



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

Action and Approved Minutes - Regular Meeting
Tiburon Planning Commission
July 22, 2009 – 7:30 PM

ACTION MINUTES

TIBURON PLANNING COMMISSION

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

Present: Chairman Kunzweiler, Vice Chairman Fraser, Commissioner Corcoran,
Commissioner O'Donnell

Absent: Commissioner Frymier

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. END OF PARENTE ROAD AND END OF ANTONETTE DRIVE: PRECISE DEVELOPMENT PLAN TO CREATE TWO BUILDING SITES ON A 10.2 ACRE PARCEL; FILE #30703; Lionel Achuck, Owner; Tom Newton Applicant; Assessor's Parcel No. 038-111-16 (Continued from June 10, 2009) [DW] **Continued to August 26, 2009 (4-0)**
2. COMPREHENSIVE REFORMATTING AND TEXT AMENDMENTS TO THE TIBURON ZONING ORDINANCE; FILE #MCA 2008-09; CONTINUED FROM JULY 8, 2009 [DW] **Continued to August 26, 2009 (4-0)**

MINUTES

3. PLANNING COMMISSION MINUTES – Regular Meeting of July 8, 2009
Approved As Amended (4-0)

ADJOURNMENT *At 9:20 PM*

PLANNING COMMISSION
APPROVED MINUTES NO. 985
July 22, 2009
Regular Meeting
Town of Tiburon Council Chambers
1505 Tiburon Boulevard, Tiburon, California

CALL TO ORDER AND ROLL CALL:

Chair Kunzweiler called the meeting to order at 7:30 p.m.

Present: Chair Kunzweiler, Commissioners Corcoran, Fraser, and O'Donnell

Absent: Commissioner Frymier

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

ORAL COMMUNICATIONS: None

COMMISSION AND STAFF BRIEFING:

Planning Manager Watrous stated that, aside from the Zoning Ordinance updates, there are no items scheduled for the regular meeting on August 12th. He noted that both Chair Kunzweiler and Commissioner O'Donnell will be absent that date. He asked the Commission to consider holding the meeting with a bare quorum or continuing the updates to the August 26th meeting.

Chair Kunzweiler said he is not yet certain he will return by August 26th. Vice-Chair Fraser said he may be absent from that meeting, as well.

Director of Community Development Anderson reported that the Town received the anticipated lawsuit resulting from the Town Council's recent pre-zoning action. The initial brief was filed by Hanson-Bridgett LLP on behalf of Martha Company.

PUBLIC HEARING:

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- 2. COMPREHENSIVE REFORMATTING AND TEXT AMENDMENTS TO THE TIBURON ZONING ORDINANCE; FILE #MCA 2008-09; CONTINUED FROM JULY 8, 2009**

At the June 24, 2009 Planning Commission meeting, the Commission began its review of the Town's update to the Tiburon Zoning Ordinance. At that time, the Commission reviewed all of Article I and part of Article II. The Commission reviewed the remainder of Article II at the July 8, 2009 meeting. The public hearing was continued, with staff directed to prepare summaries of Articles III, IV & V for the July 22 Planning Commission meeting.

Commissioners provided various corrections and minor wording changes. They discussed the following sections in greater detail for the purpose of clarification and/or further amendment:

ARTICLE III

Section 16-30.030 - Setback Requirements and Exceptions

Referring to Subsection E (1), Vice-Chair Fraser noted that the maximum height for accessory buildings located in the rear yard setback has been increased from 12 to 15 feet. He said the change is unnecessary and that even 3 feet can greatly increase the impacts on neighbors from a privacy and view standpoint.

Commissioner Corcoran said the View Ordinance would still apply and should address those concerns. Mr. Watrous clarified that the Hillside Guidelines would govern the matter.

Commissioner Corcoran asked why the change was made. Mr. Watrous said it was amended to make the requirement consistent with the maximum accessory building height allowed elsewhere on a lot. He acknowledged that an additional 3 feet in height would create significant impacts in some situations but noted it would not in others. He said staff felt the design review process would aid in that distinction.

Chair Kunzweiler suggested the maximum height remain at 12 feet.

Vice-Chair Fraser stated concern that without the rear yard setback, a property owner could conceivably construct a 15 foot high structure right up against the fence line. Mr. Watrous said it would be possible but that it is usually very difficult from a technical standpoint. He also said that past attempts have usually resulted in objections from neighboring property owners; those objections were addressed during design review.

Commissioner Corcoran suggested applying an alternative minimum setback to accessory buildings. He said that on larger pieces of property accessory buildings are often very nicely done and closely mimic the style of the main residence. He said he believed it would be difficult to compel those to comply with a 12 foot height limit.

Commissioner O'Donnell questioned if a habitable structure qualified as an accessory building. Mr. Watrous said that accessory buildings can include structures such as a pool house, finished garage, or guesthouse.

Chair Kunzweiler voiced concern that the allowable height is pushing towards what could accommodate 2 stories. Mr. Watrous said that 15 feet would not allow enough height for 2 stories, and Chair Kunzweiler suggested reverting to a maximum height of 12 feet.

Mr. Anderson explained that the original height of 12 feet comes from the very first ordinance and this particular reference stands alone in that every other one states a maximum height of 15 feet for accessory buildings. He said staff has considered this an item in need of updating for some time.

Vice-Chair Fraser asked if it is common for applicants to push for an additional 3 feet. Mr. Watrous said no, only occasionally when the slope of a lot makes it necessary.

Vice-Chair Fraser acknowledged the desire to update for conformity but said that to allow a structure of this height, with no setback involved, allows a visual imposition on adjacent properties.

Commissioner Corcoran said he has greater issue with the lack of a setback. Mr. Anderson offered to flag the issue of rear yard setbacks on accessory buildings for later discussion.

Commissioner Corcoran suggested adding language to Subsection E (1) that would prohibit the placement of detached accessory buildings within a specified distance from the rear property line.

Chair Kunzweiler disagreed, stating that it subverts the concept of setbacks. He supported Mr. Anderson's suggestion to revisit rear setbacks in their entirety.

Vice-Chair Fraser said that perhaps the ordinance was originally crafted in this fashion because to place an accessory building within the setbacks could be onerous to adjacent properties.

Section 16-30.040 - Fences and Walls

Referring to Subsection B (2[a)i)), Commissioner Corcoran said there are certain instances where a homeowner should be allowed a fence exceeding 6 feet in height and thought this may be too prohibitive in limiting it to the property line.

Mr. Watrous said this section was written to recognize limited examples, such as in Bel Aire where there are a fair number of neighboring lots with differing elevations. He said the previous definition required the height of the wall or fence to be measured from the low side and resulted in numerous variance requests. He noted there are other properties and circumstances throughout town where a traditional variance procedure would be more suitable.

Section 16-30.050 - Height Limits and Exceptions

Referring to Subsection D (1), Commissioner O'Donnell suggested that solar panels be added to the list of height exempt roof top features. Mr. Anderson said that staff has avoided doing so as those listed features generally take up a very small portion of roof top area. He noted that solar installations are exempt from design review but may require a variance if their addition creates a roofline in excess of the 30 feet allowed. He said that to add them to this list would exempt them from any variance.

Commissioner O'Donnell said he thought a maximum height on street side shrubbery would be nearly impossible to enforce. Mr. Anderson said that the Public Works Department does, on occasion, identify and enforce such issues. Mr. Watrous added that determination of an issue is very site specific and said this section is intended to provide Public Works with a means of recourse when necessary.

Vice-Chair Fraser cited several locations in town where foliage has created a distinct lack of visibility and asked how these issues are identified and handled. Mr. Anderson said the best approach would be to contact the Public Works Department with a written complaint.

Section 16-30.060 - Child Play Structures/Sports Courts

Commissioner Corcoran asked if a tree house would be considered a "play structure" and be subject to design review. Mr. Watrous confirmed the first and then the latter only if the tree house had enough structure to require a building permit.

Commissioner O'Donnell requested clarification on what would be considered a portable structure. Mr. Watrous said staff makes the distinction based on the method of construction. He said a portable structure would simply sit on the ground as opposed to being dug into a foundation.

Chair Kunzweiler requested clarification on what constitutes a sports court. Mr. Anderson said that staff has intended to tie this to project that are above grade and have attachments. He noted that normally flat surfaces, even those that are quite large and of poured concrete, do not require a building permit.

Section 16-30.090 - Storage and Debris Boxes

Commissioner Corcoran asked if this would apply to temporary storage boxes that are loaded on site and then stored elsewhere. Mr. Watrous said the regulations are aimed more at long-term storage.

Section 16-30.120 - Lot Legality and Coverage

Commissioner O'Donnell requested clarification on the relevance on trellises and canopies in terms of lot coverage. Mr. Watrous said that trellises, provided they are open, are typically not counted towards lot coverage.

Chair Kunzweiler requested clarification on the term, “cantilevered elements.” Mr. Watrous directed him to the definitions section and explained that it came about in response to a design review issue; there were an increasing number of homes coming in under the floor area requirements by extending a corner of the house only on the second story. The same homeowners would later request a floor area exception to fill in the first story space underneath.

Section 16-32.010 – Purpose

Chair Kunzweiler said he understood the intent to discourage overly large parking lots but found the wording so strong that it may discourage downtown growth and expansion. Mr. Anderson explained that the policy statement dates back from the 1970’s when there were still areas of the town awaiting development, and is simply worded to encourage shared parking in the downtown area.

Section 16-32.030 - General Parking Regulations

Commissioner Corcoran suggested that parking in the rear of commercial buildings be incentivized in some fashion. Mr. Anderson said that both the General Plan policies and Downtown Design Guidelines are very clear in that this is a requirement, not an option.

Commissioner Corcoran clarified that he would like something that would appeal more to developers. Mr. Anderson said that most developers understand the value in street-side retail or office space and that the requirement encourages the complete redevelopment of these lots as opposed to a simple remodel.

Commissioner Corcoran requested clarification on Subsection B (2). Mr. Anderson said it is designed to prohibit the parking of commercial type trucks on private property while still allowing residents with work/personal vehicles to do so. He noted that this refers to trucks as defined by the vehicle code, not an average pickup truck.

Referring to Subsection B (3), Vice-Chair Fraser asked why a public agency or utility company would be allowed to park in public zones but a private-sector employee with a personal car would not. Mr. Watrous said it generally has to do with vehicles that may respond to public emergency rather than private business. At Chair Kunzweiler’s suggestion, the language was changed to specify “emergency responders.”

Chair Kunzweiler cited several instances of downtown commercial businesses with signs indicating 24-hour reserved parking in their lots. He said that those spots are sorely needed for evening parking in the downtown area and asked if the CUPs allow for this restriction. Mr. Anderson said that the parking stalls are on private property and may be labeled any way the owner wishes. He added that those owners have not been overly quick to enforce the restriction. Mr. Watrous confirmed and said that the restriction may stem from liability concerns.

Section 16-32.040 - Number of Parking Spaces Required

Chair Kunzweiler asked if a limit on the number of allowable parking spaces for single-family or multi-family homes would ever be considered. Mr. Watrous said that it would be difficult to control open parking spaces that do not count towards the floor area ratio but said restrictions could be imposed through the design review process.

Mr. Anderson cited projects where staff actually required additional spaces to deal with a property's lack of street parking. He noted that setting a maximum would put the Town in opposition of its own rules.

Section 16-32.050 - Disabled/Handicapped Parking Requirements

Commissioner O'Donnell requested clarification on this section. Mr. Anderson explained that the handicapped parking spaces required on a property by state law can be included in the number of total spaces required by the Town.

Commissioner O'Donnell asked about public requirements for handicapped accessible street side parking spaces. Mr. Anderson said that those were updated within the last 5 years to meet with current standards.

Section 16-32.070 - Motorcycle Parking

Commissioner O'Donnell questioned and confirmed that motorcycles are currently allowed to park at the ferry plaza. He voiced concern that the numbers of motorcycles traversing the sidewalk to park there are creating an unsafe situation in what is a family oriented plaza, stating that there is a difference between scooters and large motorcycles and his concern was focused on the latter.

Mr. Anderson said that as a park, the issue is not one of zoning. He suggested Commissioner O'Donnell contact the Public Works Department and ask that they reconsider how parking is handled at that plaza. Chair Kunzweiler concurred with Commissioner O'Donnell who questioned why a motorcycle would be allowed on a sidewalk when it cannot be ridden down a multi-use path.

ACTION: It was M/S (O'Donnell/Corcoran) to continue the hearing to August 26, 2009. Vote: 4-0.
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MINUTES:

3. PLANNING COMMISSION MINUTES – Regular Meeting of July 8, 2009

Chair Kunzweiler provided the following amendment to the minutes:

- Page 1, 1st paragraph – “Chair Kunzweiler stated his appreciation for former ~~the Commissioner~~ Chair O'Donnell's dedication...”
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ACTION: It was M/S (Fraser/Corcoran) to approve the minutes of July 8, 2009, as amended. Vote: 4-0.

ADJOURNMENT:

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

JOHN KUNZWEILER, CHAIRMAN

ATTEST:

SCOTT ANDERSON, SECRETARY