



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

Action Minutes - Regular Meeting
Tiburon Planning Commission
October 28, 2009 – 7:30 PM

ACTION MINUTES

TIBURON PLANNING COMMISSION

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

Present: Chairman Kunzweiler, Commissioner Corcoran, Commissioner Frymier,
Commissioner O'Donnell

Absent: Vice Chairman Fraser,

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.

COMMISSION AND STAFF BRIEFING

Commission and Committee Reports
Director's Report

PUBLIC HEARING

1. REVIEW OF COMPREHENSIVE REFORMATTING AND TEXT AMENDMENTS TO THE TIBURON ZONING ORDINANCE; FILE #MCA 2008-09 [DW] (**Continued from October 14, 2009**) *Continued to November 11, 2009*

MINUTES

2. PLANNING COMMISSION MINUTES – Regular Meeting of October 14, 2009
Approved As Amended

ADJOURNMENT *At 9:40 PM*

PLANNING COMMISSION
APPROVED MINUTES NO. 990
October 28, 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, Frymier, and O'Donnell

Absent: Vice-Chair Fraser

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

ORAL COMMUNICATIONS: None

COMMISSION AND STAFF BRIEFING: None

PUBLIC HEARING:

1. REVIEW OF COMPREHENSIVE REFORMATTING AND TEXT AMENDMENTS TO THE TIBURON ZONING ORDINANCE; FILE #MCA 2008-09 (Continued from October 14, 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 Commission reviewed Article III at the July 22, 2009 meeting. The Commission reviewed Article IV and a portion of Article V at the August 26, 2009 meeting. The Commission reviewed the remainder of Article V and a portion of Article VI at the September 9, 2009 meeting. The Commissioner reviewed the remainder of Article VI and Articles VII, VIII & IX at the October 14, 2009 meeting. The hearing was then continued to the October 28 meeting.

Commissioners provided various corrections and minor wording changes. Staff explained that the language of some definitions is taken directly from California code and is therefore inadvisable to alter. They discussed the following sections in greater detail for the purpose of clarification and/or further amendment:

ARTICLE X

Section 16-100.020 – Definitions of Specialized Terms and Phrases

Commissioner Frymier requested that this section include definitions for various acronyms used in the planning process. Planning Manager Watrous explained that the majority of CEQA-related acronyms are not used in the Zoning Ordinance and are therefore not defined. He offered to review the ordinance for undefined acronyms.

Affordable Housing

Commissioner Corcoran noted that the definition of “applicant” under affordable housing differs from the standard definition of the same.

Chair Kunzweiler said that, in the strict context of affordable housing, an applicant may be deemed to be something different than in other contexts. He said that crafting a definition to address more than one context may be difficult.

Director of Community Development Anderson said that the traditional language used for offering multiple definitions for the same word would be, “...for the purposes of...” He offered to do the same with any words defined more than once in this section.

Commissioner Corcoran said that, for practical purposes, people who are unfamiliar with the Zoning Ordinance would naturally tend to search for words alphabetically; while they would find a definition for “applicant” under the “a” section, it might not be the definition that applied to them. He noted that the definition for dwelling unit is also different in the context of affordable housing. Staff agreed to make these definitions consistent.

The Commission discussed dispersing duplicate definitions throughout the section rather than categorizing them. A consensus was reached to disperse the definitions, with the exception of the larger category of “affordable housing.” The Commission accepted staff’s direction to regroup those definitions under the chapter heading, “inclusionary housing.”

Commissioner Corcoran requested that a definition for “affordable housing” direct readers to see “inclusionary housing.”

Agriculture

Commissioner O’Donnell requested that the definition end, “however, not to include a typical household garden.”

Commissioner Corcoran cited several animals listed under both “agriculture” and “animals: small,” noted that certain zones allow for one use but not the other, and requested clarification. Mr. Anderson explained that agricultural activity requires a use permit in nearly every zone and that some animals require a use permit under any circumstances, as spelled out by the Town’s Animal Ordinance. Mr. Watrous noted that the two terms address different purposes.

Automatic Teller Machine (ATM)

Chair Kunzweiler recommended that the last sentence of the definition be deleted.

Attic

Chair Kunzweiler requested the definition of entablature. Mr. Anderson said it is the triangle formed by the peak of a roof.

Basement or below-grade story

Commissioner O'Donnell said that basements versus below grade stories have been a somewhat controversial issue and noted that the Town's Hillside Guidelines encourage homes to be buried into hills, often leaving a large space that some would argue is floor area.

Mr. Watrous explained that a basement, by definition, would require a maximum height of 7 feet from the dirt level to the floor above it. He said that the more controversial issues involved requests to build in enormous crawl spaces on homes that were already at the maximum floor are allowed. He noted that the criteria for a below-grade story are actually very different.

Boarding House

Commissioner O'Donnell requested explanation of the "4 or more persons" minimum.

Mr. Watrous said it was part of the existing definition and he agreed to remove the numerical stipulation if an appropriate reference could not be identified. After review, Mr. Anderson explained that one boarder is considered a normal use in single-family home. He amended the definition to stipulate 2 or more persons.

California Building Code

Commissioner Corcoran requested clarification on this term. Mr. Anderson explained that each jurisdiction adopts the California Building Code and makes changes to it as necessary; this term refers to Tiburon's version of the California Building Code.

Carport

Commissioner O'Donnell requested that the term "or bicycles" be deleted.

Commissioner O'Donnell requested that staff add a definition of "borrowed view." Mr. Watrous said that the term is not specifically used in the Zoning Ordinance, and that a number of terms like that are spelled out in the Hillside Guidelines.

Child Day-Care Center

Chair Kunzweiler read the definition of "large family day-care home" and noted that there are no delimiters listed, such as those that apply to small family day-care homes. Mr. Anderson explained that the qualifications for small family day-care homes are set forth by the state and any operations which do not satisfy those requirements would be automatically deemed large family day-care. He recommended the addition of similar language to the definition.

Commissioner O'Donnell noted that neither child-day care center or child day-care facilities provide a definition for preschool operations like Hawthorne Nursery School or Kol Shofar Pre-School. Mr. Anderson explained that both are considered child day-care centers under state law.

Commissioner Corcoran requested that an introductory sentence be added to this section stating that "there are two categories of child day-care facilities."

Conditions, Covenants, and Restrictions (CC&Rs)

Citing occasional conflicts between Town guidelines and CC&Rs, Commissioner O'Donnell recommended stronger language. He noted that some CC&Rs are archaic and perhaps written in a way that the Town may not agree with. Mr. Anderson explained that, while the Town is a third party beneficiary of CC&Rs, it is not actually a member and has a fairly limited role. He said that the Town is not bound to enforce old CC&Rs but that all newer ones are reviewed and approved by the Town before signing off. He suggested additional language to further protect the interests of the Town that would state "and expressly authorized by the Town."

Dock

Commissioner Corcoran requested that the phrase "or other water-related craft" be added to the end of this definition.

Floor Area Ratio (FAR)

Commissioner O'Donnell inquired as to the genesis of the Town's determination of FAR, noting that some jurisdictions include garage space in FAR and others do not. Mr. Watrous said that each jurisdiction is unique and attempts to determine which method will best suit their goals. He explained that the Town's method encourages owners to build garages rather than leaving their vehicles parked outdoors.

Chair Kunzweiler asked if floor area is required to have a floor. Mr. Watrous said no, explaining that floor area is intended to guide the mass and bulk of a building. He provided the example of a structure propped up against a mass of crawl space, which may not have a floor but would add to the visual bulk and mass.

Garage

Commissioner O'Donnell noted that a garage is defined as a space used for autos but said that today's reality does not necessarily support that. Mr. Anderson clarified that the definition states "designed for autos." He explained that while the space may not be used for autos, the space would still be required to have garage doors and be conditioned differently than a residence.

General Plan

Commissioner Frymier suggested that the term "General Plan" be changed to "plan" within this definition.

Guesthouse

Chair Kunzweiler read the definition and requested clarification on the ability or inability to dwell in a guesthouse. Mr. Anderson explained that a guest dwelling unit would be like any other secondary unit, whereas a guesthouse is essentially sleeping quarters with a bathroom.

Household Pet

Chair Kunzweiler suggested that the term “house” be changed to “dwelling.”

Improved Parking Surface

Commissioner O’Donnell asked that the term “pavers” be included.

Kitchen

Chair Kunzweiler requested clarification, asking if any space with a sink and microwave is considered a kitchen. Mr. Watrous directed him to the definition for “wet bar.” He explained that anything not meeting the definition of a wet bar, but with two or more of the listed items (sink, microwave, and food storage), is a kitchen.

Natural Resource

Commissioner Corcoran requested that the term “bays” be added to this definition.

Open Space

Commissioner Frymier noted that neither public nor private open space is defined. Mr. Watrous explained that the definitions of both are commonly spelled out in precise development plans (PDP). He said that the terms do not seem to be used in the Zoning Ordinance. He explained that the intent of the ordinance’s open space definition is very broad and can be used for both. He also explained that open space requirements are spelled out in the General Plan, not the Zoning Ordinance.

Paved Areas

Chair Kunzweiler requested that the definition be revised to simply begin “Hardscape that includes...”

Commissioner Frymier requested that a definition be included for “Permit, conditional use” that states “See conditional use permit.”

Religious Places of Worship

Commissioner Corcoran recommended deletion of the last sentence, noting that it does not include a definition, only examples of what it is not. Mr. Anderson explained that the language was borrowed from the county’s code as it makes a nice distinction between secondary places of worship and other enterprises commonly owned by religious institutions.

Seasonal Rental Unit

Commissioner O’Donnell disagreed with the 31-day limit on seasonal rentals. He noted that the term seasonal would suggest the ability to rent a home out for a full season and recommended the limit be increased to 60 or 90 days. Mr. Watrous advised the Commission that the subject is due back for review at the next meeting.

Secondary Dwelling Unit

Commissioner Corcoran requested that an introductory phrase be included before the list of terms in this definition.

Street Line

Commissioner O'Donnell said that many properties do not extend to the street line and requested staff to consider language pertaining to accessory easements. Mr. Anderson said that those easements are a right-of-way line. He explained that the definition states that the street line shall be the right of way line. Mr. Watrous added that some property lines do the opposite and extend into the street. He explained that those also contain a right-of-way that would move the street line back from the property line.

Supportive Housing

Commissioner Corcoran requested that a better term be found for “the target population.”

Mr. Watrous introduced the list of definitions to be added to the draft ordinance. He explained that some are truly new while others were deleted as part of the draft and staff is now recommending reinstatement.

Kennel

Commissioner O'Donnell asked why the definition quantifies the number of dogs or cats. Mr. Anderson said this is essentially an enforcement tool for residential uses with too many pets.

Outdoor Display

Commissioner O'Donnell requested clarification, stating that sculptures could technically qualify as outdoor display. Mr. Watrous directed him to the intent of the term and explained that it is primarily aimed at enforcement against any display, sculpture included, which is used for the purpose of advertisement.

Play Equipment

Commissioner Corcoran recommended changing “basketball standards” to “basketball hoops” in the list of subject items. Mr. Watrous stated that no permits are required to install a hoop on the back of a structure, but erection of a separate standard and pole would.

Play Structure

Commissioner Corcoran cited previous trouble with portable play structures and recommend that their size be limited. Mr. Watrous said that as long as the structure does not meet this definition and require a building permit, staff does not get involved.

Commissioner O'Donnell asked about structures which are so large that they must be sunk in concrete. Mr. Anderson said that would automatically eliminate it from portability and would trigger the need for a permit.

Referring to the clustered definitions discussed earlier, Mr. Watrous recommended a similar approach for definitions pertaining to wireless facilities. He also recommended that the

Commission continue the item to the November 11th meeting, at which staff would return with further review of any unresolved issues. Mr. Anderson said the Commission would then be asked to review and recommend the final draft to the Town Council for adoption.

ACTION: It was M/S (O'Donnell/Frymier) to continue the hearing to November 11, 2009. Motion carried: 4-0.

MINUTES:

2. PLANNING COMMISSION MINUTES – Regular Meeting of October 14, 2009

Chair Kunzweiler requested the following corrections to the minutes:

- Page 4, 5th paragraph: “Chair Kunzweiler said that the ~~property~~ **pool** within the ~~existing~~ **original** envelope...”
- Page 6, 6th paragraph: “Chair Kunzweiler said that government communication traditionally comes by mail but that he could ~~perhaps~~ support additional email notification.”

Commissioner O'Donnell requested the following correction to the minutes:

- Page 10, 2nd paragraph: “**Commissioner O'Donnell noted** that there is discussion...”

ACTION: It was M/S (O'Donnell/Frymier) to approve the minutes of October 14, 2009, as amended. Motion carried: 4-0.

ADJOURNMENT:

The Planning Commission adjourned the meeting at 9:40 p.m.

JOHN KUNZWEILER, CHAIRMAN

ATTEST:

SCOTT ANDERSON, SECRETARY