



**TOWN OF TIBURON
PLANNING COMMISSION
1505 Tiburon Boulevard
Tiburon, CA 94920
Action Minutes - Regular Meeting
January 9, 2008 – 7:30 PM**

ACTION MINUTES

CALL TO ORDER AND ROLL CALL 7:30 PM

Present: Chairman Aguirre, Vice Chairman O'Donnell, Commissioner Fraser,
Commissioner Kunzweiler
Absent: None
Ex-Officio: Planning Manager Watrous, Assistant Planner Phillips, Minutes Secretary
Harper

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 None

Staff Update
Commission Information Items

PUBLIC HEARING

1. GREEN BUILDING PROGRAM REGULATIONS: CONSIDER RECOMMENDATION TO TOWN COUNCIL TO ADOPT MUNICIPAL CODE AMENDMENTS TO CHAPTER 13 (BUILDING) AND CHAPTER 16 (ZONING), AND TAKE RELATED ACTIONS TO ADOPT GREEN BUILDING AND ENERGY EFFICIENCY REGULATIONS AND ADOPT ADDITIONAL ZONING TEXT AMENDMENTS RELATED TO REMODELS AND WIRELESS COMMUNICATION FACILITY PERMIT DURATIONS **Continued to January 23, 2008 (4-0)**

MINUTES

2. PLANNING COMMISSION MINUTES – Regular Meeting of December 12, 2007
Approved as Amended (4-0)

ADJOURNMENT 8:45 PM

**APPROVED MINUTES NO. 956
PLANNING COMMISSION
January 9, 2008
Regular Meeting
Town of Tiburon Council Chambers
1505 Tiburon Boulevard, Tiburon, California**

CALL TO ORDER AND ROLL CALL

Chair Aguirre called the meeting to order at 7:30 p.m.

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

Absent: None

Staff Present: Planning Manager Watrous, Assistant Planner Phillips and Minutes Secretary Lisa Harper

ORAL COMMUNICATIONS

None

COMMISSION AND STAFF BRIEFING

Planning Manager Watrous stated that the hearing for the Zoning text amendments is scheduled for discussion at the January 23, 2008 meeting, and that the hearing for the Ling Precise Development Plans would be held at the February 13, 2008 meeting.

PUBLIC HEARING

1. GREEN BUILDING PROGRAM REGULATIONS: CONSIDER RECOMMENDATION TO TOWN COUNCIL TO ADOPT MUNICIPAL CODE AMENDMENTS TO CHAPTER 13 (BUILDING) AND CHAPTER 16 (ZONING), AND TAKE RELATED ACTIONS TO ADOPT GREEN BUILDING AND ENERGY EFFICIENCY REGULATIONS AND ADOPT ADDITIONAL ZONING TEXT AMENDMENTS RELATED TO REMODELS AND WIRELESS COMMUNICATION FACILITY PERMIT

Assistant Planner Phillips presented the staff report. He stated that at the Town Council/Staff retreat held in 2007, the Council provided Staff with specific direction to adapt green building programs successfully implemented by other local jurisdictions for use by the Town. Staff reviewed the programs and

regulations adopted by several local jurisdictions and borrowed from each program in crafting an initial program for the Town that fits existing staffing levels and the existing regulatory framework. Among the key criteria in selection of a rating system for green building were: flexibility, familiarity to contractors and designers, and ease of administration.

Assistant Planner Phillips stated that the Green Building Guidelines and a Green Points rating system would be used for residential construction and the LEED rating system would be used for non-residential construction. He described how the ratings systems would work and incentives offered to encourage more energy efficient construction, including Town payment of green building consulting assistance, expedited building permit processing, and Town recognition. He stated that the ability to use third-party Green Points Raters would significantly reduce the amount of Town staff time necessary to implement the green building regulations and would provide technical expertise to applicants at a reasonable cost of approximately \$800 – \$1000 per project. He stated that Staff does not recommend application of the Town's green building program to residential remodel projects until the process has proven workable at the Town level on a more limited scale.

Assistant Planner Phillips added that two other amendments to the Zoning Ordinance are proposed as part of this action to clarify text that distinguishes a "remodel" project from a "new construction" project, and to establish the duration of the initial validity of a wireless communication facility use permit approved after January 1, 2007 at ten years.

Assistant Planner Phillips noted that one change is proposed to be made in the proposed ordinance on Page 3, under A. Section 16-1.5 (Definitions); "Town-sponsored project" means a building(s) exceeding five-thousand (5,000) ~~one thousand (1,000)~~ square feet in floor area primarily funded and sponsored by the Town or on Town-owned land." He said this would exempt any small Town buildings such as public bathrooms.

Chair Aguirre opened the public hearing.

Vice-Chair O'Donnell questioned whether or not the Building Division had reviewed the proposed ordinance. Assistant Planner Phillips said the Building Official had been fully briefed by the Community Development Director and both had provided input.

Vice-Chair O'Donnell asked if there was any sense of potential liability by adopting such a particular ordinance. Planning Manager Watrous said it would be a problem only if the standards required construction of unsafe structures, which he believed to be highly unlikely.

Chair Aguirre warned that Tiburon would be relying on work done by other cities in formulating the ordinances rather than evaluating potential liability concerns on its own. Planning Manager Watrous noted that green building ordinances adopted by Marin County and other cities had been in place for several years and that Staff found that the City of San Rafael's ordinance worked the best.

Commissioner Kunzweiler asked whether or not all of the details of the program and checklist had been thoroughly reviewed by the Building Division and suggested that the Building Official prepare a memo stating that he approves of the ordinance. Planning Manager Watrous discussed staff's extensive review of the ordinance, the green building program and checklist by the Community Development Director and Building Official.

Commissioner Fraser asked if the proposed ordinance was in alignment with those adopted by other cities, noting that contractors are often frustrated with new ordinances that differ by jurisdiction, in addition to each jurisdiction having their own process. Assistant Planner Phillips replied that the intent is to align Tiburon's ordinance with those in place at the County of Marin and the City of San Rafael, except for some minor additions. Planning Manager Watrous noted that the Town Council directed staff to not "reinvent the wheel" and to be as similar to other cities as possible.

Vice-Chair O'Donnell asked if there could be instances where Design Review Board policies might come into conflict with the ordinance, such as the use of skylights. Planning Manager Watrous said that discussions at the Design Review Board these days almost always include some aspect of green building principles and that the Board has been encouraging green projects. He acknowledged that there could be some trade-offs, but noted that the Board usually imposes conditions of approval on skylights, but rarely prohibits them.

Commissioner Kunzweiler asked whether Design Review Board guidelines could trump a specification on the green building checklist. Planning Manager Watrous responded that the checklist simply indicates how many points would be earned for different aspects of a project design and do not include specific requirements that must be constructed. He noted that the Hillside Guidelines encourage projects that take advantage of solar efficiency. He said that he could not think of any design review issues that would be consistently at odds with green building principles.

Vice-Chair O'Donnell asked about requirements that a new house have the energy efficiency standards of a 3,500 square foot home. He believed homeowners might have to make sacrifices to meet this requirement. He noted that he was currently in the process of building a new home and found that he was very close to not meeting the green building requirements without adding solar panels.

Planning Manager Watrous said as a result of the program, applicants may end up with a smaller house or add higher scoring items from the checklist to meet the proposed guidelines. He added that this is consistent with recent Design Review Board and Town Council practices to discourage floor area exceptions. He stated that his experience with homes in the County is that people find ways to get down to the energy footprint of a 3,500 square foot house. He noted that often money is not such an issue when building a large home, and therefore, the guideline does not discourage larger homes but instead results in more energy-saving house designs.

Vice-Chair O'Donnell stated that solar technology is evolving and will soon change dramatically. He was concerned that in order to achieve the energy efficiency of a 3,500 square foot home, solar panels may be installed in the yard, which is often not aesthetically pleasing. Planning Manager Watrous noted that the State prohibits the Town from reviewing or approving solar panels at all. He confirmed that the Town could not cause vegetative screening to be put in place for ground-mounted solar panels and in the past, staff had to be careful about requiring screening that could limit the efficiency of the solar panels.

Commissioner Kunzweiler asked for an explanation of Table B, Standard Design Adjustment Factors. Planning Manager Watrous explained that the table includes adjustment factors to be used for homes larger than 3,500 square feet to insure that the homes have an energy footprint of a smaller house.

Chair Aguirre questioned whether the incentives would work at all, as saving \$800 on a \$3-\$4 million home or an expedited building permit did not seem very attractive. Planning Manager Watrous noted how green homes are often promoted as more socially responsible. He said that his experience with

requests to the Building Division was that saving many weeks or months in time with expedited permitting is a great incentive and would make a difference.

Vice Chair O'Donnell felt that \$800-\$1000 was a low estimate, particularly given the need for follow-up inspections. He also believed that applicants would likely pay an outside company to prepare the checklist form. Planning Manager Watrous said that the \$800-\$1000 figures were used based on numbers from the City of San Rafael, but the figures may be higher once the program is implemented.

Commissioner Fraser said that builders or developers will need to hire an expert in the field to help them fine-tune their project to raise its green points. He suggested that the ordinance provide more incentives for projects that reach higher green point totals (perhaps 90 points or more), including possible rebates of fees or expenses spent on complying with the green principles.

Planning Manager Watrous stated that many local architects are already familiar with the green building requirements and would not have to hire an outside consultant. He was concerned that the modified incentive program would be contrary to the goal of making Tiburon's system consistent with other cities. He suggested that modifications could be made in the future after the Town sees how well the process works. Chair Aguirre agreed that experience will be useful, but disagreed that offering different incentives would conflict with the procedures adopted by other cities.

Vice-Chair O'Donnell was concerned with the added bureaucracy of the system, noting that many of the checklist items are minor, such as topsoil replacement, and some are redundant to current building practices, such as using recycled steel for studs. He said that there is a difference between a regulation and incentive and what concerns him is putting more regulations on applicant instead of creating an incentive system.

Planning Manager Watrous noted that the Town notified the local builders exchange and no comments were received. He has heard from contractors that they understand that they simply must adhere to green building regulations these days. Chair Aguirre stated that contractors would most likely pass on the cost of compliance with these regulations to the homeowner.

Chair Aguirre opened the public comment period, and there were no speakers. The public hearing was closed.

Vice-Chair O'Donnell asked how the Town would monitor if an applicant eliminated green aspects of construction once they had gone through inspections and approvals. Planning Manager Watrous that he was unaware of any city that has had to resort to this type of enforcement and likened the issue to concerns about homeowners changing paint colors after receiving final inspections, which rarely occurs. He thought it was highly unlikely applicants would remove an energy-saving device or product, especially after having to spend money for it.

Commissioner Kunzweiler noted typographical errors on Page 7 of the ordinance, where the second paragraph should read, "(1) Projects from 3,000 to 19,999 square feet." and the third paragraph should read, "(2) Projects exceeding 19,999 square feet..."

Commissioner Kunzweiler said that the overall thrust of the Town's approach is to comply with what is being done county-wide and to not create a bureaucratic nightmare. He said that this is a good place to start, but he was concerned the Town does not have the staff resources and is taking a "see how it goes" approach with no timetable for revisions or updates. He felt that the ordinance lacks the rigor and sense

of urgency expected by the Town's citizens. He said that the world is facing a serious crisis and the Town needs to step up deliberately and tackle the issue. He stated that the Town needs to be clear on the procedures and costs and to offer meaningful incentives. He noted that a lot is happening in the development of green technology. He was concerned that the ordinance does not address remodeling, as the bulk of projects in Tiburon are remodels, and he wanted to see a timeline for including remodel projects in the ordinance. He objected to the tone of the staff report, which he felt did not respond to a serious call to action. He said the devil is in the details and questioned whether the Commission was satisfied enough with understanding all of the details to approve the ordinance.

Vice-Chair O'Donnell recommended a continuance to consider the ordinance a bit more. He suggested modifying the incentives and asked to hear from the Building Division about the ordinance.

Commissioner Fraser agreed and echoed the comments of Commissioner Kunzweiler and Vice-Chair O'Donnell. He felt that there should be more information about going green and thought that it would be beneficial for the Commission to receive some sort of presentation or training to get them more up to speed on the subject. He was not sure that he could honestly evaluate the green checklist, but noted that implementing an ordinance in support of green building standards was the right thing to do.

Chair Aguirre said that he did not have a sense of what the Commission is being asked to adopt and whether the ordinance was strict or not. He acknowledged the Town Council's mandate to not reinvent the wheel, asked for some basic analysis comparing the proposed ordinance to those adopted by other jurisdictions. He said that he did not understand how far down the green path the Town would be going.

Commissioner Kunzweiler noted they had similar discussions on the wireless communications facility ordinance and had formed a subcommittee to spend some time on the issue, work with staff and then return with information. Planning Manager Watrous agreed that the subcommittee process had been very helpful for the wireless ordinance and suggested the Chair appoint a subcommittee of two members and continue the public hearing.

Chair Aguirre appointed Commissioner Kunzweiler and Vice-Chair O'Donnell to the Green Building Ordinance Subcommittee. Planning Manager Watrous recommended the hearing be continued to the January 23, 2008 meeting.

<p>ACTION: It was M/S (Fraser/O'Donnell) to continue the public hearing to the January 23, 2008 meeting. Vote: 4-0.</p>
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MINUTES

2. PLANNING COMMISSION MINUTES – Regular Meeting of December 12, 2007

Commissioner Kunzweiler requested the following amendments:

Page 4, 5th paragraph: "Commissioner Kunzweiler felt references in notes to the changes made was harder to do and more cumbersome than simply showing track changes via Microsoft Word." ~~a marked document that Word's track changes.~~ He felt marked changes were not difficult and various versions of changes could be kept."

Page 5, add "...in the case of the Alta Robles project the applicant has committed..."

Page 5, next paragraph, add, “Regarding the Alta Robles project...”

ACTION: It was M/S (Fraser/Kunzweiler) to approve the December 12, 2007 minutes, as amended. Vote: 4-0.

ADJOURNMENT

The meeting was adjourned at 9:45 p.m.

AL AGUIRRE, CHAIRMAN

ATTEST:

DANIEL M. WATROUS, SECRETARY