



**TOWN OF TIBURON
PLANNING COMMISSION
1505 Tiburon Boulevard
Tiburon, CA 94920
Action and Approved Minutes
September 8, 2004 – 7:30 PM**

ACTION MINUTES

CALL TO ORDER AND ROLL CALL

Present: Commissioner Fraser, Commissioner Hermann, Commissioner Snow
Absent: Chairman Collins, Vice Chairman Kunzweiler,

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 – August 11, 2004 **Approved as Corrected 3-0**

PUBLIC HEARING

2. GENERAL PLAN UPDATE: NOISE ELEMENT AND SAFETY ELEMENT ISSUES PAPER: Take Public Comment for a Report to the Town Council Regarding Recommendations for General Plan Goals, Policies and Programs for the Noise Element and the Safety Element of the General Plan **Accepted and Forwarded to Town Council 3-0**
3. 215 BLACKFIELD DRIVE: ANNUAL REVIEW OF CONDITIONAL USE PERMIT FOR KOL SHOFAR SYNAGAGUE AND APPURTENANT DAY SCHOOL; File No. 48404(c); Assessor's Parcel Number 38-351-34 **Conditions Added to Address Tree Safety and Traffic Control 3-0**

DISCUSSION ITEMS

4. ANNUAL GENERAL PLAN STATUS REPORT FOR FY 2003-2004 **Accepted 3-0**

ADJOURNMENT At 10:00 PM

Future Agenda Items

4 Indian Rock Court – Precise Plan Amendment (October 13)

a090804

**MINUTES NO. 897
PLANNING COMMISSION
September 8, 2004
Regular Meeting
Town Council Chambers
1505 Tiburon Boulevard, Tiburon, California**

CALL TO ORDER AND ROLL CALL

Present: Acting Chair Fraser, Commissioners Hermann and Snow

Absent: Chair Collins and Vice-Chair Kunzweiler

Staff Present: Community Development Director Anderson, Advance Planner Bryant and Meeting Recorder Flanagan

ORAL COMMUNICATIONS

There were none.

COMMISSION AND Staff BRIEFING

Community Development Director Anderson reported there are no agenda items at this time for the September 22, 2004 meeting.

CONSENT CALENDAR

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

Changes included:

Page 6, 2nd paragraph, 8th line, change “center” to “Curves.”

Page 4, 7th paragraph, 6th line, add “it” before was “unrealistic.”

Page 7, 2nd paragraph, 6th line, add “resources” before “may already.” Add “is a greater” before “need to support.”

M/S, Snow/Hermann (passed 3-0) to approve the minutes as amended.

PUBLIC HEARING

2. GENERAL PLAN UPDATE: NOISE ELEMENT AND SAFETY ELEMENT ISSUES PAPER: Take Public Comment for a Report to the Town Council Regarding Recommendations for General Plan Goals, Policies and Programs for the Noise Element and the Safety Element of the General Plan.

Advance Planner Bryant reviewed the Staff report. He noted the new General Plan is anticipated to be adopted in March 2005.

Commissioner Hermann asked if the acoustic consultants hired for their expert input agree with what has been done by the Town and what their view is of an ordinance versus broader strategy.

Advance Planner Bryant responded that the consultants were hired to delineate noise contours around major roadways and to establish noise levels. The consultants were not asked for direction on existing policies.

The public comment period was opened.

George Landau corrected Advance Planner Bryant’s statement in the Staff report in that gas leaf blowers are banned in residential areas. It has been brought to his attention that the elder hostel users of the Tiburon Lodge were submitted to noise and gas from a leaf blower. While exceptions for gas leaf blowers were made for Public Works to maintain the bicycle path and the parking lot in back of Point Tiburon, he understands blowers are at the Tiburon Lodge in early morning. He asked that the ordinance stand and recommended the ban be enforced at the Tiburon Lodge and parking lot, where electric blowers can be used.

Eric Artman, chair of the Lands and Property Committee at the Corinthian Yacht Club, stated that they support the proposed maritime noise policy; however, the background is tilted incorrectly. On Page 5 of the Issues Paper, the third bullet point, regarding functions/loud boat noise, functions occur downtown or on the water that are incorrectly attributed to the club. Also, loud boats in the marina are not the yacht club’s boats. There are no un-muffled boats or members in the harbor. Noise comes from Sam’s boats.

Commissioner Herman suggested language, “...loud boats in and around....waterfront” and Mr. Artman concurred.

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

Commissioner Snow stated he concurs with Staff's changes and modifications. The public should be aware that this will come before the Town Council and public comments can also be made at that time.

Commissioner Hermann stated he concurred with not having a noise ordinance. He asked if there are major changes from the older General Plan of which the Commission should be aware.

Advance Planner Bryant responded that any major changes are being dealt with outside the General Plan, e.g., landslides, for which the Town is developing a landslide mitigation policy.

Acting Chair Fraser stated there is street sweeping equipment used by Bell Market and Boardwalk Market, and that noise could be offensive to those behind or adjacent to the markets. He asked that the Town provide clarification as to whether the ordinance regarding refuse trucks applies to street sweeping equipment. Regarding safety, the Town devotes about one-third of the budget to the police force. He assumes Belvedere devotes the same proportion and suggests that perhaps the two cities can integrate some services for the benefit of the community. He suggested incorporating in the General Plan a desire to share services with neighboring towns to the benefit of the community, to defray costs today and the future.

3. 215 BLACKFIELD DRIVE: ANNUAL REVIEW OF CONDITIONAL USE PERMIT FOR KOL SHOFAR SYNAGOGUE AND APPURTENANT DAY SCHOOL; File No. 48404C; Assessor's Parcel Number 38-351-34.

Community Development Director Anderson reviewed the Staff report.

Commissioner Hermann asked if substantial compliance is adequate.

Community Development Director Anderson responded, if applicant substantially follows the intent and actions, it is sufficient.

Ron Brown president of Kol Shofar Synagogue stated he agrees with Staff's recommendations. Regarding the access road from Reedland Woods Way, this has been an area of concern for many years. Previously, they tried to minimize use of the lot through voluntary measures. This year, however, it was decided to install a barrier gate with access only by key cards for those who require it for physical reasons; 45 key cards have been issued. There have been no further complaints. Ring Mountain School stated there has been no change in the use level or noise level. He is at a loss to understand the perceived change in noise on a playground that has been used for many years. Regarding potential changes to the building, background noise studies indicate noise levels are consistent with General Plan guidelines. A substantial concern was that of safety on the property. Ring Mountain School staff indicates that equipment is continually reviewed by the state, and assures Kol Shofar that the equipment is safe. Regarding permits for changes on the property, Ring Mountain Day School is in the process of applying for permits.

The public comment period was opened.

Jim Miller, neighbor above the rear playground, submitted an additional photograph to the Commission and stated he wants to go on record with the Town, state and agencies. Eucalyptus trees can fall at any time. All the hazards he has mentioned in his letter could be resolved for \$1,000. The play area is small. He asks that the children not be channeled not through the eucalyptus trees. Three eucalyptuses have fallen on his property and one on the Kol Shofar property. He asked to remove the trees from the play area in 1997. The fear of falling eucalyptus in the grove caused the association to pay thousands of dollars for the removal of 32 trees. The fencing that the state says is adequate is vinyl and there is a hole in the fence that accesses a huge runoff area, a river in the winter. Also, maintenance staff uses the parking lot on a regular basis and children run across the lot where there is no fencing. The school should direct the children by the front playground where a fence can be added. This would eliminate accidents from potentially dangerous trees, children going to the drainage area and children traversing the parking lot. The eucalyptus above the play area is 80 feet tall and on a ridgeline. He feels there is an imminent death threat to children that can be avoided by spending \$1,000.

In response to questions, Mr. Miller stated he would be happy if the eucalyptus were removed.

Lee Kranefuss stated there are many challenges for the synagogue in the neighborhood that are not being addressed. Traffic and safety are the major concerns. He has requested many times that the synagogue live up to the spirit of the Conditional Use Permit. The emergency road has been a concern. Four years ago, he asked that the road be gated. He asked that the school's staff ensure traffic is safe by ensuring drivers stop and look when pulling out from the property. He believes that the minimum requirement of the Conditional Use Permit has not been met. Synagogue staff has not responded to him personally. The challenge is to use the facilities in a manner not dangerous to the neighborhood. He asked that, if the Conditional Use Permit is renewed, day school staff ensure compliance with local traffic driving standards on heavy-use days and review this on a weekly basis. Staff should also direct traffic. The gate is an eyesore, but has solved the major traffic problem with the access road.

Commissioner Snow asked Mr. Kranefuss to elaborate his concept of "minimum compliance". Mr. Kranefuss responded that he would like to see more frequent education about traffic and parking, and that once a year before the high holy days was not adequate.

George Landau stated this was a vandalized school before Kol Shofar bought it, and his accomplishment was to sell it to Kol Shofar. Neighbors rejected many types of uses before the synagogue came forward, and a lot of time was spent preparing the neighborhood for the temple and day school. Many nearby homes did not exist when the synagogue located there. He believes the synagogue members will follow recommended mitigations.

Maryann Snyder stated the gate, while it solves the traffic problem, should be made more attractive. It is a train-crossing gate. It should be nicer for the neighborhood. During the high holy days, people still park on her street. With expansion, she would like those issues addressed. Regarding the eucalyptus trees, her neighborhood wants the trees maintained. She wants to make sure that people are not hurt on the neighborhood's property.

Christi Seidel stated that in the three years she has lived there, parking and traffic have increased a noticeable amount, particularly parking near her house on high holy days. On a daily basis, parents

and congregants drive into the exit-only lane of the lower parking lot, which is dangerous. The gate on the access road is unattractive, even with the added green paint. She has asked that there be landscaping around the gate. Also, the grounds are not taken care of—litter, leaves, dirty sidewalks from the eucalyptus trees. She would like the synagogue to provide an attractive visual interface with the neighborhood. The spirit of the Conditional Use Permit is that the use is to be compatible with the neighborhood, and weeds and trash are not conducive to compatibility. Health, safety and welfare must be looked at for homeowners and institutions where people congregate *en masse*. The trees have barely been taken care of and should be, for the good of the neighborhood and of Kol Shofar. The Conditional Use Permit is about health, safety and welfare.

In response to questions, Commissioner Snow stated that he met with the Town Attorney and believes that he is not required to recuse himself from this item, even though he is a member of the congregation. He will vote on the Conditional Use Permit review.

Nancy Diamonti, headmaster of Ring Mountain Day school, stated she does not know of any trees that have fallen into the playground area. She would be happy to have the trees maintained or removed as necessary. The fencing around the playground is not permanent, and she was unaware that a permit was required. State licensing agents inspect the facility a few times a year and only last year was a fence required in the back, even though the state did not feel a fence was necessary because the area is self-contained. The state inspector asked for a simple visual barrier only. Her teachers are asked to look at it for any necessary repairs. Children do not walk through the parking lot; rather, they walk next to the Millers' hill and the parking lot. They are always monitored. Two separate play areas are needed for the children. Area B [as shown on the photo] is the main entrance to the synagogue. The impact of not using the rear playground would be the cost to move equipment and it would take away from the primary entrance to the synagogue.

Mr. Brown concurred with Ms. Diamonti and added there is not room anywhere else on the site to relocate the playground area.

Commissioner Snow noted part of the state's review is the entire environment of the day school, which would include the playgrounds, and that was not pointed out as a problem in the state's latest report.

Ms. Diamonti responded fencing in the rear to enclose the children was never required.

Mike Kisseberth stated a traffic increase is definitely there. With children in the neighborhood, there must be someone monitoring traffic all the time, particularly when people are leaving from services and they are distracted and do not think about little children on the street. The new gate is great; however, it is an eyesore.

Karen Nygren stated references were made that neighbors homes have not been there as long as the temple; however, her Reedland Woods neighborhood has been there longer. Neighbors were promised that the temple would remain small and would not grow beyond a certain capacity, but the temple membership has exceeded those numbers. Traffic has increased. Regarding a liaison to the community, she has heard the temple would show plans for the expansion. She was not notified by the temple of meetings. People do not use the shuttle service until the street is filled to capacity. Members of the temple must know that parking on both sides of the street is not allowed. The curve

is banked incorrectly. The temple should have parking on the site and not on the streets. The temple should look at how Temple Rodef Shalom takes many of its major functions off-site to better fit within the neighborhood. Something should be done about the unsafe traffic conditions. When measuring noise, noise sensors must be placed appropriately, and there should be a proper noise study to ensure everything meets the Conditional Use Permit. Neighbors do have concerns about the current use and they should be looked at carefully.

Scott Hochstrasser, land use and environmental land consultant for this property, stated that regarding community outreach, two community meetings were held and 500 letters were mailed, inviting people to attend and asking for comments. Regarding traffic, circulation, and parking, heavy traffic is only three days a year, when a shuttle service is provided. Condition #12 requires coordination with the Town Police Department, which has been done. The temporary visual fence is not permanent. The play structure is a type used by a number of schools, and requiring a permit is for such play structures is uncommon. He inquired about permits for the gate and found out, afterward, that design review was necessary. There were no comments received about the design of the gate after notices were mailed to the neighbors. Surrounded by a residential community, the synagogue is a good neighbor and has consistently responded to neighbors. Baseline studies meet test standards and thresholds in the General Plan, including noise standards.

Mr. Miller stated he would like the Town of Tiburon to evaluate the impact that will happen if a tree falls in the play area and kills a child.

John Nygren asked if traffic studies were done at Reedland Woods Way for the proposed temple expansion, if not, they should be done.

Mr. Kranefuss stated there is a permit application for expansion on file, but the neighborhood believes the traffic study should not be relied on. Regarding noticing, a number of homes were not noticed about ongoing projects and the meetings were held at inconvenient times, and many people did not receive notices.

Ms. Seidel stated she walked all the contiguous neighborhood streets and knocked on doors and asked if owners were aware of the proposed expansion project, and not one house received a notice. The liaison to the neighborhood is lacking. When the gate was installed, the synagogue representative stated a letter was sent to the homeowners association, which did not occur. There is an information gap. Liaison efforts have been poor to nil.

Karen Nygren noted that the staff report stated that the Planning Department did not receive comments about noise, and asked if the Planning Commission looked at the Police Department records for complaints about noise. A white canopy that looks like a tacky white sheet was up for a period of time this summer, which she does not believe was permitted. It should not be put up again; and if so, should have a permit and a better visual design.

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

Commissioner Hermann stated this is a community challenge. There is good intent on all parties, but the synagogue needs to be more adept at communicating what is going on. The safety of the children is important and the school should not ignore a potential danger, and should go beyond

what the state requires. No one wants the trees removed. Moving the playground temporarily is not a great way to go. He suggests adding an additional condition to the Conditional Use Permit that the trees are to be inspected on a regular basis, determined by Staff, with each tree inspected by an expert who is to determine whether each tree is safe for the children. Regarding the safety of children and traffic, the school should monitor traffic, with someone in the lot directing traffic during heavy-use times. Regarding lack of communication and a liaison with the neighborhood, these are not impediments to approving the Conditional Use Permit, but it must be ensured the conditions are lived up to. He will approve the Conditional Use Permit with the two conditions for traffic monitoring and inspection of the trees, and hopefully the conditions will be enforced.

Community Development Director Anderson responded the traditional approach of enforcement is regular reviews and notices to determine if people have concerns. Beyond that, the Town does not have the resources to conduct day-to-day enforcement of use permit conditions.

Commissioner Hermann asked that this be monitored by the parties involved. The gate aesthetics is not an issue for the Planning Commission to decide.

Community Development Director Anderson noted the gate has received design review approval and a building permit. Unless the applicant wants to voluntarily alter the gate, it can remain as is.

Commissioner Snow stated it is not under the purview of the Planning Commission to discuss fencing. The main issue is the Conditional Use Permit and whether it is in compliance or as close to compliance that any Conditional Use Permit should have to be. He does not understand how the playground could be moved to the suggested location. He applauded Mr. Miller's concerns about the safety of the children. He can go along with a condition requiring regular inspection of the trees. Traffic monitoring is a challenge. Any organization that sees intense use has to deal with that problem.

Acting Chair Fraser stated that communication is an issue. Different opinions and viewpoints have been expressed on the same issue. The neighbors say communication has not been effective. Safety from the trees is a concern. Traffic is a concern. Soliciting the opinion of an arborist should be incorporated into the Conditional Use Permit, with a recommendation by the arborist to ensure the safety of people surrounding the property. Kol Shofar and the neighbors should work together on this. People feel the same amount of information is not available to the community. Kol Shofar and the neighbors need to come together to ensure both are speaking the same language. He encouraged the homeowners association to appoint a member to take responsibility to integrate and work with the synagogue on issues of importance to ensure communications are effective within the community. If the homeowners association and the synagogue work together on noticing, the lack of clarity can be cleared up between the parties. He can support renewal of the permit with Commissioner Hermann's added conditions.

In response to questions from the Commission, Community Development Director Anderson stated that the conditional use permit for St. Hilary Church, which is the only other religious institution in the Town that has a modern use permit, contains specific requirements for traffic control.

M/S, Hermann/Snow (passed 3-0) to find the use is substantial compliance with the following added/amended conditions of the conditional use permit to reflect:

- 1) Those items listed in the staff report recommendation concerning securing of required permits, updating of the carpool database, and improved communication/coordination with the day school tenant;
- 2) Trees on the Kol Shofar property near the rear playground area shall be inspected annually by a tree expert for issues related to child safety; and
- 3) Traffic control personnel shall be provided for all major events and peak period usage times.

DISCUSSION ITEMS

4. ANNUAL GENERAL PLAN STATUS REPORT FOR FY 2003-2004

Community Development Director Anderson noted this is a perfunctory item to be sent to the state annually. This year's report is a letter stating that a comprehensive update on the General Plan is being performed. Regarding ABAG's housing requirements, he noted that objectives required by the state are that the Town "plan" for that number of units, not necessarily "build" them. The land in the town is almost all in private hands so the Town can only make housing possible and encourage it, but cannot force the housing to be built. Very few local communities meet ABAG's affordable housing production goals.

M/S, Hermann/Snow (passed 3-0) to forward the status report to the Town Council.

ADJOURNMENT

The meeting was adjourned at 9:40 p.m.

JIM FRASER, ACTING CHAIRMAN

ATTEST:

SCOTT ANDERSON, SECRETARY