



**TOWN OF TIBURON
PLANNING COMMISSION
1505 Tiburon Boulevard
Tiburon, CA 94920
Action and Approved Minutes
Regular Meeting – 7:30 PM
March 12, 2008**

ACTION MINUTES

CALL TO ORDER AND ROLL CALL 7:30 PM

Present: Chairman Aguirre, Vice Chairman O'Donnell, Commissioner Fraser
Absent: Commissioner Kunzweiler

OATH OF OFFICE

Administer Oath of Office to Cathy Frymier (Appointed March 5, 2008)

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

Commission Information Items and Committee Updates
Staff Update

EIR SCOPING SESSION

1. 20 AND 22 MAIN STREET SPAN: SCOPING SESSION FOR AN ENVIRONMENTAL IMPACT REPORT (EIR) FOR A PROPOSED COMMERCIAL PROJECT Zelinsky Properties, Owner; Hank Bruce Architects, Applicant; Assessor Parcel Number 059-102-18; File #10705 [LT] **Scoping Session Held**

PUBLIC HEARING

2. 1655 MAR WEST STREET: REQUEST FOR TIME EXTENSION OF AN APPROVED TWO-LOT TENTATIVE SUBDIVISION MAP; Diane Ho, Owner; Douglas Matteson, Civil Engineer; Applicant; Assessor Parcel Number 059-051-18; File #60402 [SA] **Approved 3-0-1 (Frymier Recused)**

3. 2306 MAR EAST STREET: CONDITIONAL USE PERMIT #10802 TO EXPAND A FIXED PIER AND DECKS; Magdalena Yesil, Owner; W.B. Clausen Structural Engineers, Applicant; Assessor's Parcel No. 059-400-04; File #10802 [DW] **Approved 3-0-1 (Frymier Recused)**

4. GREEN BUILDING PROGRAM: CONSIDER RECOMMENDATION TO TOWN COUNCIL TO ADOPT MUNICIPAL CODE AMENDMENTS TO CHAPTER 13 (BUILDING) ADOPTING ENHANCED ENERGY EFFICIENCY REGULATIONS, AND TO CHAPTER 16 (ZONING) FOR TEXT AMENDMENTS RELATED TO REMODELS AND WIRELESS COMMUNICATION FACILITY PERMIT DURATIONS; FILES MCA2008-02, MCA 2008-04, AND MCA2008-05; (CONTINUED FROM JANUARY 9 AND FEBRUARY 13, 2008) [SA] **Recommended Approval to Town Council 4-0; Continued to April 23, 2008 Meeting**

DISCUSSION ITEM

5. CONSIDER RECOMMENDATION TO TOWN COUNCIL TO ACCEPT THE ANNUAL GENERAL PLAN IMPLEMENTATION STATUS REPORT FOR CALENDAR YEAR 2007 [SA] **Recommended Acceptance of Status Report to Town Council 4-0**

MINUTES

6. PLANNING COMMISSION MINUTES – Regular Meeting of February 27, 2008 **Approved as Amended 4-0**

ADJOURNMENT 8:55 PM

**APPROVED MINUTES NO. 961
PLANNING COMMISSION
March 12, 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-Chairman O'Donnell, Commissioners Fraser and Frymier (arrived late)
Absent: Commissioner Kunzweiler
Community Development Director Anderson, Planning Manager Watrous, Associate Planner Tyler and Minutes Clerk Harper

ORAL COMMUNICATIONS: None

COMMISSION AND STAFF BRIEFING

Staff Update:

Planning Manager Watrous said that the Planning Commission will be holding review of the CUP for the Tiburon Peninsula Club on the March 26th agenda, and for purposes of a discussion and the existence of a quorum of the Commission, he confirmed that Commissioner Fraser and Chair Aguirre are current members of the Club.

Commission Information Items and Committee Updates:

Vice-Chairman O'Donnell announced he would be unable to attend the April 9, 2008 meeting.

EIR SCOPING SESSIONS:

- 1. 20 and 22 MAIN STREET SPAN: SCOPING SESSION FOR AN ENVIRONMENTAL IMPACT REPORT (EIR) FOR A PROPOSED COMMERCIAL PROJECT; Zelinsky Properties, Owner; Hank Bruce Architects, Applicant; Assessor Parcel Number 059-102-18; File #10705**

Associate Planner Tyler gave the staff report, summarizing that the project calls for demolition of the existing dilapidated 2-story, 2,415 square feet Harbor Light commercial building, and replacing it with a new 2-story, 2,941 square foot commercial building. She stated that the Town has determined that an Environmental Impact Report (EIR) must be prepared for this project, and the scoping session helps to identify the reasonable range of actions, project alternatives, mitigation measures, and potentially significant effects to be analyzed in depth by the EIR. She described the process for reviewing the application, noting that comments regarding the merits of the project itself should be reserved for public hearings held after certification of the Final EIR.

Hank Bruce, architect, said he was available to answer questions of the Planning Commission.

Vice-Chair O'Donnell acknowledged the excellent reputation and work of Mr. Bruce and questioned why the project required an EIR. Community Development Director Anderson replied that for a historic structure over 50 years old and on a list of historic structures, CEQA presumes that demolishing the building is a significant adverse impact. Vice-Chair O'Donnell said that there was not a great deal of difference in the appearance of the new façade versus the old façade. Director Anderson agreed, but said that the impact lies in the fact that the historic structure will be gone.

Commissioner Fraser acknowledged that it is probably a good thing that the building would be replaced. He noted that when the Town worked on the fountain downtown, there were problems with construction and excessive water, and he hoped that the applicant could learn from the Town's experience. He suggested that construction not occur on Saturdays, given that the downtown area is very active on weekends.

Chairman Aguirre noted that the CEQA issues were limited and asked if they could be addressed without an EIR. Community Development Director Anderson stated that the Town hoped to prepare a tightly focused EIR that would deal mostly with cultural and historical resources affected by the project, but he noted that all EIRs must address all topical areas required by CEQA.

Mr. Bruce thanked the Commission for their comments and hoped that the consequential expense to the client of the EIR will be reduced.

There was no public comment.

Vice-Chair O'Donnell said the Commission had no choice in waiving the requirements for the EIR, but he felt that this was an example of government for the sake of government. He asked that the applicant try to maintain the historical nature of the façade as much as possible.

NOTED PRESENT:

Commissioner Frymier was noted present at 7:45 p.m.

OATH OF OFFICE:

The Oath of Office was administered to new Commissioner Cathy Frymier.

PUBLIC HEARINGS:

2. **1655 MAR WEST STREET: REQUEST FOR TIME EXTENSION OF AN APPROVED TWO-LOT TENTATIVE SUBDIVISION MAP; Diane Ho, Owner; Douglas Matteso, Civil Engineer; Applicant; Assessor Parcel Number 059-051-18; File #60402**

Commissioner Fraser recused himself from this item.

Director Anderson summarized the staff report, stating that a Tentative Subdivision Map was approved in 2005 to subdivide property located at 1655 Mar West Street into two lots. He said that the Tentative Map approval is set to expire on March 23, 2008, and the applicants have timely filed for an extension of the map approval. He stated that the applicants are requesting a standard three (3) year time extension of the approved tentative map. He noted that there is a minor inconsistency in the resolution approving the Tentative Map regarding the area allowed for a garage on the new lot and he asked the Planning Commission to review this issue and determine whether any adjustment of the condition of approval regarding garage size would be appropriate. In response to a question from Chair Aguirre, he said that a conventional size for a two-car garage could be 400-600 square feet and that a 600 square foot garage could accommodate three cars.

The public hearing was opened.

Diane Ho, applicant, said that the project has been much more work than she anticipated and that she has been working diligently on the Final Map and hopes to complete it within 60-90 days.

Vice-Chair O'Donnell noted there was another application for this same property for improvements to the drainage ditch, and Director Anderson said there is a pedestrian path that goes along the property and there is a drainage ditch; one of the conditions of the resolution required the Commission review the subdivision improvement drawings for the improvements made to the path prior to the project moving forward with the Parcel Map.

There were no public comments and the public hearing was closed.

Vice-Chair O'Donnell supported granting the time extension and recommended allowing a 500 square foot garage.

Chair Aguirre agreed that the request was appropriate, but said that he was not inclined to make any changes to the resolution as a 500 square foot garage was consistent with the intent of allowing a two-car garage.

ACTION: It was M/S (O'Donnell/Frymier) to adopt the draft resolution granting a three year time extension of the tentative map. Vote: 3-0-1 (Fraser abstained).

Commissioner Fraser returned to the meeting.

3. 2306 MAR EAST STREET: CONDITIONAL USE PERMIT #10802 TO EXPAND A FIXED PIER AND DECKS; Magdalena Yesil, Owner; W.B. Clausen Structural Engineers, Applicant; Assessor's Parcel No. 059-400-04; File #10802

Commissioner Frymier recused herself from this item.

Planning Manager Watrous summarized the staff report and said that the project would involve the expansion of an existing fixed pier and decks on property located at 2306 Mar East Street. He described the design of the proposed pier, decks and floating dock. He noted that the neighbor at 2308 Mar East has some water views toward the Golden Gate Bridge that could be affected by the proposed deck expansion and that a wooden trellis on top of the decks at the rear of the house has been eliminated from the plans.

The public hearing was opened.

Jim Wickett, owner, said that he and his wife have enjoyed Raccoon Straits from a sailing perspective. He stated that the current pier and deck are unsafe and the house needs seismic upgrades. He said that he has worked with the neighbors to the west and have now visited the neighbors to the east to evaluate their concerns.

Kers Clausen, structural and marine engineer, stated that the intent of this project is not just to build a pier, but to fix the corroding piles and elevate the pier. He stated that waves from prior storms broke over the pier. He said that the existing pier is unstable and is rotting away. He said that they hoped to make the pier and decks more livable. He stated that the new pilings beneath the deck extension were needed to for a seismic retrofit for the house and to create a backspan to hold the house up. He described the elevated 22 inches. He said that the boat lift would be similar to one next door and the floating dock would be made of lattice so water can go through it. He said that the movable platform will allow the owner to get down into the boat. He said that the owner has had several meetings with the neighbor to the west who is supportive of the project. He stated that the improvements will look no different to the neighbor to the east than what exists now, describing the existing viewline. He presented an aerial photo illustrating the relationship of the proposed decks to the neighbor to the east.

Vice-Chair O'Donnell asked if the new pier would be the same height as the pier at 2304 Mar East. Mr. Clausen said that the height would be within a few inches of the height of the other pier. He noted that the pier next door has a boat lift but does not have a movable platform. He said the floating dock would provide access into the bay for recreational uses such as kayaking and that the platform would generally be kept at the same level as the pier. Mr. Wickett said they shortened the proposed pier would be three

feet shorter than the existing pier. He said that docking a boat is difficult due to the currents and the floating dock would make it easier to dock the boat and pull it into the boat lift. He said that they plan to keep the dock free of materials and supplies and as low as possible.

Chair Aguirre noted that the lattice surface of the movable dock would not necessarily help minimize the visibility of the dock.

Vice-Chair O'Donnell stated that the plans show that the deck would extend out 4 feet and not just extend at an angle. Mr. Clausen showed the plans which indicated that the deck would not project into the neighbors' views.

Commissioner Fraser asked if the entire deck expansion was necessary for the structural integrity of the house and Mr. Clausen confirmed that it was. Commissioner Fraser stated that he could see the merits for the pier and decks, but not necessarily for the floating dock. He said that he was hesitant to set a precedent for approving something else that would be floating into the bay.

Mr. Clausen said that the owner and his wife like to use their kayaks often and without the platform he was not sure how they would access the bay. He stated that the existing pier extends halfway into the space for the floating dock. He stated that a floating dock is a convenience that would have the least impact on neighbors. He acknowledged the importance to avoid cluttering decks and piers.

Chair Aguirre asked if they consider angling the deck on the opposite side. Mr. Clausen stated that the dock would be out of the neighbors' viewline. He noted that they have submitted their application to BCDC and stated that they will continue to work with the neighborhood.

Scott Briggs said that he is the neighbor to the west and that the applicants have made every effort to take into account their and the neighbors' views and preferences. He said that he has a variety of boats and kayaks and that the movable platform should be considered favorably. He said that it is difficult to scale about 14 feet up to a pier at low tide and he felt that the design of the floating dock has been changed and properly engineered. He said that other homes in Belvedere have similar docks. He supported the project as long as the pier did not get cluttered with junk. He reiterated that approving this project was the proper course of action that would improve access to the water.

The public hearing was closed.

Commissioner Fraser said he was generally not in support of building more structures into the water, but he understood the need to engineer structures properly. He said that the project works for the area and he supported the application.

Vice-Chair O'Donnell said that he visited the house to the east. He said that this is a good project but voiced concern with the floating dock extending out 3 feet from the end of the existing pier. He did not have a problem with the movable platform, but asked that the actual extension into the bay be cut back 3 feet to its current location. He said the issues had more to do with the mass of the structure and protecting the bay than with views. He understood the need for the improvements but felt that it would not be a hardship to not extend past the current location of the pier.

Chair Aguirre stated that he could approve the project as designed, adding that a three foot extension would be hardly noticeable, especially with the platform below the level of the pier. He said that the

existing solid material would actually be shortened by three feet and the additional length would be visually immaterial.

Commissioner Fraser stated that the merits of the project are strong enough to support it, adding that the moveable platform would improve the safety of the pier.

ACTION: It was M/S (O'Donnell/Fraser) to adopt the draft resolution conditionally approving the project. Vote: 3-0-1 (Frymier abstained).

Commissioner Frymier returned to the meeting.

4. GREEN BUILDING PROGRAM: CONSIDER RECOMMENDATION TO TOWN COUNCIL TO ADOPT MUNICIPAL CODE AMENDMENTS TO CHAPTER 13 (BUILDING) ADOPTING ENHANCED ENERGY EFFICIENCY REGULATIONS, AND TO CHAPTER 16 (ZONING) FOR TEXT AMENDMENTS RELATED TO REMODELS AND WIRELESS COMMUNICATION FACILITY PERMIT DURATIONS; FILES MCA2008-03, MCA 2008-04 AND MCA2008-5; (CONTINUED FROM JANUARY 9 AND FEBRUARY 13, 2008)

Community Development Director Anderson summarized the staff report. He said that the previous draft green building ordinance considered by the Commission also included miscellaneous “clean-up” zoning amendments involving remodel projects and wireless communication facility permits. He said that the Planning Commission subcommittee is working with Staff and a Town Council-appointed subcommittee and has recommended that the Town move immediately to adopt the enhanced energy efficiency standards while other components of the green building program are further refined prior to returning to the Planning Commission for public hearing. He said that the energy efficiency standards would that a new home over 3,500 square feet must meet the same energy budget of a 3,500 square foot home. He stated that there are also two orphaned zoning amendments that are recommended for approval at this time. One amendment would clarify the definition of remodels versus new construction projects and the other amendment reflects a change made in State law regarding wireless communication facilities requiring that such facilities approved after January 1, 2007 must be approved for at least a 10-year period and cannot be renewed for less than 5 years. He also suggested the Commission consider continuing the hearing on the remainder of the green building ordinance to the April 23, 2008 meeting.

Vice-Chair O'Donnell reported on the progress of the Subcommittee, stating that it is their intent to create a more meaningful program that would eliminate redundancies and not create unnecessary bureaucracy.

Commissioner Fraser suggested that training and education on the adopted program for local builders would be helpful. Vice-Chair O'Donnell reported that Build It Green had offered to conduct a training session, but the subcommittee believed the Commission and Town could do most of the work ourselves. He said the subcommittee has encouraged that remodels be considered part of the program, as such projects constitute the majority of work in Town.

The public hearing was opened. There were no public comments and the public hearing was closed.

Commissioner Fraser voiced support for the energy efficiency standards and other amendments and recommended an education program be developed for builders and consumers.

Commissioner Frymier believed the formation of the subcommittee was an excellent idea. She said that she would not want to create more for builders to do if it was just rhetoric and that the Town should not do a green building program until it was done properly.

Vice-Chair O'Donnell recommended that the draft resolution be amended to delete the phrase "green building and" from the first sentence.

Chair Aguirre supported the staff recommendation and putting a program in place that has some teeth while not imposing undue burden.

ACTION: It was M/S (O'Donnell/Fraser) to recommend to the Town Council adoption of enhanced energy efficiency standards as set forth in Exhibit 1, as amended to remove the words "green building and" from the first sentence. Vote: 4-0.

ACTION: It was M/S (Aguirre/O'Donnell) to adopt the Resolution recommending Town Council approval of the zoning text amendments regarding remodel projects and wireless communication facility permits. Vote: 4-0.

ACTION: It was M/S (Fraser/Frymier) to continue the remainder of the Green Building Program item to the April 23, 2008 meeting. Vote: 4-0.

DISCUSSION ITEM

5. CONSIDER RECOMMENDATION TO TOWN COUNCIL TO ACCEPT THE ANNUAL GENERAL PLAN IMPLEMENTATIO STATUS REPORT FOR CALENDAR YEAR 2007

Director Anderson summarized the staff report on the General Plan Implementation Status Report required to be submitted each year to the State. He said that next year the State will require more detailed requirements for the housing portion of the report. He described progress made in the past year and recommended that the Commission recommend acceptance of the Annual General Plan Status Report to the Town Council.

Commissioner Fraser asked if it was possible to change the priorities of general plan programs. Community Development Director Anderson said that there are opportunities to re-prioritize such programs.

Chair Aguirre asked for an update on discussions with the County and LAFCO regarding Paradise Drive. Community Development Director Anderson reported that little progress has been made, but recently Supervisor McGlashen has begun efforts to prompt further discussions with the Town on this issue..

ACTION: It was M/S (Aguirre/Frymier) to recommend that the Town Council accept the Annual General Plan Status Report. Vote: 4-0.

MINUTES:

6. PLANNING COMMISSION MINUTES – Regular Meeting of February 27, 2008

Vice-Chairman O'Donnell requested the word "though" be changed to "thought" on page 4, 5th paragraph.

ACTION: It was M/S (Fraser/O'Donnell) to approve the minutes of February 27, 2008, as amended. Vote: 4-0.

ADJOURNMENT

The Planning Commission adjourned the meeting at 8:55 p.m.

AL AGUIRRE, CHAIR

ATTEST:

DANIEL M. WATROUS, SECRETARY