



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

Action and Approved Action Minutes
Regular Meeting
Tiburon Planning Commission
September 24, 2008 – 7:30 PM

ACTION MINUTES

TIBURON PLANNING COMMISSION

CALL TO ORDER AND ROLL CALL 7:30 PM

Chairman O'Donnell, Vice Chairman Kunzweiler, Commissioner Corcoran, Commissioner Fraser, Commissioner Frymier **All Commissioners Present**

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.

COMMISSION AND STAFF BRIEFING

Commission and Committee Reports
Director's Report

OLD BUSINESS

1. 80-E MAIN STREET: CONDITIONAL USE PERMIT TO OPERATE A SEGWAY RETAIL SALES BUSINESS; FILE #10809; Zelinsky Properties, Owner; Slide4less, LLC, Applicant; Assessor's Parcel No. 059-102-20 [LT] **Continued from 09/10/08**
Denied 3-2
2. 81 PASEO MIRASOL: AMENDMENT TO AN EXISTING PRECISE PLAN (THE RING MOUNTAIN PRECISE PLAN) TO CHANGE THE DESIGNATION OF A VACANT PARCEL FROM OPEN SPACE TO PRIVATE RECREATION USE; FILE #30802; Doug and Leslie Barry, Owner; Riley Hurd, Applicant; Assessor's Parcel No. 038-410-01 [SA] **Continued from 09/10/08** **Denied 5-0**

PUBLIC HEARINGS

3. 1620 TIBURON BOULEVARD: CONDITIONAL USE PERMIT FOR THE OPERATION OF A NEW WIRELESS COMMUNICATIONS FACILITY; FILE #10805; Barbara Abrams, Owner; AT&T Wireless, Applicant; Assessor' Parcel No. 059-101-03 [DW] *Approved 5-0*
4. 1505 TIBURON BOULEVARD: RENEWAL OF A CONDITIONAL USE PERMIT TO OPERATE A WIRELESS COMMUNICATIONS FACILITY; FILE #19705; Town of Tiburon, Owner; Spring Nextel, Applicant; Assessor's Parcel No. 058-172-92 [DW] *Approved 5-0*
5. 2344/2346 MAR EAST STREET: CONDOMINIUM USE PERMIT; TO CONVERT AN EXISTING DUPLEX INTO TWO CONDOMINIUMS; FILE #10807; Angelina Umanski, Lawrence Bradford, Owners; Assessor's Parcel No. 059-195-11 [LT] *Approved 5-0*

MINUTES

6. PLANNING COMMISSION MINUTES – Regular Meeting of September 10, 2008 *Approved as Amended 5-0*

ADJOURNMENT *8:20 PM*

PLANNING COMMISSION
APPROVED MINUTES NO. 972
September 24, 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, Frymier, and Corcoran

Staff Present: Planning Manager Watrous, Associate Planner Tyler, and Minutes Clerk Levison

ORAL COMMUNICATIONS: None

COMMISSION AND STAFF BRIEFING:

Planning Manager Watrous provided the following briefing:

- The conditional use permit for The Little School has been appealed to the Town Council and is scheduled for review at their October 1, 2008 meeting. He explained that the Grace sisters of 10 Shepherd Way are the appellants and that the Preserve Homeowners Association and the church and school have not yet reached an agreement on the maintenance of Shepherd Way. He asked that a representative from the Planning Commission attend the hearing and Chair O'Donnell volunteered.
- Staff has scheduled one item for the Planning Commission's October 8, 2008 meeting.

OLD BUSINESS:

1. 80-E MAIN STREET: CONDITIONAL USE PERMIT TO OPERATE A SEGWAY RETAIL SALES BUSINESS; FILE #10809; Zelinsky Properties, Owner; Slide4less, LLC, Applicant; Assessor's Parcel No. 059-102-20. Continued from 09/10/08

Associate Planner Tyler presented the staff report, stating that on September 10, 2008, the Planning Commission held a public hearing on an application for a conditional use permit to establish and operate a segway retail sales and showroom at 80-E Main Street in Downtown Tiburon. After considering the application, the Commission directed Staff to prepare a resolution denying the conditional use permit.

Steven Steinberg, applicant, explained that following the Commission's recommendation he considered several other locations within the Town, but only found upstairs retail space that would create difficulties with transporting his product and the possibility of sharing the bicycle shop's space which would only be temporary in nature. He stated that he now has an option on a location in Sausalito.

Gary Lucas expressed his support of the Segway which he characterized as a viable option in Tiburon. He stated that his wife, an employee of the Reed Union School District, works with a physically handicapped student who uses his Segway to travel to and from school as well as negotiate the campus. He said that he has seen the benefits of the Segways used by the City of San Rafael parking enforcement employees and thought that it was a shame that the Town of Tiburon uses a Suburban for parking enforcement. He asked the Commission to consider the immeasurable benefits of the Segway to the Town's citizens and the community as a whole.

Bob Kerns said that he is a Segway user and that these mobility devices are invaluable to those with disabilities. He described how he uses his Segway in San Francisco and that these devices are safer, noting that his daughter once ran him over with his Segway and he was not injured. He strongly supported the move to bring a Segway shop into Marin.

Vice-Chair Kunzweiler clarified that the issue before the Commission is with this specific use in a very constrained location rather than with the merits of the Segway. He felt that the Commission spoke broadly on the merits of the Segway and its frustration over the lack of a suitable location.

Vice-Chair Kunzweiler asked that the resolution be amended, as follows:

- Paragraph C, 2nd sentence – “Specifically, the Commission found the upper Ark Row ~~shops are~~ is a pedestrian-friendly area that is not conducive to wheeled vehicles...”
- Paragraph D, last sentence – “The Commission finds that the physics of the business and its product dictate a location outside of upper Ark Row where the physical **and operational** limitations are not so severe.”

Commissioner Corcoran respectfully disagreed and stated that while this is not an ideal location, he felt that it is workable and would be the right thing to do for the environment. He asked if the Commission could pass the original resolution granting a conditional use permit with the condition that the Segway cannot be taken out of the shop.

Commissioner Fraser supported the position the Commission took at the last meeting. He reiterated Vice-Chair Kunzweiler’s assurance that while there is no doubt this is a good business the downtown area is not suitable for this use.

Commissioner Frymier reiterated that the Commission is rejecting the location, not the business. She was pleased that Mr. Steinberg has an option to operate in Sausalito.

Chair O’Donnell stated his opposition to the resolution. He believed that this would be a great business for the Town and that in the absence of alternative suitable locations in town, the Commission could grant a six month conditional use permit to allow the business the opportunity to prove itself.

ACTION: It was M/S (Kunzweiler/Fraser) to adopt the resolution denying the conditional use permit, as amended. Vote: 3-2 (O’Donnell and Corcoran voted no).

2. 81 PASEO MIRASOL: AMENDMENT TO AN EXISTING PRECISE PLAN (THE RING MOUNTAIN PRECISE PLAN) TO CHENGE THE DESIGNATION OF A VACANT PARCEL FROM OPEN SPACE TO PRIVATE RECREATION USE; FILE #30802; Doug and Leslie Barry, Owner; Riley Hurd, Applicant; Assessor’s Parcel No. 038-410-01; Continued from 09/10/08

Planning Manager Watrous explained that on September 10, 2008, the Planning Commission considered a request for a Precise Plan Amendment to re-designate property in the Ring Mountain Subdivision from Open Space to Private Recreation use. After considering the application, the Commission directed Staff to prepare a resolution denying the application.

ACTION: It was M/S (Fraser/Kunzweiler) to adopt the resolution denying the precise plan amendment. Vote: 5-0.

PUBLIC HEARINGS

3. 1620 TIBURON BOULEVARD: CONDITIONAL USE PERMIT FOR THE OPERATION OF A NEW WIRELESS COMMUNICATIONS FACILITY; FILE #10805; Barbara Abrams, Owner; AT&T Wireless, Applicant; Assessor' Parcel No. 059-101-03

Planning Manager Watrous presented the staff report, stating that AT&T Wireless has submitted an application for a conditional use permit to operate a wireless communications facility (WCF) on property located at 1620 Tiburon Boulevard. The proposal involves the construction of an unmanned wireless communications facility on top of a commercial building (the Maritime Center Office Building). The facility includes two (2) panel antennas mounted on the roof of the building, with seven (7) equipment cabinets located on the ground on the northeast side of the property. The facility is used for the transmission of Personal Communications Services (PCS) signals utilized by personal communications devices. He stated that the proposed wireless communications facility would be consistent with the Town's WCF Standards. He said that the chimney-like shrouds would not block views from any nearby properties, although the antenna closest to Tiburon Boulevard may be less noticeable without the shroud.

Chair O'Donnell asked if the Commission needs to disclose their status as AT&T customers. Planning Manager Watrous explained that it is unnecessary as their decision would have a negligible financial impact on the Commissioners.

Chair O'Donnell opened the public hearing.

Shannon McDougal, AT&T representative, stated her support of the staff report and the conditions of approval.

Commissioner Corcoran asked if it would be possible to move the antenna location further back from the parapet. Ms. McDougal explained that the further the antennas are set back, the higher they would need to be raised to achieve the same signal strength, making the antennas disproportionate to the building.

Chair O'Donnell closed the public hearing.

Commissioner Fraser noted that the Town's Wireless Communication Guidelines advise against the fostering of antenna farms. He asked staff how they plan to handle additional applications that are likely to come with the expansion of mobile antennas. Planning Manager Watrous stated that an antenna farm is a subjective term and that there are no set maximums, as certain locations could support more antennas than others. He said that the market seems to be at the point where there is more focus on infill to improve service and that he does not expect a substantial increase in the number of applications for antennas. He added that the Planning Commission has the option to deny any new applications at a specific location if and the antennas would result in visual impacts.

Chair O'Donnell reminded Commissioner Fraser that there are effective methods for shrouding antennas and Planning Manager Watrous referred to the false chimney on the roof of the Blockbuster location as evidence.

Vice-Chair Kunzweiler stated his assumption that advancements in technology yield smaller and more efficient antennas.

ACTION: It was M/S (Corcoran/Kunzweiler) to approve the Resolution granting a conditional use permit for the operation of a new wireless communication facility. Vote: 5-0.

4. 1505 TIBURON BOULEVARD: RENEWAL OF A CONDITIONAL USE PERMIT TO OPERATE A WIRELESS COMMUNICATIONS FACILITY; FILE #19705; Town of Tiburon, Owner; Spring Nextel, Applicant; Assessor's Parcel No. 058-172-92

Planning Manager Watrous presented the staff report, stating that a wireless communications facility has been established within the clock tower of the Tiburon Town Hall located at 1505 Tiburon Boulevard. The facility includes a total of six panel antennas mounted on the corners of the clock tower and four equipment cabinets located inside the Town Hall building. The facility is used for the transmission of Personal Communications Services (PCS) signals utilized by wireless communications devices. He stated that the facility's original conditional use permit was approved in 1997 and has been renewed twice for five years each and that the applicant has now requested another five year time extension for this permit.

Chair O'Donnell opened the public hearing.

James Singleton, Sprint Nextel, stated that the company has no proposed modifications for the site in the foreseeable future and offered to field any questions the Commission may have.

Chair O'Donnell closed the public hearing.

Commissioner Corcoran supported Commissioner Fraser's earlier sentiments regarding antenna farms and stated that a long range plan for facilities in Tiburon would be helpful.

ACTION: It was M/S (Kunzweiler/Fraser) to approve the resolution granting the time extension for the existing wireless communications facility. Vote: 5-0.

5. 2344/2346 MAR EAST STREET: CONDOMINIUM USE PERMIT; TO CONVERT AN EXISTING DUPLEX INTO TWO CONDOMINIUMS; FILE #10807; Angelina Umanski, Lawrence Bradford, Owners; Assessor's Parcel No. 059-195-11

Associate Planner Tyler presented the Staff report, stating that the 4,012 square foot duplex located at 2344/2346 Mar East Street is currently vacant. The owners are requesting to convert the existing duplex into a 2-unit condominium complex. No exterior modifications to the building are proposed.

Vice-Chair Kunzweiler asked staff how a conditional use permit would be revoked once the building has been converted to condominiums. Planning Manager Watrous stated that there is no history or precedent for such a thing but that he imagined it would only be revocable if the applicants failed to obtain a condominium map.

Commissioner Fraser noted that the property title would have to be changed and recorded with the County as a condominium unit. Planning Manager Watrous added that this would be required following completion of the condominium map.

Commissioner Corcoran asked about the definition for “multi-family” in the General Plan. Planning Manager Watrous explained that the zoning ordinance defines multi-family as three units or more.

Chair O’Donnell opened the public hearing.

Larry Bradford, applicant, explained that he purchased this home four years ago with the Umanski’s and they have since operated as tenants in common (TIC). He stated that it has always been their intent to proceed with this conversion but since he has recently expanded his business and moved to Southern California he is hoping to sell the property. He felt that this property has a higher use and value as condominiums and would like to give potential buyers the opportunity to establish it as such, but if it is not sold, he will remain proceed with the conversion himself.

Angelina Umanski, applicant, stated that she currently lives in one of the units and would like to convert the property with hopes of remaining in one unit and selling the second unit.

Karen Hurd stated that she owns and occupies the property directly to the west and she supports the application. She noted that her home is also a condominium that was formerly a single family residence. She stated that the conversion would be consistent with the higher values mentioned by Mr. Bradford and the overall design of the neighborhood and doubted there is any cause for concern that the unit would become a triplex.

Chair O’Donnell closed the public hearing.

Commissioner Fraser expressed his support of the application, stating that it makes good sense.

Commissioner Frymier concurred, stating that the current owners have done a nice job improving an old and dated property and she would like to see it continue.

Vice-Chair Kunzweiler expressed his support of the application, stating that he found it to be consistent with the General Plan and zoning regulations.

Commissioner Corcoran concurred, adding that the application also seemed consistent with other properties in the immediate vicinity.

Chair O’Donnell agreed and stated that this would be great for the property itself and the Town.

<p>ACTION: It was M/S (Frymier/Kunzweiler) to adopt the resolution approving the condominium use permit. Vote: 5-0.</p>
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MINUTES:

6. PLANNING COMMISSION MINUTES – Regular Meeting of September 10, 2008

Chair O’Donnell requested the following amendments to the Minutes:

- Page 5, 2nd paragraph from the bottom – amend the last sentence to read: “...Mr. Steinberg is not to operate a service center or tour operation from this location, and ~~provided they can enforce that, he recommended approval of the permit~~ **the restriction is enforced as part of the approval of the permit.**”

- Page 13, 2nd paragraph, 2nd sentence – amend to read: “He said paying taxes on a parcel does not entitle the owner to certain benefits on that land and that assuming the taxes on an **adjacent** open space parcel is actually a benefit to the property itself. He said the circumstances of this application do not add up and that if this application were granted it could morph ~~the idea~~ **into a greater concept** of private recreation use.”

Vice-Chair Kunzweiler requested the following amendments to the Minutes:

- Page 2, 5th full paragraph – amend to read: “ Vice-Chair Kunzweiler questioned and confirmed that functions from the store include taking sales calls, displaying new mode, assisting walk-in traffic with shop demonstrations and using the site as a service ~~eah~~ base.”
- Page 5, last paragraph – amend to read: “Vice-Chair Kunzweiler said the consensus seems to be that the location is problematic; the current location carries a lot of restrictions that **could** make this use unfeasible and suggested asking the applicant to consider other locations with the Town that would ease the Commission’s concerns.”

Commissioner Fraser requested the following amendments to the Minutes:

- Page 6, 5th paragraph – amend to read: “Commissioner Fraser asked the Commission to consider the implications of ~~even~~ as few as five residents purchasing the Segway and riding together through the downtown area.”

Commissioner Corcoran requested the following amendments to the Minutes:

- Page 4, final paragraph - amend the 2nd sentence to read: “While he agrees with the staff report that Ark Row may not be the ideal location for this, the area could benefit from increased **pedestrian** traffic....”
- Page 10, 7th paragraph – amend the first sentence to read “.....defined private recreation as ‘any recreation use not **owned** by a public agency’...”

MOTION: It was M/S (Frymier/Corcoran) to approve the minutes of September 10, 2008, as amended. Vote: 5-0.

ADJOURNMENT:

The Planning Commission adjourned the meeting at 8:20 p.m.

EMMETT O’DONNELL, CHAIRMAN

ATTEST:

DANIEL M. WATROUS, SECRETARY