



**TOWN OF TIBURON
PLANNING COMMISSION
1505 Tiburon Boulevard
Tiburon, CA 94920
Action Minutes
March 10, 2004**

ACTION MINUTES

CALL TO ORDER AND ROLL CALL 7:30

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

Absent: None

Ex-Officio: Planning Manager Watrous and Minutes Secretary Flanagan

ORAL COMMUNICATIONS

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. Planning Commission Minutes - February 25, 2004 **APPROVED AS AMENDED**
5-0

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. **APPROVED 4-0 (Collins Recused Himself)**
3. CONDITIONAL USE PERMIT; REQUEST TO INCREASE THE DURATION OF SEASONAL USE FOR A RESTAURANT AWNING STRUCTURE; 5 MAIN STREET; Ed Zelinsky and Spectrum Foods, Inc., Applicants; Assessor's Parcel No. 59-151-41. **CONTINUED TO MAY 26, 2004 5-0**

4. REQUEST TO AMEND THE POINT TIBURON PRECISE PLAN TO ALLOW ADDITIONAL FLOOR AREA; 207 PARADISE DRIVE; Susan Olson and Paul Ortner, Applicants; Assessor's Parcel No. 59-380-35 **DENIED 3-2**
(Greenberg, Fraser)

5. REQUEST TO AMEND THE CYPRESS HOLLOW PRECISE DEVELOPMENT PLAN TO ALLOW ADDITIONAL FLOOR AREA; 50 MONTEREY DRIVE; David and Dana Williams, Applicants; Assessor's Parcel No. 34-394- **APPROVED**
4-1 (Greenberg)

ADJOURNMENT 11:00 PM

Future Agenda Items

Revised Standards and Criteria for Wireless Communications Facilities (April 14, 2004)

Countywide Plan Update Marin County Presentation (April 14, 2004)

**MINUTES NO. 890
PLANNING COMMISSION
March 10, 2004
Regular Meeting
Town Council Chambers
1505 Tiburon Boulevard, Tiburon, California**

CALL TO ORDER AND ROLL CALL

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

Absent: None

Ex-officio: Planning Manager Watrous and Meeting Recorder Flanagan

ORAL COMMUNICATIONS

There were none.

COMMISSION AND STAFF BRIEFING

Planning Manager Watrous reported that the March 24 meeting could be cancelled as no items are currently scheduled for that meeting.

Commissioner Collins reported on the progress of the subcommittee to amend the Interim Standards and Criteria for Wireless Communications Facilities. He stated that a completed draft would be ready in a couple days; the committee will then meet with the community and representatives from the wireless industry before bringing the draft back to the Planning Commission.

CONSENT CALENDAR

1. Approval of Planning Commission Minutes – February 25, 2004 Regular Meeting

Changes include:

Page 5, Paragraph 1 to read, "...Statement under Penalty of Perjury as to applicant's awareness..."

Page 5, Paragraph 3, 1st line, change "states" to "requests." Lines 2-3 to state, "...water tanks not permit or allow any other facilities on these sites other than which was directly related for the purpose of which ...engaged."

Page 5, Paragraph 4, 2nd line, change "outside" to "inside."

Page 5, Paragraph 5, change "proved additional" to "provide."

Page 5, Paragraph 6 to state, "Adopt the Sausalito Severability for Standards and Criteria."

Page 5, Paragraph 7, after "licensing," add "assigning or merging or consolidation....result in immediate termination without the Town's consent."

Page 5, new Paragraph 11, "Public notice for filing of applications."

M/S Fraser/Collins (passed 5-0) 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.

Commissioner Collins recused himself, as he is a member of the club.

Planning Manager Watrous reviewed the Staff report.

Commissioner Greenberg asked the hours of operation of Town-owned tennis courts and hours they are lighted. Planning Manager Watrous responded that he believed that none of the Town-owned courts are lighted.

Commissioner Greenberg asked if hours of operation have been previously specified as part of other conditional use permit applications. Planning Manager Watrous responded that hours of operation have been specified in some conditional use permits, but are often included as informational items rather than as conditions of approval.

Commissioner Fraser asked if the Town has a noise ordinance. Planning Manager Watrous responded that the only such ordinances have to do with construction and hour limits of construction work. He added that the Town's regulations on amplified music are designed for specific events, not for music or noise from ongoing operations.

Marcy Jones, architect, discussed the project. She stated that the proposed design was partially intended to satisfy handicapped access requirements for the club, as required by private clubs that hold events. She explained that some of the noise-generating uses that

impact the Palmer Court residents would be moved away from these residents. She said that the hedge along that side of the club would be filled in, and lighting would be shielded from the view of everyone around the site. In response to questions, she stated that the skylights are currently on the clubhouse building.

Commissioner Greenberg asked if the new buildings would be air conditioned. Ms. Jones responded that air conditioning is not planned. She said that doors and windows would occasionally be opened, but noted that the shape of the building would direct noise away from Palmer Court.

Mary Hayden, general manager of the club, stated that the club had been doing outreach to the neighbors to discuss their issues. She said that she had visited homes to view the story poles and she had discussed tree trimming to ensure that views were not blocked. She said that the pool is actively used only about 2½ months each year, and that tennis is mostly played in the morning. She stated that she is not aware of any parking issues, but if additional parking were needed, the club would valet park vehicles on its property.

Commissioner Greenberg asked about the number of social events that last until midnight. Ms. Hayden responded that usually less than three such events are held each year. She stated that club events usually end at 9:30 p.m., but occasional club activities end at midnight. She said that the club rents its facilities only to members and their guests about five to ten times each year. She said that no policy changes are planned as a result of these renovations. She stated that there is not usually outdoor music. She said that the pool area is not rented, as the pool is used in the evening by members. She added that the guest policy allows the same guest to come to the pool twice a month; a different guest can be brought every day and there is no limit to the number of guests. She stated that the activities room would have light exercise equipment for members to warm up and stretch before playing tennis, but there may be more use of the room in the winter. She said that there are young families in the club, but she does not know how many children under six years old belong to the club.

Commissioner Kunzweiler asked for more information about club memberships and estimates of membership growth. Ms. Hayden responded that annually between fifteen and 20 new members are added, with approximately twelve members leaving each year. Ms. Jones added that most tennis clubs have approximately 40 members per tennis court.

Commissioner Fraser asked if changing the entrance and exit to the club, given the traffic and stoplight at Rock Hill Road, might result in accidents. He asked if anyone discussed what effect the new driveways might have on traffic with Caltrans. Ms. Jones responded that the turnout lane was previously lengthened by Caltrans at the request of the club. She noted that the stoplight is 200 feet away on Tiburon Boulevard.

Tyler Phillips, club member, stated that everything has been done to move noise activities away from Palmer Court. He stated that no change is requested for the hours of operation, which are similar to other such facilities on the Tiburon Peninsula. He asked that the restrictions on hours of operation be removed from the resolution. He felt that limitation on the number of members was a solution in search of a problem. He said that there is no

history of impact by the club on the community that suggests that the membership is too large. He noted that the club has worked with Caltrans to make the intersection safer. He felt that a review of the conditional use permit after one year would make it difficult for the club to get financing for the project. He said that if the Town receives complaints about the club, the Planning Commission could review the use permit based upon these circumstances.

The public comment was opened.

Kathleen Bailey, acting president of the Hawthorne Terrace Homeowners Association, stated that approximately 70 homeowners were noticed about this application and none responded with concerns. She said that she has no problems with the club's operations and proposals, but that she does not speak for the Palmer Court property owners. She read her letter to the Planning Commission, and clarified that she did not suggest the club membership should be capped at current levels.

John Hermansky, 690 Hawthorne Drive, stated that he believes there would be a natural increase in the use of the building, and the increase of use should be monitored. He said that any noise generated at night travels easily to the adjoining neighborhood, when traffic has decreased. He felt that the increased parking spaces and ability for valet parking would influence the number of people who want to become members. He thought that a year is a good period to judge the effect of the project, and asked that the requirement to review the use permit not be removed from the resolution. He appreciated what the club has done the last few years and would like the relationship to continue.

Colleen Mahoney, representing Jerri Lauterwasser, 9 Palmer Court, stated that she believes the increase in the size of the hedge will not adequately baffle sound. She said that noise carries quite a bit at night in this area, and that sound baffling perimeter walls should be considered.. She felt that rental events once a month that go to midnight would impact the neighbors. She noted that club membership has increased 12 people per year since 1993, with an increase 125 additional members in ten years. She believed that the enhanced club would be more attractive to families in the community.

Clyde Columbo, 686 Hawthorne Drive, asked why a pitched roof is proposed for the clubhouse. He said that the roof would block a portion of his view, and that the roof pitch should be lowered.

Ms. Jones responded that flat roofs are generally viewed as unattractive.

Chair Snow noted the Design Review Board will discuss the roofs and heights of the buildings.

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

Commissioner Kunzweiler stated the club is an important part of the community. He thought that there was no need to limit the membership of the club, as the membership of the club would be self-limiting due to the number of tennis courts. He said that there are

many organizations in the community that do not have restrictions on hours of operation and this should not be part of the approval; however, he thought that social events should conclude at midnight. He stated that incremental increases in noise would be mitigated by the design and position of the buildings. He said that he was unsure about the need to review the permit in the future.

Commissioner Fraser stated that he applauds the neighborhood and the club for their communications with each other, and felt that a good relationship has been established. He stated that he is not sure whether the safety on Tiburon Boulevard and egress/ingress of the club are issues, but intuitively felt that these warrant further review. He felt that the club has worked hard to mitigate noise. He acknowledged that social activities generate noise, but that this is a reasonable expectation for the club. He was unsure whether vegetation would adequately mitigate any noise problems, but he encouraged dialogue to continue with the neighbors on Palmer Court to mitigate any potential issues down the road. He stated that the club is evolving, and review of the club after one year is warranted even though the club currently serves the community well.

Commissioner Greenberg stated she also appreciates the role the club plays in the community of providing recreational opportunities in a responsible manner. She acknowledged that the club is in need of upgrading and compliance with handicapped access requirements. She stated that a club to which she belongs built a children's pool and noise from the children can be piercing and impactful. She noted that the children's pool would be located on the side near Palmer Court. She said that without air conditioning, the doors of the activity area would need to be open, which would increase the amount of noise. She stated that the improved facilities would attract young families with children as members. She felt that this would be a nice addition for the club, but a terrible addition for the residents on Palmer Court. She favored eliminating the children's pool. She noted that the conditional use permit process often involves imposing conditions of approval to address issues; if there are serious violations, the Town can revoke or modify the permit. She said that it is normal to have a review period when such major changes are requested. She stated that the intent is not to stop the club from functioning. She was unsure whether anything could be done about the traffic safety issues. She said that she might consider requiring sound baffle walls, but this suggestion should be reviewed in a year. She said that she generally favors membership caps, but noted that the membership can increase as long as the use does not create problems. If a membership limit was to be set, she favored a number that would be meaningfully larger than the current membership. She said that a condition should be added to require valet parking if more than 45 cars are expected for an event. She favored a time limit for social events to end at midnight. She would ban new skylights to avoid undesirable light pollution. She felt that the spa should not be used after 9:00 p.m., as conversations in the spa and the motor running are loud. She also felt that there should be time limits for the children's pool.

Chair Snow thanked the people involved for the good relationship between the club and community, and noted that the club had reached out to the neighborhood. He felt that Caltrans and the town had done the most that could be done for traffic safety at this location. He said that his main issue is noise. He said that vegetation is not always the

best noise buffer, and that noise barriers should be reviewed after the project is in place. He said that many of the other issues would be handled by the Design Review Board. He felt that the club has been sensitive in the scale of the project. He believed that the club membership would not necessarily expand rapidly, and that perhaps a percentage increase could be restricted as a membership cap. He suggested eliminating any language in the resolution about the review period that would jeopardize financing for the club.

Commissioner Greenberg suggested that a review be conducted eighteen months after the project is completed to allow two summers and a time to evaluate any increase in membership.

Commissioner Fraser asked if it is possible to have noise level readings before construction begins and after it ends. Commissioner Kunzweiler suggested a sample of times during the day. Commissioner Greenberg stated the issue is the level and duration of the noise; she added that noise in decibels is not the concern, but rather the constancy of the sound, which could impact the nearest two neighbors and could be meaningful to the quality of their lives and property values. Planning Manager Watrous added that the measured noise levels often do not accurately reflect the intermittent noise experienced from recreational activities.

Discussion was held regarding changes to the draft resolution. It was the consensus of the Commission to require a review of the use permit after 18 months; to eliminate restrictions on membership levels; establish time limits only for the spa, children's pool and social events; and to require valet parking for events that exceed the on-site parking capacity.

M/S, Kunzweiler/Fraser (passed 5-0) to adopt the draft resolution approving a the subject application, as amended to modify Condition of Approval No. 2 to require a review of the permit after 18 months to evaluate noise, parking and traffic issues; to delete the portion of the second sentence of Condition of Approval No. 2 after "...restrictions of this permit."; to delete the third sentence of Condition of Approval No. 2; to eliminate Condition of Approval No. 3; to modify Condition of Approval No. 4 to limit hours only for the spa until 9:00 p.m., the children's pool until 6:00 p.m., and social events until 12:00 a.m. (midnight); and to add a condition of approval requiring that valet parking be provided for all events that exceed the on-site parking capacity.

Commissioner Collins returned to the meeting.

CONDITIONAL USE PERMIT; REQUEST TO INCREASE THE DURATION OF SEASONAL USE FOR A RESTAURANT AWNING STRUCTURE; 5 MAIN STREET; Ed Zelinsky and Spectrum Foods, Inc., Applicants; Assessor's Parcel No. 59-151-41.

Megan Johnson, events coordinator of Guaymas Restaurant, discussed the request. In response to questions, she stated that the canvas is white on the top with clear plastic on the sides. She stated that there is not a lot of noise from wind. She said that the awning frame structure remains up all year. She added that the request is for the most inclement

months; she said that they would consider taking the tent down earlier if the weather were nice.

Commissioner Collins asked if the side panels are soundproofed. Ms. Johnson replied that she was unsure, but she presumed that this was a consideration when it was built. Planning Manager Watrous stated that it was his understanding that the glass panels were intended as railings for safety purposes, and were not designed for sound protection.

The public comment period was opened.

Adele Woodring, president of Point Tiburon Bayside Homeowners Association, stated that their concern is not with the aesthetics of the awning; but rather with noise. She said that she can hear what people on the roof deck are talking about, and that events beneath the awning often go longer than the time intended. She said that when there are events on the rooftop area, she must close her doors and windows and is not able to enjoy the outside. She stated that there have been police reports filed about the noise. She felt that the Town should maintain the character of the town and respect the residents by paying more attention to noise concerns. She asked that the period the awning is allowed not be extended.

Commissioner Kunzweiler asked if there is a difference in noise with the tent up or down. Ms. Woodring responded that there is no difference, as noise passes through the tent.

Commissioner Collins asked if consideration had been given to enclosing the rooftop area. Ms. Johnson responded that that had not been considered, as people like the open area as well. She said that events in the summer end at 11:00 p.m., and the capacity of the rooftop area is 160.

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

Commissioner Collins stated that he was troubled with noise. He felt that more activity would occur if the rooftop area is covered more often. He said that there needs to be a better way of addressing the noise issue.

Commissioner Greenberg stated that she was troubled by the length of time requested. She noted that during the winter, residents are inside more often with their windows and doors closed. She said that she is interested in supporting business, and stated that the previously established time limits on the awning were unrealistic. She suggested that the period for the awning be November 15 through the end of February, with five or ten extra days during the year to erect the awning.

Commissioner Kunzweiler stated that the restaurant has a special location at the end of the commercial district and facing a highest-density neighborhood. He felt that the awning looks like a modest investment for the restaurant. He wondered if there was a better solution which would preserve views but would look more attractive. He said that an awning on top of a building in downtown Tiburon flies in the face of the Town's Downtown Design Guidelines. He stated that he would be probably be amenable to a limited time

extension for the awning, with a strong recommendation to come up with a better design solution.

Commissioner Fraser stated that there needs to be a balance between the business community and the residents. He noted that Guaymas is one of the few restaurants that has been a part of the community for a sustained period. He thought that a different type of cover would reflect a more long-term solution that preserves views and protects the neighbors.

Chair Snow stated that he had been a member of the Design Review Board when the awning was first reviewed, and at that time, the awning was intended to remain for a short duration. He felt that a more permanent solution that deals with the noise issues would give the restaurant the space they desire without impacting the neighbors. He said that he would either shorten the duration requested for the awning or direct the applicant to come up with a better solution.

Commissioner Collins suggested investigating an approach for a permanent roof cover, but noted that a 3½ month period for the awning would be more appropriate than the eight month period requested.

Commissioner Kunzweiler suggested that the application be rejected, but the resolution could include a statement that the Planning Commission wants to support business and see it flourish, but that there are better alternative solutions that could be found to which the Commission would be more receptive.

Commissioner Greenberg stated she is concerned that the alternative solutions may be worse than the awning. She said that the bulk of a more permanent rooftop structure may not be in the best interests of the town. She noted that this would require a major capital investment, and the intent of the application is to generate additional revenue. She felt that there should be a continuance to give applicants more time and encourage them to come up with a better design solution.

Commissioner Collins agreed with the concept of a continuance, noting that any time extension that the Commission was likely to approve would not take effect until next winter.

M/S, Fraser/Collins (passed 5-0) to continue this item to the May 26, 2004 meeting.

4. REQUEST TO AMEND THE POINT TIBURON PRECISE PLAN TO ALLOW ADDITIONAL FLOOR AREA; 207 PARADISE DRIVE; Susan Olson and Paul Ortner, Applicants; Assessor's Parcel No. 59-380-35.

Susan Olson, owner, discussed the project.

Commissioner Collins asked if she is aware of any other units in the Point Tiburon complex that have experienced similar leaks. Ms. Olson responded that she was not aware of any other such problems, adding that her situation is unique because of the expansion of the lower unit.

The public comment period was opened.

E.C. Grayson, 302 Paradise Drive, read a letter which he distributed to the Commission. He said that he supports the owner's request if the same privilege would be granted to those who want to modify their floor plans and to enclose a similar space. He estimated that five other units in this complex could make such a request. In response to questions, he stated that he has experienced no leaks. He stated that he had previously requested approval for an addition of about 70 square feet.

Bob Fishman, 205 Paradise Drive, stated that he is concerned about allowing alterations that would have negative impacts on adjacent residents. He said that his home is adjacent and below that of the applicants, and he is concerned that the light into his living room would be diminished by the proposed addition.

Commissioner Greenberg asked if he would support the application if single, unsectioned glass windows were installed in the enclosure and the applicant was not allowed to block the windows. Mr. Fishman responded that there would be two glass walls, which would still cut down the light into his living room. He felt that the leak could be repaired without installing glass walls.

Paul Ortner, owner, stated that he had prevailed in a previous lawsuit regarding this situation and a mediator is involved as well. He said that the litigation was about construction defects that are causing the leaks, and about who would assume liability. He said that he wanted to correct a situation with which he deals on a daily basis. He stated that his request would not affect the sunlight into the lower units.

Commissioner Kunzweiler asked if this area is considered to be common area, and stated his understanding is one cannot build in the common area. Dr. Ortner responded that the decks are common area. Planning Manager Watrous stated this is not a pressing issue, as the applicant would be able to obtain building permits if the homeowners association and the adjoining property owner approve the project.

Commissioner Collins asked whether the leakage problem would be solved if the area of the proposed addition was simply enclosed with glass. Dr. Ortner responded that this would not be acceptable, because he would have to look at the unsightly area. He stated that his issue is that the roof in the area currently is leaking.

Commissioner Collins stated that applicant has a right to have the leak fixed, and can exercise that right in court. Dr. Ortner stated that the issue currently is in litigation.

Adele Woodring, president of Point Tiburon Bayside Homeowners Association, clarified that after the association has adopted architectural review standards requiring that any addition must be first approved by the Town of Tiburon, but also discouraging additions in the same manner as the previous Town Council decision. She said that homeowners are informed that it is not possible to enclose areas because of Town policy. She explained that the leak is not in the applicants' unit; it is a leak that comes through the open space onto the little

roof above 208 Paradise Drive. She stated that the homeowners association thought that the leak was fixed but it was not; she said that when the winter rains cease, the leak will be repaired.

Commissioner Fraser stated it appears that the home at 208 Paradise Drive is the only unit on the bayside that has an enclosure of this nature. Ms. Woodring noted that five other units in the complex enclosed other space before the Town adopted its most recent policy about discouraging additions to the Point Tiburon complex.

Paula Weaver, attorney for the applicants, noted that the homeowners association has stated that they have no objection to this application. She stated that to her knowledge, the applicants' home is the only one in the complex with this specific condition. She said that she understands that the proposed enclosure would solve the leak problem into the lower unit.

Ms. Olson stated that the leak into 208 Paradise Drive has been going on for eleven years. She said that the entire wall had turned to sawdust.

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

Commissioner Collins asked if an enclosed area is not accessible is it still counted as floor area. Planning Manager Watrous replied that such enclosed space would generally meet the definition of floor area.

Chair Snow asked if an area covered by an overhanging roof would be considered to be floor area. Planning Manager Watrous responded that such areas are considered to be floor area if enclosed by more than 50 percent of its perimeter. He noted that the Point Tiburon project was constructed prior to the adoption of the Town's floor area guidelines.

Commissioner Kunzweiler said that he was unsure what problem is trying to be solved by the applicants. He said that he is confused about the purpose of the application, because if the sole purpose is to fix the leak, there are many ways to fix a leak that can be accomplished without creating new floor area. He said that eliminating an unsightly design or expanding the unit are different issues. He said that he cannot support the expansion, as there are other ways to fix leaks. He said that efforts to fix a bad design can be addressed, but it is the responsibility of the homeowners association to fix the leak. He noted that this physical condition existed when the unit was purchased by the applicants.

Commissioner Fraser stated the reason for this application is because the addition for 208 Paradise Drive was approved in 1991; he said that the addition at the subject location should have been done at that time or not at all. He said that, as a rule, flat roofs leak, and this has resulted in an unmanageable situation. He felt that this application can be addressed as a unique condition, as no other buildings in this complex have a lower unit that has been built out with a leftover notch above. He said that he favored approving an amendment that would allow applicant to enclose the area but not encourage any more additions in the complex. He said that this application is intended to fix a problem not created by the owners.

Commissioner Collins stated that he sees this more as a leak issue. He said that the condition existed when the applicants bought the home; it was unsightly then and it is now. He said that he could not make the findings as a one-time situation.

Commissioner Greenberg stated that she always upholds the integrity of precise development plans unless there are exceptional conditions. She said that the additions made to Point Tiburon that were approved without a precise development plan amendment are the problem. She noted that the development of Point Tiburon was hotly contested, and it was clear that additions were not to be allowed. She stated that an expansion of the lower unit was allowed incorrectly, creating an unsightly condition with a leak problem due to a flat roof. She felt that this project makes sense, as a 36 square foot enclosure would not make or break the entire complex. She said that the problem has been caused by the Town and has not been solved by the homeowners association. She felt that the addition would not change the building design in any meaningful way. However, she said that after this application, no more expansion should be allowed in Point Tiburon.

Chair Snow stated that this condition existed when the applicants purchased the property. He felt that there is merit to the language in the previous Town policy discouraging additions to Point Tiburon. He said that the windows of the addition may not always be bare, and could obscure sunlight to the home at 205 Paradise Drive. He stated that he was concerned about the equity of the application, as the approval would open up the potential for additional requests for small building expansions.

M/S, Fraser/Greenberg, (failed 3-2, Collins, Kunzweiler and Snow dissenting) to adopt the draft resolution recommending to the Town Council approval of an the application.

M/S, Kunzweiler/Collins (passed 3-2, Fraser and Greenberg dissenting) to direct Staff to prepare a resolution of denial for the application.

5. REQUEST TO AMEND THE CYPRESS HOLLOW PRECISE DEVELOPMENT PLAN TO ALLOW ADDITIONAL FLOOR AREA; 50 MONTEREY DRIVE; David and Dana Williams, Applicants; Assessor's Parcel No. 34-394.

David Williams, owner, discussed his request.

The public comment period was opened.

Colleen Mahoney, architect, stated that she had been the architect for the project for 170 Rancho Drive, for which the Town approved a modest addition within the confines of the existing house, similar to those approved for several other previous projects. She noted that the house was approved by the County, where less attention was focused upon the empty space that is created beneath a structure as a house steps down the hill.

The public comment period was closed.

Commissioner Greenberg stated that she believes in the integrity of Precise Development Plans. She noted that the development had occurred in the county and would have looked different if it had been approved in Tiburon. She said that her problem is not with this specific application, but with setting a precedent to have larger homes in this subdivision. She said that this sends a message that it is acceptable to convert this sort of unused space within the existing footprint of the house. She stated that Staff and the Design Review Board are now more aware of this issue and try to insure that this empty space is not created in future projects. However, she added that there are many homes in Tiburon with such available space. She stated that these additions raise issues of increased intensity of use and traffic. She was concerned that, over time, there will be many applications from this subdivision and Tiburon. She said that she could not support this application.

Commissioner Collins stated if this were the first application of its kind, he would agree with Commissioner Greenberg. He said, however, that it would be difficult to deny this application given the approval of the previous amendments. He noted that the previous applications were similar in size, with no exterior expansion and no opposition.

Commissioner Kunzweiler stated that the precedent that has been set by the previous amendments is almost shocking. He agreed with Commissioner Greenberg philosophically, but said that, unfortunately, fairness is required in the review of these applications. He noted that the Town Council recently approved a crawl space conversion that had been rejected by the Design Review Board. In this case and in this neighborhood, he said that he could not toe the line on such additions. However, he did not want this decision to be interpreted as allowing open season on converting crawl spaces in Tiburon.

Commissioner Fraser stated that, from a practical standpoint, the space is already present in this house, and no additional bedrooms or bathrooms are proposed. He said that there was a question of where to draw the line. He stated that he could support this application because of the decision made on the previous amendments and the design of the project.

Chair Snow stated the Town is attempting to manage and control projects to minimize unfinished areas that have the potential for expansions that would increase the floor area ratio. However, in this subdivision, he felt that the Town must live with the circumstances of the approved building designs. He noted that the proposed addition would not be visible and would have no visual impacts or other effects on neighbors.

Commissioner Greenberg asked if a condition of approval could be added that a bathroom, kitchen or bedroom could not be added at any time in the future.

Planning Manager Watrous stated that, while he understands the intent of such a requirement, someone could apply for a building permit for an interior remodel to add such improvements, and it would be difficult for the building division to know of this restriction.

Chair Snow stated that each application should be reviewed on its own merits, said that he would support this application.

M/S, Kunzweiler/Collins (passed 4-1, Greenberg dissented) to adopt the resolution recommending approval of this application to the Town Council, with the added condition of approval requiring that a statement be recorded against this property requiring that no bathroom, bedroom or kitchen may be constructed within the area approved under this application.

ADJOURNMENT

The meeting was adjourned at 11:00 p.m.

WAYNE SNOW, CHAIR
Tiburon Planning Commission

DANIEL M. WATROUS, SECRETARY