



**TOWN OF TIBURON
PLANNING COMMISSION**
1505 Tiburon Boulevard
Tiburon, CA 94920
Action Minutes
January 14, 2004 - 7:30 PM

ACTION MINUTES

CALL TO ORDER AND ROLL CALL 7:30 PM

Commissioner Collins, Commissioner Greenberg, -Chairman Snow,

OATH OF OFFICE TO NEW COMMISSIONERS

**Sworn in by Community
Development Director**

- Jim Fraser
- John Kunzweiler

ORAL COMMUNICATIONS

There were none

Persons wishing to address the Planning Commission on any subject not on the agenda may do so under this portion of the agenda. Please note that the Planning Commission is not able to undertake extended discussion, or take action on, items that do not appear on this agenda. Matters requiring action will be referred to Town Staff for consideration and/or placed on a future Planning Commission agenda. Please limit your comments to no more than three (3) minutes.

COMMISSION AND STAFF BRIEFING

Staff Update

Commission Information Items

League of California Cities Conference

There were none

CONSENT CALENDAR

1. Planning Commission Minutes-----November 12, 2003 **Adopted as Corrected
5-0**

PUBLIC HEARINGS

2. GENERAL PLAN UPDATE; REVIEW OF OPEN SPACE AND CONSERVATION ELEMENT ISSUES PAPER; Take Public Comment for a Report to the Town Council Regarding Recommendations for General Plan Goals, Policies and Programs for the Open Space and Conservation Element of the General Plan.
Accepted Public Testimony
3. ONE HIGH MEADOW LANE: AMENDMENT TO HIGH MEADOW PRECISE DEVELOPMENT PLAN TO AMEND A BUILDING ENVELOPE; 1 HIGH

MEADOW LANE; Chris Kingsley, Owner; E. E. Weiss Architects, Applicant;
Assessor's Parcel No. 58-100-75. **Continued to February 11, 2003 5-0**

CORRESPONDENCE

Letter from Marin County Community Development Agency, dated December 22,
2003 regarding Sorokko Land Division and County processing of projects along
Paradise Drive. **Received**

ADJOURNMENT

9:45 PM

Future Agenda Items

One High Meadow Amendment to Precise Development Plan (February 11, 2004)

a011404

MINUTES NO. 887
Town of Tiburon Planning Commission
January 14, 2004
Regular Meeting
Town Council Chambers
1505 Tiburon Boulevard, Tiburon, California

CALL TO ORDER AND ROLL CALL

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

Present: Chair Snow, Vice-Chair Greenberg & Commissioners Collins
(Commissioners Fraser & Kunzweiler were sworn in later)

Absent: None

Ex-officio: Community Development Director Anderson, Advance Planner Bryant
and Meeting Recorder Flanagan

OATH OF OFFICE TO NEW COMMISSIONERS

Community Development Director Anderson administered the Oath of Office to Jim Fraser and John Kunzweiler, who were duly sworn and took their seats on the Commission.

ORAL COMMUNICATIONS

There were none.

COMMISSIONER AND STAFF BRIEFING

Community Development Director Anderson reported material about the League of California Planning Institute in Monterey was distributed at this meeting. He added, Item 3, One High Meadow Lane, was continued to February 11, 2004.

CONSENT CALENDAR

1. Planning Commission Minutes of November 12, 2003

Changes include: Page 2, first paragraph, fourth line, change "19060" to "1960."

M/S, Collins/ Greenberg (carried 3-0-2, Fraser and Kunzweiler abstained) to approve the minutes as amended.

PUBLIC HEARINGS

2. GENERAL PLAN UPDATE: REVIEW OF OPEN SPACE AND CONSERVATION ELEMENT ISSUES PAPER; Take Public Comment for a Report to the Town Council Regarding Recommendation for General Plan Goals, Policies and Programs for the OS and Conservation Element of the General Plan.

Community Development Director Anderson introduced Kevin Bryant, Advance Planner.

Planner Bryant reviewed the Staff report.

The public comment period was opened.

Reza Pourian, who owns lots on Paradise Drive, stated open space is a nice package to take over someone's lot to stop them from building on the lot. Solid waste and quality of water become issues that people respect, and are issues to prevent his building on his lot. When he purchased the lot there were no restrictions on it. He asked that the Planning Commission consider the number of lots recommended for open space—there are not that many that will affect solid waste. His lot is meant for his retirement. Neighbors want the lot to be open space for them. His two lots are above Paradise Cay; one is two acres and one is three acres.

Commissioner Greenberg stated there has been an open space policy since 1989 and there are modest changes being proposed at this time, and asked if he believes that there are changes that will prevent him from building.

Mr. Pourian stated he would have to hire an attorney to answer the question.

Jerry Riessen, Last Chance Committee, stated he will submit a comments letter. He believes, since 1989, the Tiburon General Plan has protected open space to the maximum extent feasible. He applauds all such efforts and asked that recommendations in the General Plan Update be utilized today for any planning decisions on development projects. Staff and consultants have added specificity to what was already in the Plan. Open space is the defining character of the community and that it was desired to be maintained. The General Plan Update is a great step forward in preserving open space. Remaining properties have not been developed because there are substantial environmental constraints, such as landslides and access issues. On each property where there are environmental impacts, benefits will have to outweigh the environmental impacts. He said that the less number of lots that are developed, the better. He applauded the recommendation to increase the amount of open space to be preserved on a lot to 75 percent. He suggested that the Tiburon Ridge be extended to the knoll, and not be terminated at the County boundary line. There are a number of proposals in his letter. With the money Tiburon residents have taxed themselves for open space, views from public spaces should be preserved.

Scott Hochstrasser, land use planner, working with owners who have property within the potential open space areas, stated the Issues Paper does not address what parks and open

space is needed. Over 300 acres of potential open space are outside the town boundary, of which there is no mention in the Issues Paper. It should be clearly spelled out that these policies, particularly the designation of open space and the overlay of the prime open space concept, can only be in an advisory role because many properties are outside the town limits. The Issues Paper is a summary of what the current General Plan has achieved. The General Plan Update should do more than revisit plans, policies and objectives. It should recommend policies which are now appropriate. For county-zoned property, there is no acknowledgement that development entitlements have been granted. The Martha Project has a court judgment to permit development. There is no summary of all properties proposed as open space and development standards for those, and what open spaces are needed has not been addressed. He asked what the “sense of open space that is provided by the large amounts” of open space is, and how much is needed. The General Plan should discuss acquiring and maintaining open space properties. The General Plan is for managing future open space, which is a land use. He asked who the open space is for: the Town of Tiburon or residents? The open spaces identified in the plan have a potential use. How prime open space in the Issues Paper is applied is not clear. He asked if it means large properties are or are not subject to open space resources. There are many lots that could be redeveloped or subdivided. Open space areas should apply to large lots. OSC-b in the current General Plan called for the Town to define ridgelines, and to define vistas and view corridors. Staff has recommended this program be removed. The Town should analyze views and vistas and make those the primary concern of the General Plan to achieve its purpose. He asked how planners can design if this is not known. Regarding removing the requirement that the Open Space Commission provide an annual report, he asked where the report is, if the purpose of the Commission is to address needs for parks and standards for developing parks. He asked where the money will come from to buy designated open space in the General Plan, and stated open space is not real until it is determined there is money to buy the property. He asked where the parks are for the children inside the town, and stated, without this analysis, if property owners do not know what the plan is, the reality of the plan makes no sense. This precludes planning for neighborhood parks. There is a danger parks will be determined by special interests, not the whole community.

George Landau, Sugarloaf Drive, stated he thought this meeting was to deal with open space only. Determining the needs of open space was asked by Mr. Hochstrasser. The Town should preserve what the Town has. Open space parcels have been bought by the Town. Preserve as much open space as can be preserved. Parks are a separate issue, and open space is not addressed as a park.

Joan Foster, Sierra Court, stated that she thought the discussion was about Tiburon’s open space and parks. She is interested in the [Richardson Bay] Lineal Park. She asked if the space near Blackie’s Pasture has been addressed, as instructed by the Town Council.

Planner Bryant responded that the discussion on parks will be later. This includes Blackie’s Pasture. Undeveloped parcels on the ridge mostly are under discussion at this time.

Ms. Foster added that it was asked that the Planning Commission return with language to address parks.

Planner Bryant responded this will be done at a later time.

Becky Pringle stated there are rights for both those who do not want development and those who have large properties to be developed. The planner in 1989 determined five acres per home and property owners had to defend their private property rights. When planning for other people's property, the Planning Commission should be fair and not impose taking of people's property. Measure I would have been a taking of people's property without fair reimbursement. The General Plan should include not punishing the people who bought the empty property. Paying people for their property for open space is appropriate, restricting development in the General Plan is not appropriate. Consider language that considers the rights of all property owners in Tiburon and the sphere of influence.

Jarlaith O'Connor, Paradise Drive, stated his property of 12.3 acres is private property, and people's private property should not be appropriated but should be sold at market value. To designate private property as open space is not acceptable. He said that his property will not be taken without a trip to the Supreme Court.

Fiona O'Connor asked if there should not be an Environmental Impact Report completed for these properties. She stated some parcels have two acres, some have more or less, and zoning should be the same for all properties. The green on the map over her parents' property is threatening; it does look like eminent domain. She asked if there is a plan to pay people for their property.

Mr. Oloumi, on behalf of his father, stated the language "75 percent open space" is not clear, and asked if one can build a tennis court in that area. He stated it is threatening to put green color on a map on people's property, and added keeping 75 percent of a lot for open space is a lot. Their property is in the Eagle Rock/Bay Vista area and is about six acres. He asked how it becomes part of Tiburon, and stated there are many unclear issues. The Town of Tiburon should buy all the green-colored areas on the map.

Betsy Little, Ridge Road, asked that the Commission give consideration to the slope policy in areas of town, such as the City of Novato does. She asked that the Planning Commission continue to be fair to property owners. She would like restrictions on land with 25 percent slope and for the Planning Commission to look at grading and cutting, and drainage.

Bill McLaughlin stated there will be several legal briefs submitted and a period of time is necessary for this to occur.

In response to questions, Planner Bryant stated there will be further hearings; the next will be a report of this meeting to the Town Council in a month.

There being no further questions, the public comment period was closed.

Commissioner Kunzweiler stated the comments heard at this meeting crystallize the difficulty of the tradeoff of the desire by a strong majority of citizens to preserve open space and property owners' rights. There should be an explanation of the takings law. That land will be taken is not an accurate representation. The report should indicate what the land shaded green means to the property owner. The report should detail better the green-shaded property in the county and discuss why the Town has the responsibility to annex, and how the annexation process proceeds and what that means to the citizens.

Commissioner Collins stated he would like to see a narrative explanation that describes clearly the process of potential open space and what it means to everyone, those least and most affected. The Town must be very careful to make people understand property will not be taken. Use of open space should be discussed as well as whether there should be a policy as to what the use should be. Pollution is not defined and should be. He will give a memo with additional comments to Staff.

Commissioner Greenberg stated she sees, over time, a very clear trend, which is that less development is allowed than used to be allowed, because of more population in the town, and she does not see the trend changing. Those who think they have something to lose are those speaking on this issue. The plan does not intend to not allow people to use their property. Properties outside Tiburon are in the County but are in the sphere of influence of Tiburon and by law must be addressed. Regarding 75 percent being in open space and what can be put on that space, and what it means, is defined by many layers. The goal is to protect property values and people's rights. Development rights have somewhat diminished and property values have increased over the years. "Potential open space" is defined as any parcels not developed, not that the owners have no rights.

Commissioner Fraser stated he reviewed this issue at the Parks and Open Space Commission level, and specificity was requested. Public comments indicate lack of specificity with respect to property deemed to be potential open space, and who has the authority to determine what and how the property may be designated as open space. The report should be more specific regarding rights of landowners and how they may be impacted. The community needs balance between landowners and the desires and rights of citizens in the community. The report should outline for the community guidelines and the laws of the county and town, and how they pertain to this issue.

Chair Snow asked Staff if the Planning Commission would revisit this before it is forwarded to the Council. The comments at this meeting would have been better heard early. He asked citizens to write and send comments to the Town.

Advance Planner Bryant stated comments from this meeting and broader questions of the legal framework, i.e., what the green shading on the map means to property owners can be spelled out in the report to the Council and could go to property owners prior to the Council meeting. He suggested that these questions be addressed and that the Update

process continue moving forward simultaneously. Planning Commission comments and language tweaking will continue in the draft General Plan stage. Written comments can be submitted to Staff or the Planning Commission can have them returned for review at a meeting; however, he recommends moving the process forward.

Chair Snow stated he would like staff to spend more time defining the report, making changes, and return the report to the Commission.

Commissioner Greenberg stated a summary of this hearing will be in the report to the Council. The Planning Commission should have more discussion in the future if there are areas where there is strong consensus to see what emerges. This is very early in the process.

Community Development Director Anderson stated property owners with concerns or confusion should call Staff, who would gladly meet with them to discuss the matter in detail.

Commissioner Greenberg added that Mr. Hochstrasser's comments were interesting. He noted that prime open space is being applied to large undeveloped properties only, and he raised the issue of when large single lots are developed. The Open Space and Conservation Element deals with conservation and open space, not parks; it is not true that more open space means less parks. Parks will be addressed in the Parks and Recreation Element. Tiburon is not abandoning neighborhood parks and taking property. Regarding vistas and viewpoints, Staff should ensure their work is accurate and the Town should not abandon that program.

Commissioner Collins added he would like to see a map of key roads related to the protection of views and vistas.

Commissioner Kunzweiler stated there is concern of property owners, and the report should help people determine a fair expectation of property rights. The reports should discuss other issues - grading, impacts on waterways, etc. - and define these so landowners know the extent to which their properties have components and to what can realistically be built on the property. Much land presently not developed is difficult to build on or so disruptive it goes against the wishes of the vast majority of residents. People should look at their property and assess what the fair expectations are, and know the elements for sound planning of a property. Perhaps a citizen's handbook that helps people understand impacts is timely.

Commissioner Greenberg stated it is very complicated when items are left out of the Update process. She would like to review a complete draft General Plan to see how the total flows. In 1989, when densities were assigned, a best effort was made to consider the terrain and what the problems might be. "Maximum extent feasible" language meant what it said, and reflected the wishes of the Town's residents, but the language also provided for flexibility. She would like "maximum extent feasible" put back in, not "extent feasible." Regarding "permanent protection of open space," she would like

“permanent” put back where it was removed. These changes change policy. The county sometimes has different policies than Tiburon and Tiburon has thought the policies should be consistent, which they should be. In particular, she mentioned slope policy and ridgeline and watercourse setbacks.

Commissioner Kunzweiler concurred, and asked how to factor in grading with road construction. OSC-11 does not discuss grading roads. Grading for access roads can be more significant than grading for the site. Regarding water supply and development of Paradise Drive properties, he asked where sewage treatment plants and capacity go, and if they are a constraint or vehicle for development. These impacts must be considered.

Planner Bryant noted discussion of this issue was included in the land use element.

Commissioner Fraser stated policies OSC 37-42 should have a specific strategy on how to manage and budget for dedicated open space. Today there is no designated budget stream; what we have are local conservation groups and volunteers who do good work on an ad hoc basis. There should be a budget allocation for this. The Town’s great open space should be looked after. The Plan needs an implementation policy, a program, rather than it being done ad hoc.

Commissioner Kunzweiler asked, in OSC-6, if there is a definition of “estate lots.” He stated it is a loaded term in this document.

Commissioner Greenberg stated estate lots implies that development will be spread out over the whole site as opposed to being clustered in a portion of the site.

Commissioner Kunzweiler asked why, with regard to OSC-22, regarding 100-year flood zones, the wording is soft here. He recommended there be stronger wording such as not building in flood zones.

Community Development Director Anderson responded there are no large subdividable properties located in flood zones.

Commissioner Kunzweiler stated the public that there are areas in Marin County where development is limited to property with slopes of less than 25 percent.

Commissioner Greenberg noted Novato uses 25 percent for slope policy. Staff should check on other cities in the county.

Commissioner Kunzweiler noted OSC-54, green building principles, should be clarified and documented, and communicated to the Design Review Board.

Chair Snow added that the “gray water” issue also is very important and where it applies should be included.

It was the Commission's recommendation that these comments be put in the record and given to Council, and to encourage the public to send information to Staff to incorporate into the report going to the Town Council.

Commissioner Greenberg recommended the audience put specific comments in writing so they can be addressed specifically, and added that the opportunity for public comment is not closed.

3. ONE HIGH MEADOW LANE: AMENDMENT TO HIGH MEADOW PRECISE DEVELOPMENT PLAN TO AMEND A BUILDING ENVELOPE; ONE HIGH MEADOW LANE; Chris Kingsley, Owner; E.E. Weiss Architects, Applicant Assessor's Parcel No. 58-100-75.

M/S, Greenberg/Collins (carried 5-0) to continue this item to February 11, 2004.

CORRESPONDENCE

Letter from Marin County Community Development Agency, dated December 22, 2003, regarding Sorokko Land Division and County processing of projects along Paradise Drive.

Community Development Director Anderson stated he will meet with County officials next week to clarify the letter.

ADJOURNMENT

There being no further business, the meeting was adjourned at 9:20 pm.

Wayne Snow, Chairman
Tiburon Planning Commission

ATTEST:

Scott Anderson, Secretary (Acting)