



**TOWN OF TIBURON
PLANNING COMMISSION**
1505 Tiburon Boulevard
Tiburon, CA 94920
Action and Approved Minutes
Regular Meeting - February 25, 2004

ACTION MINUTES

CALL TO ORDER AND ROLL CALL 7:30 PM

Present: Chairman Snow, Vice Chairman Greenberg, Commissioner Collins,
Commissioner Fraser

Absent: Commissioner Kunzweiler

Ex-Officio: Planning Manager Watrous and Administrative Aide Suzanne
Creekemore

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

CONSENT CALENDAR

1. Approval of Planning Commission Minutes - February 11, 2004 **APPROVED**
AS AMENDED 4-0

PUBLIC HEARINGS

2. CONDITIONAL USE PERMIT; REQUEST TO EXPAND A PRIVATE RECREATIONAL FACILITY; 700 TIBURON BULEVARD; Belvedere Tennis Club, Owner; Marcy Jones, Architect and Applicant; Assessor's Parcel No. 55-201-36. **CONTINUED TO MARCH 10, 2004 4-0**
3. POTENTIAL AMENDMENT TO INTERIM STANDARDS AND CRITERIA FOR WIRELESS COMMUNICATIONS FACILITIES **DIRECTED SUBCOMMITTEE TO PREPARE DRAFT AMENDMENTS 4-0**

ADJOURNMENT 9:25 pm

Future Agenda Items

207 Paradise Drive – Amendment to Pt. Tiburon PDP (March 10)
50 Monterey Drive – Amendment to Cypress Hollow PDP (March 10)
5 Main Street (Guaymas) - Extend Time Limit for Awning (March 10)

a022504

**MINUTES NO. 889
PLANNING COMMISSION
February 25, 2004
Regular Meeting
Town Council Chambers
1505 Tiburon Boulevard, Tiburon, California**

CALL TO ORDER AND ROLL CALL

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

Absent: Commissioner Kunzweiler

Ex-officio: Planning Manager Watrous and Administrative Aide Creekmore

ORAL COMMUNICATIONS

There were none.

COMMISSION AND STAFF BRIEFING

Planning Manager Watrous noted that Town Council will be considering the Open Space Conservation Element Issues Paper at their February 26, 2004 meeting.

CONSENT CALENDAR

1. Approval of Planning Commission Minutes – February 11, 2004 Regular Meeting

Changes include:

Add page numbers.

Page 3, 8th paragraph, 1st line, after “lower section”, remove “requested”. 2nd line, change “would” to “might”.

Page 4, 7th paragraph, 2nd and 3rd lines to read, “...some of the portions of the property proposed to be changed are difficult to use”.

Page 5, 4th paragraph, 5th line, after “project”, remove “is”. Change 6th, 7th, and 8th lines to read, “...Section 2.1, add at the end, “except that the amendments to expand the northerly portion of the approved building envelope are not approved”.

M/S, Collins/Fraser (passed 4-0) to approve the minutes as amended.

PUBLIC HEARINGS

2. CONDITIONAL USE PERMIT; REQUEST TO EXPAND A PRIVATE RECREATIONAL FACILITY; 700 TIBURON BOULEVARD; Belvedere Tennis Club, Owner; Marcy Jones, Architect and Applicant; Assessor’s Parcel No. 55-201-36.

M/S, Greenberg/Fraser (carried 3-0-1, Collins recused) to continue this item to March 10, 2004.

3. POTENTIAL AMMENDMENT TO INTERIM STANDARDS AND CRITERIA FOR WIRELESS COMMUNICATIONS FACILITIES.

Planning Manager Watrous presented the Staff report.

Commission Greenberg referenced Item 1 of Mary Ellen Wetlesen’s letter and asked whether revising the Interim Standards and Criteria will have any legal implications on the pending MERA appeal. Planning Manager Watrous replied that the revisions would only apply to future applications.

Commissioner Greenberg reference Item 3 of Wetlesen’s letter and asked if the Standards and Criteria can be revised to reflect existing noise conditions. Planning Manager Watrous stated that the revision can be made provided there are no inconsistencies with the Noise Element of the Town’s General Plan.

Commissioner Greenberg stated that she would like information on the newest telecommunications technologies, including WiMax, so that they are regulated under the revised Standards and Criteria. Watrous replied that any new technologies regulated by the Telecommunications Act would be treated as any other wireless facility.

Commissioner Greenberg asked that Planning Manager Watrous provide the Commission with information on how the Standards and Criteria apply to ham radio facilities and whether they should specifically be excluded. Watrous replied that he did not believe that the Telecommunications Act regulates ham facilities.

Commissioner Greenberg suggested removing water tanks as a recommended structure for attaching wireless communications facilities from Section IV, B of the Standards and Criteria due to their frequent proximity to residential areas. Planning Manager Watrous replied that the Standards and Criteria could be revised to clarify that water tanks in non-residential and non-open space areas are recommended.

Commissioner Greenberg recommended including specific legal language to require that any self-governing agency proposing to install a wireless communications facility on their property either be required to comply with the Town's Standards and Criteria or submit their plans to the Town for review. Planning Manager Watrous stated that it is unlikely that self-governing agencies would be required to submit their plans to the Town but he would verify this with the Town attorney. Commissioner Greenberg added that she would like the Standards and Criteria to encourage any agencies outside of the Town's jurisdiction to submit their plans for review.

Planning Manager Watrous clarified for Commissioner Collins that the Staff's recommendation is to revise the Interim Standards and Criteria so that it can be adopted as permanent Standards and Criteria. Additionally, Staff is recommending that the Town's Municipal Code and Zoning Ordinance be revised to specifically reference the Standards and Criteria.

In response to Commissioner Collins' request for a map detailing all currently approved wireless facilities, Planning Manager Watrous noted the Staff report attachment listing all currently approved wireless facilities in Tiburon.

Commissioner Collins stated that public noticing should occur as soon as permit applications are filed.

Commissioner Fraser asked whether the Town's Standards and Criteria were any more stringent than Sausalito's or the County's. Planning Manager Watrous replied that the Federal Communications Commission states that a jurisdiction is not able to have more stringent health standards than those of the Federal government.

Fraser asked if renewal applications for wireless communications facilities are required to include current electromagnetic frequency (EMF) reports. Planning Manager Watrous replied that all extension applicants are required to submit reports with actual EMF measurements.

Chair Snow opened the public comment period.

Gunnar Wetlesen, 101 Mt. Tiburon Road, stated that this is more of an issue of the application and interpretation of an ordinance. He asked whether public agencies, such as MERA, would be held to the same standards as commercial telecommunications applicants. He added that the Sausalito and County policies contain specific clauses addressing noticing requirements as well as requirements to disclose distances from homes, schools and other sensitive areas.

Brian Lantier, president of the Marinero Homeowners Association, gave background on the previous MERA and Sprint applications during which the Commission expressed concern with monopoles. He added that there is a vast difference between co-location and shared location and urged the Commission to consider requiring leases before issuing a Conditional Use Permit (CUP) for wireless communication facility applicants.

Mr. Lantier recommended that applicants be required to investigate whether pregnant women or cancer survivors are in close proximity to the proposed location, as FCC requirements were never intended to apply to those two classes. He informed the Commission of a white paper produced by the UCSD Law School titled *Creating Local Policies Consistent with the Telecommunications Act*.

Commissioner Fraser acknowledged that there was some concern in the community about the Standards and Criteria. He suggested putting together an ad hoc committee to work with the community on revisions.

Commissioners Greenberg stated that she was sorry that interested residents and service providers were not noticed of this meeting, as it would be helpful to have their input early in the process. She favored a continuance to develop specific recommendations for changes, stating that the interim Standards and Criteria were good, but there was a need for improvement.

Commissioner Greenberg recommended that the following changes to the Standards and Criteria:

1. State that an amendment to the Precise Plan is required if installation is proposed in an RPD zone (Marin County Code, Title 22.32.170, Item A, 1).
2. Require a tape drop within sixty days of completion of the installation (Sausalito Ordinance 1159, Section 10.45.060).
3. Provide a clear process for revocation (Sausalito Ordinance, Section 10.45.080).
4. Include a clear removal process (Sausalito Ordinance, Section 10.45.090).
5. Require that applicants provide reports showing emission measurements at time of installation and at specified times thereafter (Sausalito Ordinance, Section 10.45.110).
6. Outline a maximum height, with a variance needed to go higher (Sausalito Ordinance, Section 10.45.160, B, 11).
7. Improve the required noticing, and require that public notification begin as soon as an application is received or if a network is planned that would require an Environmental Impact Report.
8. Require the clearing of vegetative fire hazards, such as broom.
9. Review co-location language to discourage multiple facilities in residential areas.
10. Include a noise standard that is tied to the existing decibel level of the location.
11. Remove water tanks as an example of a preferred location (Tiburon Standards and Criteria, Section 4, B).
12. Include an ascending fine procedure for expired applications.
13. Change Section VII, 3rd line of the Standards and Criteria to read "...proposed facility operating by itself..."

Commissioner Greenburg requested that the community and service providers provide specific recommendations on how the Standards and Criteria should be revised. She further added that the current public notification process does not provide adequate time for the public to prepare input on revisions. She requested that Staff notify providers and

community members that have been actively involved in wireless communications issues to be notified well in advance of meeting dates.

Commissioner Collins recommended that the following changes be made to the Standards and Criteria:

1. Include a Statement under Penalty of and Perjury as to the applicant's awareness of changes in technology.
2. Require current title reports.
3. Consider drafting a policy that requests that those agencies which have been granted rights to construct water tanks not permit or allow any other facilities on the site other than for the purpose for which those agencies are directly authorized.
4. Adopt a policy stating that facilities requested to be installed on Town-owned property inside the Tiburon Town limits must be reviewed and approved by the Town.
5. Tighten up the current indemnity language to provide additional protection for the Town.
6. Adopt the Sausalito severability text.
7. Revise the sublease section to state that licensing, assigning, merger or consolidation with any other entity would result in immediate termination without the Town's consent.
8. Require automatic peer review of EMF reports.
9. Require regular post-construction reporting.
10. Include landscaping in the maintenance agreement.
11. Require better public noticing of applications.

Chair Snow commented that public noticing was inadequate and that efforts to improve noticing and encouragement of public involvement should be made in the future.

Planning Manager Watrous recommended establishing an ad hoc subcommittee comprised of two Planning Commissioners, members of the community, and wireless communications providers to draft the revisions to the interim Standards and Criteria and return to the Planning Commission with their findings.

Commissioner Greenberg said that it would be preferable to have a small group come up with draft revisions, have the draft reviewed by technical and legal experts, then brought back to the Planning Commission. She stressed the importance of doing this in a timely manner.

Chair Snow recommended including a representative from the Little Reed Heights subdivision in the formation of the subcommittee.

Commissioners Collins and Fraser agreed to participate in the subcommittee, with a goal of returning with a draft at the April 14, 2004 meeting.

Commissioner Greenberg stated that she did not like the format of the County ordinance, and found the Sausalito ordinance easier to read and use. She supported the three recommended revisions cited in the Staff report.

The Commission agreed to continue discussion of the item until the subcommittee returns to the Planning Commission with a revised draft of the Standards and Criteria at the April 14, 2004 Planning Commission meeting.

ADJOURNMENT

The meeting was adjourned at 9:25 p.m.

WAYNE SNOW, CHAIR
Tiburon Planning Commission

DANIEL M. WATROUS, SECRETARY