California WALKS . . . ***advocating walkable communities for everyone***

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ITE Annual Meeting 2012
Session 30.Separated Bikeways Discussion Panel

Separated Bikeways: Who's Left Out in Planning & Implementation?
Bob Planthold, Chair, California WALKS

Personal Perspective
I'm a single parent—with a life-long disability. My interest in pedestrian safety was not based on my limitations but grew out of concern for what my sons would face going to and from school, library, parks, sports classes, movies, etc. I learned traffic law, rights and responsibilities[1]. Twenty years ago, when my sons were toddlers, I had to learn to constantly monitor risk in the walking environment—sidewalks, street corners, crosswalks, traffic signals, oncoming traffic, turning traffic—including bicyclists.

Lack of Effective Outreach to the Community as a Whole
Since then, the efforts to promote walking and bicycling have grown. But cross-constituency communications seem not to have kept pace. In government processes, it seems that sometimes public outreach is treated as passively as ads for government contracts—the assumption being that "interested parties" will know to look for notices about public hearings and know where to look. People living their own lives often don't feel it necessary to watch for unexpected changes, but expect to be notified if some change is planned for their community.

With that said, the plans and implementation of separated bike-tracks in New York City, Chicago, San Francisco[2] and Amsterdam[3] show a lack of effective outreach—beyond the bicycling community—to the community as a whole.

Safety Analysis of Protected Bike-ways Defective in Exclusion and Omission of required Pedestrian Risk Analysis.
Various planners and advocates tout how safe these separated bike-ways are. But, look carefully at the reports and publicity about these supposedly 'safe installations.' Look at both New York City's Prospect Park Study from 2001, pp. 3 and last page, and also

[1] See Bicycle Tracks – California Legal Analysis attached as Exhibit 1.
[2] See SF Bike Track Conflict and Risk 2012 photographic data from JFK Drive, Golden Gate Park, San Francisco, CA to which this is attached.
[3] See lack-of-universal design email comments on Amsterdam attached as Exhibit 2.

at the December 1, 2011 issue of Streetfilms at the 4 minute film about Chicago's Kinzie St. bike installation[4]—the first of many proposed protected bike lanes in Chicago.

The Prospect Park Study clearly shows bicyclists travelling in the buffer zone—which means all people exiting from the right of a parked car as pedestrians have to contend with the risk of being hit from behind. Many have commented on a January 20, 2011 blog post on Gothamist (www.gothamist.com) about these hazards to pedestrians, yet this risk was ignored in and omitted from this official NYC study.

Visual Evidence Supports Further Analysis of Universal Access Compliance Issues

The Streetfilms' story about Chicago's Kinzie Street bike project clearly shows pop-up pylons along the right side of the car parking lane—which means any person using a side-deploying lift can't reliably and regularly park there – eliminating the requisite ADA access. Others are physically limited to 3' in a buffer between pylon and car side. People using walkers or being escorted by a guide dog need—according to FHWA and PROWAG—a wider path-of-travel than the 3 feet touted as acceptable and compliant. Anyone exiting a car to the left of a protected bikeway is a pedestrian who must cross the bikeway to access the pedestrian path of travel to the further right of the bikeway – yet the risk arising from this conflict has been omitted from the requisite safety analysis.

Both programs are cited, elsewhere, as examples of innovation that is safe. We'll revisit that, later. Yet, both ignore how these facilities both deter people with disabilities from parking along or using the walk facilities and shops adjacent to them. Neither of the NYC or Chicago or SF projects offered or provided any extra curb access ramps in the middle of a block. This lack necessitates that people with disabilities may be forced or coerced to travel in the buffer zone (or protected bikeway) until a curb ramp can be reached—making the buffer zone an actual pedestrian path-of-travel when it is not intended to be.

When other cities, such as San Francisco, use these NYC and Chicago programs as templates of safe innovation, and yet overlook the visual evidence of who is left out and who is unsafe, trust in engineering safety judgment is further undercut, allowing people to wonder what other risk(s) have been overlooked.

Vulnerability to ADA Enforcement and Injury/Fatality Liability

Be clear, while this is ITE--for transportation engineers--these same concerns about neglect of professional scrutiny arise and also apply to agency attorneys who allow such disability-biased programs to proceed, leaving public agencies susceptible to ADA non-compliance enforcement actions and vulnerable to liability claims.

While many focus on the Americans with Disabilities Act provisions that specify dimensions and parameters for facilities, there is another major provision of the A.D.A.—

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[4] **Streetfilms | Kinzie Street: The First of Many Protected Bike Lanes for Chicago**
This 4-minute film shows barriers / barricades between passenger side and bike tracks, preventing lifts from easy and safe deployment. It also interviews only bicyclists:
http://www.streetfilms.org/kinzie-street-the-first-of-many-protected-bike-lanes-for-chicago/

Title II. Title II requires "programmatic access." People with disabilities need to be able to access / use any and all new government programs. For example:

- Lacking any tactile information about the edges and ends of a buffer zone, how would a person who is blind safely navigate along a buffer zone to a crosswalk? [This risk gave rise to the issuance of the contrasting truncated dome curb ramp installation requirement.]
- When curbs are high, someone using a manual walker or anyone in a wheelchair is forced to travel along in the buffer zone to a crosswalk with a curb access ramp.

Access for parents with small children and others outside of disability considerations:

- What about an adult with a baby, a stroller, a diaper bag, and a toddler?
- Or, an adult with a bunch of kids out on a picnic? Both group scenarios mean the people spill over beyond the too narrow 3-foot wide buffer zone, into the active bike lane, creating hazards for children, cyclists and parent/chaperone.

In Crashes, Bicycles are Vehicles and Cyclists Kill Pedestrians (especially at speeds in excess of 15 mph)

As to safety and injury reporting, here again, data collection has not kept pace with reality. Untested assumptions such as 'bicycles are light enough not to hurt anybody' or 'bicyclists ride so carefully that they never hurt anyone,' are unproven. Reliable data is not gathered.

In San Francisco, within the past year, 2 pedestrians were reported killed by bicyclists. In each fatal injury, the pedestrian was traveling in a crosswalk and undisputedly had the legal right-of-way. A veteran in the SFPD's Traffic detail claims knowledge of 5 or 6 more instances over the past few years, where a bicyclist has critically injured or killed a pedestrian. Such anecdotal data suggests significant underreporting.[5] Even reporting forms, such as California's Form MVA 555, do not contemplate a bicyclist hitting a pedestrian reporting category. Such occurrences only get recorded by a separate written note—which still does not get computer-coded into the state's integrated traffic records system—meaning those reports are only manually retrievable.

[5] In Berkeley, by omitting bicycles from the definition of 'vehicle,' at least one known cyclist-caused pedestrian-legally-in-a-crosswalk traffic fatality was entirely omitted from the City's pedestrian collision data analysis. (Of course, no deaths--only collisions—are reported in Berkeley's Pedestrian Master Plan, see 5-5, www.ci.berkeley.ca.us/pedestrian)

Risks for All Users Must Be Assessed to Determine Multi-Modal Safety

Who gets left out, and who gets included in consultation, planning, and review of ANY program—whether or not bike-related—is an issue needing more attention.

Many jurisdictions have an Area Aging Administration, which has some form of advisory council. Similarly, there can be a counterpart disability advisory council, in addition to a Lighthouse for the Blind or an "independent living center." Groups such as this can be helpful for previewing and even field-testing plans for innovative transportation programs.

Attachment 1
Bike Tracks
California Analysis: Vehicle Code and other Relevant Laws & Guidance

From Bob Planthold

"**California Vehicle Code 21966**. No pedestrian shall proceed along a bicycle path or lane where there is an adjacent adequate pedestrian facility."

Bicycles are treated as vehicles under the California Vehicle Code. One would not place a bicycle lane between a row of parked cars and the curb/sidewalk for the same reasons that one would not place a lane for cars in that location. Cars, busses, trucks and bicycles are all vehicles. Bicycles are not pedestrians with wheels and do not belong on sidewalks or in areas that must function as sidewalks and other types of pedestrian areas. As Howard thoroughly discusses, there is as direct and fundamental relationship between on-street parking and the adjacent curb / sidewalk pedestrian paths of travel—which are required to be continuous and unbroken.

In my opinion and that of others, the illegal operation of bicycles on the sidewalks of San Francisco is already epidemic. There should be a concerted effort by the city to educate all bicyclists (over the age of 13) as to their obligations to their fellow citizens under the law and to not ride on the sidewalks. I feel that constructing bicycle lanes between on-street parking and the curb could only serve to reinforce this negative behavior.

It is clearly best practice, for both bicyclists and pedestrians, that the public right of way and other public spaces are designed such that those two groups do not typically share the same surfaces and paths. This is especially important for pedestrians who are disabled, whose complaints about bicyclists riding on the sidewalk are unfortunately all too common.

Bicycle lane design is governed by California Streets and Highways Code, Section 891: http://law.onecle.com/california/streets/891.html The San Francisco Public Works Code may have other requirements.

The laws governing the operation of bicycles in California is addressed in several sections of the California Vehicle Code (CVC): http://dmv.ca.gov/pubs/vctop/vc/vc_index_b.htm

CVC makes it illegal to block bicycle lanes typically (http://dmv.ca.gov/pubs/vctop/d11/vc21211.htm). In the proposed design, persons who are loading and unloading at their vehicle would necessarily be blocking the bicycle lane. This sets up a design conflict between the various user groups that would be very difficult to reconcile and could be potentially illegal.

California MUTCD has specific traffic controls provisions for bicycle facilities: http://www.dot.ca.gov/hq/traffops/signtech/mutcdsupp/pdf/CA-Part9.pdf

The US Access Board has provided much design guidance for public right-of-way accessibility: http://access-board.gov/prowac/index.htm. Particularly relevant documents on that list include: http://access-board.gov/prowac/guide/PROWGuide.htm, and http://access-board.gov/prowac/alterations/guide.htm.

The US Federal Highway Administration has provided good design guidance for public right-of-way accessibility: http://www.fhwa.dot.gov/environment/sidewalk2/pdf.htm, and pedestrian and bicycle facilities: http://www.fhwa.dot.gov/environment/bikeped/design.htm#d4

Pilot programs and all other public projects should be designed taking the above information into account, as well as the overarching requirements of Title II of the Americans with Disabilities Act (ADA). That law requires that all programs, services and activities provided by state and local governments are to be accessible to persons with disabilities.

Subject: Re: Planthold--PROWAG guidelines as applied to "bike tracks"--# 2
From: Bob Planthold <bob@californiawalks.org>
To: Row <row@Access-Board.gov>

On 12/28/2011 9:14 AM, Row wrote:
Hello Mr. Planthold,

The buffer is not meant for pedestrians to travel in.

Transportation Engineer
US Access Board
1331 F Street NW, Suite 1000
Washington, DC 20004

From: Bob Planthold [mailto:bob@californiawalks.org]
To: Row
Subject: Re: Planthold--PROWAG guidelines as applied to "bike tracks"--# 2

... there still has been no answer to the basic distance question:

How can a 3 foot buffer be safe, when FHWA and PROWAG say 3.5 feet for people with crutches and 4 feet for those walking with a guide dog or another person as escort ?

Bob Planthold

Attachment 2
Safety Concerns – Demonstrable Lack of Universal Access
Wheelchair Access in Amsterdam

Dear All:

I did some quick research on the Internet about wheelchair access in Amsterdam, and found several articles describing poor access in general and the need to be extremely careful of bicycles. Below are the results. Even allowing for the age, terrain and architecture of the center of Amsterdam, disability access seems poor, especially in light of the fact that the Netherlands is an affluent and progressive country. But if the articles are accurate, the poor access in Amsterdam may well indicate that there are relatively few people with significant disabilities living in the historic center, that disability access laws are substantively weak and/or poorly enforced, and that disabled people have little political power. If so, that may explain why a great deal of emphasis is put on bicycling without, apparently, much thought given to disabled pedestrians, or to pedestrians in general. From photographs of Amsterdam that I've seen, it certainly seems that bicycles rule, and that it would be quite a difficult place to have a significant mobility impairment. (I was in Amsterdam once, in 1978, when I still walked with only moderate difficulty, and while I remember liking the museums and other sights very much, I don't remember much about what it was like to get around. No doubt there are many more bicycles today than 33 years ago.) I wonder how many slow walkers, wheelchair users and blind people live in the historic center of Amsterdam, with its thousands of cyclists speeding silently all over, and how independently they live. *Certainly we need to encourage and support more bicycling, but not at the expense of the independence, safety, mobility and equal access of disabled people and seniors with respect to the public right-of-way and parking*.[Emphasis Added] There will be demographic (and other) consequences to placing so much emphasis on bicycling without slowing down to carefully consider the impact of ubiquitous bicycles on these values.

Cordially

Howard

"Spring in Holland by Wheelchair" by Debbie and Dave Jepson, who run a travel agency in the UK specializing in wheelchair accessible travel; Monday, April 18, 2011

I found this on the website www.accessibletravelnl.com but the link now seems to be broken. (I printed the article.) This is a commercial website, so perhaps the article was removed because it is critical of access in the Netherlands.

"As always, I personally did advance research, visiting potential excursion venues prior to the group's arrival. And here, I have to report disappointment with Holland's accessibility, with Amsterdam deserving the greatest criticism."

"In Amsterdam, we particularly suffered from a disappointing lack of accessible toilets…" **"Parking was also probably the most difficult I've encountered in a European city in recent years. We use an accessible minibus with 'blue badge,' but I found only 3**

parking spaces for disabled people in the whole of the city centre that were not for a specific registration number, so of course they were permanently occupied." (Emphasis added.)

"Wheelchair Accessible Travel to Amsterdam, Netherlands" by Mark & Margaret Edwards (Margaret can walk a little with a cane and uses a folding manual wheelchair); 2007
http://www.globalaccessnews.com/amsterdam07edwards.htm
"It is difficult to get information on disabled access in Amsterdam and it can be interesting getting around – cobbled streets, tram lines, uneven pavements, **silent but deadly cyclists**. …" (Emphasis added.)

"Amsterdam Getaway" by Diarmuid Corry (a paraplegic who uses a manual wheelchair); 2001
http://www.globalaccessnews.com/amsterdam01.htm
"Luckily Amsterdam is a city made for walking (or rolling). It is flat and full of fascinating canal walks and alleyways. There are cycle lanes everywhere, which are useful for negotiating junctions and the like. **But beware, the cyclists take no prisoners and are not inclined to avoid you if you are on 'their' path! If you hear a bell, get out of the way!"** (Emphasis added.)

"Amsterdam Weekend July 2007" by Syd & June Burns; 2007
http://www.globalaccessnews.com/amsterdam_burns07.htm
"We were dropped off in the city centre, Dam Square, which is rotted and cobbled. It is a nightmare at times pushing a wheelchair. However we managed all things with a lot of good humor and fun."

"Back to what is becoming a main theme with us, where are the public toilets and restrooms? In short there are none in Amsterdam. We found two disabled toilets in main stores."

"Amsterdam Access 2010" by Kim O'Sullivan (her husband Shaun is an incomplete paraplegic and uses a manual wheelchair); 2010
http://www.globalaccessnews.com/amsterdamosullivan10.htm
This article describes generally poor wheelchair access in Amsterdam.

From the website **Ability Trip; Amsterdam: Ability Tips**
http://abilitytrip.com/europe/netherlands/north-holland/amsterdam/amsterdam-north-holland-netherlands/
Precautions:
"Strolling the streets of Amsterdam is relatively safe [note – this may refer to lack of violence], however, Amsterdam is known for its thousands of bike riders that fill the bike paths along the streets. There are dedicated lanes throughout the city for the bikers, but it can be difficult to see them sometimes. The culture in Amsterdam gives bike riders priority in the bike lane. They don't mind if individuals in wheelchairs use these lanes, because sometimes it is necessary due to the cobblestones throughout the city, but one must be careful."

The following is from my friend Marti Gacioch, who uses an electric wheelchair, in her e-mail expressing concerns about the JFK Drive cycle track:

"Having navigated the fast-moving bikes in Amsterdam in a wheelchair, I have experienced cyclists whirling by with barely a jingle on their bike bells to alert the people they share the road with. It is in a word perilous." (Emphasis added.)

An e-mail from an anonymous able-bodied friend, who is a bicyclist, supports extensive bike lanes, and has spent a lot of time in Amsterdam, notes that: "They [Dutch bicyclists] would run you over in a heartbeat and only stop to verbally abuse you kick you for getting in their way. Nobody enforces bicycle rules, if they even have them. It's a free for all."

2012 Bike Tracks along JFK Drive in Golden Gate Park, San Francisco, CA

JFK Drive Side-by-Side Disabled Parking

JFK Drive Side-by Side Disabled Parking

JFK Drive-Parking in Buffer Zone

JFK Drive-Bicyclists in Buffer Zone

2012 Bike Tracks along JFK Drive in Golden Gate Park, San Francisco, CA

JFK Drive-Parking in Buffer Zone


JFK Drive-Pedestrians & Bicyclists in Buffer Zone
Photo Credit: Flickr User RichardRSF1

JFK Drive-Pedestrian in Buffer Zone
Photo Credit: Flickr User throgers


JFK Drive-Pedestrians in Buffer Zone
Photo Credit: Flickr User throgers