



**TOWN OF TIBURON
PLANNING COMMISSION
1505 Tiburon Boulevard
Tiburon, CA 94920
Special Meeting
Action and Approved Minutes
April 24, 2006 – 7:30 PM**

ACTION MINUTES

CALL TO ORDER AND ROLL CALL 7:30 PM

Chairman Kunzweiler, Vice Chairman Fraser, Commissioner Aguirre, Commissioner Collins, Commissioner O'Donnell

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. 215 BLACKFIELD DRIVE: REVIEW OF FINAL ENVIRONMENTAL IMPACT REPORT (FEIR) AND CONSIDERATION OF CONDITIONAL USE PERMIT PROJECT MERITS 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 **Continued to a Date Uncertain (5-0)**

ADJOURNMENT 11:45 PM

APPROVED MINUTES NO. 933
PLANNING COMMISSION
April 24, 2006
Special Meeting
Reed School Multi-Purpose Room
1199 Tiburon Boulevard, Tiburon, California

CALL TO ORDER AND ROLL CALL

Present: Chair Kunzweiler, Commissioners Aguirre, Collins, Fraser and O'Donnell
Absent: None
Staff Present: Interim Town Manager Bigall, Community Development Director Anderson, Planning Manager Watrous, Planning Consultant Newman, Planning Consultant Charles and Meeting Recorder Williams

ORAL COMMUNICATIONS

COMMISSION AND STAFF BRIEFING

There were none.

PUBLIC HEARING

1. 215 BLACKFIELD DRIVE KOL SHOFAR - CONDITIONAL USE PERMIT

Lisa Newman, Planning Consultant discussed the project, conditional use permit application and the Environmental Impact Report. Ms. Newman noted that the Final EIR concludes that the potential environmental impacts of the project can all be mitigated to a less than significant level with the exception of parking and noise impacts which remain as significant unavoidable impacts. Two Alternatives (#5 and #7) would also meet most project objectives and reduce all environmental impacts to a less than significant level. Ms. Newman stated that Staff's approach in the draft Conditional Use Permit Resolution is to regulate the intensity of the proposed use of the facility rather than limit its physical scale.

Chair Kunzweiler asked for a better explanation of the calculations of parking requirements for the facility.

Commissioner Collins stated that Kol Shofar could educate the congregation about parking on the street, carpooling and posting "no parking" signage on the street.

Ron Brown, immediate past president of congregation Kol Shofar discussed the project. He said that it has been an exhausting two years working on this application. He stated that this project is not a commercial venture. He stated that the prospects for growth in the congregation are negligible at best, citing a statement from a sociologist who specializes in the demographics of Jewish congregations.

Rabbi Lavey Derby, senior Rabbi of Kol Shofar, stated that the mission of Kol Shofar is to go out into the world and make it a better place. He stated that Jews are a people, a family and a faith. He said that

the project is a direct outgrowth of the religious mission of Kol Shofar. He described the need for an orthodox congregation to have a “meat and milk” kitchen for preparation of kosher foods. He said that Kol Shofar should not be forced to hold its High Holy Days services “at incorrect times.” He stated that this is the way the congregation practices its Judaism, and that they are entitled to practice their religion as they see fit. Rabbi Derby urged the Commission to approve the project as modified in Alternative 7.

Scott Hochstrasser, environmental planner for Kol Shofar, presented a Power Point summary of the project and noted that Alternative 7 substantially scales back the project and reduces noise impacts. He stated that this alternative would reduce all potential impacts to less than significant levels. He said that there was no reason why the Planning Commission could not take action on the project at this meeting.

Commissioner Kunzweiler asked Mr. Hochstrasser for a printed copy of the power point presentation for the record. Commissioner Kunzweiler also asked for a detailed breakdown of how the multi-purpose room would be used, with information on number of people and times of year.

Commissioner Fraser stated that the numbers presented by Mr. Hochstrasser appeared to be different than those presented in the EIR and staff report and asked for an explanation of the calculations. Commissioner Fraser also referred to Exhibit 2 prepared by Leonard Charles and asked for a side-by-side comparison as well as for clarification of the uses for the multipurpose room.

Rabbi Derby stated that the room will have dividers and can be used for various activities.

Tiffany Wright, attorney for Kol Shofar, discussed the project from a land use perspective, stating that this was really quite a simple project with a lot of environmental review. She said that the process for this project represented CEQA in action, as changes made to the project reduced impacts to less than significant levels. She disagreed with the Staff report’s findings regarding the need for improvements at the intersection of Tiburon Boulevard and Blackfield Drive.

Joshua Harris, attorney representing Tiburon Neighborhood Coalition which represents 30 families, discussed the project’s impact. He stated that the neighbors do not oppose modification and upgrades to the current facility, but opposed the massive expansion proposed, as it would reduce the quality of life for the neighborhood and create nuisances for the neighbors. He stated that the EIR fails to review impacts of ongoing services at Kol Shofar (existing Saturday and Sunday services). He felt that the EIR inexcusably does not address potential growth impacts that would be caused by the project. He compared the project to building a major league baseball stadium but insisting that it would only be used by little league teams. He stated that the multi-purpose room impacts must be analyzed at full capacity because Conditional Use Permit limits can change. He stated that limits on the use of the facility would not guarantee limited usage in the future. Mr. Harris stated that CEQA requires a clear, stable project description, with all alternatives to be included from the beginning. He felt that the changes proposed require the EIR to be recirculated. He said that the Town has not been adequately informed by the EIR, and that the project would create an inappropriate, excessive use in a residential neighborhood.

Jerry Thayer, member of Tiburon Neighborhood Coalition, noted that the numerous letters that have been received from neighborhood residents speak to the opposition for the expansion. He stated that the multi-purpose room would inevitably attract more people to the site. He submitted a set of pictures taken Oct. 16, 2005 during the peak period of High Holy Days showing parking on residential streets as well as a 19-page petition with 175 signatures from neighbors opposing the expansion. He stated that the surrounding neighborhood is saturated, and that this project would irrevocably reduce the quality of life for nearby residents. Mr. Thayer finally noted that the Tiburon Neighborhood Coalition is not against

renovation at Kol Shofar, but recommended remodeling within the existing footprint of the buildings on the site.

Commissioner O'Donnell asked Mr. Harris to estimate how many residences would be directly adversely impacted by the project. Mr. Harris replied that approximately 100 homes would be affected, adding that moving parking away from Kol Shofar with "no parking" signs would push parking into the surrounding neighborhood and affect other homes.

The public hearing was opened.

The following people appeared before the Planning Commission and spoke regarding the project:

1. Brad Tardy, architect, stated that he lives in his house 24/7, and that the project would restrict his right to quiet enjoyment of his property. The project would cause a 350% increase in noise and neighbors don't want noise lasting until 11 PM. He felt that the project would result in safety impacts due to an increased risk of accidents, as children use the streets at night to play.
2. Mike Bentivoglio stated that he is generally supportive of the project, but was concerned about late night events on the weekends. He proposed that Alternative 7 be approved with lights out at 9:00 p.m.
3. Richard Goldwasser, member of Kol Shofar, stated that noise is still an issue. He felt that the multi-purpose room would be convenient, but is not necessary. He noted that other Jewish congregations still hold split High Holy Days services. He felt that Kol Shofar has not adequately explored alternatives to a big building, and encouraged them to use temporary structures to meet the demand for High Holy Days service.
4. Russell Pratt stated that he frequently travels down Blackfield Drive and felt that there is not going to be a fearful increase in traffic caused by this project. He stated that he serves on the board of directors at Rodef Shalom in San Rafael and noted that attrition of the Jewish population is a challenge. He said that congregations need to improve services, including facilities. He felt that there will not be an explosion of growth associated with this project.
5. Rick Romagosa stated that he was skeptical about putting more cars on Blackfield Drive, resulting in traffic, noise and increased parking in the neighborhood, particularly at late night events.
6. Joe Blum stated that concerns about growth are speculative. He noted that the conditional use permit will be reviewed on annual basis, and encouraged the Commission to give Kol Shofar a chance to be responsible.
7. Ken Gerstman, member of Kol Shofar, stated that Kol Shofar is an integral part of the community, and that the community has changed for the better. He said that Kol Shofar needs to build a facility to meet the existing needs of its community.
8. Aviva Boedecker, member of Kol Shofar, said that not all events in the multi-purpose room would have the maximum number of attendees. She said that people do not need to be stressed out about the maximum numbers and late night events.

9. Lizabeth Light stated that she has found Kol Shofar to be a good neighbor. She added that traffic can be a problem during High Holy Days, but the visitors are quiet and respectful, and the Police are there to regulate traffic. She supports the expansion.
10. Virginia Brunini stated that 70 homes in Bel Aire would be directly impacted by the project. She said that Kol Shofar has not offended the sensibilities of the neighborhood, but this project would change the quality of life for residents of Bel Aire, Cypress Hollow, Via Los Altos and Paseo Mirasol. She stated that the parking shortage is a concern and it is not satisfactory to wait a year to evaluate impacts.
11. Gail Dorph stated that she does not drive on the Sabbath, and moved to a location so she could walk to Kol Shofar. She noted that there are a lot of churches in Tiburon, which provide religious grounding for the residents.
12. Michael Rubenstein, member of Kol Shofar, stated that the opposition to this project has engaged in a lot of hyperbole. He said that the facilities will not be used to their maximum capacity. He felt that the neighbors do not trust the democratic process in the review of this project.
13. Evelyn Woo said that she strongly objects to the massive size of the expansion which would impact the entire neighborhood. She characterized Blackfield Drive as “a nightmare.” She was concerned that people would park next to her house so she would be unable to enjoy the bucolic nature of the area.
14. Margaret Kirby stated that parking is a very intense issue. She said that the Kol Shofar parking lot was not functional, with bad interior circulation, and pushes cars out onto the surrounding streets. She said that members of Kol Shofar regularly park in front of her residence at 230 Blackfield Drive. She asked where the “no parking” signs would begin and end. She added that Kol Shofar members often park close by, then wave down the parking shuttle from the street.
15. John Leszczynski stated that the Bel Aire neighborhood has not been considered by the EIR. He said that about 290 of the 490 on-street parking spaces available in Bel Aire are free each night. He assumed with a capacity of 900 for the multi-purpose room that up to 360 cars would be snaking their way through Bel Aire looking for parking. He suggested issuing parking decals for Bel Aire residents because that ensures real enforcement. He asked what would happen if Kol Shofar leaves the site.
16. John Nygren presented photographs to the Commission showing parking on the streets during High Holy Days and the shuttle system does not work. He said that with a single service on High Holy Days on-street parking would double. He said that traffic grows exponentially, and that the Town needs parking enforcement.
17. Kurt Kaull stated that the inconsistencies of the project with the Tiburon General Plan are important. He said that the expansion would be out of character with the surrounding neighborhood. He said that having events until 11:00 p.m. is a non-starter.
18. Karen Boedecker stated that summer bat mitzvahs are difficult for Orthodox Jews who cannot drive on the Sabbath. She said that Kol Shofar youth groups are active and would like to have interfaith activities.

19. Mindy Canter stated that High Holy Days traffic is acceptable but other events have become so loud that they can be heard inside her home. She felt that the project will change the quality of life in the neighborhood.
20. Thomas Szymoniak stated that other residential projects have stirred up Bel Aire quite a bit. He is concerned about traffic, noting that young children play in the streets. He said that he is not impacted by Kol Shofar now, but felt that the project would have no benefit to him and would put the renaissance of Bel Aire at risk.
21. Diane Zack, President of Kol Shofar, gave a breakdown of the square footage of the multi-purpose room, noting that only 4,500 square feet would be usable space. She said that this room would be used for many existing activities, and did not represent a change or a massive expansion. She said that Kol Shofar desperately needs this space for activities they have now.
22. Andrew Rusting explained the decibel system and stated that he is concerned about the noise impacts of the project.
23. Ida Gelbart, member of Kol Shofar, stated that she is a Holocaust survivor and, by coincidence or providence, the next day is Holocaust Remembrance Day. She pleaded with the Commission to save the synagogue, and felt that she was a spokesman for her brethren who did not have the right to speak. She asked the community to put aside its differences and support the project.
24. Karen Nygren stated that the conditional use permit only regulates new uses, and she felt that the use permit can regulate existing uses as well. She said that the Town should be looking at a new cumulative use permit for Kol Shofar. She described the EIR as inadequate, and urged the Commission to look at the history of the site.
25. Tim Metz stated that the only place in Marin County with a larger capacity than the proposed project is the Veterans Memorial Auditorium. He said that the entire membership of Kol Shofar would be unable to fit into the proposed facility. He suggested renting tents to accommodate High Holy Days services or holding services in two different locations.
26. Doris Symonds was pleased that this site was not developed as a high school, as was once considered. She described traffic on Blackfield Drive as "horrendous," and said that the neighborhood is now saturated with traffic.
27. Christy Seidel stated that traffic studies have not been prepared for Alternative 7. She said that many of the proposed events would occur during peak residential use times, which are weekend evenings. She characterized most of the proposed events as member-sponsored events and parties, not religious services.
28. Wayne Gilbert stated that Kol Shofar is not looking to bring in thousands of new members, but only wants a comfortable home for its existing members.
29. David Holden stated that it was unclear whether Staff feels that noise would be a significant unavoidable impact or not. He felt that it is impossible to certify the FEIR with the confusion over the impacts. He stated that temporary noise constitutes a significant impact. He found it hard to believe that 250 people partying in a multi-purpose room will be inaudible. He raised

concerns over the duration of peak noise events, and said that it was “quaint” to suggest that neighbors could have the enjoyment of their homes every other weekend.

30. Don Dana stated that he has monitored nighttime events at other locations, and noted that it generally takes about one and one half hours to clear a facility after an event. He said that limits should be established in the CUP to end events at 9:30 p.m. and have lights out at 11:00 p.m.
31. Susan Schneider spoke about activities at Kol Shofar. She said that Kol Shofar is a second home to her, and a lot of what Kol Shofar does is to bring the Jewish community closer together. She expressed a need to be with a religious community to celebrate and pray. She stated that traffic and noise increases are part of living in Marin. She said that she goes to Kol Shofar three times a week, and never sees undue traffic in the neighborhood.
32. Julie Jacobs, member of Kol Shofar, noted that Bel Aire is an intense shaking area in the event of an earthquake, and that Kol Shofar is a designated facility in the event of a serious earthquake. She added that the multi-purpose room may serve that purpose for the community in case of an earthquake.
33. Paul Yenofsky acknowledged that the current building needs to be remodeled, but said that the community questions the size of the multi-purpose room, which suggests an increase in the size of the congregation. He said that if the net effect of the multi-purpose room is the same as a bar or restaurant, it should not be considered. He suggested limiting the time of events to 9:00 p.m.
34. David Wong said Kol Shofar is a great neighbor but raised concerns about increased traffic, parked cars and near accidents. He felt that the site is not conducive to growth, the parking lot doesn't work, and that the proposed mitigation measures are complicated and unenforceable.
35. Laurie Snow stated that Kol Shofar provides essential support for the community. She said that the old facility is too small for the congregation. She said that Kol Shofar is beneficial for the surrounding community, and that she hopes to be married there one day.
36. Marshall Jainchill said that it is a shame that people feel that churches are inconsistent with the quiet enjoyment of residential property. He said that he would not know 600 people to invite to a single event at Kol Shofar. As a real estate broker, he stated that the project would not affect real estate values in the vicinity.
37. Alan Zimmerman stated that we all live in this community and that houses of worship add a tremendous amount. He said that the project is not about growth, but for providing for existing events. He said that everyone drives in everyone else's neighborhoods, and it is the job of residents to live together and share the neighborhood.
38. Edward Baker stated that the conditional use permit will permit non-residential activities in a residential neighborhood. He said that parties are not religious or educational events. He characterized the architecture of the proposed multi-purpose room as an enormous wart added to an existing carbuncle. He said that better photosimulations are needed showing the new building from his house. He noted that much of Kol Shofar is screened by broom that is to be cut down. He said that the current views of the neighbors may be unattractive, but they like them.

39. Lisa Kasselik invited the Commission to visit the neighborhood on Wednesday afternoons when religious instruction is ending. She said that at those times, people parked in red zones create a logjam. She did not believe that Kol Shofar will police itself to make the proposal work.

Gary Ragghianti, attorney for Kol Shofar, stated that a possible continued hearing date on May 1 was not acceptable. He asked if it is possible that all of the people who object to the project are correct and that staff and consultants are uniformly incorrect. He said that the facts of the matter should drive the decision, and encouraged the Planning Commission to approve the project.

Bob Herman, architect for Kol Shofar, stated that CEQA only requires recirculation of an EIR if new impacts are identified or severely increased impacts occur. He said that it is counter to the intent of CEQA to punish the applicant by requiring recirculation for reducing the impacts of a project.

Scott Hochstrasser stated that independent consultants have found that Alternative 7 will not result in any significant unavoidable impacts. He noted that this application is for an amended conditional use permit, as the existing use permit is the baseline for current uses of Kol Shofar which do not have to be studied any further. He added that the last time the Planning Commission reviewed the existing use permit Kol Shofar was found to be consistent with the Tiburon General Plan. He characterized the proposed expansion as a project the Town really cannot deny.

Commissioner Aguirre asked if it would be legitimate for the EIR to address existing uses if the project can result in changes to the existing uses. Mr. Hochstrasser replied that that would be inappropriate. He said that when a change is proposed for a residential project, the homeowner is not expected to tear down the existing house.

Joshua Harris responded that CEQA has many requirements that must be strictly followed. He said that the alternatives identified for this project do not think outside the box. He said that facts are in conflict between the DEIR and the FEIR. Mr. Harris also noted that the new parking mitigation introduces a host of substantial impacts on the neighborhood as well as impacting other neighborhoods by pushing parking away from the site. He added that there are no congregational growth studies in the EIR. He said that mitigation measures effectively truncate the Town's ability to make an effective decision on the project. He stated that the proposed multi-purpose room is not only for High Holy Days.

Commissioner Aguirre asked if CEQA requires looking for even more alternatives when an identified alternative results in no significant unavoidable impacts. Mr. Harris responded that it is important for the DEIR to identify appropriate alternatives.

Commissioner O'Donnell referred to Mr. Harris' previous baseball stadium analogy, noting that a new baseball stadium will not attract fans for a bad team. He asked how the Planning Commission can assess growth in hypothetical situations. Mr. Harris replied that there is not enough space for the existing congregation, and with the new facility, more people will come. He said that the congregation numbers will grow in ways that have not been studied in the EIR. He said that the Town cannot think that building a handsome new facility will not attract more people.

The public hearing was closed.

The Planning Commission discussed the possibility of continuing the hearing to May 1. Mr. Ragghianti confirmed that his firm would not be available for that evening. Mr. Harris indicated that their lead attorney had been unable to attend this evening's meeting.

It was the consensus of the Planning Commission that attempts should be made to find a date at which the primary parties could all attend. Chair Kunzweiler warned that this could result in a continuance of several weeks or more.

M/S, Collins/Aguirre (passed 5-0), to continue the public hearing to a date uncertain, to be renoticed.

ADJOURNMENT

The meeting was adjourned at 11:45 p.m.

JOHN KUNZWEILER, CHAIRMAN

ATTEST:

SCOTT ANDERSON, SECRETARY