected an advisory measure that would have encouraged the construction of a Civic Center complex.

Measure J (open-space bonds):
Yes: 37% No: 63%
Measure L (civic center):
Yes: 37.5% No: 62.5%

Riverside County

Rancho Mirage

Rancho Mirage voters approved a measure requiring two-thirds voter approval for development in any hillside area that has been identified as bighorn sheep habitat.

Measure V: Yes: 68.6% No. 31.4%

Hemet

Under the terms of a previous ballot measure, Hemet voters approved a general plan that lays out a developer-funded infrastructure finance program.

Measure EE: Yes: 54.5% No: 45.5%

San Diego County

Imperial Beach

Voters overwhelmingly approved a measure to limit the density and building height within multi-family zones and the seacoast district specific plan area until a comprehensive amendment to the general plan and LCP has been approved by all governmental agencies, or two years from the date of enactment, whichever occurs first.

Measure P: Yes: 71.5% No: 28.5%

Poway

Voters approved a measure requiring subsequent voter approval of land-use changes to permit an asphalt plant in the South Poway planned community.

Measure S: Yes: 72.8% No: 28.1%

San Diego

San Diego voters rejected a measure to prohibit construction of streets and roads through public parks without a public vote.

Despite Recession, Slow-Growth Forces Fare Well

Continued from page 1

all conversion of agricultural land to a countywide vote was crushed by a 62%-38% margin.

• In San Diego, slow-growth candidate Peter Navarro — who shocked the city by running first in the June primary — fell short in the November runoff, garnering only 48% of the vote against County Supervisor Susan Golding.

• In San Francisco, voters approved the rezoning of a section of Geary Boulevard — a measure placed on the ballot by landowners to circumvent the Proposition M allocation process. Voters also rejected a proposal to prohibit construction of an affordable housing project on the site of a farmers' market.

• In Santa Barbara County, longtime slow-growth Supervisor Bill Wallace of Goleta lost a razor-thin election to challenger Willy Chamberlin. Ironically, Wallace's base of support had eroded because population in his district has grown slowly, and redistricting placed a large portion of the pro-growth North County in his area.

• In Stanislaus County, voters rejected a strict measure that would have limited the conversion of agricultural land to urban use around fast-growing Modesto. The initiative was placed on the ballot after slow-growthers and some farm interests were disappointed with a watered-down agricultural element passed by the Board of Supervisors. Nevertheless, the measure got only about 35% of the vote.

• In Yuba County, voters approved a proposal to build 3,500 homes in a 2,400-acre area in the foothills. The campaign was a classic planning-versus-nimby situation: The Spring Valley Specific Plan clustered development and preserved large areas of open space, while neighboring property owners preferred the current ranchette zoning.

• Signaling an apparent shift in public attitudes toward growth, Pasadena voters agreed to lift numerical restrictions on development imposed via initiative in 1989. The new general plan was placed on the ballot after an intensive one-year public outreach effort by the city council. Some slow-growthers supported the new plan, while others campaigned against it.

Yet for every situation suggesting a desire to promote growth, the election produced another situation that seemed to suggest that slow-growthers still have considerable political power throughout the state. Some highlights supporting the slow-growth trend:

• In a race that could dramatically alter growth politics in Riverside County, slow-growth Riverside City Councilman Bob Buster narrowly defeated Temecula school board member Joan Sparkman. Buster will replace Walt Abraham, whose pro-growth attitude went hand-in-hand with the rapid development of much of western Riverside County. Buster could form a working majority with Melba Dunlap and Kay Ceniceros, who have advocated limits on growth in the past.

• In a big surprise, Ventura voters instructed their city council to pursue a desalination plant — advocated by environmentalists — over construction of a pipeline to the state water project.

• Slow-growth attitudes on the San Mateo coast appeared intact after the overwhelming defeat of a developer-sponsored measure to approve a large development near Half Moon Bay.

• Rancho Mirage voters agreed to subject all future hillside developments to the ballot, an attempt to maintain bighorn sheep habitat. ❑

County-by County Results of November Ballot Measures

Proposition F Yes: 47.5% No: 52.4%

City and County of San Francisco

In approving Proposition K, voters approved the rezoning of three-quarters of a block on Geary Boulevard, which will permit construction of various medical offices and other commercial facilities. The victory means the landowner has circumvented the Proposition M allocation process — and may encourage other developers to go to the ballot in the future.

San Francisco voters also rejected a measure to prohibit the city from allowing any construction on land currently used by Bernal Heights Farmers Market and hillside next to it for next 20 years, except for purposes related to operation of Farmers Market. Defeat of Proposition L means the site may be used for affordable housing.

Proposition K (Geary Blvd. rezoning):
Yes: 52.1% No: 47.9%
Proposition L (Farmers' Market site):
Yes: 39.0% 61.0%

San Luis Obispo County

San Luis Obispo

Voters repealed their city's participation in the state water project, even though a pipeline to Santa Barbara County will be built through the area.

Measure H: Yes: 55% No: 45%

San Mateo County

Voters rejected Measure D, an initiative sponsored by a developer to build a golf course- and conference center-oriented development on an 862-acre farm near Half Moon Bay. The developer spent some $500,000 on the campaign.

In an advisory measure, voters supported the idea of tunneling CalTrain nearer to Market St.

Measure C (Caltrain):
Yes: 77.2% No: 28.8%
Measure D (coastal development):
Yes: 19.4% No: 80.6%

Santa Clara County

Voters approved a half-cent sales-tax for transportation projects.

Measure A: Yes: 54.1% No: 45.9%

Mountain View

Mountain View voters rejected a measure permitting general aviation uses at Moffett Field after the Navy leaves the facility.

Measure F: Yes: 33.6% No: 66.4%

Sunnyvale

Sunnyvale voters also rejected a measure permitting general aviation uses at Moffett Field after the Navy leaves the facility. They agreed with another measure designed to try to maintain city control of Moffett after the Navy leaves.

Measure G (general aviation at Moffett):
Yes: 34.6% No: 65.4%

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Political Factions Jockey for Control of Huge Sutter Bay Project

Continued from page 1

The Board of Supervisors and LAFCO votes are the latest moves in a long-running chess game over development of south Sutter County. With the local unemployment rate high, county officials have been eager to work with developers William Falik and Jonathan Cohen, who are partnering with Ahmanson Development Co. on the Sutter Bay Village project. At the same time, however, many residents in the vicinity of Yuba City, the county seat, fear that the Sutter Bay project will shift the balance of power in the 70,000-population county from the developed north to the agricultural south. A group called Preserve Sutter County-Let Us Vote has been lobbying to place the entire Sutter Bay project on the ballot.

The battle appears likely to reach a culmination next June, when the Preserve Sutter County referendum is likely to appear on the ballot countywide and the Pleasant Grove incorporation will appear on south county ballots.

The project is a significant attempt by an agricultural county to change its destiny. Sutter County Supervisor Barbara LeVake, a supporter of incorporation, says the area "has a fairly close proximity to the Sacramento area and a great a potential for industrial and economic development." Much of the land intended for development is currently used for rice farming, "which in my estimation is less prime than orchard land," the county's other major crop category, the supervisor added. But LeVake was defeated for re-election in November — an indication of the political heat the project is generating.

Consultant Bob Braitman, a former LAFCO officer in Ventura County who is acting as a consultant to the developer, said the incorporation of Pleasant Grove is an unusual event. "Typically, incorporation occurs after some development has occurred, and people decide that they are dissatisfied with the (local) county's planning process, and want to take control of the planning process themselves," he said.

But developer Falik says he does not view the incorporation as unusual, even though the area has experienced very little development and has only about 550 registered voters. "The people here said, 'We know the project is going to be large. Let us control it from the very beginning.' They just didn't want to be wait until the plan was violated."

Of course, the incorporation attempt could be viewed another way — as an attempt by the developers to eliminate north county residents as an obstacle to development. So long as the area remains unincorporated, development decisions are subject to referendum by voters in the entire county, and virtually all of Sutter County's residents live in the Yuba City area to the north. But if incorporation occurs, then development decisions will be controlled only by the 1,600 current residents of the Pleasant Grove area.

Similarly, the approval of Sutter Bay Village is being viewed by local citizen activists as an attempt to circumvent them. Just four weeks after approving the specific plan for Sutter Bay Village, the lame-duck Board of Supervisors approved a vesting tentative map for the project — essentially locking in the developer's right to build the project, no matter what the outcome of next June's referendum on the Sutter Bay proposal.

Developers are confident that local residents will support the incorporation, despite LeVake's defeat. Supporters of the incorporation point out that LeVake actually won in the Pleasant Grove area, but was defeated in other parts of the county, leading one observer to describe LeVake's defeat as an attempt by residents of the county seat, Yuba City, to remain the county's largest and most powerful community.

The two-year planning effort started at the invitation of local landowners. The county hired Stanford Research Institute and Bechtel Corp. in 1989, which recommended development of the area as a mix of commercial and residential uses; the study was funded by a Rural Assistance State Grant. Subsequently, local landowners lent the county $1.5 million, to be repaid if development occurs, for a specific plan by The Planning Center.

Sutter County LAFCO turned down the incorporation request in October, because a "worst case" analysis showed a shortfall of $3.3 million in administrative, police and fire-department costs after 10 years. After the Sutter Bay-Ahmanson partnership produced letters of credit and deposited $1 million in an escrow account, the LAFCO board approved the incorporation in November. ❑

■ Contacts:

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County-by County Results of November Ballot Measures

Continued from page 9

Measure H (city control of Moffett):
Yes: 82.5% No: 17.5%

Santa Cruz County

Santa Cruz

Santa Cruz voters overwhelmingly supported pursuing the city's greenbelt.

Measure I: Yes: 70.2% No: 29.8%

Stanislaus County

Stanislaus County voters overwhelmingly rejected Measure F, which would have restricted development on agricultural land. Measure F proponents were angry that the Board of Supervisors had watered down the agricultural element passed last spring. (*CP&DR*, June 1992.)

Measure F: Yes: 35.5% No: 64.4%

Ventura County

Ventura

Ventura voters chose to advise the city council to go with a desalination plant rather than a pipeline to the state water project.

Measure O Yes: 55% No: 45%

Yuba County

Yuba County voters narrowly approved the Spring Valley Specific Plan, which calls for 3,500 homes on 2,400 acres in the foothill areas of the county. The measure had been placed on the ballot as a referendum but neighboring homeowners, who prefer the current "ranchette" zoning.

Measure B: Yes: 51.8% No: 48.2% ❑

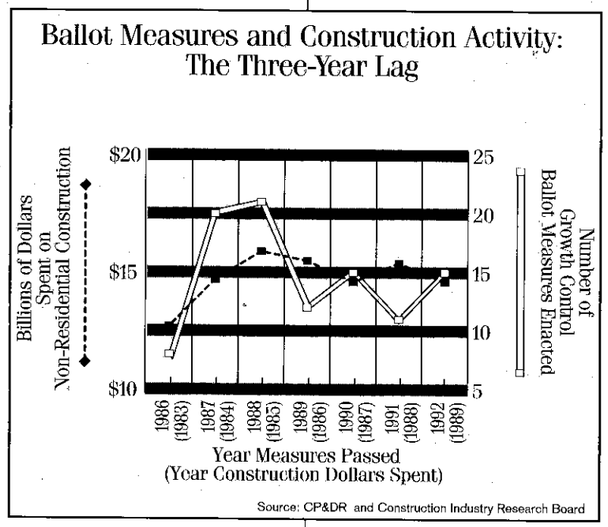
NUMBERS

Stephen Svete

Growth Control Stays Alive

Like most of the nation, Californians clearly possessed what Bill Clinton called the "courage to change" in the November election. Even in the midst of a Democratic victory in the presidential race and the election of two women to the Senate, however, one trend in California politics proved immune to recessionary concerns: the strong desire to slow growth through a myriad of local ballot measures. It's not surprising that on many local ballots throughout the state, the slow-growth v. pro-growth campaigns turned on arguments of local economic health. What's surprising is that despite the deepest recession in the Golden State since the 1930s, almost 60% of communities who had the choice voted for slower growth.

The November results seem to challenge the theories of local response to rapid growth posited in an analysis published by the Lincoln Institute of Land Policy earlier this year. In *Regional Growth...Local reaction: The Enactment and Effects of Local Growth Control and Management Measures in California*, Los Angeles-area urban planners Madelyn Glickfeld and Ned Levine showed that there is a strong statistical relationship between the number of growth measures enacted annually and the annual amount of non-residential building permit activity statewide. The study shows that there is a lag time of three years between the permit issuance and the local response.



According to *CP&DR* reports over the last six years, 101 slow-growth ballot measures were adopted in November elections around the state during the seven-year period from 1986 through 1992 — 61% of the total number of measures appearing on the ballot. On average, 14.4 slow-growth measures have passed per year in November balloting. According to the California Industry Research Board, $103.4 billion in non-residential permits were issued during the same seven-year period; an average of $14.7 billion per year.

On November 3, 1992 — true to form — 14 slow-growth measures passed in the state, just a touch below the seven-year average. Going back three years to the 1989 construction permit valuation data, CIRB reported $14.6 billion in non-residential permit activity that year — again just a shade below the seven-year average Yet the strong relationship reported in the Lincoln Institute report may not pan out.

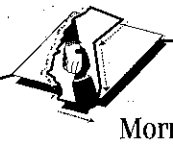
For example: In November 1991, 11 slow-growth measures were passed in the state. But even though non-residential permit valuations dropped by over 5% between the corollary years of 1988 and 1989, the number of slow-growth measures enacted in November elections actually grew to 14 — an increase of 27%. Though the data sources are somewhat different, the trend is clear.

If trends identified by the Lincoln study actually hold, California should see a sharp decrease in the number of ballot measures enacted in the three Novembers to come. This is because non-residential permit valuation has dropped every year since 1988, from $15.4 billion in that year, to a forecast $7.6 billion for 1993 — a total decline of over 50%. But the Lincoln prediction may not come to pass. Slow-growth measures actually were increasing between 1991 and 1992. In other words, the strong downward movement in construction has not been shadowed by a downward movement in the enactment of slow-growth measures.

Furthermore, the number of measures offered to the voters shows no sign of decreasing. The November 1992 ballots included 25 local measures statewide, one more than the seven-year average. And many of the current and expected future ballot measures associated with growth issues are the result of earlier measures that require ongoing voter approval of various land use or infrastructure financing decisions. These measures represented two of the victorious slow-growth measures last month, and none of the those that failed.

Even more curious is the strength of the slow-growth movement at a time of major economic decline. Pro-growth forces have increasingly relied on arguments related to jobs and the economy — a message that, at least for the short term, is difficult to refute. But Californians are not biting. Either they are separating concerns about growth from arguments about the state's weak economy, or they are otherwise undaunted by the state's dismal fiscal status, declining property values, and discouraging employment statistics.

It remains to be seen whether the reported correlation between non-residential building and the enactment of slow-growth measures in communities throughout California will, in fact, be disproved. But the November 1992 election proved one thing: growth control is alive and well in California, even if the economy is not. And Californian's support for the Big Change of 1992 apparently did not signify a shift away from attempts to control growth through the ballot box. ❑



DEALS

Morris Newman

Sacramento Loses Its Nerve on R Street

Everyone seems to agree that housing is socially desirable but hard for a city to justify financially. And people also seem to agree that office buildings, while somewhat less compelling on a social level, bring business to cities and shore up the tax base. Increasingly, the growing consensus among urban designers is to combine commercial and residential uses — not only to create lively urban neighborhoods, but to combine the economic vitality of office buildings with the social vitality of housing. Yet if housing and office buildings are forced to compete with one another, housing will be the inevitable loser, as will the vitality of the city.

That paradigm sums up much of the dilemma of R Street in downtown Sacramento. Historically, the street has been a low-rise commercial district adjoining a residential area. Increasingly, it has been subject to pressure for high-rise office development. Struggling to retain both the character of the street and a big share of the regional office market, the city has tried to strike a delicate balance between housing and office uses. But in trying to balance the scales, Sacramento may now have tipped them too far in the direction of office space.

> *"Developers are certainly becoming increasingly bold flouting the housing guidelines"*

In December 1991, following recommendations from a Bay Area consulting firm, Mundie & Associates, and an endorsement by the city's redevelopment agency, the Sacramento City Council commissioned a plan which dedicates much of R Street to residential uses. The preferred formula is one square foot of housing for every square foot of commercial space. The preferred alternative also limits building heights to 75 feet, or about six stories. The plan never became law, because of the projected high cost of an EIR, although the council regards it virtually as law.

Yet the housing strategy appears vulnerable. The city council is anxious not to lose major downtown office tenants, particularly the enormous state agencies, to West Sacramento and other suburban office markets. Competing with other markets that can offer office space at lower rent — land costs are comparatively high in downtown Sacramento — the city council may feel it is in a weak position when negotiating with office developers to insist on exactions, such as housing. Adding to the weakness of the city's bargaining power is the lack of height and density limits in the central business district.

The first test of the council's resolve on R Street has been Roger Duke's proposal to build about 1 million square feet at Pacific Plaza in the vicinity of R and 3rd Streets. The version approved in October by city council was 734,000 square feet of office space with a ratio of housing to office space of 1:3, with the housing to be built separately from the office building. Planning Director Dianne Guzman acknowledged the housing requirement had been diluted but defended the compromise. "I think the council is sticking to their guns in terms of commitment to housing," she said. "On the other hand, they are trying to make sure that we are not going to lose development. They want to agree to something that is feasible for the developers." But local architect and housing activist David Mogavero told the Sacramento Business Journal that "the development community is seeing there is no political will to hold the line."

Whether or not the council has political will, developers are certainly becoming increasingly bold in flouting the housing guidelines. Last year, developer Angelo Tsakopoulos proposed a 10-story, 291,000-square-foot office building and 61 residential units at 16th and R Streets. In this case, the ratio of office to housing was 4.8:1, not to mention that the 10-story tower disregarded the recommended height limit. More recently, Tsakopoulos returned with a second proposal for the same site, this time proposing two 10-story towers containing a total 500,000 square feet, without any housing specified.

The hot-and-cold attitude of the city council toward housing took on almost grotesque consequences a few months ago, when the council approved the Capital Towers, a project by The Koll Co. and the Scheuer Family Trust. The developer wanted to build an office building on the site of existing apartments. To mollify the council's qualms about destroying housing, the developer promised to increase the net amount of housing from about 206 units to about 547 units. Despite recommendations against the plan by the city's planning staff and Mundie & Associates — the latter had specifically advised the city against rezoning residential land for commercial uses — the council approved the plan earlier this year.

Can this housing strategy be saved? It would be easy to stand on the side of the angels and say that commercial space should never interfere with housing. Yet such statements would ignore that, for better or for worse, major commercial projects are in the best position to build housing, which often does not justify its own costs. That's particularly true in downtown Sacramento, where high land costs conspire with low rents to make downtown housing nearly impossible to "pencil." The city shouldn't bargain away housing as a means to bring in office projects, nor can housing advocates turn their back on the resources of developers, however unsympathetic they may appear to housing.

The solution is an uncompromising public policy that would include design guidelines ensuring humane and attractive housing and benefiting city design. Such guidelines should include prioritizing such design features as street-level entrances to housing, urban parks and play yards, and similar amenities. As for the fear that downtown Sacramento will then lose developers to salivating suburbs, the city would do well to remember the old real estate adage of "location, location, location." Expensive land may be, but downtown Sacramento is still the best location in the region, and city officials need to keep the faith that developers will be interested in the area even with a tough housing requirement. The marriage of commercial and residential development is a difficult one, yet urban vitality seems to thrive on contrasts and what Robert Venturi calls "difficult wholes." As ever, political will is the one ingredient that may be lacking. ❑