



**TOWN OF TIBURON
PLANNING COMMISSION
1505 Tiburon Boulevard
Tiburon, CA 94920
Action and Approved Minutes
Regular Meeting – 7:30 PM
February 27, 2008**

ACTION MINUTES

CALL TO ORDER AND ROLL CALL 7:30 PM

Present: Vice Chairman O'Donnell, 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.

There Were None

COMMISSION AND STAFF BRIEFING

Staff Update
Commission Information Items

PUBLIC HEARING

1. END OF STONY HILL ROAD: CONSIDER RECOMMENDATION TO THE TOWN COUNCIL FOR APPROVAL OF THE LING PRECISE DEVELOPMENT PLAN (PD #24) TO CREATE THREE BUILDING SITES ON A 5.6 ACRE PARCEL; Joe Ling, et.al., Owners and Applicants; Assessor's Parcel No. 055-261-10 **Recommended Approval to Town Council (3-0)**
2. 46 MAIN STREET: PROPOSAL TO ALLOW SERVING OF ALCOHOLIC BEVERAGES FOR CONSUMPTION ON THE PREMISES AT AN EXISTING ART GALLERY (THE ART BAR MOLINAR); CONDITIONAL USE PERMIT #10801; Main Street Properties, Owner; Deborah Molinar, Applicant; Assessor's Parcel Number 059-102-19 **Approved (3-0)**
3. 2306 MAR EAST STREET: CONSIDER REQUEST TO EXPAND A FIXED PIER AND DECK; CONDITIONAL USE PERMIT #10802; Magdalena Yesil, Owner; W.B. Clausen Structural Engineering, Consultants, Applicant; Assessor's Parcel Number 059-400-04
Continued to March 12, 2008

MINUTES

4. PLANNING COMMISSION MINUTES – Regular Meeting of February 13, 2007
Approved as Amended (3-0)

ADJOURNMENT **8:25 PM**

**APPROVED MINUTES NO. 960
PLANNING COMMISSION
February 27, 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: Vice-Chairman O'Donnell, Commissioners Fraser and Kunzweiler

Absent: Chair Aguirre

Staff Present: Community Development Director Anderson and Planning Manager Watrous

ORAL COMMUNICATIONS - None

COMMISSION AND STAFF BRIEFING - None

PUBLIC HEARING

1. END OF STONY HILL ROAD: CONSIDER RECOMMENDATION TO THE TOWN COUNCIL FOR APPROVAL OF THE LING PRECISE DEVELOPMENT PLAN (PD #24) TO CREATE THREE BUILDING SITES ON A 5.6 ACRE PARCEL; Joe Ling, et.al., Owners and Applicants; Assessor's Parcel No. 055-261-10

Planning Manager Watrous presented the staff report. He stated that at the February 13, 2008 meeting, the Planning Commission expressed support for the revised three-lot project design, but requested modifications to the draft resolution recommending approval of the project to the Town Council which are outlined in the staff report. The item was continued and the public hearing was held open only to the extent that comments would be taken on any of the modifications made to the resolution subsequent to the February 13th meeting. He recommended adoption of the draft resolution recommending conditional approval of the Precise Development Plan to the Town Council.

Vice-Chair O'Donnell opened the public hearing.

Scott Hochstrasser, project planner, said they have reviewed the changes and support staff's recommendation.

Public Comments:

Leonard Sperry said he was not able to attend the previous meeting and wanted to ensure there were no changes which would alter the height of the homes, as reflected by the original story poles. Planning Manager Watrous confirmed that there would be no change that would be inconsistent with the story poles.

Betsy Little asked questions about the proposed dust clean-up fund. She stated that when her house needed to be cleaned, scaffolding was used and it cost \$5,000, so she did not think that the \$25,000 in the fund would be enough. She noted that the draft resolution should be corrected to list her address as 1 Owlswood Road, not 1 Owlswood Way.

Commissioner Kunzweiler asked where the \$25,000 figure to clean the homes came from. Community Development Director Anderson stated that this was an estimate from Leonard Charles, the EIR addendum consultant.

The public hearing was closed.

Commissioner Kunzweiler said that there have been many projects in Town which created similar dust issues and which were not required to specify a budget for clean-up, and he felt that the estimated amount was satisfactory. He recommended that the building envelope around the building footprints be changed to five (5) feet. He asked that specific reference be made to the project designs, noting that the Commission spent a lot of time to ensure the color schemes be consistent with those presented in the architect's documents. He referred to the mitigation measure referencing the geotechnical report dated 2003 and asked if there was a more recent study the Town should reference. Community Development Director Anderson said the initial report was amended later in 2004 and 2005 and the mitigation measure could be amended to follow the reference in another mitigation measure.

Commissioner Fraser supported Commissioner Kunzweiler's requested changes and confirmed that the Commission's recommendations regarding timing of planting and acceptance of the street dedication were included in the resolution. He believed that the project design had greatly improved from its initial review and supported its recommendation to the Town Council.

Vice-Chair O'Donnell recommended the 10 foot buffer from the building footprints to the building envelopes, adding that wording could be added to Condition of Approval No. 4 to refer to "the conceptual house designs and the precise locations." It was the consensus of the Commission to recommend the 10 foot buffer with that change.

Planning Manager Watrous summarized the consensus of the Commissioner, to correct the typographical error in Item 4 "above references" to "above referenced"; to add "and the precise locations" under Condition of Approval No. 4; eliminate the redundant "dwelling design" on Condition of Approval No.7; change 1 Owlswood Way to 1 Owlswood Road; include a reference on Condition of Approval No.12 that the project design as indicated in the KAO Design Group drawings; and add the references to the amendments to the 2003 report in Mitigation Measure 3.1.-C.1-5.

| |
|--|
| <p>ACTION: It was M/S (Fraser/Kunzweiler) to adopt the draft resolution, as amended, recommending conditional approval of the Ling Precise Development Plan to the Town Council. Vote: 3-0.</p> |
|--|

2. 46 MAIN STREET: PROPOSAL TO ALLOW SERVING OF ALCOHOLIC BEVERAGES FOR CONSUMPTION ON THE PREMISES AT AN EXISTING ART GALLERY (THE ART BAR MOLINAR); CONDITIONAL USE PERMIT #10801; Main Street Properties, Owner; Deborah Molinar, Applicant; Assessor's Parcel Number 059-102-19

Planning Manager Watrous presented the staff report, stating that the application requests the selling of wine by the glass and the sale of small food plates as an integral feature of the art gallery use. He said that no cooking would occur on-site, but minimal food preparation (i.e. crackers, fruit, etc) would occur. He stated that the gallery could also be rented out for occasional special events such as art exhibitions, fundraisers or special parties approximately 2-3 times per month. He said that the application had been found to be consistent with the Tiburon General Plan and Zoning Ordinance and he recommended that the Commission adopt the draft resolution conditionally approving the project.

Commissioner Kunzweiler asked if there were any special conditions or requirements imposed through the business license for this use. Planning Manager Watrous said that this use permit application is the first discretionary review for the project.

Vice-Chair O'Donnell referred to the business closing 11:00 p.m. and asked if this was consistent with other similar businesses. Planning Manager Watrous said it would be later than most businesses, but consistent with other on-sale alcohol restaurant and bars on Main Street.

Vice-Chair O'Donnell opened the public hearing.

Deborah Molinar, applicant, said that she hoped to work out the final business hours as the new business gets under way. She said that she has been in the art business for awhile and has held many events that have benefited the community. She said that any special events would be art-related or for fundraising and would not be wild, loud parties. She said that they only have space of approximately 650 square feet, which can seat 25 people comfortably or 40-50 people for standing-room only events. She said that she could not imagine that there would be any parking concerns.

Commissioner Kunzweiler noted that there are two businesses with similar names at different locations. Ms. Molinar replied that the Art Bar was opened in 2007 at 34 Main Street, but she knew that 46 Main Street would become available. She said that the name was chosen for the eventual business that she would like to operate at 46 Main Street. She intended that people would be able to enjoy art exhibitions and wine pairing, which would be something new and different. She said that the business at 34 Main Street may eventually change its name and become a more tourist-oriented business.

Commissioner Fraser asked if patrons would potentially carry wine while visiting both businesses. Planning Manager Watrous noted that the ABC would be unlikely to issue a license to carry wine from one business to the other. Ms. Molinar said that she has operated the existing business for some time and felt the wine pairing was a great opportunity for local people and tourists to experience art while socializing in the same environment.

Commissioner Fraser noted that the 11:00 p.m. closing time for the business seemed a little late for a retail business. Planning Manager Watrous noted that only bars and restaurants in the Downtown area are open that late. Ms. Molinar stated that she hoped to provide an alternative for the community to experience, possibly after going to the movies. She envisioned a place where people could have a conversation and enjoy the environment, and that without alcohol, it would not be an "art bar." She likened the use to the salons in late 19th Century Paris.

The public hearing was closed.

Commissioner Fraser stated that he conceptually understood the proposed business to create a relaxing environment around art. He noted that there are many establishments already serving alcohol in the Downtown area, said he was unsure about the capacity limitations of the business, particularly during special events. He said that he was troubled by the proposed business hours, as an 11:00 p.m. closing time did not seem to make good business sense for a retail store, and he thought that it might be a good idea to curtail the hours a bit.

Commissioner Kunzweiler questioned whether the proposed business was a wine bar that has art or an art gallery that serves wine. He understood the concern about having a number of late night drinking establishments in Tiburon, but noted that there has not been a lot of opposition to this request from other businesses. He said that it was the applicant's responsibility to make sure that the business did not spill over to 34 Main Street. He felt that this was an interesting idea for Downtown and said that the occupancy levels would be established by the Fire District. He said that he had no objections to the proposed business hours.

Vice-Chair O'Donnell voiced support of the request, believed it was an interesting idea that would be good for Tiburon and he was hopeful for its success. He wanted to make sure that the business hours were consistent with other businesses. Planning Manager Watrous noted that the hours are similar to those set for the recently approved Prima Palette business, which allow hours to be occasionally extended to match hours of community events in the downtown area, such as Friday Nights on Main..

ACTION: It was M/S (Kuzweiler/Fraser) to adopt the draft resolution finding the project exempt from CEQA and conditionally approving this project. Vote: 3-0.

Ms. Molinar thanked the Board for approval, said she has invested a significant amount of money into the business, and asked if there was a way to ensure the permit would be extended without an annual review. Planning Manager Watrous said the review is solely to ensure compliance with the requirements of the conditional use permit and that it is rare that use permits are revoked. He confirmed with the applicant and the Commission that the closing time was set at 11:00 p.m. and that the hours could be reviewed when the use permit is reviewed in one year.

3. 2306 MAR EAST STREET: CONSIDER REQUEST TO EXPAND A FIXED PIER AND DECK; CONDITIONAL USE PERMIT #10802; Magdalena Yesil, Owner; W.B. Clausen Structural Engineering, Consultants, Applicant; Assessor's Parcel Number 059-400-04.
Continued to March 12, 2008

MINUTES

1. PLANNING COMMISSION MINUTES – Regular Meeting of February 13, 2008

Commissioner Kunzweiler requested the following amendments:

- Page 2, 3rd paragraph from the bottom, 2nd line; “Commissioner Kunzweiler asked and confirmed with the applicant his willingness to have binding CC&R's that would tie the approvals to these plans. He said that ~~the~~ one of the key issues of this project has been its visual impact and although

the revised project design would minimize this, different houses could be built within the general requirements in the resolution that would not minimize these impacts so well.”

- Page 6, 2nd paragraph from the bottom; “He wanted to make sure that the house designs would be reflected by the actual homes which are built. ~~delivered when the actual homes are built.~~”

Commissioner Fraser requested the following amendment:

- Page 3, 2nd paragraph, 2nd line; “Commissioner Fraser said that the open space area did not seem like a lot and he felt the access was curious, and ~~although~~ the public would need some place to park.”

| |
|---|
| ACTION: It was M/S (Fraser/Kunzweiler) to approve the Planning Commission Minutes of February 13, 2008 as amended. Vote: 3-0. |
|---|

ADJOURNMENT

The meeting was adjourned at 8:25 p.m.

EMMETT O’DONNELL, VICE CHAIRMAN

ATTEST:

DANIEL M. WATROUS, SECRETARY