

**FINAL MINUTES
SPECIAL PLANNING COMMISSION MEETING
DRAFT UPDATED GENERAL PLAN
JULY 31, 2008
CORTE MADERA TOWN HALL
CORTE MADERA**

COMMISSIONERS

PRESENT:

Chair Bruce Mace
Commissioner Sloan Bailey
Commissioner Peter Schwartz
Commissioner Patrick Pagnillo
Commissioner Richard Esteb

STAFF

PRESENT:

Robert Pendoley, Planning Director
Nancy Salcedo, Minute Recorder

1. OPENING

A. Call to Order

B. Pledge of Allegiance

C. Roll Call

All the Commissioners were present.

2. PUBLIC COMMENT: None

3. CONSENT CALENDAR: None

4. CONTINUED HEARINGS:

A. DRAFT UPDATED GENERAL PLAN- This is a continued public hearing to receive comments on the draft updated General Plan. The Commission will receive comments and may make comments of its own, and continue the hearing to August 28, 2008 for further comments and deliberation. A public hearing on the draft Final EIR for the project is tentatively scheduled for August 28, 2008. (Planner: Robert Pendoley).

Planning Director Pendoley presented the staff report for which he used a slide presentation. He reviewed the hearing and adoption process. He said that the public notice requirement of the hearing has been met. This is the second public hearing on the draft updated General Plan, and there will be at least two more, after which the Commission shall close the hearing process and direct staff to prepare revisions to the draft Plan. When the Commission is satisfied with the revisions, the Commission will adopt a resolution recommending that the Town Council certify the FEIR and adopt the draft General Plan. Town Council and Planning Commission resolutions must pass by majority vote, a minimum of 3 members, not quorum. If the Town Council makes significant changes to the document, they then must send it back to the Commission for review, at which time the Commission must act within 45 days, or the law assumes it is approved. The staff report includes a calendar with the schedule for initial hearings and deliberations. In June the Commission held 2 public hearings on the draft EIR. The Draft Final EIR will be brought to public hearing August 28, 2008, which will be advertised when consultants send the draft to the Town. The August 14, 2008 hearing on the draft updated General Plan will be held at the Recreation Center.

The focus of this evening's hearing is draft updated General Plan Chapter 3, which addresses resource conservation and sustainability. Staff has provided analysis focusing on four major policy areas, but added that comments on all conservation and sustainability policies are appropriate. He said that Chapter 3 represents an effort to move from the protection-oriented framework of the 1989 Plan to a more proactive approach that will advance the principles of community sustainability so that resources are available for the long term.

He requested that the Planning Commission discuss goal RCS-1 and the proposal to develop a Community Sustainability Plan to aid the Town in finding ways to use resources so that they will renew themselves. He said that it is important for the Commission to have a debate on whether they have gone far enough in taking a proactive approach. As the draft Plan was being prepared, there was a lot of debate over what the word "sustainability" meant, and how it should be defined at the local level. The Commission concluded that the effort to develop a Sustainability Plan should be a focused project beyond the scope of the General Plan update. He added that the consensus among municipalities today is that the number one priority ought to be mixed-use development and density. The way to have the biggest impact is to get affordable housing next to jobs, which is emphasized in the Land Use Element.

He said that energy conservation is an important part of the Plan, and that the staff report lists the significant programs. He said that the Town has a major role in solid waste management because the Town controls the franchise for solid waste and

sanitation management, and that the Town has made huge strides in retrofitting lines to reduce storm water intrusion to maintain the capacity of the waste treatment system. Regarding Natural Area Resource Conservation, he said that Corte Madera is blessed with some of the largest wetlands in the Bay Area, and that a major issue highlighted during the EIR public input process is the definition of "wetland." The Town's current General Plan definition provides no criteria for wetland measurement. The Zoning Ordinance has a more specific definition using inundation, soil saturation, and hydrophilic vegetation as indicators. He said that while the Zoning Ordinance definition takes a further step than the policy definition in the General Plan, it would be helpful to have something more measurable. The State Resources Agency offers samples of some definitions: the U.S. Department of Fish and Wildlife Service definition is important because the Department of Fish and Game uses it. This definition incorporates elements that are also in the Town's Zoning Ordinance. He concluded that the Commission should discuss sustainability and energy conservation, and debate a sustainable approach to resource management and wetlands delineation.

Commissioner Bailey asked for clarification of the U.S. Army Corps of Engineers' wetland definition, and Commissioner Mace asked how it compared to our definition. Planning Director Pendoley said that most municipalities rely on the definition from the U.S. Army Corps of Engineers. He said that Section 404 of Clean Water Act makes the U.S. Army Corps of Engineers responsible for issuing fill permits regulating discharge of fill materials and that they use wetland delineation to do this. An advantage of this definition is that it is quantified, mapped and well recognized by the courts. He said that the definition in the Town's Zoning Ordinance was so broad that staff was sometimes unsure how to apply it, and added that due to changing conditions over time, wetland delineations have a time limit.

Commissioner Mace opened the public hearing.

John Roberto, WinCup property consultant, said that the way that the current General Plan is structured it would not allow for the development of WinCup property. They wish to submit wordage to the Commission for consideration which would allow development. He agreed with Planning Director Pendoley about comments on sustainability and mixed use.

Barbara Salzman, Marin Audubon Society, said that Audubon doesn't typically talk about sustainability, but that she suggests we define it. To Audubon, the basis of sustainability is the natural environment. Regarding wetland definition, she said that the Town definition is better, more broad and biologically based, which Audubon prefers. She said that the U.S. Army Corps of Engineers' definition requires the presence of all 3

indicators, making it more difficult to delineate a wetland. She said the Commission should consider the Plan's current definition.

She said that sensitive habitats should be defined, so that the Plan would "tell the map maker what to map" rather than have the mapmaker define sensitive habitat. She said that the Town's Tree Ordinance should be revised to protect all native trees. She said that the Plan mentions required buffers and setbacks from drainage ways, but does not mention buffers from wetlands, which is important. She concluded that current policy is missing in the analysis of what is proposed, and that in some cases, what is proposed is a step backward. She concluded that the Town has expressed an interest in protecting the environment, but that the updated Plan includes some things Audubon considers contradictory, such as a trail policy guiding the location of trails next to marsh, which would be disastrous.

Commissioner Schwartz asked for Ms. Salzman's comments regarding to the Tree Ordinance in terms of fire protection. She said that removing nonnative vegetation is not a problem. The debate is if you want to be fire safe, it is easier to live in San Francisco, but that fire safety is not why we all want to live here. She said that fuel breaks would still not completely stop all fires, though it will help.

Commissioner Bailey asked for clarification regarding Audubon's letter, which he said he read carefully. He wondered if, when Audubon makes a recommendation, it considers fire and life safety issues, or only habitat protection. Ms. Salzman said she believes that if the Town protects the environment it will protect the Town, in the same way that protected wetlands clean the water, provide flood and erosion control, and produce a climate change reduction benefit. She added that wetlands are not flammable.

Planning Director Pendoley agreed with Ms. Salzman that policy 8.1d is deficient because it merely discusses buffers, and that the Tree Ordinance needs to be updated. He also agreed with Ms. Salzmänn's comments regarding the importance of defining sensitive habitats, and asked for her written suggestions.

Commissioner Mace closed the public hearing, and asked that the Commission use staff's 5-point deliberation plan for discussion: sustainability policies, energy conservation, sustainable resource management, wetlands definition, and wetlands delineation.

Commissioner Schwartz said that the Town's definition of sustainability should enable the Town's level of sustainability to move forward as science moves forward. He said he believes the Town should prepare a Sustainability Plan outside of General Plan, as we

can update it more often, and state a policy in the General Plan that we are guided by this. He said that he felt it would be dangerous to latch on to the current specific programs of other agencies in our General Plan document as such programs may become obsolete.

Commissioner Bailey asked about existing databases defining resources, and asked whether the endangered species or native vegetation we are protecting should be listed in the General Plan. Commissioner Schwartz added that mapping defines a benchmark of sustainability. Commissioner Pagnillo said the list would be a moving target over time. Commissioner Bailey added that the mapping of habitat could be linked to lists of things to protect. Planning Director Pendoley said there are lists, many of which are mapped, but that staff did not recommend that this mapping be included in the General Plan because, though reliable, they may not be the line the Commission wishes to draw. He said that it would be more appropriate to define which habitats are important, then map them, then implement accordingly.

Commissioner Schwartz suggested the addition of implementation language to read "including but not limited to." He added that if we have a format of policy, then a benchmark, progress could be measured to enlighten and direct. Bob said that if we include this in the Plan it would be beneficial. Commissioner Mace said he had also wondered where in the Plan do we put the teeth.

Commissioner Bailey asked about the Town's green building standard in relation to standards applied by other communities that have implemented, for example, a silver LEED standard. Planning Director Pendoley said that Marin County, San Rafael, and Novato have each adopted such ordinances or are in the process, and that industry seems to embrace them because green is a selling point. All public and commercial buildings are being built green because it is good policy, politics and economics. One drawback of the ordinances is their timing. He said that the State of California has a voluntary green building code currently available to municipalities that will be required by 2011. He said the State code is consistent with our current code, but it goes further.

Commissioner Esteb said we could consider adopting the voluntary State's code as our building code. Planning Director Pendoley advised that it is a draft code and is being tested, so we may benefit from waiting and take advantage of the testing. Mace asked how we could provide incentives. Commissioner Schwartz said that the lesson learned is that green buildings don't always function well, and that smart design is preferable to green. He said he thought the Town should use incentive to attain the most efficient building possible. He added that the policy could use return on investment or economic

feasibility such as net present value and life cycle as a performance measure. He added that the use of this common metric removes politics from the decision-making process.

Commissioner Pagnillo said he felt there is something to be said for letting someone else test the State's green building code first, adding that whether we do it now or soon is less important than doing it right. He said that there are not many existing good examples of how we can do it right.

Commissioner Mace said that because policies with implementation programs create a problem of enforcement, measurement programs scare him. He asked if the Commission could lean on an implementation program in a big project to ask for more desirable development. Planning Director Pendoley said we couldn't just ask for more, we must refer to specific policy. Commissioner Mace asked, in the case of energy efficient building design policy RCS-2.6 for example, how that could be accomplished. Planning Director Pendoley said the effect could be accomplished by what is written, but that the Commissions could debate whether that is reaching far enough. Commissioner Schwartz added that the Commission would not know if implementation of the Plan is producing a relative benefit if the policies don't include a benchmark.

Commissioner Bailey said that he disfavors any ordinance that can be misused, and that he wishes to encourage policy with as much discretion as possible. He said that teeth by ordinance are dangerous.

Commissioner Mace said that he feels the benchmark concept is good, but enforcement is difficult. He asked if policies in the Plan are strong enough, and added that the Commission could not comprehensively set detailed benchmarks for all policy. Planning Director Pendoley said that he shared Commissioner Bailey's and Commissioner Mace's concerns adding that the Town of Corte Madera is too small to enforce a plan with a great level of detail, and that the plan should be written to guide general policy. A Sustainability Plan could be about benchmarks and metrics, and could go after targets such as water use and sanitation.

Commissioner Schwartz added that he agreed we should avoid overly specific policy, and that he likes carrots not sticks. He said that we should have a consistency of issue in the General Plan.

Commissioner Esteb said he has a tough time with policy RCS- 2.6a because, since Town code already requires title 24 compliance, he feels that it is meaningless, and that if we keep this, we should add incentives that would give the Commission the power to require things they would like to encourage. Planning Director Pendoley added that if

the Commission wants the teeth to require green building guidelines, it must be said here, and that staff would welcome direction to work on this.

Commissioner Pagnillo said he has a problem with net present value in the policy, as its usefulness depends upon scale of the project. He said it is burdensome in the document, which is expensive. He questioned whether the Town is in a financial position to offer carrots or add additional plans. Commissioner Schwartz agreed, but added we should not limit our thoughts to current budget cycles.

Planning Director Pendoley said that these debates are valuable and should continue, but that it needs to be pulled together. He asked the Commission to submit notes on their specific thoughts to increase efficiency. He added that he sees a consensus of incentive programs in energy conservation and sustainability, and added that a list would be helpful. He said that the concept of inventorying, measuring, and defining progress is in the Housing Element, but not usually in the other elements of the General Plan. He said that detailed implementation programs and standards, including setbacks for certain resources, are classically done in zoning and subdivision ordinances. He cautioned that it can be legally treacherous to include detailed standards in the General Plan. He concluded that if for tonight we've done what we can, he invites commissioners to submit comments so that they can become part of the public record at the next hearing.

Commissioner Mace called for deliberation on wetlands the issue. Barbara Salzman said that the problem with the federal definitions is that they are controlled by courts. Commissioner Schwartz asked for clarification on the federal definition of wetlands. Pendoley said he would provide data on this. He said the municipal code lacks a manual guiding how to measure a wetland on the ground, and that the U.S. Army Corps of Engineers' definition has the manual, as well as the experienced delineators. With the U.S. Army Corp of Engineers' standard you know what to tell the mapmakers to map, but two mapmakers can come up with two different delineations, so the Town should conduct the delineation. Commissioner Bailey said this is a Town issue not limited to the Planning Commission. Planning Director Pendoley said that it is the degree of protection that is important for Planning Commission consideration. Commissioners Mace and Bailey said they want to revisit the record on the Planning Commission meeting on the pond project at the Corte Madera Inn.

Barbara Salzman said the Town already has a buffer definition in the current plan, so if that is taken away, that constitutes a weakening of the Town's Plan. She said strong and clear policy in the General Plan is needed to protect wetlands. She concluded that it is a complex issue, and that potential impacts are greater as resources dwindle.

Commissioner Pagnillo asked about the impacts of West Nile Virus on wetland policy. Planning Director Pendoley said he thought there was little. Commissioner Schwartz mentioned the species that were not included in the document, and the documents of other municipalities whose policy encourages that development avoid habitat and wildlife corridor destruction.

Planning Director Pendoley said that individual commissioners may want to put details in memo form for the next Planning Commission hearing August 14, and that staff would provide the Commission with more information on wetlands definitions in the Zoning Ordinance and General Plan, and the record on decision on the pond at the Corte Madera Inn, and more information on how the U.S. Army Corps of Engineers implements section 404 of the Clean Water Act. The next meeting shall focus on draft updated General Plan Chapter 3 and continue on to Chapters 5 and 6. He asked to cancel the Planning Commission meeting scheduled for August 12, 2008 and move items from that meeting's agenda to August 14, 2008.

MOTIONED by Commissioner Pagnillo **SECOND** Commissioner Esteb, and passed unanimously to continue the hearing to August 14, 2008

5. NEW HEARINGS: None.

6. ROUTINE AND OTHER MATTERS

A. REPORTS AND ANNOUNCEMENTS

i. None.

B. MINUTES

- i. Draft minutes of the Draft Updated General Plan Planning Commission hearing of July 17, 2008
Motioned seconded and passed unanimously.

7. ADJOURNMENT

The meeting was adjourned at 10:15pm

The next Planning Commission Special Meeting is Thursday August 14 at 7:30 p.m. in the Corte Madera Recreation Center, 498 Tamalpais Drive.