

**MINUTES
PLANNING COMMISSION MEETING
MAY 14, 2019
CORTE MADERA TOWN HALL
CORTE MADERA**

COMMISSIONERS PRESENT: Chair Peter Chase
Vice-Chair Phyllis Metcalfe
Commissioner Margaret Bandel
Commissioner Charles Lee

COMMISSIONERS ABSENT: Commissioner Bob Bundy

STAFF PRESENT: Adam Wolff, Planning Director
Martha Battaglia, Senior Planner
Judith Propp, Assistant Town Attorney

1. OPENING:

A. Call to Order – The meeting was called to order at 7:00 p.m.

B. Pledge of Allegiance – Commissioner Chase led in the Pledge of Allegiance.

C. Roll Call – All the commissioners were present with the exception of Commissioner Bundy.

2. PUBLIC COMMENT – None

3. CONSENT CALENDAR – None

4. CONTINUED HEARINGS – None

5. NEW HEARINGS – None

6. BUSINESS ITEMS

A. ACCESSORY DWELLING UNIT ORDINANCE DISCUSSION – REVIEW AND DISCUSSION OF PROPOSED AMENDMENTS TO CORTE MADERA'S EXISTING ACCESSORY DWELLING UNIT (ADU) REGULATIONS (Senior Planner Martha Battaglia)

Chair Chase stated that the commissioners would not be taking action tonight, and Senior Planner Battaglia presented the staff report. Ms. Battaglia provided background information on the Accessory Dwelling Unit (ADU) Ordinance and noted that the Town

amended the ordinance in December 2016. She confirmed that the intention of tonight's discussions would be to consider further changes.

Ms. Battaglia discussed the purpose of the ADU Ordinance, which she said was to comply with state legislation to increase the supply of smaller and affordable housing. She discussed the ADUs that have been approved since January 2017, and the proposed changes to the existing ordinance, which included the reduction in the maximum size from 1,200 sq. ft. to 950 sq. ft.

Commissioner Bandel and staff discussed the need for ADUs to be compatible with the existing neighborhood.

Chair Chase noted that the proposed changes should provide objective standards for staff to apply to ADU applications, and staff discussed the ADU standards that relate solely to Christmas Tree Hill.

Vice-Chair Metcalfe discussed the reasons she would not support an amendment to the ordinance if school buses were considered transit for purposes of allowing ADUs.

Chair Chase opened the public comment period.

Lucinda Smith, Town Resident, discussed the need to limit the number of ADUs in the Hidden Valley area to avoid further impacting egress and fire safety problems.

Bill Rose, 104B Palm Avenue, discussed his support for limiting the height of ADUs, but allowing sufficient height for loft space, and for maintaining the current maximum size. Mr. Rose also discussed his support for removing the condition that the homeowner must reside in one of the dwellings on the property, noting that renters were an integral part of the community.

Chris Erlin, Corte Madera homeowner, discussed possible future plans to build an ADU on his property and the reasons why he did not support the owner/occupier requirement.

Corinne Grant, 1161 Meadowcrest Drive, discussed the reasons why she did not support the owner occupancy requirement and would support the existing size and height requirements for ADUs. Ms. Grant discussed the need for homeowners to obtain rental income to allow them to continue residing in their homes.

Phil Simon, 4 Simon Ranch Road, discussed the lots that he and his sister own and the houses they built on the lots as rental units. Mr. Simon discussed the reasons he would not want ADUs to be deed restricted, or not be able to build a unit on his property that would be a quarter of the size and have a lower height limit than allowed under the normal planning regulations.

Jim Robinson, 25 Ash Avenue, discussed his concern that the noticing process could be suspended and fees reduced. Mr. Robinson made the following statements: He did not believe homeowners who built ADUs would find the fees cumbersome; he was opposed to a reduction of the parking requirements but favored the deed restriction; he supported the reduction in the size of ADUs to 950 sq. ft. and reduced height, and opposed exempting a portion of a unit from lot coverage; he opposed allowing tandem parking and the elimination of the owner/occupancy requirement. Mr. Robinson provided statistics that did not support the notion seniors would build ADUs or help to expand the housing stock.

Phyllis Galanis, 215 Prince Royal Drive, discussed the existing parking problems on Prince Royal Drive, and her concern that exemptions would be provided based on school bus routes with a single bus passing through each morning.

Tamila Faridgoo, 163 Prince Royal Drive, discussed her concern that egress during an emergency would become more difficult as more residences and cars are added to the area. Ms. Faridgoo also discussed her concern that ADUs could be built on unstable hillside areas, and a school bus route, with no regular schedule, should be considered sufficient public transportation for parking exemption purposes.

Nathelle Belloni, town resident, discussed the problems they have encountered in trying to build an ADU for her mother. Ms. Belloni discussed the need to consider the uniqueness of a lot when considering whether an ADU could be built.

Chair Chase closed the public comment period.

In response to Chair Chase, Ms. Battaglia confirmed that staff did not recommend changing the existing requirement that an owner live in either in the primary residence or the ADU, and that current state law did not preclude this requirement. Ms. Battaglia confirmed that legislation is being considered that would remove that requirement and Counselor Propp noted that, if passed, the new legislation would most likely go into effect in January 2020.

In response to Vice-Chair Metcalfe, Mr. Rose explained that the City of Santa Rosa waived the owner/occupancy requirement if a property owner entered into a contract with the city to rent one of the units as an affordable unit.

Mr. Wolff noted that the Town of San Anselmo did not require a property owner to live in one of the units and that staff could be directed to determine the effects on ADU development without the requirement. He discussed the perceived advantages of an owner living in one of the units.

Vice-Chair Metcalfe discussed the reasons she would favor lifting the restrictions of the owner/occupancy requirements if one of the units could be affordable.

Commissioner Lee discussed the advantages to the community of the owner/occupier requirement, but also stated that more rental housing could be created and would provide more flexibility to homeowners. Commissioner Lee stated that he did not hold a firm opinion at this point.

Commissioner Bandel said she was leaning toward supporting the owner/occupancy rule because, in her experience, a property was well maintained and better regulated when owners with an interest in the property were on site.

Chair Chase discussed the difficulties of limiting property to low income, which included the development of units becoming a less attractive proposal and limiting housing stock, and he stated that absentee owners could be a problem.

Mr. Wolff discussed his concern that the Town would need to adopt enforcement regulations if affordability regulations were enacted.

In response to Commissioner Lee, Counselor Propp stated that the recommendation from staff would be to make final decisions based on the current legislation.

Mr. Wolff confirmed that staff would investigate the effects of the removal of the owner/occupier regulations in other towns for the commissioners' consideration.

In response to Commissioner Bandel, Mr. Wolff provided background information on the Christmas Tree Hill Overlay District and ADU regulations, and he said that state law allowed towns and cities to preclude certain areas from building ADUs. Counselor Propp noted that the limiting criteria related to issues that included impacts to traffic flow and public safety.

Ms. Battaglia went on to discuss staff's recommendation to reduce the allowable size of an ADU to 950 sq. ft. and to allow larger units based on lot size or discretionary review. She discussed size regulations in other cities and towns in the county, which included regulating the size of an ADU based on a minimum requirement and a maximum size based on the size of the lot ("two-tiered system"). She noted that the state maximum remained at 1,200 sq. ft.

Commissioner Bandel stated that she would favor a two-tiered system, while Commissioner Lee suggested that qualifying lots for ADUs larger than 950 sq. ft. should be ministerially reviewed. He discussed the different requirements for attached and detached ADUs with Ms. Battaglia.

Vice-Chair Metcalfe stated that she could support a two-tiered system with a base size of 950 sq. ft., and she discussed the need to develop criteria to allow larger ADUs.

Mr. Wolff led a discussion on height limitations. He noted that the changes proposed either a single story ADU or an ADU built over a garage, and he provided examples of recently approved projects that allowed ADUs with a maximum height of 22 feet.

In response to Commissioner Lee, Mr. Wolff noted that the regulations addressed dwellings in the flood plain.

Ms. Battaglia discussed allowing a portion of an ADU to be constructed in the required rear yard area with increased lot coverage to encourage the construction of detached ADUs on small lots. She noted that staff would recommend a 10-foot side yard and rear yard setback, with lot coverage of the required rear yard area of 30%, rather than 40%. Ms. Battaglia confirmed garages that are converted to ADUs do not require a setback under state law.

Commissioner Lee suggested consulting with the Fire Marshal about the possibility of reducing the side yard setbacks. He discussed the desire to achieve a 600 – 800 sq. ft. detached ADU, which would require lot coverage of the rear yard closer to 40% for many lots, and the reasons he believed such structures would appeal to homeowners.

Vice-Chair Metcalfe stated that she could support a 10-foot rear setback and between 30% - 40% lot coverage of the required rear yard area. Chair Chase stated he would support lot coverage at 35% of the rear yard area and staff confirmed they would provide materials clarifying the effects of proposed heights and sizes of detached ADUs.

Chair Chase announced a 10-minute break at 9 p.m.

Ms. Battaglia discussed the proposed changes to the parking regulations, which included potentially allowing a parking space in the front yard setback of a driveway, and also allowing replacement parking for garage conversions on the existing driveway or in the side yard area. Mr. Wolff noted that the changes would avoid the need for applicants to apply for a variance for reasons he discussed.

Commissioner Lee explained that the commissioners listened to complaints from the public about car-lined streets, so eliminating the need for a front yard setback for parking could improve the problem.

Commissioner Bandel stated that she had a preference for maintaining the parking variance regulations for front yard setback encroachments, noting that they should only be provided as exceptions.

In response to Chair Chase, staff stated that ADU applications would increase if the Town eliminated the variance. Mr. Wolff noted that cars were often parked within the front setback of houses.

Mr. Wolff and Commissioner Lee discussed parking space sizes. Mr. Wolff confirmed that there was no code requirement for a certain sized space for residential uses, but that the space must be entirely within the property.

Ms. Battaglia discussed proposals to clarify definitions, and she noted that the law allows ADUs to be constructed without additional parking if they are located within ½ mile of public transit. Staff suggested that the distance should be clarified as traversable. Ms. Battaglia also discussed the proposal to clarify “public transit” to include bus stops for Marin Transit school bus routes 113 and 117, noting that school bus routes for the exclusive use of students would not be included.

Vice-Chair Metcalf acknowledged that the buses on these routes stop at regular bus stops, but she stated that they run at certain times to take students to and from school; that the timetable is changeable and that the buses do not run during the school holidays. Vice-Chair Metcalfe noted that members of the public could board the buses and pay a regular fair if there is room, but that the buses did not provide regular public transportation or take ordinary passengers to places they wished to go, and thus she believed the routes did not in any way qualify as public transit. Vice-Chair Metcalfe stated that until such time public transit could be defined, she would strongly recommend the routes be excluded from the ordinance.

Counselor Propp confirmed that state law did not require the town to define public transit in such a manner. Mr. Wolff suggested the commissioners might consider the consequences of excluding the bus routes and a single parking space in the front yard setback. He noted that withholding both options could create a barrier to encouraging the development of ADUs.

Commissioner Lee suggested that public transit could be defined as the existence of a bus stop with the potential for being served by public transit, and he noted that bus routes to the Town of San Anselmo had recently been cut.

Chair Chase stated that public transit did not exist on the east side of Corte Madera and that there were no plans to provide it.

Commissioner Bandel stated that the commissioners should consider what public transit is currently available to take members of the public to and from a destination, and that such transit did not exist on the east side of Corte Madera.

Ms. Battaglia discussed definitions pertaining to Christmas Tree Hill and explained that state law allows an ADU to be constructed within an existing single family home. Ms. Battaglia also noted that staff proposed clarifying that an existing structure (which a homeowner proposed to convert to an ADU), must have existed for a minimum of 5 years on the property to deter circumvention of the problem when the number of ADUs allowed in a zone on Christmas Tree Hill had been maximized.

In response to Commissioner Bandel, Mr. Wolff explained that staff suggested the 5-year minimum because it is cited in other standards in the code where there is potential for incremental development.

Vice-Chair Metcalfe suggested that the Christmas Tree Hilldwellers Association is informed of the proposed changes to the ordinance. Otherwise, there was general consensus amongst the commissioners that 5 years was an acceptable amount of time for an existing structure to be converted to an ADU.

Ms. Battaglia moved on to staff's recommendation that ADUs should be deed-restricted to a minimum of a 30-day rental to facilitate the creation of affordable housing. Commissioner Lee explained that deed restrictions should not be necessary because he believed the Town Council should ban all short-term rentals if they so wished. He stated that he has heard from the public that they would not support deed restrictions and that he thought residents would be discouraged from buildings ADUs.

Mr. Wolff explained that the purpose of relaxing the normal regulations for ADUs is to add to the housing stock. Counselor Propp noted that conditions do not provide a legal recourse if a property changes hands, whereas a deed restriction provides notice to future property owners of the use.

At 10:00 p.m. Vice-Chair Metcalfe made a motion to continue the hearing until 10:30 p.m., which was seconded by Commissioner Lee and unanimously approved.

Ms. Battaglia discussed modifications to the review process, whereby an appeal of the Zoning Administrator's decision could be reviewed by the Town Manager, who would make the final decision.

Vice-Chair Metcalfe discussed her reservations about the Town Manager's review of the Zoning Administrator's decision. Counselor Propp explained that the Town Manager would make an independent study and final determination, noting that that the Town could appoint an independent hearing officer, which would cost more. Mr. Wolff confirmed that staff would explore other options.

Mr. Wolff explained the noticing process for Commissioner Bandel, who suggested the process is clarified in the ordinance.

Ms. Battaglia discussed amendments to ensure consistency with prior approvals, including the need to ensure an ADU application did not conflict with prior land use entitlements.

Ms. Battaglia discussed staff's proposal to create two review processes, which include 1) an ADU located within an existing structure or a Junior Accessory Dwelling (JADU) and 2) an attached or detached ADU. An attached or detached ADU would continue to be ministerially processed with an \$850 fee and a courtesy notice. Staff proposed that applicants should apply directly for a building permit for JADU's or ADUs within an existing dwelling.

Staff also proposed that parking requirements be changed from one space per bedroom to one space for the ADU to be consistent with current state law.

The commissioners were in agreement with the aforementioned proposed amendments.

Ms. Battaglia moved on to discuss design criteria, noting that the intent is to create objective design criteria. Mr. Wolff discussed the need to avoid subjective language with the commissioners because the application would not be subject to design review, and Chair Chase commented that the proposals seemed objective for the main part.

Ms. Battaglia discussed future legislation that might be enacted, including eliminating the owner/occupancy requirement for ADUs and JADUs and allowing both an ADU and JADU on a single-family residential parcel. She confirmed that staff is not recommending action at this time but will continue to follow the status of the pending legislation.

Mr. Wolff discussed the next steps in the process, noting that he envisioned another discussion in the summer before making formal recommendations to the Town Council.

7. ROUTINE AND OTHER MATTERS

A. REPORTS, ANNOUNCEMENTS AND REQUESTS

i. Commissioners

Chair Chase briefly reported on the Town Council meeting of May 7th. He stated that the Council approved the Planning Commission's recommendations for the cannabis ordinance, and Counselor Propp confirmed the ordinance should be adopted at the Council's May 21st meeting.

Chair Chase also reported that two workshops have taken place relating to the proposed Town Hall addition proposal. Mr. Wolff noted that public hearings will take place in front of the Planning Commission.

Commissioner Bandel reported on her attendance of the Town's first-aid class. Mr. Wolff noted that the class was mandatory for staff.

Commissioner Lee reported on his attendance of meetings on climate adaptation planning and Mr. Wolff encouraged residents to provide feedback through the website on the important topics that the Town is addressing.

Due to the lateness of the hour, the remaining items were continued to the meeting of May 28, 2019.

ii. Planning Director

iii. Tentative Agenda Items for the Tuesday, May 28, 2019 Planning Commission Meeting (PROPOSED ITEMS, AND ORDER, ARE SUBJECT TO CHANGE)

A. None

iv. Future Agenda Items
(PROPOSED ITEMS, AND ORDER, ARE SUBJECT TO CHANGE)

B. MINUTES

- i. Planning Commission Meeting Minutes of February 26, 2019**
- ii. Planning Commission Meeting Minutes of March 26, 2019**
- iii. Planning Commission Meeting Minutes of April 23, 2019**

8. ADJOURNMENT

A motion was made, seconded and unanimously approved to adjourn the meeting at 10:30 p.m.