



## SIERRA CLUB MARIN GROUP

Box 3058 San Rafael CA 94912 [sanfranciscobay.sierraclub.org/marin](http://sanfranciscobay.sierraclub.org/marin)  
c/o Gordon Bennett 40 Sunnyside Dr Inverness CA 94937 415-663-1881/[gbatmuirb@aol.com](mailto:gbatmuirb@aol.com)

February 24, 2006

CITY OF SAN RAFAEL  
Community Development Department-Planning Division  
P.O. BOX 151560, SAN RAFAEL, CA 94915-1560  
PHONE: (415) 485-3085/FAX: (415) 485-3184

Re: 397-400 Smith Ranch Road (San Rafael Airport)  
FILE NO.: ZC05-01/UP05-08/ED05-15

Dear Planning Commission:

On behalf of our 7000 Marin County members, we urge you reject the proposal as inconsistent with the 1983 Declaration of Restrictions. Furthermore, we believe that any project in this sensitive area requires a full Environmental Impact Report.

Although the Staff report notes *"Staff has researched City files, City Council minutes and newspaper articles, as well as spoken to persons who were involved with that project to determine the intent of the covenant...staff does not believe that covenant was any form of transfer of development density."* It may be that staff is not looking in all the places possible. The Sierra Club offers in evidence our attached 1988 letter to the Marin County Planning Department, which notes regarding this property *"a very clear transfer of density was granted and known by all parties including the existing owners."*

Furthermore, while the covenant limits use of the parcel to (among other uses) *"private and public recreational uses."* The Staff Report further notes, *"Staff also does not believe that the covenant was intended to preclude structures. While it is true that recreational facilities can be developed without structures, it is highly unlikely that other allowed uses under the covenant, such as an airport, public safety facilities, or many utility facilities could be developed without structures."* The Sierra Club agrees that the covenant does not preclude all structures, however, we also believe that is not at all the point.

We believe the long history of this parcel clearly shows a continuum of efforts to limit development of the site. Thus the reference to "private and public recreational use" clearly contemplated recreational uses consistent with this history, and did not create a basis of support for any and all recreational uses. Using that faulty basis, a racetrack facility or professional football stadium could be considered a "recreational use" which would clearly

contradict the intent of the covenant. While not a function of structures per se, we believe the covenant's limitation to "recreational use" should be interpreted as contemplating recreational structures of de minimus size. An 85,700 square foot building is not de minimus. Furthermore, the Staff Report's later reference to the nearby McGinnis Park recreational structures is irrelevant to the intent of the covenant, which must be judged by its intent and its history, and not its neighborhood.

Even more egregious than the violation of the covenant, is the proposal to push this project forward with only a Mitigated Negative Declaration rather than to require a full Environmental Impact Report (EIR). A project of this size, or even one reduced in size to conform to the covenant, is on sensitive land at the periphery of your jurisdiction and so may have significant impacts, both to traffic and to habitat, which will not be fully disclosed and thus not fully mitigated without the disclosure of a full EIR.

Although this project's Initial Study asserts that Clapper Rails are not present, several of our colleagues have reported sightings/hearings of Clapper Rail on this property. Furthermore, we do not believe that the Study's assertion that the lack of Clapper Rail impact from two homes upstream has any bearing on potential impacts from this project, which is not only larger by an order of magnitude than the homes but which is also further downstream closer to prime Clapper Rail habitat than the homes.

Thus we urge that you reject the currently proposed project as inconsistent with the intent of the covenant, and we repeat the request in our 1988 letter that projects on this site should be required to undertake a full Environmental Impact Report.

Sincerely,

Michele Barni, Transportation Committee Co-Chair  
Sierra Club Marin Group Executive Committee

September 12, 1988

Marin County Planning Commission:

Re: Marin Ranch Airport Restrictive Covenant

The Marin Sierra Club has voted unanimously to oppose the lifting of the restrictive covenant on the Marin Ranch Airport Site. We urge you to honor the planning concepts and agreements that resulted in the restrictive covenant and to work actively to keep the covenant in place.

To allow removal of the restrictive covenant would set a dangerous precedent for lifting covenants aimed at transferring densities to protect environmentally sensitive areas of the county. As you are aware, Marin County is also putting money into agricultural lands to secure their future as agriculture. If we can't hold the line on this piece of property in which a very clear density transfer was granted and known by all parties including existing owners, how will we protect other areas? The public needs to have a clear understanding of what is and isn't going to be honored in the planning process for it to properly participate in the process and concede rights on one land or place monies in others. We urge you to consult your legal counsel on the precedent setting nature of removing the restrictive covenant in this situation.

The original and current owners of the Marin Ranch Airport and the Civic Center North properties have already benefitted from their portion of the covenant which allowed them greater densities than would have otherwise been granted on the Civic Center North properties. The Marin Airport Site has also benefitted from a lower assessment value due to the restrictions of the covenant.

Now that the owners have all of the densities that they were entitled to they are asking for "double density." Let the public keep their benefit from the density transfer - that is that the restrictions for open space use etc remain with the Marin Airport site as was originally promised.

The airport site is bordered by sensitive wetlands. The small airport has minimal impact on these wetlands and on the bird and other wildlife which inhabit them. Development on this site would however, require significant fill and it is likely that the effect of the development would be to disrupt and push out existing waterfowl and other wildlife. Wetlands around the bay and in Marin have been significantly destroyed. The citizens of Marin have repeatedly shown their support for wetlands protection and do not want to see further losses in their backyard. Any and all proposals for changes on this site should be subject to a full environmental impact report and full open public discussion.

Finally, we encourage you to seek out the pilots who use the existing airport and obtain their views on this site. It seems surprising that there has been little input from the key users of the land. Their candid input would seem necessary to the planning process.

We are interested in participating in any future informal or formal meetings on this matter.

Sincerely,

Susan R. Bishop  
Marin Sierra Club  
Chairperson  
San Rafael General Plan Committee