



**TOWN OF TIBURON
PLANNING COMMISSION**
1505 Tiburon Boulevard
Tiburon, CA 94920
Action and Approved Minutes
August 11, 2004 – 7:30 PM

ACTION MINUTES

CALL TO ORDER AND ROLL CALL 7:30 PM

Present: Chairman Collins, Commissioner Fraser, Commissioner Hermann,
Commissioner Kunzweiler; Commissioner Snow

Ex-Officio: Planning Manager Watrous, Minutes Clerk Flanagan

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.

ELECTION OF VICE CHAIRMAN Commissioner Kunzweiler Elected as Vice Chairman

COMMISSION AND STAFF BRIEFING

Staff Update
Commission Information Items

CONSENT CALENDAR

1. Approval of Planning Commission Minutes – July 28, 2004 **Approved as Amended 5-0**

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. **Approved 3-2**

ADJOURNMENT 9:30 PM

Future Agenda Items

5 Main Street (Guaymas); Time Extension (TBD)

Wireless Communications Facilities Standards (TBD)

**MINUTES NO. 896
PLANNING COMMISSION
August 11, 2004
Regular Meeting
Town Council Chambers
1505 Tiburon Boulevard, Tiburon, California**

ROLL CALL

Present: Chair Collins, Commissioners Fraser, Hermann, Kunzweiler and Snow

Staff Present: Planning Manager Watrous and Meeting Recorder Flanagan

ELECTION OF VICE-CHAIRMAN

M/S, Fraser/Snow (passed 5-0) to elect John Kunzweiler the Vice-Chairman.

ORAL COMMUNICATIONS

There were none.

COMMISSION AND STAFF BRIEFING

Planning Manager Watrous reported that nothing is scheduled for the August 25 meeting, which may be cancelled. He said that the updated standards and criteria for wireless communications facilities is making progress, but is not likely to be ready for the August 25 meeting.

CONSENT CALENDAR

1. Approval of Planning Commission Minutes of August 11, 2004

Changes include:

Page 5, 1st paragraph, 3rd line, change “business” to “non-relevant.”

M/S, Snow/Hermann (passed 5-0) 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
(continued from the meeting of July 28, 2004).**

Planning Manager Watrous reviewed the Staff report.

The public comment period was opened.

Evelyn Foster, Mill Valley, applicant, stated that she still believed that this fitness center would be an asset to the Tiburon community. She summarized her responses to the questions about the politics of the owner of Curves. She presented the results of parking and traffic surveys of the Larkspur and Mill Valley Curves, where the need for parking exceeded six spaces only 23 percent of the time. She stated that her landlord would allow clients to use excess parking spaces in the Boardwalk Center. She added that parking is also available on Tiburon Boulevard, on Beach Road when postal employees leave in the evening, plus metered parking. She said that she had spoken with other local business owners, who seemed supportive of her business.

Commissioner Hermann asked if any clients go through the 30 minute workout twice. Ms. Foster responded that muscle fatigue occurs after 30 minutes and a double workout is discouraged.

Commissioner Kunzweiler stated that the provided parking is not particularly visible, and thought that people would drive into the lot to look for a space then back out if there are no spaces available. He asked how the risk of people backing out in a narrow space could be mitigated. Ms. Foster responded that members arrive at any time, with a continuous rotation. She suggested that members would be able to see if there was space in the rear parking lot, then park in the Boardwalk Shopping Center or at Bell Market if spaces were not available.

Commissioner Kunzweiler stated that members might go shopping elsewhere and then work out. Ms. Foster responded that member were unlikely to bring groceries to the fitness center, but would instead shop after working out.

Commissioner Kunzweiler asked about placing time limits on the parking spaces. Ms. Foster responded that members do not spend more than 35 minutes at one time, and that there would be no place in the facility to linger. She said that she would monitor the parking situation, and if people park excessively, this would be addressed.

Ms. Foster presented information on staff training, and stated that each employee does everything-- membership presentations, equipment training and training members – and that all are CPR-trained. She said that there would be a maximum of two employees at the facility at one time, and only one employee from 6:00 to 8:00 a.m. She said that she would be the third employee on occasion.

Jim Allen, Belvedere Land Company, described the spaces behind the post office that would be used for the business. He said that during most of the daytime hours (10:00 a.m. to 4:00 p.m.), post office trucks and vans are not on the site, which leaves more turnaround

space. He described his efforts to monitor parking in the Boardwalk parking lot and the post office lot. He suggested that the management of Curves would monitor its own spaces.

Commissioner Fraser noted that he had visited the parking lot at 5:00 p.m., before this meeting, and found no empty spaces. Mr. Allen responded that other downtown employees currently park there, but said that once the new business is established, those other employees would park elsewhere. He discussed the amount of paid parking that occurs in the Boardwalk parking lot on weekends.

Thelma Lee Rice stated that she is thrilled at the idea of having a Curves center in Tiburon because she likes to shop in Tiburon rather than Mill Valley. She said that most people interested in health do not park next to the building, as the extra walking is good for them. She said that her son, who is a doctor, says that anything that keeps people exercising for 30 minutes is good.

Michelle Scott stated that she spends her retail dollars in Mill Valley when she attends the Curves center there, but she would prefer shopping in Tiburon.

Robin Moore stated that members simply go in and out, and do not hang around to chat. She said that members are respectful of parking, and that the facilities are quiet and behind curtains. She said that she worked at 1606 Juanita Lane for five years and did not observe any parking problems.

Marcia Rubenstein supported the application, and noted that the business would be closed on Sunday and open on Saturday only from 7:30 a.m. to 1:00 p.m., and therefore would not impact downtown parking on weekends.

Laura Bellos stated people should not mix exercise with politics. She said that she would shop at the Boardwalk Market and other business if this center was allowed in Tiburon.

Jean Vandebroek stated that she hoped that there will be a Curves center in Tiburon.

Robin Dailey stated she recently became a member of Curves in Mill Valley and looked forward to one in Tiburon. She said that she serves on a committee of merchants looking for ways to bring more business to Tiburon, and felt that this center would help business downtown.

Eric Hartman objected to people who opposed this application based on political issues, and applauded the Commission for dismissing irrelevant concerns.

Robin Wray stated that the fitness center would be beneficial to Tiburon, and that she knows six or seven people who will walk there. She said that Curves provides a great workout for people on a budget.

Andre McLeod stated that she is hooked on Curves and was excited to learn it would be Tiburon. She said that this center would support the local community.

Dorothy Kelly stated that over the years she has gone to several gyms and she preferred Curves, and has had good results according to her physician.

Cynthia Elsberg stated she also would be thrilled to have Curves in town. She said that she preferred shopping in downtown Tiburon, and would do so if a Curves center was there. She felt that there is room for two different types of fitness centers in downtown.

Julie Kaufman stated that she looked forward to walking to Curves, and felt that people are getting healthier because of these centers.

Wyman Harris stated that he is a member of Fitness in Tiburon, and that he generally favors anything that makes people more fit. He felt that some women may start at Curves and graduate to Fitness in Tiburon. He said that politics should not enter into this decision. However, he said that parking is a concern, as Curves patrons would use the post office parking lot that is already frequently congested. He said that a plan is needed to prevent parking problems, and it appears that a lot of thought given to this. He said that membership of Curves could drain off enough people from Fitness in Tiburon that it could bring about that center's demise, and he would be unhappy if this occurred. He suggested that the memberships of Curves and Fitness in Tiburon should be analyzed to ensure there is room for both facilities in Tiburon.

Effie Westfall stated that Curves is a franchise business, and it has been her observation that chains and franchises are supposed to be exactly alike. She said that part of the character of Tiburon is the uniqueness of each business, and she would not want franchises and chain businesses to come to downtown Tiburon. She felt that, over time, this would reduce the special and unique character of the town.

Julie Barton stated she concurred that a decision on this application should not be based on political grounds. She said that the major issue is with the parking. She said that she uses the post office, where parking is difficult, and shops at Boardwalk Market, and she thought that it would be unrealistic to monitor the parking every day. She said that if there was more parking in downtown, she would do shop more in Tiburon. She felt that it was unrealistic to expect people to walk to Curves from the Boardwalk Shopping Center and back in the cold, wet winter. She thought that the center would not help existing businesses that much.

Betty Sassano stated she wrote the letter in the Ark and did not suggest that the Commission should make a decision based on Curves' founder's beliefs. She said that her point was that this is a business that is not without controversy and therefore would not be in the best interests of the town. She said that the real issues are that Curves is a chain and the parking situation. She said that if the Mill Valley facility is crowded, members would drive to Tiburon. She supported Tiburon merchants, and said that if Curves was allowed to locate in the town, this would open the door to other chain businesses. She noted that the national goal of Curves' was to enter the weight loss business, with a goal to double their membership, which would bring even more people into the area and cause more parking problems.

Amy Kemper, one of the owners of Fitness in Tiburon, stated she is concerned because she has a small family-owned business that could be detrimentally affected by another facility pulling from the same small market group. She said that the closure of her center would affect men and women who work out at her full-service fitness facility. She stated that this is too small a market for three fitness centers. In response to questions, she stated her club has 250 members; 60 percent are women and approximately 55 percent are over the age of 35.

David Lake asked if the proposed center would comply with handicapped access requirements. Planning Manager Watrous stated he believes it will be, but that is not an issue for the Planning Commission to review.

Joanna Kemper, an owner of Fitness in Tiburon, stated that she hoped that the Planning Commission would discourage the practice of placing pamphlets advertising the business to be placed on cars in parking lots, as had happened at another Curves location in the county.

Ina Tabinian stated that none of the objections to this application have been on the basis of politics or religion. She said that she opposed this business because it is a “low-end” franchise and because of parking problems. She said that she simply had wanted to inform people of the political and religious beliefs of the Curves’ founder.

Evelyn Woo stated that she still has concerns about the training of the staff and safety issues. She felt that one week is insufficient to train staff in CPR and nutrition. She said that she visited the Mill Valley Curves, and was concerned that the staff did not know what to do if there was an accident. She said that it is incumbent upon the Planning Commission to maintain the quaint village character of Tiburon.

Ms. Foster stated that all Curves facilities are fully ADA compliant.

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

Commissioner Kunzweiler stated that he had visited the other health clubs in Tiburon. He said that the Planning Commission must stand behind local businesses. He acknowledged that there are many businesses addressing different needs, but Tiburon does not have to provide for them all. He noted that there are many other Curves centers nearby. He stated that the Town cannot build up the local economy if local businesses that have already invested in Tiburon are undercut.

Commissioner Snow stated that he opposes most chain businesses that have large signage and create litter. He said that this facility would have the least impact on the town. He noted that the Water’s Edge Hotel and Guaymas restaurant are parts of large corporations with multiple locations. He acknowledged efforts to creating a balance downtown, but noted that at one time there were 34 food-type enterprises in Tiburon. He said that he would like to support existing merchants when it makes sense. He said that Curves is not the only part of the fitness arena, and hoped that other fitness facilities would

capture some additional business when Curves' members want to increase their exercise regimen. He said that his concern was with the post office and parking, but he believed that the landlord will monitor this and can make changes if needed. He noted that weekends are the heaviest parking periods in downtown. He said that the Planning Commission cannot take a stand on Curves' method of advertising; however, he does not support putting flyers on cars. He said that his understanding of the proposed business is that this would benefit other businesses in town, with members shopping in town. He supported the application.

Commissioner Fraser stated that he appreciated the responsiveness and diligence of the applicant in responding to the Commission's concerns. He said that he visited the Larkspur and Mill Valley centers, and he found an open and inviting, clean, uplifting, positive facility with good energy, good vibes and people looked happy minding their own business. He added that the centers were low impact in terms of noise. He said that he interviewed the staff and was comfortable with their responses. He believed that this was a business that meets a need within the community and would add to the community. He felt that Curves members would conduct other business downtown. He felt that the alternative parking arrangement makes sense, and that there was a commitment from the landlord and other businesses to work things out. He supported the application.

Commissioner Hermann stated that he visited the Larkspur Curves center. He said that the issues are parking; the character and viability of downtown; safety; political; and competition. He said that the political and competition issues were off the table. He felt that this was a use that could be consistent with the downtown and will be used, or not, by local citizens. He said that the use would not impact the character of Tiburon. He said that he is a member of a group of business leaders who are looking at the future of downtown, all of whom are committed to preserving the character of downtown. He said that the group has learned that precluding chains is a bad business strategy for a town, and that there needs to be a mix of businesses. He felt that as long as the Curves employees are CPR trained, then safety is not an issue. He said that the center should plan for the maximum of fifteen parking spaces. He said that the Boardwalk Center and Main Street parking lot are close by. He thought that the six provided parking spaces are not that visible, but suggested that the parking situation can be revisited if it becomes a problem. He supported the application.

Chair Collins stated that in general he agreed with the positive comments; however, he cannot support this application. He said that the character of downtown is vital, and felt that it would be difficult to turn down another franchise and one has been approved. He believed that there would be a parking and safety issue with the parking spaces in conflict with the post office trucks. He was concerned about other fitness facilities in Tiburon, stating that the town already has good facilities. He felt that it was unacceptable to replace an established facility with another fitness facility that does not serve the whole community. He was also concerned about potential parking conflicts from members parking behind the buildings, on Juanita Lane and at the post office.

Commissioner Kunzweiler stated that the Planning Commission should not be *laissez faire* in dealing with competition. He emphasized that many communities struggle with the issue

of older, established uses and the introduction of new businesses, and that cities must make appropriate decisions regarding the balance of uses. He said that the Commission should be mindful that Curves has many facilities in the area, and that the need for these resources may already be met. He said that there is a greater need to support existing businesses.

Commissioner Fraser noted that there are different types of workout facilities. He said that Curves is different than other fitness centers, and does not have a “gymnasium” feel. He felt that this was similar to different restaurants competing for the same food dollar. He said that Curves fills a niche. He also noted that the center would have twelve to thirteen exercise stations so only so many members can be there at one given time.

Commissioner Kunzweiler responded this is not a franchise issue; rather, it is a question of priority and of supporting local retailers. He said that the segment that is attracted to Curves is already well served in the area.

Commissioner Snow stated that he knows several Curves members, and that there is a real passion and need for this type of facility. He said that if the business does not meet a need, it will not survive. He felt that the location is appropriate and the use would be very low key. He reiterated that members may get fit to some level and move on to another health facility.

Commissioner Hermann stated that this was a difficult decision, and added that the Kempers are a wonderful example of a family serving Tiburon. He felt that the town has been a complete victim of one-off business decisions without thought of their consequences. He said that the impact of one business on other businesses must be considered. He feels right now the Planning Commission should not make a decision based on competition.

Chair Collins stated that this business will impact parking in the future, which would affect the ability to attract other businesses in the future.

M/S, Fraser/Snow, to adopt the draft resolution approving a Conditional Use Permit to operate a personal fitness center at 1600 Juanita Lane.

Chair Collins asked that a copy of the lease between the applicant and the landlord be filed with the Town so there is a record with the Town of the allocation of parking spaces.

Commissioner Hermann suggested that the Planning Commission review the parking situation within some time period.

The motion to adopt the draft resolution was amended to include conditions of approval requiring that a copy of the lease between the applicant and the landlord be filed with the Town so there is a record with the Town of the allocation of parking spaces; and that a review of the parking situation be held by the Planning Commission in six months. The motion was approved 3-2 (Collins and Kunzweiler dissenting).

