

MINUTES

CITY OF MARTINEZ
PLANNING COMMISSION
REGULAR MEETING
June 26, 2007

A regular meeting of the Martinez Planning Commission was called to order by Chair Mark Hughes at 7:08 P.M. on Tuesday, June 26, 2007, at City Hall Council Chambers, 525 Henrietta Street, Martinez, California.

PRESENT: Commissioners Allen (alternate), Avila, Burt (late), Busby, Glover, Hughes, Kluber, Korbmacher

ABSENT: None.

STAFF: Assistant Planner Anjana Mepani
Deputy Community Development Director Albert Lopez

AGENDA CHANGES

Chair Hughes recommended that Items 2 and 3 be switched, since some members of the Commission will need to be recused for one of the items.

PUBLIC COMMENT

MARTHA SURGES addressed the Commission on the matter of a neighbor planting trees (Italian Cypress) that will eventually block the view of Mt. Diablo from her home. She asked the City to help by enforcing the View Ordinance. She shared pictures of the existing conditions on the property, as well as some showing how tall the trees will eventually grow.

Chair Hughes asked if she had contacted staff regarding the matter. Ms. Surges indicated she had left a message for Richard Pearson and Albert Lopez. Chair Hughes asked Mr. Lopez to follow up with Ms. Surges. Mr. Lopez said he had forwarded her message to Bill Dillard in Code Enforcement.

CONSENT ITEMS

1. Minutes of May 8, 2007 meeting.

MOTION

On motion of Vice Chair Glover, seconded by Commissioner Korbmacher, the Commission present voted to approve the minutes of May 8, 2007.

AYES: Glover, Korbmacher, Busby, and Kluber

NOES: None

ABSENT: Burt

ABSTAIN: Allen, Avila, and Hughes.

Motion carried.

MINUTES

REGULAR ITEMS

2. TRT

UP #06-15, DR #07-06

Public hearing to consider approval of Use Permit and Design Review on a request to construct an 80 foot multi-carrier telecommunications tower/facility. The proposed wireless communications tower/facility will be located on an 856 square foot secure/fenced leased area at the rear of a flag lot, owned by TRT. A five foot rear yard setback is requested as part of this proposal. Chapter 22.39 Wireless Telecommunications Facility – Section 22.39.050(3) requires Use Permit and Design Review approval by the Planning Commission for wireless telecommunication facilities. This project is located at 3410 Pacheco Boulevard (APN 377-190-004)

Assistant Planner Anjana Mepani presented the staff report, discussing existing conditions, neighboring uses, site plan, security, tower height, and the Design Review Committee recommendation for approval. She also commented on the benefits from co-location of wireless towers, and she indicated that staff recommends approval as well.

Commissioner Allen asked about the Categorical Exemption for environmental review, and the section cited. Ms. Mepani explained the possible exemptions, either as an accessory structure or as new construction. Commissioner Allen said she was not comfortable using the accessory structure exemption.

Public hearing opened

DAN BURKE, applicant, reviewed the history of the project including consideration of other sites nearer to residential areas, and the need for more facilities to be shared by multiple carriers. He also commented on possible expansion of use at the site in the future.

Commissioner Allen asked if there are any existing privately-owned towers in the area. Mr. Burke said no, and he discussed related research into ownership issues, etc. Commissioner Allen expressed an interest in knowing where all the towers in the City are located. She also asked if Mr. Burke had considered locating a tower on a building, and he explained limitations with the concept, including height limitations and topography. Commissioner Allen asked, and Mr. Burke confirmed that the latest technology would be used. In response to a further question, he also explained that the tower was being designed for a maximum capacity, even to handling all 7 bay area wireless carriers.

Commissioner Allen asked whether the applicant would agree to a condition requiring sharing of the tower at a marketable rate, as well as a condition requiring that the technology be updated as it becomes available. Mr. Burke agreed, noting that those conditions would be best for the service providers also.

Commissioner Allen asked about the visual impact, and whether a tree-like tower was considered, as mentioned in a letter from the public. Mr. Burke responded that it was considered, but the applicant decided it would be out of character for the industrial location.

MINUTES

Seeing no further speakers, Chair Hughes closed the public hearing.

Commission Comment

Vice Chair Glover expressed appreciation for the improved site selection. Commissioner Kluber agreed as well, noting that some of the ugliest antennas he had seen were those made to look like trees.

Commissioner Allen commented on the importance of the Pacheco Boulevard corridor as an entrance to the City. She also suggested two additional conditions: 1) to require the tenants to use current, state-of-the-art technology, and 2) that the users must allow additional co-location on the antenna as it becomes necessary.

Commissioner Avila questioned whether the first condition was necessary since most providers will keep up with the technology automatically. Commissioner Allen said therefore it won't be a problem to require the condition.

Vice Chair Glover expressed concern that the conditions might be redundant. Commissioner Kluber agreed that market conditions would mandate that the improved technology be used.

Chair Hughes commended the applicant for addressing the Commission's earlier concerns.

MOTION

On motion of Vice Chair Glover, seconded by Commissioner Kluber, the Commission voted to approve UP #06-15 and DR #07-06

AYES: Glover, Kluber, Avila, Busby, Hughes, Korbmacher

NOES: Allen

ABSENT: Burt

ABSTAIN: None

Motion carried.

Commissioner Allen said she was opposed to the motion without the added conditions, based on her many years of experience in the field.

3. Carquinez Scenic Duplex Preliminary

Study session to discuss and receive public input on a proposed Conditional use Permit, Variance, and Design Review to construct a new two-story duplex on a vacant lot. The proposed duplex will be 1,286 square feet, approximately 643 square feet per unit on a 4,900 square foot lot. Each unit will have two bedrooms, a one car garage, and balcony. The Conditional Use Permit is proposed to exceed density and for reduced parking. A Variance is proposed for slope density and reduced front yard setback, side yard setback, and open space. Design Review is required for all multi-family projects and when the

MINUTES

average slope under the structure is ten percent or greater. This project is located at 10 Carquinez Scenic Drive (APN 372-032-010).

Chair Hughes noted that Commissioners Avila and Kluber were recusing themselves from this item. The two Commissioners left the Council Chambers.

Chair Hughes also noted that this was a study session, with no decision being made tonight. Deputy Community Development Director Albert Lopez briefly explained why staff thought a study session would be helpful to let the applicant know the important issues prior to the application process.

Assistant Planner Anjana Mepani presented the staff report, discussing current conditions, surrounding uses, zoning, lot slope, requested variances, setbacks, open space, parking, density, Downtown Specific Plan (DSP) requirements, and Design Review. (Commissioner Burt entered and was seated during the presentation.)

Vice Chair Glover asked whether staff agreed with the applicant that the project will substantially meet the DSP requirements, and Ms. Mepani indicated yes. She added that one letter was received from an adjacent property owner with concerns about the side yard setbacks and drainage.

Chair Hughes asked why the City has restrictions on how many units can be built on a sloped lot. Mr. Lopez explained the purpose was to reduce densities on mild-to-moderate sloped lots. Chair Hughes asked whether staff thinks the requested variance would be reasonable. Mr. Lopez said it seemed likely that two smaller units would be better than one large home.

Commissioner Burt stated that the Hillside ordinance was enacted because of previous developments built on hillsides that had major slides. She indicated she would consider exceptions, but she was concerned about the amount of variances requested.

Commissioner Allen asked what the density of the project was. Mr. Lopez said it works out to approximately 20 units per acre. Commissioner Allen noted that one unit would be inconsistent with the DSP recommended density of 12-24 units per acre, but the steep slope does raise concerns. Mr. Lopez said it is not the first time that two requirements have been inconsistent with each other, which is one reason for having a study session.

Commissioner Allen commented that the check sheet appears to only address Chapter 7 and not Chapter 10 of the DSP, which contains design guidelines. Mr. Lopez said the zoning district design guidelines are usually more specific than the broader ones in the DSP. Commissioner Allen said the checklist was very helpful, but she thought it should include Chapter 10 as well. She expressed concern about whether granting a variance to the DSP requirements was even possible.

Public hearing opened

MINUTES

PETER GILLIS, applicant, reviewed the details of the project, including the limited cut into the hills, a description of the surrounding neighborhood and the conformity in design with other homes. He also thanked staff for the report.

Commissioner Korbmacher asked if it would be possible to center the building more, to balance the side setbacks out of concern for the neighbor. Isidro Farias, architect, indicated that it had been considered, but shifting it more would require a higher retaining wall, and more of a cut into the hill. He also discussed drainage concerns and possible solutions.

Commissioner Burt asked where the water will go once it reaches the street. Mr. Farias said probably downhill. Commissioner Burt expressed concern about the amount and effects of the run-off.

Mr. Farias acknowledged that the size of the units had been limited to minimize impacts on the hillside. He also agreed that one larger home would have the same impact as two smaller ones.

Commissioner Korbmacher asked if it might be possible to minimize surface run-off by tying in to a nearby storm drain. Mr. Farias said it could be considered, although the City doesn't require it if it's more than 250' away. He agreed the curbs would have to be redone anyway.

Chair Hughes said he struggled with the project, given the number of variances and the tightness of the front and side setbacks. Mr. Farias discussed parking issues that could result if the building were set back further, including sidewalk access problems. Chair Hughes asked the applicant to consider acquiring a neighboring parcel, which might make a better project ultimately if the lots were combined.

Commissioner Busby agreed with Chair Hughes that combining the lots could provide more possibilities in design, etc.

Commissioner Allen expressed concern that the units would likely not be owner-occupied, especially since the DSP addresses the need for more home-ownership possibilities.

Mr. Gillis noted that a duplex could allow a person to buy who might not otherwise be able to, because of the income potential from the second unit.

Commissioner Allen noted that the neighborhood currently does not have a parking issue, because most of the lots have carports rather than garages, so use of the parking space for storage is less common. Since the proposed units will be so small, she was concerned about adequate storage and the possibility that the residents will use the garages for storage; therefore, additional parking space should be considered. She also referred to requirements of the DSP related to garage size, private open space, and windows. She indicated, however, that she was supportive of developing infill lots.

JOEY PISCATELLI, builder, commented on the soils report done that indicates the property is very stable, and a large retaining wall will be put in place as well. He also noted that although

MINUTES

developing a duplex on-site adds extra requirements, it will conform better to the neighborhood than a single unit would.

Commission Comment

Vice Chair Glover said he thought a duplex will work as long as issues with the drainage and garage parking are addressed. He expressed support for the project, especially if the lot next to it is included.

Commissioner Korbmacher said he didn't think the DSP guidelines would preclude a single-family home being built there. He agreed with Vice Chair Glover that garage parking should be encouraged. He suggested tandem garages, perhaps, and he agreed that adding the other lot might allow for more development possibilities.

Commissioner Burt expressed appreciation for the soils reports, but she was still concerned about surface drainage. She also felt there were too many major exceptions being requested, she wanted a better design, and she encouraged the applicant to pursue a bigger project using both lots if possible. She was concerned about the impacts on the hill as well

Commissioner Busby acknowledged the City cannot require the applicant to buy and develop the neighboring lot, but she agreed that it would give more possibilities for a better project.

Commissioner Allen said again that she didn't think variances to the Specific Plan requirements could be granted.

COMMISSION ITEMS

Vice Chair Glover introduced members of his family in the audience.

Commissioner Allen asked about the DMV site – specifically, if their approval is still valid and whether they have pulled building permits. Mr. Lopez said the project is making progress, following an ownership change, and it is a priority for the Planning Department. He agreed to get more information on the status of the tentative map and the building permits.

Chair Hughes asked for a project update report from the department, which Mr. Lopez agreed to provide.

There was further discussion among the Commission about the status of the DMV project approvals.

Commissioner Burt apologized for being late. She asked whether Ms. Surges had addressed the Commission during public comment. Chair Hughes confirmed that she had.

STAFF ITEMS

Mr. Lopez discussed possible agenda items for future meetings. He also announced an upcoming public meeting regarding potential revisions to the RV ordinance.

MINUTES

Commissioner Burt expressed the desire to receive notification of Council items that might be of interest to the Commission also.

The Commission and staff briefly discussed implications of the RV ordinance and whether the Commission should attend the public meeting.

COMMUNICATIONS

None.

ADJOURNMENT

Chair Hughes adjourned the meeting at 8:17 P.M. to the next regular meeting scheduled for July 10, 2007.

Respectfully submitted,

Approved by the Planning Commission

Chairperson

Transcribed by Mary Hougey

Mark Hughes

MINUTES

CITY OF MARTINEZ
PLANNING COMMISSION
REGULAR MEETING
July 24, 2007

A regular meeting of the Martinez Planning Commission was called to order by Chair Mark Hughes at 7:05 P.M. on Tuesday, July 24, 2007, at City Hall Council Chambers, 525 Henrietta Street, Martinez, California.

PRESENT: Commissioners Allen (alternate), Burt, Busby, Glover, Hughes, Kluber, Korbmacher

ABSENT: Avila.

STAFF: Assistant Planner Anjana Mepani
Senior Planner Corey Simon
Deputy Director of Community Development Albert Lopez
Deputy Director of Park and Community Services Joann Tool

AGENDA CHANGES

None.

PUBLIC COMMENT

None.

CONSENT ITEMS

1. Minutes of July 10, 2007 meeting.
2. Harrell Residence UP #05-20, DR #05-45

Public hearing to consider approval of an application for Design Review and a Conditional Use Permit to allow the construction of a new single family home, which has an average lot slope of 10 percent or greater, and to exceed the maximum height limit of 25 feet by approximately 1 foot, for a total height of 26 feet at portions of the home. The proposed residence will be constructed on a vacant lot in the R-6.0 One-Family Residential zoning district. This project is located at 100 Escobar Street. **(Continued from July 10, 2007, meeting)**

At staff's recommendation, the Consent Items were postponed until later in the meeting, since four of the seven Commissioners in attendance were not present at the last meeting and would have to abstain.

MINUTES

REGULAR ITEMS

3. Odyssey Properties

Preliminary

Public hearing to consider a request to amend conditions of approval for Use Permit #02-14 requiring an agreement for additional parking spaces to serve the Home Depot garden center located at 1047 Arnold Drive in the M-R1.5/CC Mixed Use Multifamily Residential/Central Commercial zoning district. Approval of this request would remove the condition requiring additional parking on adjacent vacant lot, and would make the vacant site available for future development, subject to a separate application and public hearing.

Deputy Director of Community Development Albert Lopez presented the staff report, noting that this was a study session only, and as such no decision would be made tonight. He briefly reviewed the background of the site and recent requests to amend the conditions for UP #02-14, since the additional parking area has not been necessary. He discussed the applicant's request to develop the site, his question whether the Planning Commission would consider an amendment and his desire to discuss development possibilities.

DERRICK GRAHAM, applicant, reviewed the history of the company briefly and the possibility for a small neighborhood shopping center on the site. He noted that Ben Lazzereschi, architect and real estate broker, was also in attendance. He explained difficulties experienced with the lot currently and possible development scenarios.

TOM WILLIS, Arc Inc Architects, reviewed details of the existing parcel and potential tenants if an amendment to the conditions can be made. He asked the Commission for input on the amendment and the various development scenarios. He noted that a parking study will be done before a development proposal is finalized.

Chair Hughes asked if the required annual parking studies were done. Mr. Lopez said no. Chair Hughes remarked that in his experience with the center, there had never been a parking problem.

Commissioner Busby asked if all the current commercial properties were leased.

BEN LAZZARESCHI said that there is currently no vacancy, but there had been a vacant small unit recently. He discussed different types of tenants that have expressed preliminary interest in renting commercial space.

Commissioner Busby asked about the location of the home base of Odyssey. The applicant replied that it is in Los Angeles.

The public hearing was opened and closed with no speakers coming forward.

Commission comment

Commissioner Burt said she was on the Commission when the original decision was made on UP #02-14. She agreed with Chair Hughes that the parking currently seems adequate. She

MINUTES

acknowledged that amending the condition seems reasonable, but she asked for emphasis on design so the new uses are attractively presented.

Commissioner Kluber concurred. He also had experienced no problem finding a parking spot near Home Depot and Wal-Mart, although he remarked that there is limited shade in the parking lot. He asked for the applicants to consider more landscaping and to consider quieter activities in view of the lot's proximity to a residential area. He added his appreciation that a Quik Stop or a liquor store was not being considered.

Vice Chair Glover expressed his support of the idea.

Commissioner Korbmacher agreed, especially with Commissioner Kluber's caution about the residential neighborhood. He also echoed Commissioner Burt's concern about architecture and Commissioner Kluber's regarding landscaping.

Commissioner Busby agreed as well, but emphasized her disapproval of a "big box" design. She expressed concern for the possible noise impact on the residential area.

Chair Hughes remarked that all the Commissioners seemed to be in agreement with the concept.

Commissioner Allen expressed her support, but asked for some consideration of pulling the building sites forward and a shared easement with Home Depot for driveways.

Commissioner Kluber commented on the amazing amount of foot traffic in the area; he felt that this potential project would fit well with pedestrian access. He added that he would support a monolithic design of the parking lot.

The applicant expressed appreciation for the Commission's support.

Mr. Lopez suggested pulling Item 2 from Consent and re-opening the hearing to allow all Commissioners present to vote. Vice Chair Glover said he had read the report for the last meeting and this one, and thought that he had enough information to vote tonight.

CONSENT ITEMS

1. Minutes of June 26, 2007 meeting.

2. Harrell Residence

UP #05-20, DR #05-45

Public hearing to consider approval of an application for Design Review and a Conditional Use Permit to allow the construction of a new single family home, which has an average lot slope of 10 percent or greater, and to exceed the maximum height limit of 25 feet by approximately 1 foot, for a total height of 26 feet at portions of the home. The proposed residence will be constructed on a vacant lot in the R-6.0 One-Family Residential zoning district. This project is located at 100 Escobar Street. **(Continued from July 10, 2007, meeting)**

MINUTES

MOTION

On motion of Commissioner Korbmacher, seconded by Commissioner Allen, the Commission voted to approve the Consent Items by the following vote:

AYES: Korbmacher, Allen, Burt, Glover

NOES: None

ABSENT: Avila

ABSTAIN: Hughes, Kluber, and Busby

Motion carried.

4. Parks & Recreation Master Plan

Public hearing to review and recommend City Council approval of the City of Martinez 2007 Parks and Recreation Master Plan. The Master Plan is designed to provide an assessment of the current parks and recreation system and a vision for the future. The Master Plan establishes the goals, objectives and policies to guide public planning in the acquisition, development and rehabilitation of parks, open spaces, trails and recreation opportunities in the City of Martinez.

Deputy Director of Community Development Albert Lopez introduced Joann Tool, Deputy Director of Parks and Recreation, who reviewed the history of the Plan, noting that it could be used to develop a component of the General Plan when it is updated.

Commissioner Burt expressed appreciation for the quality of the report and the Plan. She acknowledged some concerns about funding, and asked if the "wish list" items were prioritized or in random order.

Richard Patchin, chair of the Parks & Recreation Commission, responded that the items were not prioritized, and he added that the first priority is the safety of the parks. He commented on certain state and federal mandates that also need to be addressed, saying that they should be at top of list.

Commissioner Burt asked about p. 178 and 179 with references to the proposed update of the General Plan, and whether parks issues would be an active part of the General Plan process. Mr. Lopez said the Parks Master Plan will serve as policy guide for developing the Open Space and Recreation section of the General Plan, and added that the two should be consistent with each other.

Commissioner Burt asked about the process to ensure that the Parks Master Plan would not be overlooked in the General Plan update. Mr. Lopez said that a policy committee would likely be formed to guide the General Plan update process, and the Parks Master Plan would be given to them as well.

MINUTES

Commissioner Kluber agreed that the issue of safety should be given priority, as should compliance with ADA requirements to avoid potential lawsuits. He commended staff on an excellent report.

Mr. Patchin acknowledged the efforts of the previous Parks & Recreation chair, Sherida Bush.

Chair Hughes asked if there were any plans for new ball fields, perhaps at Nancy Boyd Park. Mr. Patchin replied that some are being considered, as well as renovation of some existing fields.

Commissioner Allen mentioned Mountain View Park, which is not owned by the City, and asked if any consideration was being given to the City acquiring it. Mr. Patchin replied that the City has the use of the park as long as it is maintained.

Commissioner Allen suggested a small correction, noting there are actually 15 bocce courts at Waterfront Park, not 14. She also asked why open space was not included in the Plan. Mr. Lopez commented on the differences between active and passive open space, as well as open space easements.

Mr. Lopez noted the resolution attached to the staff report, including consistency with the General Plan and an environmental exemption. Commissioner Allen confirmed that the Plan was just a policy document, not proposing any development. Mr. Lopez agreed.

The public hearing was opened and closed with no speakers coming forward.

Commission Comment

MOTION

On motion of Commissioner Burt, seconded by Commissioner Kluber, the Commission present voted to approve the recommendation that the City Council adopt the proposed Parks Master Plan.

AYES: Burt, Allen, Hughes, Korbmacher, Glover, Busby and Kluber

NOES: None

ABSENT: Avila

ABSTAIN: None

Motion carried.

Chair Hughes stated that it was an excellent report and that he was pleased to support it.

Chair Hughes invited Commissioner Allen to be seated at the dais.

MINUTES

5. Freitas Subdivision

Sub 9120

Public hearing to consider: a) adoption of a Mitigated Negative Declaration and b) a General Plan Amendment to re-designate approximately 3 acres from “Open Space” to “Residential,” to allow the possibility of creating 4 additional single family home lots, in addition to the one existing single-family home on the 5.57 acre site. The Planning Commission will make its recommendation to the City Council, which will consider the possible amendment at a future date to be announced. Should the General Plan Amendments be approved by the City Council, the Planning Commission will then consider, at a future hearing date, requests for a Rezoning from Open Space to R-10 (One Family Residential:10,000 square feet minimum site area) and approval of a 5-lot Major Subdivision.

Senior Planner Corey Simon presented the staff report, including a brief background and history of the site. He acknowledged that the Planning Commission had been reluctant to handle the request until the City Council had weighed in, but the City Attorney had said that it must be heard by the Planning Commission in a timely manner, and he reviewed the process. He also discussed the history of the Pine Meadows subdivision from 1976 forward, noting that this is this third request from this applicant to consider amending the General Plan designation. He commented on the difficult balance between environmental/visual impacts and the continued need for more housing. He reviewed potential visual impacts from 4 different approaches.

Mr. Simon also commented on engineering mitigation measures that could be considered to minimize the visual impacts. He acknowledged there were difficult questions, but he noted that the applicant has made progress in the design.

Commissioner Busby asked for clarification on the number of homes proposed; Mr. Simon said there would be 4 new homes making a total of 5.

Public hearing opened.

GARY FREITAS, applicant, expressed appreciation for the in-depth report. He noted that he was the original owner of the property, and he reviewed changes in the area over the last 20-30 years. He agreed the community has changed, as well as his goals for the property. He noted that he had been unable to meet with the City Council as the Commission had wished, so he had submitted a new General Plan Amendment (GPA) to the City.

TIFFANY LATHROP, Peabody Engineering, asked for the focus to be on the GPA for a portion of the property. She indicated that under the current proposal, Coward Knoll would be preserved and dedicated to the City for its use, and the rural feel of the area would be maintained as much as possible. She commented on issues raised at the February meeting, including the sensitive nature of the views of the area, and efforts made by the applicant to accommodate neighbors’ concerns. She urged the Planning Commission to recommend approval.

Commissioner Kluber asked if Peabody was still recommending that the area behind the lots be an open space corridor. Ms. Lathrop said yes. Commissioner Kluber said he didn’t think that could be maintained as a public area; but perhaps it could be dedicated as open space.

MINUTES

HENRY BENTON, Pine Meadows resident, asked how many times this issue has to be addressed since the lot is supposed to be open space and has been that way from the beginning. He was strongly against the GPA, expressing concern about view blockage and tree growth, and the lack of City enforcement. He questioned why the view from existing homes was not shown in presentation. Mr. Simon explained the visual perspective was focused on neighborhood aesthetics. He acknowledged Mr. Benton had a valid concern; and perhaps the property could be lowered to mitigate the impact.

Mr. Benton said there were original limits on the Pine Meadows subdivision for landscaping height, but the City does not enforce them. He also expressed concern about the adverse effect on existing homes.

JOHN MIFFLETON, condo owner nearby, said when he bought his property the Freitas lot was open space. He questioned what community benefit would result from the loss of open space area. He also commented on the acoustic phenomenon of a natural amplified amphitheatre effect from the contours of the property and potential noise impacts from the development. He asked the Planning Commission to preserve the open space designation on the property.

Chair Hughes read comments from ELAINE JACKSON, BOB BOUCHARD and MARYLOU BOUCHARD against the project.

ELEANOR SOUZA expressed concern about the loss of rural view and noise impacts, lighting impacts, wildlife and bird life, as well as traffic/parking issues. She was strongly opposed to the project.

STEVE SCHMIDT commented on property value impacts from the development of open space. He was concerned about the precedent from land speculation and the loss to the City if the property is developed. He suggested Mr. Freitas consider building a mansion to sell if he wants to make money off the property.

Chair Hughes read comments from ROGER GOODWIN, who was opposed to any current or future change of open space designation for the property.

ROBERT HAYWORTH expressed support for the General Plan amendment request, saying that Martinez needs to change; this may be the first of many GPAs. He was confident that the proposal should result in nice homes with landscaping, trees, and wildlife, while the Knoll will be preserved as open space. He also noted that Mr. Freitas' deed says nothing about the land being open space. He encouraged the Commission to recommend approval.

LESLIE CHERNAK referred to a letter by Lorna Thompson and quotation from the state Supreme Court that the open space designation should not be given as a placeholder for future development. Ms. Chernak noted that she had paid a premium price for her property and her view. She was also concerned about noise impacts and the precedent that could be set if the GPA is approved.

MINUTES

JEFF LAPERRY commented on the positive character of the people involved, and the community benefit from more homes and the 2 acres given to the City. He expressed support for Mr. Freitas and the GPA.

RICH ROBINSON, 40 year resident of the area, commented on the many developments over time. He expressed concern that Mr. Freitas is not being given the same rights as others in the neighborhood that have already been developed. He urged the Commission to support the GPA.

SHIRLEY SWITALSKI said Mr. Freitas should have known that the property was designated open space. She noted that open space preservation was one reason she was drawn to Martinez. She was concerned about impacts on wildlife access and the potential breach of faith on the part of the City if approval of this GPA is granted. She urged the Commission to listen to the voters, and keep the open space designation on the parcel.

JAN SWITALSKI suggested building on developable sites before taking open space for new development. He reminded the Commission that promises were made to nearby property owners that should be honored. He questioned whether a scenic easement designation for part of the property would be enforced.

RUSSELL ROOFENER expressed support for the project as high-end well-designed homes that will be an asset to the neighborhood.

CAROL BAIER said she was encouraged by the earlier statement that adequate recreation and open space area is mandated by the City's General Plan. She expressed concern about impacts on existing oak trees and the water table from grading above.

Comments from MARY WALSH and WILLIAM JOHNSOON were read into the record as supportive of the development proposal.

ALBERT TURNBAUGH said he was in favor of the application. Those who were promised something by realtors should seek recompense from them, not Mr. Freitas. He also noted that there had been many new developments over the last 20 years, and earlier residents have given up much more open space than is proposed now. He urged the Commission to protect property rights; since General Plan amendments are allowed.

PETER CARPENTER commented on the asset to the neighborhood from the open space that is currently there, adding that there should be some recompense to them if the lot is developed. He was also concerned about maintenance issues for the open space along the back of the properties, adequate turn around space for trucks, etc and safety issues for children. He asked the Planning Commission to recommend against the project.

MIKE GEORGE discussed points made by Ms. Thompson in her letter by Ms. Thompson. He also stated that his realtor told him the Freitas lot was "permanent open space" that cannot be changed. He noted that nothing has changed since past public hearings, so why should a development be approved now? He agreed surrounding property owners would lose from a GPA.

MINUTES

JOAN SAVARIES agreed open space should be preserved, as a past promise and commitment that should be upheld.

CHRIS DEAN, daughter of the original property owner (Coward Ranch), was supportive of the GPA request. She questioned the validity and origin of the open space designation. She also commented on the value of the democratic process that allows public input. She noted that Mr. Freitas has considered and incorporated the neighbors' concerns into the plans. She was supportive of the project, especially since Coward Knoll would be preserved and donated to the City.

GARY HERNANDEZ noted he was told "you're going to ruin our home values" when he developed his property, but actually the neighbors benefited from property value increases as a result. He also commented on the fire hazards and weedy condition that currently exist on the property, adding that the area would be improved by high-end homes instead. He was supportive of the added value to the community.

Chair Hughes asked Mr. Simon to review how the property was designated open space, which he did, indicating it was private open space. He also said a scenic easement was supposed to be recorded on the deed.

Seeing no further speakers, Chair Hughes closed the public hearing.

Rebuttal

Mr. Freitas commented on his history with the City and the promises made to him in the past. He noted that the Superior Court accepted his 50% support from neighborhood homeowners allowing a change to the CCRs. He also indicated he has cooperated with the City's requests, which will make this project better.

Commission comment

Commissioner Busby asked if a tentative map and a General Plan amendment can be filed at the same time. Mr. Simon acknowledged that they usually are. He explained that they were separated because of the Planning Commission's hesitation to approve the General Plan amendment without City Council input.

Commissioner Korbmacher said the city he works for takes great pride in its open space stock. He clarified that the original land was not open space; but ranchland. He pointed out that four parcels were set aside for open space when the land was sold by the original owners. He also noted that realtors did not mislead clients with their claims about the open space designation; since City records show the same. He questioned whether there would be any real benefit to the City in changing the open space designation to residential for only four additional homes. He acknowledged there was ample documentation in the staff report regarding past decisions on the matter. He agreed that the applicant is free to apply as many times as he likes, and the City is free to deny the application. He was opposed to the General Plan amendment.

Vice Chair Glover disagreed, noting that the original 1976 concerns were visual impacts; but those are lessened because there has already been so much development in the area. He felt the

MINUTES

impacts of the project can be mitigated. He noted that since the site is currently private property, with no access on and off; the open space designation is not a land use. He also agreed that there are maintenance and safety issues with the site as it is, adding that allowing the GPA provides an opportunity to honor the original intent to preserve the knoll. He also felt that the impacts of the development will be addressed in the approval process. He thought the GPA application should be sent to the City Council, and the final product will be an enhancement to the City.

Commissioner Kluber said he was generally in favor of the project; with his recommendation for an open space corridor along the back of the properties. He agreed the value of the open space area is the knoll, and he expressed admiration for Mr. Hayworth's property, noting the same could be done on these lots. He expressed hesitation, however to move the project forward without changes to the site plan. He was also concerned about impacts to the health of the oak trees. He suggested an arborist report be required, and that the maintenance costs for the knoll should be the responsibility of a homeowners association.

Commissioner Allen agreed with Commissioner Korbmacher, partly because of the timing of the application. She noted that the original designation of this property as open space was part of the mitigation for the environmental impacts from the original development. She was concerned about piecemeal consideration of GPAs, and she was glad that the City Council has included a General Plan update in the budget. She felt that any change to this lot should be part of an overall General Plan update. Property owners should do their due diligence before purchasing a lot, but the current General Plan designates this site as open space. She indicated there should be no change without input from the public through the General Plan update process.

Commissioner Burt agreed with Commissioners Korbmacher and Allen that this is a crucial issue with legal and moral implications. She acknowledged that many people made important purchasing decisions based on the designation of permanent open space. She also acknowledged the need for more housing, especially single-story and affordable. While this could be a good site, it is presently designated open space, and the value of open space is held very strongly by the residents of Martinez. She agreed, however, that there is a process for amending/updating the General Plan. She concluded by saying she cannot support a General Plan amendment for this site except as part of a full General Plan update.

Commissioner Busby noted that Mr. Freitas has been maintaining this site for 30 years. She was concerned about delaying consideration of his application while waiting for a General Plan update. She also commented on the difference between private open space and public open space, and she felt the questions raised by Commissioner Kluber can be addressed through the process, as can tree preservation issues. Landscape buffers can be created to minimize visual impacts. She would support moving the project forward and leave the other questions for later in the process.

Chair Hughes indicated he was supportive of the project concept, but he would need to see a development plan and tentative map first. He said he could not recommend approval of a GPA at this point, but he was confident that the project can be an enhancement to the community eventually.

MINUTES

There was discussion between the Commission and staff on how to proceed.

Vice Chair Glover suggested approving the GPA, contingent on the issues being adequately addressed. Commissioner Burt said the Commissioners need to feel comfortable in what they are advocating before overturning past City Council and Planning Commission actions.

Commissioner Busby said the Commission should set time constraints on the process, noting again that all the questions can be answered through the normal process.

Chair Hughes said the majority of the Commission seems to be in support; but would rather wait to approve or deny a total project, not the GPA alone. Mr. Simon urged the Commission to call the question, allowing input from the applicant.

Ms. Lathrop said the applicant was willing to mitigate for the oak trees at the tentative map stage, as well as the design review process, but they would like to take the GPA to the City Council first.

Commissioner Allen asked how many GPAs the City Council has approved this year; staff said none so far.

The Commission recessed briefly

The Commission reconvened at 9:53 with all members present as indicated.

Chair Hughes asked the applicant's preference as to whether to come back to the Planning Commission with a more complete project, or to make a recommendation to the City Council tonight. Ms. Lathrop said they would like the Commission to vote tonight to send a recommendation (for or against) to the Council.

MOTION

On motion of Vice Chair Glover, seconded by Commissioner Busby, the Commission present voted to recommend that the City Council approve Subdivision 7120, including the Negative Declaration and request for a General Plan Amendment.

AYES: Glover, Busby

NOES: Hughes, Allen, Burt, Kluber, Korbmacher

ABSENT: Avila

ABSTAIN: None.

Motion failed.

Chair Hughes said he could not support the project currently, noting that Martinez is a town of neighbors; and issues have been raised that the applicant can address. He indicated, however, that he was supportive of the project in its broadest sense.

MINUTES

MOTION

On motion of Commissioner Korbmacher, seconded by Commissioner Burt, the Commission present voted to recommend that the City Council deny Subdivision 7120, including the request for a General Plan Amendment.

AYES: Korbmacher, Burt, Allen, Hughes, Kluber

NOES: Busby, Glover

ABSENT: Avila

ABSTAIN: None.

Motion carried.

At Commissioner Burt's request, Mr. Simon reviewed the next steps in the process.

COMMISSION ITEMS

None.

STAFF ITEMS

Mr. Lopez asked if the Planning Commission wants to follow the same schedule as the City Council, with no meetings in August. The Commission agreed by consensus to do so.

Mr. Lopez reported on the RV meeting held last week.

Commissioner Allen asked if all the Commission had received a letter from the Essarays. Mr. Lopez deferred to Mr. Simon who said all letters were added to the database and the file.

Commissioner Kluber asked if there had been any lobbying for changes to the proposed ordinance. Mr. Lopez acknowledged there was some at the end of the meeting.

Commissioner Kluber also expressed confidence that the Planning Commission hearing on the ordinance will be noticed and well-attended.

Commissioner Allen asked if email addresses of the attendees were being collected. Staff said some were given to staff by the attendees.

Commissioners Busby and Burt commended staff for the well-done meeting. Commissioner Kluber expressed appreciation for the City Attorney's presence at the meeting.

COMMUNICATIONS

Commissioner Allen asked, and staff confirmed that the letter on the dais was included in the staff report.

ADJOURNMENT

Chair Hughes adjourned the meeting at 10:00 P.M. to the next regular meeting scheduled for September 11, 2007.

MINUTES

Respectfully submitted,

Approved by the Planning Commission

Chairperson

Transcribed by, Mary Hougey

Mark Hughes