

Planning Commission Minutes  
Regular Meeting  
August 10, 2010  
Martinez, CA

CALL TO ORDER

Acting Chair Donna Allen called the meeting to order at 7:05 p.m.

Staff Present: City Attorney Veronica Nebb  
City Engineer Tim Tucker  
Planning Manager Terry Blount  
Senior Planner Corey Simon  
Associate Planner Anjana Mepani

ROLL CALL

PRESENT: Vice Chair Donna Allen, Commissioners Harriett Burt, Rachael Ford, Jeffrey Keller, and Paul Kelly, Commission Alternate.

EXCUSED: Chair Lynette Busby, Commissioners AnaMarie Avila-Farias and Michael Marchiano.

ABSENT: None.

AGENDA CHANGES

None.

PUBLIC COMMENT

Mike Alford encouraged the Commission to making its decisions independently, not pressured by City staff or the City Attorney.

CONSENT ITEMS

1. *Minutes of May 11, 2010, and June 29, 2010, meeting.*

The minutes of May 11, 2010 were continued to another meeting since there was not a quorum of those present on May 11<sup>th</sup> in attendance.

Chair Allen corrected page 2 of the June 29th minutes to say "the minutes of May 11th were continued due to a lack of quorum of those present at the May 11<sup>th</sup> meeting."

*On motion by Commissioner Kelly, seconded by Commissioner Burt, the Commission present voted to approve the Minutes of the June 29, 2010, meeting, as amended by Chair Allen.*

Motion unanimously passed 3 - 0. (Commissioners Ford and Kelley abstained; Chair Busby, Commissioners Avila and Marchiano excused.)

REGULAR ITEMS

2. *Ralls Residence UP #09-05, VAR #09-03, DR #09-24 Public hearing to consider a*

*proposal to construct a new single-family residence on a vacant hillside parcel. The applicant is requesting Design Review approval; exception to building height limitations to allow a building height of 33 feet, where a maximum of 25 feet is permitted; and a variance to allow retaining walls within minimum front and side yards greater than 6 feet high. This project is located at 100 Lynn Darr Drive. Applicant: Matthew Ralls (AM)*

Commissioner Keller recused himself from the item since he lives within 300' of the project. He left the dais and the room.

Associate Planner Anjana Mepani presented the staff report, discussing the project details, background, changes from the original design, building footprint, lot configuration and challenges, and input from the Design Review Committee meeting. Staff recommends approval.

Commissioner Burt asked about the references in the staff report regarding retaining walls that exceed the 6' limit. The applicant's architect said the highest was 8', adjacent to the garage.

Commissioner Burt also asked about the Slope Density/Hillside Ordinance requirements. Ms. Mepani said the Ordinance specifies the allowable FAR, which the application meets.

Chair Allen asked about elimination of the roof-top solar panels, and whether it was due to the additional height they would have created. Ms. Mepani said the neighbors at the Design Review meeting asked that they be removed.

Chair Allen asked about the guidelines for requiring the solar panels. Planning Manager Terry Blount said state law now prohibits the City from using discretionary permits, but a building permit is required.

Chair Allen asked about the property's boundaries. Mr. Blount said they could be discussed after the applicant's presentation or now. Chair Allen said she would rather discuss them now.

Chair Allen explained her original concern as to whether a legal lot exists, noting that the boundaries don't match what is on the deed or the assessor's parcel map. She reviewed her understanding of where the boundaries are and asked if this project will eventually prevent Richardson from intersecting Jones Road. She questioned why the City is requiring a variance for a setback when the actual property line is somewhere else.

City Engineer Tim Tucker reviewed the property boundaries on the site map, including easements for the upper property.

JIM MILLER, architect, showed a model for the project, discussing early design efforts, the slope of the lot, efforts to minimize the building footprint, eventual removal of the third floor from the plans, the garage recessed into the hillside, the simple floor plan, rooftop terrace, aesthetics, green elements, and privacy issues.

Chair Allen opened the public hearing.

CICELY BRIANT commented that access to the project needs to be from Jones Road and Lynn Darr, rather than from Richardson, for preservation of existing wildlife and protection of her children. Mr. Tucker said there is no reference on the title to the dirt road shown on the parcel map. Ms. Briant said that is the road they have used to access their property.

Commissioner Burt asked if staff has considered using the dirt road. Mr. Tucker said no, staff recommends using access from Jones. Commissioner Kelly confirmed with Mr. Tucker that tying Richardson in is not a condition of the project.

MICHAEL BRIANT discussed numerous times he came to the City regarding the dirt road that had been represented to him as part of Richardson Street when he purchased his property. He also discussed the history of the property and the project, including a "no through street" sign that used to be on the road and lack of maintenance by the City. He reiterated his opposition to extending Richardson on and around his property.

BILL WEINER expressed support for the Briants position regarding Richardson Street and protection of their parking needs.

DENISE DEBETA, Richardson Street resident, agreed with the Briants and protection of wildlife in the area.

Rebuttal:

Mr. Ralls said he never intended to make Richardson a through road, just a private drive up to his house. Commissioner Burt asked for confirmation as to whether his plans include using Richardson as any entrance to the property. Mr. Ralls said no.

Mr. Ralls asked about conditions 4E-H and the requirement to "hold harmless" City employees, etc. He thought it was an onerous and burdensome requirement. City Attorney Veronica Nebb said there would only be 90 days allowing for claims against the project. She added that this is now a standard requirement for all projects in the City.

MIKE ALFORD asked if there is a plan to extend Richardson. Chair Allen said she would explain how the question came up under Commission discussion.

Commissioner Burt asked about a baby squirrel she saw in the street. The neighbors said it was sent to Lindsay Wildlife for care.

Seeing no further speakers, Chair Allen closed public hearing.

Chair Allen expressed appreciation to the architect for a great job with a difficult lot. Her original concern was whether it was a legal lot to build on, which led to the discoveries about the property boundaries regarding the applicant's ownership of part Jones Street and the dirt section of Richardson. She suggested the applicant offer the street frontage portion to the City so the Briants are not legally landlocked. She confirmed no one is suggesting that Richardson go through and connect with Jones, but the City might want to ask for a section of the dirt road only for emergency access. She thought now would be a good time to clean up the right of way

issues. She also noted that the applicant is planning to use Lynn Darr Drive for his access, but she was unsure whether there was enough room for a hammerhead turnaround.

Mr. Tucker said staff had seen the Lynn Darr access as only a two-lane driveway, not a City street. He also noted that doing what Chair Allen is suggesting would be quite complicated.

Commissioner Burt asked if Lynn Darr is a City street. Mr. Tucker said no, it is on Mr. Ralls' property, but there is an 18' right-of-way for the neighboring property.

Commissioner Ford asked if the applicant would consider what Chair Allen is proposing. Ms. Nebb said the Jones Street dedication makes sense, but the City might not want to accept at this time the gravel roadway that is a continuation of Richardson.

Commissioner Kelly asked how the Briants access their property. The Briants said it used to be off Jones but once their garage fell down, they began using Richardson.

Chair Allen suggested continuing the item to allow the Briants and Mr. Ralls to meet with staff to resolve the access issues.

Commissioner Ford asked if 30 years of access becomes a proscriptive easement. Mr. Tucker said only if a court certifies it as such.

Commissioner Ford expressed concern that the project details are not being discussed, noting that these easement issues are not part of the Planning Commission action requested. She indicated she thought the applicant has done a good job meeting the requirements for the lot.

The Commission recessed for 2 minutes, and reconvened with all members present as indicated, except Commissioner Keller, who had recused himself.

Chair Allen asked the applicant what he thought of her suggestion.

Mr. Ralls discussed conditions on the section of Jones that is on his property. He did not think emergency vehicle access could happen from Jones. He indicated willingness to consider dedicating portions of Jones Street and Richardson, if that will help.

Commissioner Ford said she didn't think now was a good time to discuss or decide this issue. She thought the Commission should only be discussing the design, setbacks and other details of the application as presented.

Ms. Nebb said there are already encroachments into that portion of Jones. She would not recommend asking for or accepting the dedications right now. She expressed concern that it could create more problems than it resolves.

Commissioner Burt noted these issues often arise with projects in the older parts of town. She agreed with Commissioner Ford that this is not an issue the Commission can or should resolve at this meeting. She recommended that Mr. Ralls and the Briants meet together and work out a

solution. She also asked that a condition of approval be added: that Richardson Street not be left open for potential connection to Jones Street in the future. She was confident that emergency vehicles will find a way to get through when needed.

Chair Allen said she would not want to be in Mr. Ralls' position to own property along the frontage of a neighbor's property. She thought it would be irresponsible for the Commission to approve building a house including driveway and sidewalks that leaves a land-locked parcel.

Commissioner Burt asked if Mr. Ralls could make that decision without it being a condition of approval. Mr. Tucker said it could also be done at the building permit stage.

Ms. Nebb said she thought the only area the City would likely want would be the paved and improved areas, not the frontage along Mr. Ralls' neighbors' properties. She also indicated that Mr. Ralls and his neighbors could work together privately to discuss a lot-line adjustment or some other solution to the issue.

Chair Allen said "Parcel A" and "Parcel B" show some subdivision was done, and a survey or parcel map should be on record.

Mr. Tucker said staff would be happy to work with the applicant outside of this forum to clear up right-of-way issues, not including the extension of Richardson. Chair Allen said she would like to clear up Jones Road out to Berrellesa and for the neighbors to have legal access to their property.

Commissioner Ford indicated she would not support adding that as a condition of approval. She asked for input from other Commissioners about whether the Commission should try to settle this issue or focus on the application at hand.

Commissioner Burt asked about the hydrology of the area and the potential for slides. Mr. Ralls said two geotechnical reports have been done, indicating there is some slide potential, but the ground underneath is bedrock.

*On motion by Commissioner Kelly, seconded by Commissioner Burt, the Commission present voted to approve UP #09-05 and DR #09-24. (Chair Allen noted that the VAR #09-03 is no longer needed.) Motion unanimously passed 4 - 0. (Commissioner Keller abstained, Chair Busby and Commissioners Avila and Marchiano excused.)*

Commissioner Keller returned to the meeting and was re-seated at the dais.

3. *Alhambra Valley Annexation GPA #10-01, ZA #10-01, RZ #10-01 Public hearing to consider adopting either:*
  1. *A resolution recommending to the City Council denial of the land use regulations proposed for the Alhambra Valley annexation area, as identified below, and recommending that the City Council not submit an application to the Contra Costa*

*Local Agency Formation Commission (LAFCO), as directed by the Commission at its meeting of June 29, 2010 or;*

2. *An alternative resolution recommending to the City Council approval of the land use regulations proposed for the Alhambra Valley annexation area, as identified below, but recommending that the City Council not submit an application to LAFCO. The Project consists of: Adoption of a Negative Declaration - General Plan Amendment to create new general plan land use designations and amendment of Land Use Map to apply those designations to property within the annexation area - General Plan Amendments (Land Use Element, Scenic Roadways Element, Parks and Recreation Element, and Transportation Element) regarding policies applicable to the annexation area - Zoning Ordinance Amendment to create new zoning districts and pre-zoning of properties within the annexation area - Adoption of Alhambra Valley Design Guidelines. (Continued from June 29, 2010, meeting) Applicant: City of Martinez (TB)*

Planning Manager Terry Blount presented the staff report, discussing the background history of the proposal,

Commissioner Burt asked if the second alternative resolution changes what the City Council will do. Mr. Blount said no, because the Council is not required to act in agreement with the Commission's recommendation.

In response to a further question, City Attorney Veronica Nebb said even with the first alternative, Council still has the option to choose either action. Commissioner Burt asked if the Commission's input and comments on the record are minimized with the second alternative. Ms. Nebb said no, the Council will have the Commission minutes with the staff report.

Commissioner Burt noted that she was asked (as the oldest Planning Commissioner and a former Councilmember) whether prezonings had been done in the area in the past, and she confirmed with others that it has not been done.

Ms. Nebb clarified that the Planning Commission cannot do prezonings; only the City Council.

Commissioner Kelly noted the job of the Commission on this is to approve the zoning regulations proposed to be enacted if annexation were to occur. He thought the Commission should stand with its earlier preference for a negative recommendation.

Chair Allen agreed, noting staff has done a phenomenal job, but she is concerned about the future General Plan update so she would not want to recommend any amendments to the General Plan in the meantime.

Mr. Blount noted that the wording in the draft resolutions includes a reference to General Plan update issues.

Commissioner Burt commended staff for their professionalism, but she acknowledged some

concern that the strength of some of the Commission's thoughts on the matter were minimized. She agreed with Commissioner Kelly that the role of the Commission is to review and make a recommendation on the proposed land use regulations.

Commissioner Burt expressed concern that the annexation areas presented to the Commission were based only on preventing a protest from affected property owners. She did not think piecemeal annexation was a good idea. She recommended staying with the original resolution.

Chair Allen asked why the Commission would approve the second resolution without opening the public hearing again. Staff said that's why the noticing included a public hearing.

Commissioner Ford asked for confirmation that the City Council will make the decision regarding annexation, and the role of the Planning Commission is to consider land use designations to ensure that the regulations under the City are the same as the current regulations.

Mr. Blount confirmed that the land use regulatory framework recommended is nearly identical to that currently under county regulations.

Commissioner Ford asked if the residents and association were concerned that the land use regulations stay in effect as long as possible, shouldn't the Commission protect their wishes even if the Commission is opposed to the annexation itself.

Chair Allen opened the public hearing.

HAL OLSEN said the Association attorneys have elected not to attend this meeting; their position is the same as before. They recommended approval of the first resolution: denial of the land use recommendations and asking that the Council not submit an application for annexation.

ERNEST LOMPA agreed with Mr. Olsen, noting the whole community supports their recommendation. He urged the Commission to stick to its guns. He also expressed concern about potential misdirection and underlying currents, and asked that the Commission listen to the people's wishes.

MARIE OLSEN expressed concern with the staff report, page 3, that indicated the Commission did not have an issue with the proposed land use regulations. That was not her impression from the previous meeting. She was also concerned that the "feelings" of the Commission are being ignored.

MIKE ALFORD said he appreciated that the Commission is not being coerced by staff or the City Attorney. He reminded them that the Commission should be answerable to the citizens. He thought the Commission was clear at the last meeting about what they thought, and staff should uphold their decision.

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

Commissioner Keller indicated he would abstain from this vote since he wasn't at the last

meeting.

Commissioner Ford asked for clarification from Ms. Nebb as to how a negative recommendation will impact the Council. Ms. Nebb said the Council will have an opportunity to make the final decision on all items that are now before the Commission. She also confirmed that the Council will make decisions on the rezonings if they decide to pursue annexation.

Commissioner Ford reiterated her concern that taking no action on the land use regulations could result in a negative impact in the long run. She noted that staff takes a lot of bashing from members of the public, but she never feels coerced by them, the Council, the Mayor or the City Attorney.

Commissioner Burt said the report that Council will get should reflect praise for the staff reports and clarity as to the Commission's objections. She was confident that City Council will be able to make a decision with adequate protections for the annexed properties. However, she still had substantive issues with recommending approval and would rather reiterate the earlier resolution.

Chair Allen agreed, noting that the second resolution does not reflect what happened at the last meeting, in her opinion.

Commissioner Kelly responded to Commissioner Ford that there should be enough information available to the Council to safeguard the resident's issues.

*On motion by Commissioner Burt, seconded by Commissioner Kelly, the Commission present to approve a resolution recommending to the City Council denial of the land use regulations proposed for the Alhambra Valley annexation area, as identified below, and recommending that the City Council not submit an application to the Contra Costa Local Agency Formation Commission (LAFCO), as directed by the Commission at its meeting of June 29, 2010.*

Motion passed 3 - 1. (Commissioner Ford voted no, Commissioner Keller abstained, Chair Busby and Commissioners Avila and Marchiano Excused.)

Commissioner Ford asked that the record be clear that the reason she voted against the resolution is because she thought the alternative resolution would have better protected the interests of the property owners.

4. *General Plan Map and Text Revisions GPA #10-02 Public hearing to consider and make a recommendation to the City Council on:*

1. *Adoption of a General Plan Land Use Map memorializing changes to the existing Land Use Maps by the City from June 20, 1973 (adoption of the existing General Plan) to January 20, 2010; and*

2. *Adoption of a General Plan text amendment replacing each and every instance of*

*the reference to the existing General Plan Land Use Maps with "Land Use Map 1 (LU - 1)." Applicant: City of Martinez (TB)*

Planning Manager Terry Blount presented the staff report, discussing that the normal practice is to update the General Plan map whenever changes are made and the need to combine existing maps into one. He expressed the importance of having a useable General Plan Map that is available to the public.

City Attorney Veronica Nebb added that the current situation means that if someone is trying to find out what the General Plan designation is, he/she would have to go through each amendment that has occurred since 1973 to see what has changed.

Commissioner Burt asked about Sunnyside and Franklin Hills issues. She asked if further corrections can be made to the map if there is additional information that comes to light. Mr. Blount said that since this is a recommendation to the Council, he saw no reason that corrections couldn't be made if more information becomes available.

Mr. Blount continued the report, noting that staff did the same with the General Plan text to bring it current and to ensure it reflects changes that have been made.

Chair Allen said it is a fabulous map, but she noted that the Downtown Specific Plan (DSP) is not reflected accurately on the General Plan map. She discovered no categories in the General Plan for some of the things that were adopted with the DSP. She questioned the need to adopt this map while the General Plan revision is in process.

Ms. Nebb reiterated it is necessary to have an updated accurate map, but there is no need to revise the land use designations based on the DSP. She indicated the function of the map is to memorialize existing land use designations, and any mapping errors will be addressed by the General Plan review committee process.

Chair Allen expressed concern about "unintended consequences" if the Commission approves the map without a thorough review.

Senior Planner Corey Simon commented on open space areas in the Sunnyside Terrace area that have since been used for homes and the need to make an accurate General Plan map based on current uses.

Commissioner Kelly asked about homes proposed for the area near Arriba and Duncan Drive. Mr. Simon discussed the Franklin Hills Plan and open space designations.

Commissioner Burt asked if this map fulfills the purpose of cataloguing all the areas that have been designated open space with past projects. Mr. Simon said an inventory was done, and that was used to create this map. Ms. Nebb clarified that those open spaces were not designated on this map; this map is usually updated annually to reflect General Plan updates and changes. It is not intended to fix anything out of sync - that is part of the General Plan update process.

Commissioner Keller asked if changes were made to the General Plan as part of the DSP. Ms. Nebb clarified the difference between General Plan nomenclature and that in the DSP.

Commissioner Ford confirmed that these updates will not interfere with the General Plan update process.

Chair Allen said she could not approve the map without verifying each change, to avoid future conflicts.

Commissioner Keller agreed with Commissioner Ford that this map will make the General Plan revision process easier.

Commissioner Burt said she was okay with the map, as long as it can be modified when errors are discovered.

*On motion by Commissioner Burt, seconded by Commissioner Ford, the Commission present voted to approve Adoption of a General Plan text amendment memorializing changes to the existing Land Use Maps by the City from June 20, 1973 (adoption of the existing General Plan) to January 20, 2010, and*

*Adoption of a General Plan text amendment replacing each and every instance of the reference to the existing General Plan Land Use Maps with "Land Use Map 1 (LU - 1)."*

Motion passed 4 - 1. (Commissioner Allen voted no, Chair Busby and Commissioners Avila and Marchiano Excused.)

#### COMMISSION ITEMS

Commissioner Burt asked about the Davidon project at Elderwood Glen and Wildcroft, near the Alhambra Highlands project. Mr. Simon said staff's opinion is that the Davidon map has expired. He also indicated there has been no communication since they told the City to hold off on the application 9 years ago. He said they will be notified of the entire process required to approve another project there.

Commissioner Burt expressed concern about slides in the area.

Commissioner Ford asked about the Commission's absenteeism policy. She expressed concern that interested people could replace those who routinely do not show up for meetings. She asked if and how the Commission can establish a policy. Mr. Blount said only Council can establish that policy, and existing policy does not address the issue. He indicated the Commission could request a review by the Council.

Mr. Blount also noted that the particular commissioner who has not attended recently has an expired term, but under the ordinance she continues to serve until a successor is appointed. He said anyone who wants to apply can, with or without an existing opening.

STAFF ITEMS

Chair Allen asked about upcoming Commission items, which staff reviewed. Mr. Blount confirmed there would likely be no items for the second meeting in August or the first meeting in September, but the Pacheco annexation project will probably be ready for the 2nd meeting in September.

Commissioner Burt asked about the Ridgeland project, and Mr. Blount updated the Commission.

Commissioner Burt commented that a new homeowner on Degnan Drive was having considerable drainage installed to deal with water coming down from the property up above, and City staff had told him the City will do nothing until the debris fence fails.

COMMUNICATIONS

None.

*On motion by Commissioner Kelly, seconded by Commissioner Keller, the Commission present voted unanimously to adjourn at 10:10 p.m. (Chair Busby, Commissioners Avila and Marchiano Excused.)*

Respectfully submitted,

Approved by the Planning Commission  
Vice Chairperson

Transcribed by Mary Hougey

Donna Allen