

**FINAL MINUTES  
REGULAR PLANNING COMMISSION MEETING  
DECEMBER 11, 2007  
CORTE MADERA TOWN HALL  
CORTE MADERA**

PRESENT: Chair Bruce Mace  
Commissioner Richard Esteb  
Commissioner Joel Josehart  
Commissioner Peter Schwartz

STAFF

PRESENT: Robert Pendoley, Planning Director/Assistant Town Manager  
Dan Bell, Senior Planner  
Joanne O'Hehir, Minute Recorder

ABSENT: Commissioner Patrick Pagnillo

**1. OPENING**

- A. Call to Order
- B. Pledge of Allegiance
- C. Roll Call

All Commissioners were present with the exception of Commissioner Pagnillo.

**2. PUBLIC COMMENT**                      None

**3. CONSENT CALENDAR**                None

**4. CONTINUED HEARINGS**

- A. 1618 REDWOOD HIGHWAY, ADOPT A REVISED TENANT DESIGN CRITERIA MANUAL FOR THE VILLAGE AT CORTE MADERA ESTABLISHING DESIGN CRITERIA FOR EXTERIOR AND INTERIOR STOREFRONT IMPROVEMENTS, -** Management at The Village at Corte Madera is requesting that the Town of Corte Madera Planning Commission recommend that the Town Council adopt a revised Tenant Design Criteria Manual. (Zoning: C-2 Regional Shopping District (Planner: Dan Bell)

Senior Planner Dan Bell introduced the staff report. He provided a short overview of the Commissioners' wishes at the previous meeting with regard to the criteria manual. He explained that two additions have been incorporated: Green building principals, which

include lighting efficiency guidelines, and the retention of the Planning Commission's authority to review changes to storefronts facing the parking lots. Staff believes the Commissions should recommend to the Town Council that they adopt the revised tenant criteria should they find the changes agreeable.

Jerry Hrcir, Macerich, discussed the revisions in more detail, noting that automatic lighting controls will be encouraged, in addition to the use of timers for non-emergency lighting.

Commissioner Schwartz discussed other energy options that would be more efficient than those suggested in the Criteria Manual.

Commissioner Esteb said that many of the recommendations appear to form part of the Building Code, rather than reaching beyond normal sustainability bounds. In response, Kathy Lovold, Macerich, said that they are considering solar panels for some of the buildings.

Chair Mace said that he would like some of these recommendations changed to requirements. In response to Chair Mace, Planning Director Pendoley confirmed that staff will continue to make decisions on store front projects that do not face the parking lots.

Commissioner Schwartz noted that the proposed future design changes would reduce the area of arcade above storefronts, which is not energy-efficient designing. In response, Mr. Pendoley said that design approval was given to Macerich two years ago, which included the arcade covers, and, he does not believe the Town would be in a position to initiate changes.

Jerry Hrcir, Macerich, said they would be amenable to the changes in language that Commissioner Schwartz suggested, and it was agreed that staff will approve the final version of the Criteria Manual after Commissioner Schwartz forwards his recommended changes in writing.

**MOTION:** Moved by Esteb, second Josehart, and unanimously approved to recommend to the Town Council to adopt a revised Tenant Design Criteria Manual for The Village at Corte Madera establishing design criteria for exterior and interior storefront improvements, with the inclusion of mandatory language which is subject to final approval by the Planning Department.

## 5. NEW HEARINGS

### **A. 130 BIRCH AVENUE, APPEAL NO. 07-003, APPEAL OF PLANNING DIRECTOR INTERPRETATION. MIKE AND RENEE FLAHERTY (OWNERS). (STEVEN AND JULIA COLICCI (APPELANTS))** – Appealing the Planning Director's decision to allow construction of a revised chimney flue design for a second story addition. (Zoning: R-1 Medium-Density Residential District) (Planner: Dan Bell)

Senior Planner Bell presented the staff report, for which he used a slide presentation. Mr. Bell explained that the appellants are appealing a decision by the Planning Director, who approved a different design for the flue at the time of Building Permit than was originally approved in Design Review by the Planning Commission. Changes were made to the chimney flue, in part, to meet the Building Code requirements.

Mr. Bell noted that staff interpreted the new design to be in substantial compliance with the Planning Commission's Design Review approval which he discussed further, noting that the enclosure around the base of the metal flue has not yet been constructed. He said that the Planning Director felt a narrow profile of the metal flue with a lower enclosure would be less of a visual impact than if the flue were enclosed all the way up to the exhaust point of the metal flue.

In conclusion, staff recommends that the Planning Commission review the originally approved design of the chimney flue and the Planning Director's interpretation and decide if modifications are needed.

Commissioner Schwartz commented on the design in a photomontage presented by the appellants, and Commissioner Esteb voiced concern that there might be engineering issues.

Collette Meunier, representing the appellants, said that the appearance of the metal flue is not in keeping with the neighborhood and it affects the views of the neighboring property. She used a slide presentation to show more suitable designs in the neighborhood that utilize a large enclosure around a chimney flue.

Steven Colicci, appellant, noted that the neighbors who supported the project on the property owner's petition sheet are not impacted by the exposed chimney flue. He said that they were directly impacted because there is a view of the chimney from most of the rooms in their house.

Julia Colicci said that the issue would not exist if gas fire places needed to be used and that the Town needs more green principles.

Mike Flaherty, owner 130 Birch, said he has complied with the building regulations and that the chimney has been installed by professionals. He discussed the need for this design and noted that a larger enclosure around the chimney flue could affect the views from other properties. Mr. Flaherty asked that there be a time cap on appeals.

In response to Commissioner Esteb, Mr. Pendoley said that Staff made a decision which is the subject of the appeal; that the Coliccis were noticed and they are using their appeal rights. General discussion commenced on the appeal process.

Commissioner Esteb said that the chimney is ugly, however it is painted, and that the original design should be adhered to.

Commissioner Josehart said he was disappointed that the original design, which had been agreed upon, was not carried through. He said that the appeal process is a disappointing reflection on how people behave, and that he would wish the homeowner to see the benefit of adding the enclosure and finishing a major project renovation, rather than having the decision imposed upon him. He does not believe an appeal should have been necessary.

Commissioner Schwartz said he does not favor the enclosure of the whole chimney, and Chair Mace said the exposed chimney flue looks appalling without the full enclosure. However high the enclosure should be, it would improve the look of the chimney, and he said that the Commission should not need to be involved with these kinds of issues.

Discussion followed on the height of the enclosure.

Mr. Flaherty explained why he believes an enclosure is unsuitable, and Commissioner Schwartz noted that stucco does not necessarily need to be used as a material on the enclosure.

MOTION: Moved by Esteb, second by Schwartz, and passed with Josehart opposing, to sustain the appeal of 130 Birch Avenue, Appeal No. 07-003, appealing the Planning Director's interpretation, with the condition that the original height of the enclosure will be constructed with the exposed flue being allowed to remain.

Planning Director Pendoley read the appeal rights.

**B. 9 EL CAMINO DRIVE, APPEAL NO. 07-002, APPEAL OF ZONING ADMINISTRATOR DECISION. YEFIM SCHUKIN (OWNER). MONICA**

**SIQUERIRA (APPLICANT)** – Appealing the Zoning Administrator's approval of Large Family Day Care Home Permit Application No. 07-011

Planning Director Pendoley introduced Veronica Nebb, Assistant Town Attorney, and then he introduced the staff report, for which he used a slide presentation.

Mr. Pendoley discussed the five standards under which the Health and Safety Code limits the involvement by Towns in large day care facilities, and he said that if the Commission finds the applicant meets those standards, then the appeal must be denied in order to be consistent with the Ordinance.

Mr. Pendoley explained that the main points of the appeal are parking and traffic control, which he discussed in more detail. He noted that a car fits in the driveway adequately and that there appears to be available parking in the streets close to the day care home. He noted that conditions were applied to deal with traffic control, and he discussed the means by which they can be enforced.

In response to Commissioner Schwartz, Mr. Pendoley said that the requirement for one covered parking space is for resident parking only, not clients.

In response to Commissioner Josehart, Ms. Nebb said that the letter of opposition from the homeowner cannot be addressed; that this is a legal issue between the lessor and lessee which the Commission cannot consider relative to this appeal.

Mr. Pendoley noted that the State rules pertaining to large day care homes prevent a homeowner from prohibiting the operation of a day care home at his house. Thus, it was felt that the language in the law prohibited the Town from requiring the property owner's signature on the form.

In response to Commissioner Mace, Mr. Pendoley said that the property conforms to setbacks and lot coverage requirements.

Ms. Nebb discussed rights to allow inspections, noting that the landlord's right to possession of the property or to allow others to enter the property are secondary to the rights of the tenant.

Brooke Voss, appellant at 14 Granada, contends that the Town has more discretion than is believed; that if a large family day care permit is non-discretionary, then it should not be possible to apply conditions. She further believes that stricter compliance with parking and traffic regulations is necessary. Ms. Voss said she has witnessed traffic violations and double parking, for which the permit should be revoked. A small family day care facility would be more suitable.

Monica Siquerina, applicant, said that she is licensed to operate a large day care home. Furthermore, her clients arrive and leave at different times, unlike a school which has specific hours. She does not wish to disturb her neighbors and would like to continue running a large day care home.

In response to Commissioner Josehart, Ms. Siquerina said her clients come from Corte Madera and San Rafael, in addition to other areas. She presented letters of support. Ms. Siquerina said that her home is open for parents and licensed agencies to view any time.

Leonard Brahms, 13 El Camino, said that the operator's car is parked in the driveway and he presented evidence of a car doing a u-turn. Furthermore, the children screech, which is not customary.

Gary Jarvis, 14 El Camino, said that the day care home is disruptive, with multiple children being dropped off, cars making u-turns and noise. There seems to be no mechanism by which the conditions of the permit can be enforced.

Dorothy Clifford, 13 Granada, said that the traffic is difficult and the streets are too narrow for cars to pass.

Amanda Conran, 26 El Camino, said that the traffic and intersection are difficult. Multiple cars parked at the intersection make it difficult for other drivers to see clearly and the road is very busy. She suggested that a sign be installed indicating the location of the large day care home and that the operator speak to her clients about road safety.

Jason Baker, 5 Granada, said that there are more cars parked directly across the street where a house has recently been sold.

Louise Kirby, 17 El Camino, said that many of the cars using the day care home do u-turns and the operator's car is on the street or in the driveway. Double parking occurs, too.

Marianne Siquerina said that the kids at the day care home are not allowed outside until 10:30am so as not to disturb the neighbors too early.

In response to Pam Shreeve, 6 Granada, Ms. Siquerina said that the noise heard after 6pm is that of herself and her siblings.

Commissioner Josehart and Ms. Nebb discussed the traffic problems relating to the day care home, and Ms. Nebb explained that the conditions of approval relate to the operational character of the facility. Mr. Pendoley noted that State Law and the Ordinance treat large family day care homes as a residential use, which does not

change the traffic control or parking situation. There appears to be sufficient parking on the street, but there is a condition that double parking is prohibited.

The Commissioners discussed the agreement parents need to sign, which should include prohibiting u-turns and double parking. Mr. Pendoley noted that conditions do not need to be made other than the need for the day care home to be open to inspections by relevant agencies.

Ms. Nebb noted that unless a condition is added prohibiting u-turns, the Police Department could take little action, and Commissioner Josehart said that the conditions could be attached to a client agreement.

MOTION: Moved by Josehart, second by Schwartz, and passed with Esteb opposing, to deny Appeal No. 07-002, appealing the Zoning Administrator's decision on 9 El Camino Drive and directing staff to prepare a Resolution with conditions for the permit.

## **6. ROUTINE AND OTHER MATTERS**

### **A. GENERAL PLAN WORKSHOP #4**

It was agreed that this item would be continued due to the lateness of the hour.

### **B. REPORTS AND ANNOUNCEMENTS**

#### **i. Commissioners**

A short discussion took place on the signs at Bank of America.

#### **ii. Director**

Planning Director Pendoley provided a General Plan update.

### **C. MINUTES**

#### **i. Planning Commission minutes of November 13, 2007.**

The minutes were motioned, seconded and unanimously passed.

## **7. ADJOURNMENT**

The Meeting was adjourned at 10.45pm.