

February 2007

Volume 1, Issue 8, Series 2

PHA Newsletter

Published by the Panoramic Hill Association

Berkeley/Oakland, California

Announcements:

161 Panoramic Zoning hearing February 22nd

PHA GENERAL MEETING
March 4th, 2007
4-6pm
777 Panoramic Way

2007 PHA membership fees due! Please renew today if you haven't already.

SCIP legal fund needs Financial support today!

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Rambles from the Pres

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Passing On



PHA GENERAL MEETING

**Sunday March 4th, 2007
4-6pm
777 Panoramic Way**

The Agenda for this meeting includes:

1. Update on our lawsuit against UC and discussion of fundraising needs
2. Status report on zoning hearing for 161 Panoramic Way
3. Election of a nominating committee for next year's Board members.
4. Updates on: LAFCo initiative; Oakland Residential Permit Parking; Studies for a Secondary Emergency Access Road

Please bring a dish to share with your neighbors. PHA will supply beverages.

Judge issues injunction in UC Stadium case

By Mike Kelly and
Jerry Wachtel

Unless you've been underground, or up in a tree, these past several weeks, you are aware that Judge Barbara Miller granted our request for an injunction to prevent UC from initiating work on the Student Athlete High Performance Center (SAHPC), including, but not limited to, taking down any trees in the oak grove immediately west of Memorial Stadium, until the case can be heard in court. That is not likely to happen for several months. The judge's injunction was based on two fundamental principles

– (1) that we presented a strong enough case that has established a reasonable likelihood that we will prevail at trial, and (2) that the harm caused to us by the University's starting work on the project is substantially greater than the harm that would be caused to the University from any delays in starting work.

Whatever initial skepticism may have existed among those of us who have acted to oppose this ill-conceived project to begin with should now be erased with the judge's decision. That decision supports our belief that, not only can we

win, but that we are likely to win, based on the cases presented to her over the past few weeks.

This is a very complex case that seems to provoke considerable misunderstanding about the issues involved, if letters to the editors of local newspapers are any indication. So below we have outlined the key issues that are at the heart of the matter.

1- The California Environmental Quality Act (CEQA) requires

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Rambles from the President

STUFF HAPPENS,
SOMETIMES ALL AT
ONCE.

It is said that all politics is local. Well, our little organization has been busy of late dealing with issues that cover the gamut from very local - to County - to State, and now, perhaps, to International – all overlapping in time.

On the local level, many of our neighbors have been gathering information about, and writing letters of protest against, the proposed development at 161 Panoramic Way. This is the very steep lot in the “triangle” formed by the third switchback. Although the property address suggests that the home will face the 100 block, in actuality, the proposed garage and driveway entrance would be in the 200 block, where the road is at its most narrow, in poorest condition, and in the midst of several blind turns. As I write this, the zoning hearing has been continued (postponed) until February 22nd. Many neighbors have expressed their concerns about the safety risks posed by construction on this site, and Berkeley’s Assistant Fire Chief has also expressed concern. You can read more about this project in Cathy Orozco’s article in this newsletter.

At the County level, the LAFCO initiative has reared its head again despite strong opposition

for merger expressed by Panoramic Hill neighbors as well as the cities of Berkeley and Oakland. You may recall that the Alameda County Local Agency Formation Committee (LAFCO), at the behest of a single non-resident Panoramic Hill property owner, requested that the cities of Berkeley and Oakland look into the matter of redrawing the boundaries of Panoramic Hill so that it was fully within the City of Berkeley. (For background information please refer to my column in the October 2006 issue of the newsletter, available on the PHA website at: http://www.panoramichill.org/newsletter/PHA_Newsletter_Oct2006.pdf).

At our last General Meeting, Arrietta Chakos (City of Berkeley) and Vivian Kahn (Consultant) presented more comprehensive information about this process. (It should be noted that Oakland representatives were invited to attend the meeting, but declined; and that LAFCO had agreed to send a representative, but she failed to appear). Both Berkeley and Oakland submitted letters, as requested, to LAFCO, and you can read them on our website as well, at (<http://www.panoramichill.org/LAFCO.htm>). Both letters pointed out the complexity of the issues on Panoramic Hill, the long history between Oakland and Berkeley

regarding these issues, and the infeasibility of undertaking this massive jurisdictional change. Nonetheless, at its meeting on November 9th, LAFCO directors voted to request that the Cities continue to explore this merger. As a result, our Berkeley Councilman Gordon Wozniak has placed \$5000 in Berkeley’s 2007 budget for a more in-depth study of these issues. We’ll keep you informed as best we can, although I first learned about this from a newspaper reporter who had been assigned to get PHA’s perspective on the matter.

At the State level, of course, our battles with the University over their Southeast Campus Integrated Projects are heating up – we are cheered by the Judge’s issuance of the restraining order that we sought – but the hard work is just beginning. We are now about to enter the phase in which all of the records (tens of thousands of pages) must be reproduced and reviewed as we prepare for trial, most likely this summer. We must all remain vigilant to the University’s sometimes less than stellar adherence to the facts in an effort to bolster its contentions at the expense of others. Our success to date has taken the tireless commitment of a handful of individuals, especially our Vice

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Jerry Wachtel
President

RESIDENTIAL PERMIT PARKING IN OAKLAND – MOSTLY GOOD NEWS.

By Jerry Wachtel

You may have noticed an increase in the number of vehicles parking just beyond the Oakland city line in the 400 and 500 blocks of Panoramic Way. Some of these vehicles are not moved for days or weeks at a time in violation of Oakland law, and some of them seem to be parked

without regard for the safe passage of other traffic. A major reason for this problem has been that Berkeley has Residential Permit Parking (RPP) restrictions in place, and Oakland does not. So the owners/users of these vehicles simply park them higher on the hill to avoid Berkeley's sanctions. Hill residents in Oakland, who

have found it increasingly difficult to park near their homes, have been lobbying city representatives to enact RPP in Oakland, and their efforts may be about to pay off, although not without some possible trade-offs.

I recently met with the new Deputy Fire Chief

for Oakland, Captain James Edwards, and gave him an "upfront and personal" tour of the hill. He came away with an appreciation of our fire safety, preparedness, and evacuation issues, and agreed to lend his Department's support to the RPP effort. (Apparently our previous efforts to obtain RPP had been stymied

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PHA's LAWSUIT AGAINST UC (continued from cover)

many things to be done by the University, and the judge's decision suggests that she believes that they did not fully adhere to the Act's requirements. For example, the judge suggested that UC did not adequately investigate the negative impacts that their projects might cause, did not properly study alternatives to their chosen approach, and failed to make available certain critical information that would be necessary for someone to reasonably comment on the content of the plan.

2- The Alquist-Priolo Earthquake Fault Zoning Act (AP) applies to UC's plans for the renovation of Memorial Stadium and for the construction of the SAHPC. However, as of the time that the University filed its final Environmental Impact Report, it had not completed the necessary testing to rule out the possibility that the proposed SAHPC was located on an active trace

of the Hayward Fault. Thus, a subcommittee of the UC Regents, who approved the project, did so without complying with AP. The U.S. Geological Survey has asked UC to conduct more studies, and these are currently underway. So we may know the answer to this question within the next 2-3 weeks. If these studies do not find traces of the fault under the proposed SAHPC, then this one issue will be resolved. However, AP applies to these projects in another important way as well, and this may not be resolved until the full case is heard in court. Specifically, AP prohibits additions or alterations to a structure (the Stadium) on a fault if those additions or alterations exceed 50% of the current value of the structure. It is our position that the SAHPC is an addition or alteration to Memorial Stadium, and that the dollar value of the University's expansion plans clearly exceeds this

50% threshold. We further believe that, at the time the EIR was certified by the Regents subcommittee, UC was unable to meet this test because they failed to provide any information in the EIR to indicate what they believed the Stadium's present value to be.

So, what if we win at trial?

If the judge agrees with us at trial, and she has already indicated that we have a strong case, then UC may have to "go back to the drawing board," redo some of their planning and analysis, provide the missing data, take a full and proper look at alternatives and impacts, and go through the CEQA process again. This would (hopefully) lead to a better thought out, more responsive and sensitive plan, while still allowing UC to improve their facilities.

In addition, because the purpose of Alquist-Priolo is

to prevent irresponsible investment and construction of new or highly renovated structures on top of active earthquake fault traces, AP could limit UC to an appropriate seismic retrofit of the stadium along with basic improvements but without the added frills and amenities that will dramatically increase the cost of the project, and without the proposed doubling of the number of capacity events that will put as many as one-half million additional people in harm's way every year.

Please come to the next PHA meeting to learn more and to have your questions answered.

Rambles from the President (continued from pg 3)

President for UC, Mike Kelly, to whom we should be grateful regardless of the ultimate outcome. Our fundraising efforts will continue, and we hope that you will give generously to the cause. We have dearly won the first battle, but the war continues.

And, as this is being written, the early aromas of an international issue are beginning to waft their

way through Strawberry Canyon, in the form of a \$50 million building proposed as part of the University's recently signed agreement with British Petroleum. The "Energy Biosciences Institute," a \$500 million grant from BP, is clearly a coup for UC, the Bay Area, and the State. The research to be conducted here could be ground-braking and vitally important. One wonders, however, whether UC and LBL are confusing

Centennial Road through Strawberry Canyon with I-880 and US 101 through Silicon Valley, where office and industrial parks are quaintly named McCarthy Ranch, Oak Creek and The Pruneyard, after the rural landscape that was destroyed to build them.

I hope we can get these things all resolved by Opening Day!

PHA needs your help! If you'd like to serve on any of our committees, please contact JerryWachtel@PanoramicHill.org

PROPOSED DEVELOPMENT ON THE HILL

By Cathy Orozco

February 22, 2007, Berkeley's Zoning Adjustment Board (ZAB) will consider a proposal to build a house at 161 Panoramic Way, located above the third hairpin turn, the most narrow, curving section of Panoramic Way. As we all know, Panoramic Hill is undoubtedly the most dangerous place to live in Berkeley. The road was designed for traffic conditions for the first homes built in the 1920's--and there have been few, if any, improvements since then. California Fire Code Section 902.2.2.1 requires that roads be 20 feet of clear width from curb to curb, but sections of the road near this project's entrance are blind curves that are as narrow as 11 feet 8 inches. David Orth, Deputy Fire Chief, has said of our

neighborhood:

"Panoramic Hill area has very limited road access and water pressure, both of which significantly impair the city's ability to fight fires in these areas. It is dependant on a single very narrow access route. In order to travel to the top of Panoramic Hill it is necessary to negotiate a number of switchbacks. Some of these are so sharp, and the road is so narrow, that vehicles larger than automobiles, such as vans, cannot negotiate them without backing up.

As a result of the fire dangers, the City of Berkeley adopted very strict development controls for Panoramic Hill, called the "Hill Fires Hazard Area" in the City General plan and zoned Environmental Safety-Residential (ES-R). The ES-R regulations impose

a number of safety-related requirements not found in other residential zoning districts, including a larger minimum lot size and limitations on the size of structures, gross floor area, building height, number of stories, and increased side yards. To grant the use permit, the ZAB must waive many of the ESR requirements. While ESR requires lots be 9000 sq. feet, 161 Panoramic is 3295 sq. feet. The Project requests use permits to construct a 1460 sq. ft. structure with the main building only 4.8 from the front property line instead of the required 20 feet, to allow the main building to be 14 feet from the west side property line when 15 feet are required, and to construct retaining walls 5 feet in height when 4 feet are required.

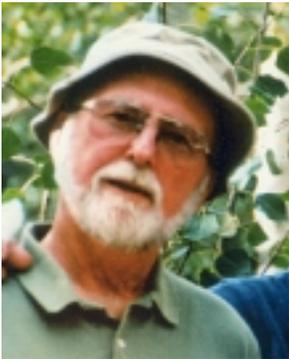
Many residents have communicated their opposition to the project due to the dangerous conditions that exist. The third hairpin turn is so steep that often trucks get stuck there for hours, blocking exit and entrance to residences.

Doris Maslach reports that the delay in arrival of emergency vehicles may have contributed to her husband George's death—she is afraid that the inability of emergency vehicles to access our homes may affect her health and her neighbors' chance for survival of a medical emergency.

Pointing to frequent water pipeline breaks, sewer leaks, and the damaged retaining wall near the property, Bill Robbins suggests that the infrastructure must be improved before any

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Passing On



Panoramic Hill neighbor **Lynn E. "Hap" Higgins** January 5, 1931 - July 1, 2006 Died at home in Berkeley of brain cancer. Lynn earned a BA from the University of California, Berkeley (1953), and was Business Manager of the "Daily Californian." After serving in the US Army in Europe (1954-56), he worked for Alameda and Contra Costa Counties Social Services. He

earned a J.D. from Boalt School of Law in 1962. A founding member of the Oakland law firm Edises, Higgins and Learn, Lynn conducted a general practice, retiring in 1999. He taught Constitutional Law at John F. Kennedy University School of Law (1967-70). He served on the Board of the Friends of the Berkeley Public Library for three years. Lynn is survived by his wife, Laretta; children, Paul (Beth Floyd), Ann (Ricky Freed) and Jonathan (Sarah Smelser); grandchildren, Elinor, Michael, Gabriel, Ruby, and Delilah; brothers, Neal and Ronald; and many nieces, nephews and cousins. Lynn was a man of integrity who was deeply loved and respected. He rejoiced in the natural world, climbing Mt.

Whitney at age 50, and backpacking and photographing the deserts of the Southwest and the granite chasms of the Sierras. His sense of dignity, passion for music and social justice, and propensity for puns never faltered. Memorial gifts may be made to the Friends of the Berkeley Library (510 981-6100) or the East Bay Community Law Center (510 548-4040).

Kenneth Grundman - 1917-2006. Built his house on Dwight place in 1963 a native of Minnesota came to Berkeley after WWII where he worked at UC's Building and Grounds for many years retiring at age 55. As an active member of the St. Joseph Church in

Berkeley he frequently sang his signature song "There's nothing like a dame". According to his neighbor, Kenneth was one of eight brothers and sisters, and wanted no fuss about his passing. He enjoyed tennis and orchids and began his stint on the hill in 1960 on Orchard Ln.

Carol Cowden Bense - 1901-2006. UC class of 1924 Carol moved to lower Panoramic Hill in the late 1950s. Look for more information about Carol in an upcoming newsletter.

NewArrivals

By **Marcos Gandara**

There have been many sightings of new babies and families on Panoramic Hill. The PHA is excited to welcome Claire Huntington Abboud, one of our latest additions to the area.

Claire was born Saturday October 21, 2006 to first time parents Paul Abboud and Kristen Sidell of Dwight Place. The threesome has been spotted on the trails of Strawberry Canyon and on the streets of Elmwood.

Paul is a physician and Kristen is an independent architect and also teaches at UC Berkeley. They have been active members of the PHA with Paul spending two years as VP of Oakland before leaving the board last year. They are also CORE leaders for the cluster of homes around Dwight Place.

Welcome! Baby Claire!
And Congratulations!
Kristen and Paul!

The PHA would like to encourage any newcomers to the Hill to become members. If you have moved to Panoramic Hill this past year or you have a new arrival to your family...let us know so we can put the word out. The PHA will be setting up a parents network. Look for information on our website to be coming soon. Please email us newsletter@panoramichill.org.



Paul, Kristen and Claire Abboud

Development on the hill (Continued from pg 4)

“delay in arrival of emergency vehicles may have contributed to her husband George’s death”

construction begins. Bill is also concerned about traffic and parking during construction. Bruce Kelley, the applicant, states that construction scheduling has been planned in small incremental steps to create the minimum possible impact on the neighbors. Kelley adds that the builders consist of two men and a pickup truck.

Ann Slaby comments that the project will make the already unacceptable condition of this road even more dangerous. Neighbors have urged the ZAB to deny the use permits because the

project would be a danger to the public health and safety of the neighbors

and is inconsistent with the purposes of the ES-R district.



Flags indicate the proposed building site. The picture demonstrates building here would be impossible without blocking the road.

Hill Union

By Dick White

Hill resident and PHA boardmember Regula Muller married Steve Baum on February 2nd, 2007 in a ceremony performed at Alameda County courthouse in Oakland. Regula, originally from Kesswil, Switzerland where she obtained her degree in

nursing, has been active in hill safety and is currently pursuing a General Contractor’s License. Baum hails from Overland Park, Kansas.

Former neighbor, Fran McKinnon, 89, was the Maid of Honor. An interesting person in her own right, Fran had many jobs, ranging from welding

in a shipyard during WWII to being the buyer for the once flourishing Telegraph Avenue store Fraser’s, which many long-term residents of Berkeley will remember fondly. Fran lived in New York City intermittently and became friends there with famous artists such as dancer and choreographer Merce Cunningham, and musicians John Cage and David Tudor. While living in the Bay Area, she was a friend of Aldo Leopold, considered to be the father of wildlife ecology, photographers Dorothea Lange and Imogen Cunningham, and ceramicist Edith Heath, to mention just a few.



From left to right Fran McKinnon, Regula Muller, Steve Baum

Congratulations Steve and Regula!

PARKING IN OAKLAND (continued from pg 3)

because the Fire Department took the position that there should be no parking of any kind on our Oakland roads because of the substandard condition of the road. About a week after this initial meeting, Deputy Chief Edwards returned to the hill with a member of the Oakland City staff, surveying locations for new RPP signs.

One possible downside has arisen from Captain Edwards' investigations. That is that, in conjunction with Traffic Engineering, he has identified several areas on the hill that, he

believes, should prohibit ALL parking, with or without RPP stickers. These include areas where the road is especially narrow, in the vicinity of sharp curves, or where the road edge appears to be a possibly unstable hillside. Some new restrictions may be the price we will have to pay for new RPP restrictions to be put in place.

In addition, Deputy Chief Edwards has requested that homeowners trim, in front of their homes, low hanging tree branches that may impede the passage of fire engines or damage the engines as they pass. Since cars are typically

parked along the downhill edge of the road, the branches in question tend to be on the uphill side, where fire engines are most likely to travel. I promised Captain Edwards that I would contact homeowners on the hill to ask for their assistance in pruning.

Although he could not assure me how soon our RPP program would be in place, it is something of a relief to know that progress is finally being made, thanks to the sincere concern of Oakland's new Deputy Fire Chief, and the determined efforts of our concerned neighbors.



Oak Tree Sitting

By Frank Tapia

On January 22nd UC Berkeley Memorial Stadium Oak Grove Tree-sitters were joined by former Berkeley major Shirley Dean, Berkeley city council Member [Betty Olds](#), and [Sylvia McLaughlin](#) the 90 year old cofounder of the grassroots environmental organization "Save The Bay". The grand ladies of Berkeley political elite were symbolically protesting UC's intent to destroy the oak grove consisting of 38 oak trees and replacing it with a new sports training center and parking lot. Former mayor Dean addressed supporters -- "Nobody's going to cut us down, and nobody's going to cut

these Oaks down. We want to send a message to the Chancellor and to the Regents that this is a sentiment that runs deep in Berkeley. It crosses all political lines. Well I'm joining, Betty's joining and we're also going to join this new organization 'UC

Alumni for Saving The Oaks'. So thank you for being here and being so supportive of us, for giving us good advice and building confidence to get up here and do this. We really appreciate it and GO BEARS!"



Photo by Frank Tapia

PHA Elections

In accordance with PHA Bylaws, elections for officers are held at the Annual Meeting which usually takes place in April or May. The By Laws further require that a nominating committee be elected at the General Meeting prior to the Annual Meeting. The meeting to be held on March 4th will serve as that meeting. Accordingly, if you are interested in serving on the nominating committee, or if you would like to propose someone else to serve, please be prepared to do so on March 4th. If you will be unable to attend the General Meeting, you may inform any member of the Board of any names that you would like to put forward, and they will see that those persons are proposed. Note that members of the nominating committee may not serve as officers in the subsequent year.

Panoramic Hill Association

P.O. Box 5428
Berkeley, CA 94705

E-MAIL:
info@PanoramicHill.org

About Our Organization...

The Panoramic Hill Association is a non-profit mutual benefit association dedicated to serving its members and community. The association strives to ensure the safety and preserve the character of the neighborhood by working with local officials throughout the year.

General meetings are held three times a year, with board members elected at the annual meeting in April.

Membership is a modest \$15 per household per year. Membership is not required to attend meetings.

We're on the Web!

See us at:

www.PanoramicHill.org

Boardmembers

Jerry Wachtel	President	JerryWachtel@PanoramicHill.org
Michael Kelly	Vice President (UC)	MichaelKelly@PanoramicHill.org
Bob Breuer	Secretary	BobBreuer@PanoramicHill.org
Marcos Gandara	Vice President (Oakland)	MarcosGandara@PanoramicHill.org
Cathy Orozco	CNA Liaison	CathyOrozco@PanoramicHill.org
Eric Choate	Webmaster, Newsletter Editor	EricChoate@PanoramicHill.org
Paul Salz	Treasurer	PaulSalz@PanoramicHill.org
Regula Muller	Vice President (Berkeley)	RegulaMuller@PanoramicHill.org
Dick White	Parliamentarian	DickWhite@PanoramicHill.org

PHA Membership Enrollment/Renewal Form Year 2007

Mail to: _____ or drop off at 650 Panoramic Way
 PHA Treasurer
 PO Box 5428
 Berkeley, CA 94705

Name _____

Address _____

Phone _____ Email _____

New Member _____ Renewing Member _____

Dues for the PHA are a modest \$15 per household per year and cover the calendar year from January to December. Please renew today so that the PHA can continue to protect and improve your neighborhood and keep you informed with the newsletter, website, advocacy and our annual emergency preparedness event.

Calendar

Event	Date/Time	Location
General Meeting	Sunday March 4th, 2007 4:00pm – 6:00pm	Home of Michael and Cindy Ott 777 Panoramic Way

Agenda:

1. Update on our lawsuit against UC and discussion of fundraising needs
2. Status report on zoning hearing for 161 Panoramic Way
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