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17 September 2012

✓ Mayor Gary Phillips
Members of the San Rafael City Council:
Hon. Barbara Heller
Hon. Damon Connolly
Hon. Andrew McCullough
Hon. Marc Levine

Dear Mayor and Council Members:

Please consider the following comments on the advisability of going ahead with the proposed large complex at the San Rafael Airport.

BACKGROUND

I am a longtime resident of Marin. I have lived in Mill Valley, Sausalito, and for the past quarter-century in Santa Venetia. In January of this year I first took real notice of this proposed project. I had heard vaguely about it over the past several years but never took it very seriously because, like virtually everyone who has been around since the property west of the airport was developed, I understood that the airport property was off-limits to development. It was well-publicized back then that the County Board of Supervisors, the City of San Rafael, and the property owner had agreed to a covenant barring further development on the site. When the property owner attempted to get 'round that agreement and develop this bayside property into residences and businesses, such efforts proved unsuccessful. He sued the city and county but lost because of the density exchange integral to the prior development of the hotel, the business park, the townhome project, etc.

In essence, the court's rebuff to the plaintiff affirmed the validity of the *quid pro quo* fundamental to the go-ahead for the west-end development—or so a reasonable and informed person might have believed. Reviewing more of the record just further verifies that judgment. The late Hon. Robert Roumiguere, Chair of the Board of Supervisors at the time of the agreement, declared under oath in Superior Court to the authenticity of the density exchange. Minutes of the Supervisors' meetings as well as those of the City Council underscore that reality. And so does the recent (May 2, 2012) communication to the City from the Hon. Larry Mulryan, San Rafael mayor when the agreement was struck,

insisting that the density exchange "was specified by the city and agreed to by the present owner when he bought the property."¹

Additionally, the Marin County Parks and Open Space Department declares that the purpose of the deed of restriction "is to prevent the construction of large structural buildings and to maintain the open character and habitat of this area." The Department also cautions that lifting the restrictions could open the property to other purposes and types of development.² The Department further notes that the minutes of the Supervisors' meeting in "which it authorized this deed restriction specifically state that it is the intent of the document to 'prohibit any further development of the property.'"³

A sort of selective amnesia seems to have infiltrated the decision-making process. There is an Alice-in-Wonderland quality to the insistence by key decision-makers that the kind of outsized, high-impact project currently before us was, after all, allowed by the 1983 consensus all along. To just go along with such a charade would be to dishonor the hard work and dedication invested by Supervisor Roumiguere, Mayor Mulryan, their colleagues, and everyone who has labored to protect this sensitive property from being overwhelmed by intensive development.

EFFECT ON RESIDENTS

Noise, light, and traffic from this project would significantly affect neighborhoods on all sides. I will address my own neighborhood here. Historically, going back many decades, Santa Venetia has been a bucolic area. Visitors frequently remark on the lack of ambient noise (aside from the chatter and song of the many avian species). Residents, particularly those closest to the airport, are likely to be overwhelmed by the light and noise this project will generate.

Two curious comments attributed to planning commissioners deserve scrutiny. One was quoted by the IJ as saying that sounds from the outdoor fields would provide a "joyful noise." Joyful no doubt for participants and spectators, but likely not for residents who will be subject to that noise 8 a.m.-10 p.m. seven days a week. Another commissioner, noting his own residence on a golf course, said, "It's civilization and it gives a nice color and character to the neighborhood." To state the obvious, anyone who has spent any time on a golf course (and I have spent much time there and on soccer fields) would know that there is a world of difference between the type, volume, and consistency of noise generated. One hates to say it, but the comments sound not just disconnected but condescending. One wonders if these good people paid much attention at all to the materials in the review process. It is probably unlikely that they have visited the areas to

¹ Letter to San Rafael Planning Commission, 2 May 2012

² Letter to San Rafael Planning Commission, 9 November 2007

³ Letter to San Rafael Planning Commission, 15 November 2011

be affected, and it is hard to imagine that a project of this type would ever be considered within shouting distance of their own neighborhoods.

What council members should fully understand and appreciate is that if they approve this project, it will generate noise from piercing whistles, shouts, cheering, etc., across an amplifying floodplain 8 a.m.-10 p.m. seven days a week—in addition to lights until 11 p.m. or later.⁴ Dubious promises of “mitigations” notwithstanding, the fall-out from the project will end more than six decades of neighborhood tranquility. If you decide to approve this project, please do so fully aware that it will significantly alter the quality of life in this venerable neighborhood.

ENVIRONMENTAL ISSUES

While I have given hours to walking the trails around the watershed, I can add no expertise to the analysis provided by the many environmentally conscious organizations that have beseeched you not to go ahead with this destructive project. I would ask this: Please read very carefully the materials submitted by these organizations. Please consider the expertise these groups have acquired over the years and ask why they so adamantly oppose this project. Please compare what they have to say to the unfortunately feeble analysis provided by the consultant tasked with finding ways to “mitigate” the damage likely to stem from the project. Please note that the EIR iterations comprise a series of inadequate responses starting with assertions that no clapper rails were present at the scene and culminating in a speculative and scientifically unsupportable claim that these greatly endangered birds will simply adjust, will wander away and then drift back to suffer the lights and noise once the pile drivers have withdrawn. Please note studies by state-of-the-art analysts such as Pt. Reyes Bird Observatory, Avocet Research, and Peter Baye that substantially and persuasively contradict the guesswork in the EIR.

With reference to my prior comments on the longstanding restriction against development, I ask that you consider the question posed by the Marin Conservation League: “Is the proposed 85,700 square foot building, with its anticipated seven days-a-week, daily and nightly patronage, activities, and traffic consistent with either the language or the intent of the Declaration?”⁵ How likely is it that damage and distress done to sensitive wildlife could in actual fact be “mitigated” to anything approaching a tolerable level?

⁴ In anticipation of “NIMBY” retorts, obvious differences between this situation and those in Lucas Valley and at Albert Park should be noted. The property owner’s history of actions and statements here is a far cry from that of George Lucas. Albert Park has historically featured athletic events, and these are not all-day, every day. Rather, they are relatively few and take up just part of a day. This proposed facility, as noted, is slated to go non-stop from 8-10 or 11, seven days a week.

⁵ Letter to San Rafael Planning Commission, 24 May 2012

In addition, I ask that you give particular consideration to the opposition to this project by the Marin County Department of Parks and Open Space. Why would a department focused largely on providing recreational activity, one that operates a park adjacent to the project site, so powerfully oppose this endeavor? To mention a few points, the Department objects to the scale of the project, to the visual impact on McInnis Park, to the disturbance of wildlife, and to the violation of the deed restrictions. "The proposed building," writes the Department "is considerably out of scale with the development in the area"⁶ The only other large structure anywhere nearby (the golf club house) is about one-seventh the size of the proposed soccer structure. Please note that to reduce biological impacts in the event the project goes ahead, the Department asks for total elimination of "night lighting and night operation of the facility."⁷

The devastating analysis submitted recently (received 13 August 2012) by the U.S. Fish and Wildlife Service also merits close study. It is difficult if not impossible to read the USFW letter as anything other than a powerful brief establishing the folly of proceeding with the project.

I ask also that you carefully review submissions by organizations such as San Francisco Baykeeper and Sustainable Marin. This project is not only likely to exacerbate pollution of San Francisco Bay but to commit the grave error of building out onto a flood plain when expert consensus predicts engulfment of low-lying areas in the relatively near future and advocates "strategic retreat" while time allows. San Rafael could take a leading step in a progressive direction here rather than stumble backwards with a project that, in the kindest terminology, can only be characterized as regressive.

SAFETY

The manifold problems intrinsic to this project generate a perfect storm of reasons for rejecting it and moving on. But the safety issue trumps them all.

Even prior to the March letter from the Division of Aeronautics, one had to wonder about the wisdom of building this facility (and these fields) so near an active airstrip. The distance is said to be about 160 feet. That translates to about 53 yards. Imagine, then, people (children or adults) separated from planes landing and/or taking off from an airstrip by about the distance we once saw Jerry Rice running under one of Joe Montana's passes. That's it. That's the margin for pilot error, machine failure, or wind factor here.

Imagine that there were an application for an airstrip a comparable distance from the soccer pitch at Pickleweed (where my son practiced and played many games). Would you consider, even for a moment, approving such a thing? If such a proposal would be

⁶ Letter to San Rafael Planning Commission, 9 November 2007

⁷ Letter to San Rafael Planning Commission, 15 November 2011

rejected on safety grounds, as I believe it would be, then how could approval of this project be seriously contemplated?

Consider the response to the Caltrans letter from the applicant and the Planning Department. One might expect responsible persons to step back and say, in effect, maybe this isn't such a good idea if we are out of compliance with state standards here. Instead, the applicant and the planning department went to work to see how they could sidestep the very clear message sent by the letter. Ironically, the principal planner painted a true and accurate picture of the situation with a statement printed in the IJ, signaling that the interested parties would not be deterred in the push to build the facility: "At this point it would be information that goes to the Planning Commission with a staff recommendation," Tambornini said of the city's response to the letter. "The project will still go forward." But at the same time he ironically revealed the plight in which the city finds itself: "Tambornini noted that the Caltrans handbook doesn't technically apply to San Rafael Airport because it's a private rather than public or municipal facility. However, the city has been following Caltrans' guidelines by choice. 'We don't have to, but we need something to evaluate the situation with,' he said."⁸

Please consider what we are told here: As a matter of policy, because it has no other compass to point the way, the city has heretofore been following Caltrans guidelines. But *in this instance* (why, one can only conjecture) the city will by choice stray from those guidelines.

The project consultants have tried valiantly to get past the Caltrans quandary by arguing that the facility will not be a "group recreation facility" – the problem being, of course, that such is exactly what it is proposed to be. Other equally inadequate arguments are offered, and airport representatives declare to the press that children would be in less danger at the facility than in vehicles driving there, that they (the representatives) would not hesitate to have their own children there, etc. The problem with these arguments is that they are effectively *non sequiturs* and red herrings. They are no more logical than if a father were to disparage the need for his child to wear a bike helmet because he knew no one who had suffered a head injury from a bike fall, etc. In both cases (airport and bicycle safety), the regulations are set forth by experts after examining and deliberating over the best scientific evidence available. That is how best practices, standards, and guidelines are set—not by casual and homespun generalizations from interested individuals.

There are, of course, other viewpoints to consider on the safety issue. For example, there are the several "professional airmen" who responded early and vehemently to the proposed project. Based on experience at the airport, they clearly explained the hazards the project would impose. They pointed to potential public liability for going ahead with

⁸ Marin Independent Journal, 1 April 2012

a "formula for disaster." The letter is part of the record of this project, and I have enclosed it here.

Most importantly, please recognize that the letter from Caltrans Division of Aeronautics represents the reasoned judgment of professional aeronautics analysts with no ax to grind, civil servants who are merely informing the city of how the proposed project measures up against current legal standards and best practices for airport safety. The letter plainly states that the proposed facility would place adults and children in areas considered danger zones by state regulators. Approving the project would entail doing so on the mere technicality that the airport is private—knowing that were it public the project would be legally a non-starter. But would the private status in fact protect the City in the event of a catastrophe? Believing so, and acting on that belief, would constitute an enormous gamble. It is difficult to imagine that responsible public officials could ignore that reality, and thereby place themselves and their constituents in a position of moral, ethical, and legal responsibility of potentially staggering proportions.

As a soccer fan, as a parent whose children played league soccer in San Rafael, as a former volunteer in league soccer, I heartily support the development of more soccer facilities for local youth. But taking that commendable action is not an either/or proposition—it cannot possibly be a matter of the airport or nowhere. We probably need a large community effort to restore, upgrade, and maintain existing fields. We probably need to identify safe, suitable sites for new facilities, indoor and outdoor. I only wish that half as much energy and resources were given to those pursuits as we have seen devoted to shoehorning the proposed behemoth onto that patch of overlaid wetlands.

Sincerely,



Donald Johns

Enclosures:

- Letter from Marin Conservation League, 24 May 2012
- Letter from County of Marin Department of Parks and Open Space, 9 November 2007
- Letter from County of Marin Department of Parks and Open Space, 15 November 2011
- Letter from several "professional airmen" to City of San Rafael, 22 February 2006
- Letter from California State Department of Transportation Division of Aeronautics, 9 March 2012