



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

Action and Approved Minutes - Regular Meeting
Tiburon Planning Commission
April 22, 2009 – 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

PUBLIC HEARING

1. 761 HILARY DRIVE: FILES #19908 AND #10504; REVIEW OF CONDITIONAL USE PERMIT GRANTED TO EXPAND THE FACILITIES FOR AN EXISTING CHURCH (ST. HILARY CATHOLIC CHURCH) AND SCHOOL; Archdiocese of San Francisco, Owner/Applicant; Assessor Parcel Nos. 055-253-20 & 055-221-06 [DW] **Review Conducted – No Changes Made (5-0)**
2. END OF PARENTE ROAD AND END OF ANTONETTE DRIVE: FILE #30703; PRECISE DEVELOPMENT PLAN TO CREATE TWO BUILDING SITES ON A 10.2 ACRE PARCEL; Lionel Achuck, Owner; Tom Newton, Applicant; Assessor's Parcel No. 038-111-16 [DW] **Continued to 6/10/09**

MINUTES

3. PLANNING COMMISSION MINUTES – Regular Meeting of April 8, 2009 **Approved as Written (5-0)**

ADJOURNMENT 9:20 PM

PLANNING COMMISSION
APPROVED MINUTES NO. 979
April 22, 2009
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, Commissioners Corcoran, Fraser, Frymier, and Kunzweiler
Absent: None
Staff Present: Planning Manager Watrous, Environmental Consultant Leonard Charles and Minutes Clerk Levison

ORAL COMMUNICATIONS: None

COMMISSION AND STAFF BRIEFING:

Planning Manager Watrous noted that the Hawthorne Nursery School CUP amendment would be heard at the May 13, 2009 meeting and the Paradise Drive pre-zoning hearing would be held at the May 27, 2009 meeting.

PUBLIC HEARING:

- 1. 761 HILARY DRIVE: FILES #19908 AND #10504; REVIEW OF CONDITIONAL USE PERMIT GRANTED TO EXPAND THE FACILITIES FOR AN EXISTING CHURCH (ST. HILARY CATHOLIC CHURCH) AND SCHOOL; Archdiocese of San Francisco, Owner/Applicant; Assessor Parcel Nos. 055-253-20 & 055-221-06**

Planning Manager Watrous provided the staff report, stating that in 2000, the Town Council adopted a CUP for the expansion of St. Hilary's School that included construction of a new gymnasium and parish hall. The third, fourth, and fifth reviews of the use permit were conducted on April 26, 2006, May 9, 2007, and April 23, 2008. No neighbors appeared at any of these meetings regarding these reviews. On each occasion, the Commission commended the efforts of the church and its neighbors for working together to resolve their previous issues and again determined that St. Hilary was operating in compliance with the conditions of its conditional use permit. He stated that St. Hilary Church and School appear to remain in substantial compliance with the requirements of their use permit and staff does not recommend any modifications to the adopted conditions of approval for the use permit at this time.

There was no public comment.

Chair O'Donnell noted that the CUP states the school operates kindergarten through 8th grade classes and asked about the pre-kindergarten program currently offered. Bill Tiedje, Business Manager for St. Hilary, explained that the primary kindergarten program was established for children old enough but not yet qualified to begin kindergarten and conversely, for those who are qualified but not yet old enough. He stated that this is really an adjunct program which he believes to be in compliance with the current CUP however, if necessary, the church would request that it be added to the use permit.

Vice-Chair Kunzweiler asked and confirmed that the enrollment count of 274 students includes those participating in pre-kindergarten.

Commissioner Frymier noted that she is a member of St. Hilary and she is impressed with how the church and school have complied with the conditions and reached out to neighbors. She asked how long the use permit will be subject to annual review. Mr. Watrous said indefinitely, unless that condition is modified through resolution.

Vice-Chair Kunzweiler shared Commissioner Frymier's sentiments, adding that it is good to see the school is thriving and there are no issues.

Commissioner Corcoran concurred, thanked staff for a thorough report, and added that St. Hilary has done an excellent job of reaching out to neighbors.

Commissioner Fraser asked if, in light of the succession of positive reviews, there is any consideration for extending the review period to a 24-month schedule. Planning Manager Watrous stated that this would require an amendment to the use permit, and staff could return with a resolution to do so at the next meeting.

After discussion, it was the consensus of the Commission to make no changes to the CUP and to continue with the annual review.

2. END OF PARENTE ROAD AND END OF ANTONETTE DRIVE: FILE #30703; PRECISE DEVELOPMENT PLAN TO CREATE TWO BUILDING SITES ON A 10.2 ACRE PARCEL; Lionel Achuck, Owner; Tom Newton, Applicant; Assessor's Parcel No. 038-111-16

Chair O'Donnell and Commissioner Frymier disclosed that they are socially acquainted with the applicant. Planning Manager Watrous stated that neither association would qualify as a conflict of interest since neither Commissioner has financial interests that would be affected as a result of this application.

Mr. Watrous provided the staff report and reviewed the history of the Parente Vista Precise Development Plan. The owner of a vacant 10.2 acre parcel has submitted an application for approval of a precise development plan (the Parente Vista Precise Development Plan, File #30703) to subdivide the vacant parcel into two lots and would provide for the development of a single-family dwelling on each of the two lots. He reviewed the project description, limitations of the site, and the proposed amenities. He stated that a Final EIR had been previously certified for the original five-lot Parente Vista project in 2004 and an EIR Addendum had been prepared for the revised two-lot project design that concluded that there are no new significant impacts that would result from the revised project design. He reviewed the analysis of the project's

consistency with pertinent goals, policies, and principals of the Tiburon General Plan and Zoning Ordinance. He said that Staff believes that the revised project would not substantially interfere with the views from any surrounding homes and that while the sports court and residence on Lot 2 would be situated on or within 50 feet of Ridgeline 0, and that the proposed encroachment would be acceptable. Mr. Watrous cited the primary issue staff has with the revised project concerns the lack of neighborhood consistency resulting from the size of the home on Lot 2 and he shared staff's recommendation to reduce the size of the home to comply with the default FAR guidelines. He concluded that the revised two-lot design for this parcel would be generally compatible with and have a lower density than the development level of most other subdivisions in the vicinity. He noted that the significant unavoidable environmental impacts identified by the FEIR for the previous project would be reduced to less than significant levels and the revised project design would not result in any new or increased environmental impacts. He added that the location of the ridgeline through the center of the site would make it very difficult to develop the site while completely avoiding the ridgeline.

Chair O'Donnell thanked staff for the detailed report. He asked if the story poles present on the site represent the conceptual height shown in drawings or the 30 maximum height that would be possible. Mr. Watrous said that staff traditionally requests 30 foot poles but noted that they have, on occasion, allowed conceptual heights to be represented. He deferred to the applicant for clarification.

Chair O'Donnell opened the public hearing.

Lionel Achuck, applicant, thanked staff and introduced the team who helped create the proposed plans. He stated that in 2004 he purchased the nearby property at 140 Antonette Drive and has since built his home there. In 2006, he had the opportunity to purchase this parcel of land from developers whose plans had stalled. He stated that he then started from scratch, reanalyzed the site, and was able to identify several items that would both benefit neighbors and reduce the impacts proposed by the initial project. He stated that the most notable change is the redesigned road route which has a reduced length, better utilizes the natural contours of the hillside, and limits the removal of protected trees. The proposed landslide repair techniques allow for zero removal or import of dirt to the site.

He stated that his team also studied view and noise impacts to neighbors and noted that as an immediate neighbor himself, he has a vested interest in ensuring that the impact is minimal. He felt that view impacts would be negligible due to the distance from nearby properties and the natural topography, but did note the exception of the neighbors at 4885 Paradise Drive, and explained that the plans have undergone extensive alterations and acoustical studies to address those concerns.

Mr. Achuck explained that the proposed subdivision to 2 lots was designed to create the feeling of a true estate or family compound by reducing the previously proposed number of homes while keeping them substantial in size. He acknowledged concerns over the proposed floor area, specifically with the home on Lot 2, but said that he believed it to be appropriate for the 8.1 acre size of the parcel. He argued that the comparison to homes on Taylor Road may be inaccurate due to their age and said that newer homes in the area tend to be larger in size.

Mr. Achuck reviewed the proposed layout of the site and explained that the story poles in place are predominately set at 30 feet high around the building envelopes. He stated that the proposed

improvements on or near the ridgeline would not be visible from the immediate area except when looking down from open space above the parcel. He said that the location of the tennis court is intended to minimize grading. He added that the two landslide areas further limited the placement of the two envelopes and their amenities.

Commissioner Fraser noted that the subject property and the applicant's home at 140 Antonette Drive are currently listed for sale and he asked if the applicant is considering this development for personal or resale purposes. Mr. Achuck said his intention is to use this as a personal family compound. He explained that he would ideally like to construct the infrastructure and amenities first; then go back and redesign the homes as the proposed plans are really only to establish the building envelopes. Mr. Achuck explained that as a real estate investor in the current economic climate, many of his properties throughout the country are for sale.

Vice-Chair Kunzweiler referred to the phasing plan and asked why the applicant would propose to build the amenities on Lot 2 before the homes on Lot 1 and Lot 2. Mr. Achuck explained that his current home is located so that he could utilize those amenities while maintaining his current residence. He would then construct the smaller home on Lot 1 for relatives who would like to move to the area.

Vice-Chair Kunzweiler said that the new roadway design is a significant improvement over the last but asked why the applicant chose not to extend the roadway leading up to his current home. He stated that as currently proposed the house on Lot 1 would be surrounded by roadways, which is uncommon for a home of this size. Mr. Achuck explained that his intent was to keep the site separate from other homes; whether he decides to retain or sell the property, a compound of this size does not traditionally share a driveway with other homes and he wanted to keep all options open.

Vice-Chair Kunzweiler asked why he chose to place an 11-car parking lot near the tennis courts. Mr. Achuck explained that parking for any home can sometimes present a challenge. He thought that given the compound-like nature, entertainment potential, and sheer acreage, the lot both warranted and could accommodate such a luxury. He said that the additional on-site parking would reduce possible parking impacts on Antonette Drive.

Chair O'Donnell asked what materials would be used for the road. Mr. Achuck stated that the current proposal is to pave the road with asphalt. He added that pavers would be a bit expensive, so he is looking into integrated asphalt for its natural tone, traction, and strength. Chair O'Donnell asked if he had considered a permeable surface for the parking lot. Mr. Achuck confirmed but explained that the site's soil qualities make this unadvisable.

Craig Herzog, Herzog Geotechnical, stated that the expansive soils and high clay content on the site create a high runoff potential and he recommended against permeable surfaces.

Commissioner Frymier asked about the possibility of solar panel installation on the site. Mr. Achuck said that he will most likely install solar panels at some point although the timing would be dependent upon the available rebates and the cost of a system large enough to sustain the homes' electrical load.

Chair O'Donnell said that one story pole in the primary building envelope of Lot 1 would seem to severely impact the view of the neighbors at 4885 Paradise Drive. Mr. Achuck referred to the

section drawing which analyzed the second story residence of that property versus the roofline of the proposed home. He explained that the second story of the neighboring home contains the main living space and he concluded that the view impacts would be less than significant.

Kyle Thayer, architect, reiterated that the property at 4885 Paradise Drive has mostly second story views which are panoramic, and said that even with a maximum 30-foot high structure the views would still be considerable.

Chair O'Donnell countered that the views from the porch are particularly nice as one looks up along the Tiburon peninsula. He said that he would consider such a panoramic view to be primary rather than secondary. Mr. Achuck said that he met with the homeowner in question, carefully walked the site and reviewed plans with her. Mr. Achuck he said that she was not opposed to the plans but had asked for additional trees to screen her views of the adjacent homes.

Chair O'Donnell closed the public hearing.

Vice-Chair Kunzweiler stated that these plans are very well done and a significant improvement over what had previously come before the Planning Commission. He asked what changes had been made to reduce the potential environmental impacts to a less than significant level. EIR consultant Leonard Charles stated that the certified EIR recommended a reduction in the number of lots on the site and the applicant has done just that. In addition, natural changes in topography have reduced the grading necessary and therefore decreased some of the potential view impacts. Mr. Charles did note that while the project may still be inconsistent with the General Plan as a result of development on and near Ridgeline 0, this is not technically a CEQA issue and is more of a general plan issue to be determined by the Planning Commission.

Vice-Chair Kunzweiler said that in concept, what is being requested seems appropriate but he echoed some of the concerns of staff. He said that there were issues of scale for the improvements on Lot 2. He acknowledged the estate-like feel that the applicant intends, but stated that neighborhood consistency is an issue, noting that the County had been more liberal in approving larger homes in the area. He said that the house on Lot 2 would be very large, with many improvements and the general plan is clear on the concept of neighborhood consistency. He supported the staff recommendations on scaling back the size of the main house. He said that he also had an issue with the placement of tennis courts immediately on a secondary ridgeline which would be unique in Tiburon, and would possibly set a precedent for future developments to do the same. He respectfully disagreed with staff and the applicant that the visual impacts are minimal, especially as one looks down on the property from the ridgeline above and noted that the community has spoken very clearly on how it feels about ridgeline preservation.

Commissioner Fraser applauded the applicant for a thorough and comprehensive effort to create a more viable plan. He agreed with Vice-Chair Kunzweiler that the mass of the homes, particularly that on Lot 2, and construction on the ridgeline are points of concern. He said that the community has been very clear about preservation of open space and ridgelines during the process of updating the general plan and that to allow development on this ridgeline would establish a dangerous precedent. He suggested that reducing the size of the homes could allow for repositioning of the site's amenities so as not to interfere with the ridgeline in the same way. He disagreed with some of Mr. Charles' analysis as it relates to the general plan policies for protecting ridgelines. He believed this to be a prominent secondary ridgeline and that building on a ridgeline is not something that the community has endorsed.

Commissioner Corcoran thanked the applicant for his attempts to preserve open space and minimize the amount of new development but echoed the same concerns as Commissioner Fraser. He said that the issues were the size of the home on Lot 2 and the sports court on the ridgeline. He said that there should be another location on an 8 acre lot for a tennis court that is not on the ridgeline. He deferred to staff's opinion on FAR guidelines, agreeing that a 9,000 square foot house would be incompatible with the surrounding neighborhood.

Commissioner Frymier said that while she is concerned with the overall size of the project, the ridgeline is her primary concern. She noted that Tiburon is meant to be a community of homes and open space and building anything on a ridgeline is out of character with that identity. She agreed that a 9,000 square foot home seems large, but said that the Achucks' current home is so well-articulated into the hillside that it looks smaller than its actual floor area. She stated that the proposed parking lot would interrupt the consistency of the open space on the lot and is a luxury even the largest estates cannot usually claim.

Chair O'Donnell agreed with much of what was said before him, particularly with respect to overall scale of the project and size of the home on Lot 2. He said that this is a very good project that needs some tweaking. He noted that once the garage and accessory buildings are added in, there would be roughly 11,200 square feet of floor area on Lot 2, which would not be in keeping with the surrounding neighborhood. He said that the ridgeline was not particularly prominent and in many cases a structure below the ridgeline would have a greater impact than what sits on top of it. He said that the size of the home on Lot 2 and its proximity to the ridgeline would block views of the ridgeline in any case and added that photosimulations indicate the property cannot be seen from Paradise Drive. While he understood the need for parking, the size and location of the proposed parking lot seems harsh to the environment and he would like the applicant to look at ways to lessen its visual impact. He said that he did not have a problem with the ridgeline due to its location and condition and the amount of remaining open space on the site.

Vice-Chair Kunzweiler stated that the true impact to the ridgeline is more noticeable when viewed from above. He noted that the Ring Mountain open space is heavily used and the secondary ridgeline is very prominent when viewed from there. He said that the tennis court and parking lot would be substantial changes to the ridgeline. He acknowledged the natural constrictions of the area due to the two landslide locations but noted that the applicant was aware of these difficulties at the time of purchase.

Chair O'Donnell said that while it is a large property and there would appear to be a less intrusive location for the tennis courts, the proposed location is the only naturally flat area.

Commissioner Fraser stated that the mass of the house and accessory improvements on Lot 2 would be too prominent and would be in violation of the ridgeline principles. He pointed out that if the combined mass of the structures were decreased, it may allow for alternative locations for the improvements.

Vice-Chair Kunzweiler agreed that too many large items are proposed and when combined, that mass presents the same challenges as previous proposals for the site's development. He recommended that the applicant return with a more modest proposal that creates fewer overall impacts. He stressed that he believed the applicant is on the right track but the mass needs to be

scaled back some to be a good neighbor and to be more consistent with the Town's guidelines and principles.

Chair O'Donnell noted that a 9,000 square foot home would be inconsistent with the size of other homes in the neighborhood, where the largest house is around 6,700 square feet.

Commissioner Corcoran noted that the Town's guidelines clearly state a maximum FAR of 8,000 square feet for any lot over 60,000 square feet. He said there has been a lot of discussion about honoring those guidelines, which he supports, and 8,000 square feet would still allow for a substantial home that would be almost 2,000 square feet larger than most homes in the vicinity.

Commissioner Frymier argued that Lot 2 would 8 acres and could sustain a home of that size and she urged the Commission not to fear a house of that size.

Vice-Chair Kunzweiler noted that other large lots also have constraints and he does not necessarily equate a large lot with the right to construct a large home. He asked if the applicant would be open to returning with a redesign, particularly with a more modest design for Lot 2. He said that there are a lot of pieces to this puzzle and cautioned that a redesign should be more than a simple reduction in the home's floor area.

Commissioner Fraser stated that the main issues are the mass and the ridgeline and that there may possibly be too many big pieces on Lot 2. He applauded the applicant's efforts thus far, and asked them to consider a plan that meets their needs without resulting in the impacts of the currently proposal.

Mr. Achuck asked if redesign would require another EIR addendum. Mr. Watrous stated that the Commission is asking for a plan with lesser impacts; unless the applicant returns with a proposal so different that it creates new impacts, it would not require another addendum.

Mr. Achuck acknowledged the Commission's concerns over the view from the open space looking downward and asked if landscaping the portion of the hillside above the tennis courts would mitigate that. Vice-Chair Kunzweiler stated that it would require a significant amount of landscaping to substantially alter the view from that height. He added that the philosophical issue of building on the ridgeline would remain.

Mr. Achuck agreed to address the issue of scale but explained that relocating the tennis courts will be difficult due to light, view, and topography issues. He noted that the neighbor at 4885 Paradise Drive has expressed opposition to situating a house directly above her home. He expressed concern that substantial efforts at redesign would still present the same issues.

Chair O'Donnell stated that he has no objection to the tennis court's location but does believe that some sort of screening should be required. He said that his primary issue is with the scale of improvements on Lot 2.

Vice-Chair Kunzweiler concurred that the scale and inventory of improvements are the principal concerns.

Commissioner Fraser reiterated that adjusting the scale may create other layout opportunities. He cautioned that the Commission needs to be aware of the inventory of amenities proposed and

noted that expansive parking lots and tennis courts are uncommon in Tiburon. He asked the applicant to carefully consider the features most important to him and return with a more suitable proposal.

Chair O'Donnell stated that the Commissioners are in agreement on the issue of scale but vary in opinion regarding the ridgeline.

ACTION: It was M/S (Kunzweiler/Corcoran) to continue the hearing to the June 10, 2009 meeting. Motion carried: 5-0.

MINUTES:

3. PLANNING COMMISSION MINUTES – Regular meeting of April 8, 2009.

ACTION: It was M/S (Fraser/Kunzweiler) to approve the Minutes of the April 8, 2009 meeting, as drafted. Motion carried: 5-0.
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ADJOURNMENT:

The Planning Commission adjourned the meeting at 9:20 p.m.