

RESOLUTION NO. 12/2014

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF CORTE MADERA APPROVING AN AMENDMENT TO THE GENERAL PLAN TO CHANGE THE LAND USE DESIGNATION FROM COMMERCIAL TO RESIDENTIAL AT 103 CORTE MADERA AVENUE

WHEREAS, on December 30, 2013, General Plan Amendment Application No. 14-001 to change the land use designation from Mixed Use Old Corte Madera Square to Medium Density Residential was submitted for the property at 103 Corte Madera Avenue; and

WHEREAS, on January 17, 2014, Notice of Intent to Adopt a Negative Declaration and Notice of the February 11, 2014 Planning Commission hearing for the requested General Plan and Zoning Ordinance amendments were posted at the County Clerk's Office as required by CEQA; and

WHEREAS, on January 19, 2014, Notice of Intent to Adopt a Negative Declaration and Notice of the February 11, 2014 Planning Commission hearing for the requested General Plan and Zoning Ordinance amendments were noticed in the Marin Independent Journal; and

WHEREAS, on January 21, 2014, Notice of Intent to Adopt a Negative Declaration and Notice of the Planning Commission hearing for the requested General Plan and Zoning Ordinance amendments were mailed to property owners and commercial tenants within 300 feet of the subject property; and

WHEREAS, the Town Clerk is the custodian of the record of proceedings upon which the decision is based and those documents are located at Corte Madera Town Hall, at 300 Tamalpais Drive, Corte Madera; and

WHEREAS, on February 11, 2014, the Corte Madera Planning Commission held a public hearing on the item and the Planning Commission agreed to recommend approval of the proposed General Plan Amendment to the Town Council;

WHEREAS, on February 20, 2014, Notice of Town Council hearing to review the proposed General Plan and Zoning Ordinance amendments and Initial Study and Negative Declaration were mailed to property owners and residential and commercial tenants within 300 feet of the subject property and posted in three public places (Town Hall, Post Office, Fire Station #13); and

WHEREAS, on March 4, 2014, the Town Council held a public hearing on the item and heard testimony from the applicant and interested parties; and

NOW, THEREFORE, BE IT RESOLVED, that the Town Council of the Town of Corte Madera finds that:

1. The Record of Proceedings ("Record") upon which the Town Council bases its decision on the proposed amendments to the General Plan includes, but is not limited to: (1) the Negative Declaration, (2) the staff reports, Town files and records and other documents, prepared for and/or submitted to the Planning Commission, and Town Council relating to the Negative

Declaration, the proposed amendment to the General Plan (3) the evidence, facts, findings and other determinations set forth in this resolution, (4) the Town of Corte Madera 2009 General Plan and its related EIR and the Town of Corte Madera Municipal Code, (5) all studies, data and correspondence submitted to the Town in connection with the proposed amendment to the General Plan, (6) all documentary and oral evidence received at public hearings or submitted to the Town during the comment period relating to the Negative Declaration, (7) all other matters of common knowledge to the Town Council including, but not limited to, City, state, and federal laws, policies, rules, regulations, reports, records and projections related to development within the Town of Corte Madera and its surrounding areas; and

2. As required by State law, the General Plan Amendment was reviewed in compliance with the provisions of the California Environmental Quality Act (CEQA) and find that the amendments will not have a significant effect on the environment and on March 4, 2014 the Town Council adopted the Negative Declaration.

Facts in Support: The Initial Study and Negative Declaration, dated January 17, 2014, reviewed and prepared by town staff, finds that the Initial Study and Negative Declaration adequately assesses the environmental impacts of the proposal to change the General Plan Land Use Designation from Mixed Use Old Corte Madera Square to Medium Density Residential and change the Zoning Designation from C-1 Local Shopping District to R-2 Low-Density Multiple-Dwelling District for the property at 103 Corte Madera Avenue. There is no substantial evidence in light of the Record that the project (General Plan and Zoning Ordinance Amendments) will have a significant effect on the environment, since the property at 103 Corte Madera Avenue has been designated as a commercial land use in the General Plan and Zoning Ordinance for over 40 years. During that extended window of opportunity, neither market forces or commercial developer have found this property suitable for commercial use. The property at 103 Corte Madera Avenue has always been in residential use, never commercial use and that residential use would now continue as a legal use as a result of these amendments.

3. The General Plan Amendment is consistent with Goals and Policies of the General Plan.

Facts in Support: A residential use in a commercial district is considered a "legal non-conforming use". The long-standing residential use may continue, but building expansions are limited and reconstruction of the residential use in a commercial district would not be consistent with a commercial designation in the General Plan. The property owner wishes to remove the "legal non-conforming use" status of this property by amending the General Plan Designation to change the land use designation from commercial to residential uses. Current mortgage lending practices also make it very difficult to obtain a home loan for a residence that is currently "non-conforming" and located within a commercial designated area. The General Plan amendment is in the public interest because a residential land use designation is the reasonable designation for this long-standing residential use and it would be consistent with other broader town planning policies that encourage and would now facilitate maintenance of existing and older residential buildings.

4. Approval of this General Plan Amendment is based on the Record and the approval reflects the independent judgment of Town of Corte Madera.

NOW, THEREFORE, BE IT FURTHER RESOLVED, that the Town Council approve General

Plan Amendment No. 14-001 to amend the land use designation and Land Use Map from Mixed Use Old Corte Madera Square to Medium Density Residential for the property at 103 Corte Madera Avenue in Corte Madera, based upon those same findings above that were the basis for the Planning Commission's recommendation to Town Council.

JUDICIAL REVIEW

Unless a shorter statute of limitations applies, the time within which judicial review must be sought is governed by Cal. Code of Civ. Procedure, section. 1094.6.


I HEREBY CERTIFY that the foregoing Resolution was duly adopted by the Town Council of Corte Madera at the meeting held on the 4th day of March 2014, by the following vote, to wit:

AYES:	Councilmembers:	Bailey, Furst, Ravasio and Lappert
NOES:	Councilmembers:	None
ABSTAIN:	Councilmembers:	None
ABSENT:	Councilmembers:	Condon



Michael Lappert, Mayor

ATTEST:



Lisa Harper, Interim Town Clerk