

N O R T H E R N ^{DUNCAN & JONES} N E W S

Eds. Note: In this issue of Northern News we will be focusing on local growth management, a term that gained currency in the early 70s when a number of Bay Area cities like Livermore and Petaluma began experimenting with development controls --usually at the behest of an active citizenry. In the 80s, with the manifold impacts of rapid growth more apparent than ever, the experiments to control it are even more varied. A tactic increasingly adopted by citizens outraged by change and congestion has been the initiative. Walnut Creek's "Measure H" may become the measure for future growth control initiatives, depending on the outcome of its current legal entanglement. The following article evaluates this issue of keen importance to planners . . .

**Practical
Scruples for
Planners
APA Sponsoring a
Workshop on Ethics**

Check your schedule and consider attending *A Workshop on Ethics in Planning*, March 17 at 6 p.m., Wurster Hall at the U.C. Berkeley Campus. The workshop, co-sponsored by the Northern Section APA and the Department of City and Regional Planning at U.C. Berkeley, will examine the ethical issues that daily confront planners. It will be led by Martin Wachs, AICP, professor of urban planning at *continued on page 5*

**Whither Walnut Creek's
Growth Controls?**

**A Reappraisal of Measure H in the Wake of the
California Superior Court Decision**

by Fred Etzel, AICP

The Walnut Creek City Council recently voted to appeal the decision of the Contra Costa Superior Court in Leshar Communications, Inc. v. City of Walnut Creek, which invalidated Measure H, passed by the voters of Walnut Creek in November 1985. Measure H halts the construction within the City until the peak hour volume to capacity ratio of some 75 intersections is reduced to .85 or less, and permits new construction only if this ratio is not exceeded in any of these intersections. The Superior Court invalidated this initiative on the grounds that it is inconsistent with the Walnut Creek General Plan. California planners will be interested in the outcome of this appeal, as it may well affect the future use of the initiative process to enact general plan amendments, zoning ordinances and other land use regulations.

The Superior Court decision had considered three issues: 1) Is Measure H an amendment of the Walnut Creek General Plan; 2) Is it



Downtown Walnut Creek, whose new, high profile is one reason for Measure H.

consistent with the Plan; and 3) What is the appropriate remedy if Measure H is inconsistent with the Plan.

While the Superior Court was uncertain whether Measure H is a zoning ordinance or a land use regulation, it readily concluded that it is not a Plan amendment.

The City had made the argument that the courts have an obligation to construe initiatives liberally.

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Land Use Impacts of Airport Noise

A Workshop Presented by the APA Northern Section
Tues., April 7; 7:30 - 9 p.m.

Mark April 7 on your calendar for an insightful professional development program that will focus on airport noise and land use compatibility in the Bay Area. This program has been arranged by the Northern Section of the APA in an effort to bring this important topic to the attention of Bay Area planners and interested citizens.

The program is composed of presentations from a three-member panel of experts who will address the subject of airport noise and land use compatibility from three distinct perspectives. David F. Carbone, Northern Section APA Executive Board Member and the Program's coordinator, will offer the local planning agency perspective. Mr. Carbone is an associate planner for the City of South San Francisco. The technical dimensions of airport noise will be explained by John C. Freytag, an acoustical engineer with the consulting firm of Charles M. Salter Associates in San Francisco. The Federal Government view will be presented by John L. Pfeifer, a civil engineer and airport planner for the Federal Aviation Administration in Burlingame.

The program will be presented at the SPUR offices at 312 Sutter Street in San Francisco. The 8 p.m. program will be preceded by wine and cheese at 7:30 p.m. For additional information contact Dave Carbone at 415/877-8535.

Date	Program	Sponsor/Location	Info Phone #
March 17	Professional Ethics (Marty Wachs, UCLA)	Northern Section APA & U.C.B. / CED, Berkeley	415/795-0131
March 20	Hazardous Materials Management Conf.	Sonoma State U. School of Planning	707/664-2306
March 26	Preparing General Plans (Ann Moore, Mintier)	UC Extension/ San Francisco	415/464-7900
April 3	Zoning & Subdivision Enforcement	UC Extension/ San Francisco	415/643-6827
April 7	Land Use Impacts of Airport Noise	Northern Section APA SPUR Office, SF	415/877-8535
April 22	Order & The City (Mario Gandelsonas)	College of Environ. Design / U.C.B.	415/643-6827
May 1	Initiative & Referendum In Land Use Planning	UC Extension/ San Francisco	415/643-6827
May 28-29	CEQA / Air Quality Workshop	APA, AEP, ARB, ABAG/ Oakland Airport Hilton	916/322-6159

Additional program information can be obtained by calling the following organizations: ABAG- 415/464-7900; SPUR- 415/781-8726; UC Extension- 415/893-2285; and Northern Section APA- 415-893-2285

To announce events of planning interest for
Northern News Calendar please contact:

Mathew Le Grant
402 Grand Ave. #4
Oakland, CA 94610
415/ 893-2285

Practical Approaches to Preparing a General Plan

A One Day Course, March 26, 9:00 - 4:30, San Francisco; sponsored by UC Berkeley University Extension.

The course is part of a series in "Land Use Planning and Development, jointly sponsored by the UC Extension of Irvine and Berkeley. Designed for local planners and consultants involved in or about to undertake comprehensive general plan revisions, it focuses on the practical aspects of preparing a general plan to meet local needs while satisfying the requirements of state law.

Course Location: UC Extension Center, 55 Laguna St., San Francisco.

Time: 9 a.m. - 4:30 p.m. (registration 8:30 - 9 a.m.)

Cost: \$120.00. Includes course materials and lunch. Course number: EDP 026633.

If you are interested write: UC Berkeley Extension, 2223 Fulton St., Berkeley, CA 94720, or call 415/642-4111. (You may register by phone with a Visa or MasterCard). Call 415/643-6827 if you have further questions or would like to receive a Course Series Brochure and enrollment form.

N O R T H E R N N E W S

Subscription to *Northern News* is included in membership dues. Non-member subscription rate is \$10 per year which includes *Jobs in Planning* listings. *Northern News* is published eight times yearly, according to the following schedule:

Issue	Closing Date	Mailing Date
JAN/FEB	Dec. 30	January 10
MAR/APR	March 1	March 14
MAY	April 26	May 6
JUNE	May 31	June 10
JUL/AUG	July 5	July 15
SEPT	August 30	Sept. 9
OCT	Sept. 27	October 7
NOV/DEC	Nov. 1	Nov. 12

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Northern NewsMAKERS!

With the San Jose City Council voting to continue the new Economic Development Program, Michael Caplan, Linda Kimball, and Pamela Stone have been given permanent status as the City's three Economic Development Specialists. Jim Olmsted, has been promoted from Planner IV Chief of Current Planning to Assistant Planning Director with the Sonoma County Department of Planning. Barbara Kautz, formerly a planner with the City of Corte Madera, has become the City Planner for the City of San Mateo. Therese Brekke and Denise Pinkston have officially joined the County of Marin County Planning Department as Planners.

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PEOPLE AND PLANNERS



Eds. note: The following article provides an excellent model for keeping planning principles active and operative in a city through public involvement. The City of Livermore at a cross-roads chose to include its citizenry in difficult policy guidance, and was rewarded with broadly-supported recommendations.

Collaborative Planning in Action: Livermore Updates Growth Management

By Gary Pivo

Livermore was one of the first cities to institute what is now a classic case of growth management planning, 70's style. It had to go all the way to the U.S. Supreme Court to defend its right to do so. Now the City itself is taking a second look and is updating its growth policy system. The policy presently limits annual population growth to 2% and uses a competitive point system as criteria for granting projects the scarce permits.

The major vehicle for updating the City's growth policy has been the Growth Policy Review Committee (GPRC), formed at the outset of the effort early in 1986. The City Council began the review process by making an invitation to any community member interested in serving on the GPRC. About 200 citizens responded. Additionally, each City Council member appointed two residents to the Steering Committee.

The GPRC was divided into five study groups with individual charges. Each had a chair and a

co-chair who also served on the Steering Committee. The Committees were organized to study the relevant issues: economics, land use and the environment, housing, infrastructure and public finance, and permitting.

The study groups first determined topic questions, collected information, and formulated findings. The intent of this first step was to focus the groups' attention on the pertinent facts and to induce members to withhold their value judgments about growth. The findings dealt with present and projected community conditions, the relationship between population, growth and civic goals, and criticisms about existing permitting systems.

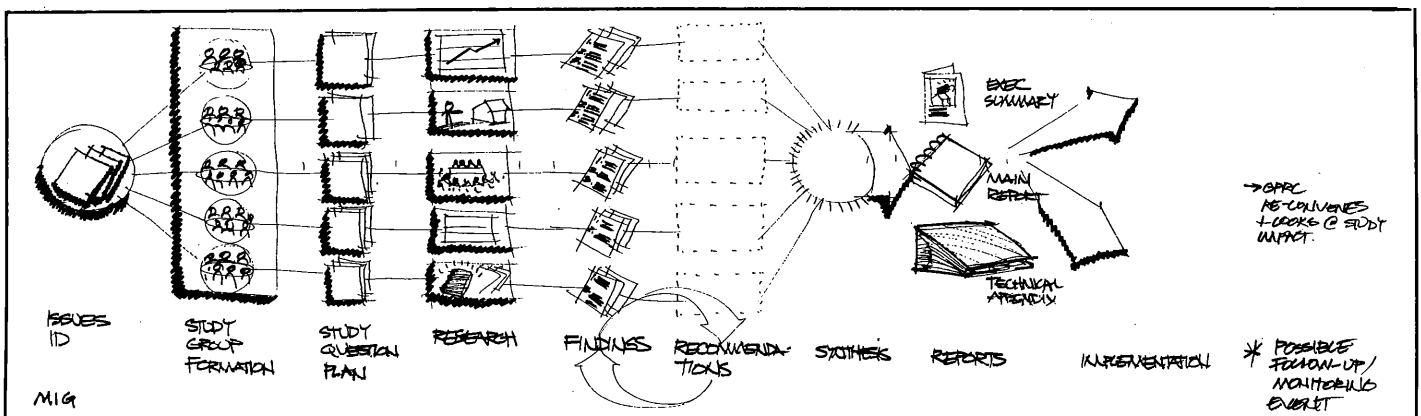
The study groups then set about to develop recommendations concerning the growth rate, the permit allocation system and other planning policies. Discussion was not limited to these topics. Other planning policies were addressed as members realized that growth rate issues could not be divorced from other policy considerations.

At this point, certain preconceptions of the membership often returned. Even so, each study group was able to systematically examine alternative recommendations that each of their findings or findings as a whole suggested for future growth rate policies of the City. Summary recommendations were also drawn up in the process.

Using the study groups' reports, the Steering Committee developed its own set of findings and recommendations. The study groups' proposals were not always compatible since each approached the City Council's charge from different perspectives. The Steering Committee in these cases simply applied its own judgment.

Following this analysis phase, the GPRC generated the following recommendations: 1) the annual growth cap should be replaced with a maximum average growth rate established every three years after a "growth capacity audit" that was based on pre-established "growth management guidelines"; 2) 2% should be the maximum growth rate over the next three years in order to improve the jobs:housing balance and other objectives; 3) replace the competitive point system for allocating permits with a random selection of applicants who must then meet specific environmental design guidelines; and 4) take related major steps toward subregional planning for circulation, open space, air quality, sewers, and water.

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Measure H (cont'd)

Given this, the most logical conclusion would be that Measure H is a Plan amendment enacting broad new transportation and land use policies for the City.

The Court did not agree. It characterized general plan amendments as consisting of general principles implemented by more detailed measures, and decided that Measure H was not a Plan amendment since it is both detailed in scope and self-executing. Yet the Court did not explain why general principles could not be inferred from the specific provisions of Measure H.

Two factors persuaded the Court that Measure H is inconsistent with the City's General Plan. First, the Court observed that the Plan proclaims a policy of growth in both commercial and residential sectors. Because the measure prohibits development under specified conditions, the Court concluded it was inconsistent with the Plan's stated goals of growth and expansion. The Court provided very little analysis to support this conclusion and seemed to imply that growth and acceptable traffic service levels are inherently inconsistent. But it appears from a footnote that an important factor in reaching this conclusion was the fact that the growth prohibition of Measure H could be permanent.

A second factor in the Court's decision was that the City, following Measure H's adoption, would have to amend policies of land use, housing and other elements to conform to the initiative. If Measure H were consistent with the Plan, the Court concluded, such actions would not be necessary.

Walnut Creek had requested that it be allowed to amend its General Plan to conform to Measure H if the Court found the two inconsistent. The Court ruled otherwise, citing as precedent a 1985 Court of Appeal case invalidating a zoning ordinance referendum for inconsistency with

the local general plan. The Court noted that, under the development policy hierarchy of the consistency doctrine, efforts like Measure H must be made consistent with the general plan and not vice-versa.

The Superior Court decision is a continued affirmation of the general plan as the constitution for a community's development. This is generally welcome news for planners. However, some observers believe that it could inhibit the residents of a community in attempting to amend this "constitution" by initiative. There has been speculation that this decision, if sustained in appeal, will require proponents of such measures to retain planning and legal counsel. Such expertise might be needed to protect future initiatives from invalidation in the courts after voter adoption.

The need for planning and legal expertise could arise in several situations. It might be needed to establish that an initiative modifying or adding new policies to a plan satisfies the requirement for internal consistency among all plan elements. In addition, it might be required to confirm consistency between zoning and other land use regulations proposed by the general plan and initiative. Where the initiative is intentionally inconsistent, expertise may be needed to furnish the necessary plan amendments.

The emerging need to retain expert counsel to minimize the risk of invalidation could have a dampening influence on the use of initiatives in the land use arena.

Yet other observers point out that the Superior Court decision does not necessarily overburden the authors of such initiatives. An initiative must only clearly state its intent to amend the general plan to escape the fate of Measure H. When the initiative is adopted, it then becomes the task of the local government to ensure consistency and provide the requisite planning data and analysis.

Several difficult questions arise when a land use/zoning initiative poses regulations that don't comply with the general plan. Would the initiative need to provide the policy basis for the proposed regulations? Would it be the responsibility of local governments or the initiative authors to establish internal consistency? The recent Court decision provides no guidance here.

Resolution of these and other questions raised by the Superior Court decision must await the Court of Appeal. It will be interesting to watch the judiciary balance the deference it has traditionally afforded the initiative process against the preeminent position that it has in recent years accorded the general plan.

Fred Etzel is a partner in the law firm of Henn, Etzel & Mellon and is the AICP Coordinator for the the Northern California Section of the APA.

Ethics Workshop (cont'd)

UCLA. Professor Wachs is on the AICP National Ethics Committee and is active in the National Program on Ethics Awareness. He has conducted many workshops on ethics for planners and commissioners. Ethical issues often tend to fall between the cracks of consideration since they are conditional and "non-objective". Wachs will use "situation ethics", i.e. hypothetical situations based on actual experiences, to illustrate the issues and stimulate discussion.

Wine and cheese will be offered at a short reception at 6 p.m., with the workshop itself starting at 6:30. Parking will be available on campus for participants after 5 p.m.. The nearest lot is in back of Wurster Hall; access is from Gayley Road near Bancroft, across from the stadium. Cost for APA members is \$5, non-members, \$6; students can attend free. If you have any questions about the workshop or directions to it, please call Matt Le Grant at 415/893-2285.

Here was an instance of a citizenry taking charge of policy outcomes. The results surprised even the City Council, who had appointed the Steering Committee in its own image. Yet from the start, the intention behind the process was to permit citizens to evaluate the evidence and make their own recommendations. And given that setting growth rates involve value judgments, these may well derive better from this approach than from the recommendations of experts.

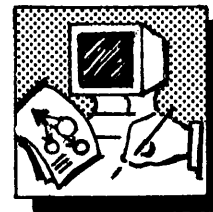
At least two valuable lessons can be drawn here. Residential growth management systems that have been in place for a decade or more deserve review and many innovations can be added to improve their performance. Secondly, extensive citizen involvement should not be invited without expecting the unexpected from the committee process. The stamp of the political process and a judicious blend of facts and feelings will inevitably find their way into the final product.

The Planning Commission and the City Council will be examining the recommendations over the coming months. A copy of the GPRC Final Report including the Study Group reports can be obtained for \$3 from the City of Livermore Planning Dept., (1052 So. Livermore Ave., Livermore, CA 94550).

Gary Pivo is a PhD. candidate in City and Regional Planning at UC Berkeley and principal of Gary Pivo and Associates, a San Francisco firm working in the areas of city planning, redevelopment, and the environment. He was a prime consultant to the City of Livermore during this study process.

Attention Readers! *Northern News* is your newsletter. It relies on its readers for its content. If you have a planning-related topic you'd like to write about, please contact John Steere at 415/845-7549.

JOBS IN PLANNING



To place a listing in "Jobs in Planning" please contact editorial office: 415-845-7549 or mail announcement to: MIG, 1824 Fourth Street, Berkeley, CA 94710.

PLANNING TECHNICIAN - City of Palmdale, CA - (Salary: \$1,610.13 - \$2,154.98/mo.) Bachelor's degree in city/urban planning or related field. Will perform a variety of technical and graphic related City planning functions. Minimum of six months of planning/zoning experience required. APPLY BY: Position open until filled. APPLY AT: Personnel Dept., City of Palmdale, 708 E. Palmdale Blvd., Palmdale, CA 93550. EOE/M/F.

ASSISTANT PLANNER - City of Sausalito, CA - (Salary: \$2,078 - \$2,525/mo. + benefits) Requires Bachelor's Degree in urban planning or related field; 2 years planning experience in a California city highly desirable. Emphasis on current planning and design review. APPLY BY: March 27, 1987. City application forms available from Personnel, Sausalito City Hall, 420 Litho St., Sausalito, CA 94965 (415) 332-0779.

ASSISTANT PLANNER - City of Livermore, CA. Population 54,000 (Salary: \$2,416 - \$2,937/mo. plus City-paid PERS and excellent benefits). Requires one year experience in land use planning, or closely related field. Master's degree in related field preferred and may be substituted for 6 months experience. Duties: prepares reports/studies on development proposal; or planning issues; makes presentation to officials and other groups; provides information to the public and enforces City Code and permit requirements. Applications will be accepted until current openings are filled. APPLY AT: Personnel Dept., 1052 So. Livermore Ave. Livermore Ave., Livermore, CA 94550. (415) 449-4000. EOE.

ASSISTANT PLANNER - City of Tustin, CA (Salary: \$2,333 - \$2,715/mo.) Bachelor's Degree in planning, architecture, urban studies or related program in a municipal planning department is highly desirable. Responsibilities include planning, zoning, business license and code enforcement, conducting research, preparing reports, and making presentations. APPLY BY:

March 31, 1987. Apply with the City of Tustin Application only. APPLY AT: City of City of Tustin, Personnel Office, 300 Centennial Way, Tustin, CA 92680.

SENIOR PLANNER - City of Tustin, CA (Salary: \$2,823 - \$3,432/mo.) BA in urban planning or closely related field and four years experience in a municipal planning agency. Mid-management position in the Planning Division, performing professional and technical work in planning and redevelopment, coordinating current and advanced planning, formulating and presenting recommendations on planning issues, and supervising staff. APPLY BY: March 31, 1987. Apply with the City of Tustin Application only. APPLY AT: same as above.

ASSISTANT PLANNER - City of Walnut Creek - (Salary: \$2,386 - \$2,881/mo.) Requires four-year degree in planning, public administration or related, and some experience in city planning which involved a variety of planning tasks including project review. will perform general planning duties with heavy emphasis in development and project review. Master's degree in urban planning desirable. APPLY BY: March 23, 1987. APPLY AT: Personnel Office, City of Walnut Creek, P.O. Box 8039, Walnut Creek, CA 94596. Phone 415/943-5817. EOE/AA.

ASSISTANT PLANNER - City of Hollister, CA - (Salary: \$1,711 - \$2,089/mo., plus excellent benefit package, City paid PERS.) Requires knowledge of principles and practices of urban planning, zoning and land use; mapping and drafting techniques; knowledge of personal computers and planning software programs; ability to read and interpret architectural and engineering drawings; write technical reports; assist in the administration of the City's planning program, including the General Plan, Zoning Ordinance and environmental reviews. Valid CA Driver's License required. APPLY BY: March 27, 1987, 5:00 p.m. Submit City Application at: City of Hollister, Personnel Office, 375 Fifth St., Hollister, CA 95023. Phone: 408/637-8221. EOE.

Jobs in Planning (cont'd)

ASSISTANT PLANNER - City of Ceres - (Salary: \$1,509 - \$1,840/mo.) Four-year college graduate with satisfactory completion of core unit requirements for a major in planning or closely related field and one year of planning or community development experience. Performs responsible professional-level planning in the preparation of written technical reports, planning research, special planning studies and graphical presentations used in the Planning Department. **APPLY BY:** March 20, 1987. **APPLY AT:** Ceres City Hall, 2720 Second St., Ceres, CA 95307.

ASSOCIATE PLANNER (Community Revitalization) - City of Ventura, CA - (Salary: \$2,380 - \$3,100/mo.) Assists the Redevelopment Administration by performing responsible administrative work in the area of redevelopment, economic development and planning; staff to Historic Preservation Commission. Requires a B.A. degree in public administration, business administration, planning or economics and two years experience in municipal government, preferably related to community development. **APPLY BY:** 5:00 p.m., March 20, 1987. **APPLY TO:** City of Ventura, Personnel Office, 501 Poli St. Ventura, CA 93002. Phone: (805) 654-7853. AA/EOE.

ASSOCIATE PLANNER - City of El Segundo, CA - (Salary: \$2,397 - \$3,399/mo., plus City-paid PERS and management benefit plan.) Exciting position for an experienced, hands-on self-starter, responsible for General Plan update, master environmental assessment; also involves airport compatibility planning, T.S.M. plan implementation and light rail development. Requires three years increasingly responsible planning experience and a Bachelor's degree in related field. **APPLY BY:** open until further notice. **APPLY AT:** Personnel Dept., City of El Segundo, 350 Main St., El Segundo, CA 90245. Phone: (213) 322-4670. EOE.

COMMUNITY AFFAIRS SPECIALIST (Group Work Specialist) - Los Angeles Community Redevelopment Agency - (Salary: \$2,692 - \$3,280/mo. plus fully paid PERS.) Experienced in Community Organizing/Liaison, Citizen Participation. Work with individuals, groups and organizations to elicit and

coordinate community participation. **Not case work.** Knowledge of redevelopment skills/experience in mediation/negotiation; public speaking; analysis of community needs and concerns; research and writing; public relations; coordinate and organize meetings; communicate technical information; field work and demographic analysis. **APPLY BY:** open. **APPLY AT:** Community Affairs Position, Community Redevelopment Agency, 354 S. Spring St., Los Angeles, CA 90013. AA/EOE M/F/H.

LANDSCAPE PLANNER - County of Santa Barbara, CA - (Salary: \$2,479 - \$3,026/mo.) The Resource Management Dept. is seeking a highly qualified individual to fill this vacant position. Requires CA registration as a Landscape Planner and a minimum of one year experience in the field plus one year experience as a planner in local government. **APPLY BY:** applications accepted indefinitely. For further information, contact: Santa Barbara County, Personnel, 1226 Anacapa St., Santa Barbara, CA 93101. Phone: (805) 963-7155. EOE/AAE.

SENIOR PLANNER - City of Dublin, CA - Pop. 17,800 - (\$2,870 - \$3,590/mo., plus excellent City benefits). Journey level planning position with particular emphasis with particular emphasis on urban design experience including site planning, architecture and landscape architecture, or related field and three years full-time professional experience required. Experience in project design review is highly desirable. **APPLY BY:** March 18, 1987. **APPLY AT:** City of Dublin, P.O. Box 2340, Dublin, CA 94568. Phone: (415) 829-4600. EOE.

SENIOR PLANNER - City of Corona, Riverside County, CA - Population 45,000 - (Salary: \$3,125 - \$3,798/mo., City paid PERS.) BA in urban planning, architecture or closely related field and three years of planning and zoning experience of which one year was in a supervisory capacity. Municipal planning experience preferred. This position will supervise a professional planning staff. **APPLY BY:** 4:00 p.m., Monday, April 6, 1987. Applicants must complete and submit an application form. Postmarks not accepted. **APPLY AT:** City of Corona, Personnel Department, 815 West Sixth St., Corona, CA 91720. Phone: 714/736-2205.

SENIOR URBAN PLANNER - City of Mountain View, CA (Salary: \$2,735 - \$3,419/mo. plus pay for performance.) Seeking a leader and effective staff team member to develop and review analysis, policies and physical design plans related to private development and redevelopment projects; this position will also be involved in transportation studies, housing proposals and other City planning projects, including the updating of the City's General Plan and work on a variety of community design projects as well as precise plans for a regional shopping center and other challenging sites. Equivalent to college degree with major in urban planning or related design fields; three years (or two years with a Master's) professional planning experience. Excellent oral and written oral and written communication skills are essential. **APPLY BY:** 5:00 p.m., Friday, March 27, 1987. **APPLY TO:** City of Mountain View, 444 Castro St., Mountain View, CA 94039. Phone: (415) 966-6310. EOE.

DIRECTOR OF COMMUNITY DEVELOPMENT - City of Ridgecrest - Population 23,700 - High desert community - (Salary: negotiable, currently \$38,000 annually, 100% health paid, life paid, PERS and Social Security agency, City vehicle available. RDA established 1985. Minimum five years progressively responsible experience in municipal planning, including two years in supervisory capacity. Extensive experience with CEQA and the Subdivision Map Act required to guide the City through a significant growth period. Bachelor's degree from an accredited college or university with major course work in planning or related field. Department head for planning and building inspectors, eight in staff. **APPLY BY:** City application plus resume to be submitted by March 20, 1987. **APPLY TO:** City Administrator, City of Ridgecrest, 139 No. Balsam, Ridgecrest, CA 93555. Phone: (619) 375-1321.

PLANNING DIRECTOR - City of Arroyo Grande, CA - Central California Coast, Population 13,500 - (Salary and car allowance negotiable in \$40,000 range.) Quality, controlled growth community desired. Three planning professionals in department planned. **APPLY BY:** March 25, 1987. Send for specific details, or mail resume to P.O. Box 550, Arroyo Grande, CA 93420.

ESA

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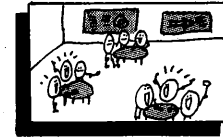
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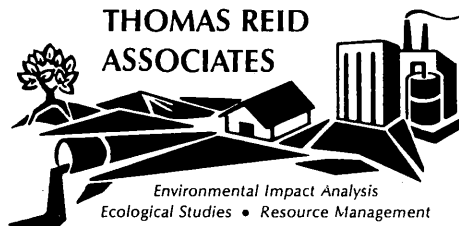
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