



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

Action and Approved Minutes - Regular Meeting
Tiburon Planning Commission
September 23, 2009 – 7:30 PM

ACTION MINUTES

TIBURON PLANNING COMMISSION

CALL TO ORDER AND ROLL CALL *At 7:32 PM*

Present: Chairman Kunzweiler, Vice Chairman Fraser, Commissioner Corcoran,
Commissioner Frymier

Absent: Commissioner O'Donnell

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. ACCEPT PUBLIC COMMENT ON THE DRAFT ENVIRONMENTAL IMPACT REPORT (EIR) FOR THE PROPOSED ALTA ROBLES RESIDENTIAL PROJECT IN THE VICINITY OF 3825 PARADISE DRIVE; FILE #30701; Rabin/Soda LLC, Owners and Applicants; Assessor Parcel Numbers 039-021-13 and 039-301-10 [SA] *Comment Accepted*
2. REVIEW OF COMPREHENSIVE REFORMATTING AND TEXT AMENDMENTS TO THE TIBURON ZONING ORDINANCE; FILE #MCA 2008-09 [DW] (Continued from September 9, 2009) *Continued Without Discussion to October 14, 2009*

MINUTES

3. PLANNING COMMISSION MINUTES – Regular Meeting of September 9, 2009
Approved 4-0

ADJOURNMENT At 9:40 PM

PLANNING COMMISSION
APPROVED MINUTES NO. 988
September 23, 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, Vice Chair Fraser, and Commissioners Corcoran and Frymier
Absent: Commissioner O'Donnell
Staff Present: Director of Community Development Anderson, Consulting Planner Henderson, Environmental Consultant Berman, and Minutes Clerk Levison

ORAL COMMUNICATIONS: None

COMMISSION AND STAFF BRIEFING:

Director of Community Development Anderson reported that the Town Council will again discuss the Martha Company project at its October 7th meeting. He reported on future agenda items and stated that the Parente Vista hearing has been continued once again and will not be discussed on October 14.

PUBLIC HEARING:

- 1. ACCEPT PUBLIC COMMENT ON THE DRAFT ENVIRONMENTAL IMPACT REPORT (EIR) FOR THE PROPOSED ALTA ROBLES RESIDENTIAL PROJECT IN THE VICINITY OF 3825 PARADISE DRIVE; FILE #30701; Rabin/Soda LLC, Owners and Applicants; Assessor Parcel Numbers 039-021-13 and 039-301-10**

Director Anderson introduced Diane Henderson, Planning Consultant, and Bob Berman, EIR Consultant, and stated that Ms. Henderson would present the staff report.

Ms. Henderson stated that the purpose of the hearing is to receive public comment on the Draft EIR (DEIR) for a proposed project encompassing approximately 52 acres in the vicinity of 3825

Paradise Drive. The proposed development, known as the Alta Robles Project, involves a proposal for the ultimate subdivision of two parcels. Approximately 20.95 acres (SODA) of the site are located within an unincorporated portion of Marin County, within the Town of Tiburon's Sphere of Influence, and approximately 31.26 acres (Rabin) of the site are located within the Town. The project would also entail eventual annexation of the SODA property into the Town.

Ms. Henderson said that the property owner has submitted applications for the Precise Development Plan, annexation, and rezoning. She noted that actual annexation would be acted on by Marin LAFCO who will use the EIR that the Town certifies. Tonight's goal is to receive comments on the DEIR pertaining to its focus, identification of potential project impacts, mitigation development, and identification of project alternatives.

Ms. Henderson summarized the findings of the DEIR, which concentrated on the following areas of potential impact: land use and planning, transportation, air quality, noise, hydrology and water quality, biological resources, geology and soils, public services and utilities, visual quality, and cultural resources. The DEIR identified two areas of significant unavoidable impacts of the project that could not be eliminated or reduced to a less than significant level through the identified mitigation measures. These are 1) that project construction would temporarily increase ambient noise levels in the site vicinity; and 2) that the project as proposed would cause a significant change in the visual quality of the site when viewed from Tiburon's Middle Ridge Open Space. The DEIR also examined the cumulative impacts of this project and several other residential development projects on the Tiburon Peninsula that are in various stages of construction or are under review. Five potentially significant and unavoidable cumulative impacts were identified and relate to traffic on Highway 101 and at the intersection of Tiburon Boulevard and Trestle Glen Boulevard, construction noise, views, and wildlife habitat and connectivity.

Ms. Henderson stated that CEQA requires the EIR to identify alternatives to the project which both reduce potential impacts and meet the project applicant's goals. These alternatives include two, on-site No Project alternatives, potential off-site project locations, and an on-site development alternative which would retain the existing Rabin residence and allow the lower 20.95 acre (SODA) parcel to be developed with 8 residential units under the County's current zoning standards. She said that aside from the No Project/No Build Alternative, the DEIR has identified the on-site development alternative as environmentally superior. Although the significant impacts associated with this alternative would be similar to the proposed project, the inclusion of the proposed revisions would reduce the degree of certain impacts; however, such impacts would remain significant and in need of mitigation measures. She noted that the EIR outlines relatively few project alternatives and attributed this to the extensive surveys and work already put in by the applicant, prior to submitting applications.

Mr. Berman discussed the project's consistency with relevant public plans and policies. He noted that the project is inconsistent with General Plan Goal LU-1 and Policy LU-15 in terms of the project's size and scale relative to existing dwellings in the surrounding area. Homes in the proposed development would range in size from 6,300 to 7,980 square feet, or 1.5 to 2 times the size of existing homes along Hacienda Drive and Acacia Drive. He also noted that the proposed development on lots 4 and 5 would fall within a 50-foot vertical setback from Tiburon Ridge and is, therefore, inconsistent with Policy OSC-11.

Mr. Berman reviewed the DEIR's hydrology analysis, concluding that the project's design capacity could be met by the proposed storm water runoff cisterns and would not adversely affect peak flows to existing culverts under Paradise Drive. He cited 4 special status plant species identified on the project site, with the impacts to Marin Western Flax and Tiburon Buckwheat being of particular concern; however, the proposed mitigations would reduce those impacts to less than significant levels. Of the 261 trees slated for removal for the purpose of grading or erosion repair, 107 qualify as a protected tree under the Town's Tree Ordinance, and that while much of the site's developed existing oak woodland would remain intact, it could be indirectly impacted by future requirements in terms of fire management practices and the creation of defensible space. He noted discrepancies between the applicant's tree replacement recommendation, the preliminary planting plan, and the preliminary planting plan that was submitted with the recommendation. He also noted that the biologist recommends that any goal to replace trees which are removed through site development should be balanced with the importance of maintaining the open grassland habitat.

Mr. Berman discussed the visual impacts identified by the DEIR, which were evaluated from three viewpoints: looking north from Middle Ridge Open Space, looking west from Paradise Drive, and looking east from Acacia Drive. The DEIR concluded that new homes would be visible on 12 of the 13 proposed lots from the Middle Ridge Open Space Viewpoint and that its close proximity to houses on Lots 3, 4, 5, and 6, which have a mostly exposed exterior surface, would be a significant and unavoidable impact.

Mr. Berman stated that the proposed site contains 18 mapped landslides, for which the applicant's geologist has proposed 4 different methods of stabilization: use of compacted filled buttresses, subsurface drainage, retaining structures, and debris fences. He said that these methods, as proposed, are consistent with the Town's Landslide Mitigation Policy.

Mr. Berman closed in stating that he believes the DEIR complies with CEQA requirements and offers decision makers the latitude to select, from the proposed application and identified alternatives, a project that is feasible and achieves the objectives of the applicant.

Ms. Henderson reiterated that the purpose of this hearing is to receive comments which will be addressed in the Final EIR. She advised that comments should focus only on the sufficiency of the DEIR in discussing possible impacts, ways in which these impacts might be minimized and feasible alternatives to the project that would reduce these impacts; comments regarding the merits of the project itself would be inappropriate at this time.

Chair Kunzweiler opened the public hearing for comments on the Draft EIR.

Public Comments:

Judith Thompson said her property abuts the proposed project site. She said that one proposed walking path is situated at the property line and gives way to concerns for her privacy. She said that the other public path can only be accessed through her property, noting that she has granted no easement. She requested that the locations of both paths be reconsidered, out of consideration of impacts to her privacy, light and air.

Eva Buxton said she is a biologist, specializing in botany, and objected to the analysis of impacts on biological resources, specifically the loss of serpentine grass, located within the northern portion of the SODA parcel. She requested that the extreme loss of vegetation be listed as the third significant unavoidable impact. She said that the applicant's surveys were incorrectly timed, incomplete, and failed to accurately map serpentine grassland populations across the site. She noted that Marin Dwarf Flax is categorized as threatened under both state and federal endangered species acts and can be found near Lot 13. She said that when soil disturbance is experienced to the extent that is outlined in the DEIR, the restoration of obliterated native grasslands would be considered extremely costly and ultimately improbable. She expressed concern that surveys were performed over 4 years ago and that surveys should not be performed in August. She requested that additional biological surveys be required, that serpentine grasslands should be accurately mapped on the SODA parcel, that grading boundaries on Lots 10, 11, and 12 are modified to protect more of the native grassland, and that Lot 13 be eliminated from the proposed project to avoid extrication of a large population of Marin Dwarf Flax.

Jan Gullett expressed concern about the extensive grading proposed on Lots 10 through 14. He said all residents on Acacia Drive and many on Hacienda Drive look across the ridge to the bay, a view that would be significantly impacted by the proposed project and the proposed alternatives. He believed that the disparity in lot sizes throughout the project (particularly Lot 1) places the bulk of development in an environmentally precarious location and further increases impacts and it is disingenuous to consider the project in terms of total number of lots relative to total parcel size.

Sandra Swanson four several photographs with the Commission, stating that the DEIR does not contain view photos indicating the proposed project's Middle Ridge view impacts to homes on Seafirth Drive. She requested that the EIR project these viewpoints once the trees have been removed and analyze the data as it pertains to obtrusiveness, noise, air quality, and other impacts. She believes that Lot 14 is missing from the photo. She also asked that the EIR identify the number of trees at risk for indirect removal or decline and provide a breakdown of tree removals per lot. She indicated more trees could be removed for fire mitigation. She said that the calculated community noise equivalent does not account for decibel levels created by chainsaws, augers, and wood chippers and asked that it be recalculated. She read from the DEIR pertaining to mitigation measures for tree loss and erosion repair, said that these impacts cannot be made less than significant, and requested additional project alternatives that relocate home sites further from woodland areas, decrease the number of lots, decrease building envelopes, and increase clustering to minimize all impacts.

Doug Woodram echoed Ms. Swanson's comments. He suggested a project alternative that allows for fewer total homes, develops both parcels, and increases tree mitigation measures. He said there is opportunity for a middle ground solution that meets the goals of the applicant while reducing unavoidable significant impacts.

Norman Traeger said he lives directly below the Rabin parcel, cited several neighboring properties in various stages of development planning, and said he will feel the impacts of each one every time he leaves his home. He reviewed the identified impacts, stating that each is temporary and unavoidable or a product of progress and therefore, unavoidable. Several incredibly large homes have already been built on the ridgeline and these are the product of poor planning in years past; however, he said this proposal is thoughtful and carefully designed to minimize impacts.

Jahan Sedaghatfar, licensed architect and planner, said he has watched this beautiful town follow a poorly developed path of progress, he requested a third party review of the DEIR and asked that the number and size of homes be further limited. He said that mitigation is an academic word and urged a design that creates fewer impacts.

Robert Swanson complimented Mr. Berman on a comprehensive and scholarly DEIR. He cited “progress” within the Town which has, in his opinion, diminished the quality of life for residents. While this project does not significantly add to the cumulative effect, those impacts have not been addressed to his satisfaction. He said that the majority of proposed home sites encroach upon significant ridgelines. He acknowledged the DEIR analysis of those impacts from certain vantage points, but requested that it do the same from the position of San Francisco Bay, as well. He also asked the EIR to account for the visual impacts of proposed retaining walls and loss of trees on the Sorokko site, which screen the entire area. He advised that all EIRs should provide better mitigation definition, a more comprehensive approach towards cumulative impacts, and better resolution of significant unavoidable impacts.

Anne Norman requested that quality of life impacts, which are significant, be discussed in the EIR.

Kenneth Marks stated that building his own home on Paradise Drive cost him 11 years, several lawsuits, and considerable money and he said this applicant seems to be in a similar situation. He indicated that the only way to develop here is with significant costs and Tiburon has grown into a town that he does not like anymore.

Randy Greenberg discussed the proposed project’s excavation, stating that the DEIR lacks discussion and mitigation measures in this area. She said that the document appears to accept extensive grading as a given and operates on the assumption that this grading is a Town requirement and is therefore, not an impact. She asked that this be rectified. She said that the extensive grading requirements are the result of too many units and poor placement relative to the entire project site. She requested that the EIR provide mitigation in the form of reduced grading for landslide repair, as well as an alternative which avoids at least a portion of the sites requiring this repair. She questioned the adequacy of the proposed alternatives, noting that the preferred Alternative 3 requires all of the same mitigation measures required by the proposed project and does not lessen any of the impacts. She asked that the EIR provide a reduced density alternative and argued that Alternative 2 relies on County zoning standards that do not apply to this parcel.

Chair Kunzweiler closed the public comment period.

Vice-Chair Fraser said that when he first visited the project site, he saw a beautiful piece of land with excellent views and the opportunity for development. The DEIR, which was well crafted, has left him disappointed with the project’s impacts on the site itself and the surrounding area. He questioned the lack of alternatives provided by the DEIR and concurred with Ms. Greenberg that the assumption of the high end use of County zoning density for Alternative 2 is unrealistic. He struggled with the concept that all identified mitigations are based on a project which encroaches upon ridgelines and significantly impacts existing landscape, vegetation, and hydrology. He shared particular concern that the identified mitigations would be insufficient to

restore land that has been so significantly disrupted. The project should be also designed to protect open space.

Vice-Chair Fraser requested more depth and research on possible mitigations. He noted that miscellaneous site issues with respect to slope, grading, and slides are left up to the individual who purchases the site and therefore are not accurately accounted for in the cumulative impacts. He disagreed with the DEIR findings which determined land use issues, as they relate to the General Plan, were mitigated to less than significant levels. He said the DEIR is flawed and fails to identify appropriate means and mitigation measures for developing a property with significant natural resources, numerous ridgelines, and 18 landslides. He disagreed with the DEIR findings regarding consistency with the General Plan in both land use and open space issues.

Commissioner Corcoran said that many of the identified issues directly relate to the proposed size of the homes. He said that the DEIR could be helpful in suggesting alternative lot placements, particularly for Lots 4-6 and 12-14, which would decrease certain impacts on views and the ridgeline. He suggested a fourth alternative that combines Alternatives 2 and 3 by reducing the number of homes, relocating and/or removing specific problem lots, and clustering lots. He also asked that the alternative reduce the number of homes (perhaps to 11) and the square footage of proposed homes as well as the number of trees removed.

Vice-Chair Fraser discussed neighborhood harmony, noting that the proposed homes are nearly double the size of those on Hacienda Drive and at least 36% larger than homes on Acacia Drive.

Commissioner Frymier said she visited the project site and attempted to envision it relative to the Town 20 years ago when new development was taking place throughout the peninsula. She acknowledged the comments shared by the public but advised that any new project in this community is almost considered guilty until proven innocent. She said that she found the maps difficult to read and cumbersome, especially with respect to the proposed alternatives. She believes the DEIR should better articulate how entryways ended up where they are. She is concerned with fences and retaining walls. She believes that the alternatives seem to present their own environmental threat, the entire document lacks perspective from inbound water views, and that the cumulative impacts on transportation were not well covered. She voiced concern over ridgeline encroachment and requested that the comments of Ms. Buxton be incorporated into the report. She closed by stating that the construction schedule should be more specific and that ultimately, the homes feel too large for the project.

Chair Kunzweiler echoed the comments of Vice-Chair Fraser, stating that the project began with a well-developed assumption of 13 new homes on a relatively large parcel and has been significantly challenged by features such as ridgelines, landslides, and protected species. He acknowledged that the Town has strict landslide management guidelines but said that they are relevant to the impact in and around proposed houses and only require remediation to the extent that is dictated by structure placement. He requested one or two project alternatives that would provide a better understanding of the differences, pros, and cons between each alternative. He advised that these alternatives should include different schematics in terms of site location, road placement, home size, and grading and should focus on what will best suit the property rather than a set number of homes.

Chair Kunzweiler said that the property's entrance could be better considered as he is confused as to the design of the road and voiced concern with its placement on what is now the fire road.

He also voiced concern with the potential for a 120-foot long retaining wall fronting Paradise Drive and said it makes the argument for neighborhood compatibility challenging. He also requested more specificity regarding the project's construction time, cited a backlog of approved, large scale projects and stated that the County and Town need to have better understanding of the related cumulative construction impacts. Also, the mitigation measure for road degradation was vague and meaningless. He also cited several mitigation measures which were almost contradictory to what was being mitigated. He also expressed concern with views as well as sight lines along Paradise Drive.

Chair Kunzweiler said that the DEIR's fundamental challenge relates to consistency with the Town's General Plan. He noted that the document determined the project to be remarkably consistent with the plan's Land Use Element and he disagrees with approximately 80% of those findings, stating that they operate on a flawed assumption. He explained that a project's features cannot be considered consistent if they are optional. He advised against determining that mitigations are acceptable simply by virtue of being required, concurred with Commissioner Frymier's assessment of the maps, he feels they are too small, the angles are inconsistent and not all walls are shown. He encouraged visual analysis from other viewpoints, including from Seafirth and upper areas.

2. INTRODUCTION AND OVERVIEW OF COMPREHENSIVE REFORMATTING AND TEXT AMENDMENTS TO THE TIBURON ZONING ORDINANCE; FILE #MCA 2008-09; CONTINUED FROM SEPTEMBER 9, 2009

ACTION: It was M/S (Fraser/Corcoran) to continue the hearing without discussion to October 14, 2009. Motion carried: 4-0.

MINUTES:

3. PLANNING COMMISSION MINUTES – Regular Meeting of September 9, 2009

ACTION: It was M/S (Corcoran/Fraser) to approve the minutes of September 9, 2009 as submitted. Motion carried: 4-0.

ADJOURNMENT:

The Planning Commission adjourned the meeting at 9:23 p.m.

JOHN KUNZWEILER, CHAIRMAN

ATTEST:

SCOTT ANDERSON, SECRETARY