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Railroad right-of-way at ground zero of land use fight

Initiative would force city to keep 22-acre property as open space

By Susan Fuller
Staff Writer

The initiative process is a powerful tool in a democracy, an opportunity for citizens to take government into their own hands. But if it's not written in accordance with legal precedents, an initiative can start a landslide of lawsuits and unintended consequences.

Alameda Jean Sweeney has begun an initiative calling for the Beltline Railroad Yard property on the island's northside to be rezoned as open space. The public notice of the initiative appears in Feb. 26 newspapers, starting the 180-day period for signature collection.

The current zoning of the former railroad yard is varied and unclear. Parts of the property are in redevelopment areas and are zoned for mixed use and public facilities. The zoning of redevelopment areas may not be changed by initiative. Another piece of the property may possibly be zoned medium density residential.

Public and private park lands are permitted in open space zones, as are facilities such as miniature golf complexes and waterslides. Any structure is subject to a use permit.

Further complicating the picture, the property has been on the market for about six months. An offer in excess of \$15 million was made earlier this month by Sun Country Developers of Pleasanton, but as of Journal press time, the sale had not been finalized.

The 22-acre parcel is located south of Marina Village, and is bound by Atlantic Avenue and Sherman Street on the north and east. The southern boundary of the property is defined by rear property lines on Eagle Avenue. The Beltline property narrows at its western end, and has a short frontage on Constitution Way.

"I am just a small fish in the pond, trying to hold onto a wonderful asset," Sweeney said. "I see this as a city-wide treasure, similar to Central Park or Golden Gate Park, a respite from the pressures of life."

When Sweeney started her project, she talked about park and open space on the Beltline. The land is graded for railroads; some of the tracks remain, as do the vestiges of buildings. There may be some toxic hot spots on the site, which could be a deterrent to development of housing or open parkland, she said.

Having subsequently learned of the law regarding zoning changes in redevelopment zones, Sweeney has changed her vision to a combination school and park on the Beltline site. She is concerned about young students moving into developments at the former Weyerhaeuser property at Buena Vista Avenue and Hibbard Street and on the Bruzzone property in the 400 block of Buena Vista Avenue.

She said that Longfellow Elementary School is full and Haight Elementary School has only 12



Photo by Kathy Baker

Alameda Jean Sweeney walks along the railroad tracks of the former Beltline Railroad Yard on the island's northside. Her initiative would force the city to designate most of the property as open space. The land is currently in escrow with a private buyer.

openings. "The mayor doesn't want schools and a park," she said. "They don't make money for the city."

"I think any initiative that freezes the Beltline property at 100 percent open space is a bit premature," said Vice Mayor Tony Daysog. "There hasn't been any community dialog on this issue, and given that we're revising our general plan right now, there are a lot of steps that are being skipped."

"The idea of maintaining open space is excellent, but does it have to be 100 percent of the Beltline property?" Daysog said. "I am seriously considering coming out with my own initiative that would preserve no more than one-third of Beltline as open space

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Nadey guilty of murdering minister's wife

By Peter Hegarty
Staff Writer

Giles Albert Nadey Jr. has been found guilty of sexually assaulting and murdering Terena Fermeck inside a Santa Clara Avenue church rectory three years ago.

Family members from both sides of the tragedy wept quietly when the jury found Nadey guilty Feb. 23 in Alameda County Superior Court.

The 32-year-old former carpet cleaner could face the death penalty. Proceedings to determine his fate are scheduled to begin this week.

Fermeck's husband, Don, cried when the verdict was given as he sat clutching the hand of his new bride.

His father, Mark Fermeck of Pleasanton, placed a hand on his son's shoulder, while other friends and relatives cried and held each other.

"I'm overwhelmed right now," Don Fermeck said. "Obviously, nobody's a winner. Everybody's a loser in a thing like this."

Nadey appeared calm but dropped his head as the verdict was read. He signaled his mother an OK hand signal as bailiffs led him out of the courtroom.

"I believe in my heart he's innocent," Mary Nadey said.

While she sat sobbing inside the courtroom in the arms of a friend, some of Fermeck's relatives placed a sympathetic hand on her shoulder.

"I feel for her," said Don Fermeck's grandmother, Dixie Hudson, who was nevertheless relieved with the ver-



Giles Albert Nadey Jr. at his arraignment in Alameda Municipal Court on murder charges in 1993.

dict. "I feel justice was done."

Superior Court Judge Alfred Delucchi admonished the six-man, six-woman jury from discussing the case until after the penalty proceedings are completed.

Fermeck's body was found by her husband on Jan. 18, 1996, inside the rectory of the Church of Christ on Santa Clara Avenue.

Don Fermeck had been set to succeed his late grandfather as pastor of the congregation and the couple were preparing to move into the rectory when Terena was murdered.

"On the afternoon of her killing, Terena Fermeck had

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City's homeless shelter given notice Navy says its Clement Ave. reserve center needs the space

By Susan Fuller
Staff Writer

"Shocked" is the city-wide reaction to the Navy's letter terminating the license to use property occupied by the Midway Shelter.

Differing memories of year-old conversations are at the crux of the misunderstandings. "Community Development has been going on the assumption that the Navy's letter last year (accompanying the one-year license) said the city had a two- to four-year time frame," said Public Works Director Matt Naclerio. "We were thinking that we had at least one (more) year."

The shelter occupies land that is part of the Naval & Marine Corps Reserve Center on Clement Avenue.

Capt. Sreten Zivovic, commanding officer of the Reserve Unit, remembers a discussion with Mayor Ralph Apperzato, Chief of Police Barry Matthews and other city staff about the future of the Midway license. The conversation took place at the shelter, with nothing put in writing.

"The city 'wanted two to four years,'" said Zivovic. "I said 'No. I'm giving you 14 months.' They

were not real happy about it."

The Feb. 17 letter from the Navy said that the Reserve Center staff asked for the space. The current license expires July 31, 1999.

Acting chair of the Alameda Homeless Network, the Rev. Larry Schulz leaped into action, seeking intervention from U.S. Sen. Dianne Feinstein and Sen. Barbara Boxer, Congresswoman Barbara Lee, state Sen. Don Perata and County Supervisor Wilma Chan.

"This action ... creates a major crisis in providing a broad range of services to its clients," Schulz letter said. He forwarded to the public officials a copy of the Navy's letter as well.

Zivovic takes full responsibility for the decision to pull the license.

"I have Navy people right now subleasing space at the old NAS from MARAD under a five-year lease (which is) expiring this year," he said. "Our people are on a sublease agreement to share space. They're complaining that they have to move equipment, that there is a lot of wasted time rearranging the space they work in."

see MIDWAY, page A4

"I am just a small fish in the pond, trying to hold onto a wonderful asset. I see this as a city-wide treasure, similar to Central Park or Golden Gate Park, a respite from the pressures of life."

— JEAN SWEENEY

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— VICE MAYOR TONY DAYSOG

Board gives monthly antiques fair a green light to grow

By Peter Hegarty
Staff Writer

Antiques by the Bay, the event at Alameda Point that some residents feared would become a swap meet, has turned out to be just what its promoters have always claimed — an antiques and collectibles fair,

the Planning Board has determined.

By finding the promoters have met the conditions under their lease agreement with the city, the board clears the way for the number of booths at the event to increase to 1,000.

The board's finding on Feb. 22 was unanimous.

Before the vote, however, some critics stepped up to the microphone to claim that the promoters had failed to enforce the most significant condition of the lease — namely, that the overwhelming majority of items being sold must be either antiques or collectibles.

Antiques are defined as being at least

100 years old, while collectibles must be 20 years or older.

At some booths during the fairs — so far, five have been held — fewer items were being offered, such as books, toys and lunchboxes, critics pointed out.

But after listening to their comments, see ANTIQUES, page A4

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KNIGHT RIDDER

INFORMATION FOR LIFE

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and allow development on the other two-thirds, to give Alameda residents a choice in this matter."

The current general plan calls for "a spine of open space 75 to 100 feet wide against the southern boundary of Marina Village," according to Planning Director Collette Meunier.

The property is 300 to 400 feet wide, according to Sweeney.

"The only part of the city that falls into state standards for parks is Harbor Bay Isle," said Councilwoman Barbara Kerr. "The East End approaches the standards, the West End and northern side are seriously underparked."

"I don't have an opinion on (the initiative as opposed to going through the legislative process)," Kerr said. "The initiative process is part of the legal system. A citizen has the right to start it. Sending (an issue) to the people is a healthy process. Some of my colleagues seem to be terrified of the people, but it's their government."

The initiative "is the process that's used in California when people are unhappy with the government, or want to get something done," Kerr said.

■ City doesn't have the money
Sweeney acknowledges that the city doesn't have the funds to purchase the land. "But not to despair," her writing about the initiative states. "Public works was able (to) put together a \$5 million package to create the park along Main Street."

Her writing continues, "My little foray into the area on the Internet tells me that there is money there. The city just hired two new grant writers."

Outside funding may not be as easy to come by as Sweeney implies.

The \$5.2 million raised by public works was a combination of five grant funds, which took 2 1/2 to 3 years of "extraordinary effort," according to Deputy Public Works Director Cheri Sheets.

More than half of the funds were designated for the underlying pump station to eliminate the

chronic flooding of Main Street, not for the park. Because the project qualified as base conversion and improved access to the ferry terminal, it had "an eligibility that most pieces of property wouldn't have," Sheets said.

Funds for purchasing the park came from the federal transportation enhancement fund, "to make (a project) more and better," Sheets said. The city received a \$100,000 grant because the bicycle path will connect to the Bay Trail.

Sweeney also points to the Nature Conservancy as a possible source of aid.

The organization is the national leader in the protection of land. It identifies land for protection based on the relative rarity of plant and animal species, and whether or not they are protected.

The Nature Conservancy works only with willing sellers and donors, according to their website. Much of the conservancy's acquisition is accomplished through methods other than outright purchase: gifts, exchanges, conservation easement or management agreements.

The availability of government grant funds for property acquisition depends on location, according to Susan Williams, grant specialist with the East Bay Regional Park District. A shoreline location, wetlands or the presence of an endangered species are pluses, she said.

The difficulty is becoming a priority of the agency, Williams said. It takes a dedicated group of people with knowledge and perseverance to push through a bureaucracy to get funding. Corporations are more interested in funding environmental education and social programs than land acquisition, she said.

Sweeney wrote that the city has recently hired two grant writers, with no responsibilities specified in her letter.

"To the best of my knowledge, we haven't hired any grant writers," said city Personnel Director Elizabeth Kingsley.

■ What the initiative costs

If 10 percent of registered voters sign an initiative, it will appear on the ballot in the next general election, in this case November 2000.

If 15 percent of registered voters sign, a special election will be called.

The cost of placing an initiative on the ballot in a regular election is \$6,000 to \$10,000, estimates City Clerk Diane Felsch.

A special election presents a significant cost which is borne by the city. Felsch said that the Alameda County Registrar of Voters' current estimate of cost is \$2 to \$3 per voter. Alameda has 38,000 registered voters, so a special election could cost the city \$76,000 to \$114,000.

Although there are questions about the legality of the initiative, the city cannot refuse to put it on the ballot. The initiative cannot force the city to purchase the land.

If the initiative is adopted, the property owner could sue, naming the city as a defendant, according to city officials.

Bike from page A3

thefts.

"It all really hit me," he said. Self ended up collecting \$260, far more than was needed to purchase the same type of bicycle, especially since Alameda Bicycle on Park Street gave him a discount. The approximately \$50 left-over will be donated to the anti-drug campaign DARE, or a similar group, Self said.

He brought the bicycle — placed carefully in the trunk of his patrol car — over to Jose's Park Avenue apartment Feb. 19.

"This is a gift to you from the Alameda police," Self told Jose

after he had ridden the bicycle for the first time.

The gift came with conditions, however. The bicycle must be licensed and Jose must ride with a helmet, Self said.

"Excuse me, son, what do you say?" Ann Villarreal asked.

"Thank you. Thank you," Jose said, before hopping off the bicycle and wrapping his arms around the police officer.

"It's what makes the world go 'round," his mother said about the kindness of Self and his fellow officers. "It's what makes it go round in a beautiful cycle."

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