

**MINUTES  
PLANNING COMMISSION MEETING  
AUGUST 13, 2019  
CORTE MADERA TOWN HALL  
CORTE MADERA**

**COMMISSIONERS PRESENT:** Chair Peter Chase  
Vice-Chair Phyllis Metcalfe  
Commissioner Bob Bundy  
Commissioner Margaret Bandel

**COMMISSIONERS ABSENT:** Commissioner Charles Lee

**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 Lee

**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)

Senior Planner Battaglia presented the staff report. Ms. Battaglia explained staff is requesting feedback from the commissioners on proposed ordinance changes, and that a draft ordinance will be brought back for a formal recommendation to the Town Council.

Ms. Battaglia reminded the commissioners that tonight's hearing is a continuation of the Accessory Dwelling Unit (ADU) discussions that took place at the May 14<sup>th</sup> meeting.

Ms. Battaglia discussed the purpose of the Town's ADU code to comply with State regulations to increase the supply of affordable and smaller housing. She explained that there has been an increase in ADUs, which helps the Town achieve its fair share of regional housing, and she noted that the Town is one of 16 cities in California that is on target to meet the standards for income levels of housing. Ms. Battaglia discussed the 29 ADUs that have been approved since 2017.

Ms. Battaglia discussed both the required changes and the proposed improvements to the ordinance, including required parking, and the provision of objective standards, such as height, size, and lighting. She stated that staff requests feedback on standards for windows that relate to privacy concerns.

Ms. Battaglia discussed changes to clarify existing regulations, including new definitions, the removal of school bus routes from the definition of public transit, and deed restricting ADUs for rental purposes for 30 days or more.

Ms. Battaglia discussed proposed changes to existing policy, including height, size, and lot coverage, and provided examples of ADUs throughout the Town. She also discussed changes to the policy relating to ADUs in the rear yard and stated that staff is recommending that structures are limited to a single story and a height maximum of 15 feet. Ms. Battaglia asked the commissioners for feedback on whether they would consider allowing increased lot coverage for smaller lots where an ADU is proposed.

Ms. Battaglia went on to discuss proposed changes to allow parking for an ADU in the front yard setback, and more flexible parking rules in the event a garage is converted to an ADU or is demolished in conjunction with the construction of an ADU. She also discussed the current deed restricted owner occupancy rules that staff did not recommend changing at this time. However, Ms. Battaglia stated that changes in state law might require staff to bring forward an amendment to the owner occupancy requirement, and she discussed other pending legislation that would also affect ADUs.

Planning Director Wolff discussed information and materials that are available to the public on ADUs, and he confirmed that the Planning Commission will not be taking action tonight. He confirmed the Town Council will determine whether the proposed ordinance changes should be adopted.

In response to Vice-Chair Metcalfe, Ms. Battaglia confirmed there is pending legislation to remove the requirement for the owner to live in either the main unit or the ADU. Vice-Chair Metcalfe requested information on owner-occupancy requirements for other cities and towns in Marin and Sonoma.

In response to Commissioner Bundy, Ms. Battaglia speculated that residents might not support the owner occupancy requirement because it provides less flexibility for a homeowner.

Ms. Battaglia clarified the parking requirements, including tandem parking.

Chair Chase opened the public comment period.

Thomas Luehrsen, 600 Oakdale, discussed his opposition to the owner-occupancy requirement because the rule limits housing supply, restricts a small business owner who could otherwise rent out their entire property, and depresses the property valuation.

Michael Lark requested clarification on the changes to ADU height and size, which he stated would affect an ADU he is designing above a garage at a property in Corte Madera.

Chris Erlin, 525 Tamalpais Drive, discussed an ADU project at his home and stated that the owner occupancy rule would limit his options. Mr. Erlin also expressed his disappointment that deed restricting rentals for 30 days or more is still proposed and discussed the reasons he believes the window restrictions are excessive.

Jim Robinson, Ash Avenue, suggested the residents of Corte Madera are polled to gather more input for the proposed changes, as opposed to the few who attend public meetings. Mr. Robinson discussed his concern that the proposed changes to the parking regulations will result in more vehicles parked in residential streets. He stated that he would not want former single-family properties becoming multi-family residential homes that are not owner occupied properties. Mr. Robinson discussed streets that have become one-way due to parked cars on both sides.

Dave Denning, 19 Mohawk, stated his preference for the owner occupancy requirement and deed restricting rentals to a minimum of 30 days, which he discussed in relation to an illegal rental unit near his home. Mr. Denning noted that the purpose of ADUs is to provide affordable housing and not vacation rentals, and he asked how the deed restriction is enforced.

Phil Simon, 4 Simon Ranch Road, commented on state legislation, which he said has become increasingly arbitrary and burdensome, and he expressed a hope that the commissioners could find a way of relieving those burdens. Mr. Simon stated he is encouraged that staff has proposed discretionary design review in certain circumstances and he discussed his opposition to deed restrictions.

Lucinda Smith, Corte Madera resident, discussed her disappointment that her request from the last meeting to evaluate Hidden Valley as an area with special consideration has not been addressed. Ms. Smith discussed her concerns related to traffic problems, emergency vehicles that might not have access, and the creation of more traffic with

additional ADUs. Ms. Smith discussed her support for limiting rentals of an ADU to a minimum of 30 days.

In response to Chair Chase's request for clarification, Ms. Smith stated that restrictions that apply to Christmas Tree Hill should also apply to Hidden Valley because they have similar problems with street parking, narrow, winding roads and a single access road.

Ted Bonneau, architect, discussed his concern that the requirement for clerestory windows would limit light and egress requirements. Mr. Bonneau stated that hat window size should be based on conditions such as distance from neighboring properties.

Ryan Wagner, 441 Manzanita, asked that the commissioners consider allowing ADUs to extend into the 10 foot rear yard setback.

Chair Chase closed the public comment period and Vice-Chair Metcalfe asked Mr. Wolff to clarify the current code on deed restrictions relating to ADUs. Mr. Wolff confirmed the Town does not have a specific ordinance restricting short-term rentals, but that that they are not permitted through the zoning code. He noted that the Town has received a limited number of complaints about short-term rentals.

Mr. Wolff explained that the 30 day rental policy was introduced in 2016 because it reflects the goal of the state and the town to increase housing stock.

Mr. Wolff also discussed the zoning areas on Christmas Tree Hill where the number of ADUs is limited, which related to safety. He confirmed that state law allows attached or detached structures to be converted to ADUs regardless of these limitations.

Counselor Propp noted that studies for Christmas Tree Hill already existed for purposes of the overlay district, and she explained how these studies enabled the Town to add the restrictions permitted by the state. Mr. Wolff noted that the Planning Commission could make a recommendation to the Town Council to direct staff to explore other areas in town that would be suitable for restricting ADUs.

Ms. Battaglia explained that the proposed standard for window placement is to address concerns related to privacy. Mr. Wolff explained that staff is proposing standards that are objective, and he noted that an egress window could be to be fitted on a side that does not face the next door neighbor.

Vice Chair Metcalfe stated that she believed ADU windows should not be treated differently to windows for any other construction project, and Mr. Wolff explained that the process did not offer the zoning officer discretion. In response to Chair Chase, Mr. Wolff explained that windows would not need to be provided if the planning or building code did not necessitate windows. Vice-Chair Metcalfe stated her preference for the windows to match those of the main residence, which she discussed with staff.

Commissioner Bandel discussed her concern that staff's main objective is to create black and white rules, rather than ensure an ADU is compatible with the neighborhood. Mr. Wolff stated that staff's intention is to ensure compatibility to the extent possible with rules that are objective, such as height and size, and he discussed prescriptive rules that related to roof design that the commissioners might like to consider.

Commissioner Bandel discussed her concern that design guidelines for ADUs on flat lots and hillsides would be the same. Mr. Wolff noted that the ADU would be compatible in height with the adjacent dwelling and he discussed how height is measured from the finished grade.

There was general desire among the commissioners that there be some kind of discretionary review for window design. There was agreement with the application of a deed restriction limiting ADU rentals to a 30 day minimum and other changes clarifying the existing regulations, including Vice-Chair Metcalfe's amendments related to school bus routes and the Town Manager's role in the administrative review process.

There was general agreement to staff's recommendations on changes to the size policy. Commissioner Bandel discussed her concern that ADUs allowed by right could be too large for a small lot, and Mr. Wolff stated that the size of an ADU would be determined by standards such as lot coverage. Commissioner Bandel stated her belief that a maximum ADU size of 1,200 square feet is too large, which was not shared by the other commissioners.

Following discussion, the commissioners agreed with staff's recommendation of a reduction in height standards. Discussion on ADUs in the rear yard commenced and Commissioner Bundy discussed his preference for ADUs to meet rear yard setbacks on small lots. The commissioners went on to discuss allowing an increase in lot coverage for smaller lots and there was general consensus that 40% should be the maximum size allowed. There was also agreement to staff's suggested amendments to the parking policy. Ms. Battaglia confirmed that a tandem space could be located on the property.

Commissioner Bundy suggested that owner occupier should include family relatives and Counselor Propp discussed case law whereby family relatives were deemed to include persons who the commissioners might not consider to be close family. Mr. Wolff reminded the commissioners that proposed state legislation might remove the owner occupancy requirement.

Ms. Battaglia stated that staff would return with a draft ordinance based on comments received and Mr. Wolff suggested staff awaits the outcome of proposed state legislation.

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

**B. 155 SUMMIT DRIVE - PRELIMINARY REVIEW OF PROPOSED DESIGN REVIEW AND VARIANCE APPLICATION FOR THE DEMOLITION OF AN EXISTING TWO STORY RESIDENCE AND CONSTRUCTION OF A NEW**

### THREE STORY RESIDENCE AT 155 SUMMIT DRIVE (Senior Planner Martha Battaglia)

Senior Planner Battaglia presented the staff report. Ms. Battaglia explained that the purpose of the hearing is for the commissioners to provide feedback on the proposed demolition of a two story residence and construction of a new three story residence, and she confirmed that no formal action is required.

Ms. Battaglia discussed the neighboring properties, which includes open space, the project site and parcels zoned R-1-A. She noted that the parcels nearby are of a similar size.

Ms. Battaglia discussed the existing two story residence that the applicant is proposing to demolish, and the lack of onsite parking which the applicant is proposing to rectify by providing 5 off-street parking spaces where two are required. She also discussed the requirements of the R-1-A development standards in relation to the proposed project, including the need for variances for north and south side setbacks and lot coverage.

Ms. Battaglia discussed the flexible front yard setback rules that relate to the Christmas Tree Hill Overlay District and the increased side yard setback that applies when there is a slope greater than 10% adjacent to a structure. She discussed the design of the three story house, which would be stepped down the hillside. The upper level includes a garage and foyer, and the middle floor includes the living area, a guest bedroom and bathroom, and an outdoor patio. Ms. Battaglia explained that the lower floor would consist of three bedrooms, two bathrooms, a linen closet and laundry area.

Ms. Battaglia discussed the three variances for two side yards and lot coverage, and the special circumstances of the lot, including the steep slope and lot size. Ms. Battaglia noted that the commissioners would need to make design review findings, Christmas Tree Overlay Design Review findings, and variance findings for the project.

Commissioner Bundy and Ms. Battaglia discussed maintenance of the undeveloped parcel owned by the resident at 145 Summit. Ms. Battaglia stated that the Fire Marshal inspects properties on receipt of a complaint and she noted that the applicant will need to provide defensible space.

In response to Commissioner Bandel, Ms. Battaglia confirmed that a public notice for the study session was sent to the properties within 500 feet of the proposed development.

Ted Bonneau, OXB Studios, project architect, discussed the site, views from different aspects of the site and surrounding areas, and how the project adheres to the Christmas Tree Hill Design Guidelines, such as the provision of parking spaces, minimum grading, and a design that is harmonious with the neighborhood. Mr. Bonneau confirmed that they have located the dwelling as far from the adjacent neighbor at 151 Summit as possible, and he discussed the terraced design in keeping with the hillside.

Mr. Bonneau discussed the planning standards they are able to meet and the difficulties of meeting standards for the R-1-A zoning district given the relatively small lot.

Yaron Palfy, owner, discussed neighborhood outreach, noting that he has assured two of his neighbors at 159 and 136 Summit that they will comply with the Town's code regarding construction noise. Mr. Palfy also discussed his meetings with the neighbors at 155 Summit, and said he believes they are satisfied with the proposed changes to the design that brings parking onsite. He confirmed that he has not received any negative feedback from his neighbors.

Vice-Chair Metcalfe commented on there being little in the design that meets the Christmas Tree Hill design guidelines, such as the proposed flat roof; that she would favor less mass and lower ceiling heights, but that she thought the design was beautiful.

Commissioner Bundy discussed the surrounding easements with Mr. Bonneau. He said the proposal is a nice design for the site and that no one will see the massing.

Commissioner Bandel discussed the proposed deck and siding materials with Mr. Bonneau, which he said would have fire-resistant qualities. They also discussed tree removal.

In response to Chair Chase, Mr. Bonneau confirmed they would return with a landscape plan. Chair Chase stated that the FAR and lot coverage appeared to be larger than other dwellings in the vicinity, which could set a precedent. Mr. Bonneau noted that the size information provided for other dwellings did not include garages and conditioned space.

Chair Chase opened the public comment period.

Craig Amos, 151 Summit, stated that he is grateful the applicant has involved him in the discussions; that the house will be a nice addition, and he is pleased with the tree removal plan for safety reasons. Mr. Amos stated that he is satisfied with the view of the proposed dwelling on a side that has no windows.

A motion was made, seconded and unanimously approved to continue the meeting for an additional half hour at 10 p.m.

Commissioner Bundy stated that a unique house has been designed and that he would share Vice-Chair Metcalfe's concerns if the house were visible. He said the difficult lot should justify the variances and that he would like to see a gray water system included in the plans.

Commissioner Bandel suggested the design is softened to provide a cottage-like appearance, without affecting significantly the stepped-down design. She expressed a desire that the dwelling be more consistent with the Christmas Tree Hill design

guidelines. Commissioner Bandel expressed concern with the size and the variance requests, but that she acknowledged the dwelling is not highly visible, and she expressed a desire to see landscape plans.

Chair Chase discussed his concern that the proposed design is not articulated in the manner proscribed by the Christmas Tree Hill design guidelines, but he acknowledged that contemporary architecture is common. Chair Chase said the design works; that it is efficient and pretty, and he confirmed he could support the variances in view of the location. He encouraged the architect to find some economy in size, noting that variances are requested and the floor area and height are reaching the code limits. Chair Chase also encouraged the applicant to incorporate green standards, such as solar, and advised them to ensure the interior lighting is not highly visible.

## **7. ROUTINE AND OTHER MATTERS**

### **A. REPORTS, ANNOUNCEMENTS AND REQUESTS**

#### **i. Commissioners**

Commissioner Bandel reported on her attendance of the August 6<sup>th</sup> Town Council Meeting at which the Town Council approved a one-year parking permit program in the vicinity of Redwood High School, and abated three properties, two of which are on Christmas Tree Hill.

#### **ii Planning Director**

Planning Director Wolff had nothing to report.

#### **iii. Tentative Agenda Items for the Tuesday, August 27, 2019 Planning Commission Meeting** **(PROPOSED ITEMS, AND ORDER, ARE SUBJECT TO CHANGE)**

##### **A. 9 ARROWHEAD LANE – PUBLIC HEARING FOR A SECOND STORY ADDITION.**

#### **iv. Future Agenda Items**

##### **(PROPOSED ITEMS, AND ORDER, ARE SUBJECT TO CHANGE)**

### **B. MINUTES**

#### **i. Planning Commission Meeting Minutes of July 9, 2019**

#### **ii. Planning Commission Meeting Minutes of July 23, 2019**

**MOTION:** Commissioner Bundy motioned to approve the Minutes of July 9 and July 23, 2019 with a minor correction to the July 23<sup>rd</sup> minutes. The motion was unanimously approved.

## **8. ADJOURNMENT**

A motion was made, seconded and unanimously approved to adjourn the meeting at 10:25 p.m.