

MINUTES
CITY OF MARTINEZ
PLANNING COMMISSION
January 29, 2008

CALL TO ORDER/ROLL CALL

Chair Frank Kluber called the meeting to order at 7:10 p.m. with all members present except Commissioners Allen, Busby, and Korbmacher.

Staff present: Veronica Nebb, City Attorney
Karen L. Majors, Assistant City Manager/Community Development Director
Albert V. Lopez, Deputy Community Development Director

AGENDA CHANGES

Deputy Community Development Director Albert Lopez said the Inclusionary Housing Ordinance (Item #3) would be heard before the General Plan Update process (Item #2), which would be postponed to a later meeting if there is no time tonight.

PUBLIC COMMENT

PAUL WILSON commented on the recent trend towards higher density and expressed concern about fire safety with buildings so close together. He requested additional fire sprinklers requirements.

CONSENT ITEMS

1. *Minutes of November 13, 2007, meeting.*

On motion by Harriett Burt, Planning Commissioner, seconded by Mark Hughes, Planning Commissioner, the Commission present voted to approve the minutes of November 13, 2007, meeting.

Motion unanimously passed 4 - 0 (Commissioners Allen, Busby, and Korbmacher absent).

REGULAR ITEMS

Item #3 taken out of order.

3. *Inclusionary Housing - Study session to review proposed zoning text amendments to the Martinez Municipal code Chapter 22.60 - Inclusionary Housing, and Chapter 22.62 - Density Bonuses, to create an affordable housing program including both an inclusionary housing and density bonus component. At this meeting the Planning Commission will consider and discuss a proposed affordable housing (inclusionary) ordinance, that would require new housing developments (4 units and greater) to set-aside 15% percent of the total units for low-income households; and allow density bonuses and concessions /incentives to housing developments offering below market rate (BMR) units to eligible households. No formal action is taken in the Study Session. Applicant: City of Martinez (AL)*

Deputy Community Development Director Albert Lopez presented the staff report, highlighting members of the Housing Task Force listed at the back of the document. He reviewed the background history of the ordinance, the work of the Housing Task Force, and details of the proposed new sections for the Municipal Code.

Commissioner Burt asked about eligibility requirements, specifically who and how the list will be formed, and how the notice will be given. City Attorney Veronica Nebb said primarily through newspaper notice, but other outreach methods can be used as well - either marketing by the developer or an associated lender. She reviewed various possibilities for handling the list, based on what other jurisdictions have done.

Mr. Lopez also noted that some exemptions could be allowed, with City Council approval, and Ms. Nebb gave information on the term of the inclusionary requirement. Mr. Lopez added that developers would be required to enter an Inclusionary Housing agreement covering all the conditions and requirements of the Ordinance. He also noted that in-lieu fees will go into the City's housing trust fund to be used for various assistance programs.

Mr. Lopez briefly discussed the density bonus provisions, as required by state law. Commissioner Burt expressed concern about the 35% bonus; Ms. Nebb said it was unfortunately straight from state law.

Mr. Lopez noted the City is also required to offer other concessions and incentives. Ms. Nebb commented that such concessions are rarely requested, due to additional review allowed of the developer's books as a result. Commissioner Avila noted that the Housing Task Force spent much time on this to be sure it will work with state law and the needs of the community. Mr. Lopez commented further on how density bonuses are calculated, based on affordability of the units.

Commissioner Burt asked whether more noticing options should be listed in the Ordinance, as currently it only mentions the newspaper. Staff agreed additional language could be added, although Ms. Nebb was concerned that there be sufficient clarity for the developer in knowing how and where noticing should occur.

Commissioner Avila explained how the information can be transmitted, usually through the housing coordinator (whether a City employee, the Housing Authority or another agency). She noted most cities have some information on their websites as well. She also noted that a marketing plan is usually required for below-market housing.

Commissioner Hughes asked why the line for the inclusionary requirement was drawn at 20+ units. He also asked what future uses staff contemplated for the housing trust fund. Mr. Lopez acknowledged that nonprofit groups might have better fund leverage, but the Housing Task Force felt that development market in Martinez seems to be focusing on smaller projects.

Ms. Nebb said it would be difficult to justify charging a disproportionate fee, which would be necessary if an increased in-lieu fee was allowed instead of requiring affordable units be built. She also noted that typically, more developers will opt for in-lieu fee payment which means fewer units will be built.

Commissioner Hughes asked why not make the fee higher, and Ms. Nebb discussed economy of sale considerations for developers and nonprofit groups, as well as market conditions that might deter development. Commissioner Avila noted that the Housing Task Force also looked at the parcels identified in the Housing Element and the lower likelihood for larger developments.

Mr. Lopez mentioned other alternatives for developers instead of the fee. Assistant City Manager/Community Development Director Karen Majors commented on the broad experience of the Housing Task Force members, and reports/results from other jurisdictions.

Commissioner Hughes asked if the exemption language in the ordinance was customary. Ms. Nebb responded that the first three exemptions come from lessons learned by other ordinances, with the last one allowing for unexpected circumstances on a case-by-case basis.

Commissioner Burt expressed concern with the proposed exemption process, particularly suggesting that the Planning Commission be involved and given a chance for discussion/recommendation without political overtones. Ms. Nebb acknowledged that Planning Commission review could be added to the exemption process. The rest of the Commission agreed with Commissioner Burt's suggestion.

Commissioner Burt asked about the "change in title" requirements, and staff agreed to review that section further.

Mr. Lopez concluded by stating that both programs will work together to implement provisions of the City's Housing Element, as well as meeting state law regarding density bonuses. He briefly discussed the further process for drafting and enacting the ordinance, including negative declaration, etc.

Chair Kluber asked about staff's response to Commissioner Allen's email. Mr. Lopez said her email would be included in the public record, but he had no formal response at this time. Commissioner Avila noted that some of Commissioner Allen's issues had been addressed under the section dealing with administration and fairness.

Commissioner Burt asked for clarification on the bonus and incentive for housing with a childcare facility - specifically who will oversee the facility afterwards. Ms. Nebb said the City would be responsible, adding that such requests are very rare because of the limitations and restrictions.

Chair Kluber opened public comment.

DAVID PIERSALL commented on the fact that the housing bubble has burst since the process for this ordinance had begun, as a result of concessions made to expand home ownership possibilities. He questioned whether an inclusionary ordinance will even be necessary once the current real estate situation stabilizes. He suggested the Planning Commission postpone the ordinance until a later date.

PAUL WILSON commented on the long-term ownership requirement and whether homes can be

passed on to heirs, etc. He was also concerned about potential preferential treatment for downtown property owners. He noted that the Housing Element is mainly focused on the north side of Highway 4, thereby restricting opportunities for low income families to live in more affluent neighborhoods. He indicated he would like to see the Housing Element metered equally throughout the community, with no preferential treatment for anyone.

Commission Comment

Commissioner Burt asked staff to respond to Mr. Wilson's concerns about areas eliminated from the Housing Element. Mr. Lopez said the Inclusionary Ordinance would apply to development throughout the City. He acknowledged that most of the opportunity sites were north of Highway 4, but that was not intentional, just where the properties happened to be.

Ms. Nebb noted that the ordinance does not limit an owner's ability to bequeath the property, only the recipient's ability to live in the home for more than one year. She reviewed provisions and restrictions for selling the home to another income-eligible household.

Chair Kluber asked whether the Inclusionary Ordinance was mandated by the state. Ms. Nebb said the density bonus requirements are long overdue, and although affordable housing provisions are not strict mandates, it can affect certification of the City's Housing Element. She also noted that enacting the ordinance during a downturn of the market will not affect the market either way. Commissioner Avila noted that such ordinances are fairly common now, and the loans for these property types have standard terms.

Commissioner Burt acknowledged the controversial nature of this issue and changing stresses on middle class families today. She felt that anything that can be done to promote home ownership should be supported. She complimented the members of the Housing Task Force and staff for working so hard on the ordinance. She was strongly supportive.

Commissioner Avila was also appreciative of staff's work, as well as the commitment by the Housing Task Force members to develop an ordinance custom-crafted to meet Martinez' needs.

Chair Kluber agreed, especially commenting on Mr. Lopez' commitment to the process. Mr. Lopez noted that Ms. Nebb wrote most of the language in the ordinance.

2. *General Plan Update - Study session to discuss the General Plan update process- includes powerpoint presentation by Staff. No formal action is taken in the Study Session. Applicant: City of Martinez (AL)*

Commissioner Burt expressed concern about moving forward quickly with the General Plan update, but she acknowledged the need to postpone tonight's discussion.

The Commission agreed by consensus to postpone discussion of the General Plan update to the February 26th meeting.

COMMUNICATIONS

None.

COMMISSION ITEMS

There was brief discussion of upcoming potential agenda items.

Chair Kluber expressed appreciation for the thank-you email regarding the RV ordinance.

STAFF ITEMS

None.

ADJOURNMENT

Chair Kluber adjourned the meeting at 8:45 p.m. to the next regularly scheduled meeting, February 26, 2008 at 7:00 p.m.

Respectfully submitted,

Approved by the Planning Commission

Chairperson

Transcribed by, Mary Hougey

Frank J. Kluber

DRAFT

MINUTES
CITY OF MARTINEZ
PLANNING COMMISSION
February 26, 2008

CALL TO ORDER/ROLL CALL

Chair Frank Kluber called the meeting to order at 7:05 p.m. with all members present except Commissioners Avila and Hughes, who were excused, and Commissioner Burt, who arrived after roll call.

Staff present: Veronica Nebb, City Attorney;

Albert Lopez, Deputy Community Development Director.

AGENDA CHANGES

Deputy Community Development Director Albert Lopez noted that Items 2 and 3 would be continued to a future meeting.

PUBLIC COMMENT

None.

CONSENT ITEMS

1. Minutes of January 29, 2008, meeting.

Item continued to the next meeting, due to lack of a quorum.

REGULAR ITEMS

2. Harbor View Reservoir UP #08-04 Public hearing on the replacement of an existing 1,250,000 gallon reservoir with new 1,650,000 gallon reservoir. The existing reservoir was built in 1964, and a 2001 reservoir inspection found signs of deterioration. The project will secure and expand the reservoir to meet the projected needs of the City according to its adopted Water System Master Plan Update. In addition, the overflow elevation of the existing reservoir is approximately 20 feet higher than those of other reservoirs in its service zone (Zone I), effecting the maintenance of the desired uniform distribution. The City's Harbor View reservoir is located approximately 1,500 feet south of the intersection of Harbor View Drive and Shell Avenue. The existing reservoir property occupies approximately 1.1 acres, and adjoins the rear property lines of 2536-2544 Pine Street. The Assessors Parcel Number (APN) is 376-010-005. (This item will be continued to a future date)

Item continued to a future date.

3. 630 Court Street Resolution of the Planning Commission finding that the disposition of 630 Court Street is consistent with the Martinez General Plan and all applicable specific plans.

Item continued to a future date.

4. Inclusionary Housing Ordinance and Density Bonus Public Hearing to consider adoption of an Inclusionary Housing Ordinance that will require new residential projects to either designate 15% of project units as affordable units or, in certain cases, pay a calculated in-lieu fee amount, per the requirements of the ordinance. Also under consideration is a Density Bonus Ordinance as required by State Law to allow for density bonuses, incentives and concessions to projects that provide a percentage of their units as affordable. At the public hearing the Planning Commission and City Council will also consider and adopt, respectively, the Negative Declaration prepared for this project, finding that no significant environmental impacts will result from approval of this project.

Deputy Community Development Director Albert Lopez presented the staff report, reviewing the process thus far and the provisions of the proposed ordinance. (Commissioner Burt entered and was seated during his presentation.) Mr. Lopez also discussed correspondence received from the city of Pleasanton and LAFCO. He noted that staff is asking for a formal recommendation to the City Council.

Vice Chair Korbmacher asked for clarification on the in-lieu fee option, which staff provided.

Commissioner Busby asked for specifics on the applicability of the ordinance, as well as the possibility for exemptions.

Commissioner Allen clarified further details, based on a specific example, Mr. Evans' property. Staff and the Commission discussed various aspects of the ordinance.

Mr. Lopez also discussed impacts from not enacting an inclusionary ordinance, with City Attorney Veronica Nebb providing further information on possible legal action that could result.

Mr. Lopez concluded by reviewing the exhibits in the staff report, including the possible resolution, findings and CEQA requirements.

Commissioner Burt expressed appreciation for the work done by the task force and staff, acknowledging the need for the ordinance. She asked about the density bonus, specifically, what grounds the City could use to deny it. Mr. Lopez reviewed findings that would need to be made, with Ms. Nebb giving practical applications based on state law.

Commissioner Busby asked the current balance of the Housing Trust Fund, and how the fund could be used, which staff provided. Commissioner Busby expressed concern that the trust fund could be shifted into the General Fund to cover administrative costs of the program.

Commissioner Allen questioned how the program would be monitored, if not through a City staff person. Ms. Nebb reviewed other ways that the monitoring could be done, as well as discussing common reporting requirements.

Commissioner Allen asked, and staff responded to questions about contracting costs, the density bonus qualification process, the definition of "senior" projects, and the Housing Trust Fund.

Commissioner Burt questioned whether this was the best ordinance for the current and future housing market. Ms. Nebb explained that with fees based on housing prices, the fee will be self-adjusting as the market fluctuates.

Commissioner Allen asked for specifics of other ordinances in other jurisdictions (successes and failures) as well as alternatives. She also questioned whether this is the time or method for providing affordable housing, given the current market downturn.

Chair Kluber said the Housing Task Force spent a year discussing the same issues and questions in developing the current proposed ordinance. Commissioner Allen asked if the information could be shared with the Commission. Commissioner Busby asked if the downturn in the market was discussed in the task force meetings.

Ms. Nebb clarified that density bonus provisions were the response to a state mandate and needs to be done as soon as possible. Regarding the Inclusionary Ordinance, she discussed Housing Element provisions that also need to be complied with. She acknowledged that the City Council and Planning Commission would make the decisions ultimately. She also provided some information on her experience with other jurisdictions and their programs.

Staff and the Commission discussed different program charges given by the state in certifying the City's Housing Element. Mr. Lopez offered to provide more background information to those Commissioners who want it.

Commissioner Burt acknowledged the openness of the Housing Task Force process as well as the state mandates involved. She reiterated her earlier question as to whether this ordinance will fit the different economic situation that now exists. She suggested that there should be some review of the effectiveness of the ordinance after it is enacted. Mr. Kluber agreed that could address the concerns expressed by the Commission. Ms. Nebb noted that staff could use the required annual report to the state to accomplish the same goal.

Commissioner Allen asked for further information on the specific mandates from the state, and Ms. Nebb reviewed the three areas.

Mr. Lopez also gave specific numbers related to the state requirement. Ms. Allen asked how the numbers were determined, and staff explained the methodology used by the state.

Chair Kluber asked about the possibility of petitioning the state for some relief, and Ms. Nebb discussed state action that could result while waiting for certification of the City's Housing Element. She also acknowledged there is no current penalty, but the state is considering possible repercussions for failure to meet the City's obligations.

Mr. Lopez noted it already could affect the City's competitiveness for grants.

Ms. Nebb noted that the state has vacillated regarding inclusionary ordinances as opposed to pushing for high density zoning. She also noted that the state's certification of the Housing Element was partially based on the new Downtown Specific Plan. In response to a further

question from Commissioner Allen, staff confirmed the City has already met some of its requirements.

Chair Kluber opened public comment on the item.

GAIL RODENS, Housing Task Force member, acknowledged this ordinance alone will not solve the affordable housing crisis in the City, but it will be one tool. She asked the Commission to trust that the task force did the best job it could, based on the direction and authority given them. She asked for a recommendation of approval to the City Council.

PAUL WILSON reiterated his earlier concerns about the prejudicial and discriminatory nature of Housing Element, since most of the proposed properties are on the north side of Highway 4. He was also concerned about potential massing of low income housing in only one area of the City, and he cautioned against special treatment for Downtown Specific Plan property owners. As a resident of the downtown, he said he was very concerned about impacts on his quality of life. He was opposed to density bonuses also, commenting on the potential effects on height limits, setbacks, and parking.

MIKE ALFORD commented on similar problems resulting from increased residential density in Antioch. He questioned what happened to earlier trust fund allocations. He also asked for a definition of affordable housing and expressed concern about disincentives to developments. He suggested a senior gated community in the downtown area, which would reduce crime and improve the economy of the City. He also noted that the City already has more than its share of government-assisted housing.

Seeing no further speakers, Chair Kluber closed public comment.

Commission Comment

Commissioner Allen said she would like resolution to her questions before voting on the issue. Specifically, she would like to see some alternatives to inclusionary zoning, more information about the successes/failures of other jurisdictions, and even to visit a project. She expressed a basic philosophical problem with the concept, but acknowledged something needs to be done. She was also concerned that the cost for affordable units will be passed on to those "in the middle" financially, resulting in them being priced out of the market. She reminded the Commission of the Downtown Specific Plan goal for ownership housing, not rental. She suggested alternative incentives for developments with more homes, but smaller or different type units. She also asked for expanded alternatives to the in-lieu fee, as well as uses for the Housing Trust Fund, and the definition for senior housing.

Commissioner Busby indicated she was not willing to go forward with an ordinance yet;

Chair Kluber moved to adopt the resolution, recommending approval of the ordinance by the City Council. The motion was withdrawn after Vice Chair Korbmacher indicated he wanted to make further comments.

Vice Chair Korbmacher said there is similar program already in place in Danville that works very well; he indicated his willingness to show examples of affordable units there. He was

concerned about the need to raise the threshold (perhaps to 10 units) for the in-lieu requirement, since most properties in Martinez will be infill projects.

Chair Kluber noted that Commissioner Avila-Farias and husband Isidro (builders of many infill projects in the City) were the impetus in allowing an in lieu fee for projects with less than 10 units. Mr. Lopez noted that the exemption clause also resulted from input from others in the development community.

Commissioner Burt urged the Commission to take action and pass the item onto the Council, with the changes suggested including a one-year review of the ordinance and adjust as needed.

Chair Kluber agreed it is appropriate to take action, since sufficient analysis has taken place already.

On motion by Harriett Burt, seconded by Frank Kluber, the Commission present voted to adopt the draft resolution recommending that the City Council approve the proposed ordinance, by the following vote: Ayes: Frank Kluber, Fred Korbmacher, and Harriett Burt; Noes: Donna Allen, and Lynette Busby (Absent: Avila and Hughes).

5. General Plan Update - Study session to discuss the General Plan update process- includes power point presentation by Staff. No formal action is taken in the Study Session. (Continued from the January 22, 2008, meeting)

Deputy Community Development Director Albert Lopez presented the staff report and responded to questions from the Commission about the process.

The Commission commented on the need for an expedited timeline, including sufficient community input and qualified facilitators for the community meetings.

Commissioner Burt asked if a hybrid of the "top-down" and "bottom-up" processes was possible. She also commented on the piecemeal GPA amendments previously done. She agreed there is a definite need for community input - especially if they are really listened to.

Chair Kluber agreed, especially with the need to hire skilled professionals to manage some of the public input process. Commissioner Allen agreed that the expedited process mentioned by Commissioner Busby could work.

Commissioner Allen asked if there is any way to put together a summary of what is currently in effect.

Vice Chair Korbmacher said he thought the focus should be on cleaning up the current General Plan. He expressed concern about open space, especially in residential areas, indicating that changing them should require a public vote. He also noted that the downtown area is the most difficult issue, but since the Downtown Specific Plan will be part of final General Plan and it's already done.

City Attorney Nebb noted that most successful facilitators should not have preconceived ideas

about the outcome of the Plan - suggesting that the City separate the facilitator from the consultant who writes the Plan.

Chair Kluber expressed concern about preconceived ideas about the community. Mr. Lopez agreed separating the writing from the facilitating is a good idea.

Commissioner Allen expressed concern about too extended of a process, so that re-education of the public is lessened. She also asked how to decide what needs to be amended. She suggested a summary of the current policies, then looking at the Plan itself for redlining, etc.

Mr. Lopez said he would draft a summary of the Commission input and bring it back to the Commission for confirmation. He expressed concern that there be enough time to gather input from all segments of the community.

There was some discussion of the best way to advertise public meetings.

Mr. Lopez asked for clarification on the process preferred by the Commissioner. Commissioner Burt said an advisory group appointed by the Mayor might be good to decide the elements that need to be included and/or revised.

Commissioner Busby concern that that might be too technical, noting that the consultant or staff might be better qualified, although she acknowledged the need for public input at some point in the process.

Chair Kluber suggested that the selection process for the consultant should involve some Planning Commissioners, Councilmembers, etc. There was discussion of the best way to choose consultant/facilitator.

Mr. Lopez summarized the preferences of the Commission as to the process: that a hybrid approach be utilized, that involves the community once the City has completed an internal General Plan audit to determine which elements were still functioning, and where major gaps exist. Once the audit was complete, a small advisory group can “issue spot” and focus the efforts of the Community Conversation process to follow. At the point the larger community (using facilitators) can be involved to discuss more broad changes in land use policy. The input from the Community Conversations can then be distilled and returned to the advisory group, at which point with the help of a Planning consultant can develop the actual plan.

COMMISSION ITEMS

Vice Chair Korbmacher asked about the upcoming League of Cities conference . After a brief discussion, Mr. Lopez said he would pass the information on to the Commission when he receives it.

STAFF ITEMS

None.

COMMUNICATIONS

There was some discussion of sound difficulties with the City Council meetings.

ADJOURNMENT

Chair Kluber adjourned the meeting at 10:17 p.m., to the next regularly scheduled meeting of March 11, 2008.

Respectfully submitted,

Approved by the Planning Commission

Chairperson

Transcribed by, Mary Hougey

Frank J. Kluber

DRAFT