

# Residents win long fight over zoning of gulch, resort

By BOB SMITH

Barring a law suit, the five-month-old controversy surrounding zoning for Capitola's Depot Hill and the wooded Escalona Gulch area was settled Monday night.

Neighbors of the resort area scored a clear victory when the city council voted to place the bulk of the resort and all of the wooded Escalona Gulch areas in the Automatic Review (AR) category.

And the city staff was ordered to prepare a list of parcels, including the Escalona Gulch area, that could be presented to the city's voters in the form of a bond issue and possibly purchased for open space or recreation.

The decision came at the close of one of the longest public hearings in the city's recent history, lasting nearly 3½ hours, with attorneys for property owners Elizabeth and Robert Blodgett dueling with neighborhood residents who filled the small city council chambers to overflowing.

The council compromised on the El Salto Resort property, voting to zone two lots fronting on El Salto Drive and having no frontage on Monterey Bay as RM-LM (low-medium multiple residential, 10 units per acre), but the remainder of the land owned by Elizabeth Blodgett and one parcel owned by Frank Anderson as Automatic Review. Mayor Tom Mason, and councilmen Ron Graves and Michael Routh supported the AR zoning. Councilmen John Dixon and Hill Nelson said they favored AR zoning for the Escalona Gulch but did not like it on the El Salto Resort. And because a motion, offered by Graves and seconded by Routh, called for approval of both areas simultaneously, Dixon and Nelson abstained from voting on the proposal.

Monday night's hearings were the second time for the city council to review the El Salto zoning. Three months ago, the planning commission recommended RM-LM zoning for the entire parcel, and AR zoning for Escalona Gulch. The council,

mainly at the urging of Graves, sent the issue back to the planning commission with instructions to look for a zoning classification that could be applied to both areas.

The commission held a new hearing — under the threat of a law suit by Robert Morton, a former planning commissioner now representing Mrs. Blodgett — and decided to repeat its first recommendations, RM-LM for El Salto and AR for Escalona Gulch.

City planner Pat McCormick presented those recommendations Monday to the city council, and said the city's general plan and zoning ordinance presents four possibilities for zoning the property. With a density range of five to 10 units per acre, El Salto could have been zoned either R-1, single family dwellings, RM-LM, automatic review or planned development. The latter can only be imposed at the request of the property owner and Mrs. Blodgett had earlier told the planning commission she wasn't interested in making such a request.

Palo Alto attorney Frank Cliff, representing Robert Blodgett, attacked the general plan recommendations for the Escalona Gulch property. Blodgett has told the council he now owns the land formerly held by Jerome Keithley. However, no title transfer has been recorded in the county recorder's office and county tax records still show Keithley as the owner of record.

Cliff said the 1975 general plan designates Escalona Gulch as "parks and open space, and refers to coastal bluffs and greenways.

"The only zoning that would be consistent," he contended, "would be public zoning. There is no open space zoning in the city.

"AR is essentially an agricultural zoning. It would be improper to zone it (Escalona Gulch) AR."

Those statements brought a quick rebuttal from McCormick.

"The general plan is not meant to be a precise zoning map," the attorney was told by McCormick,

"and any attempt to set property lines are purely futile. It is the city council's duty to look at the land and determine zoning at a particular time.

"AR is not an agricultural zoning. It is a multi-purpose zone tied to the general plan. Any application is a use permit application to the planning commission."

Cliff also contended that he could not find a subdivision map showing Escalona Drive to be a dedicated public thoroughfare as it curves around the El Salto Resort property towards Monterey Bay.

McCormick referred him to the original tract map filed in 1888 by F. A. Hihn for the Depot Hill subdivision, showing Escalona Drive (then called Railroad Ave.) connecting with Grand Avenue. Today, beyond Hollister Ave., Grand Ave. has fallen into the ocean, and Sacramento Avenue is a dead-end street.

Attorney Timothy Ward, also from Palo Alto, represented Mrs. Blodgett for the El Salto resort.

"Anything other than RM-LM is unacceptable and illegal for the property," he said.

And then, referring to the issue of a building-free zone along cliffs for safety purposes, Ward added:

"If there is a policy of one-to-one (one foot back from the cliff for every foot of cliff height, as recommended by the general plan), then every property owner should be made to suffer."

Robert Garcia was the chief spokesman for the Depot Hill residents that packed the council chambers.

"The general plan calls for low-medium density. It does not call for RM-LM zoning. The general plan lists four different zones for that density — R-1, duplex, R-4 and planned development."

Those designations have been changed in the new zoning ordinance Garcia acknowledged, but he pointed out again that the general plan specifies several possibilities.

"We are asking that you zone it AR. You can make the applicable

(Continued from page 1)

findings." To back his arguments, he said:

"We have a petition with 220 signatures, representing almost unanimous support of Depot Hill residents we could contact.

"The reason we want Automatic Review is that any development must then get a use permit and have a public hearing."

Morton challenged McCormick's definition of Automatic Review. "You've been screwed on AR, sold a bill of goods on what the city planner says it is."

He then turned to city attorney Richard Manning for a recap of a decision given the planning commission over former city attorney Roland K. Hall's (now a municipal court judge) signature. Morton contended that interpretation was different from McCormick's.

"I've never had any difficulty with Mr. McCormick's explanations," Manning told the ex-commissioner, who now lives in Scotts Valley. "That's exactly what it is."

Sid Styles, a retired title company employe and long-time resident on the hill, provided a little history of the cliff erosion problem.

"I came here in 1914. My family has owned property here since 1909. If you think the cliff isn't falling off, you're mad.

"In the old days, you could walk all around El Salto without getting into El Salto. There was a fence, three rows of trees and a turn-style then to keep people out. That's all gone now."

Styles forecast an average of two cars for each unit to be built in the resort. With a maximum of 55 units under RM-LM zoning, that would be 110 additional cars.

"There is only one way onto

Depot Hill. If you think traffic can't be congested up there, look at the 4th of July," he said, referring to crowds that took more than an hour to clear that night.

Three hours after the public hearing was opened, Mason closed it, and the council members began to debate among themselves.

"I'm interested in property rights," Mason said in response to an Aptos resident who challenged him on apparent inconsistencies in statements made when he was running for the county board of supervisors. "I am also interested in other things. I think we had better think about floating a bond issue for open space. I'm very much in favor of purchasing the (Escalona Gulch) property."

"On the El Salto property, we must take the cliffs into consideration.

"If we can figure the cliff setback, I don't think there would be any problem with RM-LM. If a zoning can be nailed down on it, this would be a good time to do it," he reminded the applicants, "because another planning commission and city council might go to a higher density."

Graves said he found difficulty in separating the two parcels. He said an RM-LM zoning would be attractive to him as a property owner only if he was interested in selling the property.

"If I was interested in developing the property, then I would be interested in AR.

"There is a need for a bond issue," Graves said, "but I don't think you can take just one parcel and sell it to the community."

Routh came to the same conclusion, but from a slightly different direction. "We've heard

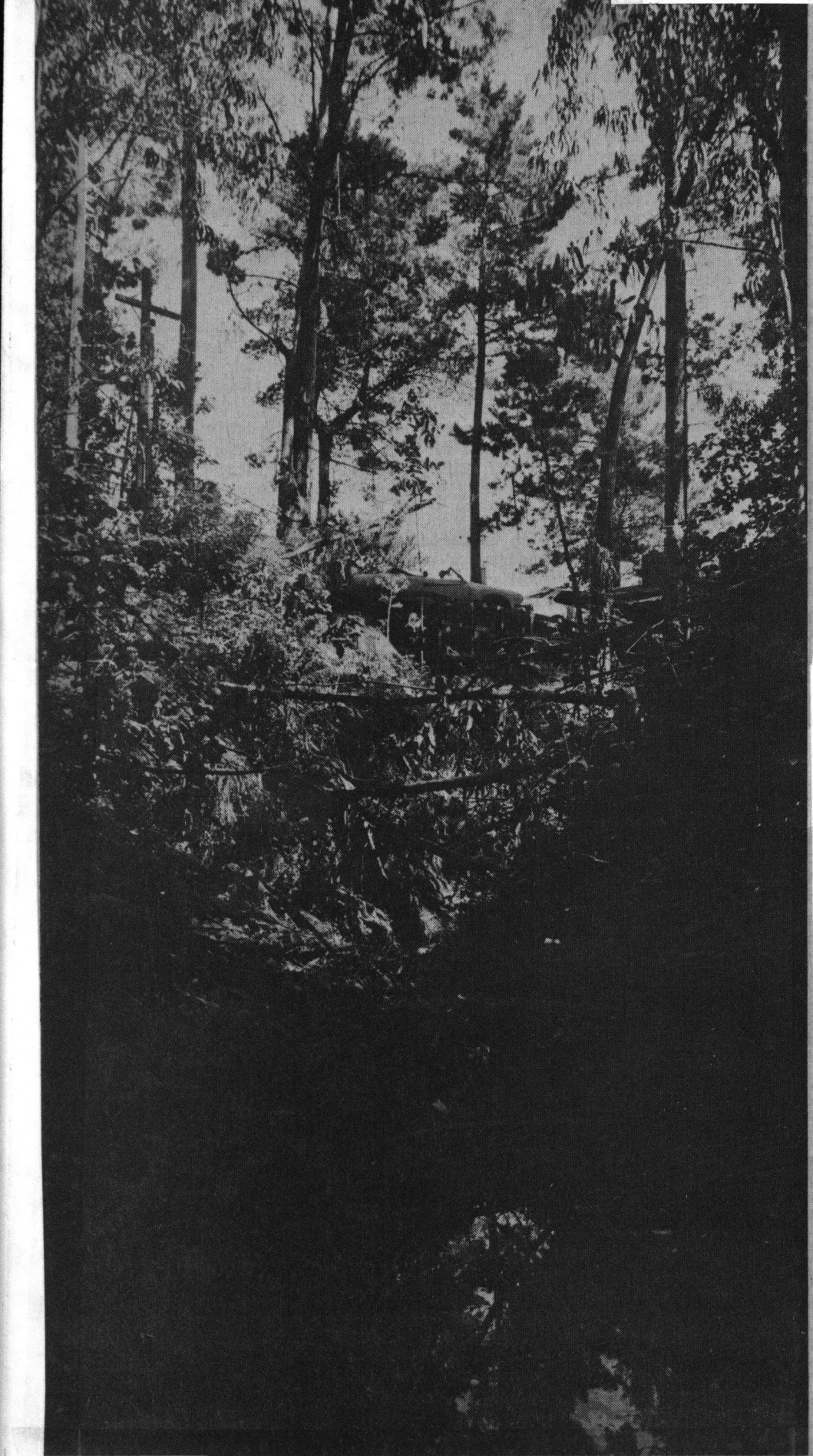
that AR is good because the public can participate. What it boils down to is, the sticky problem of property rights — the owners, the neighbors and the community.

"The only way to implement the community's rights is to give them a hand in the process — AR zoning."

"I feel in sympathy," Nelson said, "with Mr. Dixon, with Mr. Graves and with the general plan. I feel that the zoning that the general plan puts on the property would be suitable if a setback was proper.

"I'm in favor of cutting down the density on Escalona Gulch, and will go along with John (Dixon) on a vote of the people."

"My problem," said Mason, "is that the cliff is very sensitive and should have some protection. But I feel the property owner should be given some zoning on the balance that isn't sensitive. On Escalona agulch — AR."



Mason at first favored a strip of AR zoned land along the cliffs, but reached a compromise with Graves and Routh when the city attorney pointed out that it would be difficult to enforce such zoning in the absence of property boundaries.

The compromise called for two interior lots fronting onto El Salto Drive to be zoned RM-LM, and the remainder of the land placed into the AR category. There was no opposition from any council member to zoning the Escalona Gulch property as AR. Nelson and Dixon said they couldn't support AR zoning for the resort and abstained from voting.

Later, however, Nelson authored a motion to send an ordinance, implementing the compromise to a second reading — one step away from final passage — and it was passed unanimously, with all councilmen voting.

Capitolans may be asked to buy wooded Escalona Gulch.