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Slow-Growthers Regroup After Election Losses

**Special Report:
Election Results
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Refusing to concede defeat, slow-growthers around the state are regrouping after suffering major losses in the November election. Indeed, several slow-growthers claimed the movement emerged from its November defeats stronger than ever, and the movement's leaders statewide gathered in San Francisco in early December to decide what to do next.

But the election results raise the question of whether the movement has peaked. Slow-growthers suffered high-profile defeats at the polls in both Riverside County and San Diego, where growth control measures received no more than 43% of the vote. And while the growth-control forces scored several victories in smaller communities throughout the state, overall the electoral trend turned decisively against them.

According to results compiled by *California Planning & Development Report*, voters approved only 46% of growth-control measures on the ballot (11 of 24), compared with 80% (8 of 10) in November 1987. Furthermore, voters approved 57% of pro-growth measures (13 of 23), compared with only 14% (2 of 14) last November.

In a similar survey, the California Association of Realtors found similar results. Using a somewhat broader definition of growth-related ballot measures, CAR found 75 such measures on the November ballot, compare to *CP&DR's* 47. However, CAR tallied almost identical passage rates for both growth-control measures (47%) and pro-growth measures (53%).

The slow-growthers conceded they made many mistakes in their *Continued on page 2*

Blue-Ribbon Reports Endorse Regional Effort

The call for regional government has become louder in recent weeks, with both the L.A. 2000 Committee and the Bay Area Council issuing reports suggesting that more attention be paid to regional problems. The two entities found many similar problems in the Bay Area and Southern California, but came to very different conclusions about how they should be solved.

In its long-awaited report, the L.A. 2000 Committee, appointed by Los Angeles Mayor Tom Bradley, recommended that the state legislature create a regional growth management agency and a regional environmental management agency to coordinate land-use and growth policies throughout Southern California. At a press conference introducing the blue-ribbon committee's report, LA 2000 Committee president Jane G. Pisano said the region's problems could not be solved "without making changes in the way we govern ourselves."

By contrast, the Bay Area Council's report rejected top-down regional planning, concluding that political acceptance for a strong regional planning agency would take too long. "The Bay Area needs a way to start down the path to better planning and management of growth — today," the report stated.

The question of "regionalism" has been high on the agenda of the planning community lately, surfacing both at the American Planning Association's California *Continued on page 3*

California Supreme Court Interprets CEQA Broadly

In its first important environmental case since the departure of former Chief Justice Rose Bird, the state Supreme Court has reaffirmed the strength and breadth of the California Environmental Quality Act.

In a unanimous opinion in *Laurel Heights Improvement Association v. Regents of the University of California*, the high court ruled that the environmental impact report for a proposed new laboratory at the University of California, San Francisco, was inadequate, partly because it did not include a detailed analysis of alternative sites. In a victory for the UC Regents, however, the court refused to halt the project, as neighborhood opponents had asked.

Land-use and environmental lawyers considered *Laurel Heights* an important case because it would be the first indication of how the post-Bird court would treat environmentally oriented cases. Though environmentalists did not succeed in stopping the project, they were nevertheless pleased that the court had taken a strong stand on CEQA. "If it had gone the other way, a lot of Court of Appeal and Superior Court justices might have followed the lead," said Carlyle Hall, an environmental lawyer in Los Angeles.

However, development attorneys took heart in the court's ruling as well, saying that it reaffirmed the notion that judicial review of CEQA should be *Continued on page 8*

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campaigns this year, which included resounding defeats on countywide measures in Orange, Riverside, and San Diego counties. However, they vowed to continue their fight — and, in Riverside County at least, are already laying plans for a 1990 initiative.

Furthermore, prospects are good that in both San Diego and Riverside counties, some sort of growth-management plan will be passed by the Board of Supervisors, as occurred in Orange County after Measure A's defeat there last June.

"The enthusiasm is not dampened," insisted Simi Valley slow-growth leader Paul LeBonte, who witnessed the resounding defeat of a local traffic initiative in his community.

LeBonte and other Southern California slow-growthers headed north on Dec. 3 for a statewide meeting in San Francisco organized by Gary Patton, the slow-growth supervisor from Santa Cruz County. Though Southern California activists organized this year into the "Save California" coalition, they have had relatively few meetings with their northern counterparts.

One thing is certain: Land-use and growth-related ballot measures continue to increase in number, and are becoming a permanent part of the California political landscape. According to the CAR's numbers, a record 109 measures appeared on the ballot this year. And many of them were required by earlier votes, such as two successful measures to permit Pacifica landowners to build homes for their own use on their agriculturally zoned property.

Here is a rundown of other trends that emerged from the November election results:

- The slow-growth movement has not succeeded in translating local action into a broader-based political movement. The only countywide growth-control measure that passed in November was a Santa Cruz County proposal to slow the growth of the University of California campus there. To date, no growth-control measure has ever passed in a large Southern California county.
- The building industry's ability to permanently erode local anti-growth sentiment is unclear. In Costa Mesa, for example, a measure identical to the defeated countywide Measure A passed narrowly, even though the city had voted 53%-47% against Measure A last June. Similarly, Huntington Beach defeated a measure identical to Measure A, but the new measure ran five points behind the June Measure A vote.
- Specific local measures continue to do very well. According to the CAR's figures, while only 6 of 16 general growth-control measures passed, 9 of 13 specific control measures were approved by the voters. As an example, while Costa Mesa narrowly approved a general growth-control plan (50.2%), voters resoundingly defeated C.J. Segerstrom & Sons' plan for a high-rise office complex (60%+).
- Though growth-control measures fared very badly in San Diego County, where almost half the measures in the state appeared, they were popular elsewhere. In San Diego County, only 3 of 11 growth-control measures passed. Elsewhere in the state, voters approved 8 of 13 growth-control measures, including such diverse localities as Chino, Santa Cruz, and San Juan Capistrano.
- The increased popularity of pro-growth measures (57% passage rate) was dramatic. Last year, the only pro-growth question in the state to receive voter approval was a massive resort project in Indian Wells. (Two ballot measures related to the project passed.)

Even here, though, are hidden cautions. Eliminating multiple

Correction

The October issue of *CP&DR* incorrectly reported that AB 2745, a bill dealing with child care, had been enacted into law.

The bill, sponsored by Assemblyman Terry Friedman, D-Los Angeles, would have required local governments to consider child care in some general plan elements. The measure did not become law without the governor's signature as *CP&DR* reported. In fact, it died in the Senate Appropriations Committee.

pro-growth measures on the same issue drags the passage rate down to about 50%. And many of the pro-growth measures that passed dealt with minor issues. In San Mateo County, for example, five ballot measures amended Measure A from 1986, requiring a public vote for permits in the coastal zone, so that farmers wouldn't need a countywide vote to remove fallen trees from streams, store their wood, and so on. The only substantial pro-growth project that passed was narrow (51.5%) and advisory approval of Santa Fe Pacific Realty's attempt to rezone 700 acres of land in Fremont.

Riverside County

After the resounding defeat of Measure B on the November ballot, county supervisors are proceeding with plans to consider a countywide growth management plan. Slow-growthers are willing to participate in the effort, but are skeptical and continue to lay the groundwork for another initiative in 1990.

Measure B, the growth-control initiative, lost by 60%-40% after a campaign in which the building industry spent close to \$2 million, compared to only about \$30,000 for the proponents. In the campaign, the building industry emphasized (1) the possible loss of jobs (20% of the Riverside job force is directly or indirectly dependent on construction) and (2) the financial squeeze on farmers if mandatory 40-acre zoning were imposed on prime agricultural lands. A typical billboard: SAVE FARMS SAVE JOBS NO ON B. (Measure B also would have restricted the county's growth to the statewide average and further cut back housing construction if traffic congestion and jobs/housing balance goals were not achieved.)

Admitting that the defeat was a solid one, growth-control activist Bill Havert, Inland Empire director of the Sierra Club, still insisted: "We're in a much more powerful position now than we were two years ago." He said the slow-growth movement must seek to broaden its constituency to include seniors, minorities, and unions, all of which the building industry wooed during the campaign. "Some of these groups are equally good constituents for us," he said.

Despite the defeat of Measure B, the Board of Supervisors is considering creation of a task force on growth management. However, board members currently disagree over whether the task force should be composed entirely of elected officials or should include a broader membership.

Ray Becker, past president of the Inland Empire Chapter of the Building Industry Association, said builders will support the growth management task force. However, he pointed out that voters overwhelmingly approved Measure A, a half-cent sales tax for

transportation. Becker, who is currently commuting from Riverside County to Los Angeles to work, said the Measure A vote was the best expression of the voters' will in solving the growth problems.

San Diego

Though for growth-control measures were defeated in San Diego, the county's voters strongly supported Proposition C, the creation of a countywide growth review board.

The building industry spent close to \$2 million to defeat the four measures (two governmental-sponsored and two citizen initiatives), using the four measures' letters to denounce "Bad Deals for Housing and Jobs. But Proposition C received 60% of the vote, and the battle over regional growth management in San Diego is on."

Next step: Creation of a task force, including members from the county an each of the county's 18 cities, to hammer out the details of how such a review board would work. They must report back to the county by next June. Then within a year, the new board must adopted a regional growth management plan. After that, cities and

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state conference and at UCLA's Donald Hagman Commemorative Program. (*CP&DR*, November 1988.) In addition, it is likely to receive some attention in the state legislature next year, because state Sen. Marian Bergeson, R-Newport Beach, chair of the Senate Local Government Committee, is preparing a package of growth management bills under the rubric of "The New Regionalism."

The entry of the L.A. 2000 Committee into the fray, however, would give the regional government issue a much higher profile in Southern California. The star-studded committee included such luminaries as Caroline Ahmanson, former county supervisor Yvonne Burke, O'Melveny & Myers honcho Warren Christopher, real estate superbroker John Cushman, Roman Catholic Archbishop Roger Mahony, and Mrs. William French Smith. The final report even included an glowing "epilogue" from California historian Kevin Starr, which placed the current regional effort in historical perspective. Release of the report made page 1 of the Los Angeles Times, which subsequently published a supportive op-ed piece on the front page of the Sunday opinion section. (State and local issues are usually relegated to inside pages.)

In proposing the creation of a regional growth management agency, the L.A. 2000 Committee pointed out the problems created by the fragmentation of governmental responsibilities in Southern California and singled out the South Coast Air Quality Management District, which many local governments fear will control regional growth in the near future. "This single-purpose agency has become our regional government," the committee wrote. "In pursuing its mandate to achieve air quality goals, the District has assumed both direct and indirect powers over decisions about land use, transportation, and housing." The growth management agency would "have the authority to set overall policy and guidelines for development with area-wide impacts," including transportation, housing mix, and jobs-housing balance.

The regional environmental management agency would combine existing waste, water, and other resources agencies and carry out policy in a manner consistent with the growth management policies.

Other L.A. 2000 Committee recommendations included:

- Creation of an affordable housing trust fund.
 - A series of steps to reduce traffic congestion.
 - Creation of a commission to study the reorganization of local governments in Southern California.
 - Amendments in the Gann Limit and Proposition 13 to provide more flexibility to local governments in funding infrastructure.
- The report from the Bay Area Council, a private business-

supported organization that deals with growth issues, stood in interesting contrast to the L.A. 2000 Committee report. While L.A. 2000 dealt with a broad spectrum of social issues as well as growth and government issues, the Bay Area Council zeroed in on the nature of the Bay Area's growth problems and proposed specific solutions. The report was funded by the San Francisco Foundation.

Particularly interesting was the Bay Area Council's discussion of the decentralization of regional growth and the ineffectiveness of planning tools used in response. Despite the long-term trend toward decentralization, the Council noted, the region's planning efforts continued to try to encourage high-density development in center cities. Referring to the Association of Bay Area Governments' 1970 plan, the report said, "While ABAG foresaw the emergence of new employment centers in the region, it could not anticipate the range or the power of forces driving deconcentration, from Proposition 13 to electronic mail."

Consequently, the report identifies a mismatch of infrastructure and land uses that, in some instances, borders on the absurd: "It's impossible to get from Sausalito to a grocery store a mile away without getting on 101."

The Bay Area Council report differs broadly from L.A. 2000 when it comes to solutions. Whereas L.A. 2000 asks for state legislation to create regional agencies, the Bay Area Council recommends a somewhat bottom-up "subregional" approach.

"Bringing local governments together on the subregional level is likely to be the most workable next step," the report concludes, noting that issues break down nicely at the subregional level and local governments at that level have more in common. (Frank Hotchkiss of the Southern California Association of Governments has been pushing the same idea in the sprawling L.A. area.)

But the Bay Area Council also points out that "volunteer" cooperation can only go so far — pointing to the example of the Golden Triangle Task Force in the Silicon Valley, which achieved some goals but lost a key member, the City of Santa Clara, over the issue of a joint land-use agreement. "Though a voluntary process is a good starting point for discussion, subregional decision-making can work only if it is eventually formalized through a legal structure such as a Joint Powers Agreement."

"L.A. 2000: A City for the Future" is available from the L.A. 2000 Committee, (213) 228-2001.

"Making Sense of the Region's Growth" is available from the Bay Area Council, (415) 981-6600.

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SPECIAL REPORT

County-by-County Results From November Elections

Here are county-by-county results of important local measures on the November ballot:

Alameda County

City of Berkeley

Berkeley voters overwhelmingly approved a statement declaring that state and federal agencies, such as the University of California and the state Health Services Departments, should comply with local land-use plans and ordinances. Of course, state and federal agencies don't have to comply and no local action can require them to.

Planning Director Marge Macris said UC and the city have a cooperative relationship but added that citizens felt it was important to state their views. But, she went on, "when push comes to shove I don't think they're going to conform to the rules."

Measure N: Yes, 74.5%.

Contact: Marge Macris, Planning Director, (415) 644-6534.

City of Fremont

Santa Fe Pacific Realty wanted a general plan amendment to change designation of its 700-acre parcel in Fremont from strictly industrial to allow industrial, commercial, and residential development. The city council rejected the proposal, then decided to put it to the voters in an advisory measure.

Measure Q passed, but the margin was narrow enough to deny Santa Fe Pacific a mandate. Now the development company must start the general plan amendment process all over again, uncertain of what the outcome will be.

Measure Q: Yes, 51.5%.

Contact: Robert Carlson, Community Development Director, (415) 790-6640.

City of Pleasanton

In Pleasanton, neighbors opposed the construction of a car wash and gas station and placed a referendum on the ballot to overturn the city council's decision to approve it. Voters citywide overwhelmingly affirmed the council's decision.

Measure X: Yes, 66.0%.

Contact: Shirley MacDougal, Pleasanton Planning Department, (415) 484-8023.

Los Angeles County

City of Bellflower

Bellflower voters acted on three measures related to an ongoing tussle over redevelopment in the city. In 1981, the city established a redevelopment agency; after a change in city council membership in 1982, the agency was disbanded and city policy required voter approval for the agency to be re-formed.

In this election, the city asked voters to approve a new redevelopment agency (Measure Q), a policy prohibiting use of eminent domain in residential areas (Measure R), and a survey of potential redevelopment areas (Measure S). All three passed narrowly.

Measure Q (New Agency): Yes, 51.3%.

Measure R (No Residential Eminent Domain): Yes, 52.9%.

Measure S (Survey of Areas): Yes, 51.4%.

Contact: Lee Whittenberg, Community Development Director, (213) 804-1424.

City of Hermosa Beach

Hermosa Beach also had three measures on the local ballot, all dealing with the 0.84-acre beachfront parcel, formerly the site of a Biltmore hotel, owned by the city.

The parcel is currently zoned for neighborhood commercial use under a specific plan. The city is planning to sell the site and use the funds to purchase a railroad right-of-way as open space. Therefore, the city gave the voters three choices: rezone the property to residential use and sell it (Measure X), rezone to full-scale commercial and sell (Measure Y), and maintain the current zoning and sell it (Measure Z). But the voters fooled the council by rejecting all three choices.

Measure X (Residential Zoning): No, 57.1%.

Measure Y (Commercial Zoning): No, 86.8%.

Measure Z (Current Zoning): No, 64.4%.

Contact: Andrew Perea, Associate Planner, (213) 618-1238.

City of Paramount

Voters in the City of Paramount ordered the city council not to increase densities on multi-family residential projects, except when they are senior citizen projects.

As part of a redevelopment plan, the city had decided to provide density bonuses on residential projects, so that the maximum density would be increased from 22 units per acre to 35 units/acre — and, in some cases to 70 units/acre. A group of citizens placed an initiative on the ballot to restrict density to 22 units/acre and the measure passed handily. Senior projects still may be built to the higher densities.

Measure FF: Yes, 60.5%.

Contact: Leslie Aranda, Acting Community Development Director, (213) 531-3503.

Orange County

City of Costa Mesa

Voters in Costa Mesa narrowly approved a growth and traffic control ordinance, similar to the one that last countywide in June, and rejected two development schemes for the Segerstrom family's Home Ranch project.

Measure G, the growth control measure, passed by only about 100 votes. It is virtually identical to last June's Measure A, which would soundly defeated countywide. In June, Costa Mesa residents voted against Measure A, 53%-47%.

The Segerstroms' Home Ranch proposal would have contained at least 2 million square feet of space, including the county's tallest office tower and a regional center for IBM. When slow-growth activists in Costa Mesa placed the Home Ranch project on the ballot as a referendum (Measure H), the developers scrambled to win city approval for an alternate plan, one-third smaller. However, slow-growthers placed a referendum on that plan on the ballot too (Measure I). The Segerstroms spent close to \$200,000 in the campaign, but both plans were defeated easily.

One week before the election, city officials approved plans for the second-tallest office building in the county, an expansion of Segerstrom's Town Center project. Slow-growthers did not oppose that project.

Measure G (Growth Control): Yes, 50.2%.

Measure H (Home Ranch I): No, 63.3%.

Measure I (Home Ranch II): No, 60.3%.

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City of Huntington Beach

Huntington Beach voters narrowly rejected Measure J, another virtually identical copy of the countywide Measure A from last June. At that time, Huntington Beach citizens voted against Measure A, 55%-45%, about the same as the county as a whole.

Measure J: No, 50.6%.

City of Newport Beach

Newport Beach voters rejected Measure K, which would have required developers to pay for traffic improvements before being permitted to build.

Measure K: No, 53.8%.

City of San Juan Capistrano

Voters in San Juan Capistrano narrowly approved Measure X, another measure virtually identical to the countywide Measure A from last June. At that time, city residents voted in favor of Measure A by about the same margin.

Measure X: Yes, 51.6%.

Placer County

City of Loomis

Loomis voters overturned the city council's approval of a 69-lot subdivision that opponents said was contradictory to the general plan and threatened the city's rural character. The 7,000-resident city stands in the I-80 growth corridor just 20 miles from Sacramento.

Measure D: No, 64.7%.

Contact: City Clerk, (916) 652-9204.

Riverside County

After a heated and, at least for the opposition, expensive campaign, Riverside County voters decisively rejected Measure B, the slow-growth initiative. As in Orange County last June and San Diego in November, the building community mounted an enormous campaign, while slow-growthers had little money and had to rely mostly on news coverage.

Measure B would have restricted the county's growth rate to the statewide average (a massive cut); cut residential growth even further in years that congestion and jobs/housing balance don't improve; and restricted prime agricultural land to 40-acre zoning.

Much of the debate in the campaign centered around the likely economic side-effects of the measure. The building industry contended that the measure would cost the county jobs, and also hurt farmers because the 40-acre zoning would restrict farmers' ability to obtain bank loans.

Also defeated was Measure C, the so-called "small farms initiative," which was Rancho California's attempt to exempt projects of 10- and 20-acre lots from Measure B's provisions.

Measure B (Growth Control): No, 60.0%.

Measure C (Small Farms): No, 60.4%.

City of Riverside

Voters in the city of Riverside rejected three measures that would have permitted certain activities now prohibited by the city's two slow-growth ordinances, Measure C (1987) and Proposition R (1979). Under the terms of Measure C, changes to the greenbelt plan must be placed before the voters.

The two ordinances created a so-called "greenbelt" of two-and

five-acre zoning around the city. The first measure, Measure O, would have permitted development of a business park at Hunter Park, an undeveloped 10-acre area within the greenbelt but surrounded by developed areas.

The other two ballot measures, Measures P and Q, both dealt with Sycamore Canyon, a 1,500-acre area with an approved specific plan. Some of the terms of the specific plan, such as a density transfer system, cannot be carried out under Measure C; these two ballot measures would have permitted the specific plan to go forward as written. Again, however, all three measures lost.

Measure O (Hunter Park): No, 54.7%.

Measure P (Sycamore Canyon): No, 53.5%.

Measure Q (Sycamore Canyon): No, 55.7%.

Contact: Steve Whyld, Planning Department, (714) 782-5371.

San Bernardino County

City of Chino

Voters in Chino overwhelmingly approved a measure to place limits on the amount of apartment construction in the city.

Multifamily units now make up about 27% of Chino's housing stock. Up to this year, the general plan called for that figure to rise, ultimately, to 45%. Early this year, however, the city council dramatically downzoned some of the residential areas in the city, slicing 6,000 units off the ultimate buildout and cutting the ultimate multifamily figure to less than 25%.

The council then drew up Measure M, which requires voter approval for increases in residential density and rezoning of commercial land to residential use. Senior citizen projects are exempt.

Measure M: Yes, 80.8%.

Contact: Earl Nelson, Community Development Director, (714) 591-9812.

San Diego County

In San Diego County, voters gave decisive defeats to growth control measures placed on the ballot by both citizens and the Board of Supervisors. Proposition D, a citizen initiative, would have required local elections for major planning changes in unincorporated areas. Proposition B, the supervisors' measure, would have imposed controls to protect sensitive lands and would have tied new development to provision of public facilities. Developers campaigned vigorously against both.

However, citizens provided solid support for Measure C, an advisory vote that calls for the establishment of a regional planning review board to coordinate growth management activities throughout the county.

Political jockeying over the creation of such a board has already begun. The county supervisors now must appoint an organizing panel, which must report back by next June on how to establish a board. In recent years, cities and county government in San Diego have coordinated land-use efforts more effectively than virtually anywhere else in the state.

Proposition B (County Measure): No, 58.5%.

Proposition C (Advisory): Yes, 60.0%.

Proposition D (Citizen Measure): No, 57.4%.

City of San Diego

Voters in the City of San Diego likewise rejected two measures, one sponsored by the city council and the other sponsored by the

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slow-growth group, Citizens for Limited Growth. The building industry waged an expensive and vigorous campaign against both city and county measures.

Proposition J, the citizen measure, would have limited future housing development to some 4,000 units per year if performance standards for public facilities were not met. Proposition H, the city measure, would have set the limit at about 7,600 units per year. Unclear now is the fate of the interim development ordinance, which restricted construction to about 8,000 units per year.

Measure H (City Plan): No, 56.7%.

Measure J (Citizen Plan): No, 58.5%.

City of Chula Vista

Voters in Chula Vista approved Measure V, which places controls on the upzoning of residential property. Under its terms, residential property may not be upzoned by more than one category (for example, from R-1 to R-2) within a two-year period. The measure also ties future development to the availability of public services and orders the council to prepare a "quality of life" provision in the general plan.

Measure V: Yes, 58.5%.

Contact: Duane Basil, Associate Planner, (619) 691-5101.

City of Coronado

In the peninsula city of Coronado, near San Diego, voters chose not to lower the floor-area ratio permitted on one- and two-family lots.

Three years ago, the council lowered the permissible FAR for one- and two-family zones from 1:1 to 0.75:1. This year, the council dropped the figure even further, to 0.55:1. In a referendum, however, the voters narrowly overturned the council's decision, reinstating the 0.75:1 FAR, at least for now.

According to planner Ed Kleeman, the matter must again go before the council, which may try to peg a figure in between 0.75 and 0.55.

Measure W: No, 52.7%.

Contact: Ed Kleeman, Senior Planner, (619) 522-7326.

City of Encinitas

In a surprise move, voters in Encinitas rejected two slow-growth plans, one prepared by the city council and another placed on the ballot by citizens. Such measures have been very popular in neighboring North San Diego County communities.

Measure BB, the citizen initiative, would have placed a numerical cap on residential growth. The city would have been limited to 400 housing units the first year and even smaller numbers in subsequent years. Another vote would have been scheduled in 1995 to determine whether to maintain the cap at 200 per year.

Measure AA, the council measure, would have limited construction to an average of 224 units per year for the next 25 years, a cap calculated from the general plan's ultimate buildout numbers.

Measure CC, which tried to sort out which measure would govern if both passed, won a bare majority. Under CC's terms, if both AA and BB had received a majority of votes, the one receiving the most votes would be implemented. This measure was placed on the ballot to avoid the problems of neighboring Carlsbad, where litigation ensued after both measures received a majority of the vote. But, of course, the defeat of AA and BB made CC moot.

Measure AA (council): No, 58.7%.

Measure BB (citizen): No, 65.1%.

Measure CC (most votes wins): Yes, 50.8%.

City of Poway

Poway voters overwhelmingly selected a plan calling for voter approval of major residential projects, rejecting a moratorium on zone changes.

The successful Measure FF requires voter approval for most projects that would increase housing density in the city. The unsuccessful Measure GG would have placed a moratorium on zone changes in the city until "quality of life" criteria were passed by the voters.

Measure FF: Yes, 64.5%.

Measure GG: No, 73.6%.

San Luis Obispo County

City of Morro Bay

In deciding the fate of four ballot measures, Morro Bay voters generally favored new commercial development over new residential development.

In one of the most publicized local ballot measures in the state, Morro Bay rejected plans to build a gazebo in the city's central park. However, other planning-related measures may have been more important.

Fearing a rash of commercial development, citizens placed an initiative on the ballot to prohibit the rezoning of residential land for commercial use. Meanwhile, the city council, seeking an affirmation of voter support for housing, placed an ordinance on the ballot incorporating the state's density-bonus laws for low- and moderate-income units. However, both measures lost.

At the same time, voters approved the rezoning of a particular piece of property in the city from residential to commercial use. The new development will be located near the site of another proposed commercial development, for which voter permission was granted in 1986.

Measure B (Housing Initiative): No, 51.4%.

Measure C (Housing Ordinance): No, 56.4%.

Measure D (Rezoning): Yes, 57.3%.

Measure E (No Gazebo): Yes, 53.8%.

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

San Mateo County

Voters in San Mateo County approved five ballot measures allowing farmers to carry out agricultural activities without requiring a coastal permit. Under the terms of Measure A, passed in 1986, coastal permits must be placed on the ballot.

The five measures were Measure A (increases size of dam without a permit), Measure B (increases size of water tanks without a permit), Measure C (permits temporary roadside stands), Measure D (permits debris clearance from streams), and Measure E (permits storage of wood). Previously, all such activities would have been approved by the voters.

Measure A (dams): Yes, 57.0%.

Measure B (water tanks): Yes, 58.8%.

Measure C (roadside stands): Yes, 62.0%.

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Measure D (debris clearance): Yes, 67.3%.

Measure E (wood storage): Yes, 56.0%.

Contact: Christine Gouig, county planning director, (415) 363-4161.

City of Pacifica

Voters in the coastal community of Pacifica approved two small-scale requests to rezone agricultural land for residential use. Under a growth ordinance passed in 1982, such zone changes must be presented to voters in the city.

Pacifica residents narrowly approved Measure G, permitting two families to divide a 28-acre agricultural parcel into two five-acre building lots and an 18-acre lot zoned for open space. By a more decisive margin, voters also approved Measure H, the rezoning of a one-acre parcel for single-family construction.

Pacifica Planning Administrator Wendy Cosin said that since 1982, about a half-dozen such measures have appeared on the ballot and all have passed.

Measure G (28-acre rezone): Yes, 50.6%.

Measure H (1-acre rezone): Yes, 60.0%.

Contact: Wendy Cosin, Planning Administrator, (415) 875-7341.

Town of Woodside

Voters in Woodside narrowly approved a prohibition on rezoning of non-commercial property for commercial use in the town center (downtown). However, the city council is preparing a specific plan for the town center which is likely to appear on the ballot in the near future.

Measure J: Yes, 52.5%.

Contact: Donald Woolfe, Planning Director, (714) 851-7764.

Santa Cruz County

Santa Cruz County voters overwhelmingly approved an advisory measure asking the county to take whatever steps are necessary to slow the growth of the University of California, Santa Cruz. The measure also asked for better cooperation between the county and UCSC. With 9,200 students, Santa Cruz is the second-smallest of the eight full-service UC campuses.

Measure E: Yes, 70.4%.

City of Santa Cruz

Voters in the City of Santa Cruz voted even more overwhelmingly for a similar slow-UC's-growth measure.

Measure C: Yes, 75.2%.

Contact: Peter Katzberger, City Planning Director, (408) 429-3555.

Ventura County

City of Simi Valley

Voters in Simi Valley, who two years ago approved strict growth curbs, rejected a citizen initiative that would have required builders to pay for the full cost of mitigating traffic congestion if their projects cause congestion to fall below level of service C.

The measure was placed on the ballot by a citizen group called FIGHT (Fight Intolerable Growth and Horrible Traffic).

Measure C: No, 58.7%.

Oil-Related Measures

Anti-drilling measures passed in four coastal jurisdictions up and down the state. In the city of San Clemente and in the North Coast counties of Mendocino and Humboldt, voters overwhelmingly approved ordinances prohibiting onshore developments associated with offshore oil drilling unless those developments are approved by the voters. Since 1985, 21 coastal jurisdictions have passed similar measures. Despite the best efforts of the Western Oil & Gas Association, which has filed a lawsuit challenging them, these measures probably are legal — so long as they don't call for an outright ban on all oil-related development. In most cases, denial at the polls is still appealable to the coastal commission.

In Los Angeles County, the multimillion-dollar campaign over onshore drilling in the Pacific Palisades turned into a victory for environmentalists, as their anti-measure passed handily and Occidental Petroleum's pro-drilling measure lost badly.

Supervisorial Races

Los Angeles County

In a crucial race, pro-growth supervisor Michael Antonovich handily defeated his runoff opponent, Baxter Ward. Ward forced Antonovich into a runoff because of no-growth sentiment in the fast-growing eastern and northern parts of L.A. County. In the general election, however, Antonovich claimed that Ward accumulated a pro-development record as a member of the Board of Supervisors from 1972 to 1980, when Antonovich defeated him the first time. Antonovich's victory means that conservatives maintain a 3-2 majority over liberals on the board.

Incorporations

Apple Valley, San Bernardino County. Voters in Apple Valley approved incorporation, 68%-32%. Apple Valley, near Victorville, is part of the fast-growing "high desert" area that has been clamoring for political independence from San Bernardino County.

Saddleback Valley, Orange County. Voters in Saddleback Valley rejected cityhood, 63%-37%. However, cityhood efforts in the area are far from dead. This vote came only a year after the incorporation of Mission Viejo, and efforts continue to incorporate several south Orange County communities or annex them to Mission Viejo.



BRIEFS

Voters in Cypress will get the final say over plans to develop a 168-acre business park adjacent to Los Alamitos race track.

The city council approved the plan in mid-February but immediately announced a Feb. 14 special election on the issue, which involves the last large parcel of open land in the north Orange County city.

SDC Development of Newport Beach plans to buy the property from Hollywood Park Realty and develop a 2.68-million-square-foot business park that would include everything from hotels to churches.

Ninth Circuit Rejects Zoning of Adult Businesses in Whittier

The City of Whittier has lost another round in its lengthy battle to impose a restrictive zoning scheme on adult businesses.

The Ninth U.S. Circuit Court of Appeals has ruled that the latest version of the Whittier ordinance, which prohibits adult businesses within 1,000 feet of a church, effectively bans adult businesses within the city limits and therefore is unconstitutional.

Noting that the ordinance would permit adult businesses on, at most, 1.4% of the city's land, Judge Procter Hug wrote for the court: "We need not venture farther into the art of cartography to find that this ordinance does not allow sufficient alternatives for relocation of adult businesses.... To hold, as the city urges, that there are adequate alternatives available for expression of this sort would make a mockery of First Amendment protections."

Zoning to restrict adult businesses must not geographically circumscribe freedom of expression too severely, because it can run afoul of the First Amendment. Nevertheless, Whittier has spent the last decade — mostly unsuccessfully — trying to do so. Five times since 1981, federal courts have declared the Whittier ordinance unconstitutional.

Whittier enacted the ordinance in 1977 and amended it in 1981 and 1984, partly in response to court rulings. However, Walnut Properties, owner of the Pussycat Theater in Whittier, went to court each time, winning in 1985 when the Ninth Circuit declared the ordinance unconstitutional.

In 1986, however, the U.S. Supreme Court upheld an ordinance in

Washington state that limited potential sites for adult businesses to only 5% of the city's land. (*City of Renton v. Playtime Theaters*, 475 U.S. 41.) Subsequently the high court ordered lower courts to reconsider the Whittier case in light of the *Renton* ruling.

Lawyers for Walnut Properties and the city disagreed over the actual impact of the ordinance. The city estimated that the ordinance left 99.5 acres in the city, or about 1.4% of the city's land area, available for adult businesses. Walnut estimated the figure at 12 acres. No matter which figure was used, however, the Ninth Circuit declared the ordinance unconstitutional once again.

"The ordinance's 1,000-foot separation requirement between adult businesses makes this case vastly different from *Renton*," Hug wrote for a unanimous three-judge panel. "That ordinance, when applied, allowed 520 acres of 'ample, accessible real estate' for adult theater sites. Within those areas, there was no separation requirement between adult businesses. Thus, all of the acreage was effectively open to adult theaters. ... That ordinance did not impose the intrinsic limitation that this ordinance does. Though the City asserts that 99.5 acres are available in Whittier for locating an adult business, in fact only a fraction of that acreage is potentially available (because of the 1,000-foot requirement)."

The full text of Walnut Properties Inc. v. City of Whittier, No. 86-5645, appeared in the Los Angeles Daily Journal Daily Appellate Report on November 11, beginning at page 14127.

State Supreme Court Issues Broad Ruling on CEQA

Continued from page 1

limited to procedural issues and, therefore, constituted a warning against judicial activism in the area. "The ruling emphasizes the separation of powers," said Kenneth Bley, a partner with Cox, Castle & Nicholson. "It's up to the local government, once it's presented with the information contained in the EIR, to decide what to do with it."

The case involved UCSF's plan to relocate its biomedical research lab to the Laurel Heights area of San Francisco. Aggressively overturning a trial court decision, the First District Court of Appeal had ruled that the EIR was defective and issued a stay limiting potentially hazardous research on the site.

On appeal, the Supreme Court ruled that the EIR was defective because discussion of alternatives was inadequate and because it did not discuss the environmental effects of anticipated future uses of the lab. However, the court went on, "We find there is substantial evidence the environmental effects identified in the present EIR will be sufficiently mitigated," and therefore the justices permitted the project to go forward.

In a unanimous 79-page opinion written by Justice David Eagleson, the court emphasized the importance CEQA plays in informing the public and the courts, not just the decision-makers. Calling UCSF's treatment of alternatives "cursory at best," Eagleson wrote: "The Regents apparently believed that, because they and UCSF were already fully informed as to the alleged infeasibility of alternatives, there was no need to discuss them in the EIR."

However, he added: "The Regents miss the critical point that the public must be equally informed. Without meaningful analysis of alternatives, neither the courts nor the public can fulfill their proper roles in the CEQA process."

In addition, the court rejected UCSF's argument that it could not discuss the likely environmental effects of future uses of the lab because the university could not predict what they would be: "At a minimum, it is clear that the future expansion and the general types of future activity at the facility are reasonably foreseeable."

However, in a lengthy discussion of the specifics of the research laboratory, the justices concluded that "taken as a whole, there was substantial evidence to support the Regents' conclusion that the

environmental effects of the project, as now defined, will be mitigated."

As a result, the justices permitted UCSF to continue its present activities at the Laurel Heights lab, apparently giving great weight to the nature of work being done there. "UCSF's research is designed to improve the state of medical knowledge and thus improve and even save lives," Eagleson wrote for the court. "We are especially reluctant to interfere unnecessarily with such a salutary enterprise."

Environmental lawyers were somewhat surprised that a unanimous court found the EIR defective on the alternatives issues. "The oral argument was rocky," said Mark Weinberger, a San Francisco lawyer. "A couple of the justices expressed some doubts as to their support ... for the importance of assessment of alternatives."

However, with the Supreme Court's ruling in this case, extensive analysis of alternatives is likely to become far more common in EIRs on large projects. "Particularly where you have a public agency project, there's no excuse at all for not considering alternative sites," said Weinberger.

However, the *Laurel Heights* ruling raises the question of just how vigorous the discussion of alternative sites must be in projects that are smaller or private in nature. Early this year, in *Goleta Valley et al v. Board of Supervisors*, the First District Court of Appeal ruled that detailed discussion of alternative sites was required in a Santa Barbara County EIR on a 600-room beachfront hotel. (*CP&DR*, February 1988.) In that case, the appellate justices stated that this requirement stands even though private landowners may not have an array of other sites to choose from.

Bley noted that the UCSF lab or even a private beachfront hotel in Santa Barbara is likely to be a one-of-a-kind project. But, he asked, what about an office project or residential tract that is but one of many proposals in a given area? "Do we have to analyze one or two or three other sites where that might possibly go?" Bley asked.

The full text of *Laurel Heights Improvement Ass'n v. Regents of the University of California* appeared in the *Los Angeles Daily Journal Daily Appellate Report* on December 5, beginning at page 15037.