

# A Twist of Ry: Bert Muhly Fights Back

■ BERT MUHLY

In Bob Johnson's article, "Wingspread's Ry Kelley: 'We Buy Real Estate for a Purpose'" (*Express*, Vol IV No 16, June 14, 1984), Kelley attempts to rewrite the history of his developments in Santa Cruz County. From my observations of Ryland Kelley, and my past encounters with him, he seldom makes a move which doesn't have a purpose — a purpose that once realized always works to the great financial advantage of Ryland Kelley, often at the expense of others. His utterly ludicrous statement in Johnson's article that I, as County Planning Director, welcomed him to Santa Cruz County and invited him to put highrises on the dunes, is a case in point.

No doubt the statement was made for a purpose, even though I find it quite offensive and damaging to me. What that purpose is remains to be seen. I suspect that it may have to do with Kelley's current effort to again break the General Plan of Santa Cruz County, as he did with his Pajaro Dunes developments, and by so doing, gain political approval of his massive housing and cultural facilities on the former Porter-Sesnon property. If you can't get on the side of the angels, drag a few angels to your side.

Kelley states that he has amassed 3500 signatures of people in favor of his current Wingspread proposal. Since he has chosen to entwine my name with his current

contest with the county over the Wingspread development, and in a manner so grossly at variance with facts of record, it may prove revealing and useful to review that record for all who may be newcomers to Santa Cruz County.

Kelley's claim that no one thought of developing on the sand dunes north of the Pajaro River before he did (according to the Johnson tape), does not agree with the facts. Gardner Mein, the owner of the dunes just prior to Kelley, submitted a conceptual plan to the county for dunes development in June of 1959. This was one and a half years before I became Santa Cruz County Planning Director. Based on the plan, the Board of Supervisors zoned the dunes R-D (for residential development with a design review requirement). This was the zoning designation on the property when it entered into the hands of Kelley, and came at a time when the firm of Wilsey, Ham and Blair was completing the first General Plan for Santa Cruz County.

The County General Plan called for Sunset Beach State Park to be extended across the entire dunes area to the Pajaro River. I defended that plan, vigorously. It was my job to do so. Pajaro Dunes (or Palm Beach, as it was then known) was no exception.

In those days, zoning (the law) took precedence over policy (the long-range comprehensive plan) when the two were in conflict. At

that critical time in the county's development history, changing the zoning to conform to the plan in this remote corner of the county could not compete with the county's planning priorities, which had been set with the coming of the new campus of the University of California and other development pressures. The County's Planning Department budget in 1961-62 was only \$110,000; but it was twice that of the year before.

State law, while requiring each county and city to prepare and adopt a long-range general plan, did not require that its zoning be consistent with the plan as it does today. The development-prone County Planning Commission and Board of Supervisors were at war with the State Division of Beaches and Parks, and the Supervisors actually passed a resolution that called for the state to stop acquiring any more lands in the county for beach parks. Thus the stage was set for Kelley's first development on the R-D zoned dunes between the end of Beach Road and the Pajaro River.

As far as Kelley's contention that he received a warm welcome "by everybody in the county," I am certain that he was so received by the County Planning Commission and Board of Supervisors, since Kelley's plan was a continuum of the Gardner Mein concept, which had already been blessed by the Supervisors a few years before.

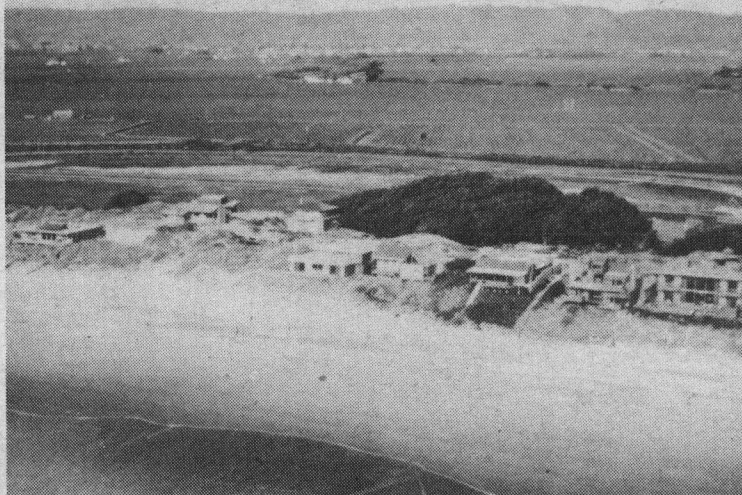
I had nothing to do with this prior zoning, but it was my responsibility to try to influence the Planning commission and the Board to change it to be consistent with the General Plan, which the Board adopted in September of 1961. It took six and a half years to change this zoning. But by the time it was changed, it was too late to influence what happened on the dunes.

The use permit for Unit 1 of Pajaro Dunes was issued on May 20, 1965. Not only did I *not* suggest

to protect them. I also reminded the commission that the entire beach frontage in front of the dunes (almost a mile in length) was now public, having just then been purchased for \$3.4 million. I argued that by not insisting that Kelley provide public access to the public beach through the subdivision, the commission would be greatly restricting the future use of the public beach by those other than the well-to-do who could afford to buy or rent in the Pajaro Dunes development. I did not prevail. Kelley got what he wanted.

A 25-acre, tree-covered, day-use state park separates Units 1 and 2 of Pajaro Dunes. Unit 2 is on 47 acres of dunes and marshlands and consists of several hundred condominiums in nine clusters with other recreational facilities. I recommended to the commission that the development was not in accord with the General Plan and the use permit for the development not be granted at that time. This recommendation was based on specific findings: "This site in its natural state is the very highest and best use of this resource (for public recreational purposes). The development proposal would alter and partially destroy a resource that is both physically and ecologically unique and of significant value to the public" (Staff Report Santa Cruz Co. P.D. UPApp. #3445-U11/10/69).

This development would have unlimited private access to the public beach which lay in front of it, but would shut off such access to the general public. The County Board of Supervisors had the power to keep this from happening and failed to do so. Kelley won again. In granting this use permit, both the Planning Commission and the Board of Supervisors ignored a written request by the State Director of Beaches and Parks to con-



CONDOS AT PAJARO DUNES IN 1972. Today, the view's a bit different — seven more condo clusters have been added, and last year's storms eroded the coast to within eight feet of the building.

that Kelley include high rises in his plans for the dunes, as he contends, I argued against his placement of condominium clusters at the least accessible part of the dunes (adjacent to the Pajaro River). I also resisted the development of a seawall made up of old automobile bodies

to consider the state's already substantial public investment in the area and its long-standing program for the progressive expansion of Sunset Beach Park.

In other county matters relating to intensive beach or adjacent development, I was able to deflect a

concept in the original Aptos Seascape proposal that suggested high rise structures terraced into the 100 foot cliffs reaching to the beach, but was unable to persuade the Board of Supervisors not to permit the cutting of the cliffs to create a beach subdivision.

I was successful in causing the Supervisors to reject a high rise motel which would have started a wall of structures along the east side of the Yacht Harbor. However, the Pajaro Dunes and several Seascape decisions, when considered with a number of others along the coast, made it clear to me that the local government planning process was failing to protect the marine environment and the wider public interest in the county's coastline. Three months after the Pajaro Dunes 2 decision, I resigned from the county and joined others in the fight for state legislation to stop the desecration of the coast. Some of the pictures of Pajaro Dunes on this page were made from slides used in my testimony before legislative committees over a two-year period. Kelley and his associates were formidable opponents in this struggle, which ultimately led to the passage of Proposition 20, the California Coastal Act, in 1972.

My fight against inappropriate coastal development continued in my campaign for the Santa Cruz City Council in 1973 and during my eight and a half years as a Councilmember.

My concern for the impact of high rise structures then planned for Santa Cruz was reflected by this statement in my campaign brochure: "Present plans for additional high rises and city expansion make it clear that Santa Cruz will become another dehumanized California city with congested freeways, high rises and smog. I am determined not to let it happen here." And we didn't.

Getting back to Ryland Kelley, who started all of this, it must be said that the retention by the state of the 25-acre day use park at the end of the Beach Road is the only thing that has kept the Pajaro Dunes development from shutting off practical public access to one and a half miles of state beach. Even so, the wild and natural environment and the ecological balance of the beach, the dunes and the marshlands has been destroyed.

A "Chinese Wall" of condominiums — with giant picture windows framing glittering chandeliers — gives the user of the public beach all of the sense of relief from urban tensions and strife as one would absorb from a walk down Wall Street. Except for the state park area, the dunes are unrecognizable from the beach, having been inlaid with tons of granite rock, giving the structures that cover them a temporary reprieve from the ultimate combination of tides and storms.

"Life is what you can create with it," Kelley states. "We buy real estate with the idea of trying to create something significant."

Let us hope that he never gets an option on Yosemite. ■