

# CALIFORNIA PLANNING & DEVELOPMENT REPORT



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William Fulton, Editor & Publisher

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## Ballot Measures Focus On Commercial Growth

Special Report:  
Ballot Measure Roundup  
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The expected wave of local ballot measures dealing with commercial development appears to be hitting California — but so far with mixed results. Despite the passage of initiatives limiting commercial growth in Los Angeles and San Francisco, voters elsewhere aren't clamping down on commercial projects as firmly as they have limited residential growth in the past.

That's the conclusion of *California Planning & Development Report's* survey of 24 cities and counties around the state where voters decided initiatives and referenda on planning issues as part of the November election.

Because of burgeoning office development in formerly bucolic residential suburbs around the state, planners have been expecting initiative-writers to turn their attention from residential to commercial growth. So far, however, at least half the ballot measures dealing with commercial growth have been referenda placed on the ballot by city councils seeking ratification of some kind of commercial growth plan. And such referenda appear to pass more often than they fail.

So at the same time that L.A. and San Francisco voters were approving initiatives limiting commercial growth, voters in several small cities affirmed their support for commercial projects. In Newport Beach, voters rejected a

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## Davis, Yolo Battle Over R&D Project

Yolo County and the City of Davis are locked in a dispute over development in unincorporated areas of the county — a dispute brought on by a clash between Davis's slow-growth policies and the county's growing financial problems.

In hopes of resolving the planning and fiscal questions, a countywide development task force has been established, made up of two representatives each from the county and from its four cities — Davis, Woodland, Winters, and newly incorporated West Sacramento — and one from the University of California, Davis. So far, however, the task force has made little progress, and its members may hire a group "facilitator" similar to the one used to negotiate revisions to the Lake Tahoe regional plan. (*CP&DR*, November 1986.)

The land-use dispute that led to the formation of the task force centers around an attempt by developer Frank Ramos to build a research and development park. Ramos first proposed a 90-acre project to Davis, but the city council rejected it. Then Ramos went to the county, proposing a 440-acre project just outside the city along the Interstate 80 corridor. The application is still pending.

Local government policy in Yolo has been to confine new development to incorporated areas, partly because 80-85% of the county's rural areas are locked into agriculture under the Williamson Act. However, the county government is now strapped for funds, and county officials say that, lacking other sources of funds, they must build a tax base in unincorporated areas. The I-80 corridor is one of the few

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## Supreme Court to Hear Two California Cases

The U.S. Supreme Court will hear two important land-use cases from California in the next few months — one involving the Coastal Commission and the other dealing with the long-standing question of "inverse condemnation."

In mid-January, the court is expected to hear arguments in *First English Evangelical Lutheran Church of Glendale v. County of Los Angeles*, the latest in a string of five inverse condemnation cases to come before the court since 1980.

"Inverse condemnation" involves two questions: whether a downzoning can be so restrictive that it amounts to a "taking" of property under the Fifth Amendment of the U.S. Constitution; and whether property owners whose land has been "taken" by downzoning are entitled to damages from the municipality.

In the *Agins* case in 1979, the California Supreme Court ruled that the legal remedy for inverse condemnation is invalidation of the downzoning, not damages. Since then, the U.S. Supreme Court has heard four inverse condemnation cases — three of them from California — but has not resolved the issue. Most recently, in *McDonald v. Yolo County*, the court said that a landowner near Davis had not exhausted all administrative procedures because he had not amended his development proposal after it was rejected by the county.



# SPECIAL REPORT

## Ballot Measures: Complete Results From Around the State

The following is a comprehensive list of local ballot measures throughout the state dealing with land-use issues. The important citizen initiatives in Los Angeles and San Francisco are dealt with only briefly here. Their effects are likely to be so sweeping that we thought it best to wait until a future issue to report on them. In particular, events

### Alameda County

#### Berkeley

A council-sponsored measure to restrict development of the Berkeley waterfront won out over a citizen initiative which would have imposed stricter controls.

Santa Fe Southern Pacific has plans for some 4 million square feet of development on 170 acres of railroad property. Measure Q, sponsored by the City Council, called for a reaffirmation of master plan and specific plan policies for the area, including a cap of 565,000 square feet of development.

Measure P, a citizens' initiative, would not have placed a cap on square footage, but it would have restricted development to a smaller portion of the site than Measure Q.

Measure P received 58% of the vote, but Measure Q prevails because it received about 68%.

Contact: Clem Shute, waterfront attorney for Berkeley, (415) 552-7272.

### Contra Costa County

#### Brentwood

A measure that would have restricted residential construction in this eastern Contra Costa city, received only about 38% of the vote.

Brentwood has about 5,500 residents, but will issue 300-350 building permits this year. Rather than restricting building permits numerically, Measure D would have required the city to allow residential construction only after make findings regarding jobs/housing balance, traffic levels of service, and adequacy of water supply.

Contact: Robert Selders, Planning Director, (415) 634-4505.

#### Walnut Creek

In an innovative move, a specific developer — Melvin Simon & Associates — used the initiative process to ask the voters to exempt its 300,000-square-foot downtown redevelopment project from the city's moratorium on commercial development. (The moratorium, which will remain in place until traffic congestion eases at certain key intersections, was adopted by initiative last year.) However, Simon's effort, Measure E, was defeated 58%-42%.

Measure F, which would have raised the height limit from 20 to 30 feet in one particular neighborhood, was also defeated, 53%-47%.

Contact: Gary Binger, Community Development Director, (415) 943-5834.

### Los Angeles County

#### Baldwin Park

Residents in this San Gabriel Valley community approved a 600-acre redevelopment area along Interstate 10 by a vote of 56%-44%

in Los Angeles related to Proposition U are unfolding so quickly that our report would be quickly outdated.

Also, all ballot measures relating to coastal oil drilling are not included in this city-by-city list. Instead, they are summarized in a single section at the end of this list.

on Proposition F.

Although the city has five other adopted redevelopment projects, the Sierra Vista proposal ran into considerable opposition, initially because it included residential areas (which were deleted) and later because of accusations that citizen participation was not adequate.

A lawsuit filed before the election by opponents of the project may or may not be pursued now.

Contact: John Hemers, Community Development Director, (818) 960-4011.

#### Hermosa Beach

Voters in this beachfront community overwhelmingly approved two referenda placed on the ballot by the City Council.

Proposition O, which passed 86%-14%, ratified the designation of 15 park sites owned by the city and the local school district as open space. The measure was placed on the ballot after two surplus school sites were sold for development.

Proposition Q established minimum lot sizes for residential zones, including a minimum of 4,000 square feet for a single-family residence.

#### City of Los Angeles

Proposition U, an initiative to cut in half the allowable commercial development in strip commercial areas around the city, passed with an overwhelming 69%. It was the first sweeping growth-control measure ever passed in the city.

Prop. U was placed on the ballot by Westside Councilmen Zev Yaroslavsky and Marvin Braude after they failed to push similar measures through the City Council. The measure reduces the allowable floor area ratio from 3:1 to 1.5:1 in many areas around the city, but excludes most commercial centers, such as downtown and Hollywood. Before the election, some members of the council unsuccessfully sought to exempt more areas of the city.

Yaroslavsky and Braude are said to be working on a follow-up package of land-use reforms, but have not yet unveiled the specifics.

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# SPECIAL REPORT

## Results Mixed in Voting on Commercial Growth Measures

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citizens' initiative to stop expansion of Irvine Co.'s large Newport Center project. And in Vista, Baldwin Park, and Marin City, citizens gave local officials the go-ahead on redevelopment projects.

Though statistical conclusions are hard to draw on ballot measures — they are written in so many different ways for so many different reasons — voters supported commercial development in five of 10 communities where that was the primary issue on the ballot.

Among smaller cities, commercial projects were halted only in Walnut Creek, where planning initiatives appear to have become a cottage industry. Melvin Simon & Associates tried a new twist, placing an initiative on the ballot seeking that its downtown redevelopment project be exempt from a previous initiative limiting commercial construction until traffic congestion is improved. The measure received only 42% of the vote.

Some of the other highlights of the November election results included these:

- Increasingly, voters are being asked to choose between "competing" measures, as city councils and county boards counter citizen planning initiatives with their own proposals. In the five cities and counties where such "competing" measures were on the ballot, citizen initiatives won in three (San Mateo

County, Carlsbad, and Moorpark), while city/county countermeasures won in the other two (Berkeley and Simi Valley). The competing measures covered a wide range of issues, including residential growth, waterfront development, and coastal protection.

- Measures to stop offshore oil drilling by restricting construction of onshore support facilities are growing increasingly popular in coastal areas. Such measures passed in eight cities and counties in the November election without a single defeat: City of San Diego, Oceanside, San Luis Obispo County, Morro Bay, City and County of Monterey, San Francisco, San Mateo County, and Solano County.

- Residential growth controls continued to do well at the polls, but are not as prevalent as they once were. Strict residential controls failed only in the small eastern Contra Costa County city of Brentwood, while passing in Carlsbad and in the neighboring Ventura County cities of Moorpark and Simi Valley. In fact, because Thousand Oaks and Camarillo also have strict residential growth controls, all of eastern Ventura County is now under strict residential growth limits.

- No significant growth measures appear to have been on the ballot in the Central Valley — not even in the Davis-Sacramento area, where the environmental movement is strong.

motivated by the sale of surplus land by a financially strapped school district. However, Measure C, a bond issue to allow the city to buy surplus land from the school district, received only 49% of the vote.

### Orange County

#### Newport Beach

In a special election Nov. 25, voters rejected a citizen initiative to overrule the city's approval of an expansion of the Irvine Co.'s Newport Center project. Measure A, which drew a 43% voter turnout despite its timing, was defeated 58%-42%.

The Newport Center expansion is a 10-15 year project that includes 800,000 square feet of office space, 1,400 residential units, the expansion of Fashion Island, an amphitheater, a library expansion, and \$47 million in transportation improvements to be paid for by the Irvine Co.

#### San Clemente

Voters here rejected a citizen initiative that would have required the city to take care of complaints from resident that trees on other parcels were obstructing their views. Proposition F, which apparently would have required the city to prune or cut the trees and bill the tree's owner (not the complainant) for the work, received about 43% of the vote.

### San Diego County

#### Carlsbad

Voters in Carlsbad chose a council-sponsored residential growth control measure (58%) over a citizen initiative (51%).

Proposition E, the council measure, establishes an ultimate limit on the number of residential units citywide (54,599, compared with

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### Marin County

#### Fairfax

Voters in Fairfax defeated a proposal to impose a moratorium on major development for at least four years while solutions to traffic congestion are found. Measure B was defeated by a vote of 58%-42%.

#### Marin City

In this poor, mostly black unincorporated area near Sausalito, voters expressed their support for a hotel/office/retail development on the site of a flea market. Measure O, an advisory vote placed on the ballot by the Marin City Community Services District, passed 69-31.

The proposed development, located in a county redevelopment area, is being coordinated by the Marin City Community Development Corp. A request for proposal is currently being revised.

Contact: Al Fleming, Executive Director, Marin City CDC, (415) 332-6731.

### Monterey County

#### Monterey City

Two years after a moratorium on hotel and motel construction was imposed, voters here approved creation of a special zoning designation for visitor accommodations, which can be expanded only by popular vote. Measure E passed 62%-38%.

Contact: Clyde Roberson, City Council, (408) 375-0293.

#### Pacific Grove

Voters here approved a citizen initiative to affirm the designation of several parks and school sites as open space, with zone changes subject to popular vote. As in Hermosa Beach, Measure D (63%) was



# SPECIAL REPORT

## Ballot Measures: Complete Results From Around the State

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21,121 now in existence) and for four sections of the city. The measure also establishes performance standards for growth management but does not regulate the rate of residential growth.

Proposition G, the failed citizen initiative, would have limited residential growth to 1,000 units the first year, 750 the second, and 300 every year thereafter through 10 years, after which another vote would be taken.

Carlsbad has been issuing close to 2,000 building permits per year for the past few years.

Contact: Phil Carter, Senior Management Analyst, (619) 438-5535.

### Vista

Voters in Vista continued their lengthy debate over redevelopment by defeating a citizen initiative that would have abolished the city's redevelopment area, 62%-38%.

The redevelopment area was abolished in the late '70s because of an initiative campaign led by slow-growthers. Last year, a citizen initiative on whether to reinstate the redevelopment area ended in an absolute dead heat until the city challenged a few of the voters, thereby gaining a margin of victory of four votes.

However, the defeat of Proposition V on the November ballot isn't the end of the debate. Vista city officials have promised to put the redevelopment plan on the ballot next June.

Contact: Morris Vance, City Manager, (619) 726-1340.

### San Francisco City and County

After several unsuccessful attempts, growth-control advocates finally succeeded in passing a measure imposing curbs on development, as Proposition M passed with about 51% of the vote.

The most publicized part of the measure was its requirement that downtown office construction, already limited to 950,000 square feet per year under the downtown plan, be cut in half again, to 475,000 square feet. But equally important are a series of policy statements that require city planning guidelines to be reoriented more toward neighborhoods. Also, Planning Director Dean Macris predicted that a provision requiring the city's master plan to be internally consistent would be difficult to administer.

### San Luis Obispo County

#### Morro Bay

Voters in Morro Bay approved Measure B (55%), a proposal by property owner Merrill Williams (Williams Bros. Markets) to construct a 30-acre commercial/visitor development along Highway 1 in the coastal zone. This was the second time the proposal was on the ballot; in 1984 it was defeated by 41 votes.

The ballot measure called for the proposal to be sent on to the Coastal Commission immediately, but Morro Bay planners say an environmental impact report may be required first.

Contact: Dave Bugher, Morro Bay Planning Department, (805) 772-1214.

### San Mateo County

In a competition among coastal planning measures, voters chose initiative Measure A (62%), affirming the Local Coastal Plan, over county-sponsored Measure B (48%), which would have left more discretion to the Board of Supervisors.

San Mateo's Local Coastal Plan, required before the Coastal Commission will return land-use control to local government, was the first in the state to be completed. Conservation groups who supported Measure A claimed that the Board of Supervisors was likely to tamper with the plan, though county officials claimed their measure was not too lenient. Measure B would have required the total number of building permits, as well as approval of oil and gas facilities, to go before the voters, while leaving individual project approvals to the Board. Measure A requires all changes in the Local Coastal Plan to go before the voters.

Contacts: Richard Silver, Board of Supervisors aide, (415)

363-4566.

Ann Nothoff, Natural Resources Defense Council, (415)

421-6561.

### Santa Clara County

#### Campbell

Voters in this small city, which is surrounded on three sides by San Jose, approved a 75-foot height limit, 51%-49%.

Measure N was placed on the ballot by the City Council on a 3-2 vote after years of debate over a commercial project proposed by Prometheus Development Co. A three-building office complex, ranging in height from 10-15 stories, was approved by the council in 1982 but subsequently rejected by the voters. Later, the city approved a revised plan calling for five- and six-story buildings.

Contact: Phil Stafford, Principal Planner, (408) 866-2100.

### Ventura County

#### Moorpark

Voters in this rapidly growing community chose Proposition F (54%), a citizens residential growth initiative, over Proposition H (33%), the city council's plan to control residential growth.

Under Proposition F, the city must restrict building permits to 400 per year in 1986 and 250 per year from 1987 through 1994. However, because more than 2,300 permits have been issued so far this year, city officials are uncertain how comply with the 400-permit restriction for '86.

Proposition H would have imposed a more gradually declining limit on development, dropping from about 500 in 1987 to about 285 per year in the late 1990s.

By a 51%-49% vote, citizens also rejected Proposition G, a referendum on a city development agreement with Urban West developers which would have, in essence, exempted that developer from the lid on building permits.

Contact: Pat Richards, Planning Director, (805) 529-6864.

#### Simi Valley

In contrast to Moorpark, voters in neighboring Simi Valley chose two council-backed growth measures over two citizen initiatives.

In the battle of growth control measures, council-backed Proposition A (65%) won over initiative Proposition D (42%). Prop. A established a limit of 2,140 building permits over the next five years, on a sliding scale from about 640 the first year to about 170 the fifth year. Proposition D would have limited building permits to 850 the first year down to 100 in the year 2010 and every year thereafter.

# SPECIAL REPORT

Simi Valley issued 2,727 building permits in 1985 and is reported ahead of that pace this year.

The council also won the battle of measures to restrict hillside development. Passage of council-backed Proposition B (66%) affirmed the city's policy of reduced density on hillsides. Citizen initiative Proposition E (42%) would have put hillsides and some flatlands in an overlay zone with density and use limits, and also required demolition of buildings in those areas after 30 years — meaning some existing buildings would have required demolition immediately.

Contact: Fred Buss, Staff Planner, (805) 583-6789.

### Oil-Related Measures

The move to use local land-use initiatives to restrict offshore oil drilling activities gained considerable momentum, with ballot measures of one sort or another passing in nine cities and counties.

Local land-use regulations cannot restrict actual offshore drilling, of course. However, measures to require a vote of the people to approve permits for onshore oil support facilities passed in the Monterey City and County, Solano County, San Francisco, San Mateo County, and San Luis Obispo County, while an outright ban on such facilities passed in Morro Bay. (The San Mateo action was included in both of the competing coastal planning measures on the ballot.)

## ECONOMIC DEVELOPMENT

### Environmentalists Hold Up Oakland Airport Construction

Environmentalists have temporarily halted the Port of Oakland's plans to construct cargo facilities for United Parcel Service and Federal Express at the Oakland Airport.

The Port was beginning to fill in 180 acres of land along the San Francisco Bay when the Golden Gate Audubon Society filed suit in August. Port officials say the cargo buildings are an important part of their plans to make the Oakland Airport more competitive and would create 2,000 jobs.

But the Audubon Society claimed that the land being filled were wetlands, and the project would destroy habitats for certain endangered species and also do environmental harm to the bay.

The Audubon Society's lawsuit attracted the attention of environmental lawyers at the state attorney general's office in San Francisco, who entered the suit on the side of the environmentalists. The environmentalists filed suit in state court against the Port,

## UPDATE

Sacramento's basketball arena is under construction, but environmentalists are continuing a court battle they hope will limit the scope of development in the North Natomas area, where the arena is being constructed.

The Sacramento City Council unanimously approved permits on Oct. 29 for the arena, which will house the Kings professional basketball team, and for an open-air baseball stadium, which as yet has no tenant.

California's enterprise zone program is entering its second phase,

Oceanside and the City of San Diego took a more novel approach, approving measures to prohibit city employees from cooperating with oil companies in any planning efforts.

Though the oil-related measures were only loosely coordinated statewide, many gained local momentum because of the work of Save Our Shores, a Santa Cruz-based organization that helped secure passage of similar measures in the City of Santa Cruz (November '85), the City of San Luis Obispo (June '86), and Santa Cruz County (June '86). A technical manual for local planners interested in pursuing such measures is available for \$4.50 from Save Our Shores, P.O. Box 1560, San Cruz, CA 95061.

### Transportation Measures

Half-cent sales-tax increases for transportation improvements passed in two counties, Fresno and Alameda, and failed in one county, Contra Costa.

Some East Bay officials were surprised that Contra Costa Measure C (47%) was defeated, because it was identical to Alameda Measure B (56%) and was supported by a number of normally slow-growth Contra Costa politicians. However, Contra Costa opponents apparently were able to turn the election there into a general referendum on growth in the county, even though, according to one report, they were outspent \$600,000 to \$1,300.

In Fresno, Measure C (58%) is expected to raise \$20 million a year for street and road improvements.

claiming that the 10-year-old environmental impact statement (required under state law) on the project was outdated; and also sued the Army Corps of Engineers in federal court, claiming the Corps never did an environmental impact report (perhaps required under federal law) before giving the Port permission to proceed.

When the environmentalists asked for a permanent injunction to block construction, Alameda County Superior Court Judge Henry Ramsey Jr. denied it. However, he did order a halt to the project while the environmentalists appeal to higher state courts.

Meanwhile, however, Ramsey did give the port permission to complete filling the first 40-50 acres of the project.

Contacts: David Hamilton, state attorney general's office, (415) 557-2544.

Gary Baise, attorney for Port of Oakland, (202) 828-0240 (Washington, D.C.).

with seven areas around the state competing for a second-year allotment of three designations.

The seven finalists are: Los Angeles (Eastside), Oakland, Pittsburg, West Sacramento (which will incorporate Jan. 1), Salinas, Sacramento (Downtown), and Sacramento (Oak Park). Three winners will receive "conditional" designation next June.

Meanwhile, Kurt Chilcott, enterprise zone program coordinator, says that 12 of the 13 winners from the first phase have received permanent designation from the state.

## Yolo County Dispute

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unincorporated areas with freeway access that is free of Williamson Act contracts.

The most recent financial blow for the county was the incorporation of West Sacramento, which will officially occur Jan. 1. The loss of West Sacramento's strong sales tax base near the Port of Sacramento will probably cost the city \$3 million a year in net revenues, says Paul Baxter, Assistant Chief Administrative Officer for Yolo County,

"As incorporations and annexations occur, our revenue base deteriorates," says Baxter. "Unless there's some sort of revenue sharing, we're going to be forever at odds with our cities."

Davis City Manager Roger Storey adds: "The revenue situation is part of it — it's one of the reasons the county is receptive to processing this application, even though it violates longstanding county policy." Davis has asked the county to impose a building moratorium while the prospect of development along the corridor is studied as part of a Davis general plan revision.

In June, Davis voters approved Measure L, instructing the city council to allow development to proceed as slowly as is legally

allowable. The City Council approved a shopping center in north Davis in October, but that sparked another drive to place a referendum vote on the ballot. County approval of the the Ramos project would probably spark another petition drive in Davis, this time for a countywide referendum on the Ramos project.

Yolo is not alone among Northern California counties in suffering from financial problems. In fact, voters in 20 rural counties passed ballot measures in November calling on the state Legislature to provide funding for all state-mandated county programs. (Though Yolo's supervisors endorsed the measures, they didn't put it on the ballot.)

Dan Wall of the County Supervisors Association of California said the counties — mostly in the north and the Sierra foothills — have been hard hit by timber and mining slumps. He said supervisors from those counties may try to place an initiative on the statewide ballot calling for state financing of mandated program.

*Contacts: Paul Baxter, Yolo County, (916) 666-8150.*

*Roger Storey, City of Davis, (916) 756-3745.*

*Dan Wall, CSAC, (916) 441-4011.*

## Supreme Court Cases

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The prohibition prevented the church from reconstructing the buildings.

Land-use lawyers are getting increasingly frustrated with the court's inability to resolve the issue. But at least one attorney recently advised planners that the series of cases has provided them with guidance about how to handle development applications in a way that may help protect them from inverse condemnation suits.

At the recent American Planning Association conference in Yosemite, Gary Kovacic of Sullivan, Workmen & Dee in Los Angeles said the McDonald case indicates that a planning department can make a developer bring back an amended proposal at least once after a project is rejected before he goes to court.

"I see no fault in requiring a property owner to go through some exercise of using flexibility on land-use regulations," he said.

The Supreme Court's decision to hear *Nollan v. California Coastal Commission* in late March is equally confusing to land-use attorneys, who watched the justices reject at least three similar cases in the past year.

The Nollan case, which also involves the "taking" question, will decide the constitutionality of commission's policy of requiring

coastal landowners to provide public access to beaches in exchange for building permits.

The case involves landowners in the Ventura County area of Faria Beach, who requested Coastal Commission approval to replace their deteriorating beachfront bungalow with a new home. In return, the coastal commission required the property owners to allow the public cross one-third of their 3,800-square-foot property to get to the beach. The commission's requirement was ruled unconstitutional by a trial judge, then overturned by appellate justices in Los Angeles.

The Supreme Court's decision to take the case came only a few months after the justices decided not to hear a similar case, from another Ventura County beachfront area called Whaler's Village, involving almost exactly the same issue. Land-use attorneys say the court has also rejected at least two other coastal access cases in the last year.

*Contacts: Jamee Patterson, deputy attorney general (for Coastal Commission), (619) 237-6050.*

*Michael Berger, attorney for First English Evangelical Church, (213) 451-9951.*

*Douglas Elwell, L.A. County Counsel, (213) 974-1879.*

## BRIEFS

Only a few weeks after the City of Sacramento tentatively selected a private developer to build a new central library, the deal is already in disarray.

On Oct. 29, a city selection committee picked San Francisco-based Markborough-California Properties over three other finalists, including a Sacramento partnership put together especially for the project at the urging of some city officials.

However, in a terse letter in mid-November, Markborough-California pulled out of the deal. The local developers said they might try to win the project the second time around, but some team members had turned their attention to other matters after Markborough-California was picked.

Meanwhile, Sacramento city officials are proposing a property tax increase of about \$10 per \$100,000 to finance a \$12 million renovation of the 60-year-old Municipal Auditorium.

After almost a decade of legal wrangling, Napa County has finally agreed to allow a branch of the Rev. Sun Yung Moon's Unification Church to use the historic Aetna Springs resort in Pope Valley as a

retreat.

In the late '70s, when fear of cults was high in Northern California, the county denied a permit sought by New Educational Development Systems (NEDS), a branch of the church. Aetna Springs is in an "agricultural watershed" zone, in which churches are allowed but educational institutions are not.

NEDS filed a civil rights suit in federal court. U.S. District Court Judge Stanley Weigel sent the case back to state courts to resolve the land-use dispute, but in the meantime permitted church-related uses at the resort. The county won the case at the trial level, but county counsel Cliff Lober said that the church's neighbors have not complained in intervening years, creating the possibility of an out-of-court settlement.

Under the settlement, NEDS will enjoy a 10-year use permit that will allow all church uses, but secular educational uses are prohibited. In addition, NEDS has agreed to bring the resort's 33 buildings up to code.

*Contact: Cliff Lober, Napa County Counsel, (707) 253-4521.*