



**TOWN OF TIBURON
PLANNING COMMISSION
1505 Tiburon Boulevard
Tiburon, CA 94920
Action and Approved Minutes
November 10, 2004 – 7:30 PM**

ACTION MINUTES

CALL TO ORDER AND ROLL CALL 7:30 PM

Chairman Collins, Vice Chairman Kunzweiler, Commissioner Fraser, Commissioner Hermann, Commissioner Snow

ORAL COMMUNICATIONS *There Were None*

Persons wishing to address the Planning Commission on any subject not on the agenda may do so under this portion of the agenda. Please note that the Planning Commission is not able to undertake extended discussion, or take action on, items that do not appear on this agenda. Matters requiring action will be referred to Town Staff for consideration and/or placed on a future Planning Commission agenda. Please limit your comments to no more than three (3) minutes.

COMMISSION AND STAFF BRIEFING

Staff Update
Commission Information Items

CONSENT CALENDAR

1. Approval of Planning Commission Minutes – October 27, 2004 **Approved with Corrections 5-0**

PUBLIC HEARING

2. CONDITIONAL USE PERMIT #10403; REQUEST TO INCREASE THE DURATION OF SEASONAL USE FOR A RESTAURANT AWNING STRUCTURE; 5 MAIN STREET (GUAYMAS RESTAURANT); Abrams and Zelinsky, et al, Owners; Spectrum Restaurant Group, Applicant; Assessor's Parcel No. 059-141-41 **TO BE CONTINUED WITHOUT DISCUSSION TO JANUARY 26, 2005**
3. TIBURON GLEN PRECISE DEVELOPMENT PLAN: FILE #30403; CONSIDER RECOMMENDATION TO THE TOWN COUNCIL REGARDING A PRECISE DEVELOPMENT PLAN (PD #22) TO CREATE FOUR BUILDING SITES ON A 26.03 ACRE PARCEL; REVIEW OF ADDENDUM TO CERTIFIED

ENVIRONMENTAL IMPACT REPORT; 3700 Block of Paradise Drive; Xanadu Property holdings, Inc., Owners; Assessor's Parcel No. 039-241-01 **TO BE CONTINUED WITHOUT DISCUSSION TO A SPECIAL MEETING ON NOVEMBER 30, 2004**

DISCUSSION ITEMS

4. 28 TEABERRY LANE; REFERRAL FROM MARIN COUNTY OPEN SPACE DISTRICT REGARDING A PRIVATE PROPERTY OWNER REQUEST FOR A WATER LINE EASEMENT ACROSS OLD ST. HILARY OPEN SPACE PRESERVE ***Voted 5-0 To Oppose This Easement Across Town or County Open Space***

5. DISCUSSION OF COMMISSIONER TRAINING NEEDS AND STUDY SESSION ON CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA) TOPICS ***Direction Given to Staff***

ADJOURNMENT **9:00 PM**

**MINUTES NO. 900
PLANNING COMMISSION
November 10, 2004
Regular Meeting
Town Council Chambers
1505 Tiburon Boulevard, Tiburon, California**

CALL TO ORDER AND ROLL CALL

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

Absent: None

Staff Present: Community Development Director Anderson, Planning Manager Watrous and
 Meeting Recorder Flanagan

ORAL COMMUNICATIONS

There were none.

COMMISSION AND STAFF BRIEFING

Community Development Director Anderson reported that the November 24, 2004 meeting is expected to be cancelled. He added there a special meeting has been scheduled for November 30, 2004 for the redesign of the Tiburon Glen project, although the meeting may be postponed to further reduce the potential environmental impacts.

All five Commissioners indicated that they wish to attend the December 4, 2004 planning conference at Sonoma State. Staff will make the necessary reservations.

M/S, Hermann/Snow (passed 5-0) to cancel the November 24, 2004 meeting.

CONSENT CALENDAR

1. Approval of Planning Commission Minutes – October 27, 2004

Changes include:

Page 5, 4th paragraph, 6th line, change “vehicles” to “access.” Line 9, change “sample techniques dictate certain outcomes” to “some sampling can result in misleading outcomes.” Line 12, change “clean” to “clear.”

Page 5, 7th paragraph, Lines 2-3 to state, “...that issue; however, the Town should not forget that all issues are probably connected.

Page 6, 3rd line to state, “...as a whole, and he asked how might it be possible for the Town to overcome situations we now have on Paradise Drive and how the Town might better control that situation.”

Page 7, 2nd paragraph, 2nd line, change “2,300” to “2,900.”

Page 8, 8th paragraph, 1st line to state, “...percent of the landslide repair property is to protect the slides that affect Paradise...” Line 2, change “slope” to “slopes.”

Page 9, 2nd paragraph to state, “...would be done for the safety as to the Lot 2...”

Page 12, 10th paragraph, 4th line, change “to be built” to “and built upon.”

Page 12, 11th paragraph, 1st line to state, “...asked how would, if the number of trees lost in...with the proposed lots...”

Page 13, 2nd paragraph, 2nd line, change “know” to “better understand.”

Page 13, 8th paragraph, 2nd line, change “it” to “them.”

M/S, Fraser/Snow (passed 5-0) to approve the minutes as corrected.

The Planning Commission discussed the possibility of moving the approval of minutes to the latter part of each meeting’s agenda. It was the consensus of the Commission that this would prevent people attending the meeting from having to wait through any potentially lengthy discussions of the minutes.

M/S, Herman/Kunzweiler (passed 5-0) to move the minutes agenda item to the end of each agenda.

PUBLIC HEARING

- 2. CONDITIONAL USE PERMIT #10403; REQUEST TO INCREASE THE DURATION OF SEASONAL USE FOR A RESTAURANT AWNING STRUCTURE; 5 MAIN STREET (GUAYMAS RESTAURANT); Abrams and Zelinsky, et al, Owners; Spectrum Restaurant Group, Applicant; Assessor’s Parcel No. 059-141-41**

M/S, Snow/Fraser (passed 5-0) to continue this item without discussion to the January 26, 2005 meeting.

- 3. TIBURON GLEN PRECISE DEVELOPMENT PLAN: FILE #30403; CONSIDER RECOMMENDATION TO THE TOWN COUNCIL REGARDING A PRECISE DEVELOPMENT PLAN (PD #22) TO CREATE FOUR BUILDING SITES ON A 26.03 ACRE PARCEL; REVIEW OF ADDENDUM TO CERTIFIED ENVIRONMENTAL IMPACT REPORT; 3700 Block of Paradise Drive; Xanadu Property holdings, Inc., Owners; Assessor's Parcel No. 039-241-01**

M/S, Hermann/Snow (passed 5-0) to continue this item without discussion to a special meeting on November 30, 2004.

DISCUSSION ITEMS

- 4. 28 TEABERRY LANE; REFERRAL FROM MARIN COUNTY OPEN SPACE DISTRICT REGARDING A PRIVATE PROPERTY OWNER REQUEST FOR A WATER LINE EASEMENT ACROSS OLD ST. HILARY OPEN SPACE PRESERVE**

Community Development Director Anderson summarized the Staff report.

Commissioner Kunzweiler asked what the Planning Commission could add to the recommendation made by the Marin County Open Space District in their Late Mail letter dated November 8. Community Development Director Anderson noted that the final paragraph of that letter to the applicant asks for more information. He said that the issue has not yet been decided upon by the district.

Commissioner Fraser asked if there is an alternative means of upgrading the water system to Teaberry Lane. Community Development Director Anderson stated that the ideal solution is to upgrade the pipe in Paradise Drive, which has been discussed for many years.

Commissioner Kunzweiler stated that public safety is clearly an issue for Teaberry Lane residents, and he felt that there should be someone in charge to take care of the problem. Community Development Director Anderson noted that when the lots were developed, there was not much in the way of standards for water flow. He added that the Tiburon Fire Protection District does not accept private water tanks as a means of providing the necessary fire flow. He said that the fire district imposes restrictions on building floor area, and requires special construction materials and sprinklers to offset the minimal water pressure.

The public comment period was opened.

Mary Von Kaesborg stated that the fire district has told her if there were a fire in more than one room of her house, there is not enough water to take care of it. She said that the Marin Municipal Water District has ignored residents' requests for more water pressure. Now with five more

proposed houses in the area, she said that there is an even more urgent need. She said that the residents have met with the owners of the subject property because they want to connect to the owners' water supply. She said that the owners had previously discussed the potential of building a water tank with the cost divided between 15 houses, but now this idea has been brought forward and she has heard nothing about the residents being involved with this. She was concerned that the other Teaberry Lane property owners were not being properly informed about the proposal.

Commissioner Hermann asked if she has a solution to this situation. Ms. Von Kaesborg responded that her preference would be a pipe down Paradise Drive.

Community Development Director Anderson noted another option is to run a pipe across the Town's open space from the existing tank on Sugarloaf Drive to make the same connection. He said that the developer discussed this concept some time ago but then dropped the idea.

Mohamad Sadrieh stated that if the proposal is being considered in light of providing benefits, technology and the cost of how residents benefit should be part of the discussion. He said that a solution that is not physically or financially feasible would have no benefit.

Deborah Derby stated that she has her own water tank which provides six minutes of water, in addition to sprinklers, but if the electricity goes off, she has no water. She said that there is not enough pressure for her house unless it is pumped up. Her concern about the proposed house is that it is only one of five proposed homes. She described discussions with MMWD about the routing of the proposed utility easement.

Jerry Riessen, Co-Chair of the Last Chance Committee, stated that the citizens of Belvedere and Tiburon have taxed themselves enormously to preserve open space, and they would be unimpressed to hear that these efforts are being wasted to solve others' problems, especially if other agencies have created an issue of needing water for fire protection. He said that input is sought tonight of how the local community feels about the Open Space District, and he asked that the Planning Commission send a message that open space is dear and needs to be preserved. He said that there are other approaches to resolving the water issue; they are only more expensive. He said that precious open space should not be allowed to be used for utility purposes.

James Raives, planner with the Marin County Open Space District, stated that he does not think that this matter is closed. He said that the district is concerned about impacts to open space, relationships to community, and the need for fire protection and habitat. At this time, the district mainly wants to ensure there are no other feasible alternatives to provide needed water pressure and there will be no adverse habitat effects. In response to questions, he described a similar request in Novato. He stated that the district is reluctant to offer easements across its property, and that none have been granted of which he is aware. He felt that the applicant has not looked at all feasible alternatives, and the district is unsure that the proposed project provides public benefit to justify an easement through the open space. He said that the district is looking for input regarding these concerns, and recognizes that the community put up a lot of money to buy the open space preserve. He noted that the open space provides habitat for several special status species, and it is not known if the easement would affect these species. He said that construction and ongoing maintenance of the water line are also a concern. He said that the district was also concerned with setting a precedent, which likely could open the door to more pressure for easements across district properties.

Susan Deluxe asked how this water line would affect the project to build five houses on the nearby property. Community Development Director Anderson responded that currently there is only an application with the county for one house. He added that the adjacent 50-acre property is owned by the same owner who, in the past, has proposed five homes for that site, but has since withdrawn that request. He believed that the owner would attempt to tap into the water line to serve the 50-acre site if the water line is constructed.

Ms. Deluxe added that this is a sensitive property in terms of storm runoff and drainage. She felt that Teaberry Lane was the stepchild of the peninsula, as previously suggested projects, including a bicycle path and a sewer extension, have not been developed. She asked that the Town get involved in issues that need to be addressed in her area of Paradise Drive, particularly with huge homes being built. She stated that there is no forum for neighbors to get together to discuss issues.

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

Commissioner Kunzweiler stated that the request and the principle of violating open space are absolutely unacceptable. He said that the Planning Commission must be unambiguous in its support of open space, and that the intent of open space is to protect that land. He said that Tiburon and Belvedere have spent a lot of money to create a lot of open space. He said that the issue of water pressure for Teaberry Lane is separate, and the Town should not compromise the spirit of the open space. He said that efforts should be made to get the people in this area together to deal with the issues of development on Paradise Drive.

Commissioner Snow stated that this open space has similarities with Blackie's Pasture, which was also acquired by bonds. He said that the citizens voted to purchase the open space, and there should be no modification unless it is a last resort. He said that the applicant has the responsibility to show the feasibility of how to provide the water, and the alternatives have not been thoroughly reviewed.

Commissioner Hermann stated that open space is open space, and alternatives exist, including an upgraded water pipeline down Paradise Drive. He said that the applicant needs to take a better look at other alternatives. He said that the residents in the area should get together to apply more pressure on the county to deal with their issues.

Commissioner Fraser stated that this is a development issue that needs appropriate alternatives to be evaluated. He said that the developer should in no way, shape or form encroach into the open space. He said that he was concerned that the residents of Teaberry Lane and Paradise Drive are in the Tiburon sphere of influence and, he was unsure how to take care of these people. He said that efforts should be made to bring cohesion to this part of the community to solve these issues.

Chair Collins stated there is no alternative but to keep open space the way it is. He felt that the residents along Paradise Drive need to mobilize. He acknowledged that there is a safety issue, but there are other ways to deal with it. He said that he was not in favor of an easement to transport water across open space for private purposes.

M/S, Hermann/Fraser (passed 5-0) to oppose this easement across Town or County open space.

5. DISCUSSION OF COMMISSIONER TRAINING NEEDS AND STUDY SESSION ON CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA) TOPICS

Community Development Director Anderson discussed possible training for the Planning Commission. He said that Commissioners have a variety of training options, including study sessions with staff, attending seminars and conferences, study of handbooks, videos, or bringing in outside trainers. He said that the Planning Commissioner's Handbook was an excellent training source.

Chair Collins suggested addressing one section of the handbook at each meeting.

Commissioner Hermann said that after reviewing all of the work done on the General Plan, it would be helpful to have information to evaluate whether the end result is a good or bad General Plan.

Commissioner Kunzweiler stated that it would be useful to have more information about the legal side of what the Commission does. He said that there are legal ramifications to the General Plan, guidelines, ordinances and large properties being developed. He wanted to know what resources were available to deal with these issues. Community Development Director Anderson responded that the Town Attorney gives guidance as necessary for planning projects, but that it was not routine to have the Town Attorney be present at meetings. Planning Manager Watrous added that the Town is fortunate to have a Town Attorney with such an extensive background in land use law.

It was the consensus of the Planning Commission that Staff shall choose discussion topics and prepare a training topics list for the Commission, with a calendar for the first quarter of 2005 to be presented at the January 12, 2005 meeting.

ADJOURNMENT

The meeting was adjourned at 9:00 p.m.

DICK COLLINS, CHAIRMAN

ATTEST:

SCOTT ANDERSON, SECRETARY