



**TOWN OF TIBURON  
PLANNING COMMISSION  
1505 Tiburon Boulevard  
Tiburon, CA 94920  
Action and Approved Minutes  
Regular Meeting  
May 11, 2005 – 7:30 PM**

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## **ACTION MINUTES**

### **CALL TO ORDER AND ROLL CALL 7:30 PM**

Chairman Collins, Vice Chairman Kunzweiler, Commissioner Fraser, 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. REVIEW OF DRAFT ENVIRONMENTAL IMPACT REPORT (DEIR) FOR A PROPOSED FIVE LOT RESIDENTIAL DEVELOPMENT (LING PRECISE DEVELOPMENT PLAN); END OF STONY HILL ROAD; FILE #30302; Joe Ling, et al, Owners; Assessor's Parcel No. 55-261-10 **RECEIVED PUBLIC COMMENT - CONTINUED TO JUNE 8, 2005 (4-0)**

### **MINUTES**

2. Planning Commission Minutes Regular Meeting of April 27, 2005 **APPROVED AS AMENDED (4-0)**

### **ADJOURNMENT 9:55 PM**

**MINUTES NO. 915  
PLANNING COMMISSION  
May 11, 2005  
Regular Meeting  
Town Council Chambers  
1505 Tiburon Boulevard, Tiburon, California**

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**CALL TO ORDER AND ROLL CALL**

Present: Chairman Collins, Vice-Chairman Kunzweiler, Commissioners Fraser and Snow

Absent: None

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

**ORAL COMMUNICATIONS**

There were none.

**COMMISSION AND STAFF BRIEFING**

Staff Updates:

Planning Manager Watrous reminded the Commission of the Town Council/Planning Commission workshop scheduled for May 23, 2005 at 6:00 p.m. He noted that the regularly-scheduled Commission meeting for May 25, 2005 has no items on the agenda as of this date. He added that no one has yet been appointed to the vacant Commission seat.

Commission Information Items:

There were none.

**PUBLIC HEARING**

- 1. REVIEW OF DRAFT ENVIRONMENTAL IMPACT REPORT FOR A PROPOSED FIVE-LOT RESIDENTIAL DEVELOPMENT (LING PRECISE DEVELOPMENT PLAN); END OF STONY HILL ROAD; FILE #30302; Joe Ling, et al, Owners; Assessor's No. 55-261-10**

Planning Manager Watrous presented the Staff report.

The public comment period was opened.

Elliott Grimshaw, representing the applicant, stated that he concurred with the Staff report. He said that the benefits of the project would include repair of the landslides; removal of invasive plant species; improved emergency access; diversion of water runoff from neighboring and public properties; and the improved utility services. He described improvements, such as planting trees and

installing rock faces on walls, that the developer intends to implement to address the visual impacts described in the Draft EIR.

Steve Hixson, architect, discussed other ways in which the house designs would address the potential visual impacts of the project. He noted that the houses can be spread out or clustered and/or moved to the west. He said that earth tone colors would help the houses blend into the background, and that landscaping could be used to screen the homes without blocking the views for other nearby residences. He answered questions from the Commission about the preparation of the visual photo simulations of the project.

In response to a question from the Commission, Planning Manager Watrous noted that the Draft EIR examines the project in relation to the current, existing General Plan, rather than the proposed General Plan. He added that he did not anticipate any significant changes to the analysis in the DEIR based upon his knowledge of the Draft General Plan.

Mr. Grimshaw discussed the financial feasibility of the project and distributed a summary of the costs involved in the five-lot proposal. He stated that if fewer than five lots were approved, the project would not be economically feasible. He noted that the current owner purchased the land approximately 20 years ago.

Roy Little stated that he owns a house immediately adjacent to the project site. He said that public records indicate that this property was purchased for \$360,000, and added that tax payments, false starts and other problems of the owner should not factor into the cost of the project. He said that the aesthetic impact of the project on Tiburon residents is a concern, and described project alternatives, including reduced numbers of lots, that would reduce this significant, unavoidable impact. He noted that if there is a significant, unavoidable impact, the Commission would have to issue a statement of overriding considerations, which should not be based on the economics of the project. He said that the project “weighs a lot,” and urged the Planning Commission to consider alternatives that could address the complexities of the project. He said that all parties would be served by a reduction in the number of units on the site. He addressed a mistake in the Staff report, noting that there would be 75,000 cubic yards of earth involved in the grading for the project, rather than the 50,000 cubic yards mentioned in the report.

Jim Malott stated that the highly visual character of the development would affect everyone in Tiburon. He felt that the Draft EIR misses the big picture, and that visual analysis underestimates the impacts of the project. He claimed that the scale used in the photo analysis was wrong, and that the homes would be much larger, taller and longer than shown on the simulations. He said that the colors of the houses would be important, and said that the fewer homes, the better. He questioned the applicant’s cost estimates, stating that grading is not that expensive, and that taxes over a 20-year period would be about \$140,000. He said that the site would be a solid wall of homes similar to Red Hill Circle. He said that there would be no dedicated public open space, and described the open space connection as inadequate. He said that the secondary ridgeline on the site is not a critical feature. He said that the nearby stream is wet year-round, rather than being seasonal as described in the DEIR. He described historical Miwok settlements in the area and said that more needs to be done to check for potential burial sites.

Commissioner Fraser asked Mr. Malott how the Town would know what is correct regarding the visual analysis. Mr. Malott replied that the Town should ask the applicant to complete a massing study of the lots, including accurate heights, setbacks, slopes, and proposed pools, walls and yards.

Planning Manager Watrous added that conceptual house designs that are more architecturally complete could be requested.

Fred Salinger stated that he had attended several General Plan workshops where people talked about sitting in traffic and looking at “Fort Tiburon” on the hill. He said that residents do not need another stop light or right turn lanes. He said that development projects should be required to maintain some reasonable amount of open space. He encouraged the Commission to be conservative in evaluating visual and traffic impacts on Tiburon residents.

Becky Pringle stated that there are inconsistencies in the Draft EIR. She said that there would be 75,000 cubic yards of grading, not 50,000. She said that bedrock has yet to be discovered in some areas, and needs to be found in order to have accurate mitigation measures. She said that this would also affect potential asbestos impacts. She claimed that the photo simulations in the DEIR are not accurate. She said that the visual analysis should include landscaping growth at various future intervals, along with the 1,500 feet of fencing, 7,500 feet of retaining walls and eight-plus v-ditches proposed. She felt that privacy issues were not properly covered by the DEIR. She said that the project would be over-dense for the area, and would create a “city block” effect.

Betsy Little thanked the Commissioners and Staff for their efforts. She stated that Tiburon residents are not responsible for protecting the owner’s investments. She said that the project should move along to a reduced density outcome. She said that she was frightened at the prospect of winterizing the site during the grading for the project. She said that more information was needed on the slopes of each lot, building envelope slopes and view directions. She was afraid of references to returning the land contours “more or less” to their original configuration. She asked for a guarantee of the eventual geologic stability of the site. She doubted the usefulness of the proposed open space and pedestrian connection. She questioned the locations from which the photos in the visual simulation were taken, stating that the simulations need to show all site improvements. She said that the depth of bedrock needs to be known before the mitigation measures are established. She said that she did not want to be in litigation over damages from a landslide on the property. She said that people along the Multi-Use Path need to be protected from flooding. She asked that the geologic analysis review plasticity levels for the soils, and asked for more information about a proposed sewer lift.

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

Commissioner Kunzweiler asked about the term “partially inconsistent” and what criteria were used in making that distinction. EIR Consultant Charles responded the report attempts to point out areas that are consistent or inconsistent, and added that many other jurisdictions do not require a policy consistency analysis in the DEIR, but leave that role to the decision-makers. He said that if there is some inconsistency with, he would describe it as “partially inconsistent” and point out the specific inconsistency. He said that he could modify the report to include only the terms “consistent” and “inconsistent.”

Commissioner Kunzweiler stated that there is confusion about the amount of grading to be performed as part of the project, and asked for the correct amount of grading. Mr. Charles stated that 75,000 cubic yards is the latest estimate and is in the project description. He noted that the original plan estimated 50,000 cubic yards for grading. He said that the 75,000 cubic yard estimate applies to all project alternatives. He added that the Town had asked the applicant to examine a potential grading alternative in response to issues raised at the EIR scoping meeting. He stated that

with the exception of the reduced grading estimates for Alternative 6, the DEIR evaluated the impacts of the original application.

Chair Collins asked that the sizes of the homes immediately adjacent to and below be included in the DEIR. He asked what the probability was of earth movement on the site if no repair work is done. Mr. Charles responded that the Herzog Report indicates the eastern slide is very unstable, and not repairing it would be a down-side to the “no project” alternative.

Chair Collins stated that there was not enough detail about grading in the description on project alternatives in the DEIR. Mr. Charles responded that with the landslide repair and the installation of the roadway, there would be very little difference in the amount of grading between the alternatives. He said that the only major differences between the alternatives would involve the visual impacts.

Commissioner Kunzweiler asked if houses below the landslide area are at risk. Mr. Charles said that these homes are at risk, as parts of the hillside are unstable.

Chair Collins asked Mr. Charles for more information about potential downstream flooding impacts. Mr. Charles described the large underground retention basins recommended in the DEIR. He said that if these improvements could not be large enough to be effective, another study would be needed. Chair Collins asked this to be fully described in the DEIR.

Chair Collins asked if the DEIR described the best method, and the best alternative, to connect the private open space and the public open space. Mr. Charles stated that Alternative 6 provides an acceptable route to the open space. It was the consensus of the Planning Commission to request a more detailed description of this in the DEIR.

Chair Collins asked that the DEIR spell out the information about the emergency fire road connection for the site.

Commissioner Kunzweiler asked Mr. Charles to address the questions about the uncertainties of bedrock depth. Mr. Charles responded that the DEIR relies on the reports prepared by Herzog and Earth Sciences (the applicant’s geotechnical professionals) and Miller Pacific (the Town’s geotechnical consultants). He said that the last Miller Pacific report indicated that the landslide could be repaired in accordance with Town policies.

Commissioner Kunzweiler stated that he sensed a leap of faith in the geologic reports and asked if the Town needed a better handle on this issue. Mr. Charles reiterated that he relied on the Town’s geotechnical experts. Community Development Director Anderson added that the Town asked the applicant to go back and conduct more tests until Miller Pacific was satisfied. Commissioner Kunzweiler stated that the DEIR should indicate that level of certainty.

Mr. Charles added that the landslide work would not be done all at one time. He said that work would be performed in narrow slots, starting at the bottom, to control the slide so it would not become unstable during repair.

Commissioner Fraser stated that there is a question regarding the designation of the property as prime open space or potential open space, and that the DEIR should clarify this issue. He noted that questions have been raised regarding the accuracy of the visual photo simulations; he felt that the site improvements should be shown more comprehensively in these simulations, in order to better

represent what the site would actually look like. Mr. Charles responded that the photo simulations were prepared by the applicant, and revised simulations may be requested.

Planning Manager Watrous noted that the role of the EIR is not to visually realize the entire project; rather, to analyze the information provided. He noted that the DEIR states that the visual impacts would be significant and unavoidable, and this would not be changed by requiring more detailed simulations. He suggested that the applicant be required to provide more detailed visual simulations prior to discussion on the merits of the project.

Commissioner Fraser added that having a better understanding of the various retaining walls and fences would allow the Commission to make better decisions. Mr. Charles noted that ideally the photo simulations should show houses, walls, ditches and fences.

Commissioner Fraser stated that he would also like to better understand the asbestos concern. Mr. Charles explained that if asbestos is found in the soil, the owner will have to comply with the state's asbestos control standards, including continually watering down so asbestos does not become airborne.

Commissioner Kunzweiler noted this could create uncertainty in estimating the overall development time. He stated that the DEIR needs to have a better description of what would happen if asbestos is discovered.

Chair Collins stated that he would like to see a conceptual study on the mass of the proposed buildings. Planning Manager Watrous stated that the Commission could ask the applicant to prepare conceptual architectural designs for the project, similar to those being prepared for the Tiburon Glen project.

Commissioner Kunzweiler asked about instances where the Design Review Board has recommended that building envelopes be changed to accommodate house designs. Planning Manager Watrous stated that if the designs allowed by an approved building envelope do not make sense, the Design Review Board has often recommended that the applicant request a modification of the building envelope. He added that the Planning Commission can give detailed direction to the Design Review Board if there are concerns about potential house designs.

Commissioner Fraser stated that the status of the year-round creek should be clarified. Mr. Charles responded that this can be clarified, but the DEIR indicates that there would be no impact on the creek.

Commissioner Snow stated that revised visual simulations should be prepared that would show the slopes and grades on each lot. He asked that the "consistent," "partially inconsistent" and "inconsistent" responses be grouped into a chart for better understanding.

Community Development Director Anderson noted there are different ways to describe consistent or inconsistent, but sometimes policies cover a range of issues.

Neil Sorenson, attorney for applicant, stated that it would make sense to do more on the photo simulations for review at the merits stage of the process. He said that changes to the project design are likely to occur after the EIR is certified. He said that the applicant would like to do the minimum amount of additional visual analysis at this stage.

Commissioner Kunzweiler stated that the Commission needs to know the accuracy of the visual massing of the buildings. Mr. Charles stated that a revised analysis that shows architectural detail would cost \$10,000 to \$12,000 and would take four to six weeks to complete.

After discussion, it was the consensus of the Planning Commission that the additional visual analysis need not be completed during review of the EIR, but should be completed during the merits stage of the project review.

Becky Pringle encouraged the Commission to require more visual analysis at this time. Commissioner Fraser stated the DEIR report and visual analysis may or may not be accurate, and asked how this is to be determined. Commissioner Kunzweiler said that the Commission has to have the discipline to understand what is being reviewed at this time, which is the question of whether the DEIR has captured the environmental impacts of this project.

Community Development Director Anderson responded that the Planning Commission does not need to know exactly what a project looks like in the DEIR review process; rather, this will be reviewed at the merits discussion stage. He said that the question is whether or not the DEIR discloses the potential visual impacts, and requiring more visual analysis now would not change the significant unavoidable visual impacts identified by the DEIR. Mr. Charles added that the DEIR would have different pictures, but the same conclusion.

Commissioner Kunzweiler stated there should be a binary scale of consistent and inconsistent in analyzing general plan policies. He asked Mr. Charles to take another look at the analysis for Policy OSC-3.

Chair Collins stated that the discussion on geologic repair techniques needs to be better described. Community Development Director Anderson noted that Staff requested the applicant look at landslide repair alternatives that might reduce the adverse impacts involved with eliminating the landslide, but the alternative repair methods did not substantially reduce impacts and were not recommended by any of the geotechnical experts.

**M/S, Kunzweiler/Fraser (passed 4-0) to continue this item to the June 8, 2005 meeting.**

## **MINUTES**

### 2. Planning Commission Minutes of April 27, 2005

Commissioners Fraser and Kunzweiler suggested minor wording changes to the minutes.

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

**ADJOURNMENT**

The meeting was adjourned at 9:55 p.m.

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RICHARD COLLINS, CHAIRMAN

ATTEST:

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SCOTT ANDERSON, SECRETARY