



**TOWN OF TIBURON  
PLANNING COMMISSION  
1505 Tiburon Boulevard  
Tiburon, CA 94920  
Action and Approved Minutes  
September 14, 2005 – 7:30 PM**

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**ACTION MINUTES**

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

Chairman Kunzweiler, Vice Chairman Fraser, Commissioner Aguirre, Commissioner Collins, Commissioner Snow **All 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. 60202-TE: TIBURON COURT VESTING TENTATIVE SUBDIVISION MAP TIME EXTENSION; Ralcat Properties LLC, Owner and Applicant; Assessor's Parcel Nos. 039-061-80 & 86; time extension for three lot subdivision off Trestle Glen Boulevard **APPROVED 5-0**
2. Z 2005-02: TOWN-INITIATED ZONING ORDINANCE AMENDMENT TO ADD A SECTION REGULATING ANTENNAS AND WIRELESS COMMUNICATION FACILITIES; CONSIDERATION OF REVISED WIRELESS COMMUNICATION FACILITY STANDARDS **PUBLIC HEARING HELD; CONTINUED TO SEPTEMBER 28, 2005**

**DISCUSSION ITEMS**

3. Annual General Plan Status Report for FY 2004-2005 **RECOMMENDED FORWARD TO TOWN COUNCIL 5-0**

**MINUTES**

4. Planning Commission Minutes - Regular Meeting of August 24, 2005  
**ADOPTED 5-0**

**ADJOURNMENT 9:00 PM**

**APPROVED MINUTES NO. 922  
PLANNING COMMISSION  
September 14, 2005  
Regular Meeting  
Town Council Chambers  
1505 Tiburon Boulevard, Tiburon, California**

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**CALL TO ORDER AND ROLL CALL**

Present: Chair Kunzweiler, Commissioners Aguirre, Collins, Fraser 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**

**Staff Updates:**

Community Development Director Anderson reported that the Town Council has adopted the General Plan, and final printed and electronic copies will be distributed to the Planning Commissioners in a week or two.

**Commission Information Items:**

There were none.

**PUBLIC HEARING**

1. **60202-TE: TIBURON COURT VESTING TENTATIVE SUBDIVISION MAP TIME EXTENSION; Ralcat Properties LLC, Owner and Applicant; Assessor's Parcel Nos. 039-061-80 & 86; time extension for a three-lot subdivision off Trestle Glen Boulevard**

Community Development Director Anderson reviewed the Staff report.

Irving Schwartz, project civil engineer, stated his employer is a new owner of the site and needs the requested time extension to review details of the project.

Chair Kunzweiler asked if there would be any effects of an ownership change of this property. Community Development Director Anderson responded that an ownership change does not affect the entitlement.

There was no public comment.

Commissioner Collins stated that he continues to support the project and approves of the extension.

Commissioner Snow stated that it appears there has been no change to the project that was previously approved.

**M/S, Snow/Collins (passed 5-0) to adopt the resolution approving a time extension for the Vesting Tentative Subdivision Map approval.**

**2. Z 2005-02: TOWN-INITIATED ZONING ORDINANCE AMENDMENT TO ADD A SECTION REGULATING ANTENNAS AND WIRELESS COMMUNICATION FACILITIES; CONSIDERATION OF REVISED WIRELESS COMMUNICATION FACILITY STANDARDS**

Planning Manager Watrous presented a review of the Staff report and a brief history of the process of updating the standards for wireless communication facilities (WCFs).

The public comment period was opened.

Gunnar Wetlesen noted that he was a member of the ad hoc committee reviewing the WCF standards, and asked why he did not receive a response to his letter dated August 9, 2005. He stated that he was glad that setback and height provisions were included in the draft standards, but felt that the setbacks should be as much as 500 percent of the height of the antenna structure. He reiterated the questions contained in his letter, including questions of acting bodies for nonconforming facilities; what constitutes a Town-approved shared location site and where they might be; the process for amending approved permits; and third-party verification of submitted information. He said that the experience with the MERA antennas was a failure of the application of the existing ordinances and standards. He said that the proposed standards are too convoluted, and wanted to ensure that the standards are clear, and clarify the degree of discretion involved in any application.

Chair Kunzweiler informed Mr. Wetlesen that letters such as the one he submitted are generally dealt with and responded to at the public hearing. He acknowledged that the Town needs to learn from the MERA experience.

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

Commissioner Snow stated that there was not much in the draft document that he would want to change. He acknowledged that an extensive amount of time has been put into the draft.

Commissioner Collins suggested that in the big picture of the draft ordinance and standards, it would be better to talk about the bigger issues at this meeting, such as setbacks and notifications.

Community Development Director Anderson responded to the individual questions in Mr. Wetlesen's letter. He stated that the Planning Commission is the acting body on applications, with the Town Council acting upon appeals. He said that the Community Development Director would be allowed reasonable discretion in reviewing potential changes, and that Staff will be extremely cautious in authorizing any change to a nonconforming facility.

Chair Kunzweiler stated that he is confident that the greatest sensitivity will be used on this, but said that over time another person or body may interpret the term "material change" differently. Community Development Director Anderson responded that a definition of "material" could be crafted.

Mr. Wetlesen stated that he was concerned about the amount of discretion involved. He felt that there should be checks and balances, and suggested that any modifications to existing WCFs be logged into a book that would be available for public review. Planning Manager Watrous noted that nine WCFs have been permitted in Tiburon, and none has requested any such modification.

Commissioner Collins suggested that Staff provide notice to the Planning Commission of any Staff-approved WCF modifications.

Commissioner Aguirre asked for clarification about references to "reasonable" discretion. Community Development Director Anderson responded "reasonable discretion" is a phrase commonly used in land use regulations to prevent unreasonable decisions. He stated that this protects an applicant because Staff must act reasonably. Planning Manager Watrous added that this protects the residents as well, to avoid inappropriate determinations over which neighbors have legitimate concerns.

Community Development Director Anderson stated that there are currently no Town-approved shared location sites, and he did not foresee many possible sites for a shared-location with one or more monopoles in Tiburon, as an antenna farm would be discouraged. He added that the Town has never approved a monopole WCF design.

Mr. Wetlesen stated his concern is if there is a provision that addresses multiple monopoles and there is not an approved list, and a provider wants a site, why could that provider not put up another if the lease arrangement were approved and why the provider could not have a court-forced monopole. Mr. Wetlesen stated that unless MMWD has a policy excluding monopoles, MMWD could approve another monopole near the MERA antenna.

Community Development Director Anderson responded the Town Attorney has clearly indicated that the Town cannot "MERA-proof" this ordinance. He also stated that these standards would not have prevented the MERA installation. He said that any commercial user utilizing an MMWD site would have to go through the Town's approval process. He further described setback provisions in the WCF regulations for other municipalities. He stated that the rationale for height regulations usually has more to do with aesthetics than safety concerns. He said that the phrase "near a residential area" needs more consideration, as almost everything except open space and the center of downtown is near a residential area in Tiburon.

Commissioner Collins noted that the ad hoc committee had taken the standards and ordinance to a certain level, and that it was then reworked by the Town Staff and the Town Attorney. He said that he was still concerned about public notices and asked if notices of the application filings could be posted on the Town's website, in addition to newspaper publication. Planning Manager Watrous confirmed that this could be done. Commissioner Aguirre suggested creating a notice page on the website with broader public interest. Commissioner Fraser suggested using a replica of the notice put in the Ark.

Commissioner Collins suggested that other public agencies be sent a copy of the Town's WCF policy requesting that those agencies respect and abide by the Town's WCF ordinance and standards, both upon adoption and when an application is filed on property that the agency owns. Community Development Director Anderson confirmed that this could be done.

Commissioner Fraser applauded Commissioner Collins for taking the lead role in the preparation of the document, as well as the efforts of Staff. He said that the document represents the spirit and intent of the committee's efforts, and that there was much public input in its formative process. He said that he would leave it to Staff to make the changes requested by the Commission.

Chair Kunzweiler thanked Commissioners Collins and Fraser for their hard work on this project. He said that he would leave the wordsmithing of the document for later. He said that the challenge of the document is that it was drafted in the shadow of an unfortunate situation that was out of the hands of the Town. He said that this is a good document that covers a lot of ground. He said that the next challenge is to know where wireless technology is going. He noted that lack of wireless coverage in some areas is a public safety issue. He noted that Angel Island was not included in the planning area for this and asked if it should be part of this strategy. Community Development Director Anderson responded that all but two tiny portions of Angel Island are in the Town limits (the remainder is in San Francisco), but that the entire Island is owned by the State of California and the federal government.

Chair Kunzweiler stated that the Town must be extra cautious in terms of Staff discretion. He said that the document is vague on the issue of satellite dishes. Community Development Director Anderson stated that the federal government has preempted all local regulations for dish antennas less than one meter in diameter. The Town requires design review for all dish antennas larger than one meter in diameter.

**M/S, Collins/Snow (passed 5-0) to continue this item to September 28, 2005.**

### **DISCUSSION ITEMS**

#### **3. Annual General Plan Status Report for FY 2005-05**

Chair Kunzweiler noted the Planning Commission's efforts in reviewing the General Plan were appreciated by the Town Council.

**M/S, Snow/Aguirre (passed 5-0) to forward the status report to Council.**

### **MINUTES**

#### **4. Planning Commission Minutes – Regular Meeting of August 24, 2005**

Changes include:

Page 2, 7<sup>th</sup> paragraph, 2<sup>nd</sup> line, change “Plan was taken...” to “Plan not to be...”

Page 4, 1<sup>st</sup> paragraph, 7<sup>th</sup> line to state, “...and about the possible alternative of moving the Reedland Woods Way driveway...” Line 8 to read, “...EIR process ahead at this time without appropriate information was like fixing a tire with a poor patch.”

Page 5, 2<sup>nd</sup> paragraph, 4<sup>th</sup> line, separate “to comments.”

Page 5, 3<sup>rd</sup> paragraph, 6<sup>th</sup> line, change “he Town” to “the Town.”

Page 5, 7<sup>th</sup> paragraph, 11<sup>th</sup> line, change “were to change” to “were to become a significant unavoidable impact.”

Page 7, 2<sup>nd</sup> paragraph, 1<sup>st</sup> line, after “parking spaces” insert” at the rear of the building.”

**M/S, Fraser/Snow (passed 4-0-1; Snow abstaining) to approve the minutes of August 24, 2005 as amended.**

**ADJOURNMENT**

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

JOHN KUNZWEILER, CHAIRMAN

ATTEST:

SCOTT ANDERSON, SECRETARY