

'No deals' made on zoning

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By BOB SMITH

Capitola City Manager Max Kludt Tuesday denied that property owners in the east Live Oak area were promised commercial zoning if they annex to the city.

The city planning commission Monday night was swamped with unhappy property owners who believed they would be getting commercial zoning in exchange for their signatures on petitions permitting two annexations — one along Capitola Road to 30th Avenue, and the second along Brommer Street to Thompson Avenue.

The county's Local Agency Formation Commission has warned the city that land contained in the two pending annexations must be zoned in accordance with the general plan. That's low density, single-family residential along the south side of Capitola Road, and professional offices for the Shaffer's Tropical Gardens on 41st Avenue — two key areas.

Tropical Gardens owner Keith Shaffer told the commission that he was ready to withdraw from the Brommer Street annexation — thus killing it under present state annexation laws — unless he received pre-annexation zoning that would permit the expansion and continuation of the Tropical Gardens business.

"I understood that some changes would be made to the general plan, Shaffer told the commission. "But nothing was done and all of a sudden, I feel it is final.

"We could not build or add to the showrooms," he continued, referring to the limitations that the city's professional office zone would place on his operations. "Someone must assure us that we can remain in business at that location. Everyone tells me 'don't worry,' but I'm getting worried and I think we are going to have to ask for withdrawal."

If Shaffer is successful in detaching his property from the Brommer Street annexation, that would create an island of unincorporated land — a condition that state law now forbids — and would probably result in LAFCO cancelling the annexation attempt.

Former planning commissioner Burt Heaston, a 38th Avenue resident, questioned the legality of the city's general plan as it applies to the unincorporated areas of Live Oak. Heaston also said he understood that changes would be made in the zoning once the annexations were safely inside the city.

"I doubt if what you are thinking about is even legal," he told the commission. "Live Oak wasn't represented in the general plan. I think the people of Live Oak should have a voice.

"I understand all property is to be rezoned commercial. That isn't what was on the general plan, but I understand it is to be rezoned after annexation."

Albert Grevestad, who organized the Capitola Road annexation, told the commission he understood from LAFCO "that we would have to abide by the general plan. We can't sell our property now with the (county's) RM-6-PD zoning.

"I believe it should be commercial. I hate to think that we have to zone RM-6-PD down to RM-3 (the northern side of Capitola Road at Sommerfeld) and not have a chance for commercial zoning."

A woman, unidentified, said she owned property at the corner of Capitola Road and Thompson Ave. "We had hoped that we would get commercial."

Asked if city employes had made promises about commercial zoning to pro-annexation groups, Kludt responded: "Negative. The spokesmen for

the annexations were in total understanding.

"We have always told proponents of annexations that when they are pre-zoned, it will conform with the existing general plan. At some future time, if they have a project, they have the ability to apply for new zoning.

"This has been the understanding throughout the entire process."

City Planner Pat McCormick Monday night foresaw Kludt's response. "No commitment was made," he told the planning commission after Heaston suggested one had been made. "We told the property owners that 'we would be glad to have you but you must agree to the general plan.'"

McCormick acknowledges that there are difficulties with the general plan in the unincorporated areas that the city would like to annex.

"The staff feels we are in a dilemma," he told the commission, "in that we must zone for consistency with the general plan, but that the general plan is less than excellent in this area.

"A general plan study seems desirable for the area beyond the western city limits."

But he points out: "The city is not staffed to begin a general plan amendment at this time."

Audrey Bender was another property owner who signed the Capitola Road annexation petition. County zoning — RM-6-PD — now allows her to build 3.64 units on her property. The general plan calls for low density residential and McCormick translates that recommendation into R-1 — single family dwellings.

"I'm right next to the phone company. I wonder if I shouldn't be putting up commercial."

The commission decided it couldn't stretch the general plan sufficiently to allow that use in a residential area, but asked McCormick to contact the city attorney's office for a ruling on professional office zoning in a general plan-designated residential area.

Realtor Harry O'Brien told the commission that he has an interest in the northwest corner of 38th Avenue and Brommer Street.

And with the Coast Commission killing plans to connect Brommer with Broadway in Santa Cruz, he no longer wants commercial zoning on his property.

"We are much more in favor of residential," he said. "There is enough saturation inside Sutter Hill to last for 20-30 years. This has been a slum because the county refuses to do precise zoning there."

The commission made no decision Monday night. Instead, they scheduled a study session — public invited — for next Wednesday morning, 9 a.m., at the Capitola city hall in an attempt to work out the zoning differences.

But during the meeting, they split in the discussion among themselves over the desirability of adhering to the general plan.

"I feel we are bound to the spirit of the general plan," commissioner Alvin Wilder said, "even though that doesn't reflect what the people in the area want."

"I don't feel as bound as you might," chairman Howard Dysle replied. "Professional office is an alternate use in all commercial zones," he said, suggesting the possibility of commercial zoning on Shaffer's property that would meet the general plan criteria.

And on the residential property along Capitola Road, Dysle added: "Personally, I could see going into an RM-LM (one unit for each 4,400 square feet of land area) at this time because of the shape and size of the parcel. The whole area should be looked at again, but I'm not ready to put commercial on anything at this time," he said, referring to Mrs. Bender's request.

"I'm inclined to be persuaded," Wilder responded, "but if I am, then I want the staff to look at the whole western edge of Capitola and decide what we will be doing in the next 10 years."

Commissioner Jack Nicol wanted action Monday night, and

voted against a motion by Lewis Deasy to postpone the matter. He tried unsuccessfully to get a second to a motion that would have approved McCormick's zoning recommendations with two changes — Neighborhood Commercial (CN) for the Shaffer property, and the Bender property as RM-LM.

Deasy's motion to hold the study session and postpone action for two weeks was seconded by commissioner Terry George and passed 4-1 on a roll call vote.

In other action the commissioners: — Denied a use permit for a "small group home for six developmentally disabled

adults" at 1005 Sir Francis Ave. The application had been filed by Calman Bock, executive director of the Santa Cruz Association for Retarded, but received massive opposition from the residents of the surrounding neighborhood. Bock said the mentally-retarded adults would be living in the home under the supervision of a couple, in a "halfway house" situation, learning to be independent. Neighbors contended that the operation amounted to a boarding house and wanted nothing to do with it. The commission took the unusual action of denying the permit with prejudice which prohibits it from being filed anew with city for a full year.