



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

ACTION AND APPROVED MINUTES  
Regular Meeting  
Tiburon Planning Commission  
December 10, 2008 – 7:30 PM

## ACTION MINUTES

### TIBURON PLANNING COMMISSION

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

Chairman O'Donnell, Vice Chairman Kunzweiler, Commissioner Corcoran, 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 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. 2000 PARADISE DRIVE: CONDITIONAL USE PERMIT; PERMIT TO REPLACE AN EXISTING RESTAURANT BUILDING (THE CAPRICE) WITH A NEW RESTAURANT BUILDING; FILR #10707; Point Tiburon Plaza, Inc., Owner; Hank Bruce Architects, Applicant; Assessor's Parcel No. 059-172-46 [DW] **Denied (5-0)**

#### MINUTES

2. PLANNING COMMISSION MINUTES – Regular Meeting of October 10, 2008  
**Approved as Written (5-0)**

ADJOURNMENT **At 10:25**

PLANNING COMMISSION  
APPROVED MINUTES NO. 974  
December 10, 2008  
Regular Meeting  
Town of Tiburon Council Chambers  
1505 Tiburon Boulevard, Tiburon, California

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**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: Director of Community Development Anderson, Planning Manager Watrous and Minutes Clerk Levison

**ORAL COMMUNICATIONS:** None

**COMMISSION AND STAFF BRIEFING:**

Planning Manager Watrous announced that the December 24, 2008 meeting is cancelled.

**MINUTES:**

**2. PLANNING COMMISSION MINUTES – Regular meeting of October 8, 2008.**

ACTION: It was M/S (Kunzweiler/Fraser) to approve the minutes of the October 8, 2008 meeting, as written. Vote: 5-0.
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**PUBLIC HEARING:**

**1. 2000 PARADISE DRIVE: CONDITIONAL USE PERMIT; APPLICATION TO REPLACE AN EXISTING RESTAURANT BUILDING (THE CAPRICE) WITH A NEW RESTAURANT BUILDING; FILE #10707; Point Tiburon Plaza, Inc., Owner; Hank Bruce Architects, Applicant; Assessor's Parcel No. 059-172-46**

Planning Manager Watrous presented the staff report, stating that the applicant is requesting to demolish an existing two-story building and construct a new three-story restaurant building at 2000 Paradise Drive. The new building would have approximately the same footprint as the existing restaurant and includes a new 1,807 square foot upper level. The total seating for the restaurant would increase from 114 to 125 seats.

Planning Manager Watrous provided a brief history on the property, noting that the County of Marin approved a conditional use permit in 1961 to “permit the establishment of a dinner-restaurant in an existing one-story residence” and another use permit in 1962 “to establish a restaurant use in the basement area of the Caprice Restaurant.” The restaurant has operated continuously since that time. A conditional use permit application was filed in 2004 to construct a new upper level banquet room on top of the existing restaurant building. During the review of this application in 2005, nearby residents raised concerns about potential traffic safety, parking and noise impacts that would be generated by the expanded restaurant. The Planning Commission shared these concerns and denied the use permit. The owner subsequently appealed the Planning Commission’s denial to the Town Council. After a hearing on the appeal, the Council appointed an ad hoc subcommittee which subsequently met with the applicants and neighbors. The applicant then hired a new architect and submitted the revised plans currently under review, and the previous application was withdrawn.

Planning Manager Watrous stated that the subject application was found to be inconsistent with several general plan policies and portions of the zoning ordinance. He stated that an Initial Study and Draft Mitigated Negative Declaration had been prepared that included mitigation measures that would reduce the potential impacts from this project to less than significant levels. He noted that the Town had received a letter from BCDC today requesting that the further address issues related to BCDC policies. He recommended that the Planning Commission hold a public hearing on this application and direct staff to prepare a resolution denying the conditional use permit.

Chair O’Donnell said that he had not had time to review the letter from BCDC and asked if it contained any significant concerns. Planning Manager Watrous said that the letter particularly asked that the Draft Negative Declaration address BCDC policies in greater detail if the project proceeds. He said that according to BCDC definition, the addition of a third story is categorized as new fill and as such, is subject to certain policies.

Leonard Charles, the Town’s environmental consultant who prepared the Draft Mitigated Negative Declaration, explained that all of the concerns outlined in the letter from BCDC have been addressed in the draft document, but that BCDC is asking for greater detail.

Vice-Chair Kunzweiler questioned the conformity of the current application with BCDC requirements for public access. Mr. Charles explained that as BCDC will not offer explicit recommendations without a formal application on file, he was only able to review conceptual recommendations and those have been included in the initial study.

Commissioner Fraser noted that the Draft Negative Declaration states that the applicant will not construct an exterior walkway or deck on the property, yet BCDC recommends that such a walkway may be required to satisfy the public access requirement. He said that it is difficult to evaluate the merits of a new structure without knowing what it will ultimately look like once BCDC requirements have been met.

Commissioner Corcoran asked if any changes made to meet with the BCDC approval process would require the applicant to submit a modified application and return to the Planning Commission. Planning Manager Watrous explained that such changes may be better handled through the Design Review process and that material changes made to meet with BCDC approval are most likely not CEQA issues. He stated that any significant changes to the project would require further review by the Planning Commission.

Vice-Chair Kunzweiler asked if BCDC has jurisdiction over the use of barges and the actual construction process. Mr. Charles explained that it is fairly arcane law, but as he understands it they would not. He said BCDC rules apply primarily to fill in the bay and, provided that the barges obey all other appropriate state and federal regulations, BCDC should not have an issue with the use of barges. Planning Manager Watrous added that with projects like this, a building permit will not be issued without approval from BCDC and any BCDC guidelines that may apply to the construction process would be outlined then. Mr. Charles noted that BCDC did not include anything to that effect in their letter.

Chair O'Donnell opened the public comment period.

Terry Koenig, Koenig & Associates, stated that his firm represents Point Tiburon Plaza, Inc. and its owner, Chong Cook. Mr. Koenig explained that the current building does not meet code or ADA requirements and its owner would like to use this opportunity to properly insulate walls and windows, update general systems, and upgrade the kitchen in an effort to stay competitive with other comparable fine dining restaurants. He explained that the total seating would increase from 114 to 125 while the number of staff and hours of operation would remain the same.

He outlined the construction process and timeline involved in rebuilding the lowest floor, removing and replacing the existing second story and adding a 1,380 square foot third level. He explained that the construction plan is a five-phase process with the goal to construct the building offsite then transport and set it via derrick barge.

Mr. Koenig reviewed the mitigation measures intended to address the concerns raised during the previous application process. He stated that the Caprice has been a significant asset to the community for the past forty-seven years and noted that both Mrs. Cook and the Caprice have donated substantial property and services to local communities and events.

Commissioner Fraser asked for an outline of the material changes between this application and the one previously rejected by the Planning Commission. Mr. Koenig said that the project design would be more appealing and he felt that they had addressed the traffic, parking and noise concerns previously raised by nearby residents.

Commissioner Fraser said that the applicant has requested more floor area than the last time, presenting a much larger building than before.

Hank Bruce, architect, agreed that they are presenting a larger building and explained that much of it is due to the need to include an elevator and stairways to make the restaurant ADA compliant, along with kitchen improvements and vertical circulation elements. He noted that the actual size of the use areas is much the same and that other areas have been increased in size to meet code requirements. He stated that the construction sequencing is the fundamental difference in this proposal and the on-site construction in estimated to take only five months, which translates into a much reduced neighborhood impact.

Commissioner Fraser noted that the subcommittee formed for the first application had requested a trial run of the proposed shuttle service which never happened. He asked if the applicant would be willing to do so now, and Mr. Bruce said that they would.

Commissioner Corcoran asked for a more detailed explanation of the design changes. Mr. Bruce said that the third floor has been pulled back further than in the original proposal and should considerably minimize the impact on neighbors' views. He also noted that the material palette was softened to fit in with the residential character of the neighborhood, window openings have been designed to minimize light spillage onto the street and sound mitigation measures have been incorporated into the design.

Commissioner Fraser said that the photos included in the Draft Mitigated Negative Declaration indicate a significant increase in building mass and view blockage and the two simulations presented by the applicant show the new restaurant completely obstructing the neighbor's home. Mr. Bruce said that the story poles only partially cut across the neighbor's view line from one unit.

Vice-Chair Kunzweiler asked how many new construction techniques that are being used in this scheme have never been tried by the general contractor. Larry Hadley, general contractor, said that the only new idea in this scheme is building the structure offsite and lifting it onto the site via barge. He noted that the only problems encountered with barge construction in Belvedere had to do with temporary view blockage and explained that because of the water conditions at this location, the barge would be unable to remain close to the site overnight.

Vice-Chair Kunzweiler asked and confirmed that the construction equipment would leave each day with the barge. He asked how many workmen would be needed onsite, where they will park, and what equipment would remain onsite. Mr. Hadley said that he utilizes a shuttle van, which would park at Point Tiburon Plaza, to transport his workers to and from the construction site. He said that he was unsure what equipment would be necessary but that most work would be performed by hand. Mr. Hadley explained that due to the constraints of this particular job, they are proposing to use only electric tools, with no generators onsite.

Vice-Chair Kunzweiler confirmed that the plan is to continue operations in the main restaurant while performing work in the basement. Mr. Hadley explained that construction would not be an issue during the morning hours when the restaurant is closed and that at other times where there may be a noise issue, they will use insulating blankets to dampen noise. He cited his previous experience reinforcing the pilings under Sam's Café as an example.

Vice-Chair Kunzweiler asked if parking for regular patrons would be completely managed by the valet service. Mr. Koenig explained that the report indicates that 50% of their customers currently use the valet service and that the restaurant would inform patrons of the new plan prior to construction. He said that they will try to make sure that restaurant patrons either park at Point Tiburon Plaza and walk or utilize the valet service. He noted that valets would not park vehicles in the public lot, but that customers may park there themselves.

Vice-Chair Kunzweiler asked what the consequence is for banquet attendees who do not use Point Tiburon Plaza and the shuttle service. Mr. Koenig said that a stipulation would be included in the banquet hall contract and cited a similar arrangement in use by the Landmark Society, adding that it has been very successful.

In response to a question from Vice-Chair Kunzweiler, Mr. Koenig confirmed that there are 250 parking spaces in the Point Tiburon Plaza parking lot, most of which are available on a typical commuter day.

Vice-Chair Kunzweiler asked how many variances the applicant is requesting. Mr. Bruce explained that they are asking for a height variance and a floor area exception. Planning Manager Watrous noted that the latter could be approved through a transfer of intensity.

Commissioner Corcoran confirmed that banquets would occur only within the restaurant's normal operating hours and challenged the applicant as to whether or not they would host any lunchtime events on the weekends. Mr. Koenig could not confirm that daytime events would not be held on the weekends but said that if so, only the banquet hall would be open. He added that they had indicated the potential for these events on their application but noted that banquets would obviously be much easier to host with a full staff already present.

Commissioner Fraser expressed confusion over the hours of operation and Commissioner Corcoran asked for clarification on when banquets would occur. Mr. Koenig explained that banquets could take place at any time a client requests to use the facility and that would most likely be during normal operating hours.

Commissioner Corcoran asked if the use permit would prevent an extension of operating hours. Planning Manager Watrous explained that a use permit usually includes specific restaurant and banquet hours and the Commission could allow other times for banquet events if they so choose. Mr. Koenig noted that banquets would not extend past the regular closing time.

Chair O'Donnell noted that the applicant had not submitted a business model and asked how eleven additional restaurant seats could be expected to pay for what would be a seven-figure construction cost. Mr. Koenig said that it was up to Mrs. Cook to determine the financial merits of the project, but that many areas of the restaurant must be brought up to code and Mrs. Cook faces significant expenses regardless of how many seats are added. He felt that the improved banquet facilities would be important for maintaining business for the restaurant.

Chair O'Donnell agreed that everyone has the right to remodel and use their own property, but given the significant change in intensity of use requested, this would be far more than a simple remodel. Mr. Koenig said that he could not address this directly but suggested that these issues may be addressed and/or limited in the use permit.

Commissioner Fraser stated that the limitations on construction impacts called for by Mitigation Measure BR-1 in the Draft Mitigated Negative Declaration were not spelled out. Mr. Charles confirmed that the erosion control plan is undefined and explained that BR-1 essentially contains a performance standard outlining what is not allowed to occur during construction. He said that it is the responsibility of the applicant to return with a plan on how to mitigate those issues but that it is certainly within the rights of the Commission to ask the applicant to develop that plan now.

Commissioner Fraser noted that there are numerous references to BR-1 and said that given the amount of traffic and the currents in this section of the bay, the Commission needs to be informed on the potential impacts. Mr. Charles explained that the main potential for debris spillage would occur with the clamshell designed to remove debris from the construction site and the erosion control plan will be carefully reviewed by both the Town and the BCDC. Planning Manager Watrous said that these detailed plans are more appropriately prepared at the building permit stage once the detailed demolition plans have been prepared. Mr. Charles added that as this is not a standard project, it is difficult to dictate exactly what those measures should entail.

Commissioner Fraser said that because it is such a unique project, it would be beneficial to have that information at the earlier stages. Mr. Charles explained that they have created a mitigation measure that is somewhat harsh and reiterated that it would be up to the applicant to show that they can design a building to comply with these requirements.

Planning Manager Watrous explained that the Town requires the applicant to sign a consent agreement stating that they agree to abide by the mitigation measures proposed. He noted that the applicant has signed this agreement and that one mitigation measure specifies that instead of the presented shuttle route, the shuttle pickup and drop off occur either at the Sanitary 5 lot or the public parking lot across the street. He said that if they utilize the public lot across the street, the shuttle route would not travel through Old Tiburon.

Bran Fanning, former Mayor and Councilmember, explained that BCDC requires all Town permits be completed before they review a project. He noted that as this project entails new fill, BCDC will require public access and he cautioned the Town to be careful about the placement of that access. He expressed concerns over parking, access and unknown factors that would result from this project that will require considerable manpower to monitor.

Phillip Cook said he understands the intent of the expansion and the shuttle service but said that the applicant's attempt to maximize their value would devalue his property. He noted that the van the applicant intends to use for this service operates at 40-78 decibels which is not appropriate for a residential area with small children.

Will Huntzinger asked for clarification on the shuttle route and Planning Manager Watrous explained that the Draft Negative Declaration contains a mitigation measure which would effectively keep the shuttle route out of Old Tiburon. Vice-Chair Kunzweiler added that the Commission is being asked to consider the alternate option with drop-off and pick-up at the public lot across the street.

Mr. Huntzinger said that he was less concerned now that his house will not be on the proposed shuttle route but expressed concerns over the applicant's business plan. He said that it is apparent that a significant number of banquets would be required to make this project financially feasible and that these banquets would most likely occur outside of normal business hours. He expressed concern that shuttle vans would cycle through the most used section of Tiburon waterfront during its busiest hours and asked for clarity on the allowed hours of operation.

Riley Hurd, attorney representing Sissy Davis who owns the property at 2002 Paradise Drive, immediately next door to the Caprice, referenced his letter already distributed to the Commission. He stated that while the Caprice has a long history within the town, the evolution of its use into a three-story bar, restaurant, and banquet building holding seventy-five major events per year does not comply with its approved use as a neighborhood commercial building. He stated that the history of the Caprice speaks volumes about problems that may be anticipated with this project. He stated that the Town would be unable to make the findings needed to approve the height variance needed for this building, as the structure would totally obscure views from the primary living spaces of his clients' home. Mr. Hurd pointed out that the applicant has returned with a request that involves greater use and a higher floor area ratio than that what the Commission previously rejected. He stated that nothing has been changed that would warrant a different decision this time. He asked the commissioners to consider their vision for the town and asked if it includes valet drivers, shuttle buses, chirping crosswalks, and flashing lights.

Madeline Wood said that while the original incarnation of the Caprice was a shack near the railroad tracks, the Town has changed, the tracks are gone, and this is one of the most beautiful and desirable residential areas in the country. She opposes a three-story commercial construction in a residential neighborhood. She noted that the Caprice, located at one of the most dangerous intersections in town, has never had legal permanent parking of its own. She said that given the dangerous traffic conditions and lack of police monitoring in this area, the proposal to use shuttle vans is unacceptable. She also cautioned the Commission against setting a dangerous precedent for building heights.

Robert Ellsberg questioned why the applicant included the original shuttle route in their presentation and stated his opposition to it for the record.

Susan Wolfe explained that her residence sits above the public parking lot across from the Caprice and said that if the project moves forward, she can look forward to at least a year of chaos during construction. She said that the view from her home has afforded her the opportunity to witness countless dangerous traffic situations outside the Caprice and she was concerned that the addition of two bars coupled with the restaurant's current happy hour advertisements would increase those dangers. She noted that patrons and valet attendants regularly double park in front of the Sanitary District office and have been caught driving in reverse down the street. She stated that this is above and beyond what people in a residential neighborhood should be expected to endure and urged the commission to deny the application.

Paula Mulligan concurred that the proposed plan would require significant monitoring that Town staff and the police do not have the time to manage. She pointed out that there is no guarantee that Point Tiburon Plaza would be kept available for patron use and no guarantee that if either the Caprice or the plaza is sold, those parking spots will still be available for the restaurant to use.

Phil Owen said that all previous approvals for excess floor area expansion have been for properties located on Main Street, the recognized commercial area in Town, and that to approve this in a neighborhood spot zone would be unconscionable. He explained that the proposed expansion has made it very difficult to rent out the top-floor apartment of the neighboring home given the potential view loss and excessive noise. He stated that he sees excessive traffic from the restaurant and near-accidents on a weekly basis. He questioned the staff report which states that the original use permit required twenty-four parking spaces for fifty-four diners but only requires twenty-five spaces for the proposed 125 diners.

Jim Selzer expressed his support for the project and said that the changes the applicant has made to this application reflect their desire to work with the Town and its residents. He said that he believes there is a very real possibility of collaboration to make this all possible and expressed displeasure that few residents utilize the public forum to reach compromise.

Jim Allen, President of the Belvedere-Tiburon Chamber of Commerce, said that the success of the Caprice is a boon to the entire business community. He noted that the majority of complaints heard this evening pertain to the perceived misuse of public areas and argued that as public areas, they are open for everyone to use on a first come, first served basis. He stated that the increased intensity of use is not a reason to deny this application. He urged the Commission to find a

solution that works for the applicant and the community while still allowing the Caprice to remain the renowned restaurant that it is.

Claire McAulliffe, Chair of the Sanitary District No. 5 Board, distributed a letter from the District Manager outlining major concerns over parking issues in the lot across the street and on the District's property. She explained that the Sanitary District is a twenty-four hour a day operation and that employees must have access to the building at all times.

Doreen Davis Owen explained that she is the daughter of Sissy Davis who owns the property adjacent to the Caprice. Ms. Owen said that the significant increase in building mass, size and scope would adversely affect the value and enjoyment of their property and that the increased intensity of use would undoubtedly create serious noise and traffic safety issues that cannot be satisfactorily addressed by the proposed mitigation measures. She stated that the magnitude of the project and combined impact would be incompatible with the surrounding area and cautioned that the discretionary measure of a transfer of intensity would set a dangerous precedent.

Elizabeth Gleason stated that she is part of a small group of residents who regularly enjoy walking along the Town's waterfront each evening and asked that everyone consider the full impact of this proposal. She asked the Commission if they envision a community that is sensitive to the beauty and preservation of something as unique as the Town's waterfront or one that counts and measures parking spaces.

Helen Lindqvist, representing the Lyford Cove Old Tiburon Homeowner's Association, reviewed the major points of the letter drafted by the HOA's president. She asked the Commission to be careful in setting a precedent by granting a substantial change in intensity of use to a commercial business in a residential neighborhood. She said that the shuttle route would still stop and start in front of the Caprice which is a very dangerous traffic location. She asked that staff carefully review the proposed number of occupants relative to the required square footage per occupant, noting that there may be mathematical discrepancies in the current proposal.

Stephanie Regan said that she was concerned about the logistics involved in dropping off guests in front of the Caprice given the Caprice's driveway location and size of the proposed shuttle vans. She was concerned about bottleneck traffic conditions on Paradise Drive for the five month construction period.

Connie Wiley, Chamber of Commerce Boardmember, said that there are many vacancies in the Tiburon business community and the community needs to have a viable commercial district. She hoped that there is a way to keep the Caprice and said that Mrs. Cook is willing to put a significant amount of money into a commercial property which translates into money in the Town's coffers. She suggested that staff review why the police are not addressing the traffic concerns raised.

Bill Teiser stated that the recommended mitigation strategies would create more problems than they solve and would be difficult to enforce. He said that flashing lights for the crosswalk would only add to visual pollution, as the chirping sounds at crosswalks do not alert drivers to anything and would only annoy nearby residents. He said that shuttle vans idling or turning on and off are a nuisance, and valet operators do not whisper into cell phones and two-way radios, so these devices would not minimize the possible noise impacts. He expressed doubt that valet attendants

would opt for the shortest route rather than adhering to the prescribed one and argued that patrons would most likely do the same.

Annette Sherwood stated that she very much enjoys the Caprice but would like to see it remain as it is. She explained that she shares her driveway with that of Point Tiburon Plaza and that additional traffic would only increase the backups that regularly occur there that affect her access to her garage.

Milton Diaz expressed concern that the shuttle route through old Tiburon may still be an option. He said that the block of Centro East between Solano Street and Spanish Trail has suffered an undue traffic burden.

Dolores Davis questioned how restaurant patrons will be notified of the parking plan and how to access the required parking. She noted that the Caprice is past the turnaround point on Paradise Drive, meaning that traffic will certainly head onto Solano Street where traffic is already dangerous.

Mr. Koenig thanked everyone for sharing their ideas and concerns. He explained that most of the proposed mitigation measures are a direct result of last year's subcommittee meetings with residents. He said that the Caprice is attempting to balance its own needs with those of neighbors and that they are committed to working with community and addressing, as much as possible, the concerns of those in the immediate vicinity.

Chair O'Donnell closed the public hearing.

Commissioner Fraser thanked the applicant for the thoroughness of their design and presentation and noted their efforts to come up with a plan that makes good sense. He said that the Caprice is a great restaurant and he would like to see it stay, and that this use made sense in 1962 as a little neighborhood restaurant. He said that the Commission was looking for a material change from the previous application and was instead presented with additional issues requiring mitigation measures that are not clearly defined. He expressed dissatisfaction with the Draft Mitigated Negative Declaration and its lack of information. He said that the staff report was thorough and he is in complete agreement with its evaluations of inconsistencies with the General Plan, but he believed that a transfer of intensity may be a stretch in this particular situation. He reiterated that this seems to be a larger and more intense version of the application brought before the Commission in 2005 and he said that he is unable to make a finding in support of the application.

Commissioner Frymier echoed Commissioner Fraser's statements and stressed the importance of the community's concerns with the proposal. She said that she liked the physical design of the structure and felt that the contractor would do a good job, but she believed that the timeline for construction was very naïve given the construction techniques. She said that the General Plan requires the Commission to consider the overall vision for the town she wondered why another banquet room was needed in the community when there are already similar facilities at the Tiburon Peninsula Club, Belvedere Tennis Club, Corinthian Yacht Club, Kol Shofar, and San Francisco Yacht Club. She said that she could not see why the Commission would improve such a project to end up with just a few more seats for the restaurant. She characterized some of the project's details as laughable and out of line with what the Town needs or wants. She noted that of the twenty-one public comments heard tonight, three were positive and two were from the Chamber of Commerce. She said that the issues with bicyclists were not mentioned in the Initial

Study and Draft Mitigated Negative Declaration. She said that blinking lights for crosswalks have only been approved at Stewart Drive and she felt the signage was excessive. She said that if the applicant brings this project back to the Commission, the application should be on a higher level and more respectful of the community. She said that there is a big difference between bringing a building up to code and this enormous project.

Commissioner Corcoran said that during the review of the Kol Shofar expansion there was much discussion about the intensity of the events, but there was little of that discussion with this project. He said that the primary issues are the increased intensity of use and what the Town wants for this location. He found it difficult to envision a restaurant of this size and scope at this location. He said that the size of the restaurant drives the traffic, noise and parking effects of the project. He noted that the upper story proposed as part of this application was larger than the upper story previously denied by the Commission. He said that staff and residents have done a thorough job of voicing the issues and he hoped that the applicant would return with a project more reasonable in size and suitable for the location.

Vice-Chair Kunzweiler stated that the expansion is simply too big. He said that regardless of the number of seats, the intensity of use would have to significantly increase in order for this project to be economically viable. He reiterated that he does not wish to see the Caprice go away but they must follow the rules and be consistent with the General Plan. He said that trying to move forward with the long list of conditions of approval that would need to be included with the use permit would likely kill the business. He said that he could not support the project as it is proposed due to conflicts with the zoning ordinance, adding that the Commission would need to come up with findings to support the project. He suggested that the applicant figure out how to make this a viable plan without significantly increasing the size of the restaurant or the intensity of use.

Chair O'Donnell agreed with Commissioner Frymier's comments that there does not appear to be a community need for this banquet room. He stated that the project was trying to squeeze a very large project onto a very small site. He concurred with Commissioner Fraser's statement that the project has not changed except to increase in size. He also agreed with Commissioner Corcoran's comments regarding the intensity of use. He said that he could not see how the expenditure would be worthwhile without an increase in the intensity of use. He said that he would like the Caprice to succeed but found it difficult to comment on the application without a business plan and he felt that this was not a project that should proceed.

<p><b>ACTION:</b> It was M/S (Fraser/Kunzweiler) to direct staff to prepare a resolution denying the application. Vote: 5-0.</p>
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**ADJOURNMENT:**

The Planning Commission adjourned the meeting at 10:25 p.m.