

**FINAL MINUTES
REGULAR PLANNING COMMISSION MEETING
JANUARY 13, 2009
CORTE MADERA TOWN HALL
CORTE MADERA**

COMMISSIONERS

PRESENT:

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

STAFF

PRESENT:

Bob 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 the Commissioners were present with the exception of Commissioner Pagnillo.

2. PUBLIC COMMENT: None

3. CONSENT CALENDAR: None

4. CONTINUED HEARINGS: None

5. NEW HEARINGS

- A. 17 CONSTITUTION DRIVE, DESIGN REVIEW APPLICATION NO. 08-039 ALAN HAKIMI AND RACHEL STONE (OWNERS), RUSHTON-CHARTOCK (ARCHITECTS)-** To allow one and two-story additions to an existing one-story single family home. (Zoning: R-1 Medium-Density Residential District) (Planner: Dan Bell).

Senior Planner Bell presented the staff report for which he used a slide presentation. He explained that the applicant is requesting Design Review approval to construct a 79 sq. ft. first story addition to the kitchen and a 647 sq. ft. second story addition for a Master Bedroom, Bath, and Study over the garage. The project complies with all setback,

height, FAR and lot coverage requirements for the R-1 District. He provided a slide showing the story poles, and explained that the property is on the downhill side of Constitution Drive and shares the rear property lines with downhill parcels on Enterprise Drive. The neighborhood is characterized by one and two story single-family homes.

The architecture of the proposed second story addition is generally compatible with the existing design of the residence, with siding and roof material to match existing. The second story addition is located over the two-car garage which is setback back over 48' from the street. The addition incorporates a four-sided hip roof design to lower bulk and mass and reduce the potential for adverse impacts to views, sunlight and privacy. The second story wall has been recessed from the existing first story wall along the left side property line, which provides an interesting roofline. The interior has a vaulted ceiling with a lowered plate height, which reduces the overall height of the second story to only 23' at its peak.

The proposed second story addition would not result in any significant privacy impacts as window sills along the left side property line have been raised. The proposed second story should not pose any adverse view impacts to either adjacent residence on Constitution Drive as the primary views are out toward the rear property lines. Shadow casting from the new two-story addition would be quite limited to early morning and late afternoon and only slightly affecting properties at 13 and 21 Constitution Drive.

He concluded that staff feels the proposed second story addition is harmonious with the existing residence and the general character of the neighborhood, and that no significant adverse impacts result from the proposed design due to the low profile of the second story, high window sills and the steep topography.

Commissioner Esteb asked for clarification regarding the rear setback listed as existing 41' and proposed 31' as the proposed kitchen is only a 7' extension, and the trellis does not count. Senior Planner Bell said the calculations do include the trellis, but that the trellis is permitted to be up within 19' of the rear property line, which could account for the 10' difference.

Chairman Mace called for a presentation from applicant

Mark Simms from Rushton-Chartock Architects said that staff had provided a complete presentation. He added that the genesis of the design came from the growing family, and the wish to not disrupt views. The goal was to use the space over the existing garage to minimize the impact of the addition on the existing floor plan.

Commissioner Bailey asked if the applicant had made any effort to contact the neighbors. The owner said that they had, but that no one was home when they tried and that they have not been approached by any neighbors.

Commissioner Esteb said he has no problem with the design.

Commissioner Bailey, Mace and Schwartz agreed.

MOTION: Motioned by Commissioner Esteb, seconded by Commissioner Bailey and approved unanimously to approve Design Review Application No. 08-039 to allow one and two-story additions to an existing one-story single family home at 17 Constitution Drive.

Planning Director Pendoley read the appeal rights.

B. 127 GROVE AVENUE, TENTATIVE PARCEL MAP APPLICATION NO. 07-001 and ENVIRONMENTAL ASSESSMENT NO. 08-002, WEBER TRUST (OWNER)-To reconfigure and subdivide two existing residential lots for a four-parcel residential subdivision. (Zoning: R-1 Medium-Density Residential district) (Planner: Dan Bell).

Senior Planner Bell presented the staff report for which he used a slide presentation. He explained that the applicants are proposing a Tentative Parcel Map to reconfigure and subdivide two existing residential parcels into four residential parcels. The existing residence at 127 Grove Avenue would remain, while the other structures on the site would be removed. Three vacant parcels would be created for future residential development. The minimum lot size is 7500 sq. ft. in this zoning district, and each of the four parcels would meet or exceed this.

Lot 1 is the largest and contains the existing single family home. Lot 1 would gain direct access via an existing Corte Madera Avenue driveway and a common driveway connecting to Grove Avenue. Lot 2 with 7,592 sq. ft. would front directly onto Grove Avenue. Lot 3 is 8,822 sq. ft. and would gain access to Grove Avenue via a new driveway easement over Lot 1. Lot 4 with 8,019 sq. ft. would front directly on Grove Avenue.

The site is surrounded by single-family residences on lots similar in size to the proposed lots, and the proposal conforms to the Town's General Plan and Zoning Ordinance. The proposal is also consistent with the Corte Madera Housing Element, Objective No. 3, which addresses "in-fill development" and states as a goal to "Use Land efficiently to Meet Housing Needs and to Implement Smart and Sustainable Development Principles".

He noted that the Project does not include the review and approval of the design and construction of the future 3 homes. The potential building envelope and driveway access locations are being reviewed only in the context of analyzing the appropriateness of the Tentative Parcel Map. The potential building envelope does not imply that the future building footprint would cover the entire envelope; rather it is a “not-to-exceed” area within which the building footprint would later be determined at time of Design Review.

He explained that an Environmental Initial Study was prepared for this project, which found that the Tentative Parcel Map would not have a significant adverse impact on the environment and, therefore, concluded that an Environmental Impact Report (EIR) is not required. A Mitigated Negative Declaration is recommended for adoption by the Planning Commission.

He said all four lots would be served by existing roadways or a new on-site roadway easement. The new roadway easement, of hammerhead design, would also serve emergency vehicle access and provide the necessary fire truck turn-around area on Lots 2 and 3. Should the Tentative Parcel Map be approved and the Final Parcel Map recorded, a binding private roadway maintenance agreement would be required between future property owners. No new sidewalks would be required as sidewalks are not customary here, and there is not a policy to develop sidewalks over time.

The proposed building envelope locations are uphill sites. A Geotechnical and Geological Feasibility Study was completed for submittal of the Tentative Map Application. The study concluded that “there are no significant hazards at the project site that pose a significant constraint to development”, and recommends that as preliminary plans are developed, a geotechnical investigation including subsurface exploration be performed to provide site specific recommendations for the project.

All necessary utilities for the four proposed lots are available in the neighborhood for future direct connections. Any and all necessary utility easements over the new lots would also be required as part of the Final Parcel Map.

Senior Planner Bell explained that an independent environmental consultant was contracted to prepare the Environmental Initial Study to analyze the proposed Tentative Parcel Map. The consultant concluded that the project would not be a significant impact because all environmental factors could be adequately addressed through existing and imposed regulatory controls or mitigation measures. Potential significant environmental impacts included air quality, Biological Resources, Cultural Resources, Geology/Soils, Hydrology/Water Quality, and Transportation/Traffic. The consultant concluded that these categories could be mitigated to a less than significant level; therefore a Mitigated Negative Declaration has been prepared. The Negative Declaration references the

project's geotechnical report. In accordance with CEQA, a Mitigation Monitoring Program (MMP) has been prepared, and is found in Table 4 on pages 41-44 of the Mitigated Negative Declaration Document. In accordance with CEQA, the Notice for the Initial Study/Negative Declaration document was posted and circulated for a 30-day public review. He said the Town has received no responses to that document.

Senior Planner Bell said staff has received five letters of concern and opposition, which share several common themes regarding the narrow width of Grove Avenue, the lack of available parking and a concern for increased traffic caused by three new lots. He concluded that the proposals density and frontage on a narrow street is not dissimilar with other hillside neighborhoods in Corte Madera, and conforms to the Town's General Plan, which encourages infill development. The Mitigation Monitoring Program would be incorporated as part of project approval.

Commissioner Bailey asked if there was an easement on the north edge of the property, as mentioned in 2 of the emails received. Senior Planner Bell explained that no easement is located on the subject property, though the adjacent northerly parcel may have an easement.

Commissioner Esteb asked whether the existing house has a second unit (applicant later answered).

Commissioner Schwartz asked what is the area of existing house. Senior Planner Bell did not know but explained that the house could be up to 6200 sq. ft. and still not violate the Town's FAR requirement.

Chairman Mace said that the land area of Lot 3 appears to front on Grove Avenue, and asked for clarification regarding whether the front property line would continue to front on Grove Avenue with the creation of a new lot fronted on Corte Madera Avenue. Senior Planner Bell said the house historically fronts on Grove Avenue and would continue to, but added that the property meets required setbacks regardless of which frontage is deemed the front property line.

Chairman Mace asked about the net area as determined with the area of the easement excluded. Senior Planner Bell explained that the only easement is the driveway and the hammerhead turn-around that would be subtracted (roadway, walkway, waterway easements are excluded, but not sewer easements).

Commissioner Schwartz asked about the existing driveway off Corte Madera Avenue, and the appropriateness of redirecting additional Lots to access off Corte Madera Avenue. Senior Planner Bell explained that only Lot 1 would access off Corte Madera Avenue, as the Department of Public Works had listed as a condition that only the

existing house at 127 Grove Avenue be permitted to access off Corte Madera Avenue listing safety, traffic and visibility concerns.

Commissioner Mace asked if the Planning Commission's role at this hearing was ministerial. Planning Director Pendoley said that it was discretionary.

Scott Hochstrasser, planning consultant to the Weber family, said staff had done an excellent job with the staff report. He added that the main house is 3,700 sq. ft., with a maid's quarters downstairs. He requested two minor changes to the project Conditions of Approval. He asked that condition #3 on page 4 under Tentative Map Expiration, which calls for recording of the Final Parcel Map within 1-½ years of approval of the Tentative Map. He asked that this be amended to read within 24 months, consistent with current Subdivision Map Act. He also asked that item #14 on page 5 be omitted, as this property is not subject to requirement for Watershed #6 development fees. He said he had reviewed the 5 neighbor letters, and had broken them down into issues including pedestrian access, seismic concerns and traffic. He said this project does not include a pedestrian access easement; a seismic study is included and consistent with Mitigation Monitoring Program; and that diverting traffic onto Corte Madera Avenue is an option for construction, though not ultimately the homes. He reminded the Commission that this is a land division of two lots into 4, and would not result in the creation of an additional 3 lots. He disagreed with the concerns regarding the loss of estate value, arguing that they strive to preserve and protect estate quality of the lot by providing a large parcel.

Cece Bonfiglio of 105 Grove Avenue said she is concerned with parking because there is none. She said she would prefer that the Weber house not have access on Grove Avenue. She said parking for Lots 2 and 4 are of the most concern, as one can't park in the cul-de-sac. She said she hopes for underground utilities, and concluded that there is a lot of subsurface water in the area, and that she has a well in her backyard.

Bonnie Frank of 116 Grove Avenue said there are 25 small children in this neighborhood, which is characterized by small yards, a blind corner, traffic and a fire safety hazard. She said there is no turn around without making a cut into a driveway, and that trash and recycling trucks come up the street backwards. She said that existing conditions indicate a narrow and overly dense street, that neither she nor any neighbors received a notice as required by CEQA, and that she is objecting to the proposed subdivision. She said that the Weber's have been illegally renting their second unit in the main house for years, and that she is concerned that traffic would drive through Grove to get to Corte Madera Avenue.

Suzann Nordrum of 100 Grove Avenue said she seconds the comments of Mrs. Frank and Mrs. Bonfiglio. She said she wants the Town to plan not to have high traffic, and to include parking as a development stipulation.

Gloria Ghiraducci of 134 Grove Avenue said her concern is the parking. She said there is currently no parking, and that the street is already overloaded.

Alan Bear of 116 Grove Avenue underscored the impact of the garbage trucks backing up the street, adding that the hammerhead is needed at the end of Grove Avenue for turn around. He said that after a hard rain, water tumbles down the Weber driveway, as it is a high point. He said he can't imagine 4 homes, three maybe, but that a less dense project is needed for traffic and parking considerations. He said he appreciated the construction traffic routed off of Corte Madera Avenue.

Jesse Nordrum of 100 Grove Avenue said the parking situation is so limited that if anyone has a guest, they must walk.

Guy Benstead of 425 Corte Madera Avenue said there is a legacy pedestrian access path connecting Corte Madera Avenue to Grove Avenue. Corte Madera Avenue is an unsafe way to walk to school, and it would be great if the pedestrian easement could be maintained, as it is now overgrown. The proposed driveway if it connects Grove Avenue to Corte Madera Avenue needs to be monitored to block through traffic. He has concerns regarding giving another house access to that Corte Madera Avenue driveway, as it is an unsafe corner on Corte Madera Avenue. He said he thought that even a construction staging area on Corte Madera Avenue is problematic. He asked if there were any heritage trees on site.

Mrs. Bonfiglio said one currently could not make it out onto Corte Madera Avenue from this driveway.

Rosemary Alfont of 141 Grove Avenue said she sees all of the people turning around at the end of Grove Avenue, and can't imagine more traffic coming up there. There are already so many on that small street. She said traffic is terrible, and that she agrees with all her neighbor's comments. It helps to have Corte Madera Avenue, but something needs to be done to ease adverse conditions.

Mr. Benstead suggested the Grove Avenue cul-de-sac could be widened.

John Lynch of 27 Grove Avenue said that the traffic and narrowness and parking issues are impeding the street's ability to continue to serve the community that already lives there.

Rich Narlock of 24 Grove Avenue said that the area couldn't accommodate 3 more houses. If there is a way for cars to get from Corte Madera Avenue to Grove, then he is concerned that people will shortcut to Grove Avenue, which is already bursting at the seams.

Grier Mathews of 20 Grove Avenue said that much of neighborhood traffic now consists of people trying to shortcut off of Camino Alto (Corte Madera Avenue). It is not safe now, and too dense.

Mr. Hochstrasser said that the Webers do not presently have on-street parking in front of their property. Each lot created would have on-site parking. The project provides two driveways for these two lots, and could relieve traffic and parking pressure. He said the project also provides adequate on-site fire turn around. He said there is no potential for people driving through from Corte Madera Avenue to Grove Avenue, as Corte Madera Avenue access is restricted for Lot 1 only as required by the Public Works Department.

Commissioner Schwartz asked if the applicant had considered creating access for Lot 3 in a more suitable manner, as what is proposed is steep and on a curve. The applicant said they had not.

Commissioner Bailey asked of the consultant from Garcia and Associates whether the Negative Declaration includes the traffic issue. He asked whether the project would cause an increase in traffic in relation to existing, and how the matter was analyzed.

Liz Bartelt, of Garcia and Associates said the CEQA guidelines require mitigation for substantial impacts. She said the project adds a net 2 residences, and that Trip Finder provides an estimate of a maximum of an additional 10 trips per day per residence. For 2 additional residents, the 20 trips per day represents an increase of 8 percent linear density, which is in keeping with other streets in the vicinity. Ms. Bartelt said that there is some impact, but that it is not significant.

Commissioner Schwartz asked about empirical data. Ms. Bartelt said the applicant did not perform a traffic study for this project.

Mr. Hochstrasser said that CEQA states that if there is no impact, there is no requirement to do further study. He argued that there is no nexus between this project and the comment that someone's dog had been run over. He said that the applicant has agreed to pay a traffic mitigation fee and a public works street impact fee where there is no nexus to require one. Note: These are standard development fees for all new development.

Commissioner Bailey asked about the 8 percent linear density. (Chairman Mace says he calculates 12% based on number of homes on street). Commissioner Bailey asked at what level does the addition become what the street can handle, and is that based upon the number of homes, or the number of young families.

Mr. Hochstrasser said that the Town's General Plan and Zoning Ordinance are based on an acceptable level of traffic impact which fits within set goals, and that this set the stage for what is now allowed. He said this project represents the right thing to do with large lots.

Planning Director Pendoley said CEQA provides for the consideration of traffic, but there is not quantified standard for a small-sized project. This project represents an 8% increase in linear density. For this street, it is important to look at comparable streets in immediate area. Most are of this caliber or narrower. He added that narrowness has the advantage of slowing traffic down.

Commissioner Schwartz asked about hydrology under significant precipitation, and periodic flooding. He said lot coverage would be moving to impervious cover, putting more water onto roadway, but the environmental review ranked this issue as less than significant.

Ms. Bartelt said the two issues are whether public works would be able to accommodate surface runoff, and is this significant. She said the Commission is now looking at subdivision, and that the grading plan addresses the hydrology. The trigger for this hydrologic review is at the building permit stage, where the grading and drainage plan shows collection and what the system can handle, or whether improvements can be made to handle it.

Commissioner Bailey asked about Mrs. Frank's comment about not noticing neighbors. Senior Planner Bell said he personally sent notices out December 1, 2008, and that it was a joint notice for the Tentative Parcel Map and for the environmental assessment to all property owners within a 300' radius, including the Frank/Bear property.

Commissioner Esteb said that he appreciated the traffic comments. He said that the property owner has a right to divide his property, and that this proposal fits with the Town's infill development policies. He said he would like to have Lots 1 and 3 access off Corte Madera Avenue and Lots 2 and 4 access off Grove Avenue, with no connection between the two, thus eliminating any increase in access off of Grove Avenue in an effort to balance issues. He said he would also consider the option of limiting the subdivision to 3 parcels.

Commissioner Schwartz said this is a balance between the need to encourage infill development verses the dividing of a landmark estate and the owners' property rights. There is an existing stress in the neighborhood due to substandard street, independent of the project. He suggested that the neighbors ask for "not a through street" signage on Grove Avenue. Other issues would be dealt with through the permit applications. He

said he disagrees with Commissioner Esteb on accessing Lot 1 and 3 off Corte Madera Avenue.

Commissioner Bailey said he appreciates the public and community spirit. He said that the pedestrian easement is likely on the adjacent parcel and not an issue for this application. The construction of the future homes is a temporary problem partially mitigated by Corte Madera Avenue access. And the construction management plan limits further negative impacts. He said it is not right to tell the owner that they cannot develop their property because the neighborhood is already taxed. When permit applications come up for review, on-site parking can be addressed. He said all things considered, he could approve the subdivision.

Chairman Mace said that if this were a ministerial exercise, he would agree with Commissioner Bailey, but as it is discretionary, he appreciates the comments of Guy Benstead, Jesse Nordrum, Ms Bonfiglio, Alan Bear, Rosemary Alfont, and John Lynch. He asked whether the Fire Department had reviewed this design, as the angle of the hammerhead is more that perpendicular. He concluded that he hears meeting attendees saying it is adverse. Understanding that the Town cannot penalize someone who wants to develop their property, he feels the issues of density, access, and safety, and leans toward a “no” vote. He said he would like to see the project again, adding that, though it is not a historical property, he feels that the estate quality is being given away.

Commissioner Schwartz said he agrees with Chairman Mace in many regards. Access at all driveways needs significant flares. Requiring more parking adjacent to the street, but not on the street would be important. Requiring significant parking at the residences would occur at design review. Senior Planner Bell said that at a minimum, each Lot would have a 2-car garage with a 2-car apron.

Planning Director Pendoley said that a reasonable standard is 10 trips per household. This project would generate 2 additional cars in morning and evening commute, and that traffic volumes are not a significant impact. If parking is an issue, the Commission can ask the applicant to consider the issue and provide options, and can also ask for more parking spaces than are required by the Zoning Ordinance. If the Commission chooses to accept the Public Works standing for no additional access off Corte Madera Avenue, then the Commission can continue the item and ask the applicant to address the issues raised.

Commissioner Bailey asked that the applicant could also address the neighbors concerns.

The applicant said he would like the opportunity to address the concerns raised.

Commissioner Schwartz asked the applicant to improve the cull de sac and provide an effective turn around. He said considering 3 parcels wouldn't change Grove's existing traffic issues.

Commissioner Bailey said that the applicant is aware of the concerns, and that the more lots they want to propose, they less options they may have.

Commissioner Esteb asked the applicant to conduct a neighborhood meeting before the project comes back to the Commission. He said this neighborhood is historic farm estates that have been later subdivided into current neighborhood, and that this project is current version of that process.

The issues include consideration of a 3-lot subdivision; reconfiguring the end of the Grove Avenue cul-de-sac to provide better turn-around, flaring of the shared driveway of the proposed subdivision as it connects to Grove Avenue.

The neighbors were asked do their part and what is possible to assist in finding solutions as the applicant has a right to develop.

MOTION: Moved by Commissioner Schwartz, seconded Commissioner Bailey, and passed unanimously to continue Tentative Parcel Map Application No. 07-001 and Environmental Assessment No. 08-002 to reconfigure and subdivide two existing residential lots for a four-parcel residential subdivision at 127 Grove Avenue to a date uncertain to provide the applicant an opportunity to address the issues outlined by the Commission.

Planning Director Pendoley clarified that applicant will do a redesign and the neighbors will be re-noticed.

Chairman Mace requested a 500' mailing, and thanked all for time taken in attending the hearing.

C. ZONING ORDINANCE AMENDMENT-To amend the Zoning Ordinance to allow additional Lot Coverage for R-1 Single Family Residential District properties located within the Special Flood Hazard Area (Flood Zone) for uncovered decks. (Planner: Dan Bell.)

Senior Planner Bell presented the staff report for which he used a slide presentation. He said that currently, any uncovered deck greater than 36" above grade is counted toward allowable Lot Coverage. The process of raising a home above the base flood elevation has an affect on the area and height of stairways, porches and decks that serve the

new, higher level first floor. Residents have voiced their preference for the construction of rear yard decks that are at the same height as the first floor of their home, rather than a “step-down” design that is less accessible and a possible trip hazard.

On November 3, 2008 Town resident and general contractor Steve Wheeler addressed the Town Council and requested that lot coverage allowances for rear yard decks be relaxed for property owners that have raised their residences above the base flood zone. Town Council referred the matter to the Planning Commission for review and a recommendation.

Mr. Wheeler is suggesting that an additional 2% of lot coverage be allowed only for the construction of uncovered decks when a home is raised above the flood zone. To qualify for this additional lot coverage, the height of the deck shall not exceed the first floor height, and the property must be located in the flood zone. Currently, net lot coverage is 35% where Net Lot area is less than 6,000 sq. ft. and 30% where Net Lot Area is greater than 7,500. Where Net Lot Area is between 6,001 and 7,499 sq. ft. maximum lot coverage is 55% minus .0033 multiplied by Net Lot Area.

A possible concern with the new regulation would be potential privacy impacts for surrounding properties caused by a larger raised deck approximately 4' above grade. Such decks qualifying for the additional lot coverage allowance would still be subject to setback requirements. The Zoning Ordinance currently allows for partial relaxation for deck setbacks; 19' from the rear property line and 3' from the side property line. The Ordinance also allows additional visual buffering between properties with an 8' tall fence along rear and side property lines with mutual consent of abutting property owners.

In order to amend the Zoning Ordinance, a Finding must be made that the proposed amendment is consistent with the objectives of the Zoning Ordinance and General Plan. If the Planning Commission finds that the proposed amendment to relax lot coverage regulations for uncovered decks in the Flood Zone is consistent with the objectives of the Zoning Ordinance and the General Plan, it shall transmit a report in writing to the Town Council recommending that the amendment be adopted. The Town Council has prescribed authority to adopt or deny amendments to the Zoning Ordinance.

Only 16% of the single-family housing stock in Corte Madera would be subject to this amendment, and history shows that 2 to 4 houses per year are raised above the base flood elevation annually. He said staff recommends that the Commission discuss the merits and potential impacts of the proposed amendment, and that staff would prepare a resolution consistent with the Commission's recommendation.

Commissioner Schwartz asked about the 2% increase only being applied to homes that are raised above flood zone, which was affirmed.

Steve Wheeler said he raised his home in accordance with the FEMA recommendation. He has raised 3 others this year. He does not like decks to step down for those with leg issues. He said the way it now reads, some are being punished for doing the right thing.

Susan Gunther of 9 Harbor Drive said she is in agreement with Mr. Wheeler.

Mike Friender said he agreed with Ms. Gunther. He said he has a deck that has to be to lower with a landing.

Commissioner Bailey asked why limit the allowance to 2%.

Senior Planner Bell said there is not a magic number. He said the formula was fashioned from Mr. Wheeler's example of a reasonable sized-deck. If higher percentages are considered, there could be other impacts with other neighbors.

Commissioner Esteb said he would like to see up to 2% for front decks and up to 5% for rear decks. Senior Planner Bell said that the point is if one meets the Zoning Ordinance, there is no design review requirement. Currently one can build a deck as close as 3 feet from side property line.

Commissioner Schwartz said he understands the need to increase the allowable percentage, but may prefer a request from the community to go above the limit. He said there have already been privacy issues with normal additions. Senior Planner Bell said on a flat rectangular lot overage variances could be difficult.

Chairman Mace said we are granting a special privilege for less than 1% of the population. He said one could stand on a four-foot deck 3 feet from the side property line and look into the neighbor's yard, and there would be no required design review. He said steps could be elongated.

Commissioner Bailey said that this policy issue has been directed to the Commission by the Town Council. Planning Director Pendoley said Mr. Wheeler asked the Town Council, who deferred to staff, who referred the issue to the Planning Commission.

Commissioner Esteb said most properties do not have privacy issue because it is vegetated.

Commissioner Schwartz said there are mitigations for safety.

Planning Director Pendoley said maybe the middle ground is to require design review for decks over 3 feet, that exceed the current lot coverage limitation, and to continue the hearing and refer the issue back to staff for a formula.

Commissioner Bailey said he thought the Commission is in agreement with 2% figure concept.

Chairman Mace said a small percentage of our community is being given a right.

Commissioner Bailey said we are correcting a negative for those homes raised above the flood plain. Homes outside of the Flood Zone are not affected by the Lot Coverage limitations.

MOTION: Motioned by Commissioner Schwartz, seconded by Commissioner Esteb and passed unanimously to continue the item to the February 10, 2009 hearing to allow staff an opportunity to draft new Design Review regulations for Commission's review.

6. ROUTINE AND OTHER MATTERS

A. REPORTS AND ANNOUNCEMENTS

i. Commissioners:

Commissioner Esteb attended the Town Council Meeting.
Commissioner Schwartz attended the Eco salon.

ii. Director: Planning Director Pendoley said the Town Council would be a having workshop next Tuesday night on the General Plan.

B. MINUTES:

i. Planning Commission Meeting Minutes of November 25, 2008.

ii. Planning Commission Meeting Minutes of December 9, 2008.

Motioned, seconded and passed unanimously.

7. ADJOURNMENT The meeting was adjourned at 10:30p.m. The next Planning Commission Regular Meeting is January 27, 2009 at 7:30p.m. in the Corte Madera Council Chambers, 300 Tamalpais Drive.