



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

Action and Approved Minutes – Regular Meeting
Tiburon Planning Commission
February 10, 2010 – 7:30 PM

ACTION MINUTES

TIBURON PLANNING COMMISSION

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

Chairman Kunzweiler, Commissioner Corcoran, Commissioner Doyle, Commissioner Frymier, Commissioner Tollini **All Commissioners Present**

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 **There were None**

Commission and Committee Reports
Director's Report

ELECTION OF VICE CHAIR **Commissioner Frymier Elected (5-0)**

PUBLIC HEARING

1. 700 TIBURON BOULEVARD: CONDIITONAL USE PERMIT FOR THE INSTALLATION AND OPERATION OF A CO-LOCATED WIRELESS COMMUNICATIONS FACILITY; FILE #10904; Belvedere Tennis Club, Owner, WesTower Communications for Clearwire (Clear Wireless L.L.C.), Applicant; Assessor's Parcel No. 055-201-36 [SA] **Approved with Conditions (5-0)**

DISCUSSION ITEM

2. 700 TIBURON BOULEVARD: ANNUAL REVIEW OF A CONDITIONAL USE PERMIT TO EXPAND A PRIVATE RECREATIONAL FACILITY (BELVEDERE TENNIS CLUB), FILE #10503; Assessor's Parcel No. 055-201-36 [SA] **Use Found in Compliance with CUP (5-0)**

MINUTES

4. PLANNING COMMISSION MINUTES – Regular Meeting of January 13, 2010
Adopted as Amended (5-0)

ADJOURNMENT At 8:33 PM

PLANNING COMMISSION
APPROVED MINUTES NO. 993
February 10, 2010
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, Doyle, Frymier, and Tollini

Absent: None

Staff Present: Director of Community Development Anderson and Minutes Clerk Levison

ORAL COMMUNICATIONS: None

COMMISSION AND STAFF BRIEFING:

Director of Community Development Anderson welcomed Commissioners Doyle and Tollini as new Commissioners. He stated that the Alta Robles EIR hearing is scheduled for February 24, 2010.

ELECTION OF VICE CHAIR:

Chairman Kunzweiler opened the floor to nominations. Commissioner Corcoran nominated Commissioner Frymier for Vice Chair and there were no other nominations. The Commission voted 5-0 to elect Commissioner Frymier as Vice Chair.

PUBLIC HEARING:

- 1. 700 TIBURON BOULEVARD: CONDITIONAL USE PERMIT FOR THE INSTALLATION AND OPERATION OF A CO-LOCATED WIRELESS COMMUNICATIONS FACILITY; FILE #10904; Belvedere Tennis Club, Owner; WesTower Communications for Clearwire (Clear Wireless L.L.C.), Applicant; Assessor's Parcel No. 055-201-36**

Mr. Anderson presented the staff report, stating that Clearwire has submitted an application for a conditional use permit to install and operate a co-located wireless communications facility (WCF) on property located at 700 Tiburon Boulevard (the Belvedere Tennis Club). The WCF would consist of installing antennas, microwave dishes, remote radio units, and an equipment cabinet inside an existing detached shed building on the property. A new “false roof” would be added to the top of the shed to create the space needed to conceal the WCF equipment. A small Global Positioning System antenna would be installed behind the shed as well. The facility would be used for broadband wireless network services, also called WIMAX. This type of technology turns the entire coverage area into a broadband wireless internet-served area, whether it is accessed from a home, office, or vehicle. The facility would be co-located on the site with an existing Sprint WCF facility, which has equipment located in a separate shed approximately 70 feet to the south, separated by a tennis court, and has antennas located to the north of the proposed facility.

Clearwire is a new wireless communications entrant to the Tiburon Peninsula. This facility is part of a series of five installations proposed to provide service coverage for portions of the surrounding Peninsula vicinity. The proposed sites include one site in Strawberry, one site in Eagle Rock, and three sites in Tiburon. The Planning Commission has previously approved the other two Tiburon sites, and the County applications are scheduled to be acted upon in the next month or so.

The Belvedere Tennis Club has been used as a WCF site since 2000, when the Town approved a Nextel (now Sprint/Nextel) facility. The Sprint WCF permit was reviewed in 2002 and again in 2007 and is in good standing. No public comments in opposition were received during either renewal hearing and the Town is not aware of any problems or complaints regarding the Sprint facility.

It appears to staff that the proposed wireless communications facility would be consistent with the Town’s WCF Standards. The facility would have very low visual impacts and would comply with FCC standards regulating RF emissions. The applicant submitted a radio frequency report evaluating the proposed facility’s compliance with applicable FCC standards, including measurements of the Sprint facility already on site and predictive modeling for the operation of the existing and proposed facilities. The report indicated that the combined operation of the Sprint and Clearwire antennas would not exceed 28% of the FCC public limit anywhere at ground level and would be less than 1% at the nearest second-floor residential units. The false roof concealing the WCF antennas would not appear to intrude on any important views from surrounding properties, based on story poles and photo simulations. Staff has provided a 600-foot plus notification area to alert residents to the potential for view obstruction, but has received no calls or contacts regarding view blockage concerns.

Staff recommended that the Commission accept public testimony and approve the project subject to conditions contained in the staff report.

Ryan Elias-Berg, Clearwire, said his company worked closely with Belvedere Tennis Club to minimize any design impacts and he fully supports the staff recommendation.

Commissioner Corcoran asked if any consideration was given to alternative sites that would not create view obstructions from surrounding properties. Mr. Elias-Berg stated that the existing

tennis court light poles, which Sprint equipment is located on, were not available for this installation. This was one of the few non-residential sites within Clearwire's search range, and he feels it is the most suitable location.

Commissioner Corcoran asked if the site would function as well if installed at a lower height. Mr. Elias-Berg stated that this is the minimum acceptable height that would allow the microwave dishes a clear line of sight to other antennas.

Commissioner Corcoran inquired about EMF emissions on either side of the installation, particularly on the multi-use pathway. Bill Hammett, Hammett & Edison, said the proposal calls for two antennas serving areas on either side if the multi-use pathway and levels are lower at the pathway because the antennas are not directly aimed at that location.

Chair Kunzweiler opened the public hearing.

Public Comments:

John Hermansky stated that he lives directly across from the Belvedere Tennis Club. He noted that the Club is required to keep the bordering eucalyptus hedge trimmed to specific heights and that is the standard he is accustomed to using in terms of the height of any new structures. The proposed equipment enclosure exceeds that height and he asked that the ordinance be respected. He appreciated Commissioner Corcoran's questions, acknowledged Mr. Elias-Berg's explanations, and stated that this is the limit of what he could accept in terms of view obstruction and pollution and would begin to protest any additional facilities which would exceed the height of that hedge.

Mr. Elias-Berg said he appreciates the residents' concerns and assured the Commission he worked diligently to minimize the structure's height and any resulting impacts.

Chair Kunzweiler closed the public hearing.

Vice-Chair Frymier said the issue of design is key to residents along Hawthorne Drive and across Tiburon Boulevard. She said the Commission discussed the details of the Clearwire network for the peninsula, including the Town's WCF Standards and FCC exposure limits, at its last meeting. She supports the Commission's previous action as well as this portion of the project.

Commissioner Corcoran said he would love to see the installation elsewhere on the site if at all possible. He suggested that if the applicant were to relocate the equipment closer to Tiburon Boulevard and on the opposite side of the pool, it may provide improved communication angles for equipment and eliminate any competition with views of nearby residents. He cautioned against "creeping" view impacts which can seem relatively insignificant until enough are present to render the cumulative impact obtrusive. He said it is wonderful for the Town to have been selected by Clearwire. He believes the overall proposal to be reasonable, and could support the application as proposed if the rest of the Commission concurred.

Commissioner Tollini shared Commissioner Corcoran's and Mr. Hermansky's concerns that future requests could ultimately yield significant view impacts to this area. She said this singular impact is not an issue for her but requested that it be closely watched.

Commissioner Doyle concurred and recalled that when reconstruction of the Club was approved, the Design Review Board did request that the health club roof be reduced in height in order to retain neighbor's views. He said the applicant seems to have selected the most appropriate location given the restrictions associated with such a project, although he wished there were a way to eliminate all view impacts.

Chair Kunzweiler echoed the concerns and observations shared by all Commissioners. He stated that the Town's WCF Standards provide significant restrictions in terms of offering this sort of service, all of which the applicant has complied with. He thought relocating the installation would create a new set of issues, said the true goal is to balance public safety with public need, and said he could accept the proposal, as submitted.

ACTION: It was M/S (Corcoran/Doyle) to adopt the resolution granting the conditional use permit for the installation and operation of a co-located wireless communications facility at 700 Tiburon Boulevard. Motion carried: 5-0.

DISCUSSION ITEM

2. 700 TIBURON BOULEVARD: ANNUAL REVIEW OF A CONDITIONAL USE PERMIT TO EXPAND A PRIVATE RECREATIONAL FACILITY (BELVEDERE TENNIS CLUB), FILE #10503; Assessor's Parcel No. 055-201-36

Mr. Anderson presented the staff report, stating that on March 8, 2006, the Planning Commission adopted Resolution No. 2006-07 approving a conditional use permit for the expansion of a private recreational facility (the Belvedere Tennis Club, or BTC) on property located at 700 Tiburon Boulevard. The conditions of that approval provided for a review of the permit within six months of occupancy. The Planning Commission reviewed the use permit in January 2009 and found the use in compliance. The Commission directed that another review be held in approximately one year.

Mr. Anderson stated that the use appears to comply with all conditions set forth by the permit and that, in reviewing the minutes from the January 2009 use permit review, staff noted references to traffic safety concerns over the Tiburon Boulevard entrance/exit to the BTC. The Tiburon Police Department has indicated that there were five accidents at this intersection in the past five years, but only one since the expansion project was completed over 19 months ago. At that time, the Commission requested that the Town Engineer review the situation. The Town Engineer has submitted a memo which indicates that the addition of minor signage and striping could marginally enhance traffic safety at that intersection.

Referring to the Town Engineer's recommendations, Commission Corcoran requested clarification on stop bars. Mr. Anderson said that a stop bar is a white painted line on the ground past which a vehicle's wheels should not travel without stopping before entering an intersection.

Jane Duffy, BTC President, said she can appreciate the Commission's traffic safety concerns. She did not believe there to be any particular issues associated with the intersection except that it is something everyone, as motorists, should pay attention to.

Vice-Chair Frymier inquired about the Club's use of valet parking. Ms. Duffy confirmed that the BTC has, on occasion and in accordance with the use permit, secured valet parking.

Mary Hayden, former BTC General Manager, said valet services have been used every time the Club's parking lot capacity was expected to be exceeded, roughly six to seven times since the new facility opened.

Vice-Chair Frymier asked if a left-hand turn onto Tiburon Boulevard is permitted. Ms. Hayden confirmed that it is. Vice-Chair Frymier asked if a "no left turn" sign that was posted at the entrance/exit had been removed. Ms. Hayden explained that the "no left turn" sign was initially installed by the BTC, was not required by the Town, and was removed once driveway improvements were completed.

Chair Kunzweiler opened the public hearing.

Public Comments:

John Hermansky said there have been many close calls at the Club's intersection with Tiburon Boulevard but did acknowledge that certain improvements have been made. He said the BTC has planted a new hedge along Tiburon Boulevard and that, while it does provide privacy, it would be nice if it were trimmed. He said the Club's events have been rather quiet, that he has been able to work out any issues over lighting with club staff, and that he generally feels favorable about the use.

Quentin Hills, former BTC President, said he has gone out of his way to work with neighbors and ensure compliance with every aspect of the permit's conditions. He said the entrance/exit onto Tiburon Boulevard was improved with a conscious effort to increase visibility and safety. He noted that the last reported accident occurred during construction and prior to the driveway being addressed.

Commissioner Corcoran asked his thoughts on the Town Engineer's recommendation. Mr. Hills admitted to not having reviewed the memorandum in detail, but said that anything which increases awareness of safety would appear to be a good thing. He said he believes members are particularly cognizant of that exit but admitted that cars do often round the blind corner at a high rate of speed.

Commissioner Corcoran asked if the improvements would be burdensome. Mr. Hill did not feel they would be. Ms. Hayden noted the Commission's concern regarding view obstruction and said additional signs could contribute to visual pollution.

Chair Kunzweiler closed the public hearing.

Commissioner Tollini commended the BTC for being a good neighbor and complying with all conditions set forth by the use permit. She supported the Town Engineer's recommendations, as they seem minor and could improve traffic flow and safety. She could support finding conformance of the use with its conditions and questioned whether continued annual review would be necessary.

Commissioner Doyle concurred and said he would support the Town Engineer's recommendations, regardless of club activities. He noted that landscaping has grown in on the outer wall near the pool and is effective at decreasing noise pollution. He said the club seems to be doing all the right things and with the right intentions.

Vice-Chair Frymier recalled that there was considerable public comment when the original project came before the Design Review Board. She commended the BTC on creating a beautiful facility that also improved the community as a whole, for abiding by the conditions of the use permit, and for making a concerted effort to work with neighbors. She supported an annual review of the use permit, noting that the facility is still new and other similar uses in town are also subject to annual review. She also supported the Town Engineer's recommendations and asked staff if it would be possible to incorporate one of the smaller stop signs, such as she has seen elsewhere in Town. Mr. Anderson confirmed and explained that there is more flexibility in terms of size and design of traffic signage when it is located on private property as opposed to a public street.

Commissioner Corcoran echoed Vice-Chair Frymier's comments. He respected the judgment of the Town Engineer and felt the recommended improvements were important despite any potential view impacts. He also supported Vice-Chair Frymier's suggestion on smaller signage. He said that while he was initially in favor of a longer review period, he now feels an annual review would be fair and appropriate. He said the same has been imposed on many other clubs in Town and noted that, following facility improvements like those performed here, club membership and events typically increase and could lead to increased impacts. He stated support for the use permit, with the additional traffic signs recommended by the Town Engineer.

Chair Kunzweiler stated that the Club looks wonderful and is an incredible improvement over what previously existed there. He said there is Commission agreement on both the Club's compliance with the conditions of the use permit as well as on the recommendations of the Town Engineer. He said it is important to do so in a way that minimizes visual impact but that it is not appropriate for the Commission to design traffic signs. He said there are a number of organizations within Town whose use permits are subject to annual review and that there is some question as to when to remove that obligation. He recommended that, given the Club's compliance, that requirement be dropped and noted that the idea could be revisited if a need were to arise.

Commissioner Corcoran said he believed that discussion of that issue would be more appropriate in another year. He acknowledged that no significant issues have been identified but said the new facility has only been open for nineteen months. He recommended that the Commission engage in a larger discussion in terms of permit reviews for all affected uses within the Town.

<p>ACTION: It was M/S (Frymier/Tollini) to find the use is in substantial compliance with its conditional use permit, direct staff to schedule another review in one year, and direct staff to work with the applicant on implementing the traffic signage recommendations of the Town Engineer. Motion carried: 5-0.</p>
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MINUTES:

2. PLANNING COMMISSION MINUTES – Regular Meeting of January 13, 2010

Vice-Chair Frymier requested the following correction to the minutes:

- Page 3, 2nd paragraph – “He explained that the vineyard is located at his home which is zoned **for only** agricultural use, ~~and~~ so a tasting room would not be permitted there.”

Commissioner Corcoran requested the following correction to the minutes:

- Page 7, last paragraph – “Commissioner Corcoran acknowledged Mr. Pursley’s comments, said he had similar concerns himself, and said it is important to look at these facilities in a ~~conclusive~~ **comprehensive** way.”

ACTION: It was M/S (Frymier/Corcoran) to approve the minutes of January 13, 2010, as amended. Motion carried: 5-0.
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ADJOURNMENT:

The Planning Commission adjourned the meeting at 8:24 p.m.

JOHN KUNZWEILER, CHAIRMAN
TIBURON PLANNING COMMISSION

ATTEST:

SCOTT ANDERSON, SECRETARY