

**FINAL MINUTES  
SPECIAL PLANNING COMMISSION MEETING  
DRAFT UPDATED GENERAL PLAN  
SEPTEMBER 11, 2008  
CORTE MADERA TOWN HALL  
CORTE MADERA**

**COMMISSIONERS**

**PRESENT:** Chair Bruce K. Mace  
Commissioner Sloan Bailey  
Commissioner Peter Schwartz  
Commissioner Richard Esteb  
Commissioner Patrick Pagnillo

**STAFF** Bob Pendoley, Planning Director  
**PRESENT:** 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:** None

**5. NEW HEARINGS:** None

**A. DRAFT FINAL EIR** - This is a public hearing to receive comments on the draft Final EIR. The Commission will consider comments received at the public hearing and in writing and may direct staff to make changes to the draft Final EIR before adopting a resolution forwarding the draft Final EIR to the Town Council. (Planner: Robert Pendoley).

Planning Director Pendoley presented the staff report for which he used a slide presentation. He explained that this is a public hearing on the draft Final EIR. The Draft EIR was released on April 14, 2008. The comment period closed on June 24, 2008. The Planning Commission held public hearings on June 10 and June 24, 2008. At

the conclusion of the hearings the Commission had received considerable public testimony and 10 written comments. The Commission has directed staff and the consultants to prepare a draft Final EIR. On August 31, 2008 the Town advertised a public hearing to take comments on the draft Final EIR on September 11, 2008. Written comments on the final draft EIR will be accepted through September 15, 2008. The Commission may revise the draft Final EIR before adopting a resolution forwarding the document to the Town Council, which, provided the Commission is ready, is scheduled for October 2, 2008. As the Lead Agency for the General Plan update project, the Town Council will consider the draft Final EIR at a public hearing and may revise the draft Final EIR before certifying it.

Responses to comments on a Draft EIR be good faith, well-reasoned responses. The Lead Agency must respond to significant environmental issues, and is not required to provide all of the information requested by reviewers as long as the EIR makes a good faith effort at full disclosure. The Final EIR must include a list of persons, agencies and organizations that commented on the draft EIR, copies of comments received, and responses to the comments. A Lead Agency must provide a copy of its response to a commenting public agency at least ten days prior to certification. Commenters were notified of the public hearing on August 30, 2008. The draft Final EIR was distributed to commenters on September 4, 2008. Commenters were advised that the deadline for submitting written comments on the draft Final EIR would be September 15, 2008.

Planning Director Pendoley explained that the California Environmental Quality Act (CEQA) requires that the Town prepare a Final EIR responding to all environmental comments received on the Draft EIR, and certify the Final EIR before adopting the General Plan. He said that CEQA contains no requirement that the Lead Agency hold hearings on either the Draft EIR or the draft Final EIR, but it is the Town's practice to hold hearings on both.

As Lead Agency, the Town Council must certify that the Final EIR was prepared in compliance with CEQA, that the Final EIR was presented to the Council, that the Council reviewed and considered the Final EIR before adopting the updated General Plan, and that the EIR reflects the independent judgment of the Town Council.

The Town Council must make written findings of fact for each significant environmental impact identified in the EIR in order to support its decision to adopt the updated General Plan. Each finding must contain an ultimate conclusion regarding each significant impact, substantial evidence supporting the conclusion, and an explanation of how the substantial evidence supports the conclusion. Each finding must state that the project has been changed (changes may include adoption of a mitigation measure

or avoiding or substantially reducing the impact). If the Lead Agency cannot make findings for one or more impacts, it must find that the changes are not within its purview or that specific economic, social, legal, technical or other considerations make the mitigation measure or alternative infeasible.

He concluded that the purpose of this public hearing is for the Planning Commission to consider comments received on the draft Final EIR at the public hearings and in writing, and to evaluate staff's corresponding responses to comments in the draft Final EIR in order to determine the adequacy and completeness of all of the responses. The rule of adequacy is that the draft Final EIR must show a good faith effort at full disclosure of environmental information, and that it must provide sufficient analysis to allow decisions to be made regarding the project in terms of its environmental consequences.

Commissioner Mace clarified that the Commissioner's job was to determine if the draft Final EIR is adequate and complete, and that a good faith effort has been made of full disclosure.

Commissioner Esteb asked who determines impacts and their resulting level of significance. Planning Director Pendoley explained that some of the thresholds set forth in the draft Final EIR have a significance standard measured by the State, while for others, the threshold is set locally.

Commissioner Mace asked about the timeline, and whether the hearings on September 18 and October 2, 2008 have been noticed. Planning Director Pendoley affirmed, adding that the responses brought up tonight will be responded to by the October 2, 2008 hearing.

Brooke Vos, of 14 Granada in Corte Madera handed out a letter she had prepared. She said she thought that deleting Town Center from a regional center status was a significant change, adding that what was commented on at previous hearings is different than what is proposed now. She recommended a supplemental EIR be prepared to address the new information. She referred to Table 3.0, specifically "existing year" and "2025 projected build out", and said that each of the numbers is very different, adding that changes in density cannot reduce density as a mitigation measure. She suggested that the Commission keep it to a policy, but don't add a number. She also asked if traffic analysis was biased or coming directly from Town. She said she thought that this was not a good faith effort at full disclosure, and that the public has not had an opportunity to comment on the fluctuation. She would like to see finalized revisions and have a supplemental EIR, adding that alternative 4 has not been analyzed at all.

Commissioner Schwartz asked for clarification on what she is looking for, specifically whether the draft Final EIR comments were out of sequence with the General Plan adoption process.

Planning Director Pendoley clarified the process. The Commission has held hearings and made comments and revisions. Staff will come back to the Commission with the revisions. The Commission will determine if the revisions are adequate and complete, and if they are consistent with the General Plan considering all of the changes that have been made today.

Ms. Vos argued that, by changing the project description, you change the analysis.

Chairman Mace said he most appreciated Ms. Vos' comment in her document submitted at the hearing August 28, 2008, from which he read that she "opposes high density development in Corte Madera." He said it seemed to be the gist of what she is saying.

John Roberto, a planning and environmental consultant, offered to shed some light by addressing the issue. He stated that the Town has prepared a draft updated General Plan for which a Draft EIR was prepared, which generated mitigation measures. The Town held hearings on the Draft EIR and concurrent hearings on draft updated General Plan. He said the CEQA has been amended so jurisdictions will not get caught in a circle of reviews, and now reads that once an EIR is certified, if the project description changes and, though an EIR may not address something the Lead Agency did not address during the process, the Town would not have to redo the EIR provided that the Town had already identified the project's impact as significant. In other words, if there are no new significant impacts, or the impact was already significant, the Town would not have to redo the EIR.

Ms. Vos said that the change in the number of housing units between alternatives constitutes a big change.

Planning Director Pendoley explained that "big change" is measured in terms of impacts. The net affect of the alternatives is that impacts are actually reduced because increases in housing result in less commercial development. He added that it is up to the Commission to decide if someone has presented information to the Commission to the contrary.

Commissioner Esteb asked for clarification on the issue of "significance" saying that, for instance, the General Plan implementation would result in a greater amount of bicycle and pedestrian activity. He said that is difficult to measure whether this is significant,

but if so, the Town could mitigate by adding more paths. Planning Director Pendoley said that the point is that the Town must provide substantial evidence, and that in the situation, most towns rely on a standard level of significance defined by CEQA. He said he could return to the Commission with a report to further explain this if it would be helpful.

In regard to response to comments, Commissioner Schwartz asked for a delineation of actual CEQA issues versus policy questions that are outside of CEQA. Planning Director Pendoley said that the purpose of responding to comments is to set the record straight. For example, the job housing balance is a CEQA issue. He added that he has made a table of Commissioners' comments, and offered to make a table of non-CEQA comments.

Commissioner Bailey said regarding responses to comments on the draft EIR, that he felt the Commission should send a message to the Town Council that from the hearings, the Commission has received as a universal sentiment in comments that less development is desirable.

Commissioner Schwartz said he had received comments on both sides.

Planning Director Pendoley offered that this sentiment was likely not offered as a CEQA comment, rather it was likely observed at the General Plan hearings as part of resolution in forwarding the General Plan.

Commissioner Mace said he liked the concept of attaching verbiage in the introduction to the Council. Planning Director Pendoley said the appropriate approach is to put this in a resolution on the General Plan.

Commissioner Bailey referred to important instances in the responses to CEQA comments, for example the Audubon Society letter, where the response simply states that "this comment is in response to the General Plan". He said he would like to insure these comments are not forgotten.

Planning Director Pendoley agreed that the Commission should consider all comments received at hearings, and these can be compiled in other formats for Commission review.

Commissioner Bailey said he is not sure that the response is adequate in instances where the response says generally that problems are due to problems beyond the Town's control, for instance in Letter A from Caltrans and similarly Letter E.

Commissioner Bailey said someone needs to accept responsibility. He said it is more appropriate to say "the Town continues to work with Caltrans as issues come up." He said he does not disagree with the analysis, but that we ought to do something administratively to remind ourselves of these important comments.

Planning Director Pendoley said that if Commissioner Bailey feels the responses to letters A and E are inadequate, he could more fully explain the issues and report back so the Commission can determine whether the response is adequate. He asked the Commissioners to consider how far they want to go in addressing these issues in the General Plan.

Commissioner Bailey said he likes the idea of the introduction letter, but that there is a misunderstanding in that the draft is programmatic, and does not particularize anything. While approval of the EIR is not approving a particular development project, the EIR does provide framework. Letter C Audubon letter #4 commented that the draft EIR does not evaluate specific projects, though a significant addition to the EIR is Alternative 4, and there has been little discussion of this. He asked whether the Commission should we be talking about this

Planning Director Pendoley said Alternative 4 is useful but not required

Commissioner Bailey said regarding Response F-5 unavoidable significant impact, that he is untrusting of assumptions made regarding traffic levels. He said that he cannot grasp what the cumulative exponential effect on traffic will be because we do not know which options will be taken. In our proposal we should explain this, and that we have heard this concern from the public, and that we are concerned.

Commissioner Schwartz agreed that it is hard for computer models to adequately simulate the cumulative effects of development on traffic, which the Commission should explain in a cover letter to the resolution.

Planning Director Pendoley asked the Commission to consider how they want to see the findings of fact cast. He said he thinks that what the Commission is saying is that there are a number of things that will result in substantial changes to traffic patterns, and that the Town must watch them closely. The draft Final EIR states this. Since we don't know which pattern will be played out, as others will make the ultimate policy choice, the situation calls for close monitoring and careful implementation of the mitigation program. In findings, the Commission could call attention to this by pointing out that this is a program EIR and anticipates an additional EIR will follow implementation projects.

Commissioner Schwartz said that he gleaned from the comments received at the hearings that the Housing Element is important to citizens, and that this sentiment should also be passed along to the Council.

Commissioner Mace said he does feel that the CEQA issues are being addressed, but that he would appreciate staff's tabulation.

Planning Director Pendoley said that, because the process requires that all public agencies must receive a response to their comments 10 days before certification, and that the Town asked for written comments by September 15, 2008, which satisfies CEQA, any public agency comments received from this point forward will come before the Commission at the October 2, 2008 hearing. He also said that the hearing on September 18, 2008 would address Chapter 3 revisions.

The Commission closed the public hearing.

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

### **A. REPORTS AND ANNOUNCEMENTS**

**i. Commissioners:** None

**ii. Director:** Town Council will take up issue of the Red Oak at the next meeting.

**B. MINUTES:** None

**7. ADJOURNMENT:** The meeting was adjourned at 9pm

The next Planning Commission Special Meeting is Thursday September 18 at 7:30 p.m., and the next Regular Planning Commission Meeting is September 9, 2008 in the Corte Madera Council Chambers.