

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

In the Town Hall of the Town of Corte Madera, on May 20, 2008 at 7:00 p.m.

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

Town Manager David Bracken
Town Clerk Christine Green
Director of Planning/Assistant Town Manager Robert Pendoley
Town Attorney Jeff Walter

COMMISSIONERS PRESENT

Planning Commissioner Peter Schwartz
Planning Commissioner Sloan Bailey
Planning Commissioner Bruce Mace
Planning Commissioner Patrick Pagnillo
Planning Commissioner Richard Esteb

Salute to the Flag

1. JOINT MEETING OF TOWN COUNCIL AND PLANNING COMMISSION
A. General Plan Environmental Impact Report (EIR)

The Draft EIR (DEIR) for the updated General Plan has been distributed and is currently circulating for public review and comment. Required by the California Environmental Quality Act (CEQA), the purpose of the EIR is to inform the Planning Commission, the Town Council, and the public about the potential environmental impact of proposed projects as well as possible mitigation measures to reduce those effects or alternatives to the project that would accomplish roughly the same thing with less overall impact.

As explained by the Planning Director, the schedule for the General Plan will proceed on two tracks; the EIR track begins June 10, 2008 with a public hearing at the Planning Commission, and a second hearing to follow, on June 24, 2008. Each comment will receive a written response and be included in the draft Final EIR along with any appropriate revisions which the Planning Commission hopes to have prepared by August 14, 2008.

Track two, review of the draft General Plan, begins with a Planning Commission hearing on July 17, 2008 and will proceed simultaneously with preparation of the draft Final EIR. Commissioners have already had opportunity to familiarize themselves with the draft General Plan so the focus of the hearings will be on taking public comments. Once the Planning Commission is satisfied with the changes to both the EIR and General Plan they will be submitted to the Town Council for adoption.

The draft EIR finds that the proposed General Plan would allow up to an additional 218 housing units and 659,000 square feet of commercial development. The housing estimate may be significantly higher than what is realistically feasible as CEQA guidelines do not take lot size and slope into account. While the proposed General Plan includes policies to encourage mixed residential and commercial use at these sites, the Draft EIR is designed to assume a worst case scenario of 100% commercial use.

The General Plan is written to be “self-mitigating” with policies designed to reduce or avoid environmental impacts as an offset to other policies with adverse effects but nevertheless, there are six areas of environmental impact that will not be mitigated by the Plan as it is currently drafted – housing, traffic impacts to Highway 101, greenhouse gas emissions, ozone, noise and water supply.

The Planning Director of Planning commented that every town in Marin County operates with same unmitigated impacts as a part of their General Plan and this is not unusual, but simply a function of technology and urban development of any region would have a similar impact.

The EIR suggests alternatives that would reduce the job/housing imbalance and therefore slow the rate of projected traffic growth. With the overall growth projected, severe drought is an additional consideration and would require that each family abide by a “no-growth scenario” but that is more a by-product of the region than the estimated expansions.

In answer to unmitigated impacts, CEQA requires that the EIR describe and analyze a range of reasonable alternatives to a proposed project. These alternatives should be feasible and accomplish most of the objectives of the project (the updated General Plan) while avoiding or significantly lessening at least one significant environmental impact of the project.

Alternative 2 is a Mixed-Use alternative at the Village Shopping Center which would allow 185,000 square feet of retail expansion (half of what is allowed for in the General Plan) and 300 housing units. This alternative generates only one-third the traffic increase and raises the job/housing ratio still considered a significant adverse effect.

Alternative 3 is the Gateway Development involving redevelopment of the WinCup property into the Gateway Mixed-Use project consisting of 10,000 square feet of retail space and 180 housing units. This alternative was drafted at the request of WinCup property owner, Jim Helfrich, and would have a comparable job/housing balance, but would generate less traffic than Alternative 2 or the updated plan as it is drafted and thus is the preferred alternative.

Commissioner Esteb asked about the housing quotas set by the State compared to what is proposed in the drafted General Plan. The Planning Director said the State will ask the Town to plan for another 244 housing units between 2009 and 2014.

Commissioner Schwartz asked about the potential for combining ideas from the various alternatives. The Planning Director confirmed that CEQA does allow the use of elements from different

alternatives to create an additional preferred alternative and while that would require additional analysis, it is relatively inexpensive and has a quick turnaround of several weeks.

Mayor Lappert asked about the views of the Town's major retailers and if their departure is a potential concern. The Director of Planning assured him that the Planning Commission has released several publications with regards to the General Plan and draft EIR and has not received much feedback. Representatives from Macerich met with the Town staff and despite the nearly \$200,000 they have spent on traffic analysis in order to be included in the General Plan, their interest in housing development has waned.

Commissioner Mace asked if the Planning Commission considers long-term economic benefits of the alternatives despite the unmitigated impacts and how that affects choice of an alternative. The Planning Director explained that it is not uncommon for communities to use an overriding consideration.

B. 2009 Housing Element

Corte Madera, along with all Bay Area towns, cities, and counties is required to submit an updated Housing Element of their General Plan by June 30, 2009. The California Department of Housing and Community Development (HCD), through the ABAG, assigns a "Fair Share Housing Need" to be accommodated in the Housing Element, which must be certified by the State as sufficient and consistent with the law. Corte Madera was the first municipality in Marin to have a certified Housing Element and presumably, the only agency in the County to produce more than the need assigned by the 2002 Housing Element.

On June 30, 2008, ABAG will complete the Regional Needs Housing Allocation (RNHA) process and Corte Madera will be asked to provide 244 housing units. Inventory of vacant land dictates that the maximum number of units to be built under either the current General Plan or the draft updated Plan is 218, not taking into account that most of these properties are very steep and small. The Planning Director believes providing these units will have to be done almost entirely through redevelopment of existing properties and will be difficult.

The draft General Plan also contains a series of policies calling for Community Plans in four areas. The Community Plans encompassing Old Corte Madera Square, San Clemente Drive/Paradise Drive, Fifer/Tamal Vista, and Tamalpais/Casa Buena areas would be designed to guide the privately funded development of the areas and may include policies to encourage mixed-use development..

Mayor Lappert expressed his interest in discussing possible development options with Jim Helfrich, owner of the Wincup property, and asked to hear his thoughts on the proposed plans.

Jim Helfrich said he has been considering redevelopment of the property spanning nearly 5 acres. He feels the project has many attributes that may be very beneficial to the entire community and the

location mitigates many issues that might otherwise be a problem. He has had several conversations with the Planning Commission and is very pleased to see his site deemed as the preferred alternative.

Councilmember Condon asked about adding infill and second units to housing options and questioned where the Town stands on zoning and estimated completion of those additional units. The Planning Director said the General Plan is written to encourage both infill and second units with the second units helping to fulfill the moderate income level housing requirements. As for the upcoming required units, the main focus is currently on finding a location.

Commissioner Mace asked for clarification on the income levels and what sort of balancing act occurs for shifts in income versus housing cost ranges. Moderate income is 80-60% (\$88,000 cap for a family of four) of the median income, low income is 50-30% of the median and very low income is 30% or less. These income levels are decided sub-regionally with Corte Madera falling under the Marin-San Francisco statistical area. The Town Council has required certain developments keep an allotted number of units available for moderate income level families and can be comprised of both rental housing and for-sale properties. He also asked if the requirement for 244 housing units takes into consideration overage or underage from the previous requirement, which is unclear.

Councilmember Condon asked about ongoing discussions regarding spreading the housing allocation numbers amongst neighboring cities in County. The other cities in question did not seem in favor of the idea and Corte Madera was the only Town to go as far as filing a formal appeal.

C. View Preservation Guidelines

The Planning Director stated that the Draft General Plan goes into further detail than the previous version with respect to view preservation and how to balance the needs of today's homeowners with potential neighborhood impacts affecting views, sunlight, privacy, and safety. While difficult and time consuming, view preservation guidelines have become a priority with the focus turning towards improving the character of Corte Madera's built-out neighborhoods and improving an aging housing stock.

Mayor Lappert said the Town Council would find clear and objective guidelines helpful as the appeals that come before the Town Council generally focus on concerns of view preservation. Councilmember Ravasio suggested looking towards neighboring towns with established successful view preservation guidelines.

D. Mediating View, Light, and Privacy Issues

The Town Council and Planning Commission is exploring the use of mediation as an approach to resolving view, light, and privacy issues that arise when the Commission and Council consider residential Design Review permit applications. Marin Mediation Services is a public service run by the County government. It is partially underwritten by the towns and cities. The Planning Director, they typically provide assistance with tree disputes, and while they are capable of mediating disputes

connected with zoning permits, he has not been involved in any thus far. After speaking with staff at Marin Mediation Services, he feels it is a beneficial tool that can be used before permit hearings, appeal hearings. It is not without issues; however, and great consideration needs to go into concerns such as whether to make it voluntary or mandatory, the cost of the service to the applicant and/or disputing party, design solution compliance with the General Plan and Zoning Ordinance, due process and the denial of rights or anyone not involved in the mediation process, and the expectations of those parties involved.

Commissioner Esteb said greater clarity in the View Preservation Guidelines should decrease the need for mediation.

Mayor Lappert said he believes the Planning Commission and Council have had a fair amount of success in resolving disputes and of those appealed to the Council almost all resulted in satisfied parties.

Councilmember Condon said the tree ordinance clearly states that if you move into a property with bay and/or Mt. Tam views and a neighboring property's trees block that view, you have right to recapture that view. She suggested using the Tree Ordinance as a foundation for the view preservation guidelines and also suggests that it be created in a way that would still allow someone to perform a fair amount of development and their neighbor to retain the majority (but maybe not all) of their view. She also said that , Mill Valley has good view preservation guidelines. As part of their Design Review process, staff coordinates discussions amongst neighbors and makes amendments to plans as necessary.

Commissioner Mace said that as these issues tend to be very heartfelt and emotionally-charged mediation will be its most helpful if used very early on in the process. He also believes that the Planning Commission looks at these issues daily with its own sort of mediation, as well as what is in the best interests of the Town.

Councilmember Cock said the last appeal represented the fact that sometimes the issues are not always about the views, and mediation also provides a forum for neighbors to discuss other issues while hopefully resolving the one at hand. She said a harmonious town environment is valuable and the Town can further that by encouraging and providing people with a greater opportunity to resolve their issues.

The Planning Director said that the Planning Commission looks for evidence that neighbors have been treated courteously and apprised of plans. Mayor Lappert asked that Councilmember Condon bring a copy of the Mill Valley view preservation guidelines to the next meeting for the Council and Planning Commission to review.

Commissioner Schwartz said he would advise avoiding prescriptive approaches when considering view guidelines and said it is important not to get stuck on elevations and plans while failing to

consider functional use of the space in question and predominant views. The Planning Director said he would like to put together several workshops with the Planning Commission to review ideas.

George Topar said the process seems to be communication issues and that mediation efforts immediately following situations of concern could be helpful.

E. Site Visits

Councilmember Condon presented her thoughts for the necessity of site visits in the Design Review process. Site visits were strongly encouraged when she served on the Design Review Board of another town as well as the Planning Commission prior to being elected to the Town Council. She said reading blueprints often makes it difficult to really understand the impact those proposed plans will have on the surrounding area and its neighbors. She strongly recommends adopting a policy to encourage, not mandate, site visits as well as a statement by Planning Commissioners regarding what they have viewed at the physical site, as well as any interpretations or discussions with applicants or neighbors they feel may be pertinent. She said it is important that applicants and prospective appellants are aware that Planning Commissioners do not reveal their opinions on anything outside the context of the hearing.

She said she is aware there is controversy regarding the need for site visits, but feels it behooves Planning Commissioners to do this and cites the County Planning Commission policy which encourages them. She said when she served on the Planning Commission the policy was to simply call and alert the applicant they were going to visit the property.

Mayor Lappert agreed that being able to say you have been there lends a certain level of credence to your stance during reviews and he said he personally likes to perform site visits.

The Town Attorney said he accessed the League of California Cities publications and found the Planning Commissioners Handbook which cautions against site visits only in quasi-judicial proceedings such as Design Review, Variances, Conditional Use Permits, General Plans, Subdivisions, Housing Elements, and Rezonings. Each visitor, based on various conditions, composes a different set of impressions from those visits that no one else could possibly have. While site visits are not illegal, they should be governed by a set of guidelines everyone agrees to and any conversations, as well as any conclusions reached based on the visit, must be disclosed at the beginning of the next hearing with opportunity for rebuttal. He also said it was suggested earlier by Councilmember Condon that not all applicants are skilled enough to mount equally persuasive materials in their defense and that site visits offer a sort of leveling feature. He said this may be permissible providing there are guidelines to ensure that due process is not flagrantly violated. He said he thinks that clearer guidelines would go a long way towards minimizing complications and emotional confrontations at site visits.

Commissioner Schwartz said his site visits pre and post presentations to the Council have improved his ability to judge the full scope of situation.

Commissioner Mace said that while the State prefers Commissioners not perform site visits, he feels every issue needs to be seen from the applicant's or disputing party's point of view. He also said the key is to keep it very simple and not get involved in the emotional pull.

The Town Attorney Walter the question of how to proceed in large scale projects such as the one proposed at Town Center, where there are potentially 500 people that could feel slighted.

George Topar asked if there are any guidelines constituting what a site visit is.

Mayor Lappert asked that Mr. Pendoley prepare draft guidelines regarding site visits for the benefit of the Planning Commission.

The joint meeting ended at 8:25 p.m.

OPEN SESSION

1. OPEN TIME FOR PUBLIC DISCUSSION

No items were brought forth.

2. COUNCIL AND TOWN MANAGER REPORTS

- Town Manager Report

The Town Manager reported on a number of projects occurring this week--Slurry seal projects will restrict access on El Camino, Paloma, Estrada, and Grenada on May 20-21, 2008, and Sandpiper Circle and the flat portion of Meadow Sweet Drive on May 22-23, 2008. Corte Madera Grade is closed May 19-21, 2008 for weed abatement.

The Town received \$400,000 of Proposition B money that will be used to pay for pavement reconstruction and staff is recommending it be used for the Pixley Park area.

He asked if the Council was interested in rescheduling the next regular meeting to avoid conflict with the scheduled Election, and the Council declined.

- Council Reports

Councilmember Ravasio gave the following report:

- He attended a meeting of Twin Cities Shuttle focused on ridership which has decreased to 2.2 riders per hour on the new route. Based on that, the shuttle fare is being lowered to \$1 and if ridership remains unsatisfactory in 6 months, they will consider going back to the old route with this lower fare.

- He attended a School Board meeting and reported that District schools require \$24 million in additional funds to bring everything up to par. The most likely plan is to expand the Neil Cummins campus substantially, almost covering the entire soccer field. The plan calls for an upper and lower campus, separating grades K-2, 3-5 and 6-8 into different campuses. Required funding may place a bond on the ballot this November but may also be pushed back to the following year.

Councilmember Dupar wondered how would this conflict with 3-way agreement with Larkspur and Neil Cummins School, and the Town Manager did not believe the plan would impact the agreement and also said the purchase of Park Madera Center is beginning to show itself to be a wise investment.

CONSENT CALENDAR

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

To approve Items 3a, 3b, and 3c on the Consent Calendar

- 3a. Approved Warrant and Payroll for the Period May 1, 2008, through May 13, 2008, Warrant Check Numbers 119858 through 119965 and Payroll Check Numbers 2432 Through 2445, Payroll Direct Deposit Numbers 11366 through 11445, and Payroll Wire Transfer Numbers 732 through 735 and Wire – Twin Cities Police Monthly Payment
- 3b. Approved Investment Report for the Month of April, 2008
- 3c. Authorized the Town Manager to Enter into a Five-Year Lease Agreement with Patrick and Jacqueline Shea on Pump Station Property Located at 28 Seawolf Passage

BUSINESS ITEMS

4. Discussion and Possible Action Concerning the Possibility of Canceling a Council Meeting

The Town Clerk asked the Council to consider the possibility of cancelling one or more meetings during the summer months. She did not advise canceling any meeting in June due to the budget meetings, but asserted anything following June would be acceptable.

Councilmember Dupar suggested cancelling the meetings on July 15, 2008 and August 5, 2008.

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

To cancel Town Council Meetings scheduled for July 15, 2008 and August 5, 2008.

5. Approve Minutes of April 15, 29, and May 6, 2008

Councilmembers had the following amendments:

April 15, 2008: Councilmember Dupar was absent.

MOTION: Moved by Dupar, seconded by Cock, and carried unanimously by those present,
To approve the minutes of April 15, 2008, as amended.

April 29, 2008:

- Page 3, line 41; change “addition” to “impact”

- Page 3, line 44; change “the big picture window in the living room has been obliterated from the streetscape” to “the view of the streetscape from the big picture window in the living room has been obliterated”

MOTION: Moved by Dupar, seconded by Condon, and carried unanimously by those present,
To approve the minutes of April 29, 2008, as amended.

May 6, 2008:

MOTION: Moved by Dupar, seconded by Condon, and carried unanimously by those present,
To approve the minutes of May 6, 2008.

ADJOURNMENT

The meeting was adjourned at 8:39 p.m. to the next regular meeting to be held on June 3, 2008.