



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

Action and Approved Minutes - Regular Meeting  
Tiburon Planning Commission  
May 27, 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 **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. PARADISE DRIVE PREZONING AND GENERAL PLAN AMENDMENT PROJECT: CONSIDER MAKING RECOMMENDATIONS TO TOWN COUNCIL REGARDING THE PREZONING OF APPROXIMATELY 85 ASSESSOR PARCELS TOTALING APPROXIMATELY 230 ACRES OF LAND LOCATED AT THE SOUTHEASTERN END OF THE TIBURON PENINSULA & AMENDMENTS TO THE TIBURON GENERAL PLAN LAND USE MAP AFFECTING 22 OF THOSE ASSESSOR PARCELS AND MAKING MINOR CORRECTIONS TO GENERAL PLAN TEXT AND MAPS; Town of Tiburon-initiated; Files R2008-01 and GPA2008-01 [SA] **Recommended approval to Town Council (5-0)**

MINUTES

2. PLANNING COMMISSION MINUTES – Regular Meeting of May 13, 2009  
*Adopted as Amended (5-0)*

ADJOURNMENT    **8:17 PM**

PLANNING COMMISSION  
APPROVED MINUTES NO. 981  
May 27, 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:** Director of Community Development Anderson, Environmental Consultant Elizabeth Purl, and Minutes Clerk Levison

**ORAL COMMUNICATIONS:** None

**COMMISSION AND STAFF BRIEFING:**

Director of Community Development Anderson provided the following briefing:

- Copies of the draft update Zoning Ordinance are available. The first Commission hearing on the item is scheduled for June 10, 2009 along with two other items.

**PUBLIC HEARING:**

1. **PARADISE DRIVE PREZONING AND GENERAL PLAN AMENDMENT PROJECT: CONSIDER MAKING RECOMMENDATIONS TO TOWN COUNCIL REGARDING THE PREZONING OF APPROXIMATELY 85 ASSESSOR PARCELS TOTALING APPROXIMATELY 230 ACRES OF LAND LOCATED AT THE SOUTHEASTERN END OF THE TIBURON PENINSULA & AMENDMENTS TO THE TIBURON GENERAL PLAN LAND USE MAP AFFECTING 22 OF THOSE ASSESSOR PARCELS AND MAKING MINOR CORRECTIONS TO GENERAL PLAN TEXT AND MAPS; Town of Tiburon – initiated; Files R208-01 and GPA2008-01**

The Director of Community Development presented the staff report, stating that in April 2008, the Town received applications from property owners of several properties along the southeastern end of the Tiburon Peninsula for rezoning of their properties. Following analysis and the preparation of an environmental review document for the project, the matter has returned to the Planning Commission for hearing and recommendation to the Town Council.

Mr. Anderson reviewed the rezoning process and explained that in 2008, the Planning Commission established a rezoning study area that encompasses 85 assessor parcels totaling about 230 acres of unincorporated territory on both sides of Paradise Drive, forming a rational and logical boundary for the purposes of rezoning study. The study area is a mixture of single-family residential, two-family residential, undeveloped land, tidal, and public agency-owned parcels.

Mr. Anderson detailed the proposed General Plan amendments that would change the Tiburon rezoning designation of 22 parcels of land to match the existing County of Marin zoning as closely as is practicable. Additional amendments include a Tiburon General Plan Land Use Map legend correction and several minor text and mapping errors unrelated to the rezoning.

The Town retained the firm of Impact Sciences Incorporated to prepare an initial study pursuant to CEQA. The initial study concluded that the project would not result in a significant impact on the environment with mitigation measures. A draft mitigated negative declaration was prepared and released for public review and comment on April 20, 2009. The initial study and draft mitigated negative declaration analyzed the implications of the project through potential annexation by LAFCO, should that happen. The document indicated that the project had the potential to create one additional dwelling unit in the rezoning area when compared with baseline development potential allowed under the Tiburon General Plan, and that the differential was environmentally insignificant. The document concluded that mitigation measures adopted in the 2005 General Plan EIR remain applicable to this project and proposed additional measures involving cumulative climate change impacts and adequate provision of emergency access.

Mr. Anderson advised the Planning Commission that its role at this hearing is strictly advisory and is to make a recommendation to the Town Council on the proposed general plan amendments and rezoning designations. In doing so, the Commission shall review and consider the environmental documentation prepared for the project, but need make no formal determinations with respect to that environmental documentation.

Commissioner Frymier asked for clarification on the proposed general plan amendments regarding density. Mr. Anderson explained that the General Plan assigns density values representing an allowable number of units per acre and that those designations differ slightly from those currently assigned by the County of Marin by its zoning. A comparison between the two equates a High Density Residential designation in the General Plan to R-2 (two-family zoning), which allow 11.6 units per acre. Medium High Density Residential in the General Plan is the equivalent of R-1 (single-family) residential zoning, allowing up to 4.4 units per acre on a lot of 10,000 square feet in area. Medium Density Residential in the General Plan allows up to 3 units per acre and equates to RO-2 zoning, while Medium-Low Density Residential equates to RO-1 zoning with slightly over 1 unit per acre allowed. Low-Density Residential, or .5 units per acre, is the equivalent of RPD (residential planned development) zoning, at specified densities.

Commissioner Frymier asked what purpose the proposed amendments serve. Mr. Anderson provided an example by explaining that a number of properties proposed for rezoning are zoned R-2 by the County of Marin but would be rezoned R-1 by the current Tiburon General Plan density designation. The amendments would correct this situation. The Town's longstanding practice when rezoning and/or annexing property is to avoid creating unnecessary nonconformities with developed parcels whenever possible.

Chair O'Donnell asked for an explanation of up-zoning. Mr. Anderson stated that all of the parcels identified for general plan amendment have a county zoning that is higher density than what the current Tiburon General Plan designation would allow. To reduce a parcel's density and zoning equivalent during rezoning creates the potential for nonconformities and, in order to avoid this wherever possible, staff is proposing that certain parcels be rezoned up to match their current County zoning, necessitating the general plan amendments for those parcels.

Chair O'Donnell asked if up-zoning would be considered an overall benefit to an individual parcel. Mr. Anderson clarified that the practice is an attempt to keep owners of developed parcels whole and not take anything away from them, from a zoning perspective, during the rezoning process.

Commissioner Corcoran questioned and confirmed that the Planning Commission's role this evening is purely advisory. Mr. Anderson reiterated that the Commission's role is to review and consider the environmental documentation before making its recommendation to the Town Council.

Chair O'Donnell asked whether or not parcel owners were individually notified of the potential zoning changes. Mr. Anderson said that all property owners in and within 300 feet of the affected area have been notified. Owners of those parcels proposed for General Plan amendment were sent individual letters explaining the purpose of the amendment.

Chair O'Donnell opened the public hearing.

Russ Keil, applicant, described the history of the Tiburon Peninsula and its evolution from an isolated rural area into a close-knit and sophisticated community. He said while being served by County entities was appropriate in the past, times have changed. He highlighted two major governmental functions that are of concern to him: planning and safety. Mr. Keil stated that the Marin County Planning Department is out of touch with local issues and needs, which call for a local oversight that was previously unnecessary. As to public safety, he cited a family member's recent need for emergency assistance, and explained that he was fortunate enough to have had an officer of the Tiburon Police Department exercise the consideration to track him down at his offices in San Francisco and inform him of the emergency. Mr. Keil doubted that either the Marin County Sheriff's Department or the Highway Patrol would have gone to the same lengths. He stated that when he was asked to consider the annexation of his property, he realized that times have changed and that the Town has evolved such that annexation only seems appropriate.

Jerry Riessen expressed strong support for the annexation proposal, stating that the environmental document is very well crafted, the project has been well-noticed, and the Town is on very solid ground in proceeding as recommended.

Scott Hochstrasser referenced the letter from Hanson Bridgett dated May 20, 2009 and made arguments against the proposed annexation. He stated that the entire proposal is in opposition to the guidelines set forth in the 2005 updated General Plan and questioned whether or not the Commission could legally make the findings to support the proposal. Mr. Hochstrasser cited numerous General Plan policies and annexation procedures, argued that staff has not supplied a suitable impact analysis or sufficient data, and doubted that the parcels in question could physically support what the zoning amendments would allow.

Chair O'Donnell closed the public hearing.

Vice-Chair Kunzweiler said that, having sat on the Planning Commission when the General Plan was drafted, he is well aware of the details and its intent. He acknowledged Mr. Hochstrasser's point that the General Plan discusses the annexation of unincorporated Paradise Drive as a general concept, and explained that it was simply not appropriate to "parcel the area up" at that time with respect to future annexation. The history of annexation shows a comprehensive annexation of the entire Paradise Drive area to be economically infeasible and larger than what the Town can support. This much smaller annexation is a logical step in the overall process. He explained that when the General Plan was updated and annexation addressed, an EIR was prepared for the purposes of rezoning and annexation. He noted that in addition to Planning Commission and Town Council hearings, that the General Plan and its supporting documents were reviewed by the public and accepted by the State. In light of that, one can only assume that the EIR is sufficient enough to move forward. He believed the proposed amendments to the General Plan do not pose a substantial change to what is currently in place, provide a benefit to all citizens without violating the intent of the General Plan, and expressed full support for the amendments and staff recommendation.

Commissioner Fraser echoed Vice-Chair Kunzweiler's comments. He said that he, too was a part of the General Plan's development and the result is a solid foundation for the future of the village of Tiburon. He concurs with the findings and amendments, believes the environmental document to be complete, and supports the staff recommendation.

Commissioner Corcoran concurred with Vice-Chair Kunzweiler and Commissioner Fraser, stating that the Commission's role tonight is limited to simply advising the Town Council. Based on that limited role, he said he can support what is a request from citizens who, but for an arbitrary line, would already be a part of the town.

Commissioner Frymier echoed fellow Commissioners' comments and concurred that some of the public comment received falls beyond the Planning Commission's limited role tonight. Based on the fact this was initiated at the request of residents and the Commission's role is so limited, she supports the recommendation.

Chair O'Donnell concurred and advised the public that the General Plan is more of a guideline than a binding document. Those guidelines call for changes and amendments on occasion and as circumstances change. He said that the proposal calls for transferring the zoning of these parcels to the Town in an upzone fashion that clearly benefits property owners. He thanked Mr. Keil for his presentation and said that as a community, the positive aspects of this potential annexation far outweigh any negative impacts. He stated support for the recommendation.

ACTION: It was M/S (Fraser/Kunzweiler) to adopt the Resolution as drafted.  
Motion carried: 5-0.

**MINUTES:**

**2. PLANNING COMMISSION MINUTES – Regular meeting of May 13, 2009.**

Chair O'Donnell requested the following amendment to the minutes:

- Page 3, 2nd full paragraph – He asked that the EIR consider the possibility of undergrounding at least a portion of the parking accessed from Mar West Street, under a potential addition location, possibly to serve Town Hall and Library staff.

ACTION: It was M/S (Kunzweiler/Fraser) to approve the minutes of the May 13, 2009 meeting as amended. Motion carried: 5-0.

**ADJOURNMENT:**

The Planning Commission adjourned the meeting at 8:17 p.m.

\_\_\_\_\_  
EMMETT O'DONNELL, CHAIRMAN

ATTEST:

\_\_\_\_\_  
SCOTT ANDERSON, SECRETARY