



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

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

ACTION MINUTES

TIBURON PLANNING COMMISSION

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

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

ORAL COMMUNICATIONS **There Were None**

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.

ELECTION OF OFFICERS

COMMISSION AND STAFF BRIEFING

Commission and Committee Reports
Director's Report

PUBLIC HEARING

1. 1600 MAR WEST STREET: AMENDMENT TO AN EXISTING CONDITIONAL USE PERMIT TO ALLOW EXTENDED HOURS OF OPERATION FOR OCCASIONAL SPECIAL EVENTS; Tiburon Peninsula Club, Owner/Applicant; Assessor's Parcel No. 058-171-17, 76, &84, and 058-240-21; FILE #10808 [DW]
Approved with Conditions 3-0
2. 1620 TIBURON BOULEVARD: TIME EXTENSION AND MODIFICATION FOR A CONDITIONAL USE PERMIT TO OPERATE A WIRELESS COMMUNICATIONS FACILITY; Barbara Abrams, Owner; T-Mobile, Applicant; Assessor's Parcel No. 059-101-03; FILE #19606 [DW]
Approved with Conditions 4-0

DISCUSSION ITEM

3. 20-22 MAIN STREET: DETERMINATION AS TO WHETHER RECIRCULATION OF ENVIRONMENTAL IMPACT REPORT (EIR) FOR THE “HARBOR LIGHT” COMMERCIAL PROJECT IS REQUIRED; Zelinsky Properties, Owner, Hank Bruce Architects, Applicant, Assessor’s Parcel No. 059-102-18; File #10705 [LT] **No Recirculation Required 4-0**

MINUTES

4. PLANNING COMMISSION MINUTES – Regular Meeting of July 9, 2008
Approved as Modified 3-0-1 (Frymire)

ADJOURNMENT **8:40 PM**

PLANNING COMMISSION APPROVED MINUTES 968

July 23, 2008

Regular Meeting

Town of Tiburon Council Chambers

1505 Tiburon Boulevard, Tiburon, California

CALL TO ORDER AND ROLL CALL:

Vice-Chairman Kunzweiler called the meeting to order at 7:30 p.m.

Present: Vice-Chair Kunzweiler, Commissioners Fraser, Frymier and Corcoran

Absent: Chair O’Donnell

Staff Present: Community Development Director Anderson, Planning Manager Dan Watrous and Minutes Clerk Levison

ORAL COMMUNICATIONS: None

COMMISSION AND STAFF BRIEFING:

Community Development Director Anderson provided the following briefing:

- The Little School’s application for a conditional use permit is scheduled to reappear before the Commission at the meeting on August 13, 2008;
- The “Harbor Light” merit hearing is tentatively scheduled for the meeting on August 13, 2008;
- The Town Council considered the Green Building Program at its meeting the previous week. They asked that the ordinance be amended to require a checklist at the building stage only. This referral will come before the Planning Commission in August, at which

time the Commission can share any comments or recommendations before the program returns to the Town Council.

Vice-Chair Kunzweiler informed staff and the public that Commissioner Fraser would recuse himself from participating on Item No. 1 and requested that the item be moved to the end of the agenda.

PUBLIC HEARING:

2. 1620 TIBURON BOULEVARD: TIME EXTENSION AND MODIFICATION FOR A CONDITIONAL USE PERMIT TO OPERATE A WIRELESS COMMUNICATIONS FACILITY; Barbara Abrams, Owner; T-Mobile, Applicant; Assessor's Parcel No. 059-101-03; FILE #19606

Planning Manager Watrous presented the staff report, stating that this was a request to extend and modify a previously approved conditional use permit for a wireless communications facility has been established on property located at 1620-1632 Tiburon Boulevard. He said that the proposal requests modifications to the existing facility to increase the size of the existing antennas and install a second equipment cabinet next to the existing cabinet. He noted that the Town has received no complaints regarding this wireless communications facility and that the antennas are not particularly visible. He noted several minor amendments to the draft resolution on the item:

- Condition No. 1 - Add the language "shall expire on September 11, 2013 unless otherwise renewed pursuant to the Tiburon Municipal Code."
- Condition No. 4 – Update the code section to Section 16-4.417 of the Municipal Code rather than the Zone Ordinance

Sandra Steele, representing T-Mobile, requested the Commission approve the use permit extension with the modifications to the existing facility and offered to address any concerns the Commission may have.

Commissioner Corcoran asked whether the submitted radio frequency analysis is based upon information provided by the manufacturer or on studies of functioning antennas already in use at other locations. Ms. Steele explained that the reports are partly projections based upon drawings from the architects, specifications from RF engineers and measurements of the existing antennas.

Commissioner Fraser asked if this is a proprietary site. Planning Manager Watrous said that while it is currently the only location at this site, there is an application for another facility to be installed at this same site. Commissioner Fraser asked if another facility would require an additional antenna. Planning Manager Watrous confirmed this and explained that the RF studies for the additional antenna would have to assume both facilities were operating simultaneously.

Commissioner Fraser expressed his desire to consider encapsulating antennas into combined structures. Planning Manager Watrous warned that speculation is difficult and noted that while the applicant for the additional facility has expressed intent, the application is incomplete at this time. If and when it is completed, the application will come before the Commission at which point it can be determined how it relates to existing facilities and overall visual impact.

Commissioner Corcoran asked if the “public limit exposure” refers to second floor elevations and expressed concern over some of the measured values in the enclosed report. Ms. Steele explained that her expertise is in design but that typically there are ground level, second floor and highest floor level readings. Planning Manager Watrous explained that the proposed antennas would be operating well within the FCC limits for such facilities. Ms. Steele added that the FCC exposure limits have a built in safety factor of 50 and that this facility’s measurements are only 1% of those limits.

Commissioner Frymier questioned the main purpose of the modifications. Ms. Steele explained that they would like to upgrade the facility from a 2G (second generation technology) to 3G (third generation technology) site. She said that 3G is the current standard technology, allowing faster transmission of data with an antenna that is only a couple of inches wider.

Commissioner Frymier asked how long this technology is expected to last. Ms. Steele had difficulty projecting but Planning Manager Watrous noted that the current antennas have been in place for twelve years. Ms. Steele indicated that the aim of the industry is to increase capacity without increasing size.

There were no public comments.

Commissioner Fraser supported the request with the amendments suggested by Planning Manager Watrous. He noted that the Town reserves the right to review the application at a later date.

Commissioner Corcoran supported the project, adding that the conditions of approval would retain the Commission’s jurisdiction to review the facility if there are any issues.

Vice-Chair Kunzweiler stated that it was important to improve the capability of wireless facilities on the Tiburon Peninsula.

ACTION: It was M/S (Fraser/Frymier) to adopt the resolution granting a time extension for this conditional use permit until September 11, 2013 with the outlined amendments. Vote: 4-0.

DISCUSSION ITEM:

3. 20-22 MAIN STREET: DETERMINATION AS TO WHETHER RECIRCULATION OF ENVIRONMENTAL IMPACT REPORT (EIR) FOR THE “HARBOR LIGHT” COMMERCIAL PROJECT IS REQUIRED; Zelinsky Properties, Owner, Hank Bruce Architects, Applicant, Assessor’s Parcel No. 059-102-18; File #10705

Community Development Director Anderson presented the staff report, stating that the Town of Tiburon is processing an application for demolition of an existing 2-story, 2,415 square foot commercial building located at 20-22 Main Street and replacing it with a new 2-story, 2,941 square foot commercial building. He said that a A draft environmental impact report (DEIR) was prepared and circulated for public review and comment for 45 days. Public comments on the DEIR were solicited at a public hearing held at the July 9, 2008 Planning Commission meeting. The comment period closed on July 18, 2008. No comments on the DEIR, written or oral, were received during the comment period. He stated that the purpose of this meeting is for the

Planning Commission to hear and consider the recommendation of the Environmental Coordinator as to whether “significant new information” that would require recirculation of the DEIR has been received during the public comment period.

Commissioner Corcoran asked if a representative from Newman Planning Associates was present and Community Development Director Anderson said no, they would be present for the certification of the EIR.

Commissioner Corcoran relayed his research on the incorporation of climate change analysis into EIRs and explained that while it is an evolving science, there is a strong collective voice suggesting its need in every EIR. He asked what the Town’s position will be on the matter going forward. He said that he was concerned about a growing occurrence of litigation for failure to analyze greenhouse gas emissions.

Director of Community Development Anderson explained that it is first up to the local agency to find that a project has the potential for significant impact on global climate change. He said that while the State has not yet developed or released any thresholds of significance, he firmly believed that a project this small would not have a significant impact on global climate change and would not exceed any such thresholds.

MOTION: It was M/S (Frymier/Fraser) that recirculation of Environmental Impact Report for the “Harbor Light” Commercial Project is neither warranted nor required. Vote: 4-0.

MINUTES:

4. PLANNING COMMISSION MINUTES – Regular Meeting of July 9, 2008

Commissioners requested the following amendments to the Minutes:

- Page 10, 2nd paragraph from the bottom, delete from the 2nd sentence: “have always ultimately”
- Page 5, 4th paragraph, amend the 4th sentence to read: “Ms. Baker said that nursery and preschool wait list times are up to two years and that the older children are usually placed into a higher grade before a space becomes available for them.”
- Page 5, 4th paragraph, delete from the last sentence: “18”
- Page 9, 2nd paragraph, amend beginning with the first sentence to read: “matters of easements. Planning Manager Watrous said that it generally does not, but that as the condition of the road is directly related to the proposed use.both the church and preschool were in operation when the easement was initially granted.”
- Page 10, 4th paragraph, amend line 2 to read: “it is clear that residents want”
- Page 10, 4th paragraph, amend the 3rd sentence to read: “with preschools.”

- Page 10, 4th paragraph, amend the 6th sentence to read: “the Town does not generally take over private roads.”

MOTION: It was M/S (Corcoran/Fraser) to approve the Minutes of July 9, 2008 as amended.
Vote: 4-0.

Commissioner Fraser recused himself from Item No.1. Planning Manager Watrous stated that both Commissioners Fraser and Frymier are members of the Tiburon Peninsula Club but that to maintain a quorum, Commissioner Frymier was previously re-qualified to vote matters related to the Club.

PUBLIC HEARING:

1. 1600 MAR WEST STREET: AMENDMENT TO AN EXISTING CONDITIONAL USE PERMIT TO ALLOW EXTENDED HOURS OF OPERATION FOR OCCASIONAL SPECIAL EVENTS; Tiburon Peninsula Club, Owner/Applicant; Assessor’s Parcel No. 058-171-17, 76, &84, and 058-240-21; FILE #10808

Planning Manager Watrous presented the staff report, stating that the Tiburon Peninsula Club, or TPC, has submitted an application to amend the conditional use permit to allow Tiburon Town Staff to authorize occasional exceptions to the hours of operation on a case-by-case basis for special events. He said that TPC has informed the Town that they are planning to hold a 60th anniversary celebration this fall and would like the ability to hold this event past the hours prescribed by their use permit. The current condition of approval regarding events and amplified music does not provide any flexibility to allow special events or play amplified music beyond the hours specified in Condition No. 5. TPC has requested that Condition No. 5 be modified to allow Town Staff to authorize occasional exceptions to these hours on a case-by-case basis for special events. He stated that Staff believes that limited exceptions can be made on to these hours without substantially increasing any disruption to neighboring residents, and recommended conditions of approval limiting the number and hours of these requests and requiring that neighboring property owners and residents be notified by mail in advance of events authorized by such exceptions.

Commissioner Frymier asked what hours are allowed by the conditional use permit for the Belvedere Tennis Club. Planning Manager Watrous explained that their use permit is similar to that for TPC in that there is no exception process on a case by case basis. He also pointed out that the two facilities are in different situations with different neighborhood characteristics.

Commissioner Corcoran asked if it is standard to modify the conditional use permits to allow a set number of special events or if an exception can be made strictly for the anniversary party. Planning Manager Watrous explained that there are only two facilities like this and so there is not a standard procedure but that normally the use permit would not be amended to allow one specific event. He advised the Commission to consider it as more of a procedural issue and whether or not staff should have the ability to make judgments and allow exceptions on a case by case basis.

Commissioner Corcoran noted that while staff recommended limiting the special events to official TPC functions, it was not written as an official condition in the amended conditional use permit. He asked that this be included in the amended permit.

Commissioner Frymier asked who would be responsible for notifying neighbors of extended hour events. Planning Manager Watrous responded that the responsibility would lie with the TPC to notify neighbors and to supply Town staff with a copy of the notice. He stated that ongoing compliance with this requirement would be addressed at the review of the conditional use permit.

Vice-Chair Kunzweiler opened the public hearing.

Bruce Ross, representing the TPC, stated that the TPC agreed with most of the staff analysis and recommendations. He asked if there would be a fee associated with each special event permit. Planning Manager Watrous said there is not a fee associated with those permits. Mr. Ross also expressed the TPC's preference to allow of 4 or 5 events with a time limit to extend until 12 a.m.

Jerry Pang, TPC general manager, stated that the BTC, Corinthian Yacht Club, and San Francisco Yacht Club are all allowed to host events until at least 11 p.m. if not midnight or 1 a.m. on certain evenings. Planning Manager Watrous noted that both yacht clubs are in Belvedere, not in Tiburon.

Jeff Babikian, TPC President, expressed that the time limits recommended by Staff would provide an acceptable short-term solution, but the TPC would ideally like to remain open until 12 a.m. for special events. He said that TPC believes there is an inequity with the other facilities in the area and would like to revisit the issue at a later date. He stated that the club wants to be respectful of its neighbors.

Vice-Chair Kunzweiler noted that TPC agreed to these operating hours when it applied for its expansion permit in 2005 and he asked what had changed since then. Mr. Babikian responded that the management in effect at that time focused on the expansion and looked at the operating hours as a technicality.

Commissioner Frymier asked if TPC had any objection to the stipulation that the special events be limited to club-hosted events. Mr. Babikian said that they had no objection, explaining that their objective is to celebrate fun within the membership and the community.

Commissioner Frymier asked how many outside events, like weddings, have been held at the club until 8 or 9 p.m., noting that the Town has received several letters from neighbors complaining of loud events. Mr. Babikian answered that to his knowledge, there have been two daytime weddings.

Commissioner Frymier confirmed the club's regular summer events schedule of Wednesday and Friday evenings.

Mr. Babikian said the TPC feels that the cost and man hours associated with sending out notices to the neighbors for each event would be an excessive burden.

Nancy Walsh stated that she lives in an apartment complex neighboring TPC and said that overall, she feels that TPC is good neighbor. Her main complaint is the loudspeaker used at some events and noted that on Memorial Day, the noise was particularly excessive. She felt that the issue is mostly with outdoor events and remarked that the shape of the hill surrounding the club acts a funnel, carrying the noise directly toward her apartment. Ms. Walsh expressed that she

would not mind events running until 9 p.m. but that anything later would be disruptive to her schedule. She said that while there is a fair amount of daily noise, it is the sound of children enjoying themselves, which she does not mind.

Mr. Pang responded to Mrs. Walsh's comments, stating that the club has made efforts to reduce noise from their Saturday morning pool class and that the Memorial Day party included a hired disc jockey from 1 to 5 p.m.

Vice-Chair Kunzweiler closed the public hearing.

Commissioner Frymier expressed her empathy for the club's neighbors and her surprise that more had not attended the meeting. She expressed interest in comparing the request with the current operating hours of the Belvedere Tennis Club and stated that she did not find the request for 3 special club-hosted events per year to be extreme. She said that whether she is a member or not, she wanted TPC and other clubs to excel at what they do, including encouraging their members to utilize the services the club provides. She felt that placing a 9 p.m. limit on a club holding liquor and food permits was small-minded.

Commissioner Corcoran also stated his interest in getting more information on events held at the area's other clubs as well as those hosted in the Town like the annual fundraiser at Blackie's Pasture. He said that while the issue at hand is TPC, the other venues' proximity to the Town and specific topography make them relevant. He also expressed his sympathy for the neighbors, noting that he wanted to ensure the Commission doesn't create a new problem to solve a current one.

Vice-Chair Kunzweiler said that while comparing clubs would give a comparison of hours, he did not find a comparison of other locations to be fair. He said this is a unique venue and suggested deciding this matter based on the merits of this location and specific club. He expressed some concerns over the proposed change despite understanding the goals of the club. He asked staff why no distinction was drawn between indoor and outdoor events, noting that each have a notably different noise impact.

Planning Manager Watrous said that staff wanted to allow the flexibility to judge each request on a case by case basis, noting that an outdoor event without amplified music would be significantly different than one with amplification.

Vice-Chair Kunzweiler said that he cannot agree to the revised use permit as it is written to include outdoor parties. He said that it made sense to give Town staff the ability to decide but he had concerns about promoting club membership at the expense of its neighbors. He suggested specifying that 9 p.m. be the cutoff for outdoor events but that indoor gatherings could run until 11 p.m.

Planning Manager Watrous read from the conditional use permit for the Belvedere Tennis Club, stating that limitations on the hours of operations says no later than 12 p.m. midnight for social events. He said that the hours were an issue during the review of their use permit and that there is another condition specifying that "a club staff member shall be present at all social events and the staff member present shall be equipped with a cellular telephone on which he or she can be contacted by neighbors or residents to report any noise or any other concerns resulting from the social event."

Vice-Chair Kunzweiler pointed out that the BTC has an acoustic wall surrounding the club which is a pretty significant sound mitigation factor. Planning Manager Watrous added that the conditions for approval for the BTC's permit also included an electronic sound limiting system and sound absorbing ceiling treatments installed within the clubhouse.

Commissioner Corcoran suggested crafting the application to allow just this one event until midnight. Planning Manager Watrous said that the Commission could approve this one particular event but that each ensuing special event would require coming back before the Commission.

Commissioner Frymier asked if Vice-Chair Kunzweiler's suggestion to limit indoor events until 11 p.m. would stipulate that the bank of doors remain closed. Vice-Chair Kunzweiler said that keeping the doors open would defeat the purpose of limiting indoor events.

Commissioner Frymier noted that those doors sometimes have to remain open to accommodate the volume of people in attendance. She said that she is very much in support of allowing the 60th anniversary party, reiterating the importance of promoting membership use of the club.

Commissioner Corcoran said it would be helpful to add the requirement to the conditions of approval that the events be club-hosted.

Vice-Chair Kunzweiler suggested keeping the revised conditional use permit as drafted and adding a six month review of these exceptions, at which time the Commission could hear any complaints from neighbors regarding noise or events that continue past the specified allowance. If the Commission found that the revision created an unnecessary burden on the club's neighbors then the requirement could be revisited.

Commissioner Corcoran asked if that would be a sufficient time period given that it is already half way through this summer and Vice-Chair Kunzweiler believed it would. Commissioner Corcoran asked if he would change the 11 p.m. time allowance to midnight and Vice-Chair Kunzweiler said he would not.

Planning Manager Watrous confirmed that Condition number 5 would be amended to grant exceptions only for official TPC events and that this condition of approval would be reviewed within six months from the date of approval of the resolution.

Vice-Chair Kunzweiler said that these requirements serve as a message to the TPC that it has been granted an opportunity and should be mindful of civilians and neighbors.

Commissioner Corcoran referred to Commissioner Frymier's earlier comments on the importance of promoting the club and said that TPC should be allowed a little bit more flexibility. He said that he was confident that the Town Manager would exercise the appropriate discretion when allowing these exceptions.

MOTION: It was M/S (Corcoran/Frymier) to adopt the draft resolution amending the conditional use permit for the Tiburon Peninsula Club, as amended to grant exceptions for official TPC events only and to review this requirement after six months. Vote 3-0-1 (Fraser recused).

ADJOURNMENT:

The Planning Commission adjourned the meeting at 8:40 p.m.

EMMETT O'DONNELL, CHAIRMAN

ATTEST:

DAN WATROUS, SECRETARY