



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

Action Minutes - Regular Meeting
Tiburon Planning Commission
June 23, 2010 – 7:30 PM

ACTION MINUTES

TIBURON PLANNING COMMISSION

CALL TO ORDER AND ROLL CALL

Present: Chairman Kunzweiler, Vice Chair Frymier, Commissioner Corcoran,
Commissioner Tollini
Absent: Commissioner Doyle

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. 2 MIRAFLORES LANE: REQUEST TO AMEND THE MIRAFLORES PRECISE PLAN (PD #21) TO EXPAND THE EXISTING SECONDARY BUILDING ENVELOPE; FILE #31003; Davoud Sadeghi Owner and Applicant; Assessor's Parcel 039-271-21 [LT] **(Continued from May 12, 2010)** **Recommended**
Approval to Town Council (4-)
2. END OF PARENTE ROAD AND END OF ANTONETTE DRIVE: PARENTE VISTA PRECISE DEVELOPMENT PLAN (PD #4) 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 [DW] **Recommended**
Approval to Town Council (4-0)

3. CONSIDER RECOMMENDATION TO TOWN COUNCIL TO AMEND GENERAL PLAN TEXT AND DIAGRAMS WITH RESPECT TO THE TIBURON RIDGE TRAIL ALIGNMENT; TOWN-INITIATED APPLICATION FILE #GPA 2010-01 [LT] **Recommended Approval to Town Council (4-0)**

MINUTES

4. PLANNING COMMISSION MINUTES – Regular Meeting of June 9, 2010
Approved as Written

ADJOURNMENT **At 8:55 PM**

PLANNING COMMISSION
APPROVED MINUTES NO. 999
June 23, 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, Vice-Chair Frymier, Commissioners Corcoran and Tollini
Absent: Commissioner Doyle
Staff Present: Planning Manager Watrous, Director of Community Development Anderson and Minutes Clerk Levison

ORAL COMMUNICATIONS: None

COMMISSION AND STAFF BRIEFING:

Planning Manager Watrous reminded the Commission that the public hearing on the Library Expansion Draft EIR and election of officers are scheduled for the July 14th meeting. He reported that the Trestle Glen Circle Conceptual Master Plan review was tentatively scheduled for the August 11th meeting.

PUBLIC HEARING

1. **2 MIRAFLORES LANE: REQUEST TO AMEND THE MIRAFLORES PRECISE PLAN (pd #21) TO EXPAND THE EXISTING SECONDARY BUILDING ENVELOPE; FILE #31001; Davoud Sadeghi Owner and Applicant; Assessor's Parcel 039-271-21**

Davoud Sadeghi, applicant, stated he had improved his home at the subject site several times since purchasing it in 1993. He said that this application was a request to expand the existing secondary building envelope to accommodate the enlargement and relocation of the existing gazebo, as well as a two-car carport. He said he spoke with and received the approval of his neighbors prior to making application, but they have since raised objections to the carport. He stressed that he had always acted in accordance with the approval of his neighbors and, as such, he amended his application to exclude the carport.

Chair Kunzweiler questioned and confirmed with Mr. Sadeghi that he was still requesting expansion of the secondary building envelope to accommodate the new gazebo area. He also requested that the applicant clarify the proposed fence line. Mr. Sadeghi stated that he planned to continue the fence along the length of the expanded envelope.

Chair Kunzweiler opened the public hearing.

Rick Rose asked what the expanded envelope would mean. He said he had no objection to the applicant's previous improvements but stated concern that this application, which would move the building envelope twenty feet closer to his property, could impact the privacy and value of his property.

Mr. Watrous read from the conditions of approval, which state that "The expanded secondary building envelope is approved for landscape improvements, a gazebo, stairs, fencing, and gaps. The fencing shall not exceed a height of 6 feet and all other structures shall not exceed a height of 15 feet." He noted that the draft resolution included approval of a carport, but staff would amend it to eliminate the reference and specifically prohibit it. He said if the applicant wished to construct a carport in the future, it would require a separate application and review process.

Chair Kunzweiler closed the public hearing.

Commissioner Tollini stated that she visited the site and, with the removal of the carport, she had no other concerns and could recommend approval of the application.

Commissioner Corcoran concurred and thanked the applicant for compromising to help assuage the concerns of neighbors.

Vice-Chair Frymier concurred and voiced support for the application.

Chair Kunzweiler appreciated the applicant's amendment to eliminate the carport. He stated that building envelopes are established to capture the original intent of an area and, while minor adjustments are often appropriate, approving such a large increase seemed excessive. He suggested that the secondary building envelope expansion be modified to a more rectangular shape, which would still provide sufficient envelope to accommodate the gazebo.

Mr. Watrous recommended that the best way to delineate the suggested modification to the expanded envelope would be to recommend that the northern edge of the expanded envelope run parallel to the northern edge of the existing secondary envelope.

Commissioner Corcoran stated that Chair Kunzweiler's recommendation was logical, would prevent the issues identified by Mr. Rose, and was something he could support. The Commission concurred.

ACTION: It was M/S (Tollini/Corcoran) to adopt the resolution recommending approval of the project to the Town Council, with amendments to prohibit the construction of the carport within the secondary envelope and to modify the envelope so that the northern end would be parallel with the northern end of the existing secondary envelope. Motion carried: 4-0.

2. END OF PARENTE ROAD AND END OF ANTONETTE DRIVE: PARENTE VISTA PRECISE DEVELOPMENT PLAN (PD#4) 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

Director of Community Development Watrous presented the staff report, stating the applicant is requesting approval of a precise development plan to subdivide a vacant 10.2-acre parcel into two lots. He described the project design and changes that had been made since the April 2009, Planning Commission meeting. Staff contracted EIR consultant, Leonard Charles, to prepare an addendum to the 2004 certified EIR and the addendum has concluded that the revised project design and mitigation measures would reduce all previously identified significant impacts to less than significant levels.

Mr. Watrous stated that Staff has found the project in compliance with the principles and policies of the Town's General Plan and Zoning Ordinance. He stated that the project appears to be consistent with the Planning Commission's previous direction, but Staff believes that the proposed home sizes of 6,000 square feet for Lot 1 and 9,000 square feet, with an additional 1,000 square feet for a secondary building envelope, for Lot 2 are too large in comparison to that of other homes in the vicinity. He noted that most homes in the surrounding area are generally large, with many being over 4,000 square feet and the largest being 6,707 square feet, and that the default floor area ratio has a cap of 8,000 square feet for any lot over 60,000 square feet in size. He recommended that the floor area of the home on Lot 2 be reduced at minimum to comport with the default floor area ratios. He advised the Commission that if it should find the proposal acceptable, the recommended action would be to adopt the resolution recommending conditional approval of the precise development plan to the Town Council.

Chair Kunzweiler opened the public hearing.

Lionel Achuck, owner, said that he had spent considerable time and effort since the last hearing to revise his project in a way that met the concerns of the Commission and yet retained the uniqueness of the property. He consolidated the four original building envelopes down to two, relocated project improvements away from the ridgeline, and eliminated the parking area situated below the tennis court. In response to the Commission's concern with the size of the residence on Lot 2, all building envelopes were pushed further back into the hillside in order to recess the overall envelope and reduce visual impacts. He said that the 8 acre Lot 2 was unique and not consistent with surrounding lots, and he felt that the size of the proposed home on that lot would fit the scale of the property and would be consistent with surrounding homes in terms of mass. He said that this project would add value to the Town by reducing the potential number of homes to be developed on the site and would be vastly more desirable than a development that would place more homes on smaller lots with less green space.

Mr. Achuck provided the Commission with a handout listing Tiburon homes that exceed 8,000 square feet and noted that all, with the exception of one, are on small lots. He said that other municipalities focus less on size and more on architecture and mass. He noted the recently

approved project at 110 Gilmartin Drive includes an 18,593 square feet of space on a roughly 3 acre lot, which is 10,593 square feet above the floor area ratio. He stated that the Design Review Board approved the project based largely upon the design of structure, and the final design of a house ultimately determines if the mass is appropriate. He asked that the Design Review Board be allowed to decide what size home would work on this lot.

Mr. Achuck reviewed the perceived impacts of the project on surrounding neighbors and said that the revised project design represents an improvement for most. He noted that the revised design would move the tennis court closer to the residence at 325 Taylor Road, but the court would be below grade and over 200 feet away. He said that he was not aware of any other open issues or complaints and was amenable to any additional screening that may be deemed necessary. He requested the Commission approve the size and layout of the various amenities, stating that the estate-like feel of the design was essential to the project and is what gives the Tiburon peninsula its appeal.

Vice-Chair Frymier requested more information on the 10 foot tennis court fence. Mr. Achuck explained that the tennis court is pushed up against the hillside and most of it would remain unfenced. He estimated that only the sides and lower portion of the court would need 10 foot fencing.

Chair Kunzweiler asked for an explanation about the excavation required for the project. Mr. Achuck explained that the primary and secondary envelopes for Lot 2 would be very near the area of slide repair. He estimated approximately 27,000 yards of soil would be removed and replaced as part of that process and much of that would be worked in with the design of the foundation and retaining walls. He could not speculate further without final design of the home but he said that the ultimate goal is for zero removal of dirt from the site.

Chair Kunzweiler asked about the maximum height of the home from grade. Mr. Watrous noted that the Town maximum is 30 feet and that the precise development plan does not request a different height limit.

Chair Kunzweiler closed the public hearing.

Vice-Chair Frymier stated she reviewed the previous comments and objections voiced by the Commission and Town Council in 2009 and was impressed that the applicant had made concessions to address almost all of those issues. She said that the remaining issue was the size of the 9,000 square foot home proposed for Lot 2. She said that the Commission places much emphasis on the guidelines of the General Plan, which were developed to help guide the norm for Tiburon. She said that an 8-acre site is not the norm for new development and asked how many parcels in Town are over 3 acres in size. Mr. Watrous estimated less than one dozen.

Vice-Chair Frymier said that as much as she supports the General Plan, she believes the Commission should strongly consider approving the requested house size based on this information. She noted the previous proposal called for subdivision into five lots, all of which would have carried the potential for 8,000 square foot homes, a scenario that would have resulted in 40,000 square feet of construction, whereas this application only requests 18,000 square feet total. She conceded that the Commission may not have approved each site for an 8,000 square foot home and said that even at 4,000 square feet each, what is requested would be a less impactful scenario. She noted that the County has been more liberal in some of their approvals on the Paradise Drive side of Tiburon, with some home sizes that significantly exceed that of

their neighbors. She urged the Commission to at least consider approving the requested house size based on the unique size and terrain of this property.

Commissioner Corcoran thanked the applicant for his efforts in addressing the previously raised issues. He appreciated the relocation of the tennis court but said that home size was still a significant issue. He noted that the Commission spent the last year reviewing the updated Zoning Ordinance, including floor area ratios, and did not choose to create different guidelines to allow larger homes for a lot of this size. He said that he would support an application that is within the guidelines, but this application does not do so. He referred to the Commission's previous comments, which identified home size as a significant issue, and believed that it needed to be addressed further.

Commissioner Tollini read the purpose of floor area ratio guidelines, as stated in the Zoning Ordinance: "...to provide a community yardstick for the appropriate residential size and scale relative to the overall size of the property." She said that she tended to agree with Vice-Chair Frymier that the comparison of this lot to smaller lots in the area may not be fair. She felt that a tastefully constructed home, as she hoped would be designed by the applicant and approved by the Design Review Board, would not necessarily have too much mass and bulk. She said that the purpose of floor area ratio would suggest a guideline rather than a strict rule and, based on that, she could accept the project as proposed.

Chair Kunzweiler concurred with Commissioner Corcoran that size is the issue. He said that Tiburon is unique in that there is considerable acreage but much of it is not buildable and said not all 8-acre parcels are created equally. He cautioned against the logic that bigger lots can automatically support bigger houses, believed there are considerations in addition to the mathematical calculation, and he also cautioned the Commission to be careful when making comparisons to other developments. He noted that the 110 Gilmartin Drive project was a rebuild of an existing home that was almost as large as what was approved. He noted that the Town recently reviewed the General Plan and Zoning Ordinance through the public process and, while he has an open mind, he cannot see the rationale for deviating from those guidelines. He conceded that the original application was for five lots but said that that project was not approved and was therefore irrelevant.

Commissioner Tollini directed the Commission to the Zoning Ordinance, which identifies floor area ratio "unless otherwise specified by a precise development plan." She said that that notation provides the Commission with a certain leeway. She acknowledged the point that not all acreage is buildable but reviewed the lot's topography and said that the project design would provide a buffer between surrounding properties that made her comfortable.

Vice-Chair Frymier said that the Commission seemed to be concerned with the visual impacts of a home this size and she questioned the real difference in the impact of an 8,000 versus a 9,000 square foot home. She noted there is increasing demand in Tiburon and Belvedere for estate or villa-type properties, of which the property at 110 Gilmartin Drive is prime example. She would not support the "bigger parcel, bigger house" concept but felt if the Town was going to allow estate-type development, this was the perfect location. She said that the Commission could support the project because of the location, terrain, estate-type design, and the applicant's history of appropriate project designs in Tiburon. She said that she ultimately looks for quality and trusted that quality would be ensured through the design review process. She stressed that her earlier comments were in no way supportive of a "bigger parcel, bigger house" approach.

Mr. Watrous referred to Condition of Approval No. 5 of the draft resolution, noting that although it specifies a maximum allowable floor area ratio, the Design Review Board would have the authority to approve a lesser amount to ensure that the building sizes are compatible with the surrounding neighborhood. He suggested that the Commission could leave it to the discretion of the Design Review Board of what an appropriate design would be and change the recommended maximum square footages to the amount requested by the applicant. If the Design Review Board feels the design presents too much bulk, they would then have the discretion to reduce the floor area allowed for a house on the site.

Chair Kunzweiler felt that it would be unfair to saddle the Design Review Board with that decision.

Commissioner Corcoran reiterated that the Commission had an opportunity to put forth different guidelines when it reviewed the Zoning Ordinance but chose not to, and he did not see any reason to vary from that.

Chair Kunzweiler pointed out that through the non-controversial public process of updating the Zoning Ordinance it was essentially decided that the maximum size of any new Tiburon home would be 8,000 square feet. He said that he was open to compelling arguments to the contrary. He also noted that this would simply be an approval of the structure's size, not its final design, and the Commission has no guarantee of what the final product would look like. He conceded that the County has been very liberal in allowing the creep of large estates into the area but he did not think that that was necessarily sufficient reason for the Town to go along with that pattern. He said that 8,000 square feet is a good-sized home and would respect the character of the neighborhood, and he had yet to hear a compelling reason for the house size to be larger.

Vice-Chair Frymier asked staff why larger homes on Mr. Achuck's handout had been approved. Mr. Watrous said that several of the homes predate the establishment of the Town's floor area ratio guidelines in 1991 and that others were the result of a legal settlement. He noted that at least one of the examples combined the development potential for two different lots into one larger home.

Vice-Chair Frymier acknowledged that homes on the Paradise Drive side of Town are typically smaller but it is rare to find an 8 acre lot in Tiburon. She likened the subject application to the situation where two lots, with the potential for two homes, were combined to allow one larger home.

Commissioner Corcoran said that the General Plan refers more to compatibility with homes in adjacent neighborhoods and that even an 8,000 square foot home would be in excess of the norm for this neighborhood.

Commissioner Tollini cited the recent Design Review Board approval of a very large home and noted the rationale was that the design tastefully tucked it into the hillside. She reiterated her comments regarding the purpose of floor area ratio and believed this home would be designed in such a way that it would be set aside from the rest of the neighborhood and would have minimal visual impacts in that regard.

Chair Kunzweiler said that the Commission appeared to be comfortable with approving a large home but the question remains as to whether it would be willing to put aside the guidelines set forth in the Zoning Ordinance.

Mr. Watrous clarified that in addition to the 9,000 square foot home the applicant is requesting a 1,000 square foot secondary dwelling unit. He recommended that the Commission bring the matter to a vote. If the matter deadlocks after ties and subsequent motions, he suggested that the project could be forwarded to the Town Council with notations that the Commission was unable to reach consensus with respect to Condition of Approval No. 5. He stated that Staff would indicate in its report forwarded to the Council that the Commission was split on the topic of floor area pertaining to Lot 2 and summarize the arguments made by the Commissioners.

ACTION: It was M/S (Corcoran/Frymier) to adopt the resolution approving the Parente Vista Precise Development Plan, as drafted. Motion failed: 2-2 (Frymier and Tollini voted no).

ACTION: It was M/S (Tollini/Corcoran) to adopt the resolution approving the Parente Vista Precise Development Plan, as amended to reflect the project floor areas proposed by the applicant. Motion failed: 2-2 (Corcoran and Kunzweiler voted no).

ACTION: It was M/S (Frymier/Corcoran) to adopt the resolution approving the Parente Vista Precise Development Plan, with a modification to Condition of Approval No. 5 to defer the determination of appropriate floor area ratio for Lot 2 to the Town Council. Motion carried: 4-0.

3. CONSIDER RECOMMENDATION TO TOWN COUNCIL TO AMEND GENERAL PLAN TEXT AND DIAGRAMS WITH RESPECT TO THE TIBURON RIDGE TRAIL ALIGNMENT; TOWN-INITIATED APPLICATION FILE #GPA 2010-01

Community Development Director Anderson presented the staff report, stating the Town recently concluded two separate lawsuits regarding the Tiburon Ridge Trail alignment and, as a result, modifications to that alignment are required. He referred to the staff report for excerpts from the judge's ruling and settlement agreement that set forth the required amendments.

Mr. Anderson said that Staff received one late mail item from the Rabin family requesting that their property not be named as part of the amendment to the text box. Should the Commission wish to consider the request, Staff recommended language to substitute the current proposal. The Commission was asked to review the item and make a recommendation to the Town Council.

Chair Kunzweiler invited public comment on the item and seeing there was no one wishing to address the Commission, closed the public hearing.

Commissioner Corcoran asked if the area on Hacienda Drive, between the stone pillars and what was formerly part of the trail, is private property. Mr. Anderson confirmed that the land is privately owned and while the Town does have easement for roadway and utility purposes, the judge's ruling was that the general public did not have access rights across that portion of the roadway.

Chair Kunzweiler acknowledged the logic behind the Rabin's request and asked what changes would be needed to accommodate it. Mr. Anderson stated that the last sentence of the text box could be changed to simply read, "The Town will continue to work toward completion of the Tiburon Ridge Trail." The Commission supported the change.

ACTION: It was M/S (Frymier/Corcoran) to approve the resolution recommending approval of the General Plan amendment to the Town Council, as modified. Motion carried: 4-0.

MINUTES:

4. PLANNING COMMISSION MINUTES – Regular Meeting of June 9, 2010

ACTION: It was M/S (Frymier/Tollini) to approve the minutes of June 9, 2010, as drafted. Motion carried: 4-0.

ADJOURNMENT:

The Planning Commission adjourned the meeting at 8:55 p.m.

JOHN KUNZWEILER, CHAIRMAN
TIBURON PLANNING COMMISSION

ATTEST:

DANIEL WATROUS, SECRETARY