



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

ACTION MINUTES

CALL TO ORDER AND ROLL CALL

Chairman Fraser, Vice Chairman Aguirre, Commissioner Collins, Commissioner Kunzweiler, Commissioner O'Donnell **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. 2240 CENTRO EAST STREET: REVIEW OF CONDITIONAL USE PERMIT #10603 TO OPERATE A TEMPORARY CONSTRUCTION STAGING AREA ON A VACANT LOT; Rolfe Eiselin, Owner; Maggiora & Ghilotti, Inc., Applicant; Assessor's Parcel No. 059-142-02 **Amend Conditional Use Permit to Add Conditions of Approval and Cease Use by 12/15/06 (Approved 5-0)**

DISCUSSION ITEMS

2. Discuss Possibility of Changing Planning Commission Meeting Time **Discussion Held; No Change in Meeting Time**
3. Cancellation of November 22, December 13 and December 27 Planning Commission Meetings **Meetings Canceled**

MINUTES

4. Planning Commission Minutes - Regular Meeting of October 25, 2006 **Approved as Amended 4-0-1**

ADJOURNMENT 8:20 PM

**APPROVED MINUTES NO. 942
PLANNING COMMISSION
November 8, 2006
Regular Meeting
Town of Tiburon Council Chambers
1505 Tiburon Boulevard, Tiburon, California**

CALL TO ORDER AND ROLL CALL

Chair Fraser called the meeting to order at 7:30 P.M.

Present: Chair Fraser, Commissioners Aguirre, Collins, Kunzweiler and O'Donnell

Absent: None

Staff Present: Community Development Planning Manager Watrous, and Minutes Clerk Hennessy

ORAL COMMUNICATIONS

There was none.

COMMISSION AND STAFF BRIEFING

Planning Manager Dan Watrous reminded the Commission that the second Town Council meeting with respect to Kol Shofar would be Wednesday, November 14 at Bel Aire School.

PUBLIC HEARING

1. **2240 CENTRO EAST STREET: REVIEW OF CONDITIONAL USE PERMIT #10603 TO OPERATE A TEMPORARY CONSTRUCTION STAGING AREA ON A VACANT LOT; Rolf Eiselin, Owner; Maggiora & Ghilotti, Inc., Applicant; Assessor's Parcel No. 059-142-02**

Rolf Eiselin expressed his support for the undergrounding project. He said that he had thought it would benefit the Town to have a centralized staging area, but he is now very happy that the Town has found a solution and will cease use of the staging area in December.

Planning Manager Watrous reviewed the November 2, 2006 memorandum from the Director of Public Works Nguyen who had met with the neighbors and Maggiora & Ghilotti. He noted that

Maggiora & Ghilotti have agreed to vacate and stop using the subject lot as a staging area for the undergrounding project by December 15, 2006. He recommended that the Commission take further public testimony, close the public hearing and give direction to Staff regarding any potential amendments or other action to be taken regarding the conditional use permit.

In response to Commissioner Kunzweiler, Mr. Watrous stated the Director of Public Works' position is that his role is to see this project gets to a successful conclusion and it may be appropriate for the Town to step in and resolve issues proactively whenever possible, as long as it does not create a drain on the Town with extensive expenses.

Robert Ellsberg stated he was pleased with the proposed solutions but reiterated his concerns that the street sweeping is still not occurring and the front of his driveway is loaded with rocks even though the street has been flooded with water. He requested that the contractor return his property to its original condition. In response to Commission Collins, he stated he would try to find a photograph which depicted what his property looked like before this project began, adding that he had placed lava rock in front of the rockwall which has been washed away or buried in the dirt since the undergrounding project began. He noted that the contractor changed the drainage direction so that water drains into the front of his property.

Dolores Davis stated that she attended the meeting with the Director of Public Works and she wanted to be sure that the homeowners were not being asked to mitigate any issues not covered in the undergrounding contract. She wanted to make sure that the lot is restored to its former condition, including removal of concrete, asphalt and damaged vegetation, and revegetating the lot. She said that she has prepared a map of potential street turnout sites that can be used by the contractor. She asked the Commission to accept the offer to vacate the use of the lot.

In response to Commissioner Collins, Ms. Davis stated there was no discussion regarding the loading and unloading of dirt between now and December 15, however, she felt that it would be nice if it stopped early.

Mr. Eiselin stated that he has an agreement with Maggiora & Ghilotti to remove equipment from the site, regrade the lot and remove weeds. He stated that he will be out of the country until December 20th and wanted to be there when they regrade the site and make sure the lot is restored to its former condition.

Mr. Watrous noted the contractor will vacate the lot by December 15 and the Commission can establish deadlines for other work to be performed.

The Chair closed the public hearing.

Commissioner Collins stated that he was disappointed that the contractor was not in attendance at this meeting. He stated that the appropriate course of action would be to modify the use permit to terminate use of the lot on December 15.

Commissioner Kunzweiler stated that he was glad that a date has been set to cease use of the site, but noted with the contractor not present, it was up to the Commission to come up with modified conditions of approval. He wanted to make sure that the property is returned to its original condition, along with the conditions suggested by the neighbors. He suggested that all work be done within ten days of the termination of the use permit, and suggested that the Director of Public Works

visit the property to ensure that the site is regraded to eliminate any drainage issues. He said that the conditions of approval should reference the memo written by the Director of Public Works regarding the process and procedures for the remaining time of the staging area.

Commissioner O'Donnell stated that he was happy for the neighbors who have gone through a difficult situation. He said that it was important that the concrete and asphalt be removed, the grade returned to its original condition and that Mr. Ellsberg's property also be returned to its original condition.

Commissioner Aguirre noted that there is a contractual obligation between Maggiora & Ghilotti and the owner of the lot and he was uncomfortable with setting a date to restore and revegetate the lot. He noted that Mr. Eiselin wants to be part of the process.

Chair Fraser noted that the lot has a fairly steep slope and needs to be winterized. He recommended that the Director of Public Works work with the contractor to come up with specificity regarding winterization.

Commissioner Kunzweiler suggested Maggiora & Ghilotti submit a departure plan that will specifically address the issues with leaving the site.

In response to questions from the Commission, Planning Manager Watrous stated that the Town has the authority to impose requirements to address any issues raised by the operations of the use permit. He said that if the contractor left the property in an abysmal state, it would be Mr. Eiselin's responsibility as property owner to deal with those issues. If the property becomes a public nuisance, the Town can utilize its code enforcement procedures.

M/S Kunzweiler/O'Donnell (5-0) to amend the conditional use permit for 2240 Centro East Street to include the following conditions of approval:

- The use of the site shall cease no later than December 15, 2006, and the contractor shall vacate the site by that date.
- Processes and procedures for operations on the site listed in the memo from Director of Public Works Nguyen dated November 2, 2006 shall be in effect through the end of use of the site.
- The site shall be regraded to the topography existing prior to operation of the staging area. The Director of Public Works shall inspect the final grading to eliminate any drainage or erosion concerns.
- All equipment, concrete and asphalt debris, and vegetation that has been disturbed as part of the operation of the staging area, shall be removed from the site as quickly and efficiently as possible.
- Additional winterization shall be installed on the site during the remainder of operation of the staging area to mitigate impacts caused by grading modifications on the site.
- The Director of Public Works shall work with the contractor to prepare a departure plan for cessation of use of the staging area, including winterization. Said plan shall be adopted and on file with the Town by December 1, 2006.
- Front property improvements for the property at 2250 Centro East Street that have been damaged as part of the operation of the staging area shall be returned to their condition prior to operation of the staging area.

DISCUSSION ITEMS

2. Discuss Possibility of Changing Planning Commission Meeting Time

The Commission discussed whether there would be an advantage to meeting at 7:00 P.M. It was the consensus of the Commission not to make any change to the starting time of the meetings.

3. Cancellation of November 22, December 13 and December 27 Planning Commission Meetings

M/S Aguirre/Kunzweiler (5-0) to cancel the Planning Commission meetings scheduled for November 22, 2006, December 13, 2006 and December 27, 2006.

MINUTES

4. Planning Commission Minutes - Regular Meeting of October 25, 2006

Page 2, second sentence, delete “three” and replace with “four.”

Page 3, last paragraph, insert word “possible” before the word toxicity.

Page 5, 4th paragraph change the word “top” to “to”.

Page 6, 3rd paragraph, insert word “serious” on the last line before the word “health”.

Page 6, 4th paragraph, second sentence, to read: “He felt that the project, that is, the current mitigation measures, has not improved the neighborhood condition.”

Page 6, 4th paragraph, third sentence, to read: “He suggested that the staff get together with the contractor and work out an acceptable mitigation plan and report at the next meeting, with the goal being to adopt a plan that will mitigate the identified issues.”

M/S Kunzweiler/Collins (5-0) to approve Minutes #941 as corrected.

ADJOURNMENT

The meeting was adjourned at 8:20 P.M.

JIM FRASER, CHAIRMAN

ATTEST:

DANIEL WATROUS, SECRETARY