



**TOWN OF TIBURON
PLANNING COMMISSION
1505 Tiburon Boulevard
Tiburon, CA 94920
Action and Approved Minutes
Regular Meeting
March 8, 2006 – 7:30 PM**

ACTION MINUTES

CALL TO ORDER AND ROLL CALL

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

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.

COMMISSION AND STAFF BRIEFING

Staff Update
Commission Information Items

PUBLIC HEARING

1. 700 TIBURON BOULEVARD: CONDITIONAL USE PERMIT #10503; REQUEST TO MODIFY PREVIOUSLY APPROVED PLANS TO EXPAND A PRIVATE RECREATIONAL FACILITY; Belvedere Tennis Club, Owner and Applicant; Bradanini & Wings, Architect; Assessor's Parcel No. 055-201-36 (CONTINUED FROM FEBRUARY 22, 2006 **APPROVED 3-0**)
2. PRE-ZONING OF TWO UNINCORPORATED PROPERTIES WITHIN THE TIBURON PLANNING AREA; (CONTINUED FROM JANUARY 25, 2006) **RECOMMENDED APPROVAL TO TOWN COUNCIL 4-0**
3. TEXT AMENDMENTS TO CHAPTER 16 OF THE TIBURON MUNICIPAL CODE (ZONING) ESTABLISHING REGULATIONS FOR AFFORDABLE HOUSING OVERLAY **RECOMMENDED APPROVAL TO TOWN COUNCIL 4-0**

4. TEXT AMENDMENTS TO CHAPTER 16 OF THE TIBURON MUNICIPAL CODE (ZONING) AMENDING INCLUSIONARY HOUSING REGULATIONS
RECOMMENDED APPROVAL TO TOWN COUNCIL 4-0

MINUTES

5. Planning Commission Minutes - Regular Meeting of February 22, 2006 **APPROVED AS AMENDED 2-0**

ADJOURNMENT 9:35 PM

Future Agenda Items

642 Tiburon Boulevard; Use Permit for large family day care home (TBD)
End of Stony Hill Road, Ling Precise Development Plan for 5 homes on 5.6 acres (TBD)
215 Blackfield Drive, Kol Shofar Expansion Final EIR and Conditional Use Permit (TBD)

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**APPROVED MINUTES NO. 931
PLANNING COMMISSION
March 8, 2006
Regular Meeting
Town Council Chambers
1505 Tiburon Boulevard, Tiburon, California**

The meeting was called to order at 7:30 p.m.

ROLL CALL

Present: Chair Kunzweiler, Vice-Chair Fraser, Commissioners Aguirre (9:15), Bird, & Collins
Absent: None
Staff Present: Community Development Director Anderson, Planning Manager Watrous and Meeting Recorder Creekmore

ORAL COMMUNICATIONS

There were none.

COMMISSION AND STAFF BRIEFING

Community Development Director Anderson noted that the Town Council had appointed Emmett O'Donnell to a permanent position on the Planning Commission, effective March 10th.

Anderson informed the Commission that no items are currently scheduled for the March 22nd meeting. He said that the Council has recently adopted the zoning amendments as submitted by the Planning Commission and that the Tiburon Glen item was continued but that it appears that the majority of the Council will act in favor of the 3-lot plan with an off-site tree planting program not focused on the Gilmartin Drive area.

PUBLIC HEARING

1. 700 TIBURON BOULEVARD: CONDITIONAL USE PERMIT #10503; REQUEST TO MODIFY PREVIOUSLY APPROVED PLANS TO EXPAND A PRIVATE RECREATIONAL FACILITY; Belvedere Tennis Club, Owner and Applicant; Bradanini & Wings; Architect; Assessor's Parcel No. 055-201-36 (CONTINUED FROM FEBRUARY 22, 2006)

As a member of the Belvedere Tennis Club (BTC), Commissioner Collins recused himself from the hearing and left the Chambers.

Planning Manager Watrous presented the Staff report.

Chair Kunzweiler stated that at the February 22, 2006 Planning Commission meeting, the Commission requested that the applicant provide factual data related to the Belvedere Tennis Club's social events. He requested that citizens keep comments limited to issues that have not previously been brought forward.

Richard Konecky, president of the Belvedere Tennis Club, thanked Mary Hayden for compiling the requested data in such a short period of time. He objected to the limitations on the number of social events as prescribed in the Staff report and stated that there is nothing to justify the limitation or contradict the information presented by either the BTC or the sound engineer regarding adverse impact. He said that it would be premature to impose the limitation and that noise from Tiburon Boulevard would drown out any noise from the club. He noted that the owners of 9 Palmer Court, which is the home closest to the club, have publicly endorsed the project. With respect to the concerns from neighbors regarding an increase in the intensity of the club's use, he said that the BTC is currently operating under a use permit that allows the club to conduct such events and does not impose limitations restricting social events. He said that the club needs flexibility to handle its own affairs. He said that if events do become noisy in the future, they should be addressed at that time, but since they currently do not cause negative effects, basic fairness dictates that the BTC manage its own events.

Mr. Konecky said that the condition requiring a BTC staff member to be present at all social events is unprecedented in Tiburon and that he has already informally offered to have a staff member present as well as provide a cell phone number for Palmer Court residents to use for complaints. He asked that the Commission allow the BTC to manage the club in the spirit in which it was intended. He said that it is important to the club to have a policy going forward to deal with complaints. He requested that the language in Condition 4 of the draft resolution be amended to remove the limitation on the number of social events as well as the requirement to provide a cellular telephone number to residents. He said that he has submitted a written request to the Commission requesting additional changes to the resolution.

In response to questions, Mr. Konecky informed the Commission that the BTC annually sends neighbors within 300 feet of the club a telephone number to contact the BTC during social events. He said that going forward the club's policy will be to continue this practice.

The public hearing was opened.

Beth Logan, Tiburon resident and four-year BTC member, said that it has been her observation that the club is very buttoned-down and operates with the highest level of respect for its neighbors. She said that as a member of the club, she was surprised to see the condition included.

Mike Hanley, Tiburon resident and five-year BTC member, spoke on behalf of himself and his wife, who is the club's membership chairman. He said that the demographic that the club attracts consists of families with young children and that the character of the club's members will not change nor will it result in an intensified use. He pointed out that many of the parties on the list provided by the club do not have music.

DeeAnn Ezcurra, Tiburon resident and BTC member, said that she is not able to hear the club from her home on Hawthorne Drive. She said it has been a pleasure to be a member of the BTC.

Hillary Don, Belvedere resident and 30-year BTC member, said that the BTC is a low-key club with low-key attitudes. He said that he has never witnessed a noisy or intoxicated person at any of the club's events and that events end appropriately and without dispute. He added that he has never heard a substantiated complaint regarding the noise or conduct at any of the social events.

Renee Eckstut, Tiburon resident and BTC member, said that she joined the club because it was safe and provided activities for her family. She said that she would hate for anything to interfere with the club's expansion and stressed that the club needs to be updated. She said that she never heard any noises from the club during the five years that she lived on Rock Hill Drive.

John Hermansky said that he lives across Tiburon Boulevard from the BTC and expressed concern over the club's parking area. He said that if the club is permitted to operate until midnight, a considerable amount of noise will be generated that will affect nearby residents on Hawthorne Terrace. He said that he and Clyde Columbo would like to know if all events have to be sponsored by members. He said that the new clubhouse will attract more members and an increased number of requests for social events, which will result in increased noise, view, and traffic impacts. He said that the burden of responsibility to mitigate the impacts caused by the expansion should rest with the club. He urged the Commission to place controls on the excessive impacts of the project and reiterated that events should end before midnight.

Alice Cannistraci, Tiburon resident, said that her home is across from the club. She questioned why the club is so concerned with the limitations outlined in the resolution if they intend to remain a small, quiet club.

David Flaherty, Tiburon resident and four-year BTC member, said that he joined the club because it is small, quiet, and low-key. He said that other than occasional shouting from the tennis courts, he has never heard anything loud at the club. He said that the club is very particular about whom it allows as members and that it would be a shame to restrict the club's activities in the absence of any problems.

Matt Bell, Tiburon resident, said that all BTC outdoor activities should end at 6:00 p.m. He disputed that the sound wall will adequately mitigate noise generated by the club and referred to a site plan to point out that the proposed fence ends short of 9 Palmer Court. He cited the club's liquor license and said that the BTC should respect the conditions it sets forth. Chair Kunzweiler asked if sounds from the club are audible at his home. Mr. Bell replied that although he does not currently live at 8

Palmer Court, he could hear music and other sounds from the club's events when he did reside there during the 1990's. He noted that the home was built circa 1984.

Commissioner Fraser asked Staff if there was anything the Commission needed to consider with respect to the club's liquor license. Planning Manager Watrous replied the Town does not enforce regulations set forth by the State Department of Alcohol & Beverage Control.

Doug Woodrum, Tiburon resident and seven-year BTC member, commented that he has been very happy at the club and that its character has remained consistent. He said that he is friends with a current resident of 8 Palmer Court who told him that noise from the club is unnoticeable from the ground floor and that only conversational noise is audible from outside the house.

Sammie Burke, Tiburon resident, expressed concern with an increase in traffic generated from the expansion of the club. She said that there many club members make U-turns on Rock Hill Drive and that the area is already congested as is.

John Kravenschmidt, former resident of Hilary Drive and current BTC member, said that he has always viewed the club as a community gathering place. He said that the club has never had any intentions of being a large club like the Tiburon Peninsula Club and has no intention of increased use. He maintained that the club's only intention is to make it more enjoyable for its members. He noted that the club is located on a heavily traveled road and that cars have a louder impact on the area than the club.

Chester Judah, Tiburon resident, said that similar testimony was received during the renovation of the Community Congregational Church eight years ago and that the renovations resulted in an increase in weddings. He expressed dissatisfaction towards the Town for not having a noise ordinance for residential areas.

Charles Salter, project acoustical engineer, spoke in response to Mr. Bell's statements regarding the project's acoustical features. He said that, contrary to Mr. Bell's statement, the 2004 sound report specifically addressed how the fence could be used to mitigate sound impacts for the then-owner of 9 Palmer Court. He explained the changes to the proposed sound wall in the current sound report prepared for this application. He said that he has no data regarding noise impacts to 8 Palmer Court because his request for access to the property to conduct noise measurements was not responded to. He anticipates that noise from the BTC will be inaudible over ambient levels because of the distance.

Mr. Konecky responded to Mr. Hermansky's concerns about late-night events by stating that over the last three years, the club has only had six events that ran past midnight. He said that the club will comply with the regulations of their liquor license. He stated that club has no intention of intensifying use and that the bottom line is that noise will be mitigated to an acceptable level. He asked that that the Commission grant the Conditional Use Permit with the requested amendments.

There being no further comments, the public hearing was closed and the item returned to the Commission for deliberation.

Commissioner Bird thanked everyone for their input and said that she appreciates the great lengths to which the club has gone to address the Commission's concerns. She said that the goal is to give everyone a clear picture of the club's practices and said that she believes the club has good

intentions. She stated that she has always viewed the BTC as low-key and that the completed club will improve the property values of the area.

She expressed support for the application and said that the periodic reviews are crucial. She said she would like to hear comments from her fellow Commissioners regarding the request to strike the limitation on club events.

Vice Chair Fraser thanked the club and the Town's citizens for their input. He said that the upgrades are much-needed changes and they appear to be embraced by the community. He acknowledged that there is a certain amount of fear surrounding how those changes will impact surrounding neighborhoods but that the BTC should remain in harmony with its neighbors. He noted that the Town has experienced similar applications where the community expressed fears about how certain projects will affect surrounding neighborhoods, but that the Town's review processes provides an adequate method of evaluating unforeseen issues that may arise. He said that the application deserves the support of the Commission but assured citizens that the Commission will proceed cautiously. He said that he is uncertain that limiting the number of events is necessary, but that the six-month review will allow them to examine that limitation further should it be necessary to do so. He does not agree that the BTC should be required to provide a cellular number to neighbors but that he does support having a staff member being present at all social events. He expressed concern with the spa's operation hours, but feels that too can be handled in the review period. He said that he supports the application as submitted with modifications to Condition 4.

Chair Kunzweiler said that the facts speak clearly that the history of use is not very intense. He noted that the club's enrollment will be limited by its seven tennis courts and that he is comforted by the prior usage facts. He said that he likes the design and the proposed acoustical measures. He stated that the design of the club will be reviewed by the Design Review Board. He said that he supports striking the first sentence of Condition 4 of the resolution. He said that the six-month review sends a message to the club that the project as defined is what must be delivered. He said the review will provide neighbors with an open venue to discuss any issues that may arise. He said that the worst-case scenario for the club is that the Commission feels it necessary to change the conditions of the permit to address unresolved problems.

The Commission agreed to amend the resolution as follows:

- a. Section 2-3: Delete Item B
- b. Section 2-4: Delete the first and last sentences

M/S Fraser/Bird (passed 3-0) to adopt the resolution as amended.

The Commission took a brief recess at 9:10 and reconvened at 9:15 p.m. Commissioner Bird left at 9:10 p.m., Commissioner Collins rejoined the meeting at 9:15 p.m., and Commissioner Aguirre arrived at 9:15 p.m.

2. PRE-ZONING OF TWO UNINCORPORATED PROPERTIES WITHIN THE TIBURON PLANNING AREA; (CONTINUED FROM JANUARY 25, 2006)

Planning Manager Watrous presented the Staff report, noting that a representative of the Oloumi property had telephoned to inform staff that they would not object to the rezoning. Watrous noted that the item had been continued from the January 25th meeting at the request of Oloumi property representatives.

The public hearing was opened and closed without any comments.

The Commission had no comments on the item.

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

3. TEXT AMENDMENTS TO CHAPTER 16 OF THE TIBURON MUNICIPAL CODE (ZONING) ESTABLISHING REGULATIONS FOR AFFORDABLE HOUSING OVERLAY

Planning Manager Watrous presented the Staff report.

The public hearing was opened.

John Frick, business manager for the Reed Union School District, requested that the RUSD parcel be excluded from the Affordable Housing Overlay (AHO). He said that the RUSD Board of Director feels that it is premature for the Town to put a housing overlay on the school district property on the basis that it could limit the ability to utilize the parcel to serve the district's students.

Planning Manager Watrous said that the Town Council has already adopted the zoning map that includes the property in the AHO district. He said the overlay zone does not prevent RUSD for using the parcel for school purposes or force RUSD to pursue affordable housing. He explained that it simply gives them the option of pursuing affordable housing if they choose. He explained that one reason RUSD may want to be excluded from the AHO zone is because they do not want to be perceived as being in the housing development business. Mr. Frick added that the district does not want to give the impression that the property is available for housing, or for anything other than student needs.

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

Commissioner Collins referenced page 2 of Exhibit 1 and asked if there was any flexibility in the percentage of affordable income units. Community Development Director Anderson replied that the percentages were specified in the General Plan.

M/S Aguirre/Collins (passed 4-0) to adopt the resolution.

4. TEXT AMENDMENTS TO CHAPTER 16 OF THE TIBURON MUNICIPAL CODE (ZONING) AMENDING INCLUSIONARY HOUSING REGULATIONS

Community Development Director Anderson presented the Staff report. He pointed out that the housing in lieu fee calculation is provided on page 12 of Exhibit 1.

Commissioner Fraser asked where the housing in-lieu fee comes from. Community Development Director Anderson replied that it is a fee paid to the Town by the developer in lieu of constructing affordable units. The Town uses the money to facilitate housing on other sites such as those identified in the Housing Element.

Commissioner Collins commented that the last sentence of Section 16-6.7 (b) of the ordinance seems restrictive. It was agreed by the Commission that the word “monetary” would be deleted from the sentence.

Commissioner Aguirre asked if the income levels defined on page 3 of the ordinance were established by the Town or the County. Community Development Director Anderson replied that numbers are established by the federal government on a county basis. He said that the numbers that the Town receives from the Housing Authority are labeled as Marin County incomes.

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

MINUTES

5. Planning Commission Minutes –Meeting of February 22, 2006

Amend the following:

Page 6, paragraph 7, line 3: Change “with” to “within”

Page 7, paragraph 3, line 12: Change to read: “noted that the club might have to pay for the renovation through renting the facility”

M/S Fraser/Kunzweiler (passed 2-0-2, Collins & Aguirre abstaining) to approve the minutes as amended.

ADJOURNMENT

The meeting was adjourned at 9:40 p.m.

JOHN KUNZWEILER, CHAIRMAN
Tiburon Planning Commission

ATTEST:

SCOTT ANDERSON, SECRETARY