



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

Action and Approved Minutes - Regular Meeting  
Tiburon Planning Commission  
January 28, 2009 – 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. 700 TIBURON BOULEVARD: REVIEW OF CONDITIONAL USE PERMIT TO EXPAND A PRIVATE RECREATIONAL FACILITY (BELVEDERE TENNIS CLUB); FILE #10503; Belvedere Tennis Club, Owner; Assessor's Parcel No. 055-201-36 [DW] **Use Found in Compliance 5-0**
2. 1600 MAR WEST STREET: REVIEW OF A CONDITION OF APPROVAL OF A CONDITIONAL USE PERMIT ALLOWING EXTENDED HOURS OF OPERATION OF OCCASIONAL SPECIAL EVENTS FOR THE TIBURON PENINSULA CLUB; FILE #10808; Southern Marin Recreation Center, Inc., Owner; Assessor's Parcel Nos. 058-171-17, 76 & 84, and 058-240-21 [DW] **Continued to March 11, 2009 3-0**

MINUTES

3. **PLANNING COMMISSION MINUTES – Regular Meeting of January 14, 2009**  
**Approved as Submitted 4-0**

ADJOURNMENT **At 8:45 PM**

PLANNING COMMISSION  
APPROVED MINUTES NO. 976  
January 28, 2009  
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 (arrived at 7:38 p.m.)

Staff Present: Planning Manager Watrous and Minutes Clerk Levison

**ORAL COMMUNICATIONS:** None

**COMMISSION AND STAFF BRIEFING:**

Planning Manager Watrous reported that no appeal was filed on the denial of the Caprice Restaurant CUP. He also noted that there are currently no items scheduled for the February 11, 2009 Planning Commission meeting.

**MINUTES:**

3. **PLANNING COMMISSION MINUTES – Regular meeting of January 14, 2009.**

ACTION: It was M/S (Kunzweiler/Fraser) to approve the minutes of the January 14, 2009 meeting as written. Vote: 4-0.
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**PUBLIC HEARING:**

1. **700 TIBURON BOULEVARD: REVIEW OF CONDITIONAL USE PERMIT TO EXPAND A PRIVATE RECREATIONAL FACILITY (BELVEDERE TENNIS CLUB); FILE #10503; Belvedere Tennis Club, Owner; Assessor's Parcel No. 055-201-36**

Planning Manager Watrous presented the staff report, stating that in March 2006 the Planning Commission approved a conditional use permit for the expansion of the Belvedere Tennis Club

(BTC). Condition of Approval No. 2 provides for review of the permit six months after completion of the clubhouse building to evaluate noise, parking and traffic issues. He stated that the BTC clubhouse building has now been completed for six months and the Town has received no complaints regarding noise, parking, or traffic associated with the club. He stated that Staff finds the BTC to be in compliance with all conditions of approval and recommended that the Planning Commission take public testimony on the item and consider scheduling other periodic reviews of the permit.

Commissioner Corcoran arrived at the meeting.

Chair O'Donnell opened the public hearing.

Quentin Hills, BTC President, concurred with the staff report. He stated that club has held a number of large social events during the last six months and that they have been very sensitive to the neighbors' concerns about noise and traffic. He stated that everything is functioning well at this time. Mr. Hills noted that the BTC has initiated a voluntary membership cap of 220 to retain its current level of use and small club atmosphere.

Commission Frymier clarified with Mr. Hills that the membership numbers relate to the number of families and that the club currently has 217 members.

John Hermansky stated that he lives directly across from the BTC and as a neighbor he appreciates the club's efforts to trim their eucalyptus trees and maintain neighbors' views. He cited several minor issues with lights at BTC that he was able to resolve this directly with the club. He stated his concern with the number of drivers turning left onto Tiburon Boulevard as they exit the club with a limited view and he suggested the use of caution signs.

Alex Mast stated that he lives adjacent to the club and commended BTC for the noticeable reduction in noise and for working with neighbors. Mr. Mast said that he hopes to continue dialogue with the club regarding landscaping along the sound wall and trimming trees to preserve views.

Mr. Hills stated that the club has observed the traffic flow in and out of the club and currently has no cause for concern over the safety of left-hand exiting turns because of the larger driveway and better visibility than before. He noted that the club had held a number of heavily attended events without any problems with the driveway.

Chair O'Donnell closed the public hearing.

Commissioner Frymier thanked Mr. Hermansky and Mr. Mast for sharing their positive views. She said the use permit was working well and she supported an annual review of the permit in the future.

Vice-Chair Kunzweiler echoed Commissioner Frymier's comments. He asked if the left-hand turn issue would be the responsibility of the Police Department. Planning Manager Watrous explained that the Town Engineer, in coordination with the Police Department, would decide the placement of traffic signage. Vice-Chair Kunzweiler questioned and confirmed with Planning

Manager Watrous that staff had not reviewed the intersection as it has not been brought up as a traffic issue. Commissioner Fraser suggested asking the Town Engineer to review the situation.

Commissioner Corcoran echoed fellow Commissioner comments and agreed that an annual review was suitable.

Chair O'Donnell concurred and commended the BTC for doing a marvelous job of reaching out to and working with its neighbors.

**ACTION:** It was M/S (Kunzweiler/Corcoran) to conclude that the Belvedere Tennis 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: 5-0.

**2. 1600 MAR WEST STREET: REVIEW OF A CONDITION OF APPROVAL OF A CONDITIONAL USE PERMIT ALLOWING EXTENDED HOURS OF OPERATION OF OCCASIONAL SPECIAL EVENTS FOR THE TIBURON PENINSULA CLUB; FILE #10808; Southern Marin Recreation Center, Inc., Owner; Assessor's Parcel Nos. 058-171-17, 76 & 84, and 058-240-21**

Chair O'Donnell explained that as members of the Tiburon Peninsula Club (TPC), he, along with Commissioners Frymier and Fraser, would normally recuse themselves. In order to maintain a quorum, a lottery determined that Councilmember Frymier would remain to hear and vote upon the matter. Chair O'Donnell and Councilmember Fraser recused themselves and left the meeting.

Planning Manager Watrous summarized the staff report and reviewed last year's amendments to the use permit. He noted that the club requested and received approval for two special events in 2008 with amplified music and extending until 11 p.m. While the Town received no complaints regarding either of these two events, numerous complaints of excessive noise were received regarding the second day of the club's 60<sup>th</sup> anniversary celebration on Sunday afternoon, October 5, 2008, the day after the first special event, due to amplified music from an outdoors sound system that was audible hundreds of feet from TPC. Planning Manager Watrous stated that the hours for social events or amplified music at TPC were established to limit the disruption that events and music may have on the early morning and nighttime peace and quiet for neighboring residents but Staff believes that the Planning Commission never intended to allow outdoor amplified music that would be loud enough to be disruptive to residents far from the TPC property, even on weekend afternoons.

Mr. Watrous stated that staff received a late mail item from TPC requesting to increase the number of outdoor events to eight per year, with all functions to be club or member sponsored events only. He suggested that the Planning Commission may want to consider this request and recommended that if it would like to make an amendment to the resolution, this item be continued to another hearing, as the crafting of amendment language may take some time.

Vice-Chair Kunzweiler opened the public hearing.

Peter Winkler, TPC President, reviewed the club's history, community involvement, and member enrollment. He stressed that the club is not an insular group and cited use agreements with the Fire District and Police Department as well as the club's list of public programs and

establishment as an emergency gathering center. He stated that the club has held numerous evening events in its 60 years of operation. He said that the club's size and fee structure make it a preferred event location for its seven hundred members as well as the rest of the community. He said that they hoped to use the club for this year's Del Mar School graduation celebration. Mr. Winkler said that a substantial number of Tiburon residents support the goals and activities of the club and that the TPC is not oblivious to the needs of the relatively few who do not. He said that their request is a matter of balance and equity, recognizing that there are minimal impacts from the club events except for noise and club management is committed to finding suitable mitigation measures. He said he is unsure why neighborhood communication has been virtually nonexistent and assured the Planning Commission that opening a dialogue is a priority for the club.

Mr. Winkler asked the Planning Commission to consider the following amendments to the current use permit:

- All events would be limited to official club functions or member sponsored events;
- Eight special events would be allowed per year lasting until 11 p.m., with any amplified music to end by 9 p.m.;
- Elimination of the requirement to ask permission from the Town Manager for specific special events;
- Operating hours for indoor events be extended to 11 p.m. Thursday through Saturday and 9 p.m. Sunday through Wednesday;
- TPC would continue to notify all neighbors within 300 feet of any late hour events;
- TPC would have a staff member equipped with a cell phone present at all events;
- TPC would contact neighbors in advance of all events to address any concerns and would put up a sign asking guests to be courteous to the neighbors when leaving events.

Commissioner Corcoran stated that Mr. Winkler made fine proposals but said that they skirt the real issue of noise from the one event. He asked if Mr. Winkler could agree to any more substantial conditions that would mitigate the noisy event activities that the Town had received complaints about. Mr. Winkler explained that following the events on October 5<sup>th</sup>, club staff was careful to ask that attendees of the club's casino night event be respectful of the neighbors as they were leaving. He said that amplified noise is very difficult to quantify and that in absence of that, he thinks the limits he has proposed would be suitable.

Commissioner Frymier asked Mr. Winkler to address the October 5<sup>th</sup> event. Mr. Winkler characterized the event as a breakdown, adding that TPC failed to designate a staff member for dealing with neighborhood issues and whoever spoke with the Tiburon Police Department gave misinformation. He said that it is a relatively simple situation to rectify and that in the future, they will designate a responsible and informed staff member for neighbors to contact if the events get too loud.

Vice-Chair Kunzweiler stated that he is unsure that the Planning Commission would entertain the idea of additional outdoor events with amplified music. He said that the Commission has talked about the sound conditions of the TPC property before and the issue now is how loud the music is going to be at these events and how to prevent the behavior that disturbed neighbors on October 5<sup>th</sup>.

Mr. Winkler referred to architect David Holscher for details on the site's acoustical issues.

Mr. Holscher stated that it is very difficult to quantify noise, particularly given the topography of the TPC site. He said that the club's location means that sound will travel different distances and at different levels, and cannot be easily measured without trial and error. He suggested that the club maintain open communication with neighbors in order to know when the music is too loud. He noted that even then, specific circumstances may alter the sound enough to prevent staff from having any insight to its true impact. He reiterated that open communication will be vital to keeping everyone satisfied.

Vice-Chair Kunzweiler asked if this would be monitored on an event by event basis, which would seem to be very subjective. Mr. Holscher explained that there is no easy solution and that most likely require the designated TPC staff member would need to react to any neighbor's complaints and adjust the sound levels accordingly.

Commissioner Corcoran asked if the TPC would consider a requirement such as that noted in the staff report that would specify prohibited noise as sound that is plainly audible either at the property lines for a site or an easily measurable distance (such as 100 feet) from property lines. Mr. Holscher explained that because the club is set in a natural amphitheater, sound rises and neither of those requirements would fairly apply to the setting.

Michael Parker stated that he lives in, owns, and manages several buildings above the TPC on Harbor Oak Drive. He distributed a letter signed by the residents of 40 Harbor Oak Drive that claims noise is a regular issue for them and disrupts their lives. He stated that amplified music, no matter what time of day, affects their quality of life. Mr. Parker explained that tenants are irritated by the lack of outreach from TPC and that increasing the number of special events from three to eight would undoubtedly result in vacated units and negatively affect property values.

Commissioner Corcoran asked if the complaints were only in regards to special events and Mr. Parker said that there is a micro-climate of sound that makes it very noisy at different units above the site. He reiterated that sound is the primary issue and that some sort of ongoing communication with TPC could be helpful.

Commissioner Frymier asked why the Planning Commission has not heard these complaints at previous TPC hearings. Mr. Parker explained that he began to hear the majority of these complaints when he recently took over management of the apartment building at 40 Harbor Oak Drive. Planning Manager Watrous stated that the Town had received complaints over various noise issues from properties above the TPC but that they tend to ebb and flow over time. He noted that at the time the Planning Commission reviewed the CUP, there were very few comments from neighbors regarding sound.

Maureen Meikle said she lives on Harbor Oak Drive and has always supported the TPC, but that the noise was intolerable. She referred to the event held on October 5<sup>th</sup> and explained that she went down to the TPC to speak with someone about the noise and found that although the noise inside the clubhouse was not that loud, it was terrible outside. She said that TPC staff members were unclear on who was in charge and refused to come to her home to witness the noise. She

said that she was not notified of that event and questioned why TPC needed to have amplified music outside.

Debra Crosby stated that she lives on Harbor Oak Drive and is regularly awakened in the early mornings by the club's swim classes. She said that she appreciates the notification of special events as well as staff's care with the amplification but asked if anything can be done about the early morning swim classes. She noted that she went to the casino night and with the doors closed noise was not a problem.

Mr. Winkler admitted that the club has failed to effectively communicate with neighbors in the past and that the music on October 5<sup>th</sup> was clearly too loud. He suggested extending their notification range beyond 300 feet and reiterated that communication is the key to avoiding excessive noise. He wanted to have more events like the ones when TPC acted responsibly and to make sure that the music does not get intolerably loud. He noted that the morning swim practices are not part of the condition of approval being discussed at this time, but it would be easy to ask the swim coach to use a lower voice during practices.

Commissioner Corcoran asked if the club's swim events are under consideration this evening and Planning Manager Watrous said no, just the particular condition of approval that deals with special events.

Mr. Holscher announced that members of the TPC Board of Directors had just held a discussion and decided not to allow any outdoor amplified music.

Vice-Chair Kunzweiler closed the public hearing.

Vice-Chair Kunzweiler said that he would like to see a formal proposal from TPC that includes their modified proposal, including any proposal to eliminate outdoor amplified music.

Commissioner Corcoran thanked the TPC for their decision and generous offer, stating that it is most likely necessary to eliminate outdoor amplified music at the club. He said there seems to be a real backlash from neighbors over the events of the fall and he noted that this was a point of concern when the Planning Commission approved the CUP last year. He added that eliminating amplified music outdoors may not be enough, as any event with a lot of people outdoors can generate noise. He asked the TPC for a formal proposal that includes specific sound mitigation measures, perhaps similar to that used by the Belvedere Tennis Club. He felt that this was a step in the right direction, but more work needs to be done.

Commissioner Frymier noted the club's location and doubted there were any possible sound mitigation measures that had not already been reviewed by the club's architects and the Planning Commission. She noted that the Belvedere Tennis Club has a much different location than TPC. She said that she does not feel anything can be done to mitigate noise other than to control behavior and eliminate outdoor amplified music. She thanked the TPC for the concession on outdoor amplified music and agreed with Vice-Chair Kunzweiler's request for a formal proposal. She said that she would like to see specific information in their proposal requiring a board member or specified club liaison with knowledge of TPC's history with the Town to attend all events to take any phone calls from neighbors. She said that she could support increasing the number of events, but felt that Town staff approval of the special events should be maintained.

Vice-Chair Kunzweiler noted that when the Planning Commission decided that sound related to the core events of the club was permissible, the TPC assured them they would manage the situation effectively to avoid the issues before the Commission tonight. He noted that although ongoing operations, including swimming and tennis, have been part of the basic operation of the club for many years, TPC was supposed to address other new issues arising from the expansion of the TPC facilities, but unfortunately these have not worked out well. He asked TPC what they could propose that would mitigate the events of the past six months. He asked to see a far more detailed proposal on the requested events, including very specific information in terms of indoor and outdoor activities, sound, and what it would mean to eliminate outdoor amplified music. He wanted TPC to define what they would propose to address these issues. He said that communication with the neighbors is needed and should be addressed in the proposal. He said that the Commission would deal with the number of events once a modified proposal has been submitted.

Commissioner Corcoran noted that there was no discussion on limiting the number of events held on days where there are other events in town. Vice-Chair Kunzweiler said that if the sound can be properly controlled, multiple events on any day should not be an issue.

Planning Manager Watrous suggested continuing the hearing to the February 25<sup>th</sup> meeting. Vice-Chair Kunzweiler said he would be absent from the February 25<sup>th</sup> meeting and the Planning Commission would be without a quorum. The Planning Commission and TPC representatives agreed to reschedule the hearing for March 11, 2009.

<p>ACTION: It was M/S (Frymier/Corcoran) to continue the review of the conditional use permit to the March 11, 2009 meeting. Vote: 3-0-2 (O'Donnell and Fraser recused).</p>
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**ADJOURNMENT:**

The Planning Commission adjourned the meeting at 8:45 p.m.

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EMMETT O'DONNELL, CHAIRMAN

ATTEST:

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DANIEL M. WATROUS, SECRETARY