

MINUTES OF FEBRUARY 4, 2020

**REGULAR MEETING
OF THE
CORTE MADERA TOWN COUNCIL**

Mayor Andrews called the Regular Town Council Meeting to order at Town Hall Council Chambers, 300 Tamalpais Drive, Corte Madera, CA on February 4, 2020 at 6:32 p.m.

1. CALL TO ORDER AND ROLL CALL

Councilmembers Present: Mayor Andrews; Vice Mayor Beckman; Councilmembers Bailey, Kunhardt and Ravasio

Councilmember Absent: None

Staff Present: Town Manager Todd Cusimano
Town Attorney Teresa Stricker
Finance Director Daria Carrillo
Director of Planning and Building Adam Wolff
Senior Planner Martha Battaglia
Town Clerk/Assistant Town Manager Rebecca Vaughn

SALUTE TO THE FLAG – Mayor Andrews led in the Pledge of Allegiance.

RE-ARRANGE AGENDA - Mayor Andrews announced that the Town Council’s agenda will be re-arranged to move up Business Item 6 to be heard after the Consent Calendar, then recess to the Sanitary District No. 2 meeting and thereafter hear Public Hearing Item 5.

2. OPEN TIME FOR PUBLIC COMMENTS

PAT RAVASIO spoke about the Community Workshop for the expanded Town Hall and commented that the architect’s visions were inspiring. She cited dangerous conditions for residents taking public transit and having to cross over on Caltrans property at Hwy 101 and Tamalpais and asked that the Town address this. She also cited the unsafe and deteriorated condition of the fencing further north on Hwy 101 and asked that this be addressed and volunteered to assist.

3. PRESENTATIONS – None

4. CONSENT CALENDAR

Councilmember Kunhardt requested removal of Item B to provide an update.

Mayor Andrews opened the public comment period, and there were no speakers.

- A. Authorize Introduction and/or Adoption of Resolutions and Ordinances by Title Only.
(Standard procedural action – no backup information provided)
- C. Approve Moving the Tuesday, March 3, 2020 Regular Town Council Meeting to Monday, March 2, 2020, So As To Not Conflict With Election Night Activities and Affirm that the Meeting Will Remain A Regular Town Council Meeting
- D. Adopt Resolution No. 07/2020 (1) Endorsing the Corte Madera Women’s Improvement Club Giant Indoor Yard Sale, (2) Allowing Three Temporary Signs in the Public Right-of-Way from March 2, 2020 to March 9, 2020 Publicizing the Annual Giant Indoor Yard Sale on March 7, 2020; and (3) Determining that the Project is Exempt from the California Environmental Quality Act (CEQA) Pursuant to CEQA Guidelines 15061(B)(3).

E. Approval of the General Fund Revenue and Expenditure Report for the Period Ending December 31, 2019

F. Approval of Minutes of the January 21, 2020 Regular Town Council Meeting

MOTION: Moved by Bailey, seconded by Ravasio, and approved unanimously by the following vote: 5-0 (Ayes: Bailey, Beckman, Kunhardt, Ravasio and Andrews; Noes: None)

To approve Town Consent Calendar Items A, C, D, E and F.

Items Removed from the Consent Calendar:

B. Approve the Preliminary Scope of Work for New Temporary Committee to be Called the Climate Action Committee, and Appoint the Eleven Applicants Who Have Submitted Applications to Serve on the Committee

Councilmember Kunhardt reported there were 12 individuals who applied to the Climate Action Committee.

Mayor Andrews reported there were 2 additional applicants, and Town Clerk/Assistant Town Manager stated the item can be modified to accept all 13 applicants to the committee.

Mayor Andrews opened the public comment period, and there were no speakers.

MOTION: Moved by Kunhardt, seconded by Beckman, and approved unanimously by the following vote: 5-0 (Ayes: Bailey, Beckman, Kunhardt, Ravasio and Andrews; Noes: None)

To approve Town Consent Calendar Item B, as amended, to add 2 additional applicants to the applications received under the item.

6. BUSINESS ITEM

A. Presentation and Acceptance of the Town of Corte Madera Annual Independent Audit Report for Fiscal Year Ending June 30, 2019

Finance Director Daria Carrillo introduced the item, stating this is the Town's audit for the fiscal year ending June 30, 2019. She stated Ralph Marcello, Marcello and Company, who will present the clean audit and said there were no adjustments or findings. On page 12, the liabilities of the \$7 million which impact the Town's net position and said most of this is for pension which is \$18 million and \$9 million for OPEB.

She noted the Town has a plan for addressing these liabilities through a Trust Fund. As of December 31st, there was \$2.4 million in the Trust and she forwarded the additional \$1 million to it at the end of January. Even using a 5% discount rate as opposed to a 7% discount rate used by CalPERS, the Town's pension liability will be fully funded in 14-15 years.

Ralph Marcello, Marcello and Company, gave a presentation of the Town's audit report for fiscal year ending June 30, 2019. He explained the auditing process which resulted in issuance of a clean opinion for both the Town and the Sanitary District No. 2, spoke of auditing controls, reporting of pension liability and GASB 68 reporting, CalPERS targets and the Town's response to mitigate its exposure through the Pension and OPEB Trust.

Councilmembers asked and confirmed that the Town is assuming a discount rate of 5.5% versus CalPERS' 7% which CalPERS expects to lower.

Mr. Marcello then discussed medical benefits which are termed Other Post-Employment Benefits (OPEB) prior to collecting Medicare. He described the Town's plan assets of \$2.4 million which leaves a liability of \$9.3 million. The discount rate in the OPEB plan is 6.75% and if this drops in the future, the Town will have established an OPEB Plan Trust and there is currently \$2.8 million in the OPEB plan. If the discount rate drops from 6.75% to 5.75%, this would increase the Town's liability by \$2.4 million. Complaints by California cities have complained about how high CalPERS' discount rate is, so they have lowered it slightly over time rather than drastically reducing it.

He then referred to GASB 34 from 2003/04 and described the two new financial statements; the Statement of Activities and Statement of Net Position. Government activities were \$23 million in expenses and water utility was \$4 million in expenses. The Town's change in net position (or profit) was \$6.3 million which was due to an increase of revenue of \$4.8 million while expenses increased only \$2.7 million. They typically see cities reporting increased property tax revenue as well as sales tax revenues. He spoke about slowing of the economy expected in the next two years and stated the Town will be in good shape by setting up the Trust accounts.

Mayor Andrews opened the public comment period, and there were no speakers.

MOTION: Moved by Bailey, seconded by Ravasio, and approved unanimously by the following vote: 5-0 (Ayes: Bailey, Beckman, Kunhardt, Ravasio and Andrews; Noes: None)

To Accept the Town of Corte Madera Annual Independent Audit Report for Fiscal Year Ending June 30, 2019

RECESS REGULAR TOWN COUNCIL MEETING/CONVENE THE SANITARY DISTRICT NO. 2 MEETING

At 6:55 p.m., Mayor Andrews recessed the Regular Town Council Meeting and convened the Sanitary District No. 2 Meeting. All Board Members were noted as present.

ADJOURN THE SANITARY DISTRICT NO. 2 MEETING/RECONVENE REGULAR TOWN COUNCIL MEETING

The Sanitary District No. 2 meeting was adjourned at 7:02 p.m. and Board President Andrews reconvened the Regular Town Council Meeting at 7:02 p.m.

5. PUBLIC HEARINGS

- A. Public Hearing for Consideration of Appeal Application PL-2019-0113 Requesting Reversal of the Planning Commission's Approval of Design Review Application PL-2019-0084 for a New 3,114 Square Foot Single-story Residence with an Attached 665 Square Foot Garage at 223 Baltimore Avenue
(Report from Martha Battaglia, Senior Planner)

Mayor Andrews and Councilmembers briefly disclosed their meetings, site visits and ex-parte communications regarding the appeal matter.

Senior Planner Martha Battaglia gave a comprehensive overview of the staff report regarding Appeal Application PL-2019-0113 requesting reversal of the Planning Commission's (PC's) approval of Design Review Application PL-2019-0084 for a new 3,114 square foot single story residence with an attached 665 square foot garage at 223 Baltimore Avenue. She reviewed design review findings that must be made and stated the Council is evaluating Finding 3 as to whether impacts are significant and adverse.

Councilmember Kunhardt referred to the elevations and he asked and confirmed that the new version of the horizontal lines was an illusion due to replication of the pattern of the roof above and that the revised peak height portion was lower than the other portion.

Ms. Battaglia concluded her presentation and indicated that the Council has four options to consider: 1) to deny the appeal and uphold the PC's action by approving the resolution; 2) to modify the PC's action by changing the conditions of approval and associated findings for the Design Review Application; 3) to approve the appeal, thereby overturning the PC's action approving the Design Review Application; and 4) to remand the action to the PC with direction for further review and determination of appropriate conditions.

Councilmember Bailey asked the Town Attorney to describe the Council's role as to quasi-judicial or this as a de novo hearing, which is to be considered anew.

Town Attorney Teresa Stricker explained that the item is a de novo review which means the Council is to review the application anew.

Councilmember Kunhardt asked and confirmed the PC's final vote on the project was 3-2.

Councilmember Ravasio referred to the definition of "ridgeline" from the General Plan and he asked staff to describe this.

Director of Planning and Building Adam Wolff explained there is a discussion in the Resource Conservation and Sustainability chapter of the General Plan (GP) which describes hillsides and ridgelines as a feature of Corte Madera. It talks generally about the fact that the Town's western region consists of steeply sloping, heavily wooded hills and ravines, etc. There is a specific definition in the Municipal Code.

Ms. Battaglia then read into the record the definition under Chapter 4, Definitions: "A ridgeline means a connected series of locations at the top of a ridge, hill or mountain which, from different vantage points have a sky as a backdrop."

Mayor Andrews referred to setbacks and asked what the building setbacks are from the north boundary line, which Ms. Battaglia explained and confirmed no variances were being requested.

Mayor Andrews questioned what is required in terms of a condominium complex.

Ms. Battaglia pointed to the location of the condominium complex and displayed the project site in relation to the buildings. She presented Building 9 of the Parkview Condominium Complex and said there are 2 buildings in the complex located on Redwood Avenue and then structures which are the single family homes on Redwood Avenue. A 6-foot setback is proposed, then the 8-foot setback and then a 19-foot setback. There is a 25-foot setback proposed adjacent to the southern property boundary.

Councilmember Kunhardt asked and confirmed the picture displayed was taken prior to the tree removal.

Mayor Andrews called upon the appellant for a 10-minute presentation.

JEREMIAH MOCK, Appellant, 10 Pixley Avenue, read a policy in the GP and the Zoning Ordinance (ZO) under Community Design, Section 22 of the design guidelines which states, "The Design Guidelines shall include consideration of the perception of visual bulk in evaluating the form of the new residential construction." The GP also calls for Community Design Section 2.3 to "Require new residential construction, including large additions, to respect the scale and character of the nearby structures by minimizing abrupt or excessive difference in appearance or scale."

Additionally, the GP specifies applying the following site planning and design provisions in the design guidelines: "To discourage development that would have a detrimental effect on ridgelines" and also "To encourage hillside development to follow the natural slope of the

land form.”

Mr. Mock said these are values the community has decided to embody in the GP; “To ensure that new residential development incorporates views in site design and architectural planning and, that “view” is specifically defined as a scene from which a residence and/or its active use area such as a yard or deck” or in their case a balcony, and “includes upslope and downslope scenes. Short range views are those predominantly limited to a particular neighborhood and long range views encompass the broader significant view sheds, particularly regarding Mt. Tamalpais which is specifically mentioned over a dozen times.”

Findings must be made that balance of the wishes and rights of existing owners versus new owners, and there should be no significant impact on views, sunlight and privacy for the existing owners nearby.

He noted that Commissioner Bandel voted against the project and said in this case they must look at the expense to the many rather than just to one family. Commissioner Lee felt it was too imposing on the surrounding community and a third Commissioner was extremely reluctant to vote in favor and she refused to second the motion.

Mr. Mock then presented the notification received from the Delsol’s that they thought the house did not look large or imposing. The information provides no information about borders, boundaries, relative height and it minimizes the actual perception of the height of the structure. He pointed to an area on the map and said in looking at the U.S. Army Corp of Engineer’s definitions this is actually a ridge. He then pointed to photos showing views from various Baltimore Avenue neighbors’ windows and views to the structure which does not impact them, presented photos from the HOA (Homeowners Association) looking up at the structure and from other areas and from their unit, which blocks the ridgeline.

Councilmembers asked and confirmed with Mr. Mock that these photos were taken prior to the reduction of the hip roof.

Mr. Mock noted however that the view is still obstructed and presented the view without any obstruction, with the story poles and what the structure will look like with the reduction. He referred to the loss of appraisal value and asked Brian Jones, certified appraiser in Tiburon to speak on this.

BRIAN JONES, certified appraiser, Tiburon, said he has been appraising property for 17 years, has completed over 8,000 real estate appraisals in Marin, and his family are also appraisers. He was asked to look at how the new residence would affect the value and marketability of the two units at 101 Pixley and 111 Pixley Avenue. He ran analysis and several regressions studies, ran several matched paired analysis and utilized his own opinions.

He arrived at a range of between 2% and 2.5% of the total value for 101 Pixley Avenue and for the upper unit at 111 Pixley Avenue a range of between 3.5% and 4% of the total current market value. He commented that 101 Pixley Avenue sold for \$700,000 and 111 Pixley Avenue sold for \$695,000 and he was not sure what they would appraise today.

Mr. Mock continued and pointed to the low estimate and the high estimates showing 101 Pixley is between a \$14,000 and \$17,000 loss and for the unit above at 111 Pixley it is between a \$24,000 and almost \$28,000 loss, for a combined total loss of \$38,000 to \$45,000. He believes this is a significant impact in addition to the impact on their quality of life. He noted that Mr. Jones was only looking at the loss in value from the Mt. Tamalpais view and the loss of privacy from the structure being right in front of his home.

In addition, a shadow study was done which shows impacts in the afternoon. He presented photos taken right before the winter and the sun is coming through the story poles. He then presented photos taken in the spring and said throughout the year the structure will

impose shadows. He asked for the removal of obstruction of view from Mt. Tamalpais and to be able to maintain their privacy, asked for review of the blockage, removal of the bulk and also a reduction in mass. He also asked for a design lower in height which will restore the view of Mt. Tamalpais for the two properties and will also remove the visual bulk for the rest of the community. It will also preserve the view of the great room for the Delsol's.

BRADY DELSOL, Applicant, 223 Baltimore, introduced his wife, Katie and their three children, as well as several community members supporting them in their project. He said they grew up in Corte Madera and purchased 223 Baltimore Avenue in May 2019 which was originally constructed in the 1930's and is in disrepair. Their plan is to remove the current house and build a new house. He said the renovations will work well for their large family and fit into the neighborhood. Their lot is over 15,000 square feet and the first architect they spoke to suggested splitting the lot and building two houses which they disagreed with. That architect also suggested they build a two-story house to optimize the view which they also resisted.

Using the Town's guidelines for construction on an R-1 lot, their property could accommodate a home of up to 6,000 square feet and 30 feet tall, but they chose not to attempt that either. Instead, they are proposing a much smaller single-story home. They are not maxing out the lot coverage or square footage, not asking for any variances and have designed everything to fit within the required setbacks and limitations of the Town. They will be using panelized construction to frame the home which produces a lot less waste, is quicker to build and produces a high quality finished product. They will also install solar panels and a backup battery system for the home's electrical needs.

KATIE DELSOL, Applicant, added that they began neighborhood outreach in June 2019 to introduce themselves and provide an overview of the project. They sent a second letter in September 2019 that included renderings of the proposed home and held meetings with immediate neighbors, went door-to-door introducing themselves and have many letters of support from neighbors on Baltimore Avenue and Willow Avenue on record.

Prior to the November 12, 2019 PC meeting, none of the neighbors on Pixley, Redwood, Willow Avenue or Baltimore Avenue had reached out to them with any concerns. They were surprised and saddened about the resistance to their project at the November PC meeting. After the meeting they met with neighbors and made several changes to address their concerns.

Changes included changing the roof on the southern portion of the home from a gable to a hip roof which reduced the end by 7 feet and moving over 20 feet of ridgeline. They added additional privacy vegetation between their property and the neighbor to the west, removed a fire pit area from the southwest corner, removed a trampoline from the southeast corner, added two additional mature trees to the southern border, identified the quietest and most efficient AC unit and pool pump, as well as enclosing both of these units. Commissioner Bundy stated that he believed they had done a lot to accommodate neighbors.

Despite their efforts; however, they faced opposition from the appellants during the December 10th PC meeting. Several PC members noted they appreciated the changes and ultimately the PC approved their project.

Three issues are raised in the appeal; 1) loss of views; 2) impacts to sunlight; and 3) affecting a ridgeline. The proposed home will not significantly impact their neighbors and they can demonstrate there is ample evidence in the record to support denial of the appeal. The only impact they have on 6 of the 10 appellants is that they can see their home. Four appellants live on Redwood Avenue south of their property and are substantially lower. She presented a map showing these neighbors with a red star. Trees are mature on the hillside between them and block many of the views onto their property.

Two of the appellants live in areas within the Pixley complex that are farther away from their proposed home and are shown on the map with a purple star. Their views and sunlight are not affected by their project. The remaining four appellants lease or own units in Building 9 of the Pixley complex and are closest to their property and are shown on the map with the yellow stars. The blue stars on the map represent neighbors who support the project.

Mrs. Delsol then displayed a picture taken from their property at Building 9 showing there are no windows facing their property and no views of Mt. Tamalpais from anywhere inside their units. The orientation of these Pixley condos and their balconies is towards the southeast with views of Town Park, Chapman Park and Corte Madera Avenue. The rear portion of their building sits at the bottom of a fairly steep, 25 foot slope and is heavily shaded by mature trees and vegetation on their property.

When they purchased the property last summer, Mrs. Delsol stated the trees and vegetation were heavily overgrown. There was 30 years of overgrowth due to a lack of maintenance. They removed undesirable and fire-prone trees, including 3, 80-foot Eucalyptus trees from their southern border and 7 Acacia trees, some 40 feet high that grew on the eastern property boundary closest to Building 9. One downside of the tree removal is that there is much more exposure and visibility to see their proposed home.

She then presented before and after pictures of the Acacia trees and Eucalyptus trees. The staff report stated, "Staff is able to make the findings that the project does not significantly and adversely affect views from 101 Pixley and 111 Pixley Avenue because the view of Mt. Tamalpais is from a corner of a balcony looking in a particular direction and since the proposed project does not impact the vast majority of the view from the balconies."

She said Commissioner Peter Chase stated, "If it were a primary view from the neighbors' living room window they would have to say this cannot happen, but it's not. You've got to walk to the corner of the deck and look up."

Commissioner Charles Lee stated "To me, Mt. Tam is not the primary view. It is a secondary view and the primary view is the entire village, the whole canyon from the front and it is beautiful and spectacular."

Mrs. Delsol then explained the shade study which includes the modification to the roof and several additional time call-outs in the afternoon. It confirms they will have very little impact on Building 9. There are no shadows cast on the building before 3PM on any day of the year.

Regarding ridgelines, Baltimore Avenue in Corte Madera is not located on a ridgeline. Neither Baltimore Avenue nor any part of Palm Hill is identified as a ridgeline in the Town's General Plan, nor does the County of Marin recognize a ridgeline anywhere near Baltimore Avenue. She presented an image from the County with ridgelines highlighted in blue confirms that Baltimore Avenue is not located on a ridgeline and she pointed to the property showing a red cross. Commissioner Chase stated "It is a rise in the ground, but by strict definition I don't think the lot is a ridgeline."

Mrs. Delsol noted that she and her husband paid a premium price for a view lot and they are siting the house so they can see the view of Mt. Tamalpais. They put a lot of thought into the placement of the home on the lot with the goal to minimize the impact on the neighbors. The lot is over 15,000 square feet but also has nearly 6,000 square feet of setbacks or areas they cannot build on. She presented a drawing showing their property line and said the cross hatched areas represent the setbacks. A single story house has a larger footprint so it is more challenging to relocate it within their buildable footprint. Their view is obstructed on the northern half of their lot by their neighbor's three-story home at 219 Baltimore Avenue and they cannot build on the southern 25 feet due to the setback which allows them less than 50 feet of buildable area that can enjoy the view.

The great room and master bedroom are the only two rooms that get to take advantage of the view. Moving the house far enough north to open the view up for the two Pixley Avenue balconies would require a total redesign, negatively affecting their neighbors to the north at 229 Baltimore Avenue and taking away the bulk of their view. Moving the house to the west would increase the height of the house since the west side of the property sits lower.

They believe there is substantial evidence in the record to support approval of their project and she asked the Council to deny the appeal, uphold the PC's approval and allow their family to move forward with this project.

Mayor Andrews asked if there were questions of Councilmembers for the appellant or applicant.

Councilmember Bailey referred to the removal of trees and asked which trees immediately adjoined the properties between 101 Pixley Avenue and the Baltimore property.

Mr. Delsol confirmed the Eucalyptus trees were on the southern border and on the Redwood Avenue complex property. The Acacia trees were on his property adjacent to their eastern border between them and the Pixley condos, and he confirmed they were removed this past August.

Councilmember Bailey thanked the appellant for allowing him onto his deck. He did not realize there used to be trees and asked if those trees had previously obscured his view and whether it was meaningful in seeking to have the view moving forward.

Mr. Mock stated there were Acacia trees there and he confirmed they could still see Mt. Tamalpais from the opening in his window. With regards to disputes about trees and sunlight, he pointed out that the code specifically states, "facts or conditions which occurred or existed no more than 20 years prior to the date the complainant first notified the tree owner or facts or conditions which occurred and existed during the one year period specified in the first paragraph."

He said this is the one year period from purchase after, and this is important because the Acacias were not planted but were volunteers that grew up over the last 20 years. They are about 26 years old. The landlady who is 85 years old was not aware these trees had grown up. When her family purchased the property in 1968 before the trees were there they had an unobstructed view and paid for the value of that view. One of the other appellants, Mack and Dora who live above him, had no trees or story poles when they purchased and moved to their property. Therefore, he believes their right to a view based on the tree code is established from the purchase date of their property because no one told them that anyone was planning to build a structure there.

Councilmember Bailey questioned why the ordinance is significant here.

Mr. Mock explained that the right to a view is partly described in the tree code section of the ordinances and this is what specifies what one has a right to a view. His landlady did not know these trees were there but she still had a view; it was just partly obstructed.

Councilmember Bailey stated the fundamental question is whether or not there is a significant impact to the views. He did not know whether there is because he questioned whether there was any view there because there were trees obstructing it.

Mr. Mock said if his landlady had known that these trees had grown up she would have been able to make a claim to the Town based upon the ordinance and her right to a view would have been up to 20 years prior to the date the claim was made. These trees are all immature trees that are about 20 years old and were not there when she purchased the property.

Councilmember Bailey asked if Mr. Mock was asserting a right to a view that was apparent 20 years ago and then the property owner was reminded it was in place.

Mr. Mock said the view was always there but it became more and more obscured as time went on.

Councilmember Ravasio asked if the owner had ever complained or asked the previous owner to remove the trees. The ordinance states they would have to do that.

Mr. Mock said he did not complain but there was still a view there. In the case of Mack and Dora, they had no reason to complain. When they purchased the property it looked completely unobscured, and he presented a photo showing the lower view from his property of what they saw.

Councilmember Kunhardt asked for staff on the definition of a ridgeline. He was surprised the PC did not identify the top of Palm Hill itself as being a ridgeline which is populated with homes.

Mr. Wolff thought one way to look at this is other homes and other additions to homes that have been built on other rises in the ground. These occur quite frequently on the east side where there are homes with additions and these have not been considered ridgelines in the past.

He noted this did come up with respect to the Robin Drive project where there originally was a subdivision of 16 homes and an upper parcel that was deemed a ridgeline in that case. However, it is something that has not come up in the context of existing developed areas such as this particular site which is an infill redevelopment of an existing home within the context of several homes that are above and below it on a particular hillside.

Vice Mayor Beckman referred to Marin County's definition of local ridgelines and he confirmed with Mr. Wolff that the Town has not designated specific ridgelines in Corte Madera that are defined in terms of "50 feet below a ridgeline" would apply. Staff has reviewed Chapman Park area homes and those are the types of ridgelines staff would review and determine where the ridge can be seen and the sky behind it. A house on that ridgeline or within certain proximity of it would modify the natural contour when looking up. They have also looked at Ring Mountain, the top of Chapman Park, Christmas Tree Hill but have not gone through the exercise of designating ridgelines.

Vice Mayor Beckman asked if staff would defer to the Marin County resources given the Town does not have such specific and designated areas. Mr. Wolff said they have not and it is something they have not needed to do in the past.

Mayor Andrews opened the public comment period.

Public Comments:

JEN REEDY said she has trouble understanding how a single level structure surrounded on three sides by three-story structures, two of which are multi-unit condominium complexes, could be considered imposing. Their new home will improve property values, are not pushing the Town's limits or maximizing the structure and designing a home that architecturally fits. It seems there was an obstructed view by trees which were a fire danger for 30 years and those were allowed to be there. So, there is no change in terms of the view situation. Her family lives in a 1906 home and it was one of the first homes in Corte Madera and she does not expect that her neighbors should have lesser homes. She voiced support of the design and asked that the Council deny the appeal and uphold the PC's decision.

LISA SPANGLER said she lives at 34 Redwood Avenue and owner of 75 Redwood Avenue with her brother and sister. Her parents bought the home at 75 Redwood Avenue in 1960 and it was the original Town Meeting Hall. She spoke of the significant and adverse impact the proposed development would have on both of their properties. She is concerned about the impact the development would have on the character of the neighborhood on Redwood and Pixley and supported the appeal. She thinks there is more mediation that can be done to address concerns, particularly those on Pixley and Mr. Mock's impacts, stating their view was there. She was not originally concerned until after seeing the rendering and story poles and thinks more could be done to reduce its height and asked the Council to act in the best interests of all parties.

LAURA VON WALBERG, 38 Lakeside Drive, said she had followed the application and read a letter into the record supporting the project. She felt view preservation is important and should be protected by the Town; however, the view in question is not significant or that from the main interior or exterior living spaces. She encouraged approval for the investment it will bring to the Town.

MACK MADSEN said he and his wife live at 111 Pixley and purchased the property on October 11, 2019 and there were no trees there. They purchased the home for the ability to have a view, however small, of Mt. Tamalpais right by his barbecue and said his family will have privacy impacts to their bedrooms. He therefore asked the Council to approve the appeal and give the Delsol's some guidance to make small modifications to address concerns.

MRS. MADSEN stated they enjoy their deck view very much of Mt. Tamalpais and asked that their property values, enjoyment of their space, and privacy be considered and for the Council to approve the appeal.

MEGAN HARVEY, Lakeside Drive, stated she attended two meetings and said the PC did a thorough and thoughtful review. There is nothing in the record that has come before the Council that calls the PC's decision into question. She asked that the Council not undo the work done by the PC and asked to deny the appeal. View preservation cannot lead to development prohibition and thinks it is critical that the neighbors will likely lose their small views no matter what is built on this property. She spoke about what is a minimal design, neighborhood outreach, compliance with all development standards, are proposing a single-story home with appropriate setbacks and keeping the roofline lower than allowed by code, and she said the General Plan requires view preservation shall be balanced with a property owner's right to development. She believes that if more is required of the applicant, they will probably sell the property to a developer who will have profits and not neighbors in mind, given the lot could be filled to capacity with great impacts.

DON WILBURG, 13 Seminole, said he almost always finds that applicants come away from these meetings devastated by the process and are horrified. They are trying to improve the neighborhood, and were familiar with the 20 year rule because it happened to him. He lives in the flats and the rule was applied to him because he had plants in his backyard which blocked his neighbors' views. She applied this Town rule and he spoke with the Pacific Legal Foundation who said it was unconstitutional because it gave someone a different right than someone else. They suggested going through a process that would cost approximately \$50,000 and they could then take the case and take it all the way to the top because it was unconstitutional. He ended up settling and it only cost him \$10,000 and he lost all of his trees. So, he suggested deleting the ordinance.

JILL MARTAY voiced support of the project and spoke highly of the Delsol family. She said witnessing this process with review boards has been hard to digest and have witnessed the Delsol's taking thoughtful and transparent approaches and compromise. This took time and money to come up with a workable situation; however, she described the December meeting which revealed a mean-spirited agenda led by an individual who took a calculated approach and who rallied neighbors to join him, which was disheartening. She asked the

Council to approve the project which provides a modestly designed and sized home and replaces a dated, unrepairable structure. She cited the Delsol's legal entitlement to development and views that complement the lot and asked for support by the Council.

LISA BUEY, Larkspur, said she feels this process has been very unfair to the Delsol's, which she described as fitting within all Town guidelines. She echoed comments of the previous speaker, thinks change is hard, cited the compromises and work made by the applicant, and asked the Council to uphold the PC's approval of what is a beautiful design and project.

ROBERT PHILLIPS, co-appellant, stated the Delsol's home does not have a direct impact to his home, recognizes the applicant's right to build a home and also recognizes the rights of neighbors and their views. He thinks it is possible for the Delsol's to build their home and maintain a view of Mt. Tamalpais and hopes to be able to find a solution for both parties.

BROOKS HAYNE, 81 Lakeside Drive, said the Delsol's have been their direct neighbors for the past 12 years and fully emphasized with those with concern over the design because they had approached him years ago when they wanted to add a second story on the home which would block a secondary view of theirs of Mt. Tamalpais from their backyard. They supported their proposal and are very happy they did. He has been in real estate for 20 years and he believes the intrinsic value of having them as a neighbor outweighs any negative impacts. The Delsol's have a large birch tree in the middle of their yard which further obscures their view of Mt. Tam, but they have always kept it trimmed but they never had to ask them to do this. He hopes the Delsol's are able to build their home which he believes is in keeping with responsible design and are grateful they will be able to remain in the neighborhood.

NANETTE GRIM referred to her email expressing her concerns and said she lives at 115 Pixley on Lot 9. She recognized that the Delsol's are wonderful people but the impact can be seen when looking at the story poles and the development will stand above everything. It is not so much the building but the location and its blockage of light, as well as replacing her tree views with a concrete building. She therefore asked the Council to consider all variables and voiced concern also with privacy impacts.

LAURA WILLIAMS, 103 Pixley, Boardmember of the Parkview Terraces HOA, said she has read all of the ordinances, past decisions and weighing the decision. She joined the appeal because she believes there is evidence to support a modification. The applicants deserve to build their home but there is a loss of views that will occur. Views of Mt. Tam are very important and she would like to see preservation, balance and harmony which are written into the Town's ordinances and she asked for alternatives.

Mayor Andrews closed the public comment period.

Rebuttal – Applicant

Mr. Delsol referred to the Acacia trees on the eastern border and stumps Mr. Mock took a picture of a small cluster of trees and the others are much more substantial trees. The owner of the property was never approached by anyone to maintain, thin or remove those trees and no one had concerns until they presented the proposal.

Mrs. Delsol said she cannot explain how sad and difficult this process has been for their family. They spent countless nights awake as to how and why they got here. They thought they were doing a great job planning the project and it has been appealed for reasons that do not seem significant and adverse. They are trying to build a single-story home with 27% lot coverage and not pushing the boundaries or maxing out what could be done on the lot. The home fits well within all of the Town limits.

They knew people would be able to see their home but did not realize they would be so unhappy about it. They knew their project would have some impact and they worked hard

to minimize it. They also put a lot of thought into window placement to ensure privacy, removed several fire-prone trees and they are all better off with them gone. They plan to replace them with 9 more appropriate mature trees that are safer and will help with privacy.

The neighbors on Pixley and Redwood have been living next to undeveloped land and have enjoyed seeing nothing on it, and while their house will be visible it will not be overbearing or imposing. They spent a lot of time developing a single story house that fits in, thinks ridgeline concerns have been eliminated, thinks the shade study confirms little impact on the neighbor's sun, and unfortunately they will have an impact on the view from the two balconies on Pixley but it is not a view from anywhere in the house, not the primary view from the balcony but only from the end of the balcony looking behind the building.

She then quoted the December 10th staff report regarding the fit of the home in the neighborhood, modifications made to address concerns, that the project does not significantly and adversely affect views, sunlight and privacy of adjacent residences, meets all development standards, and she and her husband believe there is substantial evidence for approval of the project and she asked that the Council deny the appeal and uphold the PC's approval.

Rebuttal – Appellant

Mr. Mock, Appellant, presented a series of photos and the rendering shared with neighbors and said no outreach was done except for a letter that was sent. He believes the view is a ridge and an extension of a ridgeline per the U.S. Army Corps of Engineers shows. He then presented the view before story poles were put up and the view after and he cited the reduction in cost to their homes which is significant. They get very little sunlight in the back of their home and now it will be blocked the entire year.

He asked for balance and feels a redesign is a reasonable compromise and that the Delsol's will be able to enjoy a full picturesque view from their great room. Instead, they seek additional views from their master bedroom and from a small window in their shower and this is what creates the blockage for him. He presented the proposed re-design which will also reduce mass further out on the ridgeline, which will particularly help those living on Redwood. He said all of the trees will be removed and he would like to see the palm tree preserved, locate the southern-most wall of the structure at least 25 feet northward on site from the southern-most wall on the design which will completely remove the blockage of views from Mt. Tam at 101 and 111 Pixley, requested the structure be sited at least 18 feet westward so it is not right on their property line, wants the 24 foot height of the structure lowered and thinks there is no design reason for the 6 and 12 roof other than the aesthetic value of it.

They also ask that the AC unit be relocated so it does not affect his residence, asked to consider changing the wall color from white to something less imposing, and asked for some window relocation.

Councilmember Bailey asked Mr. Delsol if he would be willing to discuss the slide labeled "modifications that will address loss of views, numbers 1 through 7 and tell him whether he has considered those items and whether any are possible to address.

Mr. Delsol said they are currently adhering to the 25 foot setback on the southern border. If they increased this to another 25 feet it would make half of their lot unbuildable, creating a 5,000 square foot setback on the rear of their house and making it impossible to design a single-story house on the remaining footprint. A total redesign would force them into a two-story design which is a house they do not want to grow old in and would significantly affect other neighbors on 229 Baltimore. They want the garage to act as a buffer between their houses as opposed to a two-story house with bedrooms on that side.

He said 18 feet from the eastern border setback seems a bit outrageous as well. The minimum setback is 6 feet and the only part at that setback is their garage. The bulk of the house is at an 8 foot setback and the southern-most portion of the house is 18 feet away from the eastern border. In making the house not so sprawling and massive is because they want a substantial yard to enjoy the sun and Mt. Tam view and changing this would be hard to swallow.

Regarding lowering the pitch of the roof, they are trying to be economical in building this house and will use a panelized construction method and truss system. They wanted to do a vaulted ceiling in their great room which is 12 feet high and in order to have this, they need a 6 and 12 pitch or higher. Their original design had an 8 and 12 pitch so they reduced it down which still allows them to have the vaulted ceiling in the great room. The rest of the ceilings are all flat ceilings.

Vice Mayor Beckman referred to the pre-fabricated truss system and he confirmed that the 6 and 12 was the minimum exterior pitch they could have to still have a vault inside for the great room.

Mr. Delsol referred to the HVAC unit and it is almost 18 feet from their property line which is 40 or more feet from their property on Pixley and they have identified a unit that runs at 60 decibels which is less than conversation or an average refrigerator. It will also be surrounded by a wooden surround and vegetation, so he was confident he and the neighbors will not be able to hear it.

Regarding the wall color facing Pixley, it seems odd to him that he could understand if they were doing something odd like purple or a royal blue, but it is a clean white palette and there are a number of white homes on the hills and flats. One of the appellants lives in a white house that it is pretty tall, so if this was a game changer they would consider another color, but white is a simple farmhouse look.

Regarding windows that face 101 Pixley, the backside of the house are their kids' bedrooms and they must have egress windows in those rooms. There is a substantial wall of vegetation along 101 Pixley that will prevent them from seeing out of those windows into their windows. He also confirmed that the whole western side of their house has no windows, so he thinks this is questionable.

Regarding the historic palm tree, it does sit at the backside of their garage. It is a non-native tree and both their arborist as well as the Town's arborist said the tree should be removed. It is an invasive tree, duplicates itself rapidly and it is not good to have. This property has been neglected for a long time and the trees were left to go wild, so they are bringing down trees most of which are fire-prone and have other reasons, but they will spend a small fortune on replacing the trees with mature trees they can find to reinstate privacy for them as well as for neighbors.

Mayor Andrews confirmed there were no other questions and called for Council deliberation.

Councilmember Kunhardt prefaced his comments by stating that when an applicant makes a life investment into the community, he holds a lot of respect for that party. At the same time, he did not want something that violates the Town's codes. Often the Council is faced with view protection and the PC and Council utilize protection of primary views which are views from major living spaces. This is an odd circumstance which involves blockage of light and views given the neighboring units.

He had asked if the applicants could pull the house back but the single story living would be affected and he also recognized the preference for a single level as people age. He spoke of the tree removal and now the opening up of views. Other than a major re-design he did not see a solution. Regarding adjustments that would make everyone happy he would like to

hear from other Councilmembers.

Vice Mayor Beckman said this is the example of the Council sitting in their quasi-judicial capacity which means they must judge and impartially look at the laws, the Municipal Code and General Plan and fairly and objectively interpret those things and apply them to this case. Generally, the house is well designed. He appreciates the applicant's modifications out of consideration for their neighbors and the home will be energy efficient so there is an environmental benefit. Also, the home complies with all of the development codes so this is noteworthy.

Not spelled out in the regulations are views and light and the Town has updated its ordinances to make things more enforceable and fair, and he thinks this is an example of the need to write a view ordinance. Something that needs to be acknowledged is when a home is built where one did not exist, it will be visible and he thinks it is the Council's job to make sure while negative impacts may exist, they stay within the bounds that are reasonable and what is not reasonable.

The Council heard many complaints but he was not sure when looking at the code, General Plan or zoning ordinance that they can back up some of these complaints. However, one is the issue of bulk. They know the property is elevated and on a shoulder which will naturally exaggerate the bulk of anything built there when viewed from a lower vantage point. Also, the one-story structure is less bulky than the two-story existing structure being demolished.

When looking at the 8 design review findings the Council is being asked to make, the only one he struggles with is number 3, where it talks about views and lights, which he read and was unsure as to whether he could make a finding that this project does not impact views specifically from 101 and 111 Pixley.

He referred to the January 9th photo taken by staff showing the view of Mt. Tam from the balconies at the two residences, he was inclined to say in Corte Madera and in Marin where Mt. Tam is an icon of the entire county and central to their local identity, he was inclined to say that an unobstructed view of Mt. Tam does tend to be significant. This one is viewed from a corner of a balcony, but at the same time, he spoke about how he uses balconies and even if it is not directly at his window, he tends to gravitate towards that area.

One complication is that this unobstructed view existed 20 years ago, was obstructed for 20 years and has recently come back into existence, so he was unsure if that factors into this situation and wanted to hear other Council comments.

Mayor Andrews stated in March if the Council passes the wildfire prevention measure, a lot of brush and trees will have to disappear because of fire risk which should have been done long ago.

Councilmember Kunhardt stated he lives in an area where a lot of vegetation has been removed and views have been greatly improved and privacy greatly reduced at the same time. But, overall it is a much better situation.

Councilmember Ravasio said he has heard many appeals and they are very difficult. He said he could make the 8 findings because he has seen many view issues over the years being appealed and while this is a nice view of Mt. Tam, when standing in the unit at 101 Pixley, when standing in the living room there are views of Town Park and the community, but they must look around the side to see Mt. Tam. This is a question as to how good that view was before the trees were removed which was done by the applicants putting up the story poles. It is a loss of a view but it is not a major or huge view.

He said he was sensitive in the loss of value that the appraiser spoke about but he would also counter that with the fact there is a multi-million dollar house going in right next to the

condos which will raise property values and this will offset any loss of the view. So, this is not an argument he places a lot of value on.

He finds the design of the house to be well done. The applicant is significantly below FAR, lot coverage and a developer would have split this lot and there would be two homes which would both be two stories. This is a one-story house on one spot which is very sensitive, nicely designed to fit in with the neighborhood. He has walked the entire area and the Council cannot ban new construction in town and people will see new development from their properties. This is an incredibly sensitively-designed home and nicely done.

Lastly, he said if this is on a ridgeline, people will not be able to build in half of the town. He looked up the definition of a ridgeline which is a line extending between two mountaintops, which this is not. Therefore, he could make the findings and would move forward with denial of the appeal.

Councilmember Bailey noted that everybody has had an opportunity to be heard and this is exactly how the system is supposed to work. He also observed that everyone has been reasonably nice to one another which does not always occur, but thinks both parties have reached a stopping point and the Council needs to make a decision. Some Councilmembers watched the PC video, walked the sites, and spoke to neighbors, the applicant and appellant.

He thinks at the end of the day, he could support Findings 1, 2, 4, 5, 6, 7 and 8 and was unsure about Finding 3 which involves views. He thinks there is a view from the balcony of the property which is adversely affected. However, it has been obscured for over 20 years and was not sure that matters in this case because it is outweighed by general principles.

If someone buys a parcel, they are entitled to develop it in some way. This project is not asking for special permissions and it is in scale and within codes. Whether the project significantly and adversely affects views, sunlight and privacy of nearby residences, it does not say whether it significantly and adversely affects any specific view. It does not say if there is any consequential impact that is measurable on adjoining property does that prohibit the owner of the adjoining property from building things. He did not think that was the way it was intended to be interpreted.

He also did not think the Council should immediately begin revisiting its ordinance and findings, because it is nice to have some wiggle room so people can make decisions based upon the circumstances. He voiced appreciation to everyone for their comments which he described along with his opinions and comments made by Vice Mayor Beckman.

His take-away is that this is not the sort of situation that requires a reversal of the PC's approval and said it is somewhat difficult to reach Finding 3 but only because it would require an over-specific reading that any substantial impact prohibits construction. He did not think it would make sense to continue it and ask for further changes and while he did not want to minimize the impact to those people whose views are impacted, he just thinks that in making a balanced decision, he could make the findings.

Councilmember Kunhardt said he would say all of the communications he has had outside of this room have been on topics covered by the appellant and the applicant in this room, with one exception being that he gave the applicants a hard time about using the color white on a hillside location. He noted there are about 12 houses in Larkspur up on the hill and only 2 can be seen and they are white which stand out.

Mayor Andrews said he was troubled by Findings 3 and 4. In looking at the story poles from below, the house cannot help but loom over everybody downhill of them. He agreed with the need to change the color white and asked if it could be changed out to some other color.

Mr. Delsol interjected from the audience that he was amenable to change the color if it would result in approval.

Councilmember discussion ensued regarding paint colors and prioritizing some views over others.

Mr. Wolff commented that the PC members each use their own facts and experiences as to whether something is significant and adverse and view impacts have differed amongst PC members and Councilmembers in the past. It gets back to individual projects and series of facts and circumstances that will lead to a determination.

Vice Mayor Beckman said he was wrestling with whether the Mt. Tam view is significant and therefore whether losing it would be significant. Councilmember Kunhardt thought it would be different if the two units had their picture windows looking out at Mt. Tam, and Councilmember Ravasio concurred.

Councilmember Bailey moved and Councilmember Ravasio seconded a motion to deny the appeal and uphold the Planning Commission's action by adopting Resolution No. 8/2020.

Councilmember Kunhardt suggested a friendly amendment to require the hardy board paint color to be something other than white at the applicant's choice. Councilmember Ravasio stated he did not believe the Council should dictate paint colors.

Councilmember Bailey accepted the friendly amendment to require the applicant to use a color other than white. Councilmember Ravasio again stated he did not believe the Council should dictate paint color and noted there are 70 shades of white.

Vice Mayor Beckman said he personally agrees with Councilmember Ravasio and feels a white house tends to loom less than green or brown.

Councilmember Kunhardt withdrew his amendment.

MOTION: Moved by Bailey, seconded by Ravasio, and approved unanimously by the following vote: 5-0 (Ayes: Bailey, Beckman, Kunhardt, Ravasio and Andrews; Noes: None)

To deny the appeal and uphold the Planning Commission's action by adopting Resolution No. 8/2020 and confirming that the Town Council can make Findings 1 through 8.

7. COUNCIL AND TOWN MANAGER REPORTS

- Town Manager Report

- Mr. Cusimano reported staff has been conducting a recruitment process for the Neighborhood Response Coordinator and have selected Rachel Kurtz who lives in San Rafael. She has accepted the Town's conditional job offer and will start immediately.

EXTEND MEETING

MOTION: Moved by Ravasio, seconded by Beckman, and approved unanimously by the following vote: 5-0 (Ayes: Bailey, Beckman, Kunhardt, Ravasio and Andrews; Noes: None)

To extend the Town Council meeting at 9:30 p.m. to 10:00 p.m.

- Mr. Cusimano continued stating staff conducted a full recruitment for the Parks and Recreation Director and has hired Ashley Howe who works for the

City of San Rafael Parks and Recreation Department. She has accepted a conditional job offer and staff hopes to transition her by March.

- Council Reports
 - Councilmember Kunhardt reported on his attendance to the Marin Economic Forum Update and Projection event.
 - Councilmember Bailey and Ravasio, Vice Mayor Beckman and Mayor Andrews deferred their reports to the next meeting.

8. REVIEW OF DRAFT AGENDA FOR UPCOMING TOWN COUNCIL MEETING

A. Review of Draft Agenda for February 18, 2020 Town Council Meeting

There were no comments or revisions to the agenda.

9. ADJOURNMENT

The meeting was adjourned at 9:32 p.m. to the next regular Town Council Meeting on February 18, 2020 at Town Hall Council Chambers.