



**TOWN OF TIBURON
PLANNING COMMISSION
1505 Tiburon Boulevard
Tiburon, CA 94920
Action and Approved Minutes
Regular Meeting
November 14, 2007 – 7:30 PM**

ACTION MINUTES

CALL TO ORDER AND ROLL CALL 7:30 PM

Present: Vice Chairman O'Donnell, Commissioner Collins, Commissioner Fraser,
Commissioner Kunzweiler

Absent: Chairman Aquirre

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.

COMMISSION AND STAFF BRIEFING There were none

Staff Update
Commission Information Items

PUBLIC HEARING

1. 1550 TIBURON BOULEVARD: PROPOSAL TO OPERATE A WELLNESS CENTER; CONDITIONAL USE PERMIT #10704; Mary Loveland, Applicant; Belvedere Land Company, Owner; Assessor's Parcel No. 06-082-57 **Approved 4-0**
2. 10 VIA PARAISO EAST: AMENDMENT TO THE DEL MADERA PRECISE DEVELOPMENT PLAN TO AMEND A BUILDING ENVELOPE; Schwartz and Associates, Applicant; Robert and Amanda Anderson, Owners; Assessor's Parcel No. 039-290-56 **Recommended Approval to Town Council 4-0**

DISCUSSION ITEMS

3. 41 MAIN STREET; REVIEW OF CONDITIONAL USE PERMITS GRANTED FOR THE CONSTRUCTION OF A NEW BUILDING FOR RETAIL AND RESIDENTIAL

PURPOSES AND TO OPERATE A RESTAURANT (GINZA SUSHI); Assessor's Parcel
Nos. 059-151-50, 51, 52 and 53 Review Conducted

MINUTES

4. PLANNING COMMISSION MINUTES – Regular Meeting of October 10, 2007 Approved
as Amended 4-0

ADJOURNMENT 8:10 PM

**APPROVED MINUTES NO. 954
PLANNING COMMISSION
November 14, 2007
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: Vice-Chairman O'Donnell, Commissioners Collins, Fraser and Kunzweiler

Absent: Chairman Aguirre

Staff Present: Community Development Director Anderson, Associate Planner Tyler, Assistant Planner Phillips, and Minutes Secretary Harper

ORAL COMMUNICATIONS

None

COMMISSION AND STAFF BRIEFING

Staff Update – None

Commission Information Items – None

PUBLIC HEARING

1. **1550 TIBURON BOULEVARD: CONDITIONAL USE PERMIT TO OPERATE A WELLNESS CENTER; FILE #10704; Mary Loveland, Applicant; Belvedere Land Company, Owner; Assessor's Parcel No. 060-082-57**

Assistant Planner Phillips said the project proposed is for the operation of a wellness center to be located at 1550 Tiburon Boulevard, Suite C, in downtown Tiburon. The wellness center would be a new business at 1550 within the Boardwalk shopping center in an unoccupied site. It would be open 7 days a week from 8:00 a.m. to 8:00 p.m. The wellness center would contain 6 practitioner rooms with a maximum of 4 practitioners working at any given time. A separate meeting area, a bathroom, an associated storage and office space are proposed, but no shower or locker areas would be installed.

The practitioners would be contract employees that provide services on a part-time basis depending on clientele demand. Guest lectures and demonstrations would take place within the meeting area from time to time. Although there are 6 practitioner rooms, a maximum of 4 practitioners would be working during hours of operation.

The business location has a gross floor area of 1900 square feet. The previous retail store allocated 1,000 square feet of space to retail, which requires one parking space for each 250 square feet of sales area, for a total of four parking spaces. The proposed use would be similar to a medical clinic use for the purposes of calculating parking, with a requirement of one space for every 250 square feet of gross floor area, or a total of eight spaces. Therefore, the change in use would create a slight intensification of parking demand on the Boardwalk Shopping Center parking lot. Clients and employees would park in the Boardwalk Shopping Center parking lot. Since the hours of operation for the wellness center are 8AM to 8PM, 7 days a week, the proposed use would add to the net parking demand during peak hours within the parking lot as most businesses within the shopping center operate at a similar time. However, staff is aware that the Boardwalk Shopping Center has excess parking capacity beyond that required for tenants, and concludes that the total number of spaces within the parking lot is more than adequate to handle the slight increase in parking demand generated by the proposed use.

Staff has reviewed the application and finds the proposed use is consistent with the General Plan and conforms to the zoning ordinance. Other similar uses have been implemented within the downtown Tiburon, and staff recommends the Commission take public testimony, close the public hearing, deliberate on the project merits and adopt the draft resolution approving the project.

Commissioner Collins questioned the number of parking spaces for the entire shopping center and Assistant Planner Phillips said it was approximately 80 spaces, and as stated in the staff report the change in use requires spaces in relation to the square footage for tenant space, whereas the previous use required spaces from the retail use. Therefore, it was based on the number of spaces the public could access and not the entire square footage of the tenant space.

Vice Chair O'Donnell asked if parking would be different than in the past, and Assistant Planner Phillips noted the new use would generate a slight increase in parking demand, which staff believes the shopping center could accommodate.

Mary Loveland, applicant, said she was a nurse and had 20 years' experience in the health care system, with 10 years in wellness. She felt the center would be a great asset to the community and she described the operation and programs to be offered.

Commissioner Kunzweiler noted that the application states there are 6 treatment rooms, with a maximum of 4 rooms used at any one time, and he asked the applicant to describe their staffing plan and how it may increase or change over time. Ms. Loveland said there will be 4 practitioners working typically between 20-30 hours a week and who spend approximately one hour with patients. All practitioners live in town and walk or bike to work. Therefore, approximately 6 rooms would be used during an average 1-2 hour period.

Commissioner Kunzweiler said since the business was open 12 hours a day he asked if, at capacity, the center would be filled with additional practitioners. The applicant said she hoped the center would operate at its capacity within 1 to 2 years; however, most practitioners only work either in the morning or afternoon/evening.

Commissioner Kunzweiler felt the operation was different than a retail space based on calculations for parking and confirmed with the applicant that she was satisfied with the capacity for current and projected operations.

Assistant Planner Phillips said the Boardwalk Shopping Center actually had about 150 spaces rather than the previously stated 80 spaces. The required amount of parking for the previous use was 4 spaces based on 250 square feet of sales area, whereas the proposed use would require 8 spaces, but staff concludes that there is sufficient parking in the Boardwalk Shopping Center to easily accommodate this use.

Commissioner Kunzweiler noted parking was becoming a more important issue in the downtown. The applicant said they were also talking with other properties to rent additional spaces if they needed to in the future.

Commissioner Fraser asked about licensing requirements for the wellness center and any extra health and safety code requirements. The applicant said all practitioners must be either certified or licensed. The business meets all health and safety code requirements for specific containment and disposal of acupuncture needles, and they do not keep any narcotic medicines on site.

Commissioner Collins said there appeared to be enough parking and supported approval of the resolution. Commissioner Kunzweiler said the business was consistent with the General Plan and wished the applicant the best of luck. Commissioner Fraser and Vice Chair O'Donnell both echoed fellow Commission member comments.

ACTION: M/S (Collins/Fraser) to adopt the resolution approving the project as submitted. Motion carried 4-0.
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2. 10 VIA PARAISO EAST: AMENDMENT TO THE DEL MADERA PRECISE PLAN (PD #23) TO ADJUST A BUILDING ENVELOPE; FILE #30706; Schwartz and Associates, Applicant; Robert and Amanda Anderson, Owners; Assessor's Parcel No. 039-290-56

The applicants propose adjusting the building envelope for 10 Via Paraiso East, a lot regulated by the Del Madera Precise Plan. The applicants desire to install a swimming pool and an outdoor stairway in an area outside the existing building envelope. The property is currently developed with a single-family dwelling and is bordered by open space to the north, east, and west and on the south by a vacant lot in the Del Madera Subdivision. The applicants propose to expand the building envelope on the northern side, by decreasing the size of the setback from the required minimum twenty feet (20') to eight feet (8'), to allow construction of the proposed improvements.

Staff finds the proposal to be in compliance with the development plan and zoning ordinance, and recommends the Commission hold the public hearing and recommend approval to the Town Council.

Commissioner Collins referred to Figure 2, the 1996 landscape footprint, and noted it appears there is an encroachment on the northwest corner of the building and asked staff to address this. Community Development Director Anderson suggested the applicant first address this matter during his presentation, with staff to comment after that.

Commissioner Kunzweiler confirmed that the Commission was only looking at the modification of the setback and not about any proposed specific structure. Community Development Director Anderson

confirmed that understanding and said the applicant would need to apply for design review for any proposed structures. He noted that staff left blank spaces in the resolution which could be filled in, depending upon the Commission's direction in possibly subtracting elsewhere from the envelope to offset the gain occurring on the one side of the parcel.

The public hearing was opened.

David Schwartz, landscape architect for the project, said in 1996 they designed and received approval for the existing landscape plan which was installed in 1997. The area of the house in question is a garage which is below a utility room, with a deck over the area and the irregularity found was never brought to the owner's and his attention. He was recently engaged to design a new swimming pool and because of the angle of the original lot line, it is difficult to create a usable rear yard space without getting close to the property line. Therefore, they propose the new pool to be within the existing landscaped area, with new planting and terracing below so as to mitigate any visual impacts.

Dr. Peter Callander, 9 Via Paraiso East, asked if the envelope is adjusted, would it mean that a structure could be built up more toward the side of the property closest to his home. If so, he would be concerned with view impacts, noting his lot was up against the open space and he currently looks down onto the subject property. He said he had no problem with the swimming pool, but by moving the envelope, questioned possible view impacts on him as a homeowner.

Community Development Director Anderson said the way the draft resolution has been written, the proposed stairwell could be up to 25 feet in height, where the envelope would be shortened from 20 feet to 8 feet on that side. The resolution also contains a condition that other structures in that extended envelope area could not exceed 15 feet in height.

Commissioner Fraser said the stairwell actually steps down, and from the contour of the land, he believed the height would not exceed 25 feet.

Dr. Callender confirmed his understanding that structures were restricted to 15 feet in height and that other improvements would most likely be limited to landscaping and fountains, which were low in height. He requested that landscaping be included around the pool and in the open space, as the area once full of natural vegetation had been cleared. In addition, he requested that when construction workers were present, some arrangement could be made regarding keeping access open and avoiding parking problems on the narrow street.

The applicant said it was their client's concern to maintain privacy around the pool, as well as landscaping along the street, and acknowledged the street was narrow and said they would work with Dr. Callender regarding access and parking during construction.

There being no one else wishing to speak, the public hearing was closed.

Commissioner Fraser supported the application, felt it would be of benefit to have the "no net gain envelope" option presented as an attachment in the staff report, and requested staff to work out how this could be accomplished.

Commissioner Kunzweiler supported the request and the "no net gain envelope" option.

Commissioner Collins asked if the encroachment of the northwest corner could be addressed in some way separate and apart from what now is being done in changing the lot line. Community Development Director Anderson said he looked at the 1995 drawings and it appeared this was mostly overhang of the roof and not so much as a building structure encroachment. He said the site is very steep and had some special considerations granted in the late 1980's when the house was first approved. It had required massive retaining walls against the roadway during its construction, and the driveway to reach the house itself actually encroaches into the Town's open space, which was approved by the Town Council. He believed the envelope adjustment would correct any existing overhang issues.

Commissioner Collins said given this history, he supported the project and the "no net gain envelope" option.

Vice Chair O'Donnell agreed and was happy to see Mr. Schwartz was willing to work with Dr. Callender.

Community Development Director Anderson asked if the applicant had any objection to the no net gain drawing for the envelope that was included in the staff report. Mr. Schwartz said he had no objection.

ACTION: M/S (Kunzweiler/Collins) to approve the resolution as amended relating to the "no net gain envelope" option, which is at staff's discretion in adjusting the drawing and making the modifications to reflect Exhibit 4 of the staff report. Motion carried 4-0.

DISCUSSION ITEMS

3. 41 MAIN STREET: SCHEDULED PERIODIC REVIEW OF CONDITIONAL USE PERMITS GRANTED FOR THE CONSTRUCTION OF A NEW BUILDING FOR RETAIL AND RESIDENTIAL PURPOSES AND TO OPERATE A RESTAURANT (GINZA SUSHI); FILE # 101050 and 10507; Assessor's Parcel Nos. 059-151-50, 51, 52 and 53

Community Development Director Anderson said item is a scheduled review of three uses permits that are all associated with the mixed use building located at 41 Main Street. He said in 2001, the Planning Commission approved the tear down of the old Tiburon Tommie's building and approved construction of a mixed use building on the site. In 2002, the Commission granted a parking variance for the commercial portion of the building. In December 2005 the Commission approved a restaurant (Ginza Sushi) in the commercial space. The 2002 resolution which amended the original use permit had a requirement for review in three years. In 2005, staff sent a memo to the Commission indicating that the building was not fully occupied and that review should be postponed until a more appropriate time. The building has now been occupied for some months and is fully operational, so the item has been scheduled for Commission review.

Anderson noted that most of the use permit conditions were complied with during construction of the building, and that not many conditions outlived that phase. He said there were still two parking conditions in the application, one of which requires that 6 parking spaces be maintained for the residential component of the project. The applicant secured leases that conform to this condition. Anderson said the other condition was for a 3-year review of the permit, and this review is what is being addressed this evening. The restaurant use permit had several conditions of approval, and staff has reviewed those and provided a brief summary of compliance in the staff report. Staff has received no complaints about the restaurant use, and recommends the Commission take any testimony on the use

permits. Staff concludes that the uses are in conformance with conditions of approval. Staff does not believe another scheduled review of the restaurant use is warranted unless there are complaints received. Staff also recommends that the use permit for the building construction be reviewed again in three years, meaning that it would be heard again in 2010.

Ron Caceres, applicant, said everything was going well for the restaurant. He said the dwelling units were operating in conformance with their leases, but felt the requirement for six spaces was excessive as only three spaces are actually used by the residents. He hoped for a better long-term parking solution in the future.

Commissioner Kunzweiler said when this came before the Planning Commission in the past, there was a concern raised about parking shortages and/or illegal parking of people picking up food to go and questioned if this was still an issue. Mr. Caceres responded that he sees this frequently along Main Street, especially in front of the Sweden House Bakery, felt it was somewhat of an issue, but he confirmed with the restaurant tenant representative in the audience that their customers do not “double park” in front of the restaurant.

Commissioner Kunzweiler said he supports the business, felt many people were happy to see the diversity of food on Main Street, and hoped the restaurant would be there for many years.

Commissioner Fraser said staff has done a good job of analyzing and reporting on the issues, felt the restaurant was in compliance, and wished them well.

Commissioner Collins supported the request and confirmed with staff that the Commission needed to make a finding that the applicants were in substantial compliance with provisions of the use permits.

<p>ACTION: M/S (Collins/Fraser) that the uses are in substantial compliance with the use permits; and for staff to schedule another review of the building use permit (File #10105) for 2010. Motion carried 4-0.</p>
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MINUTES

4. PLANNING COMMISSION MINUTES – Regular Meeting of October 10, 2007

Commissioner Collins requested the following amendment:

Page 2, bottom of page and top of page 3; “Commissioner Collins asked if the improved drainage ditch would work in concert with other nearby improvements, and the applicant described the erosion trough and stated that some ground cobble would be imbedded into the side of it which would allow for proper drainage.”

ACTION: M/S (Kunzweiler/Collins) to approve the Minutes of October 10, 2007, as amended. Motion carried 3-0 (Fraser abstaining).

ADJOURNMENT

The Planning Commission adjourned the meeting at 8:08 p.m.

AL AGUIRRE, CHAIRMAN

ATTEST:

SCOTT ANDERSON, SECRETARY (ACTING)