



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

Action and Approved Minutes - Regular Meeting
Tiburon Planning Commission
January 12, 2011– 7:30 PM

ACTION MINUTES

TIBURON PLANNING COMMISSION

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

Chairman Frymier, Vice Chair Corcoran, Commissioner Doyle, Commissioner Kunzweiler,
Commissioner Tollini *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

PUBLIC HEARINGS

1. REPEAL OF ZONING ORDINANCE-BASED GREEN BUILDING REGULATIONS: CONSIDER MAKING A RECOMMENDATION TO TOWN COUNCIL REGARDING REPEAL OF ARTICLE IV (GREEN BUILDING) AND RELATED SECTIONS OF CHAPTER 16 (ZONING) OF THE TIBURON MUNICIPAL CODE [SA] *Recommended Approval to Town Council (5-0)*
2. 1599 TIBURON BOULEVARD: CONDITIONAL USE PERMIT TO OPERATE A DRUG STORE AND PHARMACY; FILE #11005; Zelinsky Properties, LLC, Owner; CVS/pharmacy & Armstrong Development Properties, Inc., Applicants; Assessor's Parcel No. 058-171-89 and a portion of 058-171-88 [DW] *Approved (4-1)*

NEW BUSINESS

3. PRELIMINARY DRAFT HOUSING ELEMENT: RECEIVE CONSULTANT'S PRESENTATION; ACCEPT PUBLIC AND COMMENT; PROVIDE COMMISSION COMMENTS & RECOMMENDATIONS [SA] **Forwarded to Town Council (5-0)**

MINUTES

4. PLANNING COMMISSION MINUTES – Regular Meeting of December 8, 2010
Approved as Amended (5-0)

ADJOURNMENT **At 10:45 PM**

a011211

PLANNING COMMISSION
ACTION MINUTES NO. 1004
January 12, 2011
Regular Meeting
Town of Tiburon Council Chambers
1505 Tiburon Boulevard, Tiburon, California

CALL TO ORDER AND ROLL CALL:

Chair Frymier called the meeting to order at 7:30 p.m.

Present: Chair Frymier, Commissioners Corcoran, Doyle, Kunzweiler, and Tollini
Absent: None
Staff Present: Director of Community Development Anderson, Planning Manager Watrous, Planning Consultant Baird and Minutes Clerk Levison

ORAL COMMUNICATIONS: None

COMMISSION AND STAFF BRIEFING:

The Community Development Director provided the following preview of upcoming Agenda items:

- January 26th - Tiburon Playhouse Conditional Use Permit (CUP);
- January 26th - Alta Robles Project Final Environmental Impact Report and merits hearing on the rezoning and Precise Development Plan;
- February 9th – Belvedere Tennis Club annual CUP review;
- February 9th – An appeal of an Incompleteness Determination made by staff regarding a tree permit on Vista Tiburon open space

PUBLIC HEARING

1. REPEAL OF ZONING ORDINANCE-BASED GREEN BUILDING REGULATIONS: CONSIDER MAKING A RECOMMENDATION TO TOWN COUNCIL REGARDING REPEAL OF ARTICLE IV (GREEN BUILDING) AND RELATED SECTIONS OF CHAPTER 16 (ZONING) OF THE TIBURON MUNICIPAL CODE

The Community Development Director presented the staff report, stating that shortly after the Town adopted its current “green building” regulations set forth in the Zoning Ordinance, the State started work on, and has since adopted, its own mandatory building code based green standards. CALGreen became effective January 1st of this year and since any local amendments made to the California building codes must be more restrictive, there is a need to repeal the Town’s green building regulations. The Town Council is already in process of adopting the new CALGreen code, which will effectively replace the old zoning based program for the time being.

Mr. Anderson discussed several modifications under consideration by the Council that would preserve certain elements of the Town’s current green building program, as follows:

1. Additions to residences in excess of 500 square feet and commercial structures in excess of 3,000 square feet would be subject to CALGreen standards; and
2. Language retaining enhanced energy efficiency requirements for larger homes.

There was no public comment.

Commissioner Doyle expressed support for the staff recommendation.

Vice-Chair Corcoran concurred. He said he is hopeful staff can reevaluate these standards in several months for any amendments that would encourage green building within the Town.

Commissioner Kunzweiler echoed the previous comments. Having been involved in development of the green building regulations, he appreciated the Council’s support in meeting and exceeding the CALGreen guidelines.

Commissioner Tollini agreed with the importance of green building standards. Having said that, she questioned whether the condition applying to remodels in excess of 500 square feet might not be onerous.

Chair Frymier echoed Commissioner Kunzweiler’s comments. She said she found the LEED methodology somewhat cumbersome and was pleased to see something so positive coming from the State.

<p>ACTION: It was M/S (Corcoran/Kunzweiler) to adopt the Resolution recommending repeal of the Town’s zoning ordinance-based green building regulations to the Town Council. Motion carried: 5-0.</p>
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2. 1599 TIBURON BOULEVARD: CONDITIONAL USE PERMIT TO OPERATE A DRUG STORE AND PHARMACY; FILE #11005; Zelinsky Properties, LLC, Owner; CVS/pharmacy & Armstrong Development Properties, Inc., Applicants; Assessor's Parcel No. 058-171-89 and a portion of 058-171-88

The Planning Manager presented the staff report. The applicants have requested permission to operate a drug store and pharmacy in a building previously occupied by a grocery store on property located at 1599 Tiburon Boulevard. The applicants would occupy approximately 18,000 square feet of the existing building and sell a full range of convenience consumer products, including food items and alcoholic beverages. The proposed store hours would be from 7:00 a.m. to 10:00 p.m., seven days a week. The applicants intend to sublease a 1,800 square foot space in the southwest corner of the building to an unspecified future retail sales tenant.

A two-lane drive-through pharmacy facility would be added to the eastern side of the building, and the interior of the pharmacy connected to an exterior window by a small addition. A porte-cochere-type covering would be constructed above the drive-through lanes. The drive-through pharmacy would operate during the regular store hours. The business would have use of the 72 parking spaces on the site through a lease with the property owners that cover the entire lot on which the building is located and a small portion of the adjacent parcel to the northwest. The applicants propose to provide 8 additional parallel on-street public parking spaces in the Tiburon Boulevard right-of way.

Mr. Watrous discussed several issues relating to the application, noting that the applicants have also requested the ability to remain open 24 hours a day if community need presents itself. Staff recommended that the Commission set the daily hours of operation from 7:00 a.m. to 10:00 p.m., acknowledging the applicant may request an amendment to the use permit at a later date. Staff also recommended that limitations placed on commercial deliveries in certain downtown areas also be applied to this property, prohibiting commercial trucks outside the hours of 7:00 a.m. to 10:00 p.m. on weekdays and 8:00 a.m. to 10:00 p.m. on weekends and holidays.

Mr. Watrous said that staff received no comments as of the date of the staff report. However, a number of late mail items were received with a recurring theme related to the mailing of notices. The Town's records indicate that notices were correctly delivered to the post office in December, but it appeared that few, if any, residents actually received those notices. In addition to considering the permit application, the Commission must determine if adequate information was given to the public to support making a decision at this time.

Josh Eisenhut, Armstrong Development Properties, discussed the proposed use, particularly as it relates to the drive-through pharmacy. He stressed a distinction between this type of drive-through use and that seen with a fast-food restaurant, stating that statistics show that peak hours, typically from 5:00 to 6:00 p.m., experience only about 5 to 7 vehicles utilizing the drive-through per hour. He stressed that retailers would obviously prefer customers to come into the store, but the feature is available for the convenience of those with a true inability to leave their cars.

He discussed the site's constraints and acknowledged the potential for noise impacts on neighbors. He stated that a number of noise studies conducted on similar projects with comparable distances found the noise generated by either drive-through or loading activities to be comparable to an open office background noise. He felt that any noise would be mitigated by

both the proposed property line wall and existing mature landscaping along the property line. He also noted the standard CVS speakers used for drive-through service are equipped with volume control and they could be lowered if they present an issue. He stated that the typical CVS receives 3 large deliveries per week and he assumed that this would be a lesser impact than the previous use.

Mr. Eisenhut referred to the proposed hours of operations and confirmed that it was the applicant's intent to operate within those hours at the present time, but said that CVS prefers the flexibility to extend those hours if the demand is there. He thought it would likely never reach that point, but respectfully requested the Commission grant the applicant the leeway to do so without returning for an amendment to the conditional use permit.

Chair Frymier asked what limits were imposed on delivery hours for the previous occupants. Mr. Watrous said none, but staff had heard anecdotal complaints about late night deliveries, particularly where the truck's AC compressors was left running for a considerable amount of time.

Chair Frymier asked if the applicant would be required to stock cigarettes out of sight. Mr. Watrous said that this is not stipulated in the draft conditions of approval. He noted that staff received an email from Smoke Free Marin requesting that the applicant either eliminate tobacco products altogether or store them out of sight. He also noted that no such regulation has been imposed on any other business in town.

Chair Frymier asked how many households should have received notice of the hearing. Mr. Watrous said approximately 50 notices were sent out to all property owners and residents within 300 feet of the site.

Chair Frymier opened the public hearing.

Cres Van Keulen said that she was asked to speak on behalf of 2 neighbors who could not attend this meeting. She indicated that many more Marsh Road residents would be present had they received more notice. She said that while she was prepared to welcome CVS into the community, she could not support a drive-through pharmacy in any shape or form and that 24-hour operation is completely unnecessary in Tiburon. She said that she lives directly behind the site and has had many issues with noise over the years. She said that there are many things about cars that CVS cannot control, including exhaust and noise. In addition, she said that lights from the pharmacy window and headlights from cars would point directly towards her in the evening hours. She described how the dangers at the intersection of Marsh and Beach Roads, where cars would exit from the drive-through window, would only increase with additional traffic. She believed that the proposed building additions would significantly add to the bulk of the building. She said that most Marin residents belong to Kaiser and would not utilize the pharmacy and that asking those who would to get out of their car is not asking too much.

Terry Hennessy said that she supported the addition of CVS but was concerned about late night deliveries. She questioned whether an 8-foot wall would require a variance and asked why this was necessary when the Town could simply eliminate the noise source. She saw no compelling reason for CVS to be open beyond 9:00 p.m. She concurred with Ms. Van Keulen regarding light impacts, the dangerous blind curve at the intersection of Marsh and Beach Roads, and the

expectation that people should get out of their vehicles. She said a drive-through window of any sort would not be appropriate for the character of Tiburon.

Mike Scippa concurred with the previous speakers. He said that he did not receive any notice on the hearing, nor did many others. He said that his issues with noise related primarily to the compressors used by the previous occupant, which were out-of-date and perennially in need of repair. He asked that the applicant update and soundproof this equipment if they intend to offer refrigerated produce. He was concerned with the applicant's intent to sell alcohol and he provided the Commission with a list of 27 other establishments in Town that already sell alcoholic beverages. He asked that the Commission deny alcohol sales for this use.

Neal Toft said that he believed that staff prepared and attempted to distribute the appropriate notices, but no one seemed to have received them. He said that CVS would be a great convenience and an asset to the community. He asked staff whether architectural and site plan review would take place at the staff level or through a discretionary process. Mr. Watrous said the public would receive notice in either event, but given the extent of work it would likely go before the Design Review Board.

Mr. Toft encouraged the use of down-lit non-glare lighting, particularly on the sides of the building. With regards to delivery hours, he hoped the Commission would recognize the archaic nature of the existing use permit and restrict the hours to earlier than 10:00 p.m. He said he supported the proposed masonry wall, but thought it should be 8 feet in height at the minimum. He said that mechanical noise was an issue at this location and encouraged that the equipment be updated and a condition of approval added that requires the applicant to maintain this equipment in a way that complies with the Town's noise requirements. He stated that the general plan discourages drive-through restaurants and to approve this would be inconsistent with the tranquil character of Beach Road. He questioned the peak hour traffic described by the applicant and said that any increase to the traffic load at the corner on Beach Road was an ill-conceived idea. He said that none of the architectural elements would be helpful and these changes would create real issues with aesthetics.

Gary Lucas disagreed that drive-through customers would exit the property at the location as stated by others. Mr. Watrous noted that Mr. Lucas is employed by the property owner and recommended he hold his testimony until it is time for the applicant to come forward again.

Kent James said that a pharmacy is much needed but the advent of any drive-through in Tiburon would be a shame.

Robin Curley suggested relocating the drive-through to the Chase Bank side of the property. She said that the dangerous intersection affects more than those leaving Marsh Road, and the idea of large trucks turning in that area would be an accident waiting to happen. She said that the proposed sound wall would likely be a great help for those immediately behind it but she thought it would also redirect noise up into her neighborhood.

Eleanor Barron-Druckrey said that her greatest concerns are with traffic and noise.

Mr. Eisenhut said that he was unaware of the issues at the intersection of Marsh and Beach Roads, but that he was willing to work with staff and the community to address the issue. He

suggested that pruning shrubbery and perhaps stepping down the wall at that corner could offer some improvement. He said he had no issues with upgrading existing lighting to conform to downtown development standards. He noted that CVS operations are different from that of a grocery store, that the larger freezers and refrigeration units are already slated for removal, and that CVS will only house in-store cooler boxes. He said that preliminary testing has determined that the existing HVAC units to be out of date and in need of replacement by units that meet current noise and efficiency standards. He acknowledged the neighbors' concerns regarding traffic but reminded them of the previously existing use.

Mr. Eisenhut said that CVS does propose to sell a limited amount of liquor for off-site consumption, but that it was likely that the list presented by Mr. Scippa includes on-site consumption retailers such as restaurants. He stressed that CVS, as a large retailer with over 40 years experience, has the security measures and training policies to maintain a safe environment for its customers and the community.

Mr. Eisenhut reiterated that this store was slated for standard business hours as noted in the resolution, but that CVS would like the flexibility to expand that if the need presents itself. He suggested that perhaps any amendment to the use permit regarding the hours of operation could occur at the staff level. He appreciated residents' concerns regarding the drive-through but said that it is an important aspect of the CVS business model. He noted that the drive-through might seem unnecessary to some, but those who need it may not be represented at this meeting.

Gary Lucas said that his elderly parents are two Tiburon residents who are greatly in need of a drive-through pharmacy, as are many others.

Claude Perasso said that he is a Town resident and consultant with Zelinsky Properties. He appreciated all the comments made, but noted that Tiburon has at least one existing drive-through service. He assumed that Bank of America's drive-through has not created significant adverse impacts and thought that the intensity of use proposed for this project would be significantly lower than that of a fast-food restaurant. He felt that it would be likely that the presence of CVS would actually mitigate traffic on Tiburon Boulevard by keeping residents in the neighborhood rather than sending them across town. He said that he used to be employed as general counsel for a large retailer that sold alcoholic beverages, and in his experience large retailers are best suited to handle something like that because the stakes are higher for them. He strongly believed this use, when compared to previous uses on the site, would impact neighbors much less and serve the entire community in a very positive way.

Chair Frymier closed the public hearing.

Commissioner Doyle requested information on the neighboring lot. Mr. Watrous said that it is under the same ownership but is a separate lot.

Commissioner Doyle referred to the project drawings and requested more information on the "graphics area." Mr. Eisenhut assured him that graphics are not intended to mean advertising. He explained that the intent of the graphics is to shield the interior racks that would otherwise be visible through the front windows.

Commissioner Doyle suggested that if the site plan were reversed with the drive-through on the

opposite side of the property, vehicles would not have to exit onto Beach Road. Mr. Watrous explained that the existing building is situated too close to the property line shared with the adjacent area used as a paid parking lot.

Vice-Chair Corcoran asked what hours and restrictions Boardwalk Market is subject to. Mr. Anderson said that there is no use permit for the operation. Vice-Chair Corcoran asked if any business within the downtown could operate 24 hours if it desired. Mr. Watrous said theoretically yes, unless regulated by conditions of approval in a use permit. Mr. Anderson added that many downtown uses predate these controls but that the Town is able to adopt a resolution regulating hours if any trouble arises.

Vice-Chair Corcoran asked if the applicant has considered any sort of buffering or enclosure for HVAC equipment. Mr. Eisenhut said there would likely be some type of screening device and no equipment would be exposed to the right-of-way or adjacent properties.

Commissioner Kunzweiler asked if the applicant anticipates the parking lot reverting back to a paid lot. Mr. Eisenhut said he believed a portion of the lot in front would be free for CVS customers, but the other lot is at the discretion of the property owner.

Commissioner Kunzweiler asked how many deliveries, in addition to the 3 major ones already described, could be expected weekly. Mr. Eisenhut said it is ultimately dependent upon how quickly they run through product, but roughly 8 to 10 smaller box truck deliveries per week. He confirmed that CVS has some control over the schedule of its larger trucks and said that those deliveries typically occur in the morning hours.

Commissioner Kunzweiler asked why, if peak usage would only be 5 or 6 cars per hour, 2 drive-through lanes were proposed. Mr. Eisenhut stated that this is a CVS standard that allows cars to be better serviced and traffic to flow better. He noted that the outside lane allows both drop-off and pick-up through a pneumatic tube. He said that there is likely potential for a single lane, though he cannot make that decision.

Commissioner Tollini asked if CVS considers it important for drive-through hours to mirror store hours. Mr. Eisenhut said that the flexibility in hours is important but there are many instances where the drive-through closes an hour or so earlier than the inside pharmacy.

Chair Frymier asked if the Mill Valley CVS has a drive-through. Several members of the public said "no." She asked Mr. Eisenhut to discuss what type of noise level could be expected from the store's and trucks' compressors. Mr. Eisenhut said that milk is the only perishable item he is aware of CVS selling, which does require changing out of product from a small milk truck every 2 to 3 days. He said that there would be no interior overstock area for cold products and the only interior coolers would be those visible from the sales area. He said that HVAC units would be typical of what one would find at any retailer and less intense than those required for a grocery use.

Chair Frymier asked Mr. Eisenhut to elaborate on CVS' training program relative to alcohol sales. Mr. Eisenhut said CVS' policies require new employees to sign an acknowledgement that they have read and understand the store's policies. Any person working at a register is required to request identification from any customer who appears to be under the age of 30 and the

computer system offers a back-up notification, as well. He was not personally familiar with CVS' policy document but was aware that they employ third-party audit companies to conduct decoy operations to determine the compliance of individual stores. He said that any store failing such an audit must retrain the entire staff and it can be a terminable offense for the noncompliant employee.

Commissioner Doyle confirmed with the applicant that the perishable product coolers are conceptually slated for the front corner of the store, which should alleviate a number of concerns.

Vice-Chair Corcoran asked if approval of a drive-through would carry over to subsequent tenants of the property. Mr. Watrous said that the draft conditions of approval specify a drive-through pharmacy and any other drive-through use would require a CUP amendment.

Commissioner Tollini said that while some neighbors claim to have not received notice of the hearing, the hearing was advertised in the paper. She thought the neighbors had good representation at the meeting, that any additional comments would likely be in line with those made tonight, and she felt comfortable in moving forward tonight. She said that there is a trade-off with any commercial development; in exchange for increased noise, traffic, and lighting, the community gets a pharmacy in a very desirable location. She said that a drive-through pharmacy would be a tremendous asset to several demographics but she thought some of the neighbors' concerns could be addressed through limiting the hours, perhaps 10:00 a.m. to 8:00 p.m. She did not think the demand would ever support 24-hour operations but she saw no harm in allowing the applicant the leeway to do so.

Commissioner Tollini noted that she lives above Beach Road and while she agreed that the intersection could be somewhat dangerous, she doubted that the proposed use would present any increase in traffic over the previous grocery stores. She expressed full support for the delivery restrictions proposed by staff and said that she could approve the resolution as drafted, perhaps with the modifications noted.

Commissioner Kunzweiler said that the need for a pharmacy has been a long-standing discussion point in the Town, and anyone should be able to see that this would be a less intensive use than a grocery store. Having said that, he suggested the Commission consider modifying the resolution to address several issues. He said that the delivery hours should be restricted to no later than 5:00 or 6:00 p.m., noting that CVS has full control over trucks coming from CVS warehouses. He also thought it would be reasonable to limit the drive-through to one lane, though he noted that a precedent was set years ago in allowing Bank of America two lanes. He supported the proposed 8-foot wall, provided no variance is required. He agreed with the public that noise travels up, but thought that the decreased intensity of use might keep those concerns from becoming a reality. He supported stipulating that all HVAC improvements be of the latest technology and implemented using correct commercial guidelines that adhere to accepted sound standards.

Vice-Chair Corcoran agreed that a pharmacy would be a great addition to the Town and hoped it would lessen traffic. He said that it seemed clear that something happened to the public notice process and, while they might hear more of the same comments, he believed that it seemed only fair to postpone any decision on this application. He did not see a drive-through pharmacy as suitable for Tiburon and thought CVS would do fine without it. He could support hours of operation from 7:00 a.m. to 9:00 p.m., but not 24 hours. He supported staff's recommendation to

implement the same controls on deliveries as are imposed east of Beach Road. He disliked the idea of adding 8 new parking spaces in the Tiburon Boulevard right-of-way and said that he would prefer those spaces elsewhere in the existing lot. He appreciated that the applicant would be upgrading HVAC equipment and he would like noise shielding and lighting to be addressed through the Design Review process. He also hoped that the Town Engineer would weigh in on the safety of the Marsh Road intersection in question.

Commissioner Doyle said that the drive-through was a great idea but he felt that the applicant has an opportunity to explore other site options that would have less impact on neighbors. He suggested that by moving the pharmacy and drive-through to the front of the store, vehicles could enter through the rear and exit onto Tiburon Boulevard. This would direct light and noise away from neighbors and vehicles away from the troublesome intersection. He supported limiting delivery hours to something reasonable and leaving store hours as proposed, with the opportunity to request a CUP amendment later. He had no issue with the sale of alcohol but did think it would be great if cigarettes were kept out of sight.

Chair Frymier said that she was very excited to see a new business coming into town, particularly one that has been in such demand for so many years. She disagreed with the applicant that site improvements would be minimal, but acknowledged that they would be a huge improvement. She referred to the draft Housing Element which states that Tiburon's senior population will increase by 75% from 2000 to 2010; that 37% of Tiburon households are families without children; and 56.4% of persons aged 65 and over are disabled. She said that these statistics validate the need for a drive-through pharmacy and it would better serve the Town's demographic. She expressed strong support for some sort of re-design as suggested by Commissioner Doyle and encouraged the applicant to limit the drive-through to one lane. She would not like to allow leeway for the hours of operation at this time. She supported staff's recommendation regarding restricting delivery hours, appreciated the proposal for 8 additional public parking spaces, and noted that the applicant has agreed to take out a sidewalk in poor repair to accommodate this. She concurred with Commissioner Doyle that cigarettes would ideally be kept out of sight.

The Commission further discussed the matter of continuing the hearing. Commissioners Doyle and Kunzweiler felt the Commission had a strong sense of the issues and preferred to move ahead. Vice-Chair Corcoran said that public participation is one of the hallmarks of this community and it would undermine the authority of the Commission to make a decision tonight.

Commissioner Kunzweiler asked how the Commission could best condition the project on the applicant exploring alternatives to the proposed drive-through location. Mr. Watrous described how a continuance would depend on the detail requested and whether the changes would be reviewed by the Design Review Board or the Planning Commission. He suggested the applicant be allowed to comment on whether they would be willing to consider exploring such alternatives.

Mr. Eisenhut said that the idea to relocate the drive-through would generate concerns from an internal layout and business model standpoint. He stated that the pharmacy is always located furthest from the front door to allow for a more continuous front sales area, and this would likely be a significant concern for CVS. He said that the options are limited with an existing building and that reversing the traffic circulation would situate the driver on the wrong side of the drive-

through window. He also noted that relying on pneumatic tubes takes away from person to person communication and is not likely something CVS operational standards would provide for. He said that he was open to looking at other mitigation measures to alleviate concerns, but this could create an impasse.

Chair Frymier requested clarification on peak drive-through hours. Mr. Eisenhut said they would likely be 5:00 to 6:00 p.m. or 6:00 to 7:00 p.m., 7 days per week, and that a registered traffic engineer conducted the studies of a variety of CVS stores.

Commissioner Doyle provided an amended suggestion where the drive-through would be moved closer to the front of the building by one car length and some sort of wall installed at the end to keep vehicles from exiting onto Marsh Road. He acknowledged the applicant's reasoning for placing the pharmacy at the rear of the building but said that there was more than one way to do things. Barring that, he suggested the Commission limit the drive-through to a single lane and constrained hours.

Vice-Chair Corcoran said that the applicant conceded that drive-through sales are not a huge part of their business. He said that he still did not support this, but would certainly prefer a one-lane drive-through.

After discussion by the Commission, Mr. Watrous summarized the changes proposed to the draft resolution:

- Condition of Approval No. 2: the hours for the store shall be from 7:00 a.m. to 10:00 p.m. and the drive-through pharmacy from 8:00 a.m. to 8:00 p.m.;
- Condition of Approval No. 3: truck deliveries shall limited to the hours of 8:00 a.m. to 6:00 p.m.;
- Additional condition limiting the pharmacy drive-through to one lane of traffic

<p>ACTION: It was M/S (Tollini/Kunzweiler) to adopt the resolution approving the subject conditional use permit, as amended. Motion carried: 4-1 (Corcoran voted no).</p>
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BREAK – Chair Frymier called a brief break and thereafter reconvened the regular meeting.

NEW BUSINESS

3. PRELIMINARY DRAFT HOUSING ELEMENT: RECEIVE CONSULTANT'S PRESENTATION; ACCEPT PUBLIC COMMENT; PROVIDE COMMISSION COMMENTS & RECOMMENDATIONS

The Community Development Director introduced the item, noting this request for initial comments on the Preliminary Draft Housing Element is the first step in a rather lengthy process. He introduced Planning Consultant Jeff Baird, primary author of the draft document.

Mr. Baird provided a PowerPoint presentation reviewing what a Housing Element is and must do, trends in State law, regional housing needs, review of the current Housing Element, and the modifications proposed. With regards to State law, he noted there is increasing specificity, more monitoring and accountability, increased local requirements and expectations, and a greater need

for realistic solutions. He stated that Tiburon, in conjunction with the County and all eleven towns and cities in Marin, participated in development of the Marin Housing Workbook to aid in drafting a more coordinated and comprehensive Housing Element.

Mr. Baird discussed the need to identify housing sites, as expressed through the Regional Housing Needs Allocation (RHNA) process. Of the Bay Area's 214,500 housing units needed, Marin County is responsible for 4,882 and Tiburon for 117 units of those units. Of Tiburon's units, 57 are required to be for the lower income demographic (low, very low, and extremely low income), with sites required to be zoned at 20 units or more per acre. He noted that while the Town's RHNA numbers are down over the previous planning period, it is required to provide for a higher percentage of lower income units. Baird noted that the State requires Tiburon to plan and zone for the housing units, but not construct them.

He discussed the impacts of climate and housing demographic changes on the document. He stated that while population growth is fairly minimal in Marin County, new homes are needed to address the aging population and workforce affordability. Marin County has a significantly increasing senior population, as well as a very significant increase in the number of single person households. It is estimated that the latest census will indicate that approximately one-third of all new Marin County households will be single person, meaning the type of housing provided for this demographic needs to focus on service-based locations with opportunity for interaction.

Mr. Baird reviewed the modifications proposed in the Preliminary Draft Element. The Town's key sites for high-density residential development potential are at the east end of the Cove Shopping Center, a Reed Union School District-owned site immediately behind Reed School, and the current parking lot site next to the proposed CVS location. All of these sites are currently shown in the existing Housing Element for this purpose, and are not new. With the affordable housing overlay, each site can provide greater than 20 units per acre, or 60 to 70 sites in total, which would satisfy the need for lower income housing. It remains to be seen whether HCD will accept this proposed solution as suitable, but at this time he and staff feel they have provided adequate sites.

In addition to these sites, the Preliminary Draft Element updates certain data, outlines a program to adopt procedures for "reasonable accommodation," and modifies the Affordable Housing Overlay Zone to reduce the affordable housing requirement from 60% to 25% in any project. This is a significant change, but the reduction to a less onerous requirement would create more of an opportunity for these sites to actually be developed. The Preliminary Draft Element also establishes "variable density standards" for key Housing Opportunity Sites as a way to be more responsive to the size and impacts of individual units.

Commissioner Doyle inquired as the term, "underdeveloped" and asked how that differs from "open" or vacant. Mr. Anderson explained that "underdeveloped" would describe something like the Rabin property, which has 30 acres and only one house, and is obviously not developed to its full potential. Mr. Baird added that the idea is to demonstrate to HCD and the community the feasibility and realistic assessment of these sites; sites that are vacant are much easier to develop than those that are underdeveloped and contain existing buildings.

Commissioner Tollini requested clarification on the responsibilities associated with identifying sites with the potential for affordable housing. Mr. Baird stated the Housing Element primarily

identifies sites suited for higher-density housing which, under State law as it applies to Tiburon, is the default amount of 20 units per acre. While it is assumed that this density creates an opportunity for affordable housing to be built, it is not the Town's responsibility to do so. Mr. Anderson added that the Town no longer owns any properties that could be used for affordable housing.

Referring to Appendix B, Commissioner Kunzweiler asked where the data for potential housing units is derived from. He noted that certain properties showed potential for more units than the Commission approved for their projects. Mr. Anderson explained that the information is taken from the Town's Vacant Land Inventory and is based on what the General Plan allows on each specific parcel. While certain properties may have received approval for less, it is possible that those approvals will expire and the potential would return to that amount allowed by the General Plan.

Chair Frymier asked Mr. Baird to speculate as to what HCD's comments might relate to and if the community is prepared to address them. Mr. Baird replied that State law has become increasingly specific and comments are usually focused on those requirements. Typically, the most significant comments relate to the assessment of "potential governmental constraints" and "adequacy of housing sites". Jurisdictions that exceed their requirements by very low margins are often asked to provide more information about the sites identified. Other typical comments relate to the feasibility of affordable housing requirements.

Chair Frymier opened the public hearing.

Robin Curley said that she has participated on the housing team of the Marin Organizing Committee (MOC) for the last year and is generally pleased with what Belvedere and Tiburon have done to encourage development of affordable housing. She referred to Page 21 of the Draft Element, which comments on the perpetuity of Bradley House affordability, and said MOC has struggled for the past year to ensure that Bradley House remains as low and very-low income housing stock. Also, there is a lack of oversight by the owners that has allowed their board to disband and a new board to be brought in under a new set of HUD regulations. She clarified that Bradley House is comprised of two elements: the 3 small cottages and then the 12 units. HUD has difficulty with keeping this straight, and now that the bonds have been satisfied, there is conflicting information as to what will happen.

Mr. Baird recommended that staff look into and include discussion on the matter in the preliminary draft.

There being no one else wishing to speak, Chair Frymier closed the public hearing.

Commissioner Kunzweiler said the document is incredibly well crafted and he is pleased to see special needs housing addressed. He referred to Program H-7(4) and expressed concern with the qualitative nature of "easily and inexpensively", noting that it occurs in several other sections relating to special needs. He also referred to Program H-19E, which discusses planning and development of unincorporated sites in the Housing Element Area. He described the poor condition of Paradise Drive and said he was glad to see the inclusion that this constrains development, but also that it begs the question of why both the County and the Town continue to approve development here.

Mr. Anderson explained that HCD looks more at constraints to the development of “affordable” housing as opposed to market rate housing in communities such as Tiburon. Since neither the Town nor the County have proposed any affordable housing along Paradise Drive, the comments regarding Paradise Drive are consistent and accurate within the Element.

Chair Frymier noted a font issue on Page 92 and requested that “cannot” on Page 13, last paragraph, be corrected to “can not.”

ACTION: It was M/S (Tollini/Corcoran) to accept the Preliminary Draft Element and recommended that staff forward the Preliminary Draft Housing Element to the Town Council with the Commission’s comments. Motion carried: 5-0.

MINUTES:

2. PLANNING COMMISSION MINUTES – Regular Meeting of December 8, 2010

Vice-Chair Corcoran requested the following correction to the Minutes:

- Page 2, 3rd paragraph – “He ~~assumed~~ **confirmed** that any skylights would be tinted...”

Commissioner Tollini requested the following correction to the Minutes:

- Page 2, last paragraph – “...are some of the Town’s...”

ACTION: It was M/S (Corcoran/Kunzweiler) to approve the minutes of December 8, 2010, as amended. Motion carried: 5-0.

ADJOURNMENT:

The Planning Commission adjourned the meeting at 10:45 p.m.

CATHY FRYMIER, CHAIR
TIBURON PLANNING COMMISSION

ATTEST:

DANIEL WATROUS, SECRETARY