

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

In the Town Hall of the Town of Corte Madera, on April 29, 2008 at 7:30 p.m.

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

Town Manager David Bracken
Town Clerk Christine Green
Public Works Director Debra Sue Johnson
Twin Cities Police Chief Phil Green
Director of Planning/Assistant Town Manager Robert Pendoley
Town Attorney Jeff Walters

Salute to the Flag

1. OPEN TIME FOR PUBLIC DISCUSSION

George Topor discussed MCE as being a part of the County government that seeks to form a Joint Powers Agency (JPA) to purchase renewal power. He looked at the numbers and statistics; attended meetings; spoke with the county and PG&E about projections and savings; and found the county is proposing a staff of 20 people at a cost of \$2 million a year. They would be involved in the purchase of \$3.5 million of renewable energy which is the amount PG&E spends for Marin County; they claim they can save about 5% or only \$180,000 against an expenditure of \$2 million a year; and until they have their own solar power grid, the energy gets mixed into the grid and does not go to Marin but to PG&E's network. He therefore suggested the Town not involve itself in the JPA.

BUSINESS ITEMS

2. 50 Lakeside – Discussion and Possible Action Concerning Variance Petition Under Title 16 of the Corte Madera Municipal Code – Protection of Flood Hazard Areas Memo from Public Works Manager

The Public Works Manager presented the staff report. She noted that the owners of 50 Lakeside Drive, are contemplating a substantial remodel to their home; have requested a variance to the flood plain standards; they asked that they be allowed to construct their lowest floor at the base flood elevation (elevation 6 NGVD) rather than one foot above it; and she recommended that they comply with all other requirements of the code. She also noted that a petition was circulated within the applicants' neighborhood which supports the variance request.

The Public Works Manager outlined the factors to be considered; and said staff has reviewed the variance request and determined it complies with all of the required findings contained in Section 16.10.090 of the municipal code. In addition, the request has been forwarded to FEMA and

Community Rating System (CRS) analysts for comment, who have taken no exceptions to it. Therefore, staff recommends approval of the variance petition.

The Town Manager stated FEMA and CRS had expressed no issues with the request, said staff has reviewed it and feels the request should be approved.

Mayor Lappert questioned and confirmed with the Town Manager that the Town would not be setting an example or precedence and noted the home is one of the lowest in the subdivision.

Councilmember Dupar believed that 7 NGVD was an arbitrary number and the Town Manager agreed, stating 6 NGVD is the true number and that FEMA and the Department of Water Resources recommends going higher than that, but at times it becomes a burden and the Town may need to update its ordinance. He also confirmed that the matter does not affect residents continuing to receive 10% reduced flood insurance rates and did not feel the matter would set a precedent for people elevating their properties.

MOTION: Moved by Dupar, seconded by Condon, and carried unanimously by those present,

That the Town Council approves the request for variance submitted by Ed and Stacey Conti pertaining to a substantial remodel at 50 Lakeside Drive as described in Design Review No. 07-016; that said variance will modify section 16.10.080 (a)(3)(A)(i) of the Corte Madera Municipal Code to allow the lowest floor of the structure to be elevated to a minimum elevation of 6 NGVD rather than 7 NGVD, plus the amount of ultimate settlement anticipated for the structure.

3. 6 Meadow Ridge - Discussion and Possible Action Concerning Adoption of a Resolution Denying The Appellants' Appeal Of The Planning Commission's Decision And Approving Design Review Permit No. 07-047 And Variance Permit No. 07-019, Thereby Allowing Conditional Approval To Construct 714 Sq. Ft. In Additions To A 2,365 Sq. Ft. Three-Story Split Level, Single-Family Residence, Including A 28.9% Lot Coverage Where 25% Lot Coverage Is Required, A 23 Ft. Front Yard Setback Where 25 Ft. Is Required, And A 20.2 Ft. Rear Yard Setback Where 35 Ft. Is Required, At 6 Meadow Ridge Drive

The Town Attorney reported this item is a proposed resolution to memorialize the decision made by Council by a 3-2 vote at the April 1, 2008 meeting. The Council granted a design review approval and a variance to 6 Meadow Ridge Drive, and the hearing on the evidentiary portion of the matter is closed. Tonight is not to bring forth additional information, but to take action on the language and findings of the resolution, whether it is correct, whether it captures the Town's code and State law, and whether it characterizes the action from the last meeting.

The Planning Director presented the staff report noting the Council directed staff to prepare a resolution memorializing the actions previously taken by the Council.

Leonard Rifkind, real estate attorney representing the Gray's, distributed documents to the Council which included photographs and diagrams of the area in question. He asked the Council to focus on the concept

which is subjective; said there were obviously differing opinions; discussed the vote at the Planning Commission hearing; and the vote of the Homeowners Association. He questioned what the objectives of design review were; said the town attorney provided an opinion that the CC&R's do not affect the Town's decisions, but he found a general provision about how the Town should interpret its zoning ordinance relative to CC&R's. He believed that there are undisputed facts that the applicant submitted their plan prior to receiving approval from the Homeowners Association and the applicants wanted to submit their application to the Town before the Town implemented their Floor Area Ration (FAR) ordinance, which is more restrictive. He noted the Town changed its FAR ordinance; questioned why the Town was now approving this project; and believed it should provide a legal opinion as to whether there is a right to say that the current FAR ordinance applies to this project. He read into the record the definition of a non-conforming structure under Section 18.04.545, stating this is what the Town will have if the Council votes to approve the resolution. He further said they are looking for some compromise; this is what the Council should be fostering so neighbors can work things out; the Gray's did the right thing; their remodel only went up 3.8 feet and does not block neighbor's views; and he believed at the very least, the blockage of view could be made smaller architecturally.

Riley Hurd, attorney representing the Behnam's, said he believed the Council was gracious in allowing Mr. Ripkind to speak freely about things that sounded like evidentiary matters; said what is not at issue is new evidence; and in focusing on the resolution, under the Brown Act, the agenda wording governs the scope of what can be discussed; the role of the Council is to ensure the resolution is accurate, the wording is reflective of findings, as this matter has been fully vetted. Regarding the idea of vesting under California law, Mr. Ripkind is mixing or blending the idea with a vested right with the idea of the right of the FAR ordinance, stating the application was deemed complete prior to the FAR ordinance and it does not apply. He said the resolution is one of the most detailed and informative he has ever seen. It sets forth specific findings based on comments and evidence and therefore urged the Council to memorialize the vote and take action on the resolution.

Anthony Ellison, Architectural Committee member, said the Gray's had made their own addition and because of this, they do not want an addition which impacts their view. He felt that the most adverse effect of the proposed addition is on the lower floors and there was some weight given to the reason behind the Behnam's decision to make the addition.

The public comment period was closed.

Councilmember Condon said she could not make the findings to approve the resolution; regarding views, there is always going to be something people will give up, but she felt the impact was overly significant; said the purpose of Finding #3 of the proposed resolution is to ensure the location and configuration is harmonious; while the architect did a good job in matching the design and style, the addition blocks views; the view of the streetcape from the big picture window in the living room has been obliterated and all one sees is just the proposed siding of the structure next door. Also, in municipal code section 18.30.070, she feels the measures were not taken to mitigate the impacts because in the lower floor office, more than half the window will be blocked. The only window unaffected is the breakfast window which looks out to the bowl; the bowl was an important focus point of these homes; to only say that you can sacrifice the other exposures of your windows because you are keeping the bowl view is unjust and it does not follow the intent of the municipal code. Therefore, she does not agree with findings and based this on her use of the municipal code and Town's general plan.

Councilmember Ravasio asked for clarification as to whether the Council is voting not on whether or not they agree on the findings, but whether or not the resolution accurately reflects the Council's action taken at the last meeting. The Town Attorney said the Council can view it either way, stating Councilmember Condon has the right to vote against the resolution even though it captures what other members believe capture the findings in the resolution.

Councilmember Cock stated for clarification that she visited the home as did other Councilmembers.

Councilmember Dupar believed the matter has already been voted on, he believed the decision was the best the Council could make at the time and he supported the resolution, which he believes adequately addresses all the points in the design review findings. He said staff took every effort to make sure everything was done correctly and nothing he has seen tonight or before would change his decision.

Mayor Lappert said the whole problem for him is no matter how one couches this, it is two neighbors who have not discussed the project. The fact that the Council is still listening to this after a significant amount of time tells him nothing can make these neighbors like each other or go back to compromise and talk about the project.

MOTION: Moved by Dupar, seconded by Cock,

Vote: Ayes: Cock, Dupar, Lappert, Ravasio
Noes: Condon

To adopt the Town Council Resolution 3554 Denying The Appellants' Appeal Of The Planning Commission's Decision And Approving Design Review Permit No. 07-047 And Variance Permit No. 07-019, Thereby Allowing Conditional Approval To Construct 714 Sq. Ft. In Additions To A 2,365 Sq. Ft. Three-Story Split Level, Single-Family Residence, Including A 28.9% Lot Coverage Where 25% Lot Coverage Is Required, A 23 Ft. Front Yard Setback Where 25 Ft. Is Required, And A 20.2 Ft. Rear Yard Setback Where 35 Ft. Is Required, At 6 Meadow Ridge Drive

Councilmember Ravasio stated for the record that the Council held lengthy discussions concerning this matter and the action taken concerned whether the resolution correctly reflected what took place that the previous meeting – and he believes it did.

4. Approve Minutes of April 1, 2008

The Town Clerk reported two pages of the April 1, 2008 minutes were before the Council per the applicant's request for editing, and the changes had been verified by listening to the recording.

Councilmembers had the following amendments:

- Page 6, line 25; change "Grays" to "Gray's".

- Page 7, line 40, "...stating when the design is isolated it is ~~not~~ in context...."
- Page 9, line 23, "...constructed, and that the consideration of applications should be based on property, not individuals."

MOTION: Moved by Condon, seconded by Ravasio, and carried unanimously by those present,
To approve the minutes of April 1, 2008, as amended.

ADJOURNMENT

The meeting was adjourned at 8:25 p.m. to the next regular meeting to be held on May 6, 2008.