June 1992

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PLANNERS DAY ON "THE HILL"

Publication of the Northern Section, California Chapter, American Planning Association

by Don Steiger

The 1992 APA National Conference was a resounding success! The highlight of the conference, held in Washington D.C. on May 9-13, was Planners' Day on "The Hill". The program provided opportunities for planners to meet with their congressional representatives and discuss legislative priorities that are critical to our profession. Transportation is APA's #1 National Priority. I was very fortunate as Northern Section Director to make an appointment with Representative Norman Mineta, who is the Chair of the Surface Transportation Committee and a member of the Transportation and Public Works Committee. Mineta was instrumental in the development and success of the Intermodal Surface Transportation Efficiency Act (I.S.T.E.A.) I was pleased by his warm reception to the APA positions on both transportation and energy, which were furnished during the meeting. The transportation position statements are:

- Press for full funding and appropriation,
- Support mass transit, and
- Fully implement planning programs.



Representative Norm Mineta (left) meets with Section Director Don Steiger

The photo certainly shows the dedication, commitment, and energy that Norm brings to Capitol Hill. Just beyond the picture is an environment of gracious assistance provided by the congressman's very friendly and capable staff who were so helpful in creating this opportunity. We look forward to seeing how the legislature responds to our input.

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BART Initiates Pilot Housing Program

by Steve Lippman

In a move applauded by many Bay Area planners and environmentalists, BART is initiating pilot projects to develop high-density housing next to its stations in the East Bay.

If the projects move forward as planned, BART will lease parking lot areas at its El Cerrito Del Norte and El Cerrito Plaza stations to private developers who will build four-story apartment buildings and shops on the land. Below-ground parking lots would offset the loss of the parking spaces. Jim Sayer, Education Director for the Bay Area Greenbelt Alliance, called the idea for the projects "wonderful" and said that such development "can give people the housing they want with convenient access to transportation."

Sayer continued that such projects "make sense" for BART since transit works best when there are the fewest transfers necessary, and "it's obviously easiest when one can walk to the transit connection." A recent study conducted by the Transit/Residential Access Center and the University of California provides empirical evidence to support Sayer's argument. The study found that East Bay residents living near a BART station were three to five times more likely to use BART for commuting than East Bay residents overall. Additionally, the mixed-use development would allow residents to shop and run errands on the short walk home from the BART station, further reducing their need to drive.

According to Jeffrey Ordway, BART's Joint-Development Manager, six development teams have submitted their qualifications to complete the projects. (continued on page 4) Northern News – June 1992 Page 2

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June 26th 1992

Awards Banquet CCAPA Northern Section

DIRECTOR'S CORNER

by Don Steiger

Our front page story describes the high point of the national conference for me, but many other things happened as well. The Chapter Presidents Council is working on a National APA response and commitment of resources to causes of urban unrest that were displayed by the riots in Los Angeles. Also, it has been announced that the proposed consolidation of the Chicago and Washington offices of APA will **not** proceed. The National Conference will be coming to San Francisco in '94, when we will be involved in presenting special events, local issues, mobile workshops and much more. And in local news, The Northern California chapter will be co-sponsoring a conference with Global Cities on "Solid Waste: Refuse or Resource" on July 24 in San Francisco. Also, look for the opportunity in this newsletter to register for the local awards banquet, which will be held on June 26 in Berkeley!

DON'T FORGET JUNE 26!

There are still seats available at the APA Northern Section **Annual Awards Banquet**, to be held on June 26 at the U.C. Berkeley Faculty Club. This event presents an opportunity to acknowledge the achievements of our colleagues and recognize programs which have been particularly innovative, effective, and unique. The program will begin at 6:30 PM with a no-host cocktail bar. Dinner and the awards program will run from 7:15 to 9:30.

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This is the perfect opportunity to visit with your colleagues and learn more about what's new in planning in Northern California. To reserve a space, send your check for \$25 (payable to APA Northern Section) by June 19 to: Wayne Goldberg, City of Santa Rosa Planning Department, P.O. Box 1678, Santa Rosa, CA 95402. See you there!

A SOLID CONFERENCE ON SOLID WASTE

The Global Cities Project is planning a conference entitled "Solid Waste: Refuse or Resource?" scheduled for Friday, July 24th in San Francisco. The conference, to be co-sponsored by the Northern Section, will include a high-level, multi-perspective panel discussion of the environmental and economic policy issues surrounding solid waste. Invited speakers include William Reilly, Administrator, U.S. Environmental Protection Agency, Senator Baucus (D-MT), chief Senate sponsor of the Resource Conservation and Recovery Act, and business, government and community leaders. For more information, call (415) 775-0791.

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From the Far North

by Lia Sullivan

The most recent Brown Bag Lunch on May 1 once again saw the title topic pre-empted by an event of more immediacy. This meeting was held during the week following three earthquakes in a row which left parts of the county shaken but undamaged and several communities well-shaken and considerably damaged.

With the recent earthquake so fresh in our minds, it was barely conceivable that the planners would want to talk about anything else. Besides, we had a visitor: Martha Blair-Tyler of William Spangle and Associates, Inc., interviewed us about our recent experience. This firm is a city and regional planning firm that concerns itself with earthquakeresponse as it affects planning. Blair-Tyler was one of the authors of a study on the planning implications of Los Angeles' unreinforced masonry building compliance program; this report garnered an honorable mention for planning projects in the Northern Section awards for 1991.

The three communities most affected by the recent earthquakes were Rio Dell/Scotia, Petrolia, and the "victorian village" of Ferndale. Rio Dell suffered a lot of structural damage. Scotia, owned by the Pacific Lumber Company, lost several commercial structures to fire. Tiny Petrolia lost its entire store/gas station center when the fire trucks were unable to get the firehouse doors open to respond, said to be caused by a short from an electric coffee pot. Ferndale's consulting planner, Michael Sweeney, was able to come to the meeting to tell the tale of the 6.9 quake (and subsequent 6.2 and 6.5 quakes) that struck on a sunny Saturday morning just as a parade down Main Street was finishing. The third earthquake, at 4:20 in the morning, added to the considerable damage from the first quake.

Sweeney noted that residences owned by long-time (as in generations) residents appeared to be more likely to have been damaged than residences belonging to newer owners. The group speculated on whether this might be due to complacency arising from long-term experience with the numerous (but rarely so damaging) earthquakes, but concluded that the reason was more likely to be that newer owners needed to meet more stringent structural requirements dictated by lending agencies.

Blair-Tyler discussed the simulation she is working on to help planners assess preparedness for post-earthquake planning. She also shared <u>Rebuilding after Earthquakes</u>: <u>Lessons from Planners</u>, a summary of the International Symposium On Rebuilding After Earthquakes held at Stanford University in August 1990.

Our next meeting is scheduled for Friday, July 10, 1992, from Noon to 1 PM at our alternate location: Conference Room B, Humboldt County Planning Department, 3015 H Street (the Clark Complex), Eureka. The topic will be (as noted in the last calendar) a discussion of Housing Elements in general, and presentation of Arcata's [draft] Housing Element in particular.

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APPELLATE COURT ORDERS PARTIAL REFUND OF SCHOOL FEES

by Geoffrey L. Robinson and Michael P. Durkee

The School Facilities Law of 1986 (Govt. Code §§ 53080 and 65995 et seq.) – which authorizes school districts to levy developer fees of up to \$1.65 per square foot for new residential construction – has engendered considerable litigation over the past few years. A recent appellate decision attempts to clarify both the required fee analysis and the standard of judicial review of such analysis. *Shappell Industries, Inc v. Governing Board of the Milpitas Unified School District,* 91 Daily Journal D.A.R. 14417 (November 26, 1991).

In *Shappell*, the trial court invalidated two school district resolutions imposing school fees of \$1.50 per square foot (residential) and \$0.25 per square foot (commercial/industrial), and ordered refunds. The appellate court upheld invalidation of the commercial/industrial fee, but reversed as to the residential fee. It concluded that only a portion of the \$1.50 per square foot residential fee was invalid and ordered a partial refund.

The Residential Fees

Existing case law establishes that (1) developer fees are justified only to pay costs resulting from new development; and (2) the agency imposing fees must establish a reasonable relationship or "nexus" between the fee and the impact of the new development. The Shappell court held that, in school fee cases, the required showing must include: (1) a projection of the total amount of new housing expected within the District; (2) the number of students that will be generated by the new housing; and (3) a cost estimate for the school facilities needed to serve the new students.

The court found that the District's study failed this test. Rather than identifying and quantifying the impact from new development alone, the District's study focused on total projected enrollment increases. There was no attempt to determine what portion of the increased enrollment was attributable to new development. *(continued on page 5)*

BART (continued from page 1)

Of the six, two teams are interested in the 2.7-acre Del Norte site, two in the 2-acre Plaza site, and two in both. Ordway said he hopes to gain approval from BART's Board of Directors to release Requests for Proposals to the six teams within the next month. While the City of El Cerrito identified the two sites as multi-family housing areas on its master plan last year, the sites would still have to be re-zoned from industrial to residential use before the development could occur. However, this action seems likely as there is support for the projects from the City Council and "a relatively supportive citizenry," according to Gerry Raycraft, Program Manager for the El Cerrito Redevelopment Agency.

BART's Ordway said that he is currently "maintaining a dialog" with all the communities surrounding BART stations to identify where similar projects are feasible. He identified two fundamental issues in determining the suitability of a site for such development: market conditions conducive to private development, and strong community support. Raycraft explained that the pilot projects are probably located in El Cerrito because of both the availability of land and the attitudes of city officials and local citizens who "recognize that housing near transit nodes ultimately is a benefit to the city and the region." Not all cities have been as supportive of the idea. In particular, citizens living in areas where single-family homes surround BART stations have expressed opposition to multi-use, high-density station development.

There are a number of other plans in the Bay Area to cluster residential development near transit stations. Sayer, of the Greenbelt Alliance, praised the San Jose Redevelopment Agency for linking a housing initiative with planning for the San Jose Light Rail system that encourages development of high and medium density housing near stations. Many planners in the Bay Area also hope that BART's pilot projects may serve as an example that will encourage the development of high density housing on private land around stations of the Peninsula's CalTrain commuter line.

According to Ordway, cities interested in encouraging residential development near transit nodes should "use whatever mechanisms they can to increase the density available and take advantage of proximity to transit.... To truly take advantage you have to have high density support for land use." This means zoning areas near transit stations for high or medium density residential use. For a number of communities, such as Pleasant Hill and El Cerrito, it also involves redevelopment projects to encourage private development near transit. Raycraft said he believes that for such development to occur, "the city must be able to assist financially. In the current economic climate, you need public participation to get high density housing built, especially affordable housing." However, Sayer noted several trends which have "slowly but surely" increased market demand for such development. First, Bay Area commuters are tiring of long commutes. Second, the average household size in the Bay Area is shrinking, making apartments or condominiums a feasible option for a growing segment of the population. Both these factors combine to make high density housing located within walking distance of a transit station increasingly attractive to many Bay Area residents.

If the BART pilot projects in El Cerrito prove successful in demonstrating the demand for such developments, perhaps more cities and developers in the Bay Area will follow what Sayer terms the "common sense move" of locating high density residential areas near transit stations. As Gerry Raycraft claimed the residents of El Cerrito already know, that would ultimately benefit our cities and our region.

Steve Lippman has worked for several planning firms and environmental organizations in the Bay Area.

JOBS IN PLANNING

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Housing Coordinator - City of Daly City, CA (\$3,471 to \$4,223 monthly); Develop, coord., and oversee City and Redev. Agency housing prog.to meet long and short-term housing goals and objectives. Req: 3 yrs. F/T exper. w/ housing prog., constr. indust., finan. instit., real estate and local agencies; Degree in Public Admin., Bus. Admin., Econ., Planning, Sociol., or related field (Master's highly desirable); Exper. w/ non-profit housing organiz. desirable. Apply by 5 PM, June 12, 1992 (resumes not accepted in lieu of City applic.) to: Personnel Department, City of Daly City, 240 92nd St., Daly City, CA 94015 (415) 991-8028

Community Development Specialist City of Daly City, CA (\$2,845 to \$3,485 monthly); Assists in planning and implem. CDBG program. Req: 1 yr. F/T exper. in public / private planning or comm. devel. planning; Degree in Planning, Civil Engr., or related field; Exper. w/ non-profit and comm. organiz. desirable. Apply by 5 PM, June 15, 1992 (resumes not accepted in lieu of City applic.) to: Personnel Department, City of Daly City, 240 92nd St., Daly City, CA 94015 (415) 991-8028

AN INTELLEGENT DINNER PROGRAM

The Transportation Research Forum will host a dinner and program on the state of the art, technical and political developments, and funding potential of Intelligent Vehicle/Highway Systems. Steven Shladover is Deputy Program Director at the U.C. Berkeley Richmond Field Station, where he is leading the way toward establishing a Bay Area test-bed for the technology. What are the prospects and implications? Come to the Mandarin Restaurant, 2025 Shattuck Avenue (near the Berkeley BART Station), on June 17 at 6 PM to find out. Send your check for \$14 to Steve Gregory, Port of Oakland, 530 Water Street, Oakland, CA. 94607. His phone number is (510) 272-1363.



RELATIVELY SPEAKING

By Steve Matarazzo

Time is relative. As verification, take my recent experiences as guest speaker at a local high school civics class and as a guest interview panelist evaluating Planning Director candidates.

Question to High School students: "Planners sometimes deal in long time horizons of 10 to 20 years. Is this a long time in your opinion?"

Answer: "We think so, although our memories don't go back that far."

Question to Planning Director candidates: "Why do you want to leave your current position?"

Answer: "The person I work under has been there forever and I need to move up in the profession."

Now, in the first case, some of the high school students responding so innocently really did think that 20 years is "forever," as many of them have been waiting a long time to explore life without parental supervision. In the second instance, it was interesting to view what "forever" meant to the planner, particularly in regard to the age of the candidate being interviewed. There was a direct correlation between the brevity attached to the term and the age of the applicant, that is, the younger the candidate, the shorter the time span defining the term "forever."

For the purposes of clarifying the issues of time within the context of the contemporary planner's vocabulary, the following guide is offered as to what constitutes "short" to "long range" time horizons.

THE PLANNER'S "TEMPORAL CONTINUUM": FROM SHORT-RANGE TIME TO "FOREVER"

Events in the Short Range Category:

1. The time it takes for a frustrated applicant to call you a jerk.

2. The time it takes for neighbors to organize against an affordable housing project.

3. The time it takes for an exceptionally competent planner to receive a promotion in the private sector.

Events in the Mid-Range Time Horizon:

1. The time it takes to conduct a public hearing on whether a fence height variance should be granted.

2. The time needed to diplomatically justify, in writing, why it is not incumbent upon an agency to issue a discretionary permit just because fees have been paid.

"Forever":

1. These days, it is considered "forever" when a planner stays with the same agency for 10 years or more.

2. The time it takes for an exceptionally competent planner to get a promotion in a large bureaucracy.

3. The time it takes to break away from the data analysis stage to the policy formulation phase of General Plan preparation.

4. It takes "forever" to conduct and conclude a public hearing on a large affordable housing project within an established, middle-income neighborhood, particularly if you are the project planner with an income that barely qualifies you for a loan on a house within the proposed project.

Steve Matarazzo is a Principal Planner with the Santa Cruz County Planning Department.

...SCHOOL FEES

(Continued from page 3)

Although it found the \$1.50 fee unlawful, the court concluded that the appropriate remedy was not a refund of all residential fees paid. Instead, the court ordered a refund only of the "unlawful portion" of the fees paid, citing Government Code section 66020(e). The court concluded that the evidence before the District when it adopted the fee supported a fee of \$1.35, and that any fees over that amount should be refunded with interest.

The Commercial/Industrial Fee

The District's commercial and industrial fee was based on little more than a determination that residential fees would not produce enough revenue to meet the needs of increased enrollment. The court found this "inadequate under any standard," and invalidated the enabling resolution. However, it found a subsequent commercial/industrial fee resolution valid. The second resolution was based on districtwide surveys and compilation of statistics showing the average number of employees per square foot for each of seven subcategories of commercial and industrial property. The court held that this analysis showed a reasonable relationship between the fee and the new development's impact.

This decision should prove helpful in deciding future school fee cases, not so much because it predetermines the result, but because it sets forth both the analytic steps required for imposition of school fees and the scope of judicial review of such imposition.

Messrs. Robinson and Durkee are with the Walnut Creek office of McCutchen Doyle Brown & Enerson

Ed. note: Additional cases related to school fees are being decided all the time. Another interesting case is the Mira decision, which clarified the responsibility for imposition and collection of any additional fee (above the State limit) found to be necessary to meet the cost of new development impacts. School districts may request that Cities and Counties condition project approval on payment of additional fees to the District, passed through the <u>City or County</u>.

Of course, it is always wise to seek legal counsel before applying these findings to a particular situation.

Planlines

by Chuck Myer, AICP

One Hand Shaking

As California planners prepare themselves emotionally for once more facing a ballot with Jerry Brown's name on it, it may be beneficial to harken (pardon the pun) back to an earlier campaign for a bit of perspective.

On June 6, 1978, a younger Jerry was running for reelection to the Governorship, two years after his first dip in the Presidential waters. The state gubernatorial primary that year didn't get a lot of media attention, since he was guaranteed his party's nomination and all eyes were focused on a certain tax proposition that was worrying more than just the triskaidekaphobics. (I, for one, got my pink slip the day after the election.)

At any rate, two percent of the electorate that day voted for one of Brown's eight obscure opponents, whom they felt was a "refreshing" change to "typical" politicians. Perhaps it was the phony hand-on-a-stick he used to do the hand-shaking for him, or the plastic lips he used to kiss babies. His name was Lowell Darling, and he did the unthinkable. He outflaked Jerry Brown.

Darling used our cities' urban illnesses as a major plank in his unique platform. Like many Californians, he had long been concerned about crime, pollution, energy, the drought and seismic safety. But he was probably the first to suggest that Urban Acupuncture was the solution.

Darling, a "modern artist" by trade, had gained a level of notoriety for designing large acupuncture needles which he placed around the city limits of our major metropolitan messes. In special instances, like Port Costa, he applied treatment specifically for the town's troubled sewer plant, which a town councilman says worked like a charm. Nailing down the smaller towns also kept them on the map, it seems, safe from being swallowed up by larger cities. His symbolic acupuncture of Los Angeles caught the attention of Mayor Tom Bradley, but New York's mayor politely refused to be "needled." After the San Fernando earthquake in 771, Darling laced up the San Andreas Fault with raw-hide, and later cured the drought with some statewide acupuncture.

In 1978, Darling checked his biorhythms and found that they would all be in high phases on June 6. What better time to reach out with his "Gladhand" and say, "Let me be your governor, darling"? He announced his candidacy on Valentine's Day, using such slogans as "Write your own ticket," and "Wednesdays Off for Everybody." He promised everyone who voted for him a room in the Governor's mansion. To those who complained he was taking votes away from Brown, he replied that if he won he would hire Jerry to run the state for him. (Living in the mansion, which Brown had rejected, was his real goal.)

The press had difficulty pinning him down on issues. When asked for his policy on solar energy, he replied that our nation should be the first to put a man on the sun. City planners weren't exempt from his satirical barbs, either. In his memoirs, Darling recalls stumping in San Francisco and Oakland, and finding himself in "the gaudy neon area of Broadway. Every city has a Broadway. City planners are so uninventive..." (He'll be interested to know that Gilroy has a Broadway, too, but it's a short, bent, shaded residential street.)

He seems to have enjoyed his maverick campaign as an experiment in political anthropology, and since he approached voters saying, "I'm sorry, I'm running for governor," he was categorized as an "anthro-apologist."

After his defeat, Darling recounted his adventures in the obligatory book, <u>One Hand Shaking</u>. In it are copies of his earlier political correspondence, including offbeat queries to official agencies on a variety of topics: the humane transport of hippopotami, the correct way to protect artwork from nuclear blast, etc. Darling's "crank letters" were the inspiration for the 1977 best-seller "Lazlo Letters" by Don (Father Guido Sarducci) Novello, in which Novello (under the name Lazlo Toth, American) peppers our nation's leaders with a barrage of twisted fan mail. (Father Guido, a friend of Darling's, presided over his "divorce ceremony", during which Darling wore the bridal dress and his ex-wife wore a suit!)



APA

SUMMER CALENDAR OF EVENTS

June 17 TRF Seminar on Intelligent Vehicle Highways. Details on page 4.

June 26 Annual NSCCAAPA Awards Dinner. Details on page 2.

July 10 Far North Brown Bag Lunch on the Arcata Housing Element. Details on page 3.

July 24 Global Cities Conference on Solid Waste Management. Details on page 2.

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