

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.

*Bank*

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.