

There being no public input, the public portion of the hearing was closed.

Mayor Mulryan recommended continuing the public hearing to March 7th. Councilmember Jensen suggested March 21. When Mayor Mulryan asked Mr. Hallisey for his preference, he responded that, since negotiations have been going on for so long and are still continuing informally, he would like to see the hearing continued to March 7th.

Councilmember Miskimen moved and Councilmember Breiner seconded, to continue the public hearing to March 7, 1983.

AYES: COUNCILMEMBERS: Breiner, Frugoli, Jensen, Miskimen & Mayor Mulryan
 NOES: COUNCILMEMBERS: None
 ABSENT: COUNCILMEMBERS: None



12. PUBLIC HEARING - Z80-1 - REZONING AND PREZONING FOR OFFICE/RESTAURANT/
 HOTEL/RESIDENTIAL COMPLEX - CIVIC CENTER NORTH; CIVIC CENTER DRIVE; FIRST
 NATIONAL STATE BANK OF NEW JERSEY, OWNER; DAN COLEMAN/DWIGHT WINTHER, REP-
 RESENTATIVE; AP 179-270-09 & 10; 180-121-30, 31 & 32, & PTN. 155-230-06
 & 07 (P1) - File 10-1

Mayor Mulryan declared the public hearing opened.

Planning Director Moore briefed the Council on the matter, indicating that the Board of Supervisors of Marin County had met twice on the subject, once on February 4, and again today. Three remaining areas are identified as being of concern. They are: 1) Annexation of the property to County Flood Control Zone 7; 2) Proposed fill elevations for the site; and 3) City imposition of a light and noise easement on the Civic Center North property in favor of the County of Marin.

In the matter of the Flood Control Zone annexation, it appears that approximately \$27,000 of property tax would go to the Flood Control Zone, with the County not assuming the maintenance responsibility at this point. With regard to the fill elevations, the County would prefer to have higher elevations, but the requirements for this are set by the City. The City code is approved by FEMA (Federal Emergency Management Administration), and the County's role is merely advisory.

With regard to the noise and light easement, the County has proposed language which the City considers much too restrictive, and would substantially encumber the site and create financing difficulties. The recommended approval requires that CC&R's notify future owners of Civic Center North property of the adjacent Civic Center activities. The property owner has agreed to work with County staff to develop mutually agreeable language for an easement. The final assessment should be subject to City Attorney approval.

Ms. Moore informed the Council that the AB 884 time limit for City action on this project has nearly elapsed. Because of the shortness of time, the Council must take one of the following actions: 1) Approve the project; 2) Deny the project without prejudice due to inadequate time; 3) Deny the project with findings; or 4) Set a special City Council meeting date for final action prior to the AB.884 deadline of February 26, 1983.

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Attorney Albert Bianchi, representing the property owner, stated that as far as he is concerned, there is almost total agreement with the City on the various issues, except on the question of the noise easement. He has a serious legal question as to whether such a condition can be proposed.

Dwight Winther gave a brief presentation, showing a profile drawing which compared the Civic Center North buildings with the Marin Center building, from the Civic Center Drive angle.

Council next heard from Marjorie Macris, Marin County Planning Director, who referred to a letter dated February 18th from the Marin County Planning Department, which included their recommendations. There are 14 conditions of approval which the Board of Supervisors approved this afternoon, with amendments 1 through 5 added. There is essentially agreement in the content of the 14 conditions of approval of the project, and the five additional actions which it is recommended that the City and/or the County undertake. There is basically agreement with the exception of Condition 3, which deals with the annexation into the Flood Control Zone,

Condition 9, regarding the wording of the light and noise easement. All other issues are basically consistent with discussions. The County is recommending, and City staff has concurred, that a Joint Powers Agreement between the City and County be drawn up, which would establish a revised boundary to the Flood Control Zone which would cover a larger area, the Gallinas Creek watershed on the South Fork. The other point on which there is still disagreement between the County and the developer relates to the language of the light and noise easement, which the respective attorneys for the County and developer hopefully will be working out.

Ms. Macris stated that the County's recommendation is that the City Council approve the rezoning/prezoning, subject to the fourteen conditions recommended, with Conditions 3 and 9 to be discussed further, and including points 1 through 5 as outlined in the letter from the County Planning Department. It is felt that the other issues are basically consistent.

Attorney Bianchi added that a revised version of the light and noise easement agreement, with toned down language, has been submitted to the County. He feels that a notice in the CC&R's would be just as effective as granting an easement.

Mayor Mulryan recommended approving the action, with respective counsels from the County, applicants and City to work out the wording to protect the light and easement problem. Supervisor Roumiguere agreed that the wording should be worked out by the various counsels.

Supervisor Roumiguere urged annexation to Flood Control Zone #7, as outlined under Condition 3. He then addressed Condition 14, which has been worked out with the property owner's representative. This is an added condition which, basically, says that prior to approval of the final map of the project the property owner will sign and record a covenant binding themselves or successors, restricting the use of the 116 acre airport parcel to those uses restricting uses existing as of the date of the tentative map approval, and the following permitted uses:

- a. Public Utility uses as approved by the appropriate governmental agencies, which would include flood control, sanitary sewer, gas and electric and public safety facilities;
- b. Private and public recreational use;
- c. Continue to airport and airport related uses;
- d. The covenant to run with the land and be enforceable by the County of Marin and City of San Rafael, and include open space, wildlife habitat and other uses in accordance with those agreed to by the City and County in the future. This would mean that high density or commercial development would never take place on that parcel.

Mayor Mulryan asked if this is City or County property. Ms. Moore indicated that it is within the City except for fringe areas close to the creek, probably due to the modification of the creek. Mayor Mulryan asked if there is consent from the property owner on that, and Mr. Bianchi replied that has been worked out. Mayor Mulryan stated that the concept is excellent, except that if it is within the City, the matter should be in accordance with the approval of the City, and not with the County. He said he felt the concept is excellent.

Supervisor Roumiguere again urged annexation to Flood Control Zone 7, even though it means diversion of approximately \$20,000 in property tax monies from the City to the Flood Control Zone. Mayor Mulryan asked Ms. Moore about the maintenance by the County, which was not included in their initial proposal, and Ms. Moore replied that in the latest letter, dated February 18, from the County, they agreed that the Flood Control Zone will maintain the levees (with the exception of aesthetic considerations), the pumps, the inflow/outflow pipes, and the level of the lake. Mayor Mulryan asked how this could be assured, and Ms. Moore suggested that this could be covered in a Joint Powers Agreement. She recommended that the agreement could specify that City would agree to annexation to Flood Control Zone 7 "or a modified flood control zone", so long as the City/County coordination as outlined in the City staff recommendation of revised Condition 's' is met within a specified period of time. In that way, the Joint Powers Agreement can be negotiated. Mayor Mulryan stated it could even remain at Flood Control Zone 7, so long as it is agreed who will do the maintenance. Mr. Roumiguere reassured the Council that there is no problem whatsoever about Flood Control Zone 7 doing the maintenance work. Otherwise, he feels it would not be fair to the City after giving up property taxes.

The aesthetics will be taken care of by the Homeowners' Association, but the flood control work will be taken care of by the Zone. The only requirement is for the levees to be put in good shape before the Flood Control Zone takes over. Mayor Mulryan assured Mr. Roumiguere that the City would be more than glad to do that.

Dwight Winther again spoke, regarding Condition 's', which states that the density for the medium density residential area shall be 87 units, with the possibility of going to 125 units. Throughout the proposal for the project, 125 units have been proposed for the medium density area, and they feel it is appropriate for the property. Schematic plans have been prepared showing how 125 units can be built on the property, and if additional outside levee areas are included the density drops from the 14 to 15 units per acre as proposed, to as low as 9 units per acre if you were to include all of the water areas. The developer has been asked, and is paying \$1,500,000 in traffic mitigation fees, and will be paying very expensive sewer and water connection fees. For these reasons Mr. Winther asked Council to reverse the Planning Commission and give the developers clear entitlement to the 125 units for the medium density residential area. Mayor Mulryan asked Ms. Moore for comment on this, and she explained the matter, indicating that at the time of design review the density may go up to 125 units, but that is not known at this time, and depends upon design adequacy.

Roger Ahlenius of the Advisory Board, Flood Control Districts 7, spoke in favor of modifying the Flood Control District as just discussed.

Attorney James Hatfield, representing Smith Ranch Airport, stated that Smith Ranch is presently considering topping all of their levees around the Ranch, which will require some 8,000 feet, which will cost a minimum of \$61,000. Mr. Hatfield's question is whether the Smith Ranch Airport area is included in Flood Control Zone 7 - that is, the area north of the south fork of Gallinas Creek. Mayor Mulryan indicated that it is not.

Mr. Hatfield then addressed Condition 9, regarding the noise easement. They do not feel they would be involved in that, but wish to make clear the fact that they do not wish to have to go to the County for permission to fly an airplane out of Smith Ranch Airport. Therefore, if there is any question about the language of the easement in this regard he would like to be consulted. Mr. Hatfield stated that with regard to Condition 14, it is the position of the people at Smith Ranch that, in the event they are successful in their bid to buy the property they will have a condition that it will only be used as open space and an airport. If the deal is successful, they will be coming back to the City for a grant of some sort of control so the property can never be used for anything other than as it is today.

There being no further public input, the public hearing was closed.

Councilmember Breiner suggested a revision to Condition 'o', to keep the first sentence as it is, that "Development of the one acre park site at the northernmost end of the property shall be funded by the two different residential areas." Then, "Maintenance of the park shall be the responsibility of the residential areas." It might be added that this will be part of the CC&R's.

Councilmember Breiner then suggested that staff's Condition '1', which is the same general item as County's Condition '4', regarding an unimpeded through vehicular connection from Northbank Drive to the rear parking lot of Marin Center (Exhibit Building Parking Lot), is a very important one, for a connection between the hotel/motel and convention areas, which would relieve participants in Marin Center events from driving out to Civic Center Drive and back in on the Marin Center property. Ms. Moore stated that, at the design review level, the City can exercise their discretion regarding the design of the bridge, and also a bridge from the rear of the property to the Marin Center property.

Mayor Mulryan called for a motion, stating that it appears agreement has been reached with the exception of the 87 units vs 125. He feels in that case the Planning Commission has exercised discretion.

Planning Director Moore pointed out that several items in the County letter refer to approval by the County, whereas they only recommend and final decision rests with the City.

Councilmember Breiner moved and Councilmember Miskimen seconded, to certify the Negative Declaration.

AYES: COUNCILMEMBERS: Breiner, Frugoli, Jensen, Miskimen & Mayor Mulryan
 NOES: COUNCILMEMBERS: None
 ABSENT: COUNCILMEMBERS: None

Councilmember Breiner moved and Councilmember Jensen seconded, to pass the Rezoning Ordinance to print, with revised Conditions x, l, o, s, u, v, and the addition of Condition 14 from the County, as discussed.

An Ordinance of the City of San Rafael, Amending the Zoning Map of the City of San Rafael, California, Adopted by Reference by Section 14.15.020 of the Municipal Code of San Rafael, California, so as to Prezone Certain Real Property from the County of Marin Zone BFC:RSP-4.36 (Bay Front Conservation, Single Family Planned Residential) District to P-D (Planned Development) District - Civic Center North, and numbering Charter Ordinance No. 1448, was read, introduced and ordered passed to print as amended by the following vote, to wit:

AYES: COUNCILMEMBERS: Breiner, Frugoli, Jensen, Miskimen & Mayor Mulryan
 NOES: COUNCILMEMBERS: None
 ABSENT: COUNCILMEMBERS: None

Councilmember Miskimen moved and Councilmember Jensen seconded, to pass the Rezoning Ordinance to print, with revised Conditions x, l, o, s, u, v, and the addition of Condition 14 from the County, as discussed.

An Ordinance of the City of San Rafael, Amending the Zoning Map of the City of San Rafael, California, Adopted by Reference by Section 14.15.020 of the Municipal Code of San Rafael, California, so as to Reclassify Certain Real Property from "U" (Unclassified) District to P-D (Planned Development) District, and numbering Charter Ordinance No. 1449, was read, introduced, and ordered passed to print as amended by the following vote, to wit:

AYES: COUNCILMEMBERS: Breiner, Frugoli, Jensen, Miskimen & Mayor Mulryan
 NOES: COUNCILMEMBERS: None
 ABSENT: COUNCILMEMBERS: None

Supervisor Roumiguere asked for clarification, whether the action just taken puts the property in Flood Control Zone 7, subject to working out the maintenance. Mayor Mulryan replied that it does, with the proviso that it may, between the City and County staffs, result in a new flood control area. Supervisor Roumiguere responded that it would not be a new Flood Control Zone, but an expansion of the present one, and Mayor Mulryan agreed, and also recognized that since the expansion project may take a couple of years the agreement would not be held up because of that. Mr. Roumiguere asked if this includes the property across the creek, and Mayor Mulryan replied in the affirmative.

Supervisor Roumiguere thanked the Council and City staff for their many courtesies and for their cooperation with the County in working on the complex facets of this project.

13. PUBLIC HEARING - APPEAL OF PLANNING COMMISSION DECISION DENYING THE APPLICATION FOR A USE PERMIT TO OPERATE A VIDEO ENTERTAINMENT CENTER; 512 THIRD STREET, R. N. CLAYTON, OWNER; CHERYL GRIFFIN, REPRESENTATIVE; AP14-123-26 (P1) - File 10-5

Mayor Mulryan declared the public hearing opened.

Planning Director Moore briefed the Council, informing them that the appellant is proposing a 70 game video entertainment center at 512 Third Street, to operate seven days a week, to 10:00 PM. The Planning Commission denied the request, finding that the use would likely create or increase the incidence of loitering and/or vandalism in the area, which would have an adverse effect on adjacent and vicinity businesses, residences and/or properties. The Police Department has emphasized that police problems have been common in the immediate vicinity of 512 Third Street because of the existing Marin Pizza Pub and Cellars Bar uses. The Police Chief feels that the introduction of youth-oriented recreational use would invite additional problems in this block. Staff and Planning Commission are also concerned about the intensity of the use attracting vehicular and bicycle as well as significant pedestrian traffic into the area.