

**FINAL MINUTES
SPECIAL PLANNING COMMISSION MEETING
DRAFT UPDATED GENERAL PLAN
SEPTEMBER 4, 2008
CORTE MADERA TOWN HALL
CORTE MADERA**

COMMISSIONERS

PRESENT:

Chair Bruce K. Mace
Commissioner Sloan Bailey
Commissioner Richard Esteb

STAFF

PRESENT:

Bob 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 Commissioners Schwartz and Pagnillo.

2. PUBLIC COMMENT:

John Robins of 46 Lucky Drive asked for a review of the process and criteria by which zoning changes are made.

Planning Director Pendoley explained that whenever zoning is changed it must be consistent with the General Plan designation. Black Kettle Lagoon is zoned Highway Commercial and the General Plan designation is Highway Commercial. The potential Larkspur corporate yard proposal is not consistent with the current Zoning Ordinance or General Plan, nor is it consistent with proposed General Plan, so the proposal would require an application for a General Plan and Zoning change to Public/Quasi-public land use. He added that the City of Larkspur has not as of yet applied for this.

Mr. Robin asked what criteria would be considered in such a decision.

Chairman Mace said that public input would be a significant criteria measured.

Larry Becker, who lives across the street from 111 Lucky Drive, said that he gleaned from tonight's comments that the Town of Corte Madera has no official knowledge of the City of Larkspur's plans for a corporate yard on the Black Kettle Lagoon property, but that he believes that the Town has entertained discussions of the project's potential for months.

Chairman Mace explained that there is a legally binding process for project review, which begins with the filing of the application. This has not yet happened. Mr. Robin wanted to clarify that City of Larkspur and the Town of Corte Madera have been talking about the potential project unofficially, yet the neighbors only found out about it a week ago. He said he found it upsetting that the Town says it's not their responsibility.

Commissioner Bailey reiterated that everything the public has to say is important to the Commission. He said that the neighbors are welcome to come to future hearings to remind the Commission of the importance of this issue. He asked Mr. Becker for specifics on what he alluded to as having been unofficially discussed.

Commissioner Esteb assured Mr. Becker that this project is no different than any other potential project in that issues can be discussed prior to the filing of any application.

Rhoda Becker of 44 Lucky Drive asked about the required setbacks for development that pertain to Black Kettle Lagoon.

Commissioner Mace said that the area has been determined a wetland.

Planning Director Pendoley said that current policy states that a wetland shall not be filled unless there is a public safety issue, adding that wetland buffers are currently determined on a case-by-case basis.

William Gapoff of 111 Nellen Avenue asked if anyone present this evening had ever been on a tour of a corporation yard. He said that they are a nuisance, and that it is wrong to put one here. He added that to him it sounds like the Town is ready to rezone the parcel to make way for the proposal.

Thomas Jackovics whose office is located at 101 Nellen Avenue, said that all neighbors he is aware of are opposing that development.

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 11, 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 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. 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.

He explained that tonight the Commission would discuss Chapter 7, Flooding and Floodplain Management, and Chapter 8, Public Safety and Hazards. These elements of the General Plan set the policy basis for things that the Town is already doing. Mr. Pendoley outlined the important policies and implementation programs in Chapter 7. He said that Policy *F-1.1* establishes policy basis for an ongoing planning process for flood control. *F-1.1.a* calls for a *Master Plan*. (The Town has completed Phase 1 of an updated Storm Drainage Master Plan, which should be complete by the end of the calendar year.) *F-1.1.c* calls for updating of the *Flood Control Ordinance*, Chapter 16 of the Municipal Code. Policy *F-1.4.b Flood Control Board* recognizes the Flood Control Board's role as advisor to the Town Council; *F-2.1.a 100-Year-Flood-Protection*, and *F-2.1b Reduce Flood Hazards* would continue the requirement that development comply with the Town's Flood Control Ordinance. Policy *F-2.2.b Landscaping Design Requirements* is a new strategy that would require the use of native plant species in drainage systems, and policy *F-2.3.a Infrastructure Improvements* is a program that specifically recognizes dredging as a necessary component of drainage facilities maintenance.

He explained that Chapter 8, Public Safety and Hazards is a required element in the General Plan to address fire, hazardous materials, seismic and other geologic hazards, and to meet the requirement to include a Noise Element in the General Plan. He said it is similar to Chapter 7 in that it codifies policies that have been in place for some time. He said that the policies and implementation programs for fire hazards include Sections 8.3 and 8.4.

Planning Director Pendoley asked the Commission to consider several specific fire prevention and emergency response policies, including policies *PSH-1.1.a Non-Combustible Construction*; *PSH-1.2.a Vegetation Management*; and *PSH-1.3.d Fire Hazard Building Code*, as the language was drafted in 2005 and since that time the policies have been substantially implemented with the adoption of the Wildland/Urban Interface Ordinance. He said that, regarding policy *PSH-1.1.b Development Review*, the Fire Department provides excellent service to the Planning Commission and staff reviewing development applications. Regarding policy *PSH-2.2.a Training for Town Employees*, the Town staff participates in annual drills responding to simulated disaster. Regarding policy *PSH-3.1.a Hillside Paths*, he said this program would have the Town assume improvement and maintenance responsibilities for additional paths. He cautioned that the implementation of this program has to be balanced with the need to limit the Town's liability exposure.

He also asked the Commission to consider several of the policies and implementation programs regarding noise. He said that policies *PSH 4.1* and *PSH 4.1.a Noise Studies Along Highway 101* recognize the largest source of noise in the community. The noise policies are a repeat of the existing General Plan. Regarding policies *PSH-4.1: Noise studies on 101* and *PSH-4.2 Avoid Noise Deflection Walls*, he said that the walls are controversial, and while Caltrans routinely installs noise walls on freeways near residential areas, many perceive that the walls exacerbate sound problems. The policy is aimed at alternative policy, but avoids mandating a specific solution. Policies *PSH 5.1*, *5.2*, and *5.3* would maintain the noise standards set forth in the 1989 Plan and Noise Ordinance. He added, however that the draft General Plan is more thorough in terms of explaining how policies are to be applied. He continued that Policy *PSH-5.6.a Update Noise Ordinance* would add technical and administrative changes, but basic standards would remain the same, and that policies *PSH-5.8* and *PSH-5.8.a Reduce Aircraft Over-flights* pertain to private helicopter flights landing on private property, which have been an issue in the past. This policy and program would give the Town a policy basis to address the issue if it arises in the future. He concluded that Geologic hazards are largely handled through the building code, and asked for questions from the Commissioners.

Commissioner Bailey asked for more information on the noise walls increasing noise along Highway 101. Planning Director Pendoley said that noise walls can bounce freeway noise uphill and focus noise to a certain location, and that sound can reverberate from them. Commissioner Bailey asked how this could be addressed in revised policy. Planning Director said Policy 3.2 says we are concerned, which gives the Town a basis from which we can begin to argue should Caltrans initiate the issue of installing noise walls along Highway 101 in Corte Madera.

Commissioner Esteb asked about *PSH-3.1.a: Hillside Paths*, and the ADA requirements. He said he could understand why the Town ought to maintain the pathways, but thought the Town should not be legally responsible for occurrences on them.

Planning Director Pendoley said that Commissioner Esteb's concern is a good explanation of the problem, adding that a sloping pathway couldn't be any steeper than 1' rise for 12' run, with a landing, which it is not practical here. He said the ADA allows for a hardship finding, but those can always be challenged. The answer is worked out on a case-by-case basis.

Commissioner Esteb asked whether the Town was equally responsible if it doesn't maintain the paths. Planning Director Pendoley said that it depends upon whether the Town owns the pathway, and that he would come back to the Commission with more information on a rewording of *PSH-3.1.a* to further address the liability issue.

Commissioner Mace opened the public hearing.

John Robins of 46 Lucky Drive said he wanted to commend the Town on the Black Kettle Lagoon property management. He said he lives nearby and that property adjustments could alleviate significant flooding. He asked whether the Town can do work outside their jurisdiction to fix things within their jurisdiction. Commissioner Mace said this is a good question for the Public Works Department, and encouraged Mr. Robins to check with them.

William Gapoff, said that the fact that the property floods should slow the interest in the development of corporate yard. He said that if the equipment floods, the City of Larkspur cannot help anyone.

Commissioner Bailey suggested we consider a quicker timeline than "ongoing" for Policies *F-2.1.a 100 Year Flood Plain* and *F-1.4.a* as they pertain to the insurance map issue. He asked how labor intensive for staff it would be to conclude whether a problem still exists regarding compliance with the Flood Control Ordinance. Planning Director

Planning Director Pendoley said that the U.S. Army Corps of Engineers has redone the flood map, that the draft is out, and that the issue is what would it take to implement policy *F-1.1c Flood Control Ordinance*. He said the ordinance is implemented by the Public Works Department, and he will investigate and report back to the Commission.

Commissioner Mace said that regarding section 7.2 Flooding and Floodplain Management Overview, the description of "subsidence" reads that things are "expected to remain," but he thought it should read "expected to get worse". In Section 7.7, the tidal barrier project has been shelved, and should be removed from the plan. Policy *F-1.4 Flood Control Board* reads "implement the latest climate change science." He said that, as new verbage, this needs strengthening". Commissioner Mace said there is ambiguity under *100 Year Flood Protection*, where the policy refers to "what falls under 100 year floodplain" but does not define what falls under it. Planning Director Pendoley said this issue would be addressed by policy *F-1.1.c*, which calls for an ordinance update, and clarified that the *100 Year Flood Protection* policy means to continue to implement Chapter 16 construction programs in the flood zone. He said he would go to the Public Works Department and return to the Commission with a report.

Commissioner Mace began the discussion on Chapter 8.

Commissioner Bailey said in regard to policy *PSH 2.1*, that the Recreation Center is listed as an emergency response center, yet it is lacking in ability to withstand a natural disaster. He wondered whether the Commission has the authority to enhance the building's ability to withstand a disaster. Planning Director Pendoley said that the Recreation Center would be an emergency shelter, and that he can come back to the Commission with a recommendation as to how to address this issue.

Commissioner Esteb said that in regard to policy *PSH-5.8.a Reduce Aircraft Over-flights*, he would prefer to have a helicopter flying overhead en route to the hospital than not be able to make it to the hospital on time. He argued that the traffic helicopter is more annoying, and that the noise levels generated by the garbage collection, and street sweepers, which begins at 5am is more annoying than noise generated in a construction zone.

Chairman Mace added that the hospital was not ranked as a trauma center with the ability to land a helicopter.

Planning Director Pendoley said that it is a good idea to provide something about helicopter noise in the General Plan, adding that he could work on language and return to the Commission. He said that the Town's ability is to limit private helicopter landings,

which require permits. Regarding garbage and street sweeping noise, it is important to consider that services are delivered so early in the morning for good reason, because of landfill hours, the all-day duration of the collection job, and to avoid traffic.

Commissioner Esteb said street sweepers come at 6am when resident's cars remain parked on the street until 9am.

Commissioner Bailey suggested the updating of Noise Ordinance. Planning Director Pendoley asked if the goal was to rework the language on over-flights to avoid a blanket policy, and said he would research the possibilities and return to the Commission with information.

Chairman Mace opened the public hearing.

Commissioner Mace listed his comments. He recommended for deletion "keeping fire extinguishers and outdoor hoses handy" in policy 8-4. As well as language regarding "fire extinguisher installation." He added that the Fire Department does site noticing, which is very helpful. Regarding policy *PSH-3.1.a Hillside Paths*, he said the Town could improve signage, but cautioned against increasing the Town's responsibility for the paths.

Commissioner Esteb clarified that noise studies were required to avoid noise coming into the buildings, and questioned whether this should be left to building owners. Why require something that it a personal decision. Planning Director Pendoley said he will investigate this and return to the Commission, adding that this may be an important mitigation measure in the EIR, which means CEQA findings will be harder to make.

Brooke Vos at 14 Granada requested the opportunity to discuss other chapters in draft Updated General Plan. She said that she wrote a letter, which she handed to staff and the Commissioners. She is concerned that the documents have clarity and wants to ensure the Commissioners have discretion in project review. She said that land use and community design should fit together as a puzzle, not step on each other.

Commissioner Mace commended her for her depth of analysis and thanked her for her letter. He said he appreciated her question regarding the mixed use and explained that we are looking at alternatives. Commissioner Mace thanked Ms. Vos for her comments regarding General Plan consistency, and added that consistency is required but that due to the volume of the policies, things get missed.

Ms. Vos said she remained confused about the mixed-use zoning in the draft Updated General Plan. Planning Director Pendoley explained that existing zoning is consistent with the General Plan mixed-use designation. Within these areas designated for mixed-use, policy will be changed as a result of community plans adopted in the future, which will likely be adopted as part of the General Plan. Ms. Vos said it would be a shame to try to be more conservative on future development review than they were reviewing policy for inclusion in the General Plan. She applauded the Commission in what they did, adding that they are very thorough.

Motion: Motioned, seconded and passed unanimously to continue to the hearing to September 18, 2008.

Mr. Gapoff handed the staff and Commission a report on spot zoning for their review.

5. NEW HEARINGS: None

6. ROUTINE AND OTHER MATTERS

A. REPORTS AND ANNOUNCEMENTS

i. Commissioners: Commissioner Esteb acknowledged the new story poles at Bank of America, which staff had followed up on. Commissioner Bailey asked for input on undergrounding of utilities.

ii. Director: None

B. MINUTES

i. None

7. ADJOURNMENT

The meeting was adjourned at 9pm

The next Planning Commission Special Meeting is Thursday September 11 at 7:30 p.m., and the next Regular Planning Commission Meeting is September 9, 2008 in the Corte Madera Council Chambers.