



**TOWN OF TIBURON  
PLANNING COMMISSION  
1505 Tiburon Boulevard  
Tiburon, CA 94920  
Action and Approved Minutes  
Regular Meeting  
June 22, 2005– 7:30 PM**

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**ACTION MINUTES**

**CALL TO ORDER AND ROLL CALL**

***All Present***

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

**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

**OLD BUSINESS**

1. 2000 PARADISE DRIVE; CONDITIONAL USE PERMIT #10411; CONSIDER ADOPTION OF RESOLUTION DENYING REQUEST TO EXPAND AN EXISTING RESTAURANT (CAPRICE RESTAURANT); Point Tiburon Plaza, Inc., Owners; Mogens Bach, Applicant; Assessor's Parcel No. 59-172-46 ***Adopted Resolution (5-0)***

**PUBLIC HEARING**

2. RECEIVE PUBLIC COMMENTS ON DRAFT ENVIRONMENTAL IMPACT REPORT (DEIR) FOR THE GENERAL PLAN UPDATE, *TIBURON 2020*  
***Comments Received***

**MINUTES**

3. Planning Commission Minutes - Regular Meeting of June 8, 2005 **Approved as Amended (5-0)**

**ADJOURNMENT 8:30 PM**

**APPROVED MINUTES NO. 917  
PLANNING COMMISSION  
June 22, 2005  
Regular Meeting  
Town Council Chambers  
1505 Tiburon Boulevard, Tiburon, California**

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**ROLL CALL**

Present: Chair Collins, Commissioners Aguirre, Frazer, Kunzweiler, and Snow  
Absent: None  
Staff Present: Planning Manager Watrous, Advance Planner Bryant and Meeting Recorder  
Creekmore

**ORAL COMMUNICATIONS** There were none.

**COMMISSION AND STAFF BRIEFING**

Planning Manager Watrous reported that a tentative date has been set for August 10, 2005 for the Kol Shofar Draft Environment Impact Review. He said that the DEIR will be circulated on July 1, 2005.

**PUBLIC HEARINGS**

1. **2000 PARADISE DRIVE; CONDITIONAL USE PERMIT #10411; CONSIDER ADOPTION OF RESOLUTION DENYING REQUEST TO EXPAND AN EXISTING RESTAURANT (CAPRICE RESTAURANT); Point Tiburon Plaza, Inc., Owners; Mogens Bach, Applicant; Assessor's Parcel No. 059-172-46**

Planning Manager Watrous presented the Staff report and recommended adoption of the draft resolution denying the Conditional Use Permit.

Commissioner Kunzweiler asked for more information about the future review of the existing use permit for the Caprice. Planning Manager Watrous replied that a special review would likely be performed in light of certain issues that have arisen. He said that any appeal of the denial of the current application would need to play out before a special review is scheduled.

Commissioner Fraser asked what the appeal timeframe is. Planning Manager Watrous replied that the appeal begins tomorrow and lasts for ten calendar days. He informed the Commission that Staff has spoken with the attorney representing Ms. Cook and said that Staff has been informed of their intention to appeal.

Commissioner Kunzweiler referenced Section C(b) of the draft resolution and said that he wanted to make sure that it is stressed that this is a significant increase of intense use. He suggested including "a significantly increased intensity of use of the restaurant" into the language of the resolution

Chair Collins suggested the following revisions to the draft resolution:

- Page 1: Include that an additional twelve seats will be added.
- Page 2, Section B(2), change to, "...limiting the use of these spaces by nearby residents and other residents and their guests".
- Page 2, Section B(3) change to, "Noise from ongoing operations of the restaurant and parking...adjacent residents at 2002 Paradise Drive and Point Tiburon
- Page 2, Section E: Label each subsection a, b, c, and d.

Commissioner Snow suggested revising the first paragraph on page 3 to read, "...project may be technically mitigated...".

Planning Manager Watrous said that scheduling of the special review of the existing use permit would be brought back to the Commission as an informational item after the appeal has been acted upon by the Council.

**M/S Kunzweiler/Fraser (5-0) to adopt the draft resolution as amended.**

## **PUBLIC HEARING**

### **2. RECEIVE PUBLIC COMMENTS ON THE DRAFT ENVIRONMENTAL IMPACT REPORT (DEIR) FOR THE GENERAL PLAN UPDATE, *TIBURON 2020***

Advance Planner Bryant presented the Staff report. He noted that the DEIR identifies several significant unavoidable impacts and said that that is not unusual for a program level EIR.

With respect to the significant unavoidable impacts, Commissioner Fraser asked if it was implied or understood that they would be mitigated over the next twenty years. Advance Planner Bryant replied that it depends on the impact. He said that congestion on Highway 101, for example, would continue to exist. He noted that there are other significant unavoidable impacts that are related to how new development impacts the visual quality of the community.

Commissioner Kunzweiler asked if the Town's position would be compromised by the acknowledgement that the General Plan creates significant unavoidable impacts. Bob Berman, EIR consultant, replied that in terms of visual significant unavoidable impacts, additional environmental review would be required on a site specific basis. He assured the Commission that the Town has taken a conservative approach with the DEIR.

Chair Collins expressed concern over the phrasing "may be significant unavoidable impacts". Mr. Berman replied that it would be clear whether a significant unavoidable impact exists or not.

Mr. Berman informed the Commission that site specific EIRs would ensure that impacts are mitigated.

Advance Planner Bryant assured the Commission that the Town is taking a conservative approach on the DEIR. He added that the document is program level, not project level and that the alternatives analysis indicates that there was no way to reduce the number of significant unavoidable impacts that have been identified.

Advance Planner Bryant confirmed for Commissioner Kunzweiler that for specific projects they would be required to make findings of overriding considerations in order to approve the EIR. Mr. Berman added that each impact would be evaluated to determine if it could be reduced to less than significant. He said that for impacts that could not be reduced to less than significant, a finding would be made and that additional site specific analyses would be required.

Mr. Aguirre expressed concern over the language in the draft EIR and recommended that it state that “it could or may” result in significant unavoidable impact rather than stating that it would absolutely result in significant unavoidable impact.

Mr. Berman referred to page 7, Section 4.10-7 of the draft EIR, and noted that it will be clear whether a significant unavoidable impact exists.

Chair Collins referenced page 5, paragraph 2 of the Staff report, and asked how impacts related to nighttime lighting and glare should be addressed. Advance Planner Bryant said that a policy related to that issue will be included in the final draft of the EIR.

Mr. Berman pointed out that the DEIR is designed to result in a self-mitigating general plan. He explained that in each section, specific policies have been included to reduce impacts to less than significant. He said that the General Plan that gets adopted would include those policies and if any of those policies were not included in the General Plan, Staff would have to perform another analysis to see if the impact is still less than significant.

Commissioner Kunzweiler requested that Staff prepare a list of additional policies to be presented to the Commission.

Chair Collins asked which of the impacts on pages 5 and 6 of the Staff report are not site specific or the responsibility of other agencies. Mr. Berman replied that the second bulleted item is not site specific or the responsibility of other agencies.

The public hearing was opened and closed.

Advance Planner Bryant said that written comments regarding the DEIR are due on July 5, 2005. He said that he would like to return the item to the Commission on July 13 in order for the Commission to make a determination whether Staff can respond to those comments without recirculating the DEIR.

Commissioner Collins requested that a revised draft of the plan with recent changes to it clearly identified be prepared for the Commission so that they have an opportunity to review any new revisions and comments added to the plan since they last received it. Advance Planner Bryant replied that he would provide the requested revisions to the Commission.

**M/S Kunzweiler/Fraser (5-0) to schedule a follow-up meeting for July 13, 2005.**

### **CONSENT CALENDAR**

#### **3. Planning Commission Minutes – Regular Meeting of June 8, 2005**

Amend the following:

Page 2, paragraph 11, 1<sup>st</sup> line, change to “He said that he believed that traffic, parking, and noise...”

Page 3, paragraph 1, line 13, change to “3 feet, 3 inches”.

Page 3, paragraph 4, line 4, change “have to” to “probably”.

Page 4, paragraph 5, line 5, change “left turn” to “right turn”.

Page 6, paragraph 2, lines 1-2, change to “Mr. Bach responded that it is provided...”.

Page 6, paragraph 4, line 14, insert “address” after “parking lot does not”.

Page 7, paragraph 2, line 12, insert “therefore” before “could not”.

Page 7, paragraph 5, line 2, change “impact” to “enforceability”.

Page 7, paragraph 6, lines 1 and 4, change “would” to “should”.

Page 8, paragraph 1, line 2, change to, “...information regarding the ultimate value of the proposed project upon completion”.

Page 8, paragraph 1, line 3, delete “should”.

Page 8, paragraph 1, line 4, add “the text amendment require that” before “copies of underlying documents”.

Page 8, paragraph 4, line 2, change to “He suggested that this section should...”.

Page 8, paragraph 6, line 13, change “...damage and maximize to the extent feasible to protect ridges”...” to “...and to the maximum extent feasible, protect prominent ridgelines”.

Page 10, paragraph 4, lines 2-7, change to “...Town costs being borne by the applicant, and. Items for the Town Attorney and Town Council to consider during the Town Council deliberations included clarification regarding the timing of the Economic Exception application, whether additional information regarding the current value of the property and the ultimate value of the proposed project upon completion should be required from the applicant, and whether the additional text regarding protection of prominent ridges should be added.

**M/S Snow/Aguirre (5-0) to approve the minutes as amended.**

**ADJOURNMENT**

The meeting was adjourned at 8:34 p.m.

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RICHARD COLLINS, CHAIRMAN  
Tiburon Planning Commission

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DAN WATROUS, SECRETARY