May 3, 2011

To: Alan Jones

From: Stacey Laumann
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Re: Tam Junction Zoning - Response to questions from Alan Jones

1. Exactly what are the current zoning regulations that govern development at Tam Junction? The West Side appears to be zoned RMPC-6. How can we clarify which commercial and residential uses are permitted in this zone? Is there an applicable master plan and if so where can we find it?

The properties on the west side of Shoreline Highway are zoned RMPC-6, which is Residential/Commercial Multiple Planned with a density of 6 units per acre. This is a primarily residential district that allows commercial uses. The RMPC district is applied to areas identified by the Marin Countywide Plan as capable of accommodating increased density, and is consistent with the Neighborhood Commercial and Industrial land use categories of the Marin Countywide Plan. See Chapter 22.12 - Commercial and Industrial Districts of the Marin County Code and Table 2-6, Allowable Uses and Permit Requirements for Commercial Districts.

Several of the properties on the west side of Shoreline Highway have prepared master plans, which are specific to each parcel. These are on file and available for review at the Community Development Agency.

The Marin Countywide Plan land use designations are shown on the Tamalpais Area Land Use Policy Maps 6.1.3b and 6.1.4. Map 6.1.3 shows the area west of Highway One as Neighborhood Commercial/Mixed Use, which has a density range of 1 to 20 units per acre and has a Floor Area Ratio of 0.05 to 0.40. This land use category is established to encourage smaller-scale retail and neighborhood serving office and service uses in conjunction with residential development oriented toward pedestrians and located in close proximity to residential neighborhoods. Residential development located in a mixed-use development within this designation shall be included in the permissible amount of development under the FAR. For projects consisting of low and very low income affordable units, the FAR may be exceeded to accommodate additional units for those affordable categories. For projects consisting of moderate income housing, the FAR may be exceeded in areas with acceptable traffic levels of service – but not to an amount sufficient
to cause an LOS standard to be exceeded. Please refer to Countywide Plan Policy CD-8.7 (Establish Commercial/Mixed Use land Use Categories and Intensities) beginning on page 3-39.

The Marin Countywide Plan also contains the following policy regarding development on commercial/mixed use land designations:

**CD-8.7 Establish Commercial/Mixed-Use Land Use Categories and Intensities.** …

(see page 3-40)

1. For parcels larger than 2 acres in size, no more than 50% of the new floor area may be developed for commercial uses, and the remaining new floor area shall be developed for new housing.

   For parcels 2 acres and less in size, no more than 75% of the new floor area may be developed for commercial uses, and the remaining new floor area shall be developed for new housing.

2. Projected peak-hour traffic impacts of the proposed mixed-use development are no greater than that for the maximum commercial development permissible on the site under the specific land use category.

3. Priority shall be given to the retention of existing neighborhood serving commercial uses.

4. The site design fits with the surrounding neighborhood and incorporates design elements such as podium parking, usable common/open space areas, and vertical mix of uses, where appropriate. In most instances, residential uses should be considered above the ground floor or located in a manner to provide the continuity of store frontages, while maintaining visual interest and a pedestrian orientation.

5. For projects consisting of low income and very low income affordable units, the FAR may be exceeded to accommodate additional units for those affordable categories. For projects consisting of moderate income housing, the FAR may only be exceeded in areas with acceptable traffic levels of service — but not to an amount sufficient to cause an LOS standard to be exceeded.

6. Residential units on mixed-use sites in the Tamalpais Area Community Plan area shall be restricted to 100 residential units, excluding units with valid building permits issued prior to the date of adoption of the Countywide Plan update. The 100 unit cap includes any applicable density bonus and such units are not subject to the FAR exceptions listed in #5 above due to the area’s highly constrained (week and weekend) traffic conditions, flooding, and other hazards.

Renovations not resulting in additional square footage will be exempt from the above requirements if consistent with the requirements of the Marin County Jobs-Housing Linkage Ordinance, Chapter 22.22 of the Development Code.

2. **What possible changes could result from ongoing attempts to get the Housing Element of the CWP approved by the State and when might we expect them to take effect?**

Work on the Housing Element will continue through 2012, and likely into 2013.
Changes that could result from that work include an increase in the CWP land use designation on some lots to accommodate residential uses at 30 dwelling units per acre. Likely in the Tam Junction area, we would look at revisiting the land use from Neighborhood Commercial to General Commercial, or change the density allowance of Neighborhood Commercial to allow 30 units per acre rather than 20 units per acre. FAR adjustments will be considered in the land use changes.

Zoning on those lots may or may not change, depending on consistency between the general plan and zoning. The draft Housing Element contains a program to allow affordable housing to be exempt from zoning in favor of the general plan land use. Similar to other existing CWP policies, this would effectively incentivize multi-family affordable housing on sites while market rate housing could not achieve the same density.

3. How and under what conditions could a State override of local zoning provisions take place as a result of SB 375 or any other State laws?

The impact of SB 375 at the local level is that the Sustainable Communities Strategy will shape the distribution of projected housing units in the Regional Housing Need Allocation (RHNA) so that land use planning is consistent with transportation and sustainability planning. This in turn drives local housing planning through the Housing Element process. You can read a recent staff report to the Board of Supervisors regarding SB 375 here.

Housing Element law now contains the following tools to force local zoning provisions to accommodate lower income need.

- Where rezonings are needed because the housing element does not identify enough existing land to accommodate the locality’s housing need, all necessary rezonings must be completed within 3 years of the housing element's adoption, or 90 days after the locality receives its comments from HCD, whichever occurs first. A locality may get an additional year to complete the rezonings if it has completed 75% of the necessary rezonings and meets one of three factors. (Gov't Code Section 65583(c)(1)(A))
- “Builder’s Remedy” – A developer of housing in which at least 49% of the units are affordable to very low, low and moderate income households can develop on any of the sites proposed for rezoning, as if the site had been rezoned. The local government can turn down the proposal only where it makes a finding the project would have a specific adverse impact on public health or safety that cannot be mitigated. (Gov’t Code 65583(g))
- Action to compel rezoning – Any interested party can bring an action to compel the city to complete the rezonings within 60 days, and seek sanctions for failure to do so. (Gov’tCode Section 65587(d))

It is possible that the County would be subject to other directives from the State or courts as a result of non-compliance with Housing Element law. Failure to receive State certification makes local governments ineligible to receive important sources of grant funding, and may expose the County to potential litigation.

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Cc: Brian C. Crawford
    Kristin Drumm