



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

Action and Approved Minutes - Regular Meeting
Tiburon Planning Commission
May 28, 2008 – 7:30 PM

ACTION MINUTES

TIBURON PLANNING COMMISSION

CALL TO ORDER AND ROLL CALL 7:30 PM

Present: Chairman O'Donnell, Vice Chairman Kunzweiler, Commissioner Fraser,
Commissioner Frymier

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. Testimony regarding matters not on the 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. PARADISE DRIVE PREZONING: CONSIDER ADOPTION OF A RESOLUTION OF INTENTION TO INITIATE PREZONING OF UNINCORPORATED TERRITORY IN THE SOUTHEASTERN PORTION OF THE TIBURON PENINSULA; FILE R-2008-01 [SA] **Resolution Adopted (4-0)**
2. 1600 MAR WEST STREET: TIBURON PENINSULA CLUB (TPC)
 - A. REVIEW OF CONDITIONAL USE PERMIT GRANTED IN 2005 TO EXPAND THE TPC; FILE #10406; Southern Marin Recreation Center, Owner and Applicant; Assessor's Parcel Numbers 058-171-17, 76, 84 and 058-240-21; CONTINUED FROM MARCH 26, 2008 [DW] **TPC Found in Substantial Compliance of Use Permit (3-0)**

- B. CONDITIONAL USE PERMIT TO MODIFY A PREVIOUSLY APPROVED USE PERMIT (2005) FOR THE EXPANSION OF THE TPC, INCLUDING INCREASED MEMBERSHIP CAPS AND RELOCATION OF A PLAYGROUND AREA; FILE #10804; Southern Marin Recreation Center, Owner and Applicant; Assessor's Parcel Numbers 058-171-17, 76 and 87, and 058-240-21 [DW] Approved 3-0

DISCUSSION ITEMS

3. LATE MAIL POLICY Review and Discussion of the Town Council Late Mail Policy Discussion Held

MINUTES

4. PLANNING COMMISSION MINUTES – Regular Meeting of April 23, 2008 Approved as Amended

ADJOURNMENT 10:10 AM

**APPROVED MINUTES NO. 965
PLANNING COMMISSION
May 28, 2008
Regular Meeting
Town of Tiburon Council Chambers
1505 Tiburon Boulevard, Tiburon, California**

CALL TO ORDER AND ROLL CALL:

Chair O'Donnell called the meeting to order at 7:30 P.M.

Present: Chair O'Donnell, Vice Chair Kunzweiler, Commissioners Fraser and Frymier
Absent: None
Staff Present: Community Development Director Anderson, Planning Manager Watrous and Minutes Clerk Harper

ORAL COMMUNICATIONS:

COMMISSION AND STAFF BRIEFING:

PUBLIC HEARING:

1. **PARADISE DRIVE PREZONING: CONSIDER ADOPTION OF A RESOLUTION OF INTENTION TO INITIATE PREZONING OF UNINCORPORATED TERRITORY IN THE SOUTHEASTERN PORTION OF THE TIBURON PENINSULA; FILE R-2008-01**

Community Development Director Anderson summarized the staff report. He stated that the Town has received rezoning applications from nine property owners who own 13 assessor parcels encompassing approximately 45 acres of territory in the unincorporated Paradise Drive area at the southeastern end of the Tiburon Peninsula. He explained the rezoning process, noting that any rezoning designation must be consistent with the general plan. He stated that the applicants do not ask the Planning Commission to rezone any territory at this meeting, but merely to initiate a rezoning process by adopting a resolution of intention and establishing a boundary for a rezoning study area, after which the Town could then begin detailed analysis and determine the appropriate level of environmental review.

Community Development Director Anderson described the geographic area surrounding the applicants' parcels and stated that rezoning of only these 13 parcels would not result in rational boundaries for purposes of study, land planning, or efficiency of service provision. He recommended that the Planning Commission establish a rezoning study area boundary containing all unincorporated territory on both sides of Paradise Drive from the Tiburon corporate limits on the south to the Romberg Tiburon Center property line on the north.

He said that the recommended area would include approximately 92 assessor parcels encompassing roughly 230 acres of territory. He stated that the Romberg Tiburon Center boundary forms a logical break-point for rezoning in that it stops short of two large tracts of land over which the Town has no land use control (Romberg Tiburon Center and the County's Tiburon Uplands Nature Preserve) and would include a limited portion of Paradise Drive. He stated that since the applicants are absorbing all processing costs of this rezoning process, extending the study area northward along the Tiburon Peninsula toward Corte Madera, far beyond the applicants' parcels, seems inappropriate at best.

Chair O'Donnell requested a summary of LAFCO annexation policies. Community Development Director Anderson said that LAFCO policies were voluminous and would require some research. He noted that LAFCO has given no direction regarding the subject properties.

Chair O'Donnell opened the public hearing.

Bryan Chapman, applicant, asked how many rezoning applications had processed by the Town in the past. Community Development Director Anderson said there have been 10-20 rezoning applications, the largest covering approximately 60 parcels in the late 1990's.

Russ Keil stated that he has been a somewhat outspoken opponent to annexation, but he felt that the Town has changed dramatically, becoming a more suburbanized community with a more sophisticated police force and planning efforts. He said that he now feels a bit alienated from the County government, which he characterized as not in tune with the needs of this area. He said that he has found the Tiburon Police Department to be extremely responsive and professional. He suggested that area residents look at the benefits of annexation versus remaining in the county and thought that the issue should be put to a vote of the residents.

Jennie Chapman said that she is a 45 year resident of Paradise Drive and, like Mr. Keil, she never had an interest in joining the Town. She now believes that one of the biggest reasons for

the rezoning and future annexation would be for police response, as sheriff deputies must come from Marin City and take a long time to get here.

Gary Glover said he supported the rezoning, noting that the Town zoning for his property would be similar to the County zoning. He agreed that police and land planning issues are important and he has more confidence in the Town of Tiburon than in Marin County. He discussed his experience dealing with the utility undergrounding district, stating that he worked with Town staff to resolve some issues and was impressed by the professionalism of Town staff and the Town Council.

Alan Zimmerman said that he strenuously objects to the application as noted in Mr. Ragghianti's letter. He said that he had no objection to the larger study area, but asked for more information to be provided about environmental consequences and processes and felt that it was the right thing to allow the residents to vote on this matter.

Riley Hurd, attorney with Ragghianti/Freitas representing Anders Swahn, questioned why the number of parcels was increased from the 13 applicants' parcels, "sweeping in" many other owners and increasing the area to be studied to 230 contiguous acres. He stated that the notice for this meeting may have misled property owners that were not part of the 45 acres requesting rezoning. He questioned the reasoning behind the expansion of the study area and believed that it was truly about the Martha Property and subverts the rezoning process. He stated that annexation could present the construction of many homes and he asked that the true purpose of the rezoning be made public. He stated that the rezoning should not bring in other property owners as "collateral damage." He asked what constitutes an "intention to initiate" rezoning. He stated that under CEQA, any step that sets off events that will eventually lead to a project is considered to be a project, and therefore this application requires an EIR. He characterized the information included in the application as too scant to be deemed complete. He requested that the Planning Commission deny the application, not pass the resolution and insist on transparency in the process.

Chair O'Donnell asked Mr. Hurd what Mr. Swahn's specific objection was to the proposal. Mr. Hurd said that Mr. Swahn bought this property with the intent to live within the County limits. While he acknowledged the arguments made about police and planning, he said there is a shared services agreement in place that results in Tiburon police often being the first responder in most cases for the entire area.

Mary McEachron, attorney with Hanson Bridgett representing the Martha Company, stated that this was a project which requires CEQA review, as this is the first step of a project. She stated that the Martha Company has received its second court judgment to allow development of their property. She said that a massive EIR must be done for this rezoning and the Town should wait until the Martha Company EIR is completed in another 14-18 months rather than having taxpayers pay for an EIR. She stated that litigation will likely occur regarding this application and that the Town would have to assume the costs of the EIR and future litigation. She stated that LAFCO cannot annex uninhabited territory over the protest of the property owner.

Chris Shipp said that he was unsure what the application is about and voiced concerns that this would allow future development in the Lyford Cove area.

Chair O'Donnell closed the public hearing.

Vice-Chair Kunzweiler requested staff to explain the process if the Commission were to initiate a rezoning application. Community Development Director Anderson said, assuming the Planning Commission initiates the rezoning, the resolution would define the boundaries of the area to be studied and then staff can begin to study the consequences of the rezoning and determine the appropriate level of environmental review. Once the rezoning study has been completed, there would be a noticed public hearing for the Planning Commission to consider rezoning properties. He stated that the Planning Commission would hold the public hearing and make a recommendation onto the Town Council, although if the Planning Commission votes to deny the request, the application ends there. If the Commission recommends approval to the Town Council, the Council would then hold a public hearing and consider an ordinance that would rezone the properties. If approved, the Council's action would determine the zoning that would be established for these properties upon annexation.

Vice-Chair Kunzweiler asked about the environmental review process. Community Development Director Anderson said staff does not currently know what the appropriate environmental document would be and that it is necessary to have a defined study area in order to proceed. He further clarified that staff is consulting with CEQA experts, but he felt that the Town would probably need to rely on some EIR.

Chair O'Donnell asked how annexation would occur if the rezoning process were approved. Community Development Director Anderson said that the annexation process is not handled by the Town. He said that landowners can apply to LAFCO for annexation and then that agency would process the application. He acknowledged the presence of Peter Banning, Executive Officer of LAFCO, at the meeting.

Commissioner Frymier asked whether CEQA review was necessary to initiate the rezoning process tonight. Community Development Director Anderson replied that once there is a boundary determined, staff would determine the appropriate CEQA document and then begins to work on it. He said the statement from Ms. McEachron stating that the Town would pay for an EIR was incorrect, as the applicants would pay for it.

Vice-Chair Kunzweiler said he lives in a portion of Paradise Drive which is a checkerboard mix of parcels controlled by two governments and he felt that this does not work well. He believed the process was clear and cited direction in the General Plan for the Town to move toward annexation of unincorporated areas. He said that sooner or later, annexation will come. He noted that it is the right of citizens to request to initiate the rezoning process. He said that an expansion of the study area makes perfect sense, as it would be inappropriate to rezone scattered parcels. He believed that the proposed study area was not excessive but was a logical first step. He stated that the process is open, transparent and proven. He encouraged participation in the process and felt that the expansion of the study area would give citizens a sense of what the zoning will be in the future.

Chair O'Donnell asked if the Commission would be interested in expanding the area to Trestle Glen Boulevard, given that Paradise Drive has many maintenance and drainage issues and the expansion does not fully address the situation. Vice-Chair Kunzweiler replied that expansion of the study area to Trestle Glen Boulevard would encompass 561 acres and 217 parcels. He

emphasized the need to take logical steps, adding that the complexity of the issues would increase with the number of parcels. He said that although it would be nice to solve all of the problems of the Paradise Drive corridor, he did not think it was appropriate to do so now.

Commissioner Fraser questioned whether the Town was putting the cart in front of the horse by initiating the rezoning prior to conducting environmental review. Director Anderson said that staff disagrees with the statements made needing to initiate the CEQA process at this point, as there is no project description.

Commissioner Fraser asked if homeowners could voice their objections about a potential annexation to LAFCO. Community Development Director Anderson said that he did not have information about the particular details of the LAFCO process, but the Town has the option of rezoning all, some, or none of the properties in the proposed study area. He said that the study area could also be altered if, during the course of information gathering and review, it becomes apparent that expansion or reduction of the area needs to occur and is appropriate. Staff would then return the issue to the Planning Commission to consider changing the study area.

Commissioner Fraser said there are 13 applicants and petitions signed by 11 homeowners opposed to the rezoning, leaving 68 other parcels whose property owners are not present or simply did not sign the petition. He felt that there was no harm in looking at the rezoning, as there would be no decision on the rezoning at this time and a lot of opportunities for public input in the process. He felt that this was a fair, democratic process.

Commissioner Frymier said that although valid points had been made, she did not hear a compelling reason not to move forward with the rezoning. She said that no decision would be made tonight other than adopting a resolution of intent to define a study area. She did not hear any specific reasons for owners that wanted to stay in the county. She said that this would just create a study area and would not place a burden on taxpayers.

Chair O'Donnell voiced frustration that the Town often reacts to issues rather than being proactive about setting policy and strategies for the future. He believed in the direction recommended by staff, but expressed concern that the Town is not trying to develop an overall strategy for Paradise Drive and instead is taking a piecemeal approach. He agreed that this is a starting point and that the process is open and transparent. He said that he would like to see the study area expanded, but could go along with staff's recommendation.

Commissioner Fraser said that he understood Chair O'Donnell's approach to expanding the study area, but felt that it was a large undertaking and would be too much, given staff's resources and the Town's budget.

<p>ACTION: It was M/S (Kunzweiler/Frymier) to adopt the Resolution of Intention to Initiate Rezoning, as drafted. Vote: 4-0.</p>

Chair O'Donnell requested certain agenda items be heard out of order due to Commissioner Fraser's recusal on Items 2 and 3.

MINUTES

4. PLANNING COMMISSION MINUTES – Regular Meeting of April 23, 2008

Commissioners requested the following amendments to the Minutes:

- Page 3, 4th paragraph, amend last sentence to read: "...but he would like a condition of the approval to limit the use of the dock for only..."
- Page 3, 2nd paragraph from bottom, change sentence to read: "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."
- Page 4, missing Action box for Public Hearing Item 1, as follows:

ACTION: 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).

Chair O'Donnell stated that, for the record, he would not have voted to approve the resolution for 426 Greenwood Beach Road if he had all of the pertinent information before him, and credited Vice Chair Kunzweiler for apprising him of this.

ACTION: It was M/S (Kunzweiler/Fraser) to approve the Minutes of April 23, 2008, as amended: Vote: 4-0.

DISCUSSION ITEMS

3. LATE MAIL POLICY: Review and Discussion of the Town Council Late Mail Policy

Community Development Director Anderson summarized the Town's late mail policy, which was adopted by the Town Council last November. He noted that the policy states that for mail received after the Monday before a meeting, the Board, Commission or Council has the discretion to determine whether they wish to read, review or consider this correspondence.

The Planning Commission discussed the policy and asked questions about stamping correspondence received before the packets are complete as late mail, the perceived negative connotation of the "late mail" stamp and whether staff should establish deadlines for including correspondence in the staff report.

Community Development Director Anderson discussed the packet process, noting that there are fluctuations in the timeframes for producing packets, with staff often preparing reports earlier in the week, which makes it difficult to incorporate late mail into the staff reports. He noted that the "late mail" stamp is not meant to be negative.

2.A. 1600 MAR WEST STREET: TIBURON PENINSULA CLUB (TPC); REVIEW OF CONDITIONAL USE PERMIT GRANTED IN 2005 TO EXPAND THE TPC; FILE #10406; Southern Marin Recreation Center, Owner and Applicant; Assessor's Parcel Numbers 058-171-17, 76, 84 and 058-240-21; CONTINUED FROM MARCH 26, 2008

Planning Manager Watrous stated that Commissioners Fraser and Frymier are current members of the Tiburon Peninsula Club and at the March 26th meeting the Fair Political Practice Committee's re-qualifying procedure caused Commissioner Fraser to be excused and Commissioner Frymier to participate. He noted that although Chair O'Donnell was on the waiting list to join TPC, he was not yet a member and could participate in this meeting. Commissioner Fraser recused himself from participating and left the meeting.

Planning Manager Watrous summarized the staff report and the progress TPC had made since the March 26th meeting. He noted that the overflow parking lot has now been graded and covered with a gravel surface and the pile of rocks along the southwest perimeter of the parking lot has been removed. He said that TPC has installed a test section of a new pervious parking surface system that consists of a reinforced plastic grid system covered with gravel. He noted that the current use permit does not mandate ongoing annual reviews and he recommended at least one annual review be conducted to determine whether improvements will address parking concerns raised in the past.

Jeff Babikian, TPC President, introduced Bruce Ross, Chair of the Senior Committee and Jerry Pang, new General Manager. He said he was available to answer questions and agreed with the staff report and its recommendations.

Mr. Ross described the proposed parking surface system as a mat of fabric with rings with a compacted subgrade and covered with gravel. He said that they are looking into a more granular and uniform granite covering that would be a darker color. He said that this is a good system that percolates water well with no dust. He said that the original parking lot surface has not been a good solution and results in too much dust. He acknowledged that the test section of the new system looks dusty because it has been contaminated by materials in the adjacent parking lot. He confirmed that the proposed granite material does not break down, but added that the Club could not guarantee that the surface would not be dusty. He said that the proposed system requires little maintenance, but, if needed, more gravel could be added. He said that this is a permeable system that allows water to flow through into the ground. He said they tested the system by flooding the test area with a hose, and the system worked well. He said that any contaminants are screened out by the first two inches of gravel and then through a filter cloth, allowing the water to drain through with contaminants oxidizing over time out of the area.

Mr. Babikian said that they believe the system is aesthetically and environmentally superior, drains well, would not cause flooding and would solve the dust problem. In response to a question from Commissioner Frymier, he said that the system could be replaced in pieces if needed and that similar systems are commonly used for parking lots in the Southeast and on the East Coast.

Chair O'Donnell asked if the Club was comfortable with the requirement to put up "no parking" signs along Mar East Street. Mr. Ross responded that the signs were the Town's responsibility and the Club had no comment on the signs.

Vice-Chair Kunzweiler stated that TPC needs a parking surface that is acceptable to its members or the parking problems would continue and asked if this surface system would solve these problems. Mr. Babikian said that the new system would help with the dust, but he acknowledged that there are other reasons why people park on Mar East Street, including more shade, a closer location, and convenience.

The Planning Commissioners further discussed the proposed parking surface system, including installation and warranty provisions, the need for approval by the TPC Board and membership and when the Commission should review the surface after its installation.

Chair O'Donnell confirmed that there were no public speakers, and closed the public hearing.

Vice-Chair Kunzweiler believed that TPC is working and progressing to comply with the requirements of the use permit and address issues. He felt that the Club members would put the pressure on TPC to get the parking lot right. He suggested that the Commission review the lot three months after it is completed, then review the permit afterwards on an annual basis.

Chair O'Donnell said that he was initially skeptical about the parking lot system, but he acknowledged that the decision to use the material is TPC's to make. He said that he was not in favor of changing the cycle of review.

Commissioner Frymier said that it was not the Commission's decision as to how TPC spends its funds. She believed that TPC has done an outstanding job addressing its issues and complying with their use permit. She commended them for their diligence and hoped that the parking lot system works well.

<p>ACTION: It was M/S (Frymier/Kunzweiler) to conclude that the Tiburon Peninsula Club is in substantial compliance with its conditional use permit and direct staff to schedule an additional review of the conditional use permit in approximately one year. Vote: 3-0.</p>
--

2.B. CONDITIONAL USE PERMIT TO MODIFY A PREVIOUSLY APPROVED USE PERMIT (2005) FOR THE EXPANSION OF THE TPC, INCLUDING INCREASED MEMBERSHIP CAPS AND RELOCATION OF A PLAYGROUND AREA; FILE #10804; Southern Marin Recreation Center, Owner and Applicant; Assessor's Parcel Numbers 058-171-17, 76 and 87, and 058-240-21

Planning Manager Watrous summarized the staff report, stating that the Tiburon Peninsula Club has submitted an application to amend their use permit to increase the membership levels to 700 regular memberships, 175 senior memberships and 10 scholarship memberships. He noted that the application also includes a request to relocate an existing playground on the site. He gave a brief history of the TPC membership levels and stated that the increased memberships would not likely be noticeable. However, he noted that parking has been an ongoing issue and although TPC has presented a plan for parking and a parking lot management plan, the Planning Commission should determine whether the requested

membership increase is appropriate. He noted that the Town had received noise complaints about the previous playground location but staff does not feel that any noise increase from this location would be significant. He stated that staff had made a preliminary determination that the subject application is categorically exempt from the requirements of CEQA, but noted that this is a “qualified” exemption that can be made if the Planning Commission , determines that the increased membership would have little or no effect on the everyday operations of the Club and the playground would have no substantial noise effect on the surrounding neighborhood.

Jeff Babikian, TPC President, said he was available for questions and reiterated that the increase in membership would have to be approved by the current members. He confirmed that there would be a total of 110 additional memberships and that TPC just wanted the option for these memberships if needed in the future. He stated that the new memberships would be phased in over time and may not all be used. He said that the requested increase was a reasonable number and the Club did not need to expand beyond the requested membership levels in the future. He stated that the goal was not about adding as many new members as possible, as the facilities have their limits. He said that the scholarship memberships would help children in the community.

Bruce Ross, Chair of the Senior Committee, discussed the qualifications for senior membership and said that this rewards long-time members who may not necessarily utilize the club as much as younger members. He confirmed that senior members are drawn from the grouping of regular membership, but the total number of memberships is never exceeded.

Chair O’Donnell confirmed that the requested increase would essentially add 100 new members as regular members convert to senior members.

Chair O’Donnell confirmed there were no public speakers and closed the public hearing.

Vice-Chair Kunzweiler stated that the playground location was appropriate and the additional memberships were reasonable. He agreed that the project would be exempt from CEQA, as the membership would increase by roughly 15%, but would occur over time. He believed that the increase in ambient noise would not be noteworthy.

<p>ACTION: It was M/S (Frymier/Kunzweiler) to adopt the draft resolution determining that the project is categorically exempt from CEQA and approve the amendment to the Tiburon Peninsula Club conditional use permit. Vote: 3-0.</p>

ADJOURNMENT

The Planning Commission adjourned the meeting at 10:00 p.m.

EMMETT O’DONNELL, CHAIRMAN

ATTEST:

DAN WATROUS, SECRETARY