

REGULAR MEETING
OF THE
CORTE MADERA TOWN COUNCIL AND SANITARY DISTRICT #2 BOARD

In the Town Hall of the Town of Corte Madera, on February 2, 2010 at 7:43 p.m.

PRESENT: Mayor Condon
Councilmembers Cock, Furst, Lappert, Ravasio

Town Manager David Bracken
Interim Planning Director Dan Bell
Town Attorney Jeff Walter

CLOSED SESSION

Closed Session Pursuant to Government Code section 54956.9(a)
CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION
Name of Case: Richard Skaff vs. City of Corte Madera

OPEN SESSION

Salute to the Flag

The Town Attorney Walter stated the Town Council had met in Closed Session, provided counsel with direction, and t no further reportable action.

1. OPEN TIME FOR PUBLIC DISCUSSION

John Dupar, Corte Madera liaison to Central Marin Sanitation Agency, requested the Mayor's endorsement of a letter addressed to legislative representatives and requesting \$2 million in federal assistance for the agency's innovative and sustainable bio-solid waste to energy program. He offered a draft letter for the Council's consideration. He explained that the matter is somewhat urgent as budget application requests are currently being submitted to the energy department.

Mayor Condon requested copies for review by the Council and Town Attorney. She asked Mr. Walter if the matter could be considered an emergency item and action taken at this meeting. Mr. Walter confirmed that the Council could, by a 4/5 vote to add the item to the agenda.

Councilmember Lappert asked and Mr. Dupar confirmed that the request does not constitute any financial commitment on the part of the town.

MOTION: Moved by Lappert, seconded by Cock, and carried unanimously,

To add the item to the end of the evening's agenda.

2. COUNCIL AND TOWN MANAGER REPORTS

- Town Manager Report

The Town Manager provided the following report:

- Consent Calendar Item 3e pertains to a Memorandum of Understanding with the town's SEIU (maintenance workers' union). He noted that the workers have been very gracious and understanding of the town's fiscal situation; they have not received a wage increase since 2007; have taken a 5% furlough under this new agreement; and have continued to put forth outstanding performance despite absorbing the work of the 3 maintenance positions which have been frozen over the last few years.

Mayor Condon shared the Council's appreciation of the department's efforts and understanding.

- Council Reports

Councilmember Ravasio provided the following report:

- The Larkspur Schools Foundation has already reached 50% of this year's \$1.2 million goal;
- He attended the MCCMC Legislative Committee meeting. The State of California will be depleted of cash by the end of March and it plans to issue IOU vouchers. Also discussed was an item for renewal of the lobbyist contract, which he forwarded to the Town Manager today;
- The Corte Madera Recreation Center Rehabilitation Project is well underway and town staff has been unbelievably cooperative in facilitating the project. Phase 1 will be completed with an out of pocket expense of \$33,000. The Marin Independent Journal will run a full story on the project in its February 3, 2010 issue.

Mayor Condon said it is a tremendous project empowered by a wonderful group of volunteers. She invited members of the public to Corte Madera Community Foundation to purchase or learn more about engraved bricks to support the project.

Councilmember Furst provided the following report:

- She attended the League of California Cities New Mayors and Council Members conference;
- She attended a meeting of the Transportation Authority of Marin last week. The Authority has decided to obtain a consultant to analyze the feasibility of increasing vehicle registration fees under SB83. The modest tax would increase the County's transportation revenue by \$2.5 million annually. A stimulus funds grant item was submitted for up to \$500,000 towards curb and drainage improvements at Golden Hind.

Mayor Condon provided the following report:

- She attended the League of California Cities Housing, Community, and Economic Development Policy Committee meeting;
- She attended a meeting of the Twin Cities Police Council where a demolition contract was

approved;

- She attended a meeting hosted by the BioBags initiative with representatives of the Village and various tenant managers. Input was diverse;
- She and Councilmember Cock attended a meeting of the ad hoc Business Development Committee and Chamber of Commerce. Councilmember Cock put forth several viable and practical goals and objectives for consideration;
- She attended today's Chamber of Commerce meeting. The Chamber will be submitting revised goals and objectives as well as a revised budget which increases efforts to improve the Chamber website;
- She noted the following Chamber events for 2010:
 - February 11 – Installation Mixer
 - February 23 – State of the Town Luncheon
 - September 16 – Chamber of Commerce Golf Tournament
 - July 4 – Annual Parade

This year's July 4th parade falls on Sunday and will start later in the day to accommodate church traffic;

- The Larkspur Chamber of Commerce has invited the Corte Madera Chamber to participate in a store-front holiday decorations competition with various categories based on the size and scope of the participating business;
- A community workshop on the Housing Element update is scheduled for February 9, 2010 at 7 p.m. at Town Hall. All members of the public are invited to attend and comment on the draft submitted to the Planning Commission by the Citizens Advisory Committee.

CONSENT CALENDAR

Town Items

- 3a. Approved Warrant and Payroll for the Period January 13, 2010, through January 26, 2010, Warrant Check Numbers 125184 through 125242 and Payroll Check Numbers 3174 Through 3191, Payroll Direct Deposit Numbers 15433 through 15509, and Payroll Wire Transfer Numbers 992 through 996, and Wire-Twin Cities Police Monthly Payment
- 3b. Approved Investment Transactions for the Month of December, 2009
- 3c. Accepted the Annual Statement of Investment Policy
- 3d. Adopted Resolution No. 3630 Allowing Signs on Public Property Advertising the Corte Madera Women's Improvement Club's Yard sale to Raise Funds for College Scholarships for Community Volunteers
- 3e. Adopted Resolution No. 3631 Approving the Memorandum of Understanding Between the Town of Corte Madera and the Service Employees International Union Local 1021, SEIU, AFL-CIO Commencing January 1, 2009 and ending December 31, 2010

- 3f. Adopted a Resolution No. 3632 Modifying the Job Descriptions of Maintenance Worker and Equipment Mechanic

MOTION: Moved by Lappert, seconded by Cock, and carried unanimously,

To approve Consent Calendar Items 3a through 3f.

Sanitary District Items

- 3g. Adopted Resolution No. 2010-1 Awarding a Public Works Contract to the Pacific Trenchless and Authoring Expenditures for Construction of the South Madera Gardens Sewer Improvements, Project No. 04-201

MOTION: Moved by Ravasio, seconded by Lappert, and carried unanimously,

To approve Consent Calendar Item 3g.

PUBLIC HEARING

4. Appeal of Planning Commission's Decision to Deny Conditional Use Permit for Madera Vista – Subject: 300-700 Robin Drive; 100-200 Upland Circle – A Public Hearing To Consider An Appeal Of The Planning Commission's Action To Deny Conditional Use Permit No. 09-006 And Tentative Parcel Map No. 09-001 For A Condominium Conversion At Madera Vista Apartments And Review Of Planning Commission's Recommendation That The Town Council Not Amend Zoning Ordinance Section 18.08.030(4)(G) To Allow An Alternative Affordable Housing In-Lieu Fee For Condominium Conversions (Continued from Meeting of January 19, 2010)

Mayor Condon reported that she received a ruling from the Fair Political Practices Commission (FPPC). The FPPC determined there could be a perceived conflict of interest because she resides within 500 feet of the subject property. She recused herself from the hearing and turned the meeting over to Councilmember Cock.

Councilmember Cock advised that the Council would first consider the Conditional Use Permit, including the rental vacancy rate and Building Code Deficiency Report, followed by the Zoning Ordinance amendment. She requested that the public limit its comments accordingly.

The Interim Planning Director introduced the item, stating that Stellar Management, owners of Madera Vista Apartments, submitted a request for a Conditional Use Permit (CUP) and Tentative Parcel Map in August 2009 for the purpose of converting the 7 building, 126-unit complex to condominium ownership. Stellar Management also filed a Zoning Ordinance Amendment request to revise the affordable housing requirements for a condominium conversion project. The proposed

amendment would alternatively allow in-lieu payments into the Affordable Housing Fund as an alternative to making 25% of the condominium conversion units permanently available to low and moderate-income families. The applicant's proposal is based on the methodology of in-lieu fee payments currently allowed for new residential construction projects.

Mr. Bell stated that approval of a CUP requires several findings to be made, the two most significant having to do with building code compliance as it applies to new construction and determination of the rental vacancy rate in the surrounding area (Lower Ross Valley). Stellar Management has submitted a Building Code Deficiency Report which compares the proposed improvements to complex's 7 buildings against current code. Not surprisingly, a 1960s vintage apartment building will not comply with all of today's stricter building codes. In addition to requiring these improvements, the Condominium Conversion Ordinance states that the Town Council must determine whether or not some or all of the building code deficiencies, after proposed improvements, are acceptable and that the condominium conversion project would still fulfill the "objective of ensuring that multiple-family dwellings have been constructed in a manner suitable for individually owned units."

The rental vacancy rate requirement stipulates that condominium conversions are only permitted if it is shown that rental vacancy rates are greater than 5% in the Lower Ross Valley area and that rental units are at least 25% of the total dwelling units in the same area. Stellar Management submitted a study survey by The Concord Group which concluded that both thresholds were met. The Planning Commission did not believe sufficient, substantial evidence was submitted to make this finding and the owner submitted an updated Concord Group report on January 27, 2010.

The Planning Commission conducted a series of public hearings on the matter and on December 9, 2009 denied the CUP application for the following reasons: (1) The Commission did not feel any building code deficiencies should be permitted; (2) The Commission did not feel the survey size was adequate enough to determine actual vacancy rates; (3) The Commission felt that the proposed conversion would result in a loss of unique rental housing stock consisting of exceptionally large two and three bedroom apartments in Corte Madera.

Councilmember Cock reminded the public that this part of the hearing would address only the CUP and Tentative Parcel Map application.

Seth Mallen, Stellar Management, provided a PowerPoint presentation. He said the conversions would provide the town with significant social and financial benefits and residents with improved property aesthetics and safety standards. He felt the conversions would offer a new and more affordable entry point of home ownership as well as new opportunity for those who are not interested in the work associated with single-family residences. He said that in addition to the significant affordable housing contribution created by the in-lieu fees, the sale price of the condominiums would net significantly greater property tax revenues than if the subject site were sold in aggregate.

Mr. Mallen reviewed the rental vacancy rate studies performed on Lower Ross Valley, which includes parts of Corte Madera, Larkspur, Greenbrae, and Kentfield. The total housing available in the area is about 9,749 units of which rental units comprise roughly 4,072 units; the entry-level or multi-family portion is the smallest component, equaling only about 7% of the total units in Lower Ross Valley. The owners worked with The Concord Group and REALFACTS to prepare an analysis. That report was reviewed by outside counsel at the urging of the Planning Commission and found to exercise sound methods of data collection and computation. He also noted that data only includes those units which are available for immediate rent and automatically excludes those which are out for renovation work.

Mr. Mallen stated that the level of building code improvements anticipated for the seven apartment buildings would greatly improve existing conditions and would fulfill the object of ensuring that multi-family dwellings have been constructed in a manner suitable for individually owned units. He noted that the majority of the area's housing stock does not comply with current building code, said proposed improvements would bring the units in line with 85% of existing stock, and said that should the property continue as a rental complex, no improvement would be required or done. He said there are many physical challenges associated with providing disabled access, some inherent to the property itself and others structural but said all aspects would be upgraded as best as they could.

The complex's recent fire highlighted certain challenges with current construction and which upgrades would be most valuable. To that, all stairwells will be inboard in fire-rated enclosures, fire sprinkler and monitored fire alarm systems will be installed, and structural systems will be updated as will conformance with Wildlife Urban Interface regarding construction materials.

Mr. Mallen closed by stating the location is appropriate for home ownership and the proposed conversion would further the goals of the town's General Plan, provide increased entry-level home ownership opportunities, increase property tax revenues, and provide curb appeal and longevity to aging housing stock.

Councilmember Ravasio inquired into the extent of structural upgrades that are not proposed. David Murphy, Engineer, clarified that applicant is not proposing to neglect what is right for the building. He explained that the Northridge earthquake revealed the unsuitability of using 3/8" plywood on structural sheathing and that to correct that situation here would be significantly invasive and perhaps more costly than could be justified.

Councilmember Furst questioned and confirmed with Mr. Mallen that only those Madera Vista units which are actively marketed and available for rent were considered in determining vacancy rates. She also confirmed those same units would be taken off the market eventually for renovation, doubted many people would seek a limited duration rental, and expressed concern that occupancy calculations could be artificially lowered.

Tim Cornwell, The Concord Group, said his company has considerable experience compiling studies for owners as they contemplate the impacts of renovation. He explained that leases tend to be of

short tenure and he has found that limitations associated with impending renovations seem to have little market effect. He said the limited nature of rental stock within Lower Ross Valley required that the 2 communities with ties to Stellar Management be included in the sample size.

Councilmember Furst referred to Page 8 of The Concord Group report which states “Larkspur Shores Apartments recently underwent a renovation concluding in the year 2007.” She said she understood those renovations to be incomplete at this time and noted several visible areas of ongoing construction. Mr. Mallen explained that construction is currently taking place on the leasing center itself but the more substantial construction which was impactful to residents has been completed. He stated that interior units are only renovated as they become vacant.

Mr. Cornwell stated that even if both Stellar Management properties were removed from calculations, the vacancy rate would still be beyond the threshold.

Councilmember Lappert requested that Mr. Mallen be more frank regarding Stellar Management’s position. Mr. Mallen said that if the condominium conversion is not approved, the property will most likely sit vacant in litigation with the lender. Councilmember Lappert thanked him for his candor, stating he wanted the public to realize that Stellar is as upside down on this property as many local homeowners are on their properties.

Councilmember Ravasio questioned if the property currently sits in default. Mr. Mallen said no, but litigation has been publicly filed in the state of New York. He explained that the lender decided to discontinue funding the project, private equity was used to rebalance the loan with the understanding that funding would resume, and then the lender failed to continue with that funding.

Councilmember Lappert asked if arrangements have been made with this lender to commit funding if the conversions are approved. Mr. Mallen stated that private equity would fund construction in its entirety.

Referring to the rental vacancy report, Councilmember Cock questioned the length of time typically considered when compiling data. Mr. Cornwell said it is highly dependent upon the audience. He said that while this report was compiled using a 2-year trend, they are often prepared for a “right now” scenario as was done with update at the end of 2009.

Councilmember Cock inquired about the ownership of Larkspur Shores. Mr. Mallen said Stellar Management is involved, but in a different partnership entity. Councilmember Cock asked if that was disclosed in the report. Mr. Mallen said it was not but has been disclosed at previous Planning Commission hearings.

Councilmember Cock shared concerns about the ability to manipulate vacancy statistics for the two properties and also that the survey analyzes only 1/3 of available multi-family units. Mr. Cornwell explained that the goal is a penetration of competitive units, those being units of significant scale which are professionally managed.

Councilmember Cock asked how many units a complex would need to be considered professionally managed. Mr. Cornwell said at least 10 to 20 and vacancies in 1-2 unit situations would not clearly represent the market of this complex.

Councilmember Cock opened the public hearing.

Craig Hartman, 77 Granada Drive, said he has worked with Stellar Management professionally and considers their work to be of high quality. He said this kind of private equity in such a difficult market provides an exceptional opportunity for the town. He said it would provide better housing stock for sale and much needed affordable housing funds. He encouraged the Council to consider the application positively.

James Rios, 29 Windward Drive, said he trusted the Town Council to ensure the project meets all appropriate requirements. He said the complex has not been well kept to date and thought the proposed conversion would bring much needed improvements to maintenance standards.

Jennifer DiGiosco, 512 Robin Drive, said she recently visited Larkspur Shores and was told by the manager that there were no 2-bedroom units available for rent. She asked what, if any, are available at Madera Vista and for how long.

Alan Sandner, 5116 Paradise Drive, said that while he has no issues with renters he believes home ownership lends itself to better maintenance. He said Madera Vista Apartments has been an eyesore for years. He also noted a marked increase in traffic flow and accidents coming onto Paradise Drive from Robin Drive and asked why this density has increased. He said seismic issues are of great concern and fully supported the applicant's efforts to improve what is feasible.

Sherry Vigneron, 125 Westward Drive, thanked Mr. Lappert for getting to the heart of it. She stated concern for future options and safety considerations if the conversion is not approved. She said she was fortunate to have bought a home at a time when she could afford to do so, something that she could not do today. She said it is crucial to consider housing opportunities for both middle and lower income families in order to retain the demographics that make this town so wonderful.

Kay Keohane, 5164 Paradise Drive, said both she and her husband support the project. She said the site has been an eyesore and cited flooding issues on her property as a result of poor drainage maintenance at the subject site. She said she has had no further issues since Stellar Management took over the complex and that she is impressed with the aesthetics of the newly renovated portions of the site. She encouraged the Council to approve the project and worried on the neighborhood's fate should the property end up vacant.

John Dupar, 22 Edgemar Way, said he had opportunity to view many possible affordable housing sites when he participated in the last Housing Element update. He explained that constraints associated with this area's distance from the center of town and public transportation make it a less

than desirable site for affordable housing. He said the proposed conversion would greatly improve the quality of housing stock which is a goal of this Council. He suggested that some homeowners would not reside in the units, still providing an opportunity for individual rental at this site. He said the reason people trend towards this area is because of the Reed and Del Mar Schools and suggested that lower-income families may have difficulty getting their children over to those schools. He said the Council has always been committed to upgrading the town's housing stock.

Bruce Mace, 405 Oakdale, said the most fiercely deliberated items by the Planning Commission were based on the Zoning Ordinance and required findings which state that the town shall or must determine that a project meets certain standards. He said building codes are minimum acceptable requirements and asked why the town should accept something that only meets 80% of minimum code. He said several experts testified that the rental vacancy report was incorrect and the commission requested that all complexes with at least 10 to 12 units be included; that was never done. He said he also believes there are many positives to the proposed conversion.

Susan Dutton, EAH Housing, said her organization is very excited about the possibility of increased affordable housing resources. She said new dollars are very much needed in today's economic times and that each dollar received can be leveraged into 4 or 5. She firmly stated that in-lieu fees would make a dramatic difference in building an economically diverse community as well as support current and future affordable housing efforts.

Carla Condon said she believed it to be the town's good fortune to have an opportunity to rehabilitate a run-down and substandard project through experienced and quality developers. She thanked Commissioner Mace for his comments, acknowledged the difficulty of the Planning Commission's decision, and said the Council must make the ultimate decisions based on the greater good. She said this project helps achieve compliance with the General Plan's Land Use Policy requiring that properties be maintained in good condition and also contributes to state mandated RHNA numbers for new market-rate housing. She said it is a win-win to get all that as well as great revenue streams for affordable housing and the town as a whole.

Councilmember Cock closed the public hearing.

Councilmember Lappert voiced his support.

Mr. Walter recommended the Council hold the second portion of the hearing at this time and then deliberate on both.

Mary Murphy of Gibson, Dunn, & Crutcher respectfully disagreed with Commissioner Mace's comments. She said that, with respect to building deficiencies, it is within the discretion of the Council to find that either the buildings will comply with the current code or that they were constructed in a manner suitable for individually owned units. She said that with respect to the evidence before the Council, the weight and quality of The Concord Group's work in getting at something that tends to be somewhat elusive and in doing so over a 2-year period as well as the time

frame identified should be given due consideration.

Mr. Mallen said the proposed in-lieu fee makes sense in terms of location, money, and the creation of entry-level housing stock. He outlined current construction costs and reported that the combined costs of buildings 1 through 7 would total \$147 per net square foot. He acknowledged the Town Manager's recommendation which based the in-lieu fee on a net square foot cost of \$160 and supported the resulting \$2.81 million fee. He also noted that certain traffic safety issues along Paradise Drive have been brought to the attention of Stellar Management and proposed an additional donation of \$300,000 to a roadway improvement fund to support those improvements along Paradise Drive.

Councilmember Ravasio said the Council is being asked to do something extraordinary and that no other Council has ever done. He noted that affordable units are also called for under the new Housing Element and asked why the applicant did not just make 25% of the complex's units affordable. Mr. Mallen said affordable housing at Madera Vista does not currently exist and is somewhat challenged by the site's location and proximity to service. He believed affordable housing is better suited to those areas already identified for affordable housing and suggested the in-lieu fees would provide the ability to start fully incentivized projects at those sites.

Councilmember Ravasio calculated the cost difference between the proposed scenario and selling 25% of the units at an affordable rate of roughly \$365,000, assuming the remaining units were sold for approximately \$650,000 each. He estimated the affordable scenario would provide a cost savings of \$10.3 million. Mr. Mallen explained that the costs presented tonight are purely for construction and do not include what is already invested, permits, inspections, and the like. He said the project will ultimately not be very profitable but that Stellar Management is looking to minimize its losses here while still improving a property it has committed itself to.

Councilmember Ravasio said he wants to ensure that the Council does what is best for the town while also doing everything possible to support affordable housing. He said that under the City of Larkspur's ordinance, the same project would yield an in-lieu fee of \$10-13 million. He respectfully suggested that the town's ordinance is woefully out of date and does not account for the cost of things such as creating parking. He cautioned that the actual cost of constructing affordable housing may be grossly underestimated by this ordinance. Mr. Mallen said such knowledge is outside his purview but did note that Ms. Dutton felt this may be a viable opportunity, as proposed.

Ms. Murphy said the issue of economic feasibility has been an item of considerable debate. She said the City of San Francisco has a 20% in-lieu fee rate for most new construction projects and recent studies have shown it is not feasible in this market to produce any affordable housing. She said San Francisco's Planning Commission is currently debating alternatives, in part because it is realizing that projects have been unduly burdened at 20%. She noted that others in the County are as high as 25-30% but said it becomes immaterial at some point; an in-lieu fee of any rate still equals zero if it fails to produce any affordable units. She respectfully questioned whether or not the affordable housing requirements of neighboring cities have produced much in the way of affordable housing

and suggested a more suitable rate might sit somewhere in the middle.

Councilmember Cock questioned which nearby jurisdictions have accepted in-lieu fees and what the results of that have been. Ms. Murphy said the codes of neighboring jurisdictions do permit in-lieu fees at the discretion of the Council as opposed to San Francisco, which allows the developer to freely elect whether it pays the fee or offers affordable units itself.

Councilmember Ravasio said the question is really whether the town will be able to recreate the 32 affordable units that are lost with only \$2.8 million. Ms. Dutton said she has examined the Madera Vista site and found it would not be financially viable if EAH were to fully fund or partner with Stellar Management at that site. She said that does not preclude other sites in town from being viable and explained that this particular site has a number of features that keep it from warranting a large enough tax credit to make sense.

Councilmember Furst questioned if EAH had developed a standard cost per net square foot. Ms. Dutton said the construction costs vary greatly amongst EAH's 42 municipalities and are largely dependent upon how long the process takes.

Councilmember Furst inquired about the cost of San Clemente. Ms. Dutton could not confirm but did say it was completed much closer to budget than Drake's Way Apartments.

There was no public comment.

Councilmember Furst voiced concerns over the lack of ADA improvements and seismic strength of the structure, acknowledged the structural limitations associated with some of these improvements, and asked what sort of issue is presented by retaining the 3/8" plywood.

Councilmember Ravasio stated that apartment buildings with structural systems like this are disasters waiting to happen. He said the proposed improvements are not perfect but do offer a huge improvement over what presently exists. He could make the finding that the project would increase public safety and the quality of housing stock.

Councilmember Lappert said the proposed in-lieu contribution is impressive, thanked the applicant for being forthright, and generally found no opposition to the project. He said this would improve overall aesthetics and safety as well as offer opportunities to upper middle class residents, a task in which the town has been remiss.

Councilmember Cock voiced strong concerns over the lack of ADA compliant access and requested the Town Attorney speak to the liabilities associated with approving a project that is known to not be compliant with state or ADA code.

Mr. Walter explained that because of the age of the structure, there are no disability standards that must be adhered to. He said that if there were such standards that the town chose to ignore, the

Attorney General could force injunction but that he is confident the nature of the project makes that impossible.

Councilmember Cock said she is familiar with apartment investments in the area, that the vacancy rate report submitted by the applicant covers 2 of the worst market years Marin has seen in 30 years, and that she cannot make the required finding. She said she carefully reviewed the report and finds it lacking in several aspects. She said that new apartments will not be built in Marin for a number of reasons and so the current apartments are all there will ever be.

She said she believes in affordable housing for all incomes and noted that the quoted sales price of each unit when she toured the site was approximately \$735,000, and this would require an annual income of \$150,000 which is out of reach for most of the middle class community.

She was heartened to hear that affordable housing funds can be so well leveraged but noted that the San Clemente project was very expensive. She also cautioned the Council that an amendment to the ordinance would set a precedent in terms of all future conversion projects. She acknowledged comments that the site is poorly suited to affordable housing but said it has, by nature, been affordable since 1963.

Councilmember Furst noted that the same tour indicated that if the development were maintained but upgraded as a rental complex, expected monthly rents would be \$4,200 to \$4,700 per unit which is hardly affordable. She said that if one calculated the rental vacancy rate excluding data from Larkspur Shores and Madera Vista, the occupancy rate would 94.6%.

Councilmember Lappert said he could support Option 2 as outlined in the staff report and as recommended by the Town Manager. Mr. Walter said a motion to that effect would be adopting the resolution contained within that packet and he suggested some minor modifications to the resolution itself.

Councilmember Furst questioned what modifications would be requested if the Council were to select Option 3.

Councilmember Ravasio said he would support both the CUP and Tentative Parcel Map but would request further study on the Zoning Ordinance and input from staff on how to best leverage those fees. Councilmember Lappert said he would defer to that recommendation.

Mr. Walter said the resolution approving the CUP and Tentative Parcel Map would go forward in that event and requested the following inclusions to Attachment 15:

- Page 6 of Attachment A: modified to include language to the effect that the applicant must provide 25% of the units to low-income families or pay the appropriate in-lieu fee as determined by an amendment to the Zoning Ordinance, whichever is applicable.
- Additional language pertaining to the applicant's donation of \$300,000 to a roadway improvement fund.

- Page 4 of Attachment A, Section 18.08.030(D)(ii)(c):
“*The project application included a Building Code Deficiency Report. The Town Council accepted the findings of the Report and determined the anticipated building code deficiencies remaining after renovation of the buildings **pursuant to the applicant’s proposal and representations** would fulfill the objective of ensuring that the condominium units have been constructed in a manner suitable for individually owned units.*”
- Page 10 of Attachment A, 12(A):
“...and Tentative Parcel Map No. 09-001, **or any failure of the town to enforce building codes or accessibility standards pursuant to this approval...**”

MOTION: Moved by Ravasio, seconded by Lappert, and carried 4-1 (Cock),

To approve Resolution No. 3633, Overturning the Decision of the Planning Commission and Approving Conditional Use Permit No. 09-006 and Tentative Parcel Map No. 09-001 to Allow a Residential Condominium Conversion at the Madera Vista Apartment Complex, as amended.

MOTION: Moved by Ravasio, seconded by Furst, and carried unanimously by those present,

To continue consideration of an amendment to Zoning Ordinance Section 18.08.030(4)(G) to allow an alternative Affordable Housing In-Lieu Fee for condominium Conversions to March 16, 2009.

Mayor Condon returned to the dais and called for a 5-minute break.

BUSINESS ITEMS

5. Approval of Minutes of January 19, 2010

MOTION: Moved by Ravasio, seconded by Lappert, and carried unanimously by those present,

To approve Minutes of January 19, 2010, as drafted.

Mayor Condon requested and received Council support for endorsing the letter on behalf of CMSA and as requested by Mr. Dupar.

ADJOURNMENT

The meeting was adjourned at 9:53 p.m. to the next regular meeting on February 16, 2010.