



Town of Tiburon

STAFF REPORT

TO: **PLANNING COMMISSION**

FROM: **DANIEL M. WATROUS, PLANNING MANAGER**

SUBJECT: **CONDITIONAL USE PERMIT #10411;
REQUEST TO EXPAND AN EXISTING RESTAURANT (CAPRICE
RESTAURANT); 2000 PARADISE DRIVE; POINT TIBURON PLAZA,
INC., OWNERS; ASSESSOR PARCEL NO. 59-172-46 (CONTINUED
FROM APRIL 13, 2005)**

MEETING DATE: **JUNE 8, 2005** REVIEWED BY: SA

BACKGROUND

The project is the proposed upgrade and expansion of an existing restaurant (the Caprice Restaurant) located at 2000 Paradise Drive. The application includes the construction of a new 1,380 square foot third floor addition to the building that would relocate the banquet room from its current location on the lower level of the building to the new upper floor, with a 648 square foot banquet area proposed. An exterior deck would extend from the southeast corner of the new upper floor. The lower floor of the building would be converted into a wine cellar and an office, with a new restroom also installed on that floor. Minor changes are also proposed to the street level of the restaurant.

This application was first reviewed by the Planning Commission on April 13, 2005. At that time, neighboring residents and property owners raised concerns about existing and future parking, traffic and noise conditions, and potential view impacts on adjacent homes. The Planning Commission shared some of these concerns, particularly regarding the adequacy of proposed parking accommodations; traffic safety hazards caused by the current valet parking operations; and noise from existing equipment and the proposed banquet room deck. The Planning Commission continued the application to a date uncertain, with direction that the applicant prepare information to address these issues.

ANALYSIS

The applicant has submitted a letter and several studies responding to the issues raised at the previous meeting as follows:

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Parking

The applicant has submitted a traffic study prepared by Whitlock & Weinberger Transportation, Inc., which evaluated the existing and proposed traffic situation at the restaurant. The study evaluated the proposed parking spaces to be provided within the Point Tiburon parking lot, and found this arrangement to be comparable to the parking utilized for many other restaurants in San Francisco and Sausalito, in which patrons often have to walk similar distances (of five minutes or more) from available parking areas to the restaurant. The study also identified available parking in the adjacent public parking lot, at the nearby Donahue Building lot, and along Paradise Drive and Mar West Street, but recognized that these spaces cannot be guaranteed for use by the restaurant.

The study concluded that the number of parking spaces either in Point Tiburon or near the restaurant was adequate to meet the needs of the proposed restaurant expansion, but recommended the use of additional valet employees for larger banquets on Friday and Saturday nights to ensure that enough staff would be available to park vehicles in a timely manner. The applicant has indicated that three valet employees would be used (an increase over the two employees currently used by the restaurant) on evenings when banquets are booked. The employees would use a two-way radio system to communicate between the drop-off location and the Point Tiburon parking lot. The Point Tiburon parking spaces to be used for the restaurant would be labeled as such, and a new stairway connecting the parking lot to Mar West Street is proposed to improve the pedestrian access to these spaces.

Traffic Safety

The applicant proposes to relocate the drop-off and pick-up point for the valet parking from the front of the restaurant to the public parking lot across the street. Customers would be directed to enter the parking lot and leave their vehicle with the valet in the aisle of the lot; valets would drive the vehicle to an appropriate parking spot, then return the vehicle to the customer in the parking lot aisle. Customers would then leave by either turning onto Paradise Drive directly from the parking lot or leaving onto Mar West Street. Temporary signage in front of the lot would direct customers to this location, and similar signage in front of the restaurant would indicate that vehicles are not to be dropped off at that location. The Town would require indemnification from the applicant relative to any use of the parking lot for its activities.

This parking arrangement has been reviewed by the applicant's traffic consultants, who have indicated that these changes would result in "improved safety conditions as the parking lot driveway has better available sight distance." The applicant has also discussed this proposal with the Tiburon Chief of Police, who has indicated that this arrangement would be acceptable.



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The use of the Town's parking lot for this service would not violate any regulations about the use of public property, as long as the parking lot is still available to other members of the public and is not used exclusively for restaurant customers; the valet parking activity would be transferred from the public right-of-way of Paradise Drive to a safer location out of traffic lanes within the parking lot.

The submitted traffic study also evaluated the traffic levels that would be generated by the expanded restaurant. The study concludes that the additional traffic would not create any significant increases in traffic on nearby streets, and would not cause the service levels of any intersection in Tiburon to fall below Level of Service C.

Noise

In order to minimize noise from the banquet room, the applicant proposes to not allow amplified music within this room. Musicians would only be allowed in the northeast corner of the banquet room, furthest away from the proposed exterior deck.

The applicant submitted a letter from Lefler Engineering, Inc. which evaluated the noise from the proposed equipment for the restaurant. After consulting with this engineer, the applicant has decided to eliminate the rooftop swamp coolers, providing ventilation for the banquet room with operable windows and smaller exhaust fans. The kitchen air conditioner would be placed within an attic space above the upstairs bathroom, significantly reducing its noise potential. The existing kitchen exhaust hood would be replaced with a horizontal duct exiting to the front of the building, away from the adjacent residences.

CONSISTENCY WITH APPLICABLE GENERAL PLAN AND ZONING ORDINANCE POLICIES

As noted in the previous Staff report, the request to expand the Caprice restaurant was found to be consistent with most applicable policies contained within the Tiburon General Plan and the Tiburon Zoning Ordinance. The following areas of inconsistency should still be addressed:

1. *LU-9/DT-12. These policies establish floor area maximums for Downtown parcels which grandfather existing square footage on parcels already built in excess of 0.17 FAR, but allow for expansion under certain conditions.*

As previously noted, the property is located within the Neighborhood Commercial (NC) land use district, which allows Resident-serving commercial uses and offices, and mixed (commercial-residential or office-residential) uses. The floor area for the restaurant currently exceeds the 0.17 floor area limit for the NC

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district, but has been “grandfathered” at its existing level. Additions to buildings which already exceed the FAR limit may be considered under Policy DT-12, the pertinent portion of which reads as follows:

Applications for minor floor area additions on properties exceeding the maximum floor area ratio limits may be considered on a discretionary, case-by-case basis, without need for a General Plan or Zoning Ordinance floor area ratio amendment, provided that any such addition improves the usability of the facility to the public, and does not result in increased traffic or parking demand, nor result in other adverse effects.

The current application proposes to add 1,380 square feet of floor area to an existing 3,500 square foot building, which would represent a 39.4% increase in the size of the building. If the project is not deemed to be a “minor” addition, the applicant may request a transfer of intensity to accommodate some or all of the requested additions. The Point Tiburon Plaza has additional floor area capacity in excess of the additional floor area requested for the subject restaurant. The applicant has indicated that both of these properties are under the same ownership, and would therefore be able to pursue a transfer of intensity between the two properties.

The proposed upper floor banquet space would be more usable and open, with windows and a deck which would offer spectacular views, thereby increasing the usability of the banquet facilities of this restaurant to the public. The modifications to the parking for the restaurant may mitigate any increase in parking demand caused by the proposed addition, and the traffic study prepared for the applicant concludes that the addition would not result in a significant increase in traffic.

At the previous meeting, several members of the Planning Commission indicated that the potential view impacts that could be caused on the adjacent residences at 2002 Paradise Drive by the proposed upper floor addition were not significant. The addition would not interfere with the primary views of San Francisco and the Golden Gate Bridge from these adjacent dwellings, but would impact views toward Downtown Tiburon and a portion of Belvedere Island from the side windows of the upper two units. The Planning Commission should affirm whether these potential view impacts would constitute “other adverse effects” on these neighboring residents.

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2. *OSC-3. Outward Views. Property owners cherish their views. New structures and associated landscaping should be so situated or kept low to avoid interference with existing outlooks.*

As described in the discussion under Policy DT-12 above, several members of the Planning Commission indicated that the potential view impacts that could be caused by the proposed upper floor addition were not significant. This determination would need to be affirmed by the Planning Commission to achieve consistency with this policy.

3. *Section 2.11.02 (a) Whether the location proposed for the Conditional Use applied for is properly related to the development of the neighborhood as a whole?*

As previously noted, the restaurant has coexisted with its residential neighbors for over 40 years. However, the view blockage impacts that would be caused by the proposed upper level addition are less appropriate for a restaurant adjacent to a neighborhood than for a restaurant more centrally located within Downtown Tiburon.

4. *Section 2.11.02 (b) Whether the location proposed for the particular Conditional Use applied for would be reasonably compatible with the types of uses normally permitted in the surrounding area?*

The Caprice Restaurant has been reasonably compatible with its surroundings for many years. The parking improvements proposed by the applicant could allow the increased usability of the proposed upper level banquet area without resulting in an increased intensity of use of the restaurant that would be less compatible with the surrounding residential uses.

5. *Section 2.11.02 (d) Whether appropriate conditions and requirements have been imposed which would reasonably assure that the basic purposes of this Ordinance and the objectives of the General Plan are served?*

The revised parking arrangements should be able to operationally accommodate the increased parking demand that would be caused by the proposed project,

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and improve existing traffic safety concerns related to valet parking at the restaurant.

6. Section 4.04.03 (b[1]) *Probable effects on persons, land uses, adjoining properties, and the general vicinity, including probable inconvenience, damage, or nuisance from noise, smoke, odor, dust, vibration, radiation, or similar causes.*

The applicant has submitted modifications to the proposed mechanical equipment for the project that should mitigate any potential equipment noise impacts on the dwellings at 2002 Paradise Drive. The Planning Commission should determine whether the limitations on amplified music in the proposed banquet room would be sufficient to avoid any other noise impacts from the proposed upper deck on both these adjacent units and other nearby homes in Point Tiburon.

The addition as proposed would cause the overall height of the restaurant building to increase to 36.3 feet, which would exceed the 30 foot maximum building height for Neighborhood Commercial Zone established under Section 2.11.03 (1) of the Zoning Ordinance. To accommodate this height, a variance would need to be granted as part of the Site Plan and Architectural Review approval.

CONCLUSION

The location of the Caprice as an active restaurant on the extreme periphery of Downtown, adjacent to residential uses, has been an issue since the time that its initial use permit was processed by the County of Marin decades ago. However, the restaurant's long tenure has more or less ingrained it as part of the fabric of the area. While this expansion would clearly intensify the use of the site, it also offers an opportunity to improve aspects of the use's operation (equipment noise, parking spill-over, street congestion and traffic safety) that have evolved in a haphazard fashion over the last 40 years.

The proposed improvements to the Caprice Restaurant would provide more usable banquet facilities for the restaurant, which would enhance its ability to serve the needs of Tiburon residents and visitors. The revisions to the proposed valet parking arrangement should substantially address an existing traffic safety situation, and should handle the increased parking demand that would be generated by the restaurant expansion. Mechanical and amplified noise generated by the addition would appear to be adequately addressed by the proposed modifications to the building design and the limitations on music in the banquet room.

Unless the Planning Commission determines that the proposed project constitutes a minor addition that would not result in adverse view impacts on neighboring residences, this project would be ineligible for a floor area exception under General Plan Policy DT-12. A transfer of intensity under General Plan Policy DT-20 is possible to allow the additional floor area if the applicant can demonstrate that the subject property and the Point Tiburon Plaza property are under the same ownership.



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Staff is somewhat uncomfortable with setting the precedent of authorizing a valet parking system that would essentially monopolize use of a public parking lot for strictly private purposes, but according to the Town Attorney, there is not a legal impediment to allowing such a system.

RECOMMENDATION

Staff recommends that the Planning Commission take public testimony on this item, close the public hearing, deliberate upon the project merits, and direct Staff to prepare a draft resolution either conditionally approving or denying the project.

EXHIBITS

1. Supplemental materials submitted May 31, 2005
2. Planning Commission Staff report dated April 13, 2005
3. Minutes of the April 13, 2005 Planning Commission meeting
4. Letter from William Abelmann, dated May 31, 2005