



TOWN OF TIBURON  
Tiburon Town Hall  
1505 Tiburon Boulevard  
Tiburon, CA 94920

Action and Approved Minutes - Regular Meeting  
Tiburon Planning Commission  
April 23, 2008 – 7:30 PM

## ACTION MINUTES

### TIBURON PLANNING COMMISSION

#### CALL TO ORDER AND ROLL CALL 7:30 PM

Chairman O'Donnell, Vice-Chair Kunzweiler, Commissioner Fraser, Commissioner Frymier  
All Commissioners Present

#### 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 in accordance with State law, the Planning Commission is unable 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 three (3) minutes or less. Testimony regarding matters not on this agenda will not be considered part of the administrative record. **There Were None**

#### COMMISSION AND STAFF BRIEFING

Commission and Committee Reports  
Director's Report

#### PUBLIC HEARING

1. 426 GREENWOOD BEACH ROAD: FILE #10803; REQUEST TO CONSTRUCT A DOCK AND FLOAT AND RETROACTIVELY APPROVE AN EXISTING PIER AND SEA WALL; Nicky Hall, Owner/Applicant; Assessor's Parcel No. 055-121-33 [DW] **(Continued from April 19, 2008)** **Approved 3-1**
2. 761 HILARY DRIVE: FILES #19908 AND #10504; REVIEW OF CONDITIONAL USE PERMIT GRANTED TO EXPAND THE FACILITIES FOR AN EXISTING CHURCH (ST. HILARY CATHOLIC CHURCH) AND SCHOOL; Archdiocese of San Francisco, Owner/Applicant; Assessor's Parcel Nos. 055-253-20 and 055-221-06 [DW] **Review Held**

MINUTES

3. PLANNING COMMISSION MINUTES – Regular Meeting of April 9, 2008 Approved as Amended

ADJOURNMENT 8:15 PM

**APPROVED MINUTES NO. 964  
PLANNING COMMISSION  
April 23, 2008  
Regular Meeting  
Town of Tiburon Council Chambers  
1505 Tiburon Boulevard, Tiburon, California**

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**CALL TO ORDER AND ROLL CALL:**

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

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

**Absent:** None

**Staff Present:** Planning Manager Watrous and Minutes Clerk Verdon

**ORAL COMMUNICATIONS:**

None

**COMMISSION AND STAFF BRIEFING:**

Planning Manager Watrous reminded the Commission of the April 29 workshop with the Planning Commission, Design Review Board and Town Council. He said that as of this date, nothing has been scheduled for the May 14 Planning Commission meeting and depending upon the outcome of tonight's meeting, the Commission may consider canceling that meeting.

**PUBLIC HEARING:**

- 1. 426 GREENWOOD BEACH ROAD: CONDITIONAL USE PERMIT #10803; PERMIT TO CONSTRUCT A DOCK AND FLOAT AND LEGALIZE AN EXISTING PIER AND SEA WALL; FILE #10803; Nicky Hall, Owner / Applicant; Assessor's Parcel No. 055-121-33; CONTINUED FROM APRIL 19, 2008**

Planning Manager Watrous gave the staff report and described the location of the proposed dock and float and existing pier and seawalls on the property located at 426 Greenwood Beach Road. He said that the

dock and float are intended to provide kayak or small boat access to the bay, with no boat lift proposed that would allow larger boats to be moored at this location. He summarized the Richardson Bay Dock and Boat Study adopted by the County Board of Supervisors in 2000 which evaluated the cumulative effects of dock development and traffic, wildlife and the Richardson Bay Wildlife Sanctuary. He noted that this study recommends that no new docks should be approved for the northern shore which includes the subject site primarily due to potential environmental concerns, often having to do with the need for dredging to get boats in and out of the area. He stated that this application would not involve any channel dredging and that the applicant has promised to abide by the limitations on boating in Richardson Bay which prohibit boating in the Sanctuary from October 1<sup>st</sup> through March 31<sup>st</sup> every year. He said that Staff has made a preliminary determination that the project would be exempt from CEQA, but this is a qualified exemption that could be modified if the Commission feels there would be an impact on environmental resource of hazardous or critical concerns because of the need for protection of the Richardson Bay Wildlife Sanctuary.

In response to a question from Vice-Chair Kunzweiler, Planning Manager Watrous stated that the rationale for restricting docks in the Richardson Bay Dock and Boat Study was primarily due to dredging, but that this was not the sole concern. He noted that the study contains concerns in areas where kayaks or other light vessels are being put out, since they have better access through the Richardson Bay and could create disturbances for wildlife and birds in the area.

The public hearing was opened.

Nicky Hall, applicant, said that the only time kayaks would create an impact would be during the period between October and March when boating is prohibited in the sanctuary. She said that the seawall and pier were built sometime in the mid-1970's about 15 years before they bought the property. She said that she contacted BCDC several years ago and they could not find any record that these improvements had ever been approved. She said that she was told that she could only get approval for water-related uses and they suggested that she add a gangway and a float. She said there would be no dredging and the only structures into the bay would be two wood pilings. She said that the project would not increase noise or activity along the shoreline. She stated that the dock would be much smaller than other docks in Strawberry referred to in the Richardson Bay Dock and Boat Study. She said that the docks addressed in the study were substantially different, with sizes ranging from 450 to 700 square feet, while the proposed dock would have an area of only 80 square feet.

Commissioner Frymier asked if there were any limitation on the size of boats which could use this dock. Ms. Hall did not know, noting that there are people who have small skiffs with motors on them, and that boats cannot go more than 5 m.p.h. through the area. She said that the intent was mostly for kayaks or a small sailboat.

Commissioner Fraser said that he visited the property and tried to visualize what the additional structure might look like. He did not feel that the neighbors would be impacted but thought that the dock would be more visible from the calm and serene environment of Blackie's Pasture. He said that it was difficult to determine exactly where the dock would be located.

Ms. Hall said that the dock would not be visible from Blackie's Pasture, adding that the structure would be even with the water level, making it even less visible.

Chair O'Donnell asked if the main reason for the dock was for water access and kayak use. Ms. Hall stated that she originally wanted to just approve the existing structures, but felt that it would be nice to have the dock for kayak use.

The public hearing was closed.

Commissioner Fraser said that the one concern he had was the possible visibility of the structure from Blackie's Pasture, but after hearing Ms. Hall's explanation, it most likely would only be minimally visible. He said that it makes sense to legalize the existing structures, but he would like a condition of the approval to limit use of the dock for only non-motorized craft.

Vice-Chair Kunzweiler said that he was somewhat stumped on the logic of the request. He said that BCDC's initial recommendation to legalize pier and seawall with a water-related use began the path which has now resulted in a proposal for a dock. He said that he noticed other seawalls in the vicinity and did not know whether they were approved or not, but the logic of BCDC requiring a dock to have a seawall did not make sense.

Planning Manager Watrous stated that his discussions with BCDC have been similar to those of the applicant. He said that although BCDC's direction seems counter-intuitive for an agency that is intended to protect the Bay, part of their charge is to encourage more private and public use of the Bay for recreational purposes. He added that many of the seawalls along Greenwood Beach Road likely pre-date the existence of BCDC.

Vice-Chair Kunzweiler stated that his other concern is that the County's direction to restrict or limit the expansion of private docks on private property seems to contradict BCDC's direction, as described by Planning Manager Watrous. In the end, he agreed with the intent of limiting the number of docks based upon the direction of the study and he was not enthusiastic about this application. He believed that this request was clearly against the direction of the County's study and he had not heard a compelling reason to go against the wishes of the County.

Commissioner Frymier said that she was not compelled to put another dock in the Bay, which feels like an intrusion into open space. She said that with the County study as background, this did not seem to make sense.

Chair O'Donnell stated that he was somewhat on the fence about the dock. He said that the existing pier was not ideal, but was not a barrier to putting a small kayak or small sailboat in the water. He noted that the County study states that "new docks should not be approved for the northern shore." He said that this is an extremely shallow area, and he was not sure the dock was justifiable on environmental grounds. He understood that the intent of the study is to deal with larger motorcraft, but there are also other environmental grounds. He recognized that this was a modest dock, but added that these improvements would be there for many years. He did not feel that this was an onerous proposal, so he was somewhat undecided about the project.

Vice-Chair Kunzweiler said that he would be hard pressed to deny other dock applications if this dock was approved.

Commissioner Fraser noted that the applicant has an existing pier and would not involve dredging, which is one of the main concerns of the County study. He said that the study assumes that dredging is needed

for larger watercraft to use the Bay, and that if the approval includes a limitation that prohibits the use of motorized craft, this would not set a precedent for other docks in the area.

Ms. Hall noted that she is one of the few people who own a water lot, so there would not be that many others that would have the ability to construct a dock.

Chair O'Donnell stated that BCDC believed that a water-related use was supportable and he agreed that the application made sense.

Commissioner Frymier noted that there is an existing pier and she felt that the dock would beautify the shoreline. She asked what would happen to the existing pier and seawall if the application was denied. Planning Manager Watrous said that conceivably the pier and seawall would have to be removed, but he noted that Town has not generally been active in compelling removal of such improvements.

Vice-Chair Kunzweiler said that the Planning commission tries to balance the objectives of the applicant to do something reasonable with their property with environmental issues that have not really been addressed. He noted that the County study also dealt with issues and impacts related to non-motorized craft, and that even with a limitation on motorized craft, this dock would encourage a higher degree of activity than what was recommended by the County study. He acknowledged that BCDC and the County were two different agencies with different charges. He said that he would err on the side of environmental considerations.

Commissioner Frymier said that the study discourages additional docks, but with the existing pier this would be more of an improvement than a new dock. She agreed that BCDC and the County study seem to be in conflict.

Chair O'Donnell said that the item was well noticed and noted that there have been no complaints from the neighbors or any correspondence at all regarding the application.

Commissioner Fraser recommended adding a condition of approval to the resolution prohibiting the use of motorized craft.

<p><b>ACTION:</b> It was M/S (Fraser/Kunzweiler) to approve the resolution as amended, with the additional condition of approval prohibiting the use of motorized crafts. Vote: 3-1 (Kunzweiler voted no).</p>
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**2. 761 Hilary Drive: Files #19908 and #10504; review of Conditional Use Permit Granted to expand the facilities for an existing church (St. Hilary Catholic Church) and School; Archdiocese of San Francisco, Owner/Applicant; Assessor's Parcel Nos. 055-253-20 and 055-221-06**

Planning Manager Watrous gave the staff report, stating that this was the latest in a series of annual reviews of the conditional use permit approved in 2000 for the expansion of an existing church (St. Hilary Catholic Church) and school on property located at 761 Hilary Drive. He said that St. Hilary has been on good terms with neighbors in working through issues, there have been no complaints and staff believes they are in substantial compliance with the requirements of the use permit.

Chair O'Donnell and Commissioner Frymier disclosed their previous attendance to the church.

The public hearing was opened. There was no public comment and the public hearing was closed.

Vice-Chair Kunzweiler commented that it was great to see continued compliance and he appreciated the cooperation of the church and its neighbors. It was the consensus of the Commission that no changes to the use permit were required at this time.

**MINUTES**

**3. PLANNING COMMISSION MINUTES – Regular Meeting of April 9, 2008**

Commissioner Fraser requested the following amendment to the minutes:

Page 2, 3<sup>rd</sup> paragraph; Commissioner Fraser asked how the Town might deal with ~~could address~~ the drainage culvert which would be within the new landscape envelope.”

ACTION: It was M/S (Kunzweiler/Frymier) to approve the minutes of the April 9, 2008 meeting, as amended. Vote: 4-0.
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**ADJOURNMENT**

The Planning Commission adjourned the meeting at 8:15 p.m.

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EMMETT O’DONNELL, CHAIRMAN

ATTEST:

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DAN WATROUS, SECRETARY