

**FINAL MINUTES
SPECIAL PLANNING COMMISSION MEETING
DRAFT UPDATED GENERAL PLAN
AUGUST 28, 2008
CORTE MADERA TOWN HALL
CORTE MADERA**

COMMISSIONERS

PRESENT:

Chair Bruce K. Mace
Commissioner Sloan Bailey
Commissioner Peter Schwartz
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 with the exception of Commissioner Pagnillo.

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 September 4, 2008. (Planner: Robert Pendoley).

Planning Director Pendoley presented the staff report for which he used a slide presentation. He said that the Planning Commission is holding hearings on the draft Updated General Plan, and that the noticing of the public hearings has been done. An

environmental review is required, and the Town has prepared a draft Final EIR for hearing on September 11, 2008. He reviewed the hearing and adoption process. The Commission has held 2 public hearings on the draft EIR in June, and there will be more hearings on the draft plan 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.

At the previous hearing the Commission discussed Chapters 3 and Chapter 5, with most of the discussion on Chapter 3, particularly the policy relating to delineation of wetlands. The Planning Commission is concerned that the language in this chapter be very clear, and a major focus of the discussion has been which definition should the Town use for the delineation of wetlands. Planning Director Pendoley explained that the Commission had also been discussing strengthening policy and considering the inclusion of metrics. He asked the Commission to list all policies that need consideration, similar to *RCS-7.1*, which he had presented to the Commission as an example of the strengthening approach in mind. He said that it would also be helpful if the Commission could identify which programs need metrics, adding that metrics are typically included in the implementation programs, but are not used in policies.

Regarding the wetlands definition, he said that the General Plan definition is too broad, that the Zoning Ordinance definition is better and more scientific, but that staff feels this is still too broad. He said that many jurisdictions rely on U.S. Army Corps of Engineers definition. Local wetland definition case studies include the Corte Madera Inn Lagoon fill project, and the Black Kettle Lagoon, which the City of Larkspur has an option to buy and develop into their corporate yard. He added that this would not be permitted under the Town's current General Plan. He said that in guiding development adjacent to wetlands, it is important to choose a wetland definition that enables staff to measure the wetland's edge in order to measure setbacks from the wetland. He concluded that the staff recommendation is to include the U.S. Army Corp of Engineers definition in the draft Updated General Plan. He suggested the staff report pause to allow focused public comment on Chapter 3.

Chairman Mace opened the public hearing.

Thomas Jackovics, neighbor and property owner on Lucky Drive, said that all of the residents of Lucky Drive are opposing the development of a corporate yard on the former Barcelino property and Black Kettle Lagoon. He clarified that he doesn't live there, but owns property.

William Gapoff said he lives across from Barcelino's, but was never notified of any plans to develop the property into a Corporate Yard for the City of Larkspur. He said he felt the Larkspur Corporate yard project would be a nightmare, with machinery running early in the morning, and that he came to tonight's hearing because he heard that the zoning might be changed. Staff and the Commissioners assured Mr. Gapoff that, as an adjacent landowner, he would be notified by the City of Larkspur of any applications regarding the property, and that the property was being suggested tonight only as an example because of its proximity to a wetland.

Scott Hochstrasser, land use planner and consultant, said that the Town's 1989 General Plan definition included associated uplands within its wetlands definition, which he felt was the widest definition ever. He added that the Zoning Ordinance definition creates a tremendous amount of controversy as it uses only hydric soils as an indicator. He said that, because it includes three parameters, the U.S. Army Corps of Engineers definition is best, most fair, just and equitable, and he encouraged the commissioners to accept Planning Director's recommendation to incorporate that definition in the draft Updated General Plan.

Commissioner Schwartz asked for input on other definitions. Planning Director Pendoley recalled Barbara Salzman's comments from previous public hearings, listing USFWS and BCDC definitions, and adding that the USFWS definition leaves no engineered boundary, whereas the U.S. Army Corps of Engineer's would.

Commissioner Esteb asked how it would work if the Town were to adapt the U.S. Army Corps of Engineers definition. Planning Director Pendoley said that the way it is written today, an applicant would be required to contract with a consultant to delineate a wetland. USACOE would then review and accept this or turn it back for revision. Planning Director Pendoley said that the change he would recommend is that it would be the Town's responsibility to contract with the consultant, and that the U.S. Army Corps of Engineers would review the delineation study.

Commissioner Bailey said he appreciated the background materials provided by staff, and had reviewed them all. He said that he felt the Town should not change the law unless there is a reason to do so. He clarified that the projects discussed tonight were intended as examples given to illustrate the application of specific policy, rather than to

suggest that the Town change the process to affect the outcome of future projects. He feels there is currently a flaw in the wetland project review process, but that things would improve if we change it in such a way that the Town retains the power to attain the delineation study, paired with a new definition.

Planning Director Pendoley added that the relevant draft Updated General Plan policy is *RCS-8.1*, which would recognize the U.S. Army Corps of Engineers as the permitting agency that delineates wetlands. He added that the policy should read that the Town shall be responsible for commissioning the initial wetland delineation study at the applicant's expense.

Commissioner Bailey said that he did not like the idea of pushing the cost onto the applicant. Planning Director Pendoley explained that the applicant would get the first right of refusal. Commissioner Bailey asked his fellow Commissioners if they felt that the Town should proclaim a public policy that is any more or any less protective.

Commissioner Mace said he felt that the Commission needed to come up with a policy to define wetlands with scientific analysis of whether or not a wetland exists in order to avoid conflict.

Commissioner Esteb said that he thought it was a matter of how the Town could stop the filling of wetlands. He said the Town should protect existing wetlands, not adopt policy that is more stringent or loose, but just define the borders.

Commissioner Schwartz said that he agreed with Commissioner Esteb. The issue becomes definition and delineation. Some of the three-pronged tests make it impossible to find that a property contains a wetland, and whether policy is too loose or too stringent becomes a balancing act. He said that the Town of Corte Madera started off as a large marsh, and the Town may want to recapture some of its lost natural wetlands. He said he has not come to a conclusion that the U.S. Army Corps of Engineers definition is the way to go. He asked staff for several examples of under which definitions, which areas would be considered wetlands.

Commissioner Mace said he favored the three-pronged approach of the U.S. Army Corps of Engineers definition, which allows for fluctuation of the three different characteristics. He appreciates Commissioner Bailey's not wanting to change a law unless there is a reason, but he feels there is a reason to change the law, and that it is important to get away from the two definitions that the Town has previously used.

Commissioner Schwartz said that Town's policies should encourage the restoration of natural resources. Planning Director Pendoley said a series of mitigation measures are included in the draft Final recommending changes to the draft Updated General Plan to encourage habitat restoration. He said that the Commission will need to consider whether to implement all of the mitigation measures.

Commissioner Esteb pointed out that the MCDS example of restoring their creek is a great example of this habitat restoration trend.

Ann O'Brien, of 111 Lakeside Drive and witness to the flood of 1982, asked if there is a plan component on flooding and paving over retention ponds, adding that she hopes this is an integral part of the Commissions conversation.

Planning Director Pendoley said that Chapter 7, Flooding & Floodplain Management of the draft Updated General Plan covers this topic, and is scheduled for discussion by the Commission at the September 4, 2008 hearing.

Commissioner Esteb added he lives near the marsh, and appreciates the Town's efforts to design public access to minimize disturbance, yet many dogs run in the marsh without leash. He would like to see enforcement of leash laws or a fenced marshland. He said that the Town's marshland has a regional draw for dog owners, yet it is a nature preserve.

Commissioner Schwartz said, in regard to additional policies that he thought should be amended in line with *RCS-7.1*, that the Commission should consider *RCS-7.2-4*, and perhaps *RCS-7.5*. Planning Director Pendoley said that there would be another opportunity to review mitigation measures at the hearing on September 11, 2008. Commissioner Schwartz said another example was *RCS-2.2g* regarding energy audits. He said that the plan should make this actionable by including deadlines. He added that all non-residential retrofit permits should include an energy audit. Planning Director Pendoley said he would investigate this possibility and report back to the Commission.

Planning Director Pendoley continued with the staff report on Chapter 5, which he said was an optional element of the General Plan. He said that the Town Council asked the Planning Commission to adopt a Community Design Element, and that the preparation of a design manual is one of main points of chapter. He asked the Commission to discuss whether policies *CD-1.2*, *1.3* and *1.4* provide sufficient guidance at the General Plan level for residential design review. He added that *CD-3* could be revised to include non-residential infrastructure, and that the Commission should consider whether Chapter 5 should be revised to include a category of goals, policies and programs to

apply to all development, and that this broader category could include *CD 1.5a*, *CD 3*, *CD 3.1*, *CD-3.2*, and *CD-6*. He also asked the Commission to consider whether the scenic corridor and view preservation policies should be linked

Chairman Mace asked for public comment.

Brooke Vos of 14 Granada Drive in Corte Madera, said she was confused about mixed use at the WinCup property and at the Village, and how it relates to scenic corridors. Planning Director Pendoley reviewed the process, and explained that developments at these properties are listed in the draft EIR as the mitigation measures to the jobs/housing imbalance, rather than General Plan goals. He explained that the Town Council has the option of adopting one or more of the alternatives as mitigation measures. Ms. Vos said that the San Clemente family housing project is three stories high and breaks the views. She said the General Plan map Figure 2.4 does not define high density, but she is concerned that three and four stories at the Village and Town Center will also destroy view corridors.

Planning Director Pendoley said there are three areas on figure 2.4 that indicate mixed use. He said that there are corresponding policies in the plan calling for community plans in these areas, and that these plans would look at mixed use development. He said that it is the community plans that will define the areas, adding that this is a 20-year policy.

Ms. Vos said she was anxious about the views, not the housing. The WinCup property has high density, and she has a resistance to developments being over two-stories. She said the Town ought to consider both long- and short-range views, and that tying them into park locations would be fabulous. She said that she appreciated that the Town was looking at community design.

Ann O'Brien, of 111 Lakeside Drive, asked about the impact that the development of the Niven Nursery building would have on traffic on Tamal Vista, which is gridlock. She asked if the Town was working with MMWD on resource capacity. Planning Director Pendoley said that the traffic section of the draft EIR contains a computer model of existing development, plus projects that are approved or about to be approved including the Niven Property. He said that the EIR also assesses the impact of this project on water service and added that this project would aggravate drought periods.

Ms. O'Brien asked the Town to encourage Larkspur to build their Corporate Yard on the Niven property.

Commissioner Mace closed the public hearing.

Commissioner Esteb said he thought the Commission needed to entertain further discussion on view policies, particularly long range versus short-range views.

Commissioner Bailey asked if the view discussion was part of this draft Updated General Plan process. Planning Director Pendoley said views are part of the General Plan. He added that in policies *CD* 1.1a, 1.2a, *CD*-2 and *CD*-3 there should be a parallel consideration between residential and commercial projects. He asked the Commission to consider policies *CD*-1.5 and *CD*-1.5a for strengthening.

Commissioner Esteb said he thought that view policies as a guideline could remain loose, and develop a more precise implementation program.

Commissioner Schwartz added that a volumetric projection of the view could be quantified in hours and duration if we want to go that far.

Commissioner Bailey asked if this guidance could be part of implementation program. The project at 6 Meadow Ridge in Corte Madera was recalled as a case that weighed many different factors, including whether the view in question was a primary view, and specifically how much view would be lost. Including specific view factors could strengthen the decision process, and the listing of factors to be considered allows for balancing by the decision body, which adds perspective. Commissioner Bailey said he is not in favor of specifying a trigger point, but that it is helpful to have tools and to list criteria. He said that he would hesitate to specify what the benchmarks mean.

Planning Director Pendoley said he would look more deeply into *CD*-1.5 and suggest criteria. Commissioner Mace said he thought privacy, sunlight and views should be included in general plan policy, as well as mass, articulation, views (long and short), and scenic view corridors. He also said the policy should lean on human factor for evaluation.

Commissioner Bailey said that he sees litigation about views frequently and sees that everyone loses. He said he remains cautious about being too specific. Planning Director Pendoley said he would explore the possibilities and return to the Commission.

Commissioner Esteb said with regard to *CD*-4.2 that he is an advocate of diversity, and feels that the policy as written to include "consistent design" could be misleading. He said he feels that applicants should be encouraged to diversify design, for example, in proposals including multiple buildings.

Commissioner Schwartz said that in regard to *CD-1.75*, the policy should be expanded beyond the roadway to include bicycle and pedestrian corridors such as High Canal and in Town Center. He said he is in favor of allowing for development, but with maintenance of view corridors.

Planning Director Pendoley reviewed the staff report on Chapter 6, Parks and Recreation Element, explaining that this element fulfills the State requirement to have an Open Space Element to the General Plan. The main discussion point is: How to balance between recreation and preservation in wetland areas. He recalled that Ms. Salzman was concerned about the Bay Trail and where it should be located in relation to Eastside wetlands. He asked whether the Commission felt that these policies are adequate.

Commissioner Schwartz noted on map figure 6.1 that several smaller parks were not included, and wondered whether Hill Path should be listed as park connector.

Commissioner Bailey referenced goal *PR-1.2* about remodeling the recreation center, and asked if this were intended as a general goal rather than specific plan circulated in the past. Planning Director Pendoley clarified that this a general goal, and that the Town has the authority to establish an ordinance to establish a park fee for funding.

Commissioner Bailey said that he was hesitant to recommend a fee unless there is clearly a need for the funds.

Commissioner Schwartz addressed *PR-1.1d* regarding turf maintenance and artificial turf, adding that, while it does extend the range of use, it doesn't act the way grass does in heat reduction, and that he felt Town policy should not encourage this.

Commissioner Bailey asked about avoiding heat islands and whether it had been addressed in the Plan. Commissioner Schwartz said that it had not, and that he would like the plan to include some reference point on heat islands. Planning Director Pendoley said he would explore ways to include this in Chapter 3.

Commissioner Schwartz said *PR-3.1b* is inconsistent with *RCS-9.2 a*. He added that in *PR-3.2.b* habitat protection should weigh more heavily than paving the bike path. He suggested that Chapter 5 be reorganized in scale from public down to local scale. He concluded that some adjectives might require definition, for example *CD-1.1* "distinctive."

Planning Director Pendoley called to the attention of the Commission the Table 1 Revisions Proposed to Date of the General Plan, and asked for comments or corrections. He also called attention to the September/October calendar.

MOTION: Motioned, seconded and passed unanimously to continue the hearing to September 4, 2008.

5. NEW HEARINGS: None

6. ROUTINE AND OTHER MATTERS

A. REPORTS AND ANNOUNCEMENTS

i. Commissioners: None

ii. Director: None

B. MINUTES: None

7. ADJOURNMENT

The meeting was adjourned at 10pm

The next Planning Commission Special Meeting is Thursday September 4 at 7:30 p.m., and the next Regular Planning Commission Meeting is September 9, 2008 in the Corte Madera Council Chambers.