

Town of Tiburon STAFF REPORT

AGENDA ITEM E3



.....

TO: **TIBURON PLANNING COMMISSION**

FROM: **KRISTIN KRASNOVE, ASSISTANT PLANNER**

SUBJECT: **41 MAIN STREET: CONDITIONAL USE PERMIT APPLICATION FOR
CONDOMINIUM CONVERSION; FILE #10410**

MEETING DATE: **DECEMBER 8, 2004** REVIEWED BY: DW

.....

PROJECT DATA:

OWNER:	DORIS CACERES TRUST
APPLICANT:	SAME
ADDRESS:	41 MAIN STREET
ASSESSOR PARCEL NUMBER:	059-151-04
FILE NUMBER:	10410
ZONING:	VC (VILLAGE COMMERCIAL)
GENERAL PLAN:	VC (VILLAGE COMMERCIAL)
FLOOD ZONE:	C
DATE COMPLETE:	NOVEMBER 12, 2004
CEQA EXEMPTION:	FEBRUARY 10, 2004
PERMIT STREAMLINING	

PROPOSAL:

The applicants are proposing to convert their three-story building containing ground floor retail space and three dwelling units above into a condominium form of ownership. A conditional use permit for the newly constructed building was approved in 2001, and construction of the building is nearly complete. The retail space has a floor area of 1,335 square feet and also contains a bathroom, mechanical room, and a foyer for the upstairs units. The second story contains two separate apartments; one apartment has two bedrooms, two bathrooms, and a floor area of 1,178 square feet; the other apartment contains one bedroom and one bathroom and has a floor area of 821 square feet. The third level contains a separate dwelling unit with two bedrooms, two bathrooms, and a total floor area of 1,817 square feet. All three units include decks facing the bay to the rear, and the upper unit also has a deck facing Main Street to the front. No physical alterations to the existing units are proposed as part of these applications.

GENERAL INFORMATION ON CONDO CONVERSIONS IN TIBURON

The Zoning Code states that since many multi-family dwellings sought to be converted to condominiums were not constructed originally in a manner which envisioned individual ownership of the dwelling units their conversion could result in a negative impact upon the public health, safety, and welfare. However, during the review of the 2001 conditional use permit for this building, it was made clear that the subject



Town of Tiburon

STAFF REPORT

.....

units were intended to be converted to condominiums upon completion. All of the building code and parking requirements for condominiums were met by the design of the project

In Tiburon, the conversion of dwellings into condominiums seems to rise and fall in cycles. Such conversions were very popular in the early 1980's. Between 1980 and 1983, the Planning Commission approved at least 12 separate condo conversion Conditional Use Permits, all involving two-family dwellings. Since 1985, few such applications have been filed; all have been approved, although most have been approved. This ebb and flow of applications reflects changes in home buyer preference, the real estate industry's perception of condominium-style developments, individual owner circumstances, and many other factors. An additional factor in the paucity of recent applications is the Town's stringent requirement to upgrade converted units to meet current building codes. Depending on the extent of upgrading required, this can be an expensive proposition. As most two-family dwellings in Tiburon are of older construction, concentrated in Old Tiburon, the upgrading is usually an expensive proposition. The subject multi-family dwelling was approved in 2001, and was designed and has been constructed in compliance with building code requirements for condominiums.

ANALYSIS

General Plan Consistency

The Housing Element prohibits conversion of existing multiple family rental units to market rate condominium units unless the Town's rental vacancy rate is above 4 ½ percent. As the subject dwelling units are not complete and have yet to be occupied, the change to a condominium form of ownership would have no effect on rental vacancy rates. This policy has never been applied to new construction for this reason.

Zoning Ordinance Compliance

A Conditional Use Permit for a condominium conversion is required by Section 4.06.00 of the Tiburon Zoning Ordinance. Section 4.06.03 sets forth the standards which must be applied by the Commission prior to approving the Conditional Use Permit.

These standards are listed individually below, followed by analysis of the proposal's compliance:

- (a) *The Commission finds that the application conforms to the General Plan.*

As discussed above, the proposed project is consistent with the relevant goals and policies of the Tiburon General Plan.



Town of Tiburon

STAFF REPORT

- (b) *The Commission finds that the condominium project meets all standards of Chapter 13 of the Tiburon Municipal Code, as they apply to new construction for group R1 or R3 occupancy for multiple unit housing and single-family housing except for such requirements which the Commission deems unnecessary to fulfill the objectives of this section.*

No modifications are necessary for the units to meet current building codes for condominiums as the building has been designed to comply with these codes.

- (c) *The condominium project conforms to all applicable laws, ordinances, and regulations of the Town and the State in effect at the time of construction or conversion, including but not limited to those pertaining to housing, building, fire, subdivision, and zoning. In addition, the noise transfer standards for new buildings as contained in the latest Uniform Building Code shall apply to both new and existing units sought to be converted.*

Please refer to paragraph (b) above for analysis on compliance with building codes. Since no changes are being proposed to either the use or to the structure, there would be no inconsistency created with the Town's Zoning Ordinance regulations.

- (d) *The proposed use is properly located in relation to the community and to land uses, transportation, and service facilities in the vicinity, and the site for the proposed use is adequate in size and shape to accommodate it.*

The approval of the conditional use permit for this project determined that the location of the residential units of the project in the downtown area was appropriate. The conversion would not change this relationship with surrounding uses and properly related to the circulation and service facilities in the area.

- (e) *New construction proposed for use as a condominium is consistent with existing structures in height, size, scale, bulk, and character.*

Not applicable: This is an existing structure and no exterior changes are proposed.

- (f) *The site for the proposed use will be served by streets and highways of adequate width and pavement type to carry the quantity and kind of traffic generated by the proposed use.*

Not applicable: The existing use will not change, only the form of ownership of the property.

- (g) *The proposed use will not unreasonably adversely affect the abutting property or the permitted use thereof.*



Town of Tiburon

STAFF REPORT

Not applicable: The existing use will not change, only the form of ownership of the property.

- (h) *The approval of the proposed condominium project will not adversely affect the provision of adequate housing for all segments of the community, and adequate replacement housing for displaced tenants is available.*

The Town does not consider the conversion of unoccupied multi-family units a significant adverse effect on the provision of adequate housing for all segments of the community. One of the three units in the building will be owner occupied.

- (I) *Parking within the property lines of the project is provided to satisfy this Ordinance, and for residential projects, at a ratio of no less than two (2) spaces per dwelling unit. Each required parking space shall have direct access to the street without passing over other required parking spaces, except that the Commission may waive this direct access requirement for one of the two spaces required for each dwelling unit where it finds that conditions of terrain or siting make strict adherence to this provision undesirable.*

As part of the Conditional Use Permit approval, 2 parking spaces per dwelling unit were required to be leased. No change to the parking layout is required or proposed.

On the basis of these findings, Staff has concluded that the project, as conditioned, meets the Zoning Ordinance requirements of the Town for approval of the condominium conversion.

Subdivision Ordinance Compliance

An application for a Tentative Subdivision Map has been submitted and will be reviewed separately, following the approval of the condominium conditional use permit.

Environmental Status

Staff has made a preliminary determination that the project is categorically exempt from CEQA under Section 15101(K) of the CEQA Guidelines.

RECOMMENDATION

Staff recommends that the Planning Commission take testimony on this item, close the public hearing, deliberate upon the project merits, and adopt the draft resolution conditionally approving the project.

Town of Tiburon

STAFF REPORT



EXHIBITS

1. Draft Resolution approving conditional use permit
2. Application form received 11/1/04
3. Site Plan and tentative map drawing received 11/1/04
4. Acoustical Design Report received 11/1/04
5. Staff Report for prior Conditional Use Permit, adopted Resolution, and minutes dated 11/9/01
6. Staff Report for amendment to Conditional Use Permit and parking variance, adopted resolution, and minutes dated 5/22/02