

**TOWN OF TIBURON
PLANNING COMMISSION
1505 Tiburon Boulevard
Tiburon, CA 94920
Action and Approved Minutes
Regular Meeting
July 28, 2004**

ACTION MINUTES

CALL TO ORDER AND ROLL CALL 7:30 PM

Present: Chairman Snow, Commissioner Collins, Commissioner Fraser
Absent: Commissioner Kunzweiler
Ex-Officio: Planning Manager Watrous and Administrative Aide
Creekmore

OATH OF OFFICE TO NEW COMMISSIONER – JIM HERMANN

**ELECTION OF CHAIRMAN AND VICE CHAIRMAN Commissioner Collins
elected Chairman; Election of Vice Chairman Continued to 8/11/04**

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. Approval of Planning Commission Minutes – July 14, 2004
 Approved as Amended 4-0

PUBLIC HEARING

2. 1600 JUANITA LANE: CONDITIONAL USE PERMIT APPLICATION TO OPERATE A PERSONAL FITNESS CENTER (CURVES); File #10405; Belvedere Land Company, Owner; Evelyn Foster, Applicant; Assessor's Parcel No. 59-102-16 **Continued to 8/11/04**

3. 6 INDIAN ROCK COURT: REQUEST TO AMEND THE PERINI PRESERVE PRECISE PLAN TO ADJUST A BUILDING ENVELOPE File #30403; Christopher Senn and Inge Hendromartono, Owners; Marci Camacho, Architect and Applicant; Assessor's Parcel No. 038-400-03 **Recommended Partial Approval to Town Council 4-0**

ADJOURNMENT 9:55 PM

Future Agenda Items
a072804

**MINUTES NO. 895
PLANNING COMMISSION
July 28, 2004
Regular Meeting
Town Council Chambers
1505 Tiburon Boulevard, Tiburon, California**

CALL TO ORDER AND ROLL CALL

Present: Chair Snow, Commissioners Collins and Fraser

Absent: Commissioner Kunzweiler

Staff Present: Planning Manager Watrous and Administrative Aide
Creekmore

OATH OF OFFICE TO NEW COMMISSIONER

Planning Manager Watrous administered the Oath of Office to Jim Hermann, who was duly sworn and took his seat on the Commission.

ELECTION OF CHAIRMAN AND VICE CHAIRMAN

M/S, Fraser/Hermann (3-0-1, Collins abstained) to elect Commissioner Collins as chair.

Commissioner Collins took the gavel as chair.

Chair Collins stated that the election of vice-chair would be deferred to the August 11, 2004 meeting.

ORAL COMMUNICATIONS

There were none.

COMMISSION AND STAFF BRIEFING

Planning Manager Watrous stated that there are no future agenda items at this time for the August 11 meeting, with the possible exception of the time extension application for the Guaymas awning. He said that the Commission will receive notification if the meeting is to be cancelled.

Commissioner Collins asked what the status is for the construction at 41 Main Street at the old Tiburon Tommy's location. Planning Manager Watrous replied that while he is not aware of their construction schedule, it is his understanding that they are making good progress.

CONSENT CALENDAR

1. Approval of Planning Commission Minutes – July 14, 2004

Changes include:

Page 1, 9th paragraph, 2nd line, insert "employment" after "leaving Town".

Page 2, 6th paragraph, 3rd line, change "cohort" to "group".

Page 4, 2nd paragraph, 1st line, change "to have little" to "to contain sufficient".

Page 4, 3rd paragraph, 2nd line, change "concern" to "surprise" and insert "new" after "would leave little".

Page 5, 1st paragraph, 1st line, change "existing" to "exiting".

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

PUBLIC HEARING

2. 1600 JUANITA LANE: CONDITIONAL USE PERMIT APPLICATION TO OPERATE A PERSONAL FITNESS CENTER (CURVES); File #10405; Belvedere Land Company, Owner; Evelyn Foster, Applicant; Assessor's Parcel No. 59-102-16

Evelyn Foster, applicant, described her application to open a Curves facility as a low-key fitness center focused on women aged forty and over. She said that although it is a national franchise, each owner is permitted to choose the look of the individual facilities and Foster would propose a design that blends well into the community. She said that other than a "Curves" sign on the front door, there would be no changes to the exterior of the building. She did not expect significant increases in parking and traffic as a result of the use.

Commissioner Hermann asked Ms. Foster to address whether the six parking spaces to be provided for the use would be adequate and if a back-up parking plan had been created should parking problems arise in the future. Ms. Foster replied that the Larkspur Curves facility – which also has only six parking spaces - serves as an example, where the rotation of members coming and going does not create traffic and parking problems. She noted that many of their members walk to the facility. She explained that she has discussed the use of the Boardwalk Center parking lot by Curves members with the Belvedere Land Company, as it is understood that members may be visit some of the stores in that center before or after working out.

Commissioner Fraser asked how many members are anticipated at the proposed center and how frequently each member is expected to use the facility. Ms. Foster replied that approximately 500 members are expected and that members visit the facility on average about three times per week.

Commissioner Fraser noted that parking in downtown Tiburon is at a premium and asked whether signs would be used to denote Curves parking spaces. Ms. Foster replied that signs would be used. She added that the Commission was expressing the same concerns that the City of Larkspur had with parking, but that parking at the Larkspur center has not been problematic.

Commissioner Snow asked whether she had obtained permission to use the Bell Market parking lot from the owners. Ms. Foster replied that she plans to meet with local merchants and inform them of how to identify Curves members, with the understanding that they intend shop at the market as well. She reiterated that she has received an endorsement from the Belvedere Land Company to use Boardwalk Center parking spaces.

Jim Allen, Belvedere Land Company, confirmed that he supports the use of the Boardwalk Center parking lot by Curves employees and members. Mr. Allen added that there are 185 parking spaces at the center, the minimum requirement being 145.

Commissioner Hermann commented that a membership base of 500 people would seem to require more spaces. Ms. Foster replied that the Larkspur center has a similar number of members, with a similar parking arrangement that has proven to be adequate.

Elizabeth Sassano, Tiburon resident, said that opening a Curves facility is not in the best interest of the Town because it excludes men, and would not be the type of high-quality service typically found in Tiburon. She stated that Curves staff is not well trained, and she felt that the facilities, lacking lockers and showers, are not conducive to running errands after working out. She added that there are currently eleven Curves centers within 10 miles, and that their limited hours of operation can lead to parking problems. She also took issue with the national owner's affiliations with pro-life groups and cautioned that those affiliations may attract controversy.

Susan Machtinger, Tiburon resident, said that the facility does not meet the needs of mid-life women and that a spartan health club would not be consistent with other businesses in Tiburon. She felt that the advertising for this chain was duplicitous and led to the disempowerment of women. She also took issue with the national owner's pro-life affiliations.

Evelyn Woo, Tiburon resident, said that she recently visited a local Curves facility and described the décor as distasteful. She said that the center lacked certified fitness trainers that could adequately answer health and safety questions. She agreed with previous comments that the facility would not be in line with the character of the town.

Ina Tabinian, Belvedere resident, described Curves as a low-cost, "down-market" franchise that would not fit in with the atmosphere of Tiburon. She too took issue with the national owner's pro-life affiliations and worried that it may attract local controversy.

Glorianne Forence, Belvedere resident, said that she felt that the parking would be inadequate for the center, would likely attract controversy to the town.

Danny Kemper, Tiburon resident and owner of the Fitness in Tiburon facility in the Point Tiburon Plaza, said that he is opposed to the application due to it being a franchise that would compete with locally owned businesses. He said that Curves is not a member of the National Association of Health Clubs. He acknowledged that competition is not a reason to deny an application but hoped that the Commission would take that into consideration, noting the Town's current attempts to revitalize downtown Tiburon.

Mr. Allen noted that Hadley Construction operated out of the subject location and said that they had thirty work trucks going in and out of the parking lot during business hours. He added that there is plenty of overflow parking available.

Chair Collins asked the applicant how many members she expects to visit the club during the week. Ms. Foster replied that she expects approximately one hundred people per day.

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

Commissioner Hermann acknowledged the concerns expressed by the audience and said that the parking issue should be evaluated. He stated that it is not the role of the Commission to pass judgment on political alignments or the probability of a business's success. He said that the public will be the ultimate decision maker on the success or failure of a business. He said that the biggest concern within the purview of the Commission is parking. He also stated that many Tiburon businesses are not doing well, possibly due to their lack of brand identification.

Commissioner Fraser stated that a bit of diversity of businesses is beneficial to a community. He said that he is confident that the parking issues can be mitigated through the help of the Belvedere Land Company. He would like the applicant to address whether their employees have been properly trained before he makes a decision on the application. He reiterated that the Commission cannot prohibit a business on the basis of differing points of view.

Commissioner Snow said that he personally knows of people that have benefited from being members of Curves and that not all Tiburon residents can afford high-priced health club memberships. He stated that the use would not seem to be any adverse impacts such as signage or debris around the site. He said that it was difficult to gauge membership and participation, and that six parking spaces may not be adequate. He stated that he might be in support of the item if the parking were better defined.

Chair Collins stated that the Commission's responsibility is to consider whether a proposed use is appropriate, and noted that it is not their responsibility to address other non-relevant issues. He stated that current parking conditions at the post office (adjacent to the proposed facility) are already a problem and he could foresee additional congestion issues. He took issue with the possibility of members using post office parking and felt that parking at the Boardwalk Center may negatively impact the center's patrons during peak times. He said that he would like to receive more information from the applicant, particularly related to daily member usage.

Commissioner Snow asked what type of data could be provided to address parking concerns. Ms. Foster replied that she could provide data on member

usage, but that it would not indicate how they arrived at the facility. Commissioner Snow requested that she provide data for both the Mill Valley and Larkspur centers.

Commissioner Fraser requested that Ms. Foster come back to the Commission to respond to parking, staff training and education, and what types of support are provided to its members.

M/S, Fraser/Snow (passed 4-0) to continue the item to the August 11, 2004 meeting.

3. 6 INDIAN ROCK COURT: REQUEST TO AMEND THE PERINI PRESERVE PRECISE PLAN TO ADJUST A BUILDING ENVELOPE; File #30403; Christopher Senn and Inge Hendromartono, Owners; Marci Camacho, Architect and Applicant; Assessor's Parcel No. 038-400-03.

Christopher Senn gave an overview of his application to amend the building envelope at 6 Indian Rock Court and said that the amendment would be consistent with the intent of the Preserve Precise Plan. He stated that it is his intention to keep an open feel to the area.

Commissioner Hermann expressed concern that a six foot fence would not be adequate to keep deer off of the property.

Marci Camacho, landscape architect and applicant, said that the fence location on a hill would deter deer from jumping over it. She presented the Commission with photographs depicting the proposed fence and said that four by four posts would be used.

Commissioner Hermann asked if it would be feasible to have deer-proof landscaping without a fence. Ms. Camacho replied that the vegetative likes and dislikes of deer vary greatly and that the specific dislikes of a particular group of deer can only be determined by trial and error. She said that deer resistant plants are being considered to soften the look of the fence in areas outside of the view corridor. Planning Manager Watrous confirmed that deer in the area in question are very voracious, which has resulted in many design review applications for deer fences.

Ms. Camacho noted that while it is possible to use vegetative deterrents, the plan to install a spa warrants the need for a fence. She added the proposed deer fencing meets the requirements for pool protection required for the spa and small pond that they would like to install if their budget allows for it.

Ms. Camacho addressed the eastern expansion of the scenic corridor and said that the stepping stones would provide increased ease of access to the property.

Drought, deer, and fire resistant native plants are proposed to prevent erosion and provide fire protection. Ms. Camacho presented photographs of fire resistant plants and stepping stones.

With regards to a staircase on the property outside the approved building envelope, Commissioner Fraser asked if Mr. Senn was the original owner of the home. Mr. Senn replied that he is the original owner, but bought the house after the design was approved. Planning Manager Watrous added that the staircase appeared on the building plans but not on the design review plans, and the Town believes that the staircase was an oversight by the Town.

David Stadler, president of the Homeowners' Association and member of the architectural review committee, said that these groups had approved this project. He said that while fences outside of building envelopes are typically not permitted in this subdivision, this would be an exception due to the uniqueness of this and the adjacent lot. He said that the proposal is a reasonable solution to the owner's deer problem and that it would be beneficial to the community.

Commissioner Snow asked why granting approval to this application would not encourage other residents to make similar applications. Mr. Stadler replied that the CC&Rs of the Homeowners' Association are designed to take into account the impacts made on common view corridors. Mr. Stadler added that no other neighbors have this particular situation.

Kim Graves, owner of the adjacent lot on Indian Rock Court, said that the topography of the lots is conducive to the proposed fencing while other lots in the community are not. She said that she also plans to submit a similar application to construct fencing to the side property line.

Mr. Senn stated that the proposed fence is a long distance from the bottom of the lot. He confirmed that there would only be one fence along the common property line.

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

Commissioner Fraser stated that he visited the site, and said that he is comfortable with expanding the building envelope on the western side but that he is not in support of the stepping stones or vegetation on the eastern side. He noted that the property at 8 Indian Rock Court had been required to remove vegetation within the same scenic easement. He added that he would like to preserve the view corridor as it currently is.

Planning Manager Watrous clarified for Commissioner Hermann that the question before the Commission is whether to allow the expansions of the building envelope and, if so, what types of fencing and vegetation would be acceptable within these expanded areas. He stated that the design of the fence

would be reviewed through the design review process. He confirmed that deer fencing requests are reviewed on a case-by-case basis.

Commissioner Hermann stated that in concept, he had no problem with the stepping stones or vegetation plans in the eastern envelope expansion. However, because other applicants have been denied in the past due to the view corridor, said he felt that there is an issue of fairness. With respect to the western envelope, Commissioner Hermann said that he supports the expansion, yet the overall idea of deer fencing in the area is a concern to him due to its visibility from downhill.

Commissioner Snow stated that he was very familiar with the history of the subdivision and the vegetation at 8 Indian Rock Court. He stated that this area was intended to provide visual to Ring Mountain, and that it was the responsibility of the Commission to maintain this view corridor. He felt that the proposed deer fencing would be slightly out of character and would create visual impacts to the rest of the community. With respect to the eastern expansion, he said that he is not in support of any changes to the view corridor, including the proposed stepping stones. He said that he could support the western envelope expansion, but he was concerned that the natural landscaping would be changed.

Chair Collins noted that the Design Review Board had approved the design of the deer fencing, which he found to be relatively innocuous. He noted that the neighbors support the western expansion, and that the fencing would not really be noticeable from off site. He did not want to see fencing with a visible horizontal member across the top of the fence. He said that he could not support the eastern expansion on the basis of fairness.

It was the consensus of the Planning Commission that the western envelope expansion was acceptable; that they the eastern envelope expansion was not appropriate; and that fencing should utilize the least visibly noticeable materials, with no horizontal wooden members.

M/S, Fraser/Hermann (passed 4-0) to adopt the draft resolution as modified.

ADJOURNMENT

The meeting was adjourned at 9:51 p.m.

RICHARD COLLINS, CHAIRMAN
Tiburon Planning Commission

ATTEST:

Daniel Watrous, Secretary