



**TOWN OF TIBURON
PLANNING COMMISSION
1505 Tiburon Boulevard
Tiburon, CA 94920
Action and Approved Minutes
April 13, 2005 – 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 **All Commissioners Present**

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. **There were None**

COMMISSION AND STAFF BRIEFING

Staff Update
Commission Information Items

PUBLIC HEARING

1. 2000 PARADISE DRIVE; CONDITIONAL USE PERMIT #10411; REQUEST TO EXPAND AN EXISTING RESTAURANT (CAPRICE RESTAURANT), THROUGH CONSTRUCTION OF A THIRD FLOOR BANQUET ROOM ADDITION; Point Tiburon Plaza, Inc., Owner; Mogens Bach, Applicant; Assessor's Parcel No. 59-172-46 **Continued to a Date Uncertain 5-0**

MINUTES

2. Planning Commission Minutes of March 23, 2005 **Adopted as Amended 5-0**

ADJOURNMENT 10:55 PM

**MINUTES NO. 913
PLANNING COMMISSION
April 13, 2005
Regular Meeting
Town Council Chambers
1505 Tiburon Boulevard, Tiburon, California**

CALL TO ORDER AND ROLL CALL

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

Absent: None

Staff Present: Planning Manager Watrous and Meeting Recorder Flanagan

ORAL COMMUNICATIONS

There were none.

COMMISSION AND STAFF BRIEFING

Staff Updates:

There were none.

Commission Information Items:

There were none.

PUBLIC HEARING

- 1. 2000 PARADISE DRIVE; CONDITIONAL USE PERMIT #10411; REQUEST TO EXPAND AN EXISTING RESTAURANT (CAPRICE RESTAURANT), THROUGH CONSTRUCTION OF A THIRD-FLOOR BANQUET ROOM ADDITION; Point Tiburon Plaza, Inc, Owner Mogens Bach, Applicant; Assessor's Parcel No. 59-172-46**

Planning Manager Watrous presented the Staff report. In response to questions, he stated additional a floor area intensity transfer can be approved if there is another property under the same ownership that has additional allowable floor area. He noted that the applicant, Point Tiburon Plaza, Inc., also owns the Point Tiburon Plaza property, which has approximately 5,000 square feet of additional floor area approved but not used. He said that if this were the only issue, such a transfer would likely be straightforward.

Mogens Bach, applicant and agent for the owner of Point Tiburon Plaza, Chong Cook, affirmed that the same company owns both properties. He said that restaurants bring people to town, but that a number of restaurants have disappeared over the years. He discussed the history of the restaurant

and stated that banquet facilities are needed for most restaurants to make money during the off-season. He explained the reasons for the proposed addition, and noted that the roofline would only be 3.5 inches over the 30 foot height limit, and that the extra height can be easily deleted from the ridge. He stated that the deck would give the second floor architectural character. He acknowledged that the addition would block some views for the building at 2002 Paradise Drive. He explained that there were physical constraints that would prevent the addition from being moved toward the front of the site, and that the owner is willing to work with the neighbors on screening the rooftop equipment. He addressed potential BCDC issues, stating that the addition is possible as an expansion of a bay-oriented commercial use. He said that the story poles are correct. He said that there is no law that anyone is guaranteed a 100 percent of the existing view from their home. He stated that the view blockage would be minor, and that the bulk of the building would not be that visible from most vantage points next door. He said that he was somewhat unsure about the intensity transfer process. He stated that the existing parking situation has worked for over 40 years.

Commissioner Kunzweiler asked for further discussion about the placement and noise generation of rooftop mechanical equipment. Mr. Bach responded he is willing to make sound mitigation measures. He said that new, quieter equipment would replace the older equipment, and that a roof or enclosure around the equipment was possible.

Commissioner Kunzweiler asked about the location of garbage storage and the times of trash pickup. Mr. Bach said that the current condition would not change. He said that a shed for the garbage is located in front of the building, and a roof is proposed to extend above this area.

Commissioner Fraser asked how many meals are served on a normal Friday night. John Quinto, general manager of the Caprice, stated that the restaurant averages about 70 to 90 diners, and can accommodate about 130. He said that the restaurant could consistently serve more patrons with a new banquet facility. Mr. Bach added that banquet attendees stay for the evening, while for restaurant patrons, the turnover is two to three each night.

Commissioner Fraser asked if there was a way to change the existing restaurant configuration to achieve the same results. Mr. Bach stated that it would be virtually impossible, due to the details of the existing building and BCDC concerns over filling more of the bay.

Chair Collins asked for a description of the valet parking system. Mr. Bach responded that on busy nights, there are two valets with a two-way radio system. He said that valets are usually paid by tips, and this is not a big expense. He said that cars would be parked in the northeast corner of the Point Tiburon parking lot, using the spaces closest to restaurant.

Steve Sears, proprietor of Sam's, stated that he was concerned about losing the Caprice. He said that banquets are a good way for restaurants to get business. He described efforts by the Economic Development Committee to increase the vitality of downtown Tiburon. He said that addition would only block a view of downtown.

Commissioner Hermann asked Mr. Sears if he thought that the current restaurant use of this building is profitable. Mr. Sears responded that it is hard to make a profit with such a building. He said that the restaurant needs to do more to survive, including better marketing of the site for banquet use. Mr. Bach added that a banquet room allows use of the restaurant on off days.

Rod Decker stated that the unique thing about Caprice is that it abuts a residential neighborhood. He said that parking and traffic problems associated with the restaurant impact the neighborhood, and that the increased use would negatively impact the neighbors. He said that cars are often parked with doors open while waiting for the valet or on Mar West Street, and that people coming around the blind corner on Paradise Drive often encounter customers or valets walking to their cars. In response to a question from Commissioner Hermann, he stated that the neighborhood would be better off not having a restaurant there.

Susan Wolfe stated that she lives in Point Tiburon and her kitchen and dining room windows look at the Caprice. She was concerned with noise and music from the banquet room addition and deck. She said that noise from open windows and the deck would impact everyone in Point Tiburon Bayside and those who live above the sanitation plant. She said that valet parking takes up the majority of parking in the small public parking lot and on Mar West Street. She said that when the restaurant is busy, cars double-park on Mar West Street and valets back cars down the street onto Paradise Drive. She felt that these public parking spaces would be more likely used than those in the Point Tiburon Plaza lot. She said that she is also starting to see noisy motor coaches arrive late at night, which then wait to pick up passengers from the restaurant.

Larry Sylvester stated that it sounds like a *fait accompli* that the project would be denied. He said that the Commission should balance the economic viability of a good restaurant with the potential view impacts. He said that a small increase in the business for the restaurant would make it viable, and he felt that the benefit to the community of the restaurant outweighs the view impacts.

Cissy Davis, owner of the adjacent residential building, stated that she has serious problems with parking, traffic and view impacts. She said that Paradise Drive is heavily trafficked and that cars from the Caprice monopolize the parking in the vicinity. She agreed with Mr. Decker that the restaurant should not be there. She said that the addition would block the sunlight for her lower level unit. She stated that she had put a lot of money into redoing the entry into her building, and that the additions would block views from this area. She said that the garbage area is in a bad location, resulting in unwanted noise. She said that the rooftop equipment is audible from her second floor unit.

Michael Imfeld, attorney representing Ms. Davis, discussed the location of the proposed improvements and the history of the restaurant use on this site. He questioned the possibility of compliance with handicapped access requirements for the restaurant due to site and building constraints. He characterized the Caprice as a bad neighbor, stating that Ms. Davis had to go to court to get Caprice personnel to stop breaking bottles in the garbage area. He felt that parking at Point Tiburon Plaza would not be practical, as it would take five minutes to walk to the restaurant. He showed photographs of the story poles for the addition taken from all three floors of the adjacent building, stating that the addition would block the view of the Golden Gate Bridge from the second floor unit.

Commissioner Kunzweiler and Planning Manager Watrous stated that they did not recall seeing story poles blocking views of the Golden Gate Bridge.

Mr. Imfeld described what he perceived to be inconsistencies in the submitted plans which could result in a taller addition than shown on the submitted plans. He noted an article in a recent Chamber of Commerce newsletter in which a representative of the Caprice indicated that 100 tables were going to be added as part of this addition. He warned that the bottom floor could be opened up again in the future. He felt that the proposed parking solution was inappropriate. He questioned the fire exists proposed for the restaurant. He stated that there was not enough information as to whether the project can be completed in the manner it was submitted.

Lars Livingston stated that the Caprice is spot-zoned commercial in a residential neighborhood. He said that the existing use should not be expanded because of adverse impacts on the neighboring residential areas. He said that the addition would partially block a spectacular view from adjacent and surrounding properties. He felt that noise from weddings and banquets would also have adverse impacts on residential areas. He said that approval of this addition would set a precedent for expansion of other spot-zoned commercial uses in Tiburon.

Commissioner Hermann asked Mr. Livingston his opinion on the question of reconciling conflicting interests of impacted immediate neighbors and the community as a whole. Mr. Livingston responded that such issues should be balanced, but that the Town is obligated to attempt to preserve the character of the neighborhood.

Colleen Mahoney stated that the requested expansion was completely inappropriate. She said that this was not a minor floor area addition, and would be inconsistent with the General Plan policy for floor area additions. She said that the shared parking proposal was a dangerous concept, as there is no guarantee that the owner of Caprice will continue to be the future owner of Point Tiburon Plaza. She said that the addition would encourage tourist-oriented use, which would be inconsistent with the Neighborhood Commercial land use designation for this property. She described the potential view impacts from the ceremonial rooms of the units at 2002 Paradise Drive, stating that the Golden Gate Bridge view would be taken away from each kitchen. She said that it was a shame to use the lower floor for a wine cellar and offices, as there was room for these uses in Point Tiburon. She said that it would be difficult to control and police the future use of the lower floor. She said that the traffic situation was dangerous, and characterized this as a huge problem. She said that the addition would block views of water traffic into Tiburon, which is valued by the neighboring residents. In response to questions, she stated that the current lower floor banquet room could be modified to accommodate a small group of 30 to 40 people, possibly by adding more windows.

Commissioner Kunzweiler questioned the feasibility of improving the lower floor area. Ms. Mahoney responded that installing a different stairway could open up the floor plan for that level.

Doreen Davis, daughter of Cissie Davis and an owner of the adjacent property, stated that she was unsure why the owner would request such major expansion to only add 10 seats. She said that the purpose of the addition was obviously to generate more business for the restaurant. She said that the addition would bring more tourists to a residential area incapable of supporting such an increase. She said that the parking demand cannot be solved by valet parking one-quarter mile away. She stated that this expansion would set a precedent for other large commercial expansions in Tiburon. She said that the view of downtown Tiburon from the entry would be replaced with a view of mechanical equipment. She said that the project would increase noise pollution and possibly have an adverse impact on her mother's health. She said that the addition would affect the ability to rent out

the units in the adjacent building and harm the economic viability of her property. She said that the addition would compromise the integrity of what makes Tiburon great, and that there was no guarantee that the addition would make the restaurant more viable.

Larry Sylvester stated that valet parking can work, noting that most restaurants in San Francisco have successful valet parking. He said that the addition would only block a view of the sky, which is not protected. He said that noise from the banquet room and deck would be heard from Angel Island, but not from Point Tiburon. He downplayed the importance of views from kitchens.

John Quintos described the restaurant operations and the views from different portions of the building. He said that Elephant Rock blocks part of the view from the lower level, and that he has been unable to sell the room for banquets because people want a view for special events. He said that the proposed additions would duplicate the view of the main dining room. He did not think that the addition would result in more of a problem with parking and traffic than currently experienced.

Mr. Bach stated that some cars would still use available on-street parking. He said that there would be some music during banquets, but there would only be a small group playing, such as a harp player or a couple of musicians, not a big band. He said that the number of proposed windows had been minimized to mitigate potential noise impacts. He addressed previous comments about building dimensions and handicapped access requirements. He said that the lower level would simply have the décor of a wine cellar, and that there would be no bar downstairs. He said that he had looked at remodeling the lower floor, but an elevator would be needed, and would either intrude into the existing dining area or would necessitate excavation into the rock face. He described the need for additional office space, stating that the existing office is in a closet.

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

Commissioner Kunzweiler stated that this was a very important and tough decision. He stated that the restaurant serves a purpose for the community. He suggested that the Planning Commission not make a decision at this time. He said that much of the difficulty revolves around the issue of “minor additions.” He said that on a busy night, the traffic situation is dangerous, with a blind corner and a narrow road. He said that the risks and alternatives for this traffic situation should be explored. He noted that the proposed parking at Point Tiburon is a quarter mile away, which would mean that the valets run a marathon every night. He said that a parking plan needs to be sorted out, with a proposal of how to tackle this. He said that there needs to be a clear understanding of what noise would be generated and possible mitigation measures. He said that the only reason for the addition would be to make the restaurant more successful, but that must be balanced against parking, traffic and noise impacts. He said that he had visited all three units next door, and felt that the view impacts are not a major issue in light of the Town’s guidelines.

Commissioner Snow stated that the view impacts would be insignificant when judged by the Hillside Design Guidelines. He was unsure of the value of the view of the Corinthian Yacht Club because most of the view is from the kitchens. He said that he hated to see so much light blockage. He said that he needed a clearer plan for parking, including the volume of cars and the number of potential diners. He said that the proposed addition has the potential to generate many more cars. He was concerned about the potential for noise impacts. He said that this was a dangerous traffic situation, and requested input from the Police Department on this issue. He said that the floor area would be a

sizeable percentage increase. He said that increasing business viability is appropriate, but said that the cost in parking and safety must be considered.

Commissioner Hermann stated that this is a classic case of individual rights versus community interest. He said that the Caprice is definitely a community asset. He said that it is the responsibility of the Planning Commission, if possible, to improve a situation for all parties. He said that the traffic and parking situations are horrible and need to be improved anyway. He thought that perhaps a better study is needed to resolve these problems, whether the application is approved or not. He said that the Town cannot let Caprice go under, but can require new conditions of approval addressing noise, parking and traffic issues to ensure that the restaurant is livable for the neighbors around it. He felt that the floor area question is a second tier issue. He said that he could support the addition with specific plans on how to address the noise, parking and traffic issues.

Commissioner Fraser stated that he understood that this is a reputable restaurant that wants to increase its viability, but said that sometimes great ideas cannot manifest themselves at their location. He said that he could not approve the project as currently proposed. He said that the applicant failed to provide information about impacts on the surrounding community on traffic, parking, noise and views. He said that a mitigation plan has not been presented for these issues. He said that driving past the Caprice in the evening is dangerous and the street is difficult to navigate. He said that the restaurant is a great idea but perhaps in the wrong location. He said that perhaps there was a reason why this building was originally built as a residence. He said that he was unsure that a larger Caprice restaurant at this location was in the best interest of the community.

Chair Collins stated that this application requires a balancing act. He said that he had no problem with the floor area, because it is legally permissible to transfer intensity with the same owner. He said that approval of the application would not establish a precedent because each property is looked at separately. He said that much more information and mitigation plans were needed. He said that he would like to see a traffic and parking study, and a parking mitigation plan. He felt that the noise issue could be solved by covering rooftop equipment. He said that if this application is approved, there would be an intensification of the use, and that it would result in more diners and cars and people to increase the viability of the Caprice.

Commissioner Snow stated a mitigation plan of the primary issues is necessary.

Commissioner Kunzweiler concurred and added that the Planning Commission wants to see this work. However, he felt that if a mitigation plan cannot tackle the issues, then there will be a tough but clearer decision to make.

Commissioner Hermann stated that traffic is also a Town problem, and that the Town should be involved in resolving this issue.

Planning Manager Watrous suggested recommending that the applicant hire professional consultants to prepare the necessary studies. It was the consensus of the Commission to encourage, but not require, hiring professional consultants.

Commissioner Fraser stated that an understanding of the overall business plan of the restaurant would help, as the numbers in such a plan would drive the other issues.

Commissioner Kunzweiler stated that the participation of the Police Department would help the credibility of resolving the traffic issues.

M/S, Hermann/Kunzweiler (passed 5-0) to continue this item to a date uncertain and to be re-noticed.

MINUTES

2. Planning Commission Minutes of March 23, 2005

Amendment includes:

Page 5, 1st paragraph, 2nd line, delete “if there would be” and insert “for.”

M/S, Hermann/Kunzweiler (passed 5-0) to approve the minutes.

ADJOURNMENT

The meeting was adjourned at 10:55 p.m.

RICHARD COLLINS, CHAIRMAN

ATTEST:

DANIEL M. WATROUS, SECRETARY