

**LARKSPUR CITY COUNCIL
SPECIAL MEETING
MINUTES
MAY 10, 2006**

REVISED

CITY COUNCIL: PRESENT: Mayor Larry Chu, Ron Arlas, Kathy Hartzell,
Dan Hillmer (arrived 8:30 p.m.), Joan Lundstrom

STAFF: PRESENT: City Manager Jean Bonander, City Attorney
Sky Woodruff, Planning Director Nancy
Kaufman, Assistant Attorney Ian McLaughlin,
Twin Cities Police Captain Andre Horn, Twin
Cities Police Sergeant Pat Torres

Mayor Chu called the meeting to order at 7:33 p.m.

ROLL CALL

PLEDGE OF ALLEGIANCE

APPROVAL OF CONSENT CALENDAR

The City Clerk certifies that this Agenda has been posted in accordance with the requirements of the Government Code

Approval of Warrants

Approval of Minutes: None

Adopt Resolution No. 14/06, Supporting Proposition 81- The Statewide Bond Issue for Library Construction and Renovation

Mayor Chu stated he drafted a resolution calling for the immediate removal of the parolees at San Quentin. Adoption of the resolution would require a 4/5th vote of the Council to place the item on the agenda as an emergency item. He explained that the need to add this item to the agenda arose subsequent to the posting of the agenda

M/s, Hartzell/Arlas and approved 4-0 to add the emergency item to the agenda as a Consent Calendar item. (Hillmer absent)

M/s, Hartzell/Arlas and approved 4-0 to approve the Consent Calendar as submitted. (Hillmer absent)

CITY MANAGER'S ORAL REPORT

The City Manager reported Councilmember Hillmer was chairing a Marin Telecommunications Authority meeting and he would be arriving around 8:15 p.m. The Council would hold a regular meeting on May 17th in the Council Chambers. The agenda includes an appeal and a presentation from an architectural competition held by the Tamalpais Union High School District. The MCCMC meeting would be held on May 24th in San Anselmo at Mama Theresa's Restaurant. The speaker would be Governor Schwarzenegger's Chief of Staff. The Ross Valley Flood Control and Watershed Group would be conducting a public meeting on May 20th at Sir Francis Drake High School at 9:30 a.m. to discuss solutions to flooding issues. The Sierra Club would be holding a meeting on May 18th regarding the pros and cons of the Sonoma Marin Rail Transit (SMART) ballot measure.

COUNCILMEMBER REPORTS AND COMMENTS

Councilmember Lundstrom stated the Larkspur Safe Routes to Schools Workgroup met yesterday to discuss several items. The Transportation of Marin (TAM) is funding a crossing guard for St. Patrick's School at the corner of Magnolia and King Avenues. They also discussed the proposed Shuttle Bus project that will begin in the Fall. The bus would run from 9:00 a.m. to 3:00 p.m. between Corte Madera and Larkspur. Both projects are funded through Measure "A" (Half-Cent Sales Tax). The group is also working directly with the schools to promote walking, biking, and carpooling to school. The Twin Cities Police Department is working with the elementary schools to emphasize safe driving before the first day of school. The Public Works Department would be looking into more signing of crosswalks and striping of bicycle lanes.

Councilmember Lundstrom reported she, along with Mayor Chu, met with San Rafael Mayor Al Boro regarding the proposal by SMART to place a train station directly behind the Marin Airporter. The Larkspur City Council is on record in opposition to this proposal due to the traffic generation and the parking impacts. There is no parking proposed and the demand would impact the shopping center merchants. They emphasized to Mayor Boro, Chair of SMART, that Larkspur would not want them to exercise eminent domain over any of the properties to build the proposed second story structure. Chair Boro stated that SMART feels that the only way to pass the issue was to represent that a Larkspur train station would be constructed. He added they own the underlying property behind the Marin Airporter.

Councilmember Hartzell reported a "Job Fair" would be held on May 31st in the City Hall Council Chambers from 5:00 to 7:00. They are looking for people to participate in committees to help update the book entitled Larkspur Past and

Present. They plan to release an updated version of the book in time for the Centennial Celebration for the City of Larkspur. There will also be a table at the fair for people to volunteer to help in the celebration.

Councilmember Arlas discussed the possibility of a train station in Larkspur and SMART's apparent disregard for local control. He asked that this issue be placed on an upcoming agenda. Mayor Chu agreed and stated the Council should decide whether or not they would have formal opposition to the entire project, namely SMART.

Mayor Chu commended the Twin Cities Police Department for the recent pedestrian sting. They issued 74 citations over the course of four days to motorist who did not yield to pedestrians within crosswalks.

PUBLIC COMMENT

Mr. Rick Adler, William Avenue, stated the Council should take a strong stand against the expanded Death Row Project at San Quentin Prison. He stated that San Quentin would be the best place for a train station.

Mayor Chu stated the City of Larkspur is on record, along with the County, as having strong opposition to the project. Staff plans to watch the project closely to make sure the environmental impacts are kept to a minimum.

Mayor Chu stated the Council would discuss the Business Item prior to the Public Hearing item.

BUSINESS ITEMS

1. DISCUSSION OF THE SEX OFFENDER HOUSING AT SAN QUENTIN PRISON

The City Manager presented the staff report.

Twin Cities Police Captain Andre Horn gave an update on the situation. He stated many of the jurisdictional concerns deal strictly with the State and the City of Larkspur has little to say about the placement of these individuals. He was notified this evening that all of these individuals would be relocated as of tomorrow. Staff distributed flyers throughout the area identifying the individuals and their high-risk situations as a way of alerting and educating the community. Under Megan's Law, they are restricted as to the amount of information they can present if these individuals no longer represent a threat to the community. These individuals leave at 7:00 a.m. to look for work in the East Bay and return at 7:30 p.m. They are subject to lock-down at 8:00 p.m. They have neither the time nor ability to come into the community and they do not appear to pose a threat.

Mayor Chu stated the Department of Correction's intent is to have all the remaining parolees taken off site by tonight or within the next day or two. Staff, with the assistance of Assemblyman Joe Nation's office, has tried to provide a 400-foot protective radius around the Children's Coop. The parolees have GPS monitoring devices and local law enforcement agencies would be notified of any breach of that zone within five minutes. He stated Assembly [Bill 113](#) would prohibit any high risk sex offender from residing within a half mile radius of a K-12 school.

Councilmember Arlas stated Megan's Law restricts what law enforcement agencies, but not individuals, can distribute in terms of information. The Police Captain agreed. Councilmember Arlas stated we may have "won the battle but not the war" and he wanted to know what the Council and citizens could do to insist on advanced warning. There are bike paths in that area that lead to schools, and the Marin Rowing Club crew teams train in that area. He was not convinced that these individuals are that tightly controlled and he was concerned that one of them could decide to "take a stroll".

The Police Captain agreed and stated the ultimate goal is to work cooperatively with the Department of Corrections and express to them the concerns of the Council and community.

Councilmember Arlas stated they should insist that this is not a "done deal" and he stated "one is one too many". He commended Mayor Chu on his time and effort spent working on this issue.

Councilmember Lundstrom asked if there would be future placement of these high-risk sex offenders. Mayor Chu stated the Department of Corrections was non-committal on this issue and is leaving themselves open to that possibility. They could not provide any assurance that this would not happen again.

The City Manager stated the Council, along with representatives from the surrounding communities, may want to establish a meeting with the Warden's Office and the Department of Corrections to find out what their plans are for the future and to get a commitment that they will inform staff well in advance of any plans. In this instance, staff received such short notice and it was difficult to get accurate information. Mayor Chu stated the Adult Parole Division should be included in this meeting.

Councilmember Lundstrom stated she was very upset that they were not given any warning and the Department of Corrections needs to know their concerns. They were irresponsible in not cooperating with the local jurisdictions.

Mayor Chu opened the meeting to public comment.

Mr. James Holmes, Madrone Avenue, asked if the Department of Corrections reported to the Department of Justice. A citizen in the audience stated they were separate departments. Mr. Holmes stated the Council might want to express their views to the Attorney General.

Ms. Jane Levenson, Corte Madera, stated was a volunteer at San Quentin Prison. She stated the only solution to this problem was to raze the prison. It is 150 years old and should be torn down. They need to study what other countries do with their high-risk offenders.

Mr. Joe Waldron, Monte Vista, stated the speaker at the next MCCMC meeting would be the Governor's Chief of Staff and he suggested they express their concerns at that time.

Ms. Dorian Bright, representing the Marin Mothers' Against Molesters, stated the Council has voiced their concerns. She would like to know what could be done in the future to stop this from happening again.

Ms. Mary Lasher, representing the Marin Republican Central Committee, offered her help in making sure this does not happen again.

Ms. Laura Kolhanch, Ross, stated there was no information about what happens to the parolees on the weekends. She stated there would be easy access along Sir Francis Drake Boulevard to many children's parks and schools.

Mayor Chu stated the parolees were free to come and go within the terms of their parole.

Ms. Lori Ocheltree, Hawthorne Avenue, stated she appreciated all the efforts of the Council and staff. She wanted to know why these people were here and stated there were other prisons all over the State. She stated they should be placed in the community where they committed these acts. GPS monitoring systems can easily be removed. She would like the Council to address how the community can be protected and how to prevent this from happening again.

Mr. Jim Hinds, Corte Madera, asked if these individuals were being relocated due to the community outrage. He would like the City to have some type of formalized plan to distribute information to the community should this happen again.

Mayor Chu stated the City responded as quickly as possible given the sporadic nature of how the information was received.

Judy, a Corte Madera resident, stated she appreciated the quick action on the part of the Mayor and staff but she would like to know how to prevent this from happening again. She stated there should be one central place to house these criminals.

Assemblyman Joe Nation stated he just got off the phone with Mr. Fred Aguirre, a secretary for the Department of Corrections, who assured him that the last seven parolees would be transferred tonight. Councilmember Hartzell asked if there was any indication about the plans for the future. Assemblyman Nation stated Mr. Aguirre indicated they were in a difficult position and are reviewing their options. He stated he is amending AB 1672 to include childcare and day care centers. He stated he would do everything he could to minimize the risk to the community.

Mayor Chu thanked Assemblyman Nation for clearing the impediments and getting him connected to the right people.

Jane, a Corte Madera resident, asked where the parolees were going. Mayor Chu stated they should be going back to the County where the crimes occurred.

Mayor Chu closed the meeting to public comments.

Mayor Chu stated there is a draft resolution may be moot by the time the evening is over, but a statement from the Council communicating our objection to their action needs to be made.

Councilmember Arlas stated this is a countywide problem and he would like the MCCMC to adopt a resolution as well. He thanked Assemblyman Nation for his efforts and wondered why State Senator Carol Migden was not available to help.

Councilmember Lundstrom summarized the follow-up items: 1) express their concerns at the MCCMC meeting and to the Governor's Chief of Staff, 2) get the other jurisdictions on board with a resolution, 3) get support for AB 1672, 4) send a letter and place a phone call to Senator Migden, 5) clarify and put on record the City protocol should this happen again.

Councilmember Hartzell added that the County Superintendent of Schools has been involved from the beginning and is pivotal in terms of coordination. There is a resolution being circulated to the school districts allowing them to go on record about the need for advanced notification, etc. She had some questions about the resolution.

Councilmember Hillmer arrived at the meeting at 8:30 p.m.

M/s, Arlas/Lundstrom and approved 5-0 to adopt the draft resolution and send a statement of objection to the actions the Department of Corrections have taken.

Mayor Chu reiterated the follow-up items summarized by Councilmember Lundstrom. He stated they would not have been in this situation had the Department of Corrections followed their normal protocols.

The City Manager reported that she was just notified that the parolees have left the San Quentin facility.

The City Council took a 5-minute break at 8:45 p.m.

The meeting reconvened at 8:50 p.m.

PUBLIC HEARING

1. ADOPT RESOLUTION NO. 11/05, AMENDING THE LARKSPUR GENERAL PLAN LAND USE, CIRCULATION, AND BICYCLE AND PEDESTRIAN TRAILS AND PATHS ELEMENTS CONSISTENT WITH THE PROPOSED DRAFT CENTRAL LARKSPUR SPECIFIC PLAN. (GPA/SP 01-100: CLASP- General Plan Amendment) AN ENVIRONMENTAL MPACT REPORT WAS PREPARED FOR THIS PROJECT AND THE FOLLOWING THREE ITEMS.
2. ADOPT RESOLUTION NO. 12/05, AMENDING THE LARKSPUR DOWNTOWN SPECIFIC PLAN TO REMOVE CENTRAL LARKSPUR SPECIFIC PLAN SUBAREAS 1 AND 2 (APN'S 020-254-01, -02, -07, -08, -09, -10, -11, & -12; 022-110-33, -41, AND -46) FROM WITHIN THE BOUNDARIES OF THE DOWNTOWN SPECIFIC PLAN AND MAKE CONFORMING AMENDMENTS SO THE DOWNTOWN SPECIFIC PLAN WOULD NO LONGER APPLY TO THOSE SUBAREAS. (DSP/SP 01-100: CLASP- Amendments to the Downtown Specific Plan)
3. ADOPT RESOLUTION NO. 13/05, ADOPTING THE CENTRAL LARKSPUR SPECIFIC PLAN. (SP 01-100: CLASP- Central Larkspur Specific Plan)
4. INTRODUCE AND WAIVE FIRST READING OF ORDINANCE NO. 946, REZONING SUBAREA 3, THE NIVEN PROPERTY (APN 022-110-45) FROM LI, LIGHT INDUSTRIAL, TO P-D, PLANNED DEVELOPMENT DISTRICT, AND ADOPTING THE CENTRAL LARKSPUR SPECIFIC PLAN AS THE PRELIMINARY DEVELOPMENT PLAN AS THE PRELIMINARY DEVELOPMENT PLAN FOR THE PROPOSED P-D DISTRICT. (RZ/SP 01-100: Rezoning of Subarea 3)

The Planning Director presented the staff report. She stated staff received three letters since the last meeting.

The City Attorney discussed the memorandum regarding the housing density bonus. Staff looked at this issue to address the questions raised by the Council about whether or not the density bonus allowed under State law for a qualifying project would be in addition to whatever cap (such as 66 units) the Council decided on and whether or not there would be a way to construct a maximum that would, in addition to the density bonus, get to the established cap. He stated staff looked at the statute and the legislative history and talked to the experts in the field and ultimately reached the conclusion that the bonus has to be an increase in addition to the maximum that is allowed by the applicable land use laws. In this case, if the Council wants a cap of 66 units then the density bonus would have to be in addition to those units. There would be no way to effectively “back into” the cap in accordance with the statute. It would also be extremely difficult from a practical perspective because you would be forever trying to hit a moving target. Additionally, you never know what kind of project is going to come in or whether one is going to come in that has implications for the City’s compliance with its Housing Element. The clearest interpretation of State Law is that if the Council wants a cap of 66 units they need to accept that the Density Bonus Law would allow for units in addition to that for a qualifying project if the developer sought the density bonus.

Councilmember Arlas stated according to the City Attorney’s interpretation, a cap of 66 units would allow for a total of almost 90 units. The City Attorney stated that would be for an unusual project that would qualify for the maximum density bonus of 35%. It would be relatively difficult, given the site, to get to that number. In theory, it is feasible. Councilmember Arlas stated the State has “ripped-off” local jurisdictions in terms of control of their own land. The City Attorney agreed and added the Density Bonus Law remains a moving target. Trying to back into the total number of units for this site would not be worth the effort and probably not consistent with State Law. The most direct approach for the Council would be to select a desired policy along with a reasonable cap and then deal with the project that comes in. The density bonus that is likely to appear will probably not significantly affect the overall level of development.

Councilmember Arlas stated the property is zoned for “up to 5 units per acre” which would allow for 85 units. He asked if a developer could ask for more than 85 units if the Council chose not to set a cap and supported Alternative #3 in the staff report. The City Attorney stated if the proposed project met the other criteria in the Specific Plan and the standards already delineated by the Council then a developer could request a density bonus that would give them market rate units in addition to the 85 units. Councilmember Arlas was concerned that Alternative #3 would allow for an additional 25 or more units.

The City Manager stated there was one additional qualification. If a developer proposed a project showing more than 85 units, with or without a density bonus, additional environmental review would be required.

Councilmember Hartzell had questions about the requirement for additional environmental review. The City Attorney stated the units in addition to the 85 would require that additional review be done to determine whether or not those units were within the scope of the review of the EIR done for the Specific Plan. Councilmember Hartzell stated this could essentially make the density bonus units “null and void” if there were impacts that could not be mitigated. They would be denying something that the State is saying they have to allow. The City Attorney stated this is an area that has not been fully fleshed out. The Council could adopt a statement of “overriding considerations” and approve the project due to other good public policy reasons.

Councilmember Hillmer discussed two illustrations he had prepared depicting a “worst case scenario” vs. a “best case scenario”. He discussed the 1990 General Plan and current policies that affect land use issues and stated they should be leveraging the “numbers” to get a project that they want. He stated a low number of units could result in larger, more expensive houses on big lots. He stated they should create enough flexibility in the plan to allow for negotiation of a project that would be in the best interests of the community.

Mayor Chu opened the meeting to public comments.

Mr. Stewart Barbie, Liberty Street, stated he and his wife would love to stay and retire in the community and he supported the comments made by Councilmember Hillmer.

Mr. Sandy Svetcov, Meadowood Avenue, stated a density bonus of 24 units could be added to a cap of 66 units for a total of 90 units. If they change the number to 85 then the total number of units could go to 115. He did not know of any scenario that included 115 units that did not have some very serious traffic impacts. The Council previously discussed a cap of 66 units which did not include all single-family homes but rather a mix. This was a viable compromise because it served to be consistent with the element and gave them some “elbow room”. He was concerned that the Housing Element boxed them in at 66 units. Alternative #1 is the best protection for the community.

Mr. Dave Khoury, Tiburon, stated there has been much reference to a set of criteria and he asked for a list. Mayor Chu stated the list is on page 2 and 3 of the staff report. Mr. Khoury asked if the school district leases out buildings to private school. Mayor Chu stated “yes”. Mr. Khoury had questions about the “capacity crunch” the district is experiencing. He stated Marin County has lost population over the last five years and the traffic congestion and number of “monster homes” has not decreased.

Ms. Lori Ocheltree, Hawthorne Avenue, stated she was miffed because she thought they had narrowed it down and were on the same page. The Council previously talked about a cap of 66 units and now the staff report refers to 85

units. The density bonus could allow another 20 units for a total of over 100 units.

She was concerned that 85 units would be the start of the City's negotiations. She urged the Council to "stick to their guns" and go with the cap of 66 units. She referred to Alternative #2 and stated that allowing additional units but not requiring an amendment to the Specific Plan would be a disaster. Councilmember Hillmer asked Ms. Ocheltree about her previous suggestion about requiring a development agreement. Ms. Ocheltree stated the development agreement was very important but should be over an above a cap of 66 units. They need to set a cap that the community can live with and one that will be the "floor" for negotiations.

Ms. Debra Busse, Via La Brisa, stated the Citizens for Rational Growth mailed a survey to 2,000 households and the results indicated that over 87% of the respondents supported 45 homes or fewer in the development area. She stated the math was simple- they could get up to 49 homes with a 35% developer bonus which would net them 66 units. She stated traffic was terrible in that area and often gridlock along Doherty Drive. There is an alternative that has not been mentioned- a referendum that could put a stop to the whole thing since the community does not support over development.

Mr. Doug Kerr, Monte Vista, stated he would like the following three things required of the developer: 1) senior housing, 2) workforce housing for Larkspur municipal and school employees, 3) an absolute cap of 66 units. He would like to see the negative impacts on traffic minimized and the democratic process retained. He stated it appeared that Councilmembers Hillmer, Lundstrom, and Hartzell would vote to exceed 66 units and in doing so reveal a value on low-income housing at the expense of minimizing negative impact on traffic or retaining a democratic process in Larkspur. The conventional wisdom in planning circles is that a high density, affordable housing development would generate fewer trips than a low-density, market rate development. He felt this was a ridiculous urban myth.

Councilmember Hillmer stated he disagreed with the comments attributed to him by the former speaker. Councilmembers Lundstrom and Hartzell agreed.

Ms. Grace Hughes, Crystal Creek Drive, stated she was a 26-year resident of Larkspur and a business owner. She supports Councilmember Hillmer's "best case scenario" proposal and stated it represents the goals of the community. She supports a plan that would afford the maximum number of units on Subarea 3. She is devoted to maintaining the character and soul of Larkspur and she is confused by the term "small-town character" as it relates to opposing the development of needed housing for seniors, families, and those working for the betterment of the City. She supports affordable housing and stated it was

“character building”. She stated the Council has the opportunity to make a tremendous contribution to the community based on real and creative solution.

Mr. Rob Reese, Meadowood Avenue, stated he thought the Council had decided on a cap of 66 units. The community wants a number from the City Council and they should be in agreement or the developer would take advantage of them. The community has made a compromise at 66 units.

Mr. Brian Costello, Meadowood Avenue, stated he was still confused about where Councilmember Hillmer stands in terms of an acceptable number of units.

Mr. Mike McDermott, Meadowood Avenue, stated 66 is a number they can all agree upon.

Mr. Bill Spiller, Acacia Avenue, stated that workforce housing could not be earmarked for specific groups of individuals (teachers, Public Safety employees, etc.).

Ms. Barbara Landy, Sycamore Avenue, stated they have safeguards in the Specific Plan and she did not think the communities worst nightmare would come to pass. She stated they should negotiate from a position of strength and allow the developer to exceed the cap only if they provide senior housing, affordable housing, etc. She urged the Council to adopt a cap of 66 units.

Ms. Barbara Salzman, representing the Friends of the Corte Madera Creek and the Audubon Society, distributed a letter to Mayor Chu regarding the creek buffers. She discussed the need for environmental protections for the project and would like to see the protection of the creek added to the list of “extraordinary benefits”. It is distressing to see that the Council reduced the buffer to 25’ along the east/west reach of the creek and 50’ along the north/south reach of the creek. They would like to see a 100’ buffer zone and that it be devoted to natural resource protection of the creek. This could include limiting the number or size of units. She would like to make sure a watershed approach is taken to ensure better protection of the creek resource. She asked the Council not to ignore the fact that the property is in a flood plain. She is concerned about traffic.

Ms. Margo Biehle, Madrone Avenue, representing the Sierra Club, stated she supports Ms. Salzman’s suggestion for additional streamside protection. She stated they are a community united in values and they are arguing over a number. The Council should come up with some very specific guidelines that would be included in the plan and the development agreement.

Mr. Shawn Nazari, Magnolia Avenue, thanked the Council and Planning Commission for their work on this plan.

He discussed the Housing Element and stated he was concerned about the reduction in the number of units from 28 to 19 for Subarea 1. He stated this reduction was done without any basis and is unfair.

Ms. Laura Lovett, Larkspur Plaza Drive, stated she did not care about a number because the traffic would be hideous no matter what is done. She would like to see other needs, aside from single-family homes, addressed and is in favor of Councilmember Hillmer's proposal.

Mr. Rick Adler, William Avenue, stated the City should buy all the land and then sell it to a developer who would build what the City wants.

Ms. Alena Bermudez, Meadowood Avenue, asked for a show of hands from the audience indicating those that would like a cap of 66 units or fewer.

Ms. Sally Rondio, Meadowood Avenue, stated she was nervous about this development even with a cap of 66 units. The streets are small and narrow and she was very concerned about the impacts from construction.

Ms. Laura Nella, Magnolia Avenue, stated traffic along Doherty Drive is terrible. The notion of development is a good thing and would bring a bigger consumer base for the merchants. She supports affordable and workforce housing but did not want to see a decrease in property values.

Mr. John Levinson, Greenbrae, stated the small town character of Larkspur is its variety and they would not be able to achieve variety with a small number of units. He stated that Alternative #3 offers that variety.

Mayor Chu closed the meeting to public comments.

Councilmember Hillmer stated he would like to change the language of one of the alternatives and find a way to use the development agreement as a way of encouraging the criteria that are outlined in the first two alternatives. He referred to Alternative #1 and stated the use of the amendment to the Specific Plan would be so onerous that nobody would pursue it. He would like an alternative that lays out that approach and specifies 66 units with the allowance of up to 85 with the density bonus. The number "66" is only for the purposes of a calculation and in no way expresses the outcome of a project.

The Planning Director stated Council could add a policy to encourage a developer to enter into a development agreement but she did not think it needed to be in these specific alternatives.

Councilmember Hillmer stated he was not sure about the advantages to the way the housing proportions are laid out in Alternatives #2 and #3. He could support up to 85 units as the absolute maximum and would like to back down from the

density bonus to get to a number, such as 66, for the purposes of a calculation. He could support an alternative that encourages or requires the pursuit of the criteria. Alternative #1 comes closest to his description but he did not want the Specific Plan amendment to be a requirement.

The Planning Director stated criteria #4 could be reworded. Councilmember Hillmer stated an overlay that encouraged senior or affordable housing could be included. The Planning Director stated they could include, as a separate policy and separate from the criteria, the minimum mix described in Alternative #3 (12% of each housing type). Councilmember Hillmer stated he could support that suggestion as a replacement of the comparable language in Alternative #2 along with a reference to the development agreement. He would encourage this approach. The Planning Director recommended that the 12% minimum be a separate policy so they obtain this mix whether or not the developer goes for more than 66 units.

Councilmember Arlas referred to criteria #4 and stated they might not want to have percentages of different housing types. Councilmember Hillmer agreed. Councilmember Arlas suggested the following language: "Provided that if a single-family dwelling is included in the plan, then said single family dwelling shall be no more than "X" number of the total number of units in the project". Councilmember Hillmer suggested deleting #4. Councilmember Arlas disagreed and stated they want to have a mix yet limit single-family housing. Councilmember Hillmer stated they should come up with a number.

Councilmember Lundstrom stated everyone wants the Council to come up with a "number" and one already exists in the General Plan- up to 5 units per acre. It is the lowest density in town and the same as Baltimore Park. The CLASP process ended in a recommendation for a mix of 85 units. She stated she has always been in support of up to 85 units including the density bonus. She stated this was a unique area- it is within one block of a bus stop, and within walking distance to three schools and a shopping center. It is an appropriate site for a mix of low-density housing. They are mandated to provide low and moderate-income housing and the density bonus is a separate issue. She could support Alternative #2 with some consideration on the wording of the mix of housing.

Councilmember Hartzell stated she could support Alternative #2. She would like to see a development agreement that would require the pursuit of community benefits. She has had some difficulty with the issue regarding the mix of housing because there are so few units and this could limit the flexibility in achieving these community benefits. She suggested the following language: "Provided that if single-family development is included then there needs to be a mix...." She would like to add the following item to the list of community benefits: 5) creative options contributing to more beneficial protection of the creek. She asked about the issue regarding workforce housing and preferential treatment for public employees. The City Manager stated City and other local jurisdictions could

express a preference in terms of occupancy in some affordable development project. It often depends on the financing. Councilmember Hartzell stated this could be another item that could be included as a community benefit.

Mayor Chu referred to criteria #4 and suggested they encourage at least 1/3 of each of the housing types but strike any reference to single-family dwelling. Councilmember Arlas stated the mandate for 1/3rd of each housing type goes against the idea of allowing any flexibility. He was concerned that would be limiting creativity.

The City Manager stated the Council has set numerous other policies regarding the mix of housing they would prefer. She urged the Council not to get hung up on setting a particular number or range since they have already made their preferences clear. The exemplary components are going to be the non-single family homes. She did not think they would want to restrict a potential development option by setting artificial numbers in these various categories.

Councilmember Hillmer agreed with the City Manager.

Councilmember Arlas stated that criteria #3 and #4 were opposite of each other and he suggested they delete #4. Councilmember Hillmer stated #4 could read: "Providing a mix of housing including single-family, cottage homes, and multi-family".

Councilmember Arlas stated he had a problem with the way Alternatives #1 and #2 were drafted and in particular the asterisks that discuss the density bonus units. He could not support either one because they could end up with 100 plus units. He suggested the following language: "... however, if the developer wants a density bonus then no amendment would be allowed such that the total number of units would not exceed 85 units."

Councilmember Hillmer stated he would support changing the asterisks. Councilmember Arlas stated they could not change the asterisk. Councilmember Hillmer asked the City Attorney if the asterisk could be a reference to the housing density bonus provision but refer to it in such a way that is clear that the 66 plus density bonus allow only up to 85 units. The City Attorney stated the developer would have a choice between either applying for a density bonus under State Law or pursuing the additional units available by designing the project to provide this extraordinary community benefit. They would not be able to do both. Councilmember Hillmer stated in no case could they exceed 85 units. The City Attorney stated that that is the ultimate cap that would trigger environmental review given the General Plan density of up to 5 units per acre.

Mayor Chu stated if they were trading community benefits for density bonus it would seem that the increase attributable to a density bonus would remove all the benefits that they were trying to get a developer to achieve. Councilmember

Arlas agreed. The density bonus is on top of the number they chose. The City Attorney stated anything over 85 would trigger additional environmental review.

Councilmember Lundstrom referred to Alternative #2 and stated that according to the City Attorney, a developer could propose 66 units and go for the exception or go for the density bonus, but not both. The City Attorney stated that would be a way to draft this particular policy in the Specific Plan. Under this proposal there is a cap of 66 units and they have created a Council driven policy that they are willing to consider a project with additional units if it provides extraordinary community benefit as identified. It could be drafted such that if a developer submitted a proposal for a density bonus they would forgo the ability to seek additional units by providing extraordinary community benefit. That would also mean that the Council would forgo the ability to get a project that was designed to provide those benefits.

Mayor Chu stated “time was money” and a developer that came in with Councilmember Hillmer’s “worst case scenario” would be sent back to the drawing board. If they were going to protect the density bonus from increasing beyond a point where the impacts are unknown, then the logical conclusion would be to reduce the cap down to a number in the 50’s.

The City Attorney stated staff has taken the Council’s previous direction and developed some criteria that boils down some of the most essential elements that the Council has expressed as representing what a project on this site could do to benefit the community. They are an expression of other policies that exists throughout the Specific Plan. If a developer came in with a project that included an application for a density bonus, this does not mean they could ignore all the other policy direction in the plan. The Council could not deny the density bonus itself but they would not have to approve a project that was inconsistent with all the policies in the Specific Plan.

Mayor Chu agreed and stated that was why no developer would come in with a submittal similar to Councilmember Hillmer’s “worst case scenario”.

The City Manager stated the range of policies that the Council has discussed over these many months is a culmination of this community discussion for eight years. The policy direction crafted by the Council is well within reason and a developer may or may not ask for a density bonus. In addition, there is a threshold for the density bonus and they have to provide the affordable component called out in State Law. The Council always has the opportunity to say “no” to a project that they do not feel is in the community’s best interest. The range discussed tonight makes sense and a smart developer will come in with a project that tries to closely match the criteria laid out.

M/s, Hillmer/Lundstrom and approved 3-2 (Mayor Chu and Arlas voted no) to approve a modified Alternative #2, with the following modifications: 1)

modifications to criteria #4 as suggested by the City Manager, 2) the use of a development agreement to ensure the pursuit of these community benefit goals, 3) the creek protection language suggested by Councilmember Hartzell, 4) expression of a housing preference for local government workers and those who work within a five-mile radius, 5) a clear explanation, as described earlier by the City Attorney, on how a developer would apply for the density bonus.

Mayor Chu thanked everyone for his or her comments.

ADJOURNMENT

The Mayor adjourned the meeting at 10:45 p.m.

Respectfully submitted,

Toni DeFrancis
Recording Secretary