

## AGENDA BILL

JUL 14 2003 4 . E

<b>Agenda Title:</b> Discussion and Introduction (First Reading) of An Ordinance Amending Ordinance No. 1072 N.C.S. (Zoning Ordinance) Adding Article 19.7 "T-C, Theater Combining District With Findings Recommended by the Planning Commission		<b>Meeting Date:</b> July 14, 2003	
		<b>Meeting Time:</b> X 3:00 PM	
<b>Category:</b> x Public Hearing			
<b>Department:</b> Redevelopment	<b>Director:</b> Paul Marangella <i>PM</i>	<b>Contact Person:</b> Paul Marangella	<b>Phone Number:</b> 778-4581
<b>Cost of Proposal:</b> \$0			<b>Account Number:</b> 901-400-9016
<b>Amount Budgeted:</b> \$0			<b>Name of Fund:</b> CBD Project Area
<b>Attachments to Agenda Packet Item:</b>			
<ol style="list-style-type: none"> <li>Draft Findings for the Petaluma Theater Combining District Ordinance</li> <li>Ordinance Amending Ordinance No. 1072 N.C.S. (Zoning Ordinance) Adding Article 19.7 "T-C, Theater Combining District</li> </ol>			
<b>Summary Statement:</b>			
<p>The City Council has received a development application for a project (referred to as the "Petaluma Theater District") that will be a mixed-use project within existing Downtown Petaluma. The subject parcels are generally between "B", "C", "D", 1<sup>st</sup>, 2<sup>nd</sup>, and "F" Streets, Petaluma Boulevard and the Petaluma River. The subject parcels are within the boundaries of the Central Petaluma Specific Plan (CPSP).</p> <p>The main focus of the mixed-use proposal will include a new 12-screen cinema and parking structure. Other uses within the proposal would allow for: national and local retailers; restaurants focusing on both daytime food service as well as evening fine dining; office space; and, residential uses in the form of apartment and loft style housing.</p> <p>Basin Street Properties (the project developer) is requesting approval of a Development Agreement (DA) and an Owner Participation Agreement (OPA) with regard to the project. These agreements govern, among other things, the timing of the development of the project, funding and other obligations with Basin Street Properties, the City of Petaluma and the City of Petaluma Community Development Commission (PCDC). The project proposal also includes an amendment to the City's Zoning Ordinance that would establish a designated area in the city where movie theaters are permitted. The Ordinance is necessary to promote the development of a movie theater within the downtown. The boundaries of the Theater Combining District are as follows: Washington/East Washington Street (north), Weller Street (east), "D" Street (south) and Sixth/Howard Street (west).</p> <p>Therefore, the purpose of this item is to address the terms of the proposed development agreement by introducing and adopting an amendment to the Zoning Ordinance, which provides for a downtown Theater Combining District, and pass the Ordinance to a second reading.</p>			
<b>Recommended City Council Action/Suggested Motion:</b>			
It is recommended that the City Council: 1.) Introduce an amendment to the Zoning Ordinance, which provides for a Theater Combining District, 2.) Adopt the Ordinance with the findings recommended by the Planning Commission for the Theater Combining District Ordinance and pass it to a second reading on August 4, 2003.			
<b>Reviewed by Finance Director:</b> <i>William Miller</i> Date:	<b>Reviewed by City Attorney:</b> Date:	<b>Approved by City Manager:</b> <i>MP</i> Date:	
<b>Today's Date:</b> July 3, 2003	<b>Revision # and Date Revised:</b> #	<b>File Code:</b> <i>MP</i>	

# CITY OF PETALUMA, CALIFORNIA

JULY 14, 2003

## AGENDA REPORT

FOR

### DISCUSSION AND INTRODUCTION (FIRST READING) OF AN ORDINANCE AMENDING ORDINANCE NO. 1072 N.C.S. (ZONING ORDINANCE) ADDING ARTICLE 19.7 "T-C, THEATER COMBINING DISTRICT WITH FINDINGS RECOMMENDED BY THE PLANNING COMMISSION

1. **EXECUTIVE SUMMARY:**

The City Council has received a development application for a project (referred to as the "Petaluma Theater District") that will be a mixed-use project within existing Downtown Petaluma. The subject parcels are generally between "B", "C", "D", 1<sup>st</sup>, 2nd, and "F" Streets, Petaluma Boulevard and the Petaluma River. The subject parcels are within the boundaries of the Central Petaluma Specific Plan (CPSP).

The main focus of the mixed-use proposal will include a new 12-screen cinema and parking structure. Other uses within the proposal would allow for: national and local retailers; restaurants focusing on both daytime food service as well as evening fine dining; office space; and, residential uses in the form of apartment and loft style housing.

Basin Street Properties (the project developer) is requesting approval of a Development Agreement (DA) and an Owner Participation Agreement (OPA) with regard to the project. These agreements govern, among other things, the timing of the development of the project, funding and other obligations with Basin Street Properties, the City of Petaluma and the City of Petaluma Community Development Commission (PCDC). The project proposal also includes an amendment to the City's Zoning Ordinance that would establish a designated area in the city where movie theaters are permitted. The Ordinance is necessary to promote the development of a movie theater within the downtown. The boundaries of the Theater Combining District are as follows: Washington/East Washington Street (north), Weller Street (east), "D" Street (south) and Sixth/Howard Street (west).

Therefore, the purpose of this item is to address the terms of the proposed development agreement, introduce and approve an amendment to the Zoning Ordinance, which provides for a downtown Theater Combining District, and pass the Ordinance to a second reading.

2. **BACKGROUND:**

Over the past several months, representatives of the City of Petaluma and Basin Street Properties have worked on a development proposal to create a Theater District in the Central Business District Redevelopment Project Area. The development proposal is consistent with the recently approved Central Petaluma Specific Plan (CPSP). One element of the proposal provides for the development of a movie theater described as follows:

#### **Theater**

A new 12-screen, 1,400 seat theater building located on the south side of Basin Street Town Center (formerly Victory Chevrolet) at the intersection of "C" Street and Petaluma Blvd. The concessions and lobby for this new theater will be accessed directly from "C" Street.

Size: 22,720 square feet, 12-screen, 1,400 seats  
Height: 30 feet, equivalent height of 2-story building

The theater will provide “first run” movies and may also show independent and foreign films. The proposed ordinance does not apply to live performances.

The proposed Ordinance will expire in twenty years on September 3, 2023, unless rescinded by a majority vote of the City Council.

### **Environmental Review**

Environmental review was performed with regard to the proposed Theater Combining District Ordinance. The finding for the ordinance are provided in Attachment 1.

3. **ALTERNATIVES:**

**A. Hold a Public Hearing, Approve the Ordinance, and Pass to Second Reading:** Under this alternative, the City Council would fulfill a requirement of the proposed Development Agreement between the City of Petaluma and Basin Street Properties, thereby allowing the Theater District Project to be approved.

**B. Provide Other Policy Direction As Appropriate:** Under this alternative, the City Council would direct staff to explore other options. This would invalidate the proposed Development Agreement.

4. **FINANCIAL IMPACTS:**

NONE

5. **CONCLUSION:**

A Development Agreement between the City of Petaluma and Basin Street Properties requires the implementation of an ordinance promoting the development of movie theaters within the designated boundaries of a downtown district. The adoption of an amendment to the Zoning Ordinance accomplishes this requirement.

6. **OUTCOMES OR PERFORMANCE MEASUREMENTS THAT WILL IDENTIFY SUCCESS OR COMPLETION:**

An amendment to the Zoning Ordinance, Adding Article 19.7 “T-C, Theater Combining District will allow the Theatre District Project to be developed.

7. **RECOMMENDATION:**

It is recommended that the City Council:

- 1.) Introduce an amendment to the Zoning Ordinance, which provides for a Theater Combining District, and
- 2.) Adopt the Ordinance with the findings recommended by the Planning Commission for the Theater Combining District Ordinance and pass it to a second reading on August 4, 2003.

**Draft Findings for the Petaluma Theater Combining District Ordinance**

**ATTACHMENT 1**  
**(Planning Commission Exhibit C)**

**Draft Findings for a Petaluma Theater District Ordinance**  
**Bordered to the North by B Street and to the South by D Street**  
**Bordered to the East by First Street and to the West by**  
**Petaluma Boulevard 008-065-002 & 003;**  
**008-066-002, 003, 006, 007 & 009;**  
**008-068-001, 002, & 003;**  
**008-121-001, 008-121-007, 008, 009, 010, 011 and 012**

**Project File No: 03-ZOA-0260-CR**

1. The proposed Amendment to Zoning Ordinance No. 1072 N.C.S., to for a Theater District Ordinance will result in a more desirable use of land and a better physical environment than would be possible under any single zoning district or combination of zoning districts.
2. The public necessity, convenience and welfare clearly permit and will be furthered by the proposed Amendment to the Zoning Ordinance, by approving a Petaluma Theater District Ordinance.
3. The requirements of the California Environmental Quality Act (CEQA) have been satisfied through the preparation of an Initial Study and the drafting of a Mitigated Negative Declaration to avoid or reduce to a level of insignificance, potential impacts generated by the proposed Petaluma Theater District.

In compliance with the requirements of the California Environmental Quality Act, an Initial Study was prepared for the rezoning of the site from Agricultural (A) to Planned Unit District (PUD). Based upon the Initial Study, a determination was made that no significant environmental impacts would result. A copy of this notice was published in the Argus Courier and provided to residents and occupants within 500 feet of the site, in compliance with CEQA requirements.

**ORDINANCE AMENDING ORDINANCE NO. 1072 N.C.S  
(the Zoning Ordinance) ADDING ARTICLE 19.7 “T-C,  
THEATER COMBINING DISTRICT”**

**AN ORDINANCE AMENDING ORDINANCE NO. 1072 N.C.S (the Zoning Ordinance) ADDING  
ARTICLE 19.7 "T-C, THEATER COMBINING DISTRICT"**

**WHEREAS**, the City of Petaluma desires to foster a viable and vibrant downtown commercial district that is relevant and important to all Petaluma residents; and

**WHEREAS**, a theater showing first-run, independent or foreign films located within a designated downtown commercial area is a key element to the success of a viable and vibrant downtown; and

**WHEREAS**, the City Council of the City of Petaluma finds that to accomplish the goal of a viable and vibrant downtown commercial district that it is necessary to establish a combining district of the City's Zoning Ordinance within which movie theaters shall only be located, and;

**WHEREAS**, on July 14, 2003, the City Council of the City of Petaluma adopted a resolution approving a Mitigated Negative Declaration for the Petaluma Theater District Project, and

**WHEREAS**, the project description for the Petaluma Theater District Project includes a Theater District Combining District Ordinance, and

**WHEREAS**, the Theater District Combining District Ordinance is subject to that environmental determination, and

**WHEREAS**, the City Council finds that the proposed Amendment to Zoning Ordinance No. 1072 N.C.S., for a Theater District Ordinance will result in a more desirable use of land and a better physical environment than would be possible under any single zoning district or combination of zoning districts, and

**WHEREAS**, the City Council finds the public necessity, convenience and welfare clearly permit and will be furthered by the proposed Amendment to the Zoning Ordinance, by approving a Petaluma Theater District Ordinance, and

**WHEREAS**, the City Council finds that the requirements of the California Environmental Quality Act (CEQA) have been satisfied through the preparation of an Initial Study and the drafting of a Mitigated Negative Declaration to avoid or reduce to a level of insignificance, potential impacts generated by the proposed Petaluma Theater District.

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF PETALUMA DOES HEREBY ORDAIN AS FOLLOWS:**

Section 1. Article 19.7, entitled "T-C, Theater Combining District" is hereby added to the City's Zoning Ordinance to read as follows:

**Article 19.7  
T-C, Theater Combining District**

**Section 19.7.100, Purpose.** It is the intent of the Theater Combining District to promote the development of movie theaters within the designated boundaries of the district. Said theaters shall be a so-called "first-run" movie theaters, but may also include limited, incidental showings of independent and foreign films. The

regulations established for this district shall not apply to theaters whose principal function is for "live" performances.

**Section 19.7.200, District Boundaries.** The boundaries of the Theater Combining District shall be as follows: Washington/East Washington Street (north), Weller Street (east), "D" Street (south) and Sixth/Howard Street (west).

**Section 19.7.300, Movie Theater Uses Prohibited in Other Designated Zones.** Notwithstanding any other provisions of this Zoning Ordinance, movie theaters as defined in Section 19.7.100, above, shall not be permitted or conditionally permitted in any zoning district of the City of Petaluma outside of the established boundaries of the Theater Combining District. This limitation shall also apply to the zoning districts established for the Central Petaluma Specific Plan, if said property lies within the boundaries of the Specific Plan, but outside the boundaries of the Theater Combining District.

**Section 19.7.400, Sunset Provision.** Unless otherwise rescinded by a majority vote of the City Council, this ordinance shall expire on (i) November 1, 2005 if construction of a first run movie theater in the Theater Combining District containing at least eight screens has not commenced by such date, or (ii) November 1, 2006 if a first run movie in the Theater Combining District containing at least eight screens has not opened for business to the public by such date, or, in any event, August 4, 2023. The expiration dates in subsections (i) and (ii) shall be extended one day for each day of delay in the commencement of construction or opening for business caused by Acts of God, riots, litigation challenges, or other circumstances beyond a developer's reasonable control, as determined by the City Manager

**Section 2.** The City Clerk is hereby directed to post this Ordinance for the period and in the manner required by the City Charter.

**Section 3.** If any section, subsection, sentence, clause or phrase or word of this Ordinance is for any reason held to be unconstitutional, unlawful or otherwise invalid by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council of the City of Petaluma hereby declares that it would have passed and adopted this Ordinance and each and all provisions thereof irrespective of the fact that any one or more of said provisions be declared unconstitutional, unlawful or otherwise invalid.

Adopted this 4th day of August, 2003 by the following vote:

<b>Council Member</b>	<b>Aye</b>	<b>No</b>	<b>Absent</b>
Glass			
Canevaro			
Harris			
Healy			
Moynihan			
O'Brien			
Torliatt			

\_\_\_\_\_  
David Glass, Mayor

TEST:

\_\_\_\_\_  
Gayle Petersen, City Clerk