



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

Action and Approved Minutes - Regular Meeting
Tiburon Planning Commission
November 11, 2009

ACTION MINUTES

TIBURON PLANNING COMMISSION

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

Chairman Kunzweiler, Vice Chairman Fraser, Commissioner Corcoran, Commissioner Frymier, Commissioner O'Donnell *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
Cancellation of November 25 and December 23, 2009 meetings

PUBLIC HEARING

1. REVIEW OF COMPREHENSIVE REFORMATTING AND TEXT AMENDMENTS TO THE TIBURON ZONING ORDINANCE; FILE #MCA 2008-09 [DW] (Continued from October 28, 2009) *Recommended Approval to Town Council (5-0)*

MINUTES

2. PLANNING COMMISSION MINUTES – Regular Meeting of October 28, 2009 *Approved as Amended (5-0)*

ADJOURNMENT *at 8:30 PM*

PLANNING COMMISSION
APPROVED MINUTES NO. 991
November 11, 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: Chairman Kunzweiler, Vice-Chairman Fraser, Commissioners Corcoran, Frymier, and O'Donnell

Absent: None

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

ORAL COMMUNICATIONS: None

COMMISSION AND STAFF BRIEFING:

Director of Community Development Anderson said this is the last meeting of this particular group of Commissioners. He stated that the next Commission meeting is cancelled due to the Thanksgiving holiday and the December 23 meeting will also be cancelled.

PUBLIC HEARING:

1. REVIEW OF COMPREHENSIVE REFORMATTING AND TEXT AMENDMENTS TO THE TIBURON ZONING ORDINANCE; FILE #MCA 2008-09 [DW] (Continued from October 28, 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, Article III at the July 22, 2009 meeting, Article IV and a portion of Article V at the August 26, 2009 meeting, and 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 and Article X (Definitions) at the October 28, 2009 meeting. The hearing was then continued to the November 11 meeting for review of any unresolved or outstanding issues related to the Zoning Ordinance update.

Chair Kunzweiler explained that the Zoning Ordinance is a living document, and that on-going amendment, changes, and corrections are to be expected in a document of this scope.

Commissioners provided various corrections and minor wording changes. The following were discussed for the purposes of clarification and/or further amendment:

Section 16-40-040 – Seasonal Rental Unit

Commissioner Corcoran said he was still not satisfied with the definition of “seasonal rental unit” as written. He said he researched the definitions employed by other cities, found each to be imperfect in its own way, and suggested that the scope of inclusion be limited to rentals over 31 days in duration.

Commissioner O’Donnell noted that staff recommends that the phrase “on a repeated basis” be added to the definition, to read:

“A dwelling unit that is rented out on a repeated basis for less than 31 consecutive days, or is advertised to be rented for any period less than 31 days.”

Commissioner O’Donnell supported the addition, stating that it creates a distinction between commercial rental activities and an individual homeowner renting out his home for a finite period of time.

Planning Manager Watrous explained that it can be difficult to craft a definition that is both simple enough for a reasonable person to understand and broad enough to address all of the necessary points. He assured the Commission that there will be an opportunity for further revision if these provisions prove inadequate to the task.

Chair Kunzweiler asked if a business license would be required to rent his home out for one year. Mr. Watrous said no, explaining that the requirement applies to seasonal rentals only, whose constant turnover is often more disruptive to neighborhoods. He said that a longer term of one year would not carry the same impacts.

Commissioner Corcoran said that the revisions also address his previous concerns regarding the advertisement of such rentals. He requested that language regarding repeated advertisement be added as well. Chair Kunzweiler suggested substituting “advertised” with “marketed.” Commissioner Corcoran rescinded his request.

Section 16-56.040 – Legal Remedies

Mr. Watrous reviewed the changes the Town Attorney recommended to both Section 16-56.040 (Legal Remedies) and Section 16-64.080 (Indemnification).

Commissioner Corcoran requested a definition of “person” that includes businesses or legal entities and the Commission offered its support.

Section 16-50.070 – Story Poles

Commissioner O’Donnell requested confirmation that projects coming before the Design Review Board or Planning Commission are required to have story poles certified for accuracy by a surveyor. Mr. Watrous explained that the surveyor certification requirement applies only to new structures, not additions.

Commissioner Frymier recalled that the Design Review Board has heard several addition projects with story poles. Mr. Watrous said that those story poles were not required to be certified by a surveyor. He noted that in the rare instance where the validity of story poles is questioned, the Design Review Board has the authority to require surveyor certification.

Commissioner O'Donnell noted that recertification is not required in instances of modification or appeal and asked if that becomes problematic. Mr. Watrous explained that the story pole placement was certified for the initial hearing process.

Commissioner O'Donnell explained that he was referring to instances where the story poles are modified to bring a project more in line with neighbors' expectations or as a condition of approval. Mr. Watrous confirmed that modified story poles on new buildings do require recertification. He acknowledged that there is a sort of gap in the current language and suggested the following addition: "Story poles reflecting modifications to a project proposing new residential or new commercial buildings shall be re-certified, consistent with the provisions of Subsection D."

Chair Kunzweiler recalled difficulties with projects as a result of story poles not being erected in a timely fashion. He requested that a deadline, such as one week prior to the next hearing date, be added to this section. Mr. Watrous explained that story pole certification may be submitted up to the start of the hearing on the item. He said that in instances where it is not provided in a timely fashion, the item can be continued; although he noted that if a project creates no issues or controversy, the Board could choose to approve the project subject to later certification.

Section 16-23.020 – Purposes of Overlay Zones

Vice-Chair Fraser requested clarification on the term "substantial" in the context of subsection B. Mr. Watrous explained that affordable housing overlays contain varying standards, and that substantial indicates a noticeable portion of the project. Mr. Anderson added that, for the purpose of introduction, the term is intentionally generic and that later sections go into greater detail on specific percentages of affordable units required.

Commissioner Frymier approved of how Indemnification and Inclusionary Housing were addressed by staff but said she still considered "conditional use permit" to be inadequately defined for the average person. Mr. Watrous explained that the definition pertains more to what a "conditional use" is, while a "conditional use permit" is the permit required for that use. He directed her to the zoning tables to determine which uses are conditionally allowed in specific locations.

The Commission generally agreed that the tables provided do adequately address the topic.

Mr. Anderson provided a reading of the county's definition, which the Commission agreed was more comprehensive and should be tailored to fit in the Town's ordinance.

ARTICLE VI (Zoning Ordinance Administration)

Commissioner O'Donnell said he feels strongly that there should be changes to the Town's policy on hearings that may involve a conflict of interest on the part of the deciding body. He cited several instances where more than one Commissioner has had a conflict and, in order to maintain a quorum, a straw lottery was used to determine which Commissioners would hear the item. He said he felt strongly that it puts both the selected Commissioner and the public in an

awkward position and raises questions on overall fairness. He noted that several past issues like this have been resolved by substituting those positions with a member of the Design Review Board or Town Council, which was a very sensible and sensitive way to handle it.

Mr. Watrous said this is not a procedure contained within the Zoning Ordinance, but is a policy issue within the purview of the Town Council to address. The Commission recommended that the Town Council review the current procedure.

Section 16-50.050 – Initial Application Review

Mr. Watrous noted that pursuant to state law, an appeals process for applicants has been added for staff-level application completeness determinations.

Commissioner Corcoran confirmed that a member of the public or an applicant has five business days to appeal the decision and asked how that information is dispersed. Mr. Watrous explained that the burden of obtaining information on a ruling lies with those concerned with the project. He said that most cities do not send out action notices but do include information on the appeals process with a project's informational packet. Mr. Anderson added that interested persons routinely phone to ask about the status of decisions on staff-level applications.

ACTION: It was M/S (Corcoran/Fraser) to direct staff to incorporate the revisions to the draft text of the ordinance and adopt the resolution recommending that the Town Council adopt the Comprehensive Reformatting and Text Amendments to the Tiburon Zoning Ordinance. Motion carried: 5-0.

MINUTES:

2. PLANNING COMMISSION MINUTES – Regular Meeting of October 28, 2009

Commissioner Corcoran requested the following amendment to the minutes:

- Page 6, last paragraph – “Commissioner Corcoran recommended ~~including~~ **changing “basketball standards”** to basketball hoops in the list of subject items.”

ACTION: It was M/S (Corcoran/Frymier) to adopt the minutes of October 28, 2009, as amended. Motion carried: 5-0.

Chair Kunzweiler thanked Commissioners Fraser and O'Donnell for their leadership and said that working with both has been an absolute joy for him.

Commissioner Corcoran said he enjoyed learning from both and is glad to see them continuing to serve the Town, albeit in a different capacity.

ADJOURNMENT:

The Planning Commission adjourned the meeting at 8:31 p.m.

JOHN KUNZWEILER, CHAIRMAN
TIBURON PLANNING COMMISSION

ATTEST:

SCOTT ANDERSON, SECRETARY