

ACTION MINUTES
Planning Commission - Regular Meeting
August 13, 2003

CALL TO ORDER AND ROLL CALL

Present: Vice-Chairman Snow, Commissioner Collins, Commissioner Greenberg, Commissioner Stein,
Absent: Chairman Smith

COMMISSION AND STAFF BRIEFING

Staff Update
Commission Information Items

CONSENT CALENDAR

1. Approval of Planning Commission Minutes-----July 9, 2003 Regular Meeting **Approved as amended 4-0**
2. Approval of Planning Commission Minutes-----July 14, 2003 Special Meeting **Approved as amended 4-0**

PUBLIC HEARINGS

3. TIME EXTENSION FOR A CONDITIONAL USE PERMIT TO OPERATE A WIRELESS COMMUNICATIONS FACILITY;1620-1632 TIBURON BOULEVARD; Edward Zelinsky and Barbara Abrams, owners; Cingular Wireless applicant; Assessor's Parcel No. 59-101-03 **Approved 4-0**
4. TOWN –INITIATED TEXT AMENDMENTS AND OPEN SPACE REZONINGS TO THE TIBURON MUNICIPAL CODE CHAPTER 16 (ZONING ORDINANCE) **Recommended Approval to the Town Council 4-0**

DISCUSSION ITEMS

5. GENERAL PLAN UPDATE; REVIEW OF LAND USE ELEMENT ISSUES PAPER;Take Public Comment for a Report to the Town Council Regarding Recommendations for General Plan Goals, Policies and Programs for the Land Use Element of the General Plan. **Public Comment and Commission Feedback Received**

ADJOURNMENT 9:50 PM

Future Agenda Items

CEQA Workshop (Date Undetermined)
Tiburon Glen FEIR (August 27, 2003)
a081303

**MINUTES NO. 883
PLANNING COMMISSION
August 13, 2003
Regular Meeting
Town Council Chambers
1505 Tiburon Boulevard, Tiburon, California**

Vice-Chair Snow called the meeting to order at 7:30 p.m.

ROLL CALL

Present: Vice-Chair Snow, Commissioners Collins, Greenberg and Stein

Absent: Chair Smith

Staff: Community Development Director Anderson, Planning Manager
 Watrous, Advance Planner Bryant and Meeting Recorder Flanagan

PUBLIC QUESTIONS AND COMMENTS

Larry Haman, 27 Maravista Court, stated there is an omission in the tree ordinance that allows seedlings to grow. Community Development Director Anderson stated that Staff will call Mr. Haman to discuss this.

COMMISSION AND STAFF BRIEFING

Community Development Director Anderson noted that August 27 will probably be the date for the Tiburon Glen Final EIR meeting, and perhaps a CEQA workshop will be held just prior to the meeting.

Commissioner Stein asked for information on the Urban Land Institute workshop in Oakland. Community Development Director Anderson said that he will call him tomorrow with more information.

CONSENT CALENDAR

1. Approval of Planning Commission Minutes – July 9, 2003 Regular Meeting

Changes include:

Page 1, #1, last paragraph, at the end of the second sentence, add, “it was prepared by three local environmental groups, the Environmental Forum, the Marin Conservation League and the Sierra Club, Marin Chapter.”

Page 2, after the first sentence, add, “The town attorney had recommend the Planning Commission continue this item”.

Page 3, change language to read, “...taken the time to come to this meeting to testify...with the understanding that the Planning Commission would take no action on it tonight...”

Page 4, 4th paragraph, change “Jo” to “Joe.”

M/S Stein/Collins (4-0) to adopt the minutes as amended.

2. Approval of Planning Commission Minutes – July 14, 2003 Special Meeting

Changes include:

Page 1, first paragraph, change 300 feet to 500 feet.

Page 2, next to last paragraph, correct to David Coury. Last page, change Norman Drive to Norman Way.

Page 3, 3rd line, change to, “...to determine if SODS is on site and whether the trees need to be removed.”

Page 4, 4th paragraph, change to David Coury.

Page 5, last paragraph, add at the end of the sentence, “and the developer would have to show a statement of overriding consideration.”

M/S Stein/Collins (4-0) to adopt the minutes as amended.

PUBLIC HEARINGS

3. TIME EXTENSION FOR A CONDITIONAL USE PERMIT TO OPERATE A WIRELESS COMMUNICATIONS FACILITY; 1620-1632 TIBURON BOULEVARD; Edward Zelinsky and Barbara Abrams, owners; Cingular Wireless, applicant; Assessor Parcel No. 59-101-03.

Planning Manager Watrous presented the Staff report.

Tony Kim, Cingular Wireless, stated there are no changes or modifications proposed to the facility and he is happy to comply with the Conditions of Approval.

Commissioner Collins asked if any new technology is anticipated for this facility. Mr. Kim responded that the existing technology was current. He said that larger antennas could be installed, but that it would not change the capacity of the facility.

The public comment period was opened. No one wished to comment on this item, and the public comment period was closed.

Commissioner Greenberg asked if the conditions of approval contained within the previous resolutions for this facility would be adopted by reference in the new resolution. In particular, she asked if conditions 3, 4, 6 and 8 from the 1996 resolution would be included.

Planning Manager Watrous responded that the conditions of approval were established prior to the interim standards, but have not been included in the draft resolution. Commissioner Greenberg stated that she would approve renewing the permit, but would like those conditions 3, 4, 6 and 8 made part of the resolution.

Commissioner Stein stated that he assumed the original resolution was incorporated by reference and if it is not, then elements that are desired to continue as conditions of approval ought to be specified. He thought that the resolution could be amended to include these conditions, rather than incorporating the previous resolution by reference.

M/S, Stein/Greenberg (passed 4-0-1, Smith absent) to adopt the resolution as amended to include conditions of approval 3, 4, 6 and 8 from Resolution 96-11.

4. TOWN-INITIATED TEXT AMENDMENTS AND OPEN SPACE REZONINGS TO THE TIBURON MUNICIPAL CODE CHAPTER 16 (ZONING ORDINANCE)

Community Development Director Anderson presented the Staff report.

The public comment period was opened. No one wished to comment on this item, and the public comment period was closed.

Commissioner Collins questioned whether it was clear from the August 6 memo from the town attorney that applicant must pay whatever the amount is to cover the Town's portion of costs of litigation in defense of a Town approval.

Community Development Director Anderson stated that applicants are aware that a deposit must be filed before the Town tenders a legal defense and that money may or may not be refunded from that deposit.

M/S Greenberg/Collins (4-0) to adopt Resolutions A and B recommending approval of the text amendments and rezonings to the Town Council.

DISCUSSION ITEMS

5. GENERAL PLAN UPDATE; REVIEW OF LAND USE ELEMENT ISSUES PAPER; Take Public Comment for a Report to the Town Council Regarding Recommendations for General Plan Goals, Policies and Programs for the Land Use Element of the General Plan.

Community Development Director Anderson briefly reviewed the status of the General Plan Update.

Advance Planner Bryant presented the Staff report and noted that the annexation policies include three distinct areas: Paradise Drive, Eagle Rock/Bay Vista and Strawberry; and that preserving neighborhood character is important to the community.

Commissioner Stein stated the Town recognizes that Strawberry is quite different and this difference should be underscored in the future because it will make annexation policy more understandable. He also stated that the Issues Paper undercuts the assumption that the Planning Area will be the same, particularly as it relates to Strawberry. He added that it is interesting how recommendations in the Land Use Element are tied in with the Housing Element and the Downtown Element. He said that he wished the Open Space Element had been looked at first. If that had been done, the Land Use Element could be viewed as the appropriate lynchpin of the entire plan. He understands nothing said tonight will resolve issues; it is one more step in the process. At every step, it must be understood that everyone is somewhat in the blind because so many items involve the interpretation of both the open space and land use elements; hence, any decisions or direction provided tonight should be considered tentative.

The public comment period was opened.

Bruce Abbott, Greenwood Beach Road, stated he is concerned about the designation of Blackie's Pasture as a park because it was purchased by a bond issue and the word "park" was deleted from the title of the bond measure by the Council. He said there is a distinction between open space and parks. Open space was acquired by general purpose bonds and citizens determine the use of the property, because the purpose of the ballot initiative which authorized the bonds can be modified only by citizens. He asked that research be done and stated he has a letter with documentation that Blackie's Pasture was purchased as open space.

Jerry Thayer, 158 Blackfield Drive in the Bel Aire neighborhood, stated his neighborhood consists of one-story homes, from about 1,500 square feet to 2,000 square feet in size. He and his neighbors support the new policies which address neighborhood character, particularly LU-12 and LU-13. LU-13 speaks

directly to his neighborhood's concerns and he compliments Staff on their awareness of the neighborhood's sensitivities.

Joanna Mason Kemper, Last Chance Committee, stated she and the committee members have several recommendations. She said that officially designating land covered by open space easements as open space is a good idea. They would like to add that before any section of the Plan is finalized the open space and land use elements should be looked at together. They support creating an introduction to the General Plan that describes the uses of the plan, its importance, how to equally weigh all elements of the General Plan in making a decision about development, and listing town goals. These major goals should be fashioned from citizens' input. She also said that the land use element should include a goal that discusses the importance of open space to Tiburon. She said it may be worth repeating the first goal in the open space element to preserve the character of the Tiburon peninsula through control of the type and location of development. Also, she suggested retaining the "low density" phrase in the goals. She said that policy LU-12 has language which says that special emphasis shall be placed on keeping ridgelines open and unobstructed to the maximum extent feasible. She asked to ensure that this language is included and recommends making it a separate goal. She said that maintaining property values is right, but it is not a worthy goal of the Town. Someone could take this to mean all development should be maximized to get the biggest tax base possible. Regarding moving text and meaning from open space to land use, she said that with three to five overlapping policies, they should be included in each element. She also said that they recommend keeping the part of LU-17 which provides examples of environmental circumstances under which density maximums must be lowered.

Ian Schwartz, 1 Round Hill Terrace, stated he has a Town-held open space easement over a portion of his lot and supports the open space easement concept. He was concerned that the proposed open space designation might add new restrictions to the existing easement. He suggesting adding the words, "provided, however, that nothing herein shall expand the scope of, or otherwise affect, the terms and conditions of said easements" to the text of the Issues Paper.

Frank Mortarotti, 10 Tara View Road, stated he objects to the affordable housing overlay land use designation at the Reed Elementary School property. He expressed concern that it would increase the existing congestion in that area.

Anders Swahn, Gilmartin Drive, stated he owns undeveloped land in an unincorporated area on the Tiburon Peninsula. He is pleased with the town and county and the planning processes in both. The language is good as it relates to density, development, restrictions; however, it appears services that would be expected during development are not well-articulated or well-planned, e.g., waste treatment and sewage lines. As a landowner, he appreciates the concern the

Town has for developing the Paradise Drive corridor, but services have not been addressed adequately. From a resident's point of view, a number of things could trigger incorporation and maintenance of Paradise Drive may not be covered through the tax base of incorporated areas. LAFCO policies are that the Town must provide services and it appears the Town could be required to maintain Paradise Drive before it decides where the money is coming from. How to pay for it and maintain it is a serious concern. He suggested that the Town resolve how to pay for Paradise Drive before annexation occurs.

There being no further comments, the public commented period was closed.

Commissioner Stein stated all comments received are pertinent and intelligent. He would have liked new LU-14 tied in with the discussion of the issue of having two separate units in the R-2 zone, which looks like a lot split. The relationship between those two items could be dealt with here. The new approach on densities on large undeveloped parcels takes a different approach than that in the 1989 plan. Maximums are spelled out and treated differently. He is not sure it helps by adding this degree of specificity in the General Plan language. If a study is made of each parcel, both in the CEQA process and in discussing the merits of each, then the Planning Commission will look at what actual density is appropriate. Such a detailed description in the General Plan suggests that these studies have been done. A problem faced over the years in development applications is that a developer sees the stated allowable maximum and that number becomes imbedded as the allowable density. However, the burden of proof that the maximum density development is appropriate rests with the developer, and this message does not get across. He suggested the Planning Commission think of adding the concept that there is an average foreseeable density on undeveloped parcels that is considerably less than the allowable maximum density, and the density may go from the average baseline to the maximum or the reverse to as low as is consistent with the takings clause. He would not try to do this process item by item or parcel by parcel, but he would try to work it into the concept of the Planning Commission's approach to land use of undeveloped parcels, and he would tie this in with revisions made in the open space element. For many years, the Town has at least suggested that private open space exists on undeveloped parcels and must be preserved as private open space. He would like to see this spelled out more comprehensively.

Commissioner Greenberg stated she likes calling out the parcels that will be planned residential. This allows people who are looking at the Plan to know where they are located. She finds this helpful. Overall, she said the language is much more efficient and tight, but valuable examples have been taken out. She said that repetition, which has been taken out, helps to make the point. Removal of this kind of language makes designations of particular parcels seem much more set in stone. Examples in the General Plan were included to make the document more user-friendly. She concurs with Commissioner Stein on the

overall concept but she likes the data in the document with properties listed and described.

Commissioner Stein stated, for example, the listing of tree species for specific parcels suggests the Town has attempted to make more of a study than it has of the parcels.

Commissioner Greenberg suggested language to precede this section of the Plan, "These are general broad descriptions and the properties will require EIRs to clarify specific conditions and to allow development."

Commissioner Stein stated this would convey where the Town stands.

Commissioner Greenberg added that slides are not discussed and a statement should be made that descriptions are based on obvious visual deductions.

Commissioner Stein stated that perhaps the Town should be developing a process that derives a more foreseeable density that is less than a maximum, and point to a set of criteria that is found in the CEQA process that may allow an enhancement to what is seen as a maximum. He recalls from three or four hearings on different properties that the suggestion was made by applicants that the maximum means that is what has to be allowed unless someone shows it must be less. He said that is not what the General Plan states. The Town should learn from experience in updating the General Plan that this is a structure that does not quite work.

Commissioner Collins stated the Town should not try to strike an average; this would make it look like the properties have been prejudged and there is no data to base a judgment for an average foreseeable density. The text can describe properties with a paragraph or more of language that identifies the fact it is up to the applicant to prove that densities and maximum allowed units are achievable. He said that examples are very helpful if not overdone.

Commissioner Snow noted that stating the maximum allowable density sets a bar and development applications will rise to the bar. He recommended that the Plan take out maximum densities. He also said the description of individual properties has some value.

Community Development Director Anderson stated that under state law the Town must establish a density. It must be applied, on a map or a table, to each property in the Town's planning area.

Commissioner Greenberg stated the maximum density should be in the document. Information should be in the Plan and readily available for everyone to see easily. She supports a paragraph or two explaining how it was derived and that environmental constraints are likely to reduce the number of units built.

Community Development Director Anderson suggested using policy LU-3 as a starting point for a more detailed explanation of what the densities mean to someone who wants to develop property. The open space element will contain something similar to this.

Commissioner Stein stated the Town needs a maximum density figure, but there should be another functioning figure as well. It is almost worth questioning the assumption of not looking at downzoning as part of the General Plan process. He asked what downzoning would entail procedurally.

Community Development Director Anderson noted that one of the assumptions for the Land Use Element listed in the Staff Report was that major downzoning was not contemplated. This assumption was probably conveyed to owners of the large undeveloped properties. If the Planning Commission is going to entertain possible downzoning, it is appropriate that it be made known in some form to potentially affected property owners.

Commissioner Stein stated the only way the Planning Commission would know what densities make sense is in the context of discussing the open space element.

Commissioner Greenberg stated the densities originally established were to some extent arbitrary and at the time they were very low. Times have changed and the Town has more data with various mapping tools as to what the properties look like. Staff could perhaps look at towns similar to Tiburon, and geographical information, to reconsider some of those densities.

Community Development Director Anderson stated that the appropriateness of the maximum unit count depended in part on the underlying assumptions about the type of development that might occur on the properties. For instance, the maximum unit count numbers may not seem so outrageous for small clustered or attached unit projects. However, if one assumes large estate homes on individual large lots, then the maximum unit counts appear less appropriate. He believed that the General Plan should state the assumptions underlying the densities being described.

Commissioner Stein stated in the next fifteen years, what is considered appropriate land use could change and if this were changed, it would affect the numbers of units. He asked the record to convey to the Council that the Planning Commission is considering this and the Council should think about it as well.

Commissioner Collins stated there is no reference in the document to parking. In particular in policy LU-14, there is no reference to adequate onsite parking. The description of neighborhood character should include the points that parking

in relation to streets and terrain are important. South of Lyford, the strip of land to the west of Tiburon Boulevard, is designated open space, yet it is a parking area.

Community Development Director Anderson noted this is Caltrans property. Caltrans once proposed a formal park & ride lot and the Town rejected that because it would have eliminated half of the spaces there now, and it would have been wall-to-wall asphalt with no landscaping in order to meet Caltrans standards.

Commissioner Collins stated the parking area ought not to look like a parking lot because it is the front porch of Tiburon.

Community Development Director Anderson noted this is a concern discussed in the circulation element.

Commissioner Stein stated, on page 11, policy LU-15, that it was previously clear and conveyed that the Town did not want to encourage hotels, etc., and asked why this language was taken out.

Advance Planner Bryant responded that in combining the two policies, if the policy is read as one, the meaning does not change.

Commissioner Stein added that the language does more good than harm in clarifying where the Town wanted to go. A political decision would favor stressing that language.

Commissioner Greenberg added that the meaning has been changed when the original language was changed. The stated preference for residential uses over tourism was lost. The condensed language changed the meaning. She asked what Page 9, the third goal under B means.

Advance Planner Bryant responded that this language comes directly out of the existing General Plan.

Commissioner Collins stated it seems that if present uses are identified, discussion should also be included about the infrastructure, streets, utilities and public services that tie in. He asked about environmental constraints.

Community Development Director Anderson responded the original intent was to point out that environmental constraints are very important, a lead-in to policy LU-3. This also includes present land use.

Commissioner Greenberg noted in LU-E, LU-2 and LU-14 that “quiet” was substituted for “low density”. She prefers strikethroughs to see what is being changed from the former General Plan. She said the “low-density” language is

often referred to in decision making and that it helps emphasize the town's low-density wish of citizens, when a development is applied for. It is acceptable to use both "low density" and "quiet".

Commissioner Stein stated "low density" has a demonstrable meaning while quiet means different things to different people and does not help one make a decision.

Commissioner Greenberg added that the new LU-E, with the deletion of language about buffer zones between new and existing development, is a big change.

Community Development Director Anderson stated that in reality, looking at the large, undeveloped properties over the years, the best way to go about placing development on these sites has usually been as an extension of existing development. Large greenbelt buffers can force new roads and development further into a property than is otherwise necessary, thus disturbing a larger area than needed. Staff can re-word this policy. He said he believed that the greenbelt corridor concept works better on a larger scale than is found on the Tiburon Peninsula.

Commissioner Greenberg noted many Town officials have referred to the greenbelt buffer policy when assessing the merits of projects.

Community Development Director Anderson suggested using the term "buffers", and said Staff will revisit the greenbelt policy.

Commissioner Stein noted this comes up in transitional areas. He noted in the new LU-E, character and identity, he is not comfortable with defining neighborhood character as the "feel" of the neighborhood and suggests "defining characteristic of the neighborhood" should be used instead. This will vary from case to case but there needs to be some way to get the point across that neighborhood character means preserving something. From the standpoint of the Planning Commission, it will be a question if that something is worth preserving in light of what is now developing. He said that staff is too delicate with the term "neighborhood character."

Commissioner Greenberg stated that on the new LU-4, the reasoning given for the recommended language has a whole different meaning than what is in the policy. Policy LU-4 says Tiburon is in the business of protecting people's private property, which is a tremendous leap from the principle of establishing a secure local revenue base for the Town. If the policy were ever implemented, it could hogtie development.

The Commission agreed to strike this language and start over.

Commissioner Greenberg suggested combining both the “New Development” and “Residential Neighborhoods” sections in the Appendix into a “Residential Development” section. She added that the new LU-9 used to begin with “Property owners cherish their views.” This has disappeared without comment. The existing General Plan has worked well and changes to it must be justified.

Commissioner Stein stated, at the very least, a decision should not be made to change or remove language until the open space element is looked at.

Commissioner Greenberg stated that on policy LU-12, “...and respected” does not give direction. She suggested “preserved” be used instead.

Commissioner Collins stated that “predominant” should be used before “architectural styles” in policy LU-12.

Commissioner Stein stated that on policy LU-12, “defining characteristic of the neighborhood” should be used.

Commissioner Collins stated that “major” should be deleted at the beginning of policy LU-13.

Commissioner Greenberg stated, regarding the sentence, “...design and scale should be consistent with existing development in surrounding neighborhood,” the sense is it should not stand out like a sore thumb. She also suggested to add “primary and secondary” before the words “ridge lines” on the new LU-14c.

Commissioner Collins asked why the Town encourages home occupations.

Community Development Director Anderson responded they are generally believed to remove commute traffic from the streets.

Commissioner Greenberg stated, on LU-19, this is the first policy that calls for consideration of the “employment needs” of residents in making decisions and this language may justify businesses that may otherwise not be approved. She recommended removing “employment needs” or expounding on them.

Commissioner Stein stated he took this to mean that the Town encourages more office development and if so this is in conflict with the language that office uses should be limited on the ground floor.

Commissioner Collins suggested that policy LU-18 end the text with “residential areas.”

Community Development Director Anderson stated he is not certain that the Town can legally do this.

Commissioner Greenberg stated she will email additional comments to Staff. On LU-36, she asked what “supports” means. Regarding “neighborhood school facilities,” she is surprised to see this given the controversy over the plans to build gyms at schools.

Community Development Director Anderson stated this policy is aimed at pedestrian and bicycle accessibility, and should be placed in the circulation element.

Commissioner Greenberg stated the old LU-16 should be in the land use element. It refers to areas in unincorporated areas and this language is relevant when development comes before the Town, and it is clear what is being looked at. She said duplication of language in more than one element is acceptable to her. She believed it was critical that property developers easily find this language in the Land Use Element as well as the Open Space Element.

Commissioner Collins also will email his changes to Community Development Director Anderson.

Commissioner Stein stated Staff must further define private open space so it has meaning. He said that Mr. Schwartz’s lot almost did not get built. Where there are environmental constraints, the Town wants to ensure further development does not happen. Staff needs to ask and find out from other communities what can be expected to happen when something is designated private open space when it benefits a private person and a landowner. He would like to resolve issues that come back over and over again.

Commissioner Greenberg stated that as far as establishing private open space in subdivisions and Precise Development Plans, it would take an act of god to change the use. She said nothing would expand the scope of the Town’s use of private open space area.

Community Development Director Anderson stated that the issues raised by Mr. Schwartz are addressed in the grant of open space easement. Provisions for fire control exist in the easement language.

Commissioner Greenberg noted that some services are not provided by the town, e.g., fire, sewer, but are provided by special districts.

Community Development Director Anderson stated a Town of Tiburon ordinance requires the extension of public sewers to serve development.

Commissioner Greenberg stated that the traffic issues around Reed School have not been resolved. She shares the speaker’s concerns about high density housing in that area.

Mr. Schwartz stated he walks by this parcel every day and that side of Lyford Drive should have a sidewalk, and he cannot image higher density than already exists. He thinks this is “dumping” affordable housing into one area in order to meet the state’s housing requirements.

ADJOURNMENT

There being no further business, the meeting was adjourned at 9:50 p.m.

WAYNE SNOW, VICE-CHAIRMAN

ATTEST:

SCOTT ANDERSON, SECRETARY