

**FINAL MINUTES
REGULAR AND SPECIAL PLANNING COMMISSION MEETING
DRAFT UPDATED GENERAL PLAN
AUGUST 14, 2008
CORTE MADERA RECREATION CENTER
CORTE MADERA**

COMMISSIONERS

PRESENT:

Chair Peter Schwartz
Commissioner Sloan Bailey
Commissioner Patrick Pagnillo

STAFF

PRESENT:

Robert Pendoley, Planning Director
Dan Bell, Senior Planner
Nancy Salcedo, Minute Recorder

1. OPENING

A. Call to Order

B. Pledge of Allegiance

C. Roll Call

All commissioners were present with the exception of Commissioners Mace and Esteb.

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. 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 offered a brief summary of the hearing process to bring the large

number of first-time attendees up to date. He said that the Town has held 5 public hearings on the General Plan update and EIR, and will conduct 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.

He explained that copies of the draft updated General Plan are available both at the hearing, and at Town Hall. He reviewed the elements: Introduction, Land Use, Resource Conservation and Sustainability, Circulation, Community Design, Parks and Recreation, Flooding and Floodplain Management, and Public Safety and Hazards. He explained that there are three basic themes: preservation of town identity, enhancing natural resources, and building community. He said that the draft updated General Plan highlights include neighborhood protection, design guidelines, community plans, the storm drainage master plan, shopping center expansion, and mixed use zoning. He added that the updated draft General Plan includes four community plans.

He said that the key Land Use policies of the draft updated General Plan are to establish objectives for mixed use and community development, to allow continuation of existing light industrial uses, and to set infill development parameters.

Regarding shopping center expansion, the draft Plan allows for mixed land uses with an FAR up to 0.60, and encourages alternative means of access for shoppers. He emphasized that the policies that call for mall expansion also call for mixed-use residential development. He explained that the Resource Conservation and Sustainability Element attempts to increase the Town's compliance with AB 32, which requires all municipalities to plan for green house gas reduction. It also addresses the protection of wetlands.

He explained that the Circulation Element looks at ways to cross the freeway for pedestrians and bicycles; the Community Design Element addresses community design and calls for design guidelines; and the Parks and Recreation Element looks at ways to acquire more parkland over the long run. He explained that the General Plan EIR is an informational document which tells us about the impacts and

mitigation measures of the Plan's policies, and that the General Plan must look at alternatives.

He said that there are six major areas of environmental impact that could not be mitigated by the draft updated General Plan, which include: the jobs/housing balance, Highway 101, greenhouse gasses, ozone, noise, and water supply. He explained that these were regional issues that could occur regardless of the Town's plans and policies. He said that Corte Madera has the highest ratio of jobs to housing, resulting in a net in-commute and elevated traffic levels. One alternative that we are required to look at is what if we change nothing. A second alternative is to allow The Village to expand to 185,000 sq ft, with 300 housing units. A third alternative is to allow 10,000 sq ft of retail 180 housing units at the WinCup property at Gateway Village. He added that comments from the previous public hearings requested a fourth alternative, and that none of the alternatives are part of the plan today. He added that these development considerations arise because the State requires the Town to plan for a certain number of housing units. The 2009 Housing Element will require the Town to plan for 244 additional units, but the current General Plan does not allow for that requirement, so we are required to look at alternatives. He explained that the Commission held two public hearings on the General Plan EIR, and in August 28 is scheduled to hear the draft Final EIR. The document will not be ready by that date, so we will reschedule the hearing on the draft Final EIR.

Commissioner Schwartz asked for review on the relationship between the General Plan and EIR. Planning Director Pendoley said that the State requires that before the Town can adopt a General Plan, it must adopt an EIR to describe environmental impacts and ways to mitigate them, adding that the Town is required to include mitigation measures from the EIR in the General Plan.

Commissioner Schwartz added that any development discussed at the hearing in relation to the General Plan would, upon application, be required to go through the Town's planning review process. He opened the public hearing.

Roger Rapport of 113 Sonora Way in Corte Madera referenced an article he had seen in the newspaper which described the potential development of 300 plus 180 housing units in Corte Madera, which he said represented 900 additional cars which we do not have room for, plus 1,000 students in already overcrowded schools.

Roland Liddel of 76 Summit Drive in Corte Madera said that the Town's top priority ought to be to improve the Tamalpais Drive over crossing, and asked what the Town

is prepared to do to pressure Caltrans to make this happen. Planning Director Pendoley explained that the highest priority in the Circulation Element is to improve this over crossing, which is now too narrow for bikes and pedestrians, and faces an issue of soil settlement at one end. He said the Town Council is working on this now. He said that the Transportation Authority of Marin (TAM) distributes most of the funding for traffic improvements, and is currently doing a study of Highway 101 between the Greenbrae over crossing and the Tamalpais over crossing. The Town is attempting to have improvements to the Tamalpais over crossing included in the project but is at a competitive disadvantage for getting funded through TAM for this study.

Commissioner Schwartz encouraged the public to read the proposed plan and that the Commission welcomes comments.

Susan Flores, who is planning to move to Corte Madera sometime soon asked who the developer(s) for the alternative projects would be, whether they were present tonight, and what their comments were. As the developer present had no comments, staff offered that the minutes from previous hearings regarding developers' comments could be placed on the Town's website for review and further comment.

Liz Jones of 2130 Redwood Highway in Greenbrae said that she would be concerned about traffic at the freeway interchange, especially if there were 180 units added, plus a new Trader Joes at the old Tower Records site. She asked if traffic volumes had been taken into account. Planning Director Pendoley explained that the Trader Joes project site is located in the Town of Larkspur and will be reviewed by that jurisdiction, adding that a traffic study will be required, which the Town of Corte Madera will review and comment upon.

Judy Ardzrooni of 23 Lakeside Drive in Corte Madera said that the article in the newspaper had also caught her off guard. She said that she is concerned about building in that area and its impact on Tamal Vista Drive, which is already overcrowded.

Ann O'Brien of Lakeside Drive in Corte Madera asked whether there could be an attempt to ensure local teachers and others who provide services to the Town a priority when units are built and offered for sale. She also asked about the number of parking spaces per unit required in affordable housing developments. She said that Marin County is demographically a graying society with one of the oldest median age populations in California, which may mean we require less retail than

younger populations. She said that she might be opposed to encouraging infill development in Corte Madera to the extent that it may interfere with San Francisco-based infill development incentives. She added that if affordable housing caters to those working in retail, retail couldn't pay enough.

Planning Director Pendoley offered clarification on how buyers are selected for affordable housing units. He added that the Town could not require resident preferences, adding that though that practice used to be common, recent court cases now consider that discrimination. He said that the Town can and does require non-profit builders to do preferential marketing to target people who live in Town or within 5 miles of Town. In terms of income, affordable unit rents range from \$460-\$1500/month, depending on the unit and the applicant's income, and is determined by project conditions of approval. He agreed that the County population is graying, adding that this is one of the Town's biggest housing needs groups.

Michael Harlock of 533 Redwood Avenue in Corte Madera said he basically supports mixed-use projects and that we have to be hopeful that mitigations will follow. He said he felt that the way to mitigate is to improve the Tamalpais Drive over crossing. He explained that he was on the General Plan steering committee and that the committee had wanted to explore more creative traffic mitigations rather than focus on the Tamalpais over crossing. He said some mitigations could be requested of developers. Planning Director Pendoley clarified that the preliminary recommendation is to drop consideration of expansion at Town Center because the Town Center has no wish to expand. He added that Highway 101 over crossings are encouraged in the draft updated General Plan, referring to policy 4-12 in the Circulation Element.

Denise Beck of 47 Redwood Ave #16 in Corte Madera said that she was shocked that the development of 180 units at 135 Tamal Vista and 300 more at The Village Shopping Center was being discussed. Commissioner Schwartz reiterated that the staff presentation had explained that the State requires the Town to supply a certain number of units. Ms. Beck asked how this was related to our number of shopping malls. Planning Director Pendoley explained that the State requires the Bay Area municipalities to supply additional affordable units and the Association of Bay Area Governments (ABAG) distributes a target number of units per municipality. He said that it is unclear exactly how ABAG determines that target number, but that they claim to consider General Plan policy and the amount of vacant land. Our allocation at 244 additional units is one of the lowest in Bay Area. We do have more jobs in town than we have employed residents, and some of that employment is at the shopping malls. He also said that the 480 units under discussion are not listed in the

plan, rather they are in the EIR, which states that there will be unmitigated impacts if we do not provide more housing.

Ms. Beck asked whether there is anything the Town can do to stop the development of the units mandated. Planning Director Pendoley said that, while many do not like the State mandate, the laws are getting stiffer. Ms. Beck suggested the Town do an EIR to provide for wetland species. Planning Director Pendoley explained that the draft updated General Plan policies protect wetland habitats and that the plan prohibits the fill of wetlands. Commissioner Schwartz recommended that a review of the draft updated General Plan will provide comfort for what one might read in the newspaper, but added that he is glad that the newspaper article did draw such interest in the Plan. Ms. Beck asked if there were an advocacy group she could join.

Commissioner Bailey asked staff to explain the consequences if the Town failed to meet the State's General Plan requirements. Planning Director Pendoley explained that the Housing Element is required, that it will dictate the number of units to plan for and the price at which they are to be available. The Housing Element must be submitted to the State for approval, and the Town can be sued for not having an adequate Housing Element. If this happens, the Town would have to prove that the State was wrong, and perhaps pay legal fees for the opposing side. Corte Madera is the only Marin municipality that has met goals of its Housing Element.

Commissioner Schwartz encouraged Ms Beck to contact her State representative.

Planning Director Pendoley presented the second half of his staff report, for which he used a slide presentation. He explained that this is the third hearing that the Commission has held on the draft updated General Plan, and there would be at least four more before the Commission can make a recommendation to the Town Council to adopt the plan.

He outlined the issues of Chapter 3, Resource Conservation and Sustainability. The Commission agreed to continue their discussion on Chapter 3, from the previous hearing, at which the Commission felt the Element was lacking clarity and enforcibility, metrics, and a wetlands definition.

He presented policy RCS 7.1 and suggested policy revision to read: "conserve restore and enhance areas containing important habitat, wetlands, and special status species." He asked the Commission for feedback and to list additional policies to be reworded. He asked the Commission to identify the programs that need metrics. He said that staff recommends as a rule of thumb to avoid metrics in the

draft update General Plan policies, but to put them in implementation programs as the implementation programs are introduced.

He reviewed the wetlands definition from the Town's 1989 General Plan, which offers nothing that can be measured. He said it is important to be able to determine where the wetland begins and ends. He said that the definition in the Zoning Ordinance is closer to science and a better measure, but it doesn't indicate how much vegetation is required to delineate. The USFWS definition includes a test, which includes more science with manuals, which are useful. Most local municipalities rely on U.S. Army Corps of Engineers definition, noting that they have jurisdiction over all wetlands in United States. He said that they do a delineation study to find exact boundaries, and have the expertise to properly delineate wetlands. This is the definition chosen in the staff recommendation in the draft updated General Plan.

He offered as background information that the Corte Madera Inn proposed a project to fill the lagoon and offered mitigation banking to mitigate the environmental impacts. The hearing was held September 13, 2005, and the Commission had previously asked to review the minutes from the hearing. Our General Plan says there is to be no filling of wetlands unless there is a safety issue, but the U.S. Corps of Engineers determined that the lagoon was not a wetland. The Commission agreed that filling should be allowed if the lagoon was not determined a wetland, but the opposition pointed out that the Town's Zoning Ordinance definition said nothing about the use of the U.S. Army Corps of Engineers wetland definition, and that the Town should use the definition in the Zoning Ordinance. He added that the Town of Larkspur has an option on the property by Black Kettle Lagoon to be used as their corporate yard to make way for Twin Cities police building on the November ballot. This is a wetland by U.S. Army Corps of Engineers delineation; but that the policy incorporated in the draft updated General Plan should give the Commission discretion as to how to apply mitigation measures. He added that this project may be before the Commission within the coming months.

Commissioner Schwartz commended Planning Director Pendoley on his staff report, and as did Commissioner Bailey, and thanked the public for their valued input. Commissioner Bailey said that wetlands definition is a complex issue, and that the way it factors into the draft updated General Plan cannot be decided by the Commission soon. He said there was a problem with the way the Corte Madera Inn Lagoon project was handled in that, because the wetland delineation was conducted by the developer's consultant, this inspired less confidence than had the delineation be conducted by a consultant hired by the Town. Planning Director Pendoley said

that staff recommended that the policies be redrafted to require that wetlands delineation rely on the U.S. Army Corps of Engineers regulation, that the Town hire the consultant, and supervise the preparation of the report. Commissioner Bailey said we need a clearer resolution. He could see that the Commission could decide to rely on U.S. Army Corps of Engineers definition, but that this could be problematic because the decision making process is clouded. He said he had no conclusion. He likes the uniform, previously interpreted case law base that the U.S. Army Corps of Engineers' language provides, but remains cautious that it may not end up in right result.

Commissioner Pagnillo agreed that this is one of the more difficult issues facing the Commission, and that the U.S. Army Corp of Engineers' definition is the cleanest of the options. But the definition still requires judgment. He asked about wetland setbacks. Planning Director Pendoley said that most wetland acreage is zoned open space, and that the Commission should decide what is the appropriate setback.

Commissioner Bailey asked if the Commission were guaranteeing problems with the current vague definition. Planning Director Pendoley that this issue will come up again where there will be very strong differences of opinion if we use the Towns current definition. Commissioner Pagnillo asked if setbacks should be part of draft updated General Plan. Planning Director Pendoley said the Commission should decide whether to do this, adding that it wouldn't be unreasonable, but it would be smart to leave room for discretion in setback policy.

Commissioner Schwartz addressed Planning Director Pendoley's suggestion of adding words "to conserve restore and enhance." He said we should identify resources and do a census. And regarding "restore and enhance," he said we should keep Reno, NV and Austin, TX in mind, as Corte Madera resources overtime have been lost. Part of the Town's charter should be restore and enhance based on what we used to have, in hopes of achieving potential recaptured resources.

Planning Director Pendoley said that the Housing Element has a detailed inventory, but that the General Plan EIR inventory is fairly generalized, which is appropriate. Commissioner Schwartz agreed that we want to have measurable policy statements, but do not want to box in the General Plan in areas where we haven't defined our resources. Planning Director Pendoley said that the Commission needs to list what should be defined.

Commissioner Bailey offered, as a conclusion the consensus is that specifics be limited to implementation programs. Commissioner Schwartz added we should have an ongoing report card.

Commissioner Pagnillo said some of this is very useful, but that we must first understand associated costs before we create more layers. Planning Director Pendoley added that there is a possibility of implementing a program that would establish a long range planning fee, a surcharge on permits that could fund implementation programs we are discussing. Commissioner Pagnillo said it sounds like another tax, which he's not big on. Planning Director Pendoley said that the tax is very interesting to the Town Council and it may raise funds to update the Zoning Ordinance, which is important so we can insure consistency with the General Plan. A habitat survey is another option, or a Sustainability Plan done as a collaborative with other jurisdictions in County with funding from the regional air quality control board. In this manner we can establish priorities for implementation programs. He said there should be more discussion on metrics, and more discussion with entire Commission present on the definition of wetlands.

Planning Director Pendoley asked the Commission to highlight policies to be stiffened at the next hearing on August 28, 2008, and that the draft Final EIR hearing could be Thursday, September 4, 2008.

MOTION: Motioned by Commissioner Pagnillo, seconded by Commissioner Bailey and passed unanimously to continue the hearing to August 28, 2008.

5. NEW HEARINGS

- A. 640 AND 654 OAKDALE AVENUE, LOT LINE ADJUSTMENT APPLICATION NO. 08-001, PHILLIP BORGHUS, RICHARD FOWLER (OWNERS)-To** allow a Lot Line Adjustment between two adjacent residentially zoned parcels. (Zoning: R-1 Medium-Density Residential District) (Planner: Dan Bell)

As Commissioner Pagnillo removed himself from the hearing due to conflict of interest, there were not enough commissioners present for a majority vote.

Motion: Motioned by Commissioner Bailey, seconded by Commissioner Pagnillo and passed unanimously to continue the item to the next regular meeting of the Commission.

6. ROUTINE AND OTHER MATTERS

A. REPORTS AND ANNOUNCEMENTS

i. Commissioners: None

ii Director: None

B. MINUTES

i. Planning Commission Minutes of July 8, 2008

Motioned, seconded and unanimously approved.

ii. Planning Commission minutes of July 31, 2008

Motioned, seconded and unanimously approved

7. ADJOURNMENT

The meeting was adjourned at 10p.m. The next regular Planning Commission meeting will be held August 26, 2008, and the next special Planning Commission meeting will be held Thursday, August 28, 2008 at Corte Madera Town Hall.