



**TOWN OF TIBURON
PLANNING COMMISSION
1505 Tiburon Boulevard
Tiburon, CA 94920
Action and Approved Minutes
Regular Meeting
December 12, 2007 – 7:30 PM**

ACTION MINUTES

CALL TO ORDER AND ROLL CALL At 7:30 PM

Chairman Aguirre, Vice Chairman O'Donnell, Commissioner Fraser, Commissioner Kunzweiler

ORAL COMMUNICATIONS There Were None

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

Staff Update
Commission Information Items

PUBLIC HEARING

1. 84 MAIN STREET: PROPOSAL TO OPERATE A WINE SALES AND TASTING BUSINESS (PRIMA PALATE); CONDITIONAL USE PERMIT #10706; Zelinsky Properties, Owner; Cate Hughes & Brooke Tognazzini, Applicants; Assessor's Parcel Number 059-102-20 Approved 4-0

DISCUSSION ITEMS

2. REVIEW AND COMMENT ON PROPOSED FORMAT FOR DRAFT ENVIRONMENTAL IMPACT REPORT FOR ALTA ROBLES RESIDENTIAL PROJECT Comments Provided

MINUTES

3. PLANNING COMMISSION MINUTES – Regular Meeting of November 14, 2007
Adopted as Amended 3-0-1

ADJOURNMENT **at 8:40 PM**

APPROVED MINUTES NO. 955
PLANNING COMMISSION
December 12, 2007
Regular Meeting
Town of Tiburon Council Chambers
1505 Tiburon Boulevard, Tiburon, California

CALL TO ORDER AND ROLL CALL

Chairman Aguirre called the meeting to order at 7:30 P.M.

Present: Chairman Aguirre, Vice-Chairman O'Donnell, Commissioners Fraser and Kunzweiler

Absent: None

Staff Present: Community Development Director Anderson

ORAL COMMUNICATIONS

None

COMMISSION AND STAFF BRIEFING

Staff Update - Director Anderson said the next Commission meeting is scheduled for January 9th and one of the items on that agenda will be zoning text amendments that will be part of the Town's "green building" regulations.

Commission Information Items – None

PUBLIC HEARING

- 1. 84 MAIN STREET: PROPOSAL TO OPERATE A WINE SALES AND TASTING BUSINESS (PRIMA PALATE); CONDITIONAL USE PERMIT #10706; Zelinsky Properties, Owner; Cate Hughes & Brooke Tognazzini, Applicants; Assessor's Parcel Number 059-102-20**

Director of Community Development Anderson said the project is a proposal for a 660 square foot European gourmet food imports and wine tasting business, "Prima Palate," to be located at 84 Main Street in downtown Tiburon. The prior use at this location was an art gallery. Wine tasting would be provided, but applicants are not proposing to sell wine by the glass; however, they would provide wine tasting and purchase of wine by the bottle. No food preparation or cooking would occur on-site. The proposed hours of operation would be Wednesday through Monday, 11AM to 7PM, and closed

Tuesdays. The applicants have indicated that they would be the only employees associated with the business.

A conditional use permit is required because the proposed use is significantly different in nature than the prior use and includes retail sale of alcohol (wine) as well as the serving of alcoholic beverages for consumption on the premises. Staff finds that the use would be compatible with other uses in the area and there have been no complaints associated with similar uses in Tiburon.

Regarding parking, the proposed use would be similar to a retail sales use with a requirement of 1 space per 250 square feet of floor area, or a total of 3 spaces. Parking is located on-site in the Main Street Parking Lot and there are also some street parking spaces along Upper Main Street. There is no outdoor use associated with the proposal; no one will be allowed to take open spirits outside the business; there would be no noise or music impacts; and staff has included conditions to this effect. Director Anderson recommended that the Commission open the public hearing, take any testimony, and approve the use permit subject to the conditions contained in the attached resolution.

Chairman Aguirre opened the public hearing.

Cate Hughes, applicant, briefly described the types of foods, wine and retail sales proposed as part of the application, and said they are excited to open for business.

Gary Lucas, property manager for the building owner, Zelinsky Properties, said the proposed use was a great opportunity for Tiburon to enjoy a nice wine, cheese and specialty store, and he felt it was a benefit for the downtown.

Commissioner Fraser felt the application met all Town requirements, would add to the diversity of the downtown uses, and supported the application. Vice-Chairman O'Donnell echoed Commissioner Fraser's comments and welcomed Ms. Hughes to Tiburon.

Commissioner Kunzweiler agreed, and further suggested adding some flexibility to the hours of operation set forth in Condition #5 in order for the use to remain open to accommodate community events, such as Friday Nights on Main Street.

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

Ms. Hughes said they would appreciate remaining open during such events and stated that they are respectful of operating hour limits. They do not want to create a "bar" atmosphere and thanked the Commission for their support.

Chairman Aguirre voiced his support for the application and the amendment to Condition #5 of the resolution regarding hours of operation. He referred to item 1 of the resolution and asked that the words "here to" be changed to "hereto".

<p>ACTION: M/S (O'Donnell/Fraser) to adopt the resolution as amended to add flexibility to the operating hours and correct the typographic error. Motion carried 4-0.</p>
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DISCUSSION ITEMS

2. REVIEW AND COMMENT ON PROPOSED FORMAT FOR DRAFT ENVIRONMENTAL IMPACT REPORT FOR ALTA ROBLES RESIDENTIAL PROJECT

Director Anderson said the DEIR format issue was discussed during the scoping session for the Alta Robles project, and it was agreed that Staff would return to the Commission prior to the EIR being far underway to review ideas for an improved format for the DEIR document. He said that the following format has been established thus far:

- An operable three-ring binder will be used;
- Tabbed and labeled section dividers will be used;
- Pages will be numbered consecutively as 1, 2, 3, etc.;
- When cross-referencing other sections or impacts and mitigation measures, a full use of the title of the section or impact will be used in order to more easily locate the reference in the document; if possible, page numbers will be used in such references;
- The DEIR will include a glossary and list of acronyms.

Director Anderson stated that a draft Table of Contents for the DEIR is attached as Exhibit 1 to the staff report.

Director Anderson said staff is also working with the EIR consultant on the formatting of the FEIR document, as this subsequent volume would include similar formatting. He thanked former Planning Commissioner Collins (now Councilmember Collins) for his many format ions, asked for additional comments from the Commission regarding the EIR format, and noted a representative of the applicant was present in the audience.

Commissioner Kunzweiler said he liked the changes, felt staff tackled the letters and cross references to where issues are addressed or resolved very well, but he questioned how changes were highlighted based on statements made in the DEIR and transferred to the FEIR. Because of the volume of changes, he said it has been difficult to keep a history of the dialogue while continuing to move forward.

Chair Aguirre said because of the different versions, he felt it would be difficult to annotate the changes. What could be effective is to highlight originally marked changes to the final changes. This may mean there will be two versions of the EIR; a clean and a marked version. Alternatively, each version that comes out could be marked from the previous version.

Commissioner Kunzweiler suggested an electronic CD working copy of the document be made that shows all changes in Word and Commissioners could work from that. Each version could be changed as marked and placed on a CD which he felt would address the excessive amount of paper.

Vice-Chairman O'Donnell felt with the binder system, references and outline, it will be an easier document to work with and perhaps the process may not be exactly right, but the Commission will be moving in the right direction.

Commissioner Kunzweiler felt references in notes to the changes made was harder to do and more cumbersome than simply showing a marked document that tracks changes via Microsoft Word. He felt marked changes were not difficult and various versions of changes could be kept.

Director Anderson said staff has not discussed the idea of creating various marked change versions with the consultant. He said in the past, this is how EIR's were done; they would strike through the old section and type in the new information, but changes made were so few that it was easy to do at that time. He said it can be done, but it may be very messy.

Vice-Chairman O'Donnell mentioned that the recent Kol Shofar EIR suffered from many redundancies of information and hoped to avoid that in the future. He noted that Sections 2.1 and 3.2 on the draft table of contents for the Alta Robles EIR seemed duplicative, both being labeled Project Description. Director Anderson noted that the Summary section (2.1) would be approximately one paragraph long, whereas Section 3.2 would be many pages long. One is merely an executive summary of the other.

Chairman Aguirre felt it was important to introduce the document with a summary so that the person reading it could initially grasp the issues if they did not have time to read through the entire document. He did not support pushing the Summary of Findings too far back into the document and felt it was helpful to locate it in the front. He suggested flipping Section 3 in front of Section 2. He also felt missing in the Summary was the significant, unavoidable impacts, which he felt should be summarized up front. Director Anderson noted this list would be located under 2.3; Significant Impacts, which would differentiate between those significant impacts that were capable of being mitigated and those that were found to be unavoidable.

Vice-Chairman O'Donnell asked if a "rules of engagement" type of document could be created or posted at hearings in order for people to understand that topics such as color and materials details are not going to be discussed at the DEIR hearing. Commissioner Fraser suggested an announcement or a simple rules document, perhaps on an easel or on the wall, which could alert the public that the purpose of the meeting is to discuss the environmental effects of the project proposed and hold discussion on alternatives.

Commissioner Kunzweiler asked whether the issue of house design is germane to the EIR discussion by the Commission. He noted that typically, the EIR does not deal with specific design of houses, but may discuss aesthetics, location, shapes and sizes. Director Anderson agreed that to the extent that information known about the project can be extrapolated into environmental impacts, it is fair game to discuss aesthetics that may affect location, shapes and sizes or dimensions. Commissioner Kunzweiler stated that in the case of the Alta Robles project, the applicant has committed to specific house designs as part of the project description.

Regarding the Alta Robles project, the Commission asked if the EIR completion date is known at this time. Director Anderson responded that no firm date has been established and that geotechnical studies of the site are not yet completed.

Chairman Aguirre referred to Section 1.2 "EIR Objectivity", and he questioned and confirmed it was correct and should not be changed to "EIR Objective."

Public Comments:

Scott Hochstrasser, the applicant's planning consultant for the Alta Robles project, commented that he appreciates the Commission discussing the organization of the EIR and liked the idea of switching the order of the Summary and Findings section with the Project Description section because it eliminates

redundancy. He also suggested that the separate Land Use Planning section should be folded into the Environmental Setting, Impacts and Mitigation Measures section.

Hochstrasser also stated that on the second page of the draft outline, under Section 5.8 Visual Resources, the Visual Impact Analysis section should discuss the design element of the project, as he felt this was an opportunity area for some discussion of how the project design would reduce environmental impacts. He suggested changing the title of that section to Visual Resources and Design Elements. Traditionally, EIR Visual Impact sections talk about contrast, color, materials, and design elements, and he thought this project would allow for further refinement as the house designs are specified.

Hochstrasser also stated that with respect to the geology work, they finished all sampling, the lab work is done, and the write-up is being prepared. He believed that the EIR consultant was well underway on many of the sections of the DEIR.

Lastly, he felt it was important to look at the CEQA guidelines and focus on what the process is as set forth in CEQA, because CEQA provides three possible times for change to the EIR: 1) the administrative draft, which staff reviews but is not available to the public; 2) the Draft EIR, which is released for public comment; and 3) the Final EIR when responses to comments are provided and EIR changes can be made. Changes that occur between the Draft EIR and the Final EIR include public testimony and any changes incorporated. Therefore, there should not be several reiterations of documents, but solely the Draft EIR and then the Final EIR. He noted that one area where opportunities are missed is that the applicant is often not involved in the preparation of the Alternatives Section. The applicant is not often given the benefit of some of the impact analysis and then asked to participate in developing Alternatives to the project in the EIR. The applicant returns and tries to come up with a project that does not have significant impacts; this often leads to additional EIR volumes or addenda. He thought if there was an opportunity for the applicant to be involved in the Alternatives Analysis in the DEIR, there would not be so many versions of changes, but he was not sure how best to do this.

Commissioners responded that there were reasons why some Draft EIR's needed to be re-circulated. The Commission thought that having the applicant involved in the alternatives analysis would be helpful, but voiced concerns over transparency issues, the ability for public input, and the applicant's standing. They felt the consultant should arrive at the alternatives, allow the applicant to provide input and allow the consultant to exercise their discretion and judgment as to whether or not to take the input.

Director Anderson agreed that applicant input could be helpful, and said applicants are likely to only spend significant energy on one alternative and there will be a range of alternatives developed by the consultant and staff to choose from, so he did not feel that would compromise the process.

With respect to the Land Use and Planning section, he noted that many firms do incorporate this analysis into the strict topical areas, where the Land Use and Planning section is usually very small because the consultant is only looking to see basic consistency with the land use designation in the General Plan. The General Plan and Policy consistency analysis that the Town of Tiburon requires the EIR consultant to prepare is far more extensive than that, but it is the Commission and Council who ultimately decide whether a project is in conformance or not. This is why the Town requires a separate section for Land Use and Planning analysis. It is not an impact analysis per se, but rather a policy analysis.

MINUTES

4. PLANNING COMMISSION MINUTES – Regular Meeting of November 14, 2007

Commissioner Fraser requested the following amendments:

Page 5, top of page: “Commissioner Fraser said the stairwell actually steps down, and from the contour of the land, he believed that the height would not exceed 25 feet.”

ACTION: It was M/S (Kunzweiler/Fraser) to approve the Minutes of November 14, 2007, as amended. Vote: 3-0-1 (Aguirre abstained).

ADJOURNMENT

The Planning Commission adjourned the meeting at 8:40 p.m. to the next regular meeting on January 9, 2008.

AL AGUIRRE, CHAIRMAN

ATTEST:

SCOTT ANDERSON, SECRETARY (ACTING)