

**FINAL MINUTES  
REGULAR PLANNING COMMISSION MEETING  
SEPTEMBER 9, 2008  
CORTE MADERA TOWN HALL  
CORTE MADERA**

**COMMISSIONERS**

**PRESENT:** Chair Bruce K. Mace  
Commissioner Sloan Bailey  
Commissioner Peter Schwartz  
Commissioner Richard Esteb  
Commissioner Patrick Pagnillo

**STAFF  
PRESENT:** Bob Pendoley, Planning Director  
Dan Bell, Senior Planner  
Nancy Salcedo, Minute Recorder

**1. OPENING**

**A. Call to Order**

**B. Pledge of Allegiance**

**C. Roll Call**

All the Commissioners were present.

**2. PUBLIC COMMENT:** None

**3. CONSENT CALENDAR:** None

**4. CONTINUED HEARINGS:** None

**5. NEW HEARINGS**

**A. 200 NELLEN AVENUE, DESIGN REVIEW APPLICATION NO. 07-017, THOMAS JACKOVICS (OWNER)-**To allow construction of a two-story, 8,417 sq. ft. mixed-use commercial building. (Zoning: C-3 Highway Commercial District) (Planner: Dan Bell)

Senior Planner Bell presented the staff report for which he used a slide presentation. He explained that the applicant is requesting Design Review approval to demolish the existing used car lot building (Active Auto Sales) and construct a new two-story, 8,417 sq. ft. mixed-use building, with 39 on-site parking spaces, an ingress-egress driveway

on Fifer Avenue, and an egress-only driveway on Nellen Avenue. The intended uses would be retail on the first floor (4,695 sq. ft.) and administrative offices on the second floor (3,722 sq. ft.)

He noted that the subject property is readily visible from Highway 101. The existing used car lot and the gas station that was here previously have not provided an attractive building or site improvements, and that the proposed two-story building would be a welcome change. The gasoline storage tanks have been removed.

The proposed commercial building is of a contemporary design with straight lines, sharp angles and extensive glazing, and incorporates stucco and stone faced siding. Because of the concave roof angle, the proposed solar voltaic panels and mechanical equipment enclosures would not be readily seen. He added that the proposed building would be consistent with the character of the buildings in the area. To illustrate the existing context of the buildings in the area, he provided a photomontage which superimposed the proposed building in its location, and pointed out the story poles. There is an existing overpass, and the ProMortgage building is 30 feet in height, as approved by Planning Commission in 1989.

Regarding traffic and parking lot concerns, he pointed out that the proposed project would use the same driveway as the current used car lot. A second 12' wide egress-only driveway would connect to Nellen Avenue. The Police Department recommended that the Fifer Avenue driveway should be exit-only and right turn only to minimize traffic flow conflicts, while the Nellen Avenue driveway should function as the entrance driveway. Considering that Nellen is a cul-de-sac, staff believes it would be a severe impediment to the commercial success of the property to impose this restriction, adding that in 1999, the Planning Commission approved a full service car wash and mini-lube operation with full ingress and egress onto Fifer Avenue. This approval was supported by an environmental Negative Declaration and traffic study. He said that the Highway 101 Bus Pad is immediately adjacent to the site and would provide an alternative mode of transportation. He added that the Public Works Department standard conditions of approval include a requirement that "a traffic study be prepared by a traffic engineer to address the impacts on Fifer Avenue and Highway 101 due to the proposed project. The study shall recommend any improvements to the public streets to be completed as part of this project."

Perimeter landscaping would improve the overall appearance and would compliment existing landscaping that is currently adjacent. Existing mature trees would continue to provide a buffer, but the tall shrubbery separating the subject property and Joann's Fabrics would be removed.

Signs are nicely designed and conform to scale and height requirements of the Sign Ordinance. The obsolete pole sign on Nellen Avenue at the southeast corner of the lot would be removed. The sign proposal would become part of the Master Sign Program for the property, and subsequent tenants would be subject to the controls and standards therein. The proposed freestanding sign meets all Findings required by section 18.22.060 of the ordinance, specifically that it does not exceed 15' in height, is less than 40 sq. ft in area, and its location within side yard setback does not pose an aesthetic or traffic sight line concern.

He concluded that the proposed design would provide welcome improvement to this highly visible parcel. The building placement on the lot does conform to all setback requirements and other development standards of the C-3 district. The project conforms to parking requirements, and includes a Master Sign Program that is tasteful and conforms to all sign standards for the commercial district.

Commissioner Pagnillo asked for clarification on why the proposed project included an exit-only driveway on Nellen Avenue. Senior Planner Bell said this is because of the required number of parking spaces and limited site area.

Commissioner Schwartz asked for clarification on the 39 spaces. Senior Planner Bell said that the proposal includes both standard and compact spaces, and that the ordinance allows up to 30% compact spaces, which the parcel has. Commissioner Schwartz said he is not a fan of compact spaces. He asked about a Negative Declaration and Traffic Study review of egress on Fifer Avenue.

Senior Planner Bell said staff recommends that the project is exempt from CEQA because of its size, but added that the Public Works Department is requesting a traffic study prepared by a traffic engineer. He said that staff feels if changes are needed on the public street, they would not affect the site plan.

Commissioner Schwartz asked whether connecting parking to Joann's site was considered. Senior Planner Bell said these are two different property owners.

Commissioner Schwartz asked about the flood plain and grade elevation. Senior Planner Bell said this property has a rise, and the proposal is located at the floodplain, requiring very little fill.

Commissioner Esteb asked staff to clarify whether the 35' building height excludes rooftop mechanical equipment; Senior Planner Bell said that it did. Commissioner Esteb asked whether this was consistent with the Town's wanting rooftop mechanical equipment enclosed at Town Center; Senior Planner Bell said that it was.

Applicant Sebastian Jackovics said they are local residents who have owned the property for 10 years, and that they also own Gold's Gym, the ProMortgage building and several surrounding buildings, and have been doing business in Corte Madera for 20 years. He added that he has worked closely with the Town staff to refine the plan to conform to city standards.

Collin Russell, of Russell and Davis architects, said that the solar orientations played a role in the shape and size of roof, that the site enjoys views of the bay and Mt. Tamalpais from the upper level and that site drainage is naturally occurring. Regarding subsurface soil conditions, he said that Bay mud depth is shallow at the site's higher elevations. In terms of existing context, the proposed building is relatively smaller in size than surrounding buildings. He reviewed the site plan, noting 5-foot setbacks at the rear property line for deliveries. First and second floor plans are open with a deck and wide overhang allowing the rear corridor to remain open to avoid blocking views of Mt Tam. He reviewed the North Elevation, adding that retail clients could rent one or all bays. He concluded that the large overhang on south elevation controls sun exposure without blocking views, and that they had chosen green building components and materials.

Thomas Jackovics, the owner, said he was standing at the northwest corner of the building site during the New Year flood a few years back and that his feet were dry, indicating that this is the above floodline.

Commissioner Bailey asked if the Pro Mortgage approval is a fair comparison. Senior Planner Bell said that it is in terms of the context of building in the area. But, that in terms of site location and traffic generated, it is different. Commissioner Bailey said the Commission is not suggesting that this project rely on the ProMortgage approval, but is discussing it for context. He asked about the Police Department recommendation. Senior Planner Bell said that it is possible that the Police Department may not have seen previous traffic studies.

Commissioner Esteb asked if the Jackovics family were the owner of Joann's fabrics, adding that one driveway for two sites would be preferable.

Commissioner Schwartz asked about the solar panels on the rooftop and tax incentives. The applicant said he hopes that the project will be LEED certified. He said that the return on investment is not immediate, but it puts usage to a lower tier, adding that they received 50% grant money from state. Without rebates, the systems are less desirable, but a project can get its cost back within 8 years. Commissioner Schwartz asked about the time the sun angle was determined from the north. The applicant said that it was determined at 10am summer equinox.

Commissioner Mace asked if the mechanical platform on the West Elevation was 42.6' in height. The architect affirmed and added that the elevation was taken from 8'6" datum.

Commissioner Pagnillo said he would like to see ingress and egress on Nellen Avenue, even if it costs the site a parking spot. The applicant said tenant selection has not yet been made, but that local serving tenants are anticipated, which uses fewer parking as customers can walk. The applicant acknowledged that in the past, police have not wanted people to come in and turn back to freeway, but the site also needs to meet parking requirements and not request a Variance at this time.

Commissioner Schwartz said he liked the modern design, but that overall height and massing is problematic. He is disturbed by 18' on first level and less disturbed by the 13' on second level, adding that he assumed there were architectural reasons for the height. He cautioned against the amount of glazing, adding that floor to ceiling glass is bothersome, yet doesn't provide additional view or shield cables at the floor level. He suggested softening the eastern facade, which has the greatest visibility, perhaps by adding more horizontal planes. He said he felt the awnings are too narrow, not protecting from weather, but applauds the solar panels, being green and looking for LEED certification. He suggested the applicant add day lighting. Assuming that the glazing is there to reduce bulk, the applicant should consider angling the glass, which breaks the facade.

Commissioner Bailey said he enjoyed the effective presentation from a responsible owner with good care of community. He visited the site and felt the proposal would be a dramatic improvement. He said the only issue he has is with traffic. He asked if staff could work with police to change their recommendation to go along with previous traffic study, adding that he is reluctant to approve anything the Police Department is opposed to.

Commissioner Esteb said that he thinks this is a great project, and a vast improvement. He said that the Commission is required to make the findings that the project conforms to the General Plan, which states that proposed projects must maintain economic vitality. He said that the existing auto sales operation is a local business. His conflict is that the Commission is supposed to be protecting local business, and there is no other place for the auto sales business to move to in Corte Madera.

Planning Director Pendoley said that businesses constantly replace each other. He said staff believes that the language intends that there shall be no net loss of land available for this use.

Commissioner Esteb asked what kind of retail would be sought for the project, and whether the Commission could add a restriction that retail tenants be locally owned. Planning Director Pendoley explained that there are certain permitted uses allowed in this zoning district, and others permitted as conditional uses requiring a conditional use permit, which is reviewed by the Zoning Administrator or the Planning Commission. For example, Peet's Coffee would come before the Commission because they require a lot of parking.

Commissioner Esteb also said he questions whether a freestanding sign is the only appropriate means. Senior Planner Bell said that the Commission should ponder whether those findings can be made. He said that signs on this section of Nellen Avenue have the challenge to capture freeway traffic as well as to direct customers. He added that the Public Works Department is requiring a traffic study. Planning Director Pendoley added that this review does not deal with capacity.

Commissioner Mace said that the height of the ProMortgage building is 30', the Healus building height is 30', and he thinks the height of this proposal could be lowered, especially in the tower, which, though an important part of the design, is only an elevator to the 26' level. The front façade could be more interesting, and that retail bays are height excessive. The applicant countered that tenants like these. Commissioner Mace said they become large signs, and are a concern, and that he would like to see bigger awnings and light shelves. He pointed out that regarding the freestanding sign, the only part that counts toward the calculation of mass is the text, not base, which if included as part of the consideration, would be excessive. He said he agrees with Commissioner Bailey's concerns regarding the police report and analysis.

Commissioner Schwartz said there would be signs above the glazing. He said there could be an element wrapped around to break the mass, adding that awnings degrade over time.

Mr. Jackovics addressed the height issue and originally shared the concern, but that the height was appropriate in context from the freeway. He also said that if height were lowered, offices would look into Joann's signs and roof structure. The tower is tall because OSHA requires a room on the roof. He said that the lower floor height for the retail is 16', but with piping, the ceiling comes down 3'. He said that ProMortgage building is 35' in height. He encouraged the Commission to look to the future as the applicants develop other buildings in the vicinity, listing possibilities including Caltrans redoing the southbound interchange. He asked the Commission to consider the possibility of Caltrans constructing two-story off-ramps, dwarfing retail. Commissioner Esteb asked if the applicant had considered the possibility of Joann's becoming a two-story building blocking their Mt Tam view.

Judith Jackovics said the Town has planted redwood trees on the corner, which would grow tall to mask the height issue.

Commissioner Mace said Joann's will have lost visibility from freeway with this proposal, which is still too high. He said he is leaning toward a revision of plans to reflect this.

Commissioner Schwartz said the glazing argument is persuasive, but direct glare diminishes use with office and retail space. He said that the Commission couldn't hypothetically consider what Caltrans might do.

Commissioner Bailey asked whether requiring a lower height would be consistent with the ProMortgage discussion. He asked whether the owner would be willing to make any sort of accommodation.

Commissioner Mace said an attempt by the applicant has to be made.

Commissioner Esteb said he does not see what difference lowering the proposal by 2' would make.

Commissioner Schwartz said view corridors are impacted by two-foot differences. He said that though this is a very attractive building, it has a more critical view as you get closer, becoming massive on east facade. With sunlight on the glass you would not see through it, and because there is no physical relief it becomes big.

Commissioner Esteb said the east-facing façade gets morning sun, and retail spaces will not open until later around 10am.

Commissioner Schwartz said that the pedestrian perspective would aid in review of this project.

Commissioner Pagnillo said it is more appropriate to consider this proposal from a driving perspective, and that you have to get very close before it makes sense to lower the height by 2'. He concluded that lowering the height wouldn't produce any benefit.

Commissioner Mace said that he disagreed, but that they can agree to disagree.

Commissioner Bailey asked about the tower and signage proposed.

Commissioner Schwartz said he is strongly in need of a revision on the east elevation, but that he is not as fervent on the height reduction.

Commissioner Esteb said the building is more wide than it is tall, but he is fine with re-examining the east facade.

Commissioner Bailey asked how to fix the sign issue.

Commissioner Mace said he thought the applicant should revise as a package the height, elevation, and the tower. He clarified that the signage letters are lit as they are in the signage at ProMortgage.

Commissioner Esteb said that he would like to see the freestanding sign have the same angle as the tower.

Commissioner Bailey said he is reluctant to ask for a new design, and would rather confront the difficult issues now.

Planning Director Pendoley said that if the Commission wants to continue the item for two or four weeks, the police report would be addressed by then.

The applicant added that the stonework actually comes out 6" so that the building really is already articulated and detailed. He recommended that the Commission take a closer look. He added that if glazing on the lower level is by even 1', the building starts looking shallow in middle.

Commissioner Schwartz said that his issue is actually with the upper half of east elevation. He is concerned about the expanse of glass.

Commissioner Pagnillo said he is comfortable with design as it stands.

Commissioner Esteb said he can go either way, with the proposed building as is, or request that the applicant reconsider the articulation (height and tower).

Commissioner Bailey said he could approve the project as is.

For the record, Planning Director read the appeal rites

**MOTION:** Motioned Pagnillo, seconded Bailey (with the condition that police sign off on parking), and passed with Commissioners Bailey, Esteb and Pagnillo in favor, and Commissioners Mace and Schwartz opposed.

## **6. ROUTINE AND OTHER MATTERS**

### **A. REPORTS AND ANNOUNCEMENTS**

- i. Commissioners: Commissioner Pagnillo attended the Town Council meeting.
- ii. Planning Director Pendoley said there is a new Permit Tech in the Planning Department.

### **B. MINUTES**

- i. Draft Planning Commission Meeting Minutes of August 26, 2008.
- ii. Draft Planning Commission Meeting Minutes of August 28, 2008.

Motioned seconded and passed unanimously.

## **7. ADJOURNMENT**

The meeting was adjourned at 9:20 pm

The next Planning Commission Regular Meeting is Tuesday September 23, 2008. The next Special Planning Commission Meeting is Thursday September 11, 2008 at 7:30 p.m. in the Corte Madera Town Hall.