



**TOWN OF TIBURON
PLANNING COMMISSION
1505 Tiburon Boulevard
Tiburon, CA 94920
Action and Approved Minutes
Regular Meeting
June 27, 2007 – 7:30 PM**

ACTION MINUTES

CALL TO ORDER AND ROLL CALL 7:30 PM

Chairman Fraser, Vice Chairman Aguirre, Commissioner Collins, Commissioner O'Donnell,
Commissioner Kunzweiler **All Commissioners 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. 100 ROLLING HILLS ROAD: TENTATIVE SUBDIVISION MAP #60703; REQUEST TO SUBDIVIDE ONE PARCEL INTO TWO LOTS; Allan and Caroline Littman, Owners and Applicants; Assessor's Parcel No. 058-132—20 **Approved 5-0**

MINUTES

2. PLANNING COMMISSION MINUTES – Regular Meeting of June 13, 2007 **Approved as Amended 5-0**

ADJOURNMENT 9:00 PM

**APPROVED MINUTES NO. 949
PLANNING COMMISSION
Regular Meeting – June 27, 2007
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: Chairman Fraser, Vice-Chairman Aguirre, Commissioners Collins, Kunzweiler and O'Donnell

Absent: None

Staff Present: Planning Manager Watrous and Associate Planner Tyler

ORAL COMMUNICATIONS

None

COMMISSION AND STAFF BRIEFING

Planning Manager Watrous reported there were no agenda items for the July 11th meeting and said staff has tentatively scheduled the Scoping Session for the Alta Robles EIR for August 8, 2007.

PUBLIC HEARING

3. 100 ROLLING HILLS ROAD: TENTATIVE SUBDIVISION MAP #60703; REQUEST TO SUBDIVIDE ONE PARCEL INTO TWO LOTS; An existing 51,119 square foot parcel would be subdivided into a 30,987 square foot lot (Lot 1) and a 20,132 square foot lot (Lot 2); Allan and Caroline Littman, Owners and Applicants; Assessor's Parcel No. 058-132—20

Associate Planner Tyler presented the staff report, noting the applicant was seeking approval of a Tentative Subdivision Map to subdivide a 51,119 square foot parcel into two lots. The property was currently developed with a single family residence, a detached pool house and swimming pool. The lot containing the existing dwelling would have an area of 30,987 square feet and Lot 2, which would contain the existing pool and pool house, would have an area of 20,132 square feet. Conceptual building drawings have not been provided to illustrate a house located on proposed Lot 2, but the applicant has indicated that any future residence would likely be proposed in the location of the existing pool house.

Ms. Tyler noted that surrounding property owners have raised concerns of a possible construction of a two-story home on the proposed Lot 2 and have requested story poles be erected for reasons of privacy, visual concerns, drainage impacts and increased density in the neighborhood. The applicant has not erected story poles because he feels the existing pool house would be adequate to represent the general location of a future home on the lot.

Ms. Tyler stated that an Initial Study and Draft Mitigated Negative Declaration was prepared for the project and was released for public comment on June 1, 2007. The comment period ended on June 21, 2007 and staff did not receive any comments. The Initial Study identified the potential for significant environmental impacts; however, mitigation measures have been developed which would reduce the potential for adverse environmental impacts to less than significant levels. She recommended that the Planning Commission take public testimony and adopt the draft resolution conditionally approving the Tentative Subdivision Map.

Commissioner O'Donnell asked about the setbacks for Lot 2, stating that the swimming pool appeared to be situated within the required setbacks. Planning Manager Watrous said the swimming pool would be considered within the rear yard which was allowable and the projection of the pool house slightly into the setback was a slight nonconformity, adding that any future construction would have to comply with the setbacks.

Chair Fraser opened the public hearing.

Allan Littman, owner, said at the time he and his wife purchased the property in 1963, the pool house was used as a pony barn and therefore deemed to be a legal non-conforming use. He stated that none of the other homes in the vicinity had been built when they moved to the property and many of the surrounding lots were less than 20,000 square feet in size. He said that when they applied to subdivide the property they were meticulous in ensuring they conformed to the letter and spirit of the law, including the size of Lot 2 over 20,000 square feet, even without the area of the Rolling Hills Road easement. He cited a verse from Robert Frost stating that "good fences make good neighbors." He felt it was the spirit of mutual reciprocity and obligation of duties that established neighborhoods, and he expressed puzzlement that he found himself with neighbors objecting to the proposal. He said that the neighbors feel he should not have the ability to build a two-story home on a subdivided lot, which he felt was an issue to be addressed by the Design Review Board, not the Planning Commission. He noted that the neighbors opposing the proposal have two or three-story homes.

Commissioner Aguirre referred to the desire of neighbors to install story poles and he asked what the reason was for not doing this. Mr. Littman stated that story poles were irrelevant to the issue before the Planning Commission and expensive to erect. He said that there are trees and bushes on the property that are already much higher than the height of a future house and that a two-story home would only be 4-5 feet higher than the existing 16 foot tall pool house.

Commissioner Kunzweiler confirmed with Mr. Littman that Rolling Hills Road was a private road. Mr. Littman said the road was offered to the Town some time ago and he worked on trying to get the Town to adopt it, but he was not sure why it did not pass.

Public Comments:

Rita Burgess clarified that they live in Colorado but also have lived at their home in Tiburon since 1991. She said their primary concern with the proposal is that a house on Lot 2 would have the appearance of a subdivision rather than that of the remainder of this older, mature neighborhood. She felt that the pool house square did not adequately represent what a future house might be on this property, noting that the maximum allowable height of a home is 30 feet and not 20-21 feet. She stated that they deal with drainage issues each year on Rolling Hills Road and are concerned that a new house would worsen this situation. She noted that her two-story home is on a downslope, and that a two-story home on Lot 2 would "hover" over the street.

Commissioner Aguirre asked Ms. Burgess if she felt that any drainage issues could be solved through appropriate planning, engineering and design. Ms. Burgess felt they could be, but noted that currently many drainage improvements in the area daylight out onto the street.

Scott Peters said they have lived on their property for 10 years and done extensive renovations to their home and felt that it was common decency to put up story poles. He was surprised that Mr. Littman would be shocked that anyone would oppose or question the proposal. He felt it would have been desirable for Mr. Littman to have discussed the proposal with the neighbors and put up story poles to obtain feedback. He voiced concern with the drainage issue, noting that the drainage also affect Spring Lane and should be corrected, especially with the addition of a new home. He stated that they have panoramic views from his home and the new home on Lot 2 would look into his kitchen and family room. He felt that a new home built at the setbacks would look very vertical. He requested that no variances be allowed for a future home on Lot 2 and that the house should be pushed back as far from the street as possible. He also requested that Lot 1 have the same restrictions.

Mark Miravalle felt he would be most directly impacted by the subdivision, as a new structure on Lot 2 would be very prominent from his house. He said that they moved to the neighborhood because of its privacy and have done extensive remodeling of their home. He presented photos taken from his house of landscaping taken out and planted. He stated that peregrine falcons and red shoulder hawks which nest in eucalyptus trees on the subject property are endangered species. He felt that it was impossible to visualize a future house for Lot 2 without story poles. He said he would voice his concerns during the Design Review process to protect his views and privacy.

Commissioner Kunzweiler asked about the issues related to endangered species. Associate Planner Tyler stated that staff checked with the U.S. Fish and Wildlife Service who have a website dedicated to endangered species and the American Peregrine Falcon was de-listed in 1999 and was no longer an endangered species.

Planning Manager Watrous stated that a specific biological study had not been done and referred the Commission to the sections of the Initial Study dealing with biological resources. He noted that with many tree removals, if some sort of existing habitat is removed, birds will migrate to other similar trees in the vicinity.

Renate Lee asked if the requested lot split would create an entitlement on the property for a structure and questioned the size of the home on the new lot. Planning Manager Watrous said if the subdivision is approved, it would allow the development of a single-family house on the second lot, with the actual location, size and design subject to the Town's Design Review process. He stated that the default floor area ratio standard would allow a maximum house size of 4,000 square feet for a 20,000 square foot lot.

Commissioner O'Donnell said when he was on the Design Review Board they would occasionally get resolutions from the Planning Commission limiting the size of the home on a new lot. He noted a similar situation with the Old Landing Road proposal. He asked staff why such a limitation was not included in the draft current resolution. Planning Manager Watrous explained that the Planning Commission has limited the amount of floor area allowed for a new lot in the past where there is a specific concern that a house over a certain size would be dissimilar to other homes in the vicinity. He said this could be done for this proposal as well if the Commission felt that a 4,000 square foot house would be injurious to the surrounding neighbors. He noted, however, that other lots along Rolling Hills Road have floor area ratios

of 3,500 to 3,800 square feet, and he therefore felt that a 4,000 square foot house would not be inappropriate for the neighborhood.

Ms. Lee felt it would help to determine what a proposed home would look like for the benefit of the neighbors. She also said there were quite a few lots for sale and she discussed the uncertainty of knowing what would be built in the area. Planning Manager Watrous summarized the information on home and lot sizes contained in the County Assessor's Records.

Mr. Littman stated that the development of Lot 2 would not change the drainage issues on the street, which he felt should be fixed, but should not be his responsibility. Regarding the falcons, he said that he has over 100 trees on his property and has never seen any peregrine falcons, but if there were any, they could easily move to the other trees. He said that the trees to be trimmed had nothing to do with the lot split. He said that Mr. Peters' home was over 4,500 square feet and that he has no intention at this time of building a 4,000 square foot house on Lot 2. He said that Mr. Peters has a three-car garage facing his lot and cannot see the pool house from the front of his home. He questioned why his neighbors were so concerned, as they have no idea of what was going to be built on Lot 2. He noted that his is one of the few single-story homes in the neighborhood. He said that applications for new homes must go before the Design Review Board and that was the time a design would be presented for consideration before the Board and neighbors.

Caroline Littman said the trees to be trimmed were all planted since they have lived in their home. She stated that the neighbors have fabulous views of San Francisco away from the subject property, and that they cannot see into the Peters' property at all.

Mr. Peters wanted to note for the record that all of his renovations were subterranean or underneath existing decks.

Chair Fraser closed the public comment period.

Commissioner Collins said he visited all the homes in the area. He acknowledged that a drainage problem exists, adding that the culvert at the end of the cul-de-sac appears to be too small. He felt that there was an opportunity to connect the line in the future to the street below, but that the issue should be dealt with later when a house is designed, and that this is not an issue for the Planning Commission. He felt the application was consistent with the Town's zoning ordinance and nothing in the staff report showed that the subdivision would violate any rules of the Town's ordinances or general plan. He felt it was unfortunate that neighbors may not like the idea of a future house on this site, but he felt those issues should be addressed during the Design Review process. He said that he did not believe the Planning Commission had any discretion to deny the application. He said the negative declaration addressed all environmental impacts and mitigations, and that adding one more house would be a minor density issue. He said that he did not have enough information to support considering the placement of a limit on a future home's floor area.

Commissioner Kunzweiler felt that it was unfortunate that there was a lot of tension between neighbors. He stated that the question was whether the applicants have the right to split the lot which is determined by the zoning ordinance and general plan findings, and he felt findings could not be made to deny the request. He said that the applicants were not required to put up story poles or design a house. He said that a full public hearing before the Design Review Board would be held on any future house and there would be a process for neighbors to comment and provide input. He trusted that good judgment would

prevail on the design of the future house. He stated that he was uncomfortable in adding any arbitrary floor area or height limitations into the resolution.

Commissioner O'Donnell felt the Littman property was one of the most spectacular properties in Tiburon and that it was unfortunate that it could not be sold as is. He said that the lot split would cause the property to lose its estate-like feeling, but would not ruin the estate-like feeling of the neighborhood. He concurred that the applicants have the legal right to split the property and that the objections from neighbors have more to do with Design Review issues. He recommended adding a condition of approval requiring that any future development of both parcels adhere to the zoning standards for these lots. He felt that there should be a meeting of minds with all the neighbors to address the drainage and tree trimming issues.

Commissioner Aguirre said that he was perplexed that Mr. Littman seems surprised by the objections of his neighbors. He agreed that Mr. Littman had valid reasons to not put up story poles, but he felt that putting up poles would have been the neighborly thing to do, to give the neighbors a better idea of what was proposed. He agreed with his fellow Commissioners that there was no basis to deny the application, and cautioned against putting in any limits on what could be built, as there was no information to form the basis for such limitations.

Chair Fraser found the disharmony among neighbors distressing, but agreed that legally, the lot split can be done. He said that he would approve the application, but also felt that a strong message be sent to the Design Review Board that whatever future structures are considered fit within the neighborhood and encouraging the Board to be diligent in its efforts to review any future house.

Planning Manager Watrous recommended not requiring strict compliance with all zoning standards, noting that the Design Review Board often grants variances as a way of solving design problems, such as allowing more lot coverage to spread a house more out on the site so it is not so vertically massive. He stated that some conditions of approval come in the form of a recommendation that encourages the Design Review Board to carefully review the house for specific areas that have been addressed by the neighbors, such as privacy, visual mass and bulk, and compatibility with the neighborhood.

Councilmember O'Donnell suggested landscaping also be included and agreed the Design Review Board typically focuses on the suggested items, but felt the recommendation was warranted.

Planning Manager Watrous recommended that the Commission consider an additional Condition Number 10 to state, "The Design Review Board is encouraged in its review of Site Plan and Architectural Review applications for both lots to place a special focus on privacy, visual mass and bulk, and landscaping issues, and consistency with the character of the surrounding neighborhood."

ACTION: It was M/S (O'Donnell/Aguirre) to approve the draft resolution (Exhibit 1) conditionally approving the tentative subdivision map as written; and adding Condition Number 10 that states, "The Design Review Board is encouraged in its review of Site Plan and Architectural Review applications for both lots to place a special focus on privacy, visual mass and bulk, and landscaping issues, and consistency with the character of the surrounding neighborhood." Vote: 5-0.

Mr. Littman demanded the right to respond and **Chair Fraser** allowed Mr. Littman to speak.

Mr. Littman said the Commission has implied that he has not been a good neighbor and had abused its position in imposing the additional condition of approval. He said he and his wife have been good neighbors, and he described efforts to work with the neighbors on this application.

MINUTES

4. PLANNING COMMISSION MINUTES – Regular Meeting of June 13, 2007

Commissioner Collins referred to the top of page 2, reword the paragraph as follows:

Commissioner Collins referred to the application’s request to have two employee parking spaces be allocated off-site and asked for confirmation ~~confirmed~~ that the Community Development Director keeps kept track of all such allocated parking spaces. Planning Manager Watrous confirmed the Town had records on allocated parking spaces.

Commissioner Collins referred to page 2, third paragraph and asked it be reworded as follows:

Commissioner O’Donnell supported the draft resolution of the location change and wished the applicant success. **Vice Chair Aguirre** agreed. **Commission Collins** agreed with comments of the other Commissioners and asked that a reference to the location of the two employee parking spaces allocated to a remote parking lot be included in the resolution. ~~the application was sound and suggested adding the location of the two parking allocations in the resolution.~~

<p>ACTION: It was M/S (Collins/Aguirre) to approve the Planning Commission Minutes of June 13, 2007, as amended. Vote: 5-0.</p>
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ADJOURNMENT

The meeting was adjourned at 9:00 P.M.

JIM FRASER, CHAIRMAN

ATTEST:

DANIEL WATROUS, SECRETARY