



**TOWN OF TIBURON
PLANNING COMMISSION
1505 Tiburon Boulevard
Tiburon, CA 94920
Action and Approved Minutes
Regular Meeting
August 24, 2005**

ACTION MINUTES

CALL TO ORDER AND ROLL CALL 7:30 PM

Present: Chairman Kunzweiler, Vice Chairman Fraser, Commissioner Aguirre,
Commissioner Collins

Absent: 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 There Were None

Staff Update
Commission Information Items

UNFINISHED BUSINESS

1. 215 BLACKFIELD DRIVE, FILE #10404: CONSIDER PREPARATION OF THE FINAL ENVIRONMENTAL IMPACT REPORT, (FEIR), FOR A PROPOSED EXPANSION OF AN EXISTING RELIGIOUS FACILITY AND DAY SCHOOL (CONGREGATION KOL SHOFAR); Congregation Kol Shofar, Owner and Applicant; Assessor's Parcel No. 038-351-34 **Prepare Response to Comments and Final EIR 4-0**

PUBLIC HEARING

2. 1626 TIBURON BOULEVARD: CONDITIONAL USE PERMIT #10405; REQUEST TO OPERATE A PILATES STUDIO; Main Street Properties, Owner; Stephanie Ziegler, Applicant; Assessor's Parcel No. 059-101-03 **Approved 4-0**

3. RECOMMENDATION TO TOWN COUNCIL OF ADOPTION OF TIBURON GENERAL PLAN, **TIBURON 2020**, AND CERTIFICATION OF ENVIRONMENTAL IMPACT REPORT **Recommended Certification of EIR and Adoption of General Plan 2020 4-0**

MINUTES

4. Planning Commission Minutes - Regular Meeting of July 27, 2005 **Approved 4-0**
5. Planning Commission Minutes – Regular Meeting of August 10, 2005 **Approved 4-0**

ADJOURNMENT **10:30 PM**

**APPROVED MINUTES NO. 921
PLANNING COMMISSION
AUGUST 24, 2005
Regular Meeting
Town Council Chambers
1505 Tiburon Boulevard, Tiburon, California**

ROLL CALL

Present: Chair Kunzweiler, Commissioners Aguirre, Collins, and Fraser
Absent: Commissioner Snow
Staff Present: Community Development Director Anderson, Planning Manager Watrous, Advance Planner Bryant, Associate Planner Krasnove and Meeting Recorder Creekmore

ORAL COMMUNICATIONS There were none.

COMMISSION AND STAFF BRIEFING There were none.

UNFINISHED BUSINESS

1. **215 BLACKFIELD DRIVE, FILE #10404: CONSIDER PREPARATION OF THE FINAL ENVIRONMENTAL IMPACT REPORT, (FEIR), FOR A PROPOSED EXPANSION OF AN EXISTING RELIGIOUS FACILITY AND DAY SCHOOL (CONGREGATION KOL SHOFAR); Congregation Kol Shofar, Owner and Applicant; Assessor's Parcel No. 038-351-34**

Planning Manager Watrous presented the Staff report and stated that no new significant environmental impacts had been identified that would require recirculation of the Draft Environmental Impact Report (DEIR). He said that additional project alternatives identified during the item's public comment period would be evaluated, although some might be deemed infeasible.

He stated that his review of the comment letters led him to conclude that recirculation of the DEIR was not necessary at this time. He explained that unless substantial new information is presented that triggers certain recirculation thresholds; recirculation is not required under the California Environmental Quality Act (CEQA). He noted that it was possible that during preparation of the response to comments, one or more of the thresholds could be reached, in which recirculation would be required at that time. He gave an overview of the process of preparing the response to comments and the Final EIR and informed the Commission that certification of the EIR does not equate with project approval.

Chair Kunzweiler added that the purpose of tonight's meeting is to receive comments regarding new significant environmental impacts relating to the project.

Commissioner Collins asked when information regarding the comments received from the public will be provided. Planning Manager Watrous further explained the CEQA process and how the EIR consultant would respond to comments and prepare the Final EIR.

Commissioner Collins asked how Staff determined that there are not other alternatives available to lessen environmental impacts. Planning Manager Watrous explained that CEQA does not require that every possible project alternative be examined. He said that a reasonable range of feasible alternatives is required to be considered in an EIR.

Commissioner Fraser asked what the formal circulation time period would be when the Final EIR is presented. Planning Manager Watrous replied that there is no formal time period, but that it would likely be available for 30 days prior to any hearing on the report.

The public comment period was opened. Chair Kunzweiler reminded the audience that the purpose of the meeting is to receive comments on new significant impacts, and not the merits of the project.

Tiffany Wright, legal representative for Congregation Kol Shofar, said that she agreed with Staff's assessment that no new significant impacts had been identified, and that recirculation of the DEIR was not necessary. She stated that the information requested by the Planning Commission could be handled during the preparation of the response to comments and the Final EIR.

Chair Kunzweiler referenced Ms. Wright's letter dated August 15, 2005 and asked if it was her position that the Tiburon General Plan was not to be taken into consideration when the project was designed. Ms. Wright acknowledged that the project has to be consistent with the General Plan. She disagreed with the conclusions of the DEIR that consistency with the General Plan needed to be dealt with in the EIR, and urged the Planning Commission to make up its own mind regarding this consistency.

Roger Beers, representative for the Tiburon Neighborhood Coalition, disagreed with Staff's determination that no new significant impacts had been identified. He stated that the question was not whether the public comments contained new information that would require recirculation, but whether the DEIR is adequate as it currently stands. He said that public comments contained information that should be considered to be new information. He said that deficiencies in the DEIR require new information, which should necessitate recirculation. He said that it was unusual to have a DEIR which required so many additional studies to make it adequate; he felt that the sounder course would be to ask for more studies before recirculation was needed. He commented that the

impacts of Kol Shofar's growth should be evaluated now, not after the growth has occurred, and he felt that the project cannot be approved without that information.

Karen Nygren said that she agreed with Mr. Beers' analysis of the project. She referenced a letter written by the Southern Marin Fire Department and said that this letter identified a new significant impact during High Holy Days. She noted additional information and corrections requested in a letter from CalTrans. She stated that the zoning code requires that all parking must be provided on-site, and that on-street parking cannot be used to meet a project's parking requirements. She said that the DEIR does not take holiday or high occupancy events into consideration, and cannot move on in the process.

Logan Boles stated that he and his neighbors have discussed that a "solution" to the parking impacts would be to move their cars onto the street during high occupancy events so that their guests could park in their driveways.

Virginia Brunini said that she believes the DEIR needs more information before it can be finalized, particularly regarding parking and high occupancy events.

Lisa Forne stated that Staff has adequately addressed the areas that need to be properly reviewed. She said that it is not uncommon for significant questions to come up that need to be addressed before the Final EIR is prepared.

Doren Canter, member of Congregation Kol Shofar, stated that she lives in Strawberry and walks to synagogue and would therefore not be contributing to parking problems. She spoke in support of the DEIR and felt that it was thorough and comprehensive.

Lorraine Sherman, member of Congregation Kol Shofar, stated that she is a resident of the Dominican University area, and said that although the university's events often take up residential parking, the university is a valuable asset to the neighborhood and that Congregation Kol Shofar should also be viewed as such. She said that the impacts of such uses are secondary to the quality of life that is brought to the neighborhood.

Edward Baker said that two-thirds of the comments supporting Kol Shofar came from people residing outside of Tiburon. He said that the EIR needs to identify from where people driving to Kol Shofar are coming.

Joanne Arnett said that Kol Shofar currently contributes to traffic and parking problems in her neighborhood. She said that she already has trouble backing out of her driveway during the school year. She said that she has attended events at Dominican University, but not any events at Kol Shofar.

Diane Zack, president of Congregation Kol Shofar, stated that the impacts of the project would be related to the number of people at the events, not the number of members belonging to the congregation. She said their membership has been stable for several years.

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

Commissioner Collins said that he commented on growth issues at the last meeting, and felt that an extrapolation of the growth trends may support Kol Shofar's contentions about the growth of its membership. He said that to the extent that growth information can be learned, it is needed by the Planning Commission. He found it troublesome to not have as much information about the project as possible and that many unanswered questions remain, particularly relating to traffic, including information about cars turning onto Reedland Woods Way, and about the possible alternative of moving the Reedland Woods Way driveway onto Blackfield Drive. He said that his concern with moving the EIR process ahead at this time without the appropriate information was like not wanting to fix a tire with a poor patch – why not fix it now.

Commissioner Fraser said that the many questions raised create a cloud of uncertainty over potential impacts and their severity. He said that he is troubled by parking and traffic issues and wondered, if a parking impact results from more cars, why this was not also a traffic impact. He said that he is uncomfortable that certain peak traffic times have not been studied and that there are too many unanswered questions at this time. He noted that the Commission does not lose the ability to recirculate the Final EIR once the responses have been drafted.

Commissioner Aguirre echoed the comments regarding the need for additional information in several areas. He said that he was sensitive to avoiding making this an endless data gathering exercise. He noted that certain issues, such as noise impact, have been determined to be significant unavoidable impacts and would not benefit from additional studies. He said that he was comfortable with Staff's recommendation provided all parties involved have adequate time to review the responses.

Chair Kunzweiler said that the only reason to collect more noise information was to help quantify that issue. He said that he was struggling with where to draw the line on when additional information should be collected. He said that although it is clear that additional information regarding this project is needed, that need should be tempered with the recognition that the EIR process is expensive and that the Town does not want to place an unfair burden on the applicant. He said that it is important to find the best and most efficient way of moving forward.

Leonard Charles, environmental consultant for the project, noted that the studies required as part of the EIR process provide information for impacts that have already been identified. He described the additional information that would be provided.

Chair Kunzweiler asked what would happen if new mitigation measures result from the additional information requested. Mr. Charles replied that new mitigation measures can be added to the EIR. He said that these studies would give the Commission more information on impacts that have already been identified.

Commissioner Fraser commented on traffic impacts at Reedland Woods Way, Via Los Altos, and Blackfield Drive. Planning Manager Watrous replied that the traffic study contained in the appendix to the DEIR includes an analysis of the left-turn movement onto Reedland Woods Way from Blackfield Drive, which was determined to be a less than significant impact. He added that a cursory look at a new driveway entrance from Blackfield Drive between Reedland Woods Way and Via Los Altos was performed, but that the traffic consultant determined that there is not enough information to adequately analyze that design option. He said that a more thorough presentation of

that information needs to be given. He added that the issue of whether to recirculate is based on whether new substantial information that has not yet been studied has been brought forth.

Chair Kunzweiler asked how long it would take to prepare the additional information and responses to comments. Planning Manager Watrous replied that it would take approximately 3 months to perform the additional studies and respond to comments, with another 30 days for public review of the Final EIR.

Chair Kunzweiler asked if it would help the process if Congregation Kol Shofar were to talk to neighbors to discuss potential project issues and alternatives. Planning Manager Watrous replied that it depends on what alternatives are discussed; if new alternatives are discussed, additional studies would need to be performed, but variations on current alternatives would not need additional studies. Mr. Charles added that the concept of recirculation is to allow the public to comment on the project. He said that the Town of Tiburon certainly allows this to happen, and added that the final documents will go through the same level of scrutiny. He said that this EIR could easily be moved along.

Chair Kunzweiler said that his goal is to have absolute transparency in the Commission's decisions.

Commissioner Aguirre said that it is his opinion that recirculation seems unnecessary at this time, as the Commission does not have any new information yet. He said that adequate time was needed for the public to assimilate the information already presented and to complete the studies.

Commissioner Fraser said that he thought that the process was sound, and added that recirculation can be performed at a later time if it is deemed necessary.

Commissioner Collins asked about the minimum sight distance concerns with the project's upper driveway [on Via Los Altos]. Mr. Charles said that if the applicant is unable to show proof that the sight distance can be made adequate, the driveway would have to be closed; if the sight line cannot be made adequate, the EIR would need to show how that change would affect other parking and circulation impacts. He said that the EIR only shows two significant unavoidable impacts that cannot be mitigated, but that there are approximately 40 impacts that are potentially significant that can be mitigated. He noted that less than significant impacts can change to significant unavoidable impacts, but that would not mean that there were new impacts that require recirculation. He explained that since the driveway has already been identified as an impact, it would not be considered a new impact even if it were to change to a significant unavoidable impact. He added that there are mitigation measures recommended that include performance standards that have to be met.

Commissioner Collins said that it appears that recirculation is not necessary because the opportunity to revisit issues will still be available.

Chair Kunzweiler said that the Commission is very interested and focused on the problems already identified for this project. He stated that he was willing to not require recirculation of the DEIR and suggested a motion to move the document into the Final EIR phase and respond to comments, with the very strong expectation that comments and issues be fully analyzed. He said that the Commission is very concerned about traffic, parking, noise, and public safety issues, but understands that there will be adequate review of the Final EIR.

M/S Fraser/Aguirre (4-0) to determine that recirculation is not required at this time and to direct the consultant to respond to comments and begin preparation of the Final EIR.

PUBLIC HEARING

2. 1626 TIBURON BOULEVARD: CONDITIONAL USE PERMIT #10405; REQUEST TO OPERATE A PILATES STUDIO; Main Street Properties, Owner; Stephanie Ziegler, Applicant; Assessor's Parcel No. 059-101-03

Associate Planner Krasnove presented the Staff report. She noted that Staff has concluded that a total of five parking spaces would be required for the facility per the Town's zoning code.

Commissioner Collins asked if the parking spaces behind the building are reserved. Gary Lucas, manager of Main Street Properties, said that the parking spaces are designated for the tenants that occupy the building in which the facility would be located.

Stephanie Ziegler, project applicant, thanked Staff for their assistance in preparing her application.

Commissioner Fraser asked if there are any other pilates studios in Tiburon. Ms. Zeigler replied that Fitness in Tiburon has a studio with pilates equipment and that the other closest studio is in Mill Valley.

Commissioner Fraser asked if the parking spaces across the street from the studio will be labeled for her facility. Mr. Lucas replied that parking at the Bank of America lot will be validated by an attendant. He added that there is free 2-hour parking on-site for patrons of the Maritime Building, which is also monitored by an attendant twice a day. He said that towing of vehicles has been enforced recently.

Commissioner Aguirre asked if any signage will be placed in the facility to indicate where patrons should park. Mr. Lucas replied that members will be informed of where to park when they call to make appointments. He informed the Commission that most of the tenants in the complex pay to have parking validated for their clients.

Commissioner Collins asked how many spaces are in front of the Maritime Building. Mr. Lucas replied that there are 25 two-hour spaces and two 15-minute spaces. He said that other businesses, such as a nail salon, chiropractor, dental office and various private offices, also park in those spaces without validation. He added that customers can park in any of the Main Street Properties parking lots if they have validation. In response to comments, he said that many locals are aware that they can get their parking validated.

Chair Kunzweiler expressed concern that patrons of the building's services are not aware that parking validation is available. Ms. Zeigler stated that Main Street parking validation is viewed as an added benefit to her clients, as it would allow them to visit other local businesses while parked in the lot.

Commissioner Collins said that it is unclear as to what parking spaces at the rear of the building are reserved and which are not. Mr. Lucas replied that reserved spaces have painted numbers and not names because tenant turnover made it difficult to keep the parking space information current.

Chair Kunzweiler stated that finding the stairwell leading to the studio should be made easier and asked where signage for the facility will be placed. Ms. Zeigler replied that signs will be placed on the sides of the building that face Tiburon Boulevard and Juanita Lane, as well as the door to the studio. She said that she is hoping to avoid using a sign with an arrow.

Ms. Zeigler commented that the resolution excludes Sundays from the days that she is able to operate her business. She said that although she does not foresee operating on Sundays in the near future, she did not want to preclude the possibility of doing so.

Associate Planner Krasnove stated that the resolution did not include Sundays as a day of operation simply because Sunday hours were not included in the application's project description. It was the consensus of the Commission that wording of the resolution be modified so as to not preclude the possibility of operating on Sundays.

There being no further comments, the public hearing was closed.

Commissioner Fraser recommended that signage be installed in the parking lot that indicates that validated parking is available.

Chair Kunzweiler cautioned against making parking requirements a part of the use permit. He suggested that the permit state that the applicant will work closely with Main Street Properties to improve parking conditions.

Community Development Director Anderson stated that the parking solution that the applicant has agreed to is adequate. He said that he is confident that patrons will quickly become aware that parking validation is available to them.

Commissioner Collins referenced the indemnification condition of approval in the draft resolution and asked whether Staff reserves the right to select its own attorney. Community Development Director Anderson replied that it is up to the Town Council whether they will appoint the Town Attorney or hire an outside attorney.

Commissioner Fraser stated that the hours of operation on Sundays should be consistent with the hours of other fitness facilities in Town. It was agreed by the applicant and the Commission that operating on Sundays between the hours of 6 a.m. and 7 p.m. would be allowed under the conditions of the permit.

M/S Collins/Aguirre (4-0) to adopt the resolution approving the conditional use permit application, with the modified conditions of approval permitting Sunday operations.

3. RECOMMENDATION TO TOWN COUNCIL OF ADOPTION OF TIBURON GENERAL PLAN, *TIBURON 2020*, AND CERTIFICATION OF ENVIRONMENTAL IMPACT REPORT

Advance Planner Bryant presented the Staff report.

The public comment period was opened.

George Landau, Tiburon resident, said that the latest version of the General Plan is a big improvement over previous versions, particularly the part which focuses on the history of the Town. He said that the Town should be mindful of protecting views and would like to see that the Town's view and tree ordinances be referenced in certain parts of the Plan.

Chair Kunzweiler suggested that Mr. Landau spend time with Advance Planner Bryant to discuss where references to the Town's zoning and tree ordinances should be placed in the Plan.

Advance Planner Bryant noted that one of the struggles that he has encountered with referencing the Town's view ordinance is finding a place that it fits well. He explained that he does not think that the Plan would be able to deal with this issue adequately.

Virginia Brunini, Tiburon resident, commended Staff and the Commission for the effort they put into revising the Plan. She would like to see more affordable housing projects move forward.

Joanna Kemper, Last Chance Committee, commended Advance Planner Bryant and referenced his Staff memorandum dated August 24, 2005. She said that she supports the changes proposed in the memorandum.

Chair Kunzweiler referenced the memorandum and suggested that policy LU-10 be modified to read "Existing development and new construction."

Chair Kunzweiler asked if "primary views" is a defined term. Community Development Director Anderson replied that the term is defined in the Hillside Guidelines. He said that his only concern is that applying the term to all new construction would trump what is currently in the Hillside Guidelines. He explained that the guidelines set forth specific principles and guidelines for reviewing those situations and what constitutes major and minor infringements of views.

Commissioner Collins asked if there is an explanation for the difference between new development and new construction. Advance Planner Bryant replied that development and construction are unique and different terms as defined in the General Plan.

Community Development Director Anderson referenced LU-10 and expressed concern over the word "avoid." It was agreed that the following change will be made to make the Plan consistent with the Hillside Guidelines:

1. Policy LU-10: Change the words "avoid interference" to "interfere minimally".

Ms. Kemper brought the Commission's attention to changes proposed by Staff and said that she encourages the Commission to recommend the revisions to the Town Council.

There being no further comments, the public hearing was closed.

Commissioner Collins said that he agrees with and supports the changes proposed by Staff.

Chair Kunzweiler referenced the last paragraph of page 2-19 of the Plan, regarding the cost of maintaining Paradise Drive and proposed the following change:

2. Final Draft General Plan: Delete the word “continuing” from the first line on page 2-20.

Chair Kunzweiler referenced page 5-20 of the Plan and asked if the intersection at Tiburon Boulevard and Blackfield Drive should be included. Staff replied that the list includes streets from their traffic model for the Plan, which focuses on weekday AM and PM peak hour traffic. Community Development Director Anderson added that one reason that environmental impact reports are required for individual projects is to determine traffic impacts that are not anticipated in the Plan’s traffic model.

Chair Kunzweiler commended Staff for their work on the Plan.

M/S Collins/Fraser (4-0) to adopt the draft resolution as submitted.

MINUTES

4. Planning Commission Minutes – Regular Meeting of July 27, 2005

Amend the following:

- Page 1, paragraph 3, line 2: Insert “are” after “Ms. Foster replied that there”
- Page 2, paragraph 3, line 2: Change “reviewed” to “review”
- Page 2, paragraph 5, line 2: Insert “think” after “He did not”
- Page 2, paragraph 13, line 3: Change “expressed confusion” to “questioned how”
- Page 3, paragraph 9, line 4: Insert “equipment” before “space and frequency”
- Page 4, paragraph 3, line 2: Insert “not” after “that the renderings do”
- Page 4, paragraph 7, lines 3-4: delete “transparent siding”

M/S Fraser/Collins (4-0) to approve the minutes as amended.

5. Planning Commission Minutes – Regular Meeting of August 10, 2005

Amend the following:

- Page 2, paragraph 3, lines 23-24: Change to “He said that further CEQA analysis was not necessary”
- Page 3, paragraph 3, line 13: Insert “issues” between “parking” and “generated”
- Page 3, paragraph 3, lines 14-16: Change to “He said that the neighbors are concerned about late night activities and that the traffic impacts are not adequately analyzed in the DEIR.”
- Page 4, paragraph 1, line 2: Change “continues via Capistrano” to “connects with Via Capistrano”
- Page 4, paragraph 6, line 3: Change to “was done on the day when”
- Page 5, paragraph 2, line 4: Change to “such facilities are a good thing.”
- Page 5, paragraph 3, lines 1-2: Change to “described the mission of Congregation Kol Shofar. As a teacher...”
- Page 7, paragraph 3, line 1: Insert “the” after “the civility of”
- Page 7, paragraph 3, line 6: Change to “more dated was needed on the growth”

Page 7, paragraph 4, line 4: Insert “not” after “how this would impact”

Page 7, paragraph 5, line 3: Change to “He felt that the way lighting was addressed in the DEIR was adequate.”

Page 8, paragraph 1, line 3: Change to “if the baseline measurement was lower, a project”

M/S Aguirre/Fraser (4-0) to approve the minutes as amended.

ADJOURNMENT

The meeting was adjourned at 10:28 p.m.

JOHN KUNZWEILER, CHAIRMAN
Tiburon Planning Commission

ATTEST:

DANIEL WATROUS, SECRETARY