



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

Action and Approved - Minutes - Regular Meeting  
Tiburon Planning Commission  
January 26, 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

### 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. 40 MAIN STREET: CONDITIONAL USE PERMIT TO CONSTRUCT AN APPROXIMATELY 100 SQ. FT. ADDITION TO THE TIBURON PLAYHOUSE THEATRE AND TO ALLOW THE SERVING OF ALCOHOL FOR CONSUMPTION ON THE PREMISES; File #11001; Main Street Properties, Owner; David Corkill/Cinema West, Applicants; Assessor's Parcel No. 059-102-27 [DW] *Approved 5-0*
2. ALTA ROBLES RESIDENTIAL DEVELOPMENT: 3825 PARADISE DRIVE; FILE #30701; CONSIDER RECOMMENDATIONS TO TOWN COUNCIL REGARDING THE FINAL ENVIRONMENTAL IMPACT REPORT AND APPLICATIONS FOR PREZONING AND PRECISE DEVELOPMENT PLAN FOR A 14-UNIT RESIDENTIAL PROJECT PROPOSED ON 52.12 ACRES; Planned

Development #20; Irving and Varda Rabin, Owners and Applicants; Assessor Parcel Numbers 039-021-12 and 039-301-01 [DH]

**Recommended Approval of Final EIR 5-0**

**Recommended Approval of Rezoning 5-0**

**Continued Precise Development Plan to 3/9/2011 5-0**

## MINUTES

3. PLANNING COMMISSION MINUTES – Regular Meeting of January 12, 2011  
**Approved as Amended 5-0**

## ADJOURNMENT *At 11:10 PM*

PLANNING COMMISSION  
APPROVED MINUTES NO. 1005  
January 26, 2011  
Regular Meeting  
Town of Tiburon Council Chambers  
1505 Tiburon Boulevard, Tiburon, California

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### **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 Scott Anderson, Planning Manager Dan Watrous, Contract Planner Diane Henderson, Environmental Consultant Bob Berman and Minutes Clerk Alexis Levison

**ORAL COMMUNICATIONS:** None

### **COMMISSION AND STAFF BRIEFING:**

Community Development Director Anderson stated that the Commission's approval of the recent CVS application was appealed by both the applicant and neighbors. Both appeals will be heard at the Town Council's February 16<sup>th</sup> meeting and one Commissioner is needed to attend. Chair Frymier agreed to attend.

## **PUBLIC HEARING**

### **1. 40 MAIN STREET: CONDITIONAL USE PERMIT TO CONSTRUCT AN APPROXIMATELY 100 SQ. FT. ADDITION TO THE TIBURON PLAYHOUSE THEATRE AND TO ALLOW THE SERVING OF ALCOHOL FOR CONSUMPTION ON THE PREMISES; FILE #11001; Main Street Properties, Owner; David Corkill/Cinema West, Applicants; Assessor's Parcel No. 059-102-27**

Planning Manager Watrous presented the staff report, stating the application is to construct an addition to the Tiburon Playhouse movie theatres located at 40 Main Street and to serve beer and wine to theatre patrons. The applicants propose to expand and reconfigure the existing theatre. The existing 250 square foot office at the rear of the building would be demolished and replaced with a 350 square foot addition. The additional 100 square feet would be created by making the covered porch area to the rear of the existing office into enclosed space. The interior of the building would be reconfigured into four screens, with upgrades to the furniture, fixtures and equipment, including digital projection equipment for all screens. Beer and wine sales for theatre patrons would be part of an expanded line of food concessions, along the lines of a "dinner theatre." The exact number of theatre seats is uncertain at this time, but would not exceed the current approved seating capacity of the theatre of 477 seats. The only exterior change to the building would be the addition to the rear, details of which will be reviewed through the Site Plan and Architectural Review process. Staff finds the project to be consistent with the Town's General Plan and Zoning Ordinance.

Chair Frymier opened the public hearing.

David Corkill, applicant, said that the remodel and addition are desperately needed. They would like to revitalize what is the oldest and most tired theatre in Marin to the newest and nicest theatre.

Martin Perlmutter said that the Tiburon Playhouse has grown old and tired and he felt strongly that the application should be approved. He said Mr. Corkill is a wonderful supporter of and contributor to the Town and the proposed wine service would be both creative and innovative.

Chair Frymier closed the public hearing.

Commissioner Doyle said that this would be a nice and simple addition that he could support.

Vice-Chair Corcoran concurred and echoed Mr. Perlmutter's words of support. He said that the application was a welcome contrast to rumors that the theatre might leave the Town. He said that he has heard great things about a San Francisco theatre offering similar service and believed that this would be an innovative addition to both Tiburon and all of Marin.

Commissioner Kunzweiler concurred that the services and amenities would help the theatre.

Commissioner Tollini said that she attended a similar theatre in Orlando, greatly enjoyed it, and thought that this would be a great addition.

Chair Frymier voiced full support for the project and commended the applicants on their desire to make such an improvement.

ACTION: It was M/S (Kunzweiler/Corcoran) to adopt the resolution approving the subject conditional use permit. Motion carried: 5-0.

## **MINUTES:**

### **3. PLANNING COMMISSION MINUTES – Regular Meeting of January 12, 2011**

Commissioner Tollini requested the following correction to the Minutes:

- Page 3, 5<sup>th</sup> paragraph – “...the proposed property ~~to~~ **line** wall...”
- Page 4, 5<sup>th</sup> paragraph – “...to get out of their cars ~~does~~ is not asking too much.”

ACTION: It was M/S (Corcoran/Tollini) to approve the minutes of the January 12, 2011 meeting, as amended. Motion carried: 5-0.

## **PUBLIC HEARING**

### **2. ALTA ROBLES RESIDENTIAL DEVELOPMENT: 3825 PARADISE DRIVE; FILE #30701; CONSIDER RECOMMENDATIONS TO TOWN COUNCIL REGARDING THE FINAL ENVIRONMENTAL IMPACT REPORT AND APPLICATIONS FOR PREZONING AND PRECISE DEVELOPMENT PLAN FOR A 14-UNIT RESIDENTIAL PROJECT PROPOSED ON 52.12 ACRES; Planned Development #20; Irving and Varda Rabin, Owners and Applicants; Assessor Parcel Numbers 039-021-12 and 039-301-01**

Diane Henderson, contract planner for the Town, presented the staff report. She described the project and the EIR process thus far. She noted that the Draft EIR concluded that the project could result in potentially two significant impacts that could not be mitigated to a less than significant level. Those impacts were related to temporary construction noise and to views of the site from Middle Ridge Open Space. The Draft EIR also identified five significant unavoidable cumulative impacts from the project in combination with all other development at build-out of the Tiburon peninsula.

She stated that numerous public comments were received both in writing and verbally regarding the need to look at an additional alternative to the proposed development. The applicants subsequently developed Alternative 4, a reduced development plan that sets out to address the significant impacts identified in the Draft EIR. Alternative 4 has been adopted by the applicant as the project and as such, can be included in the Final EIR without the need to re-circulate the document. She described additional photosimulations prepared as part of the Final EIR that indicated that there would not be significant impact when viewed from the bay. Updated studies have been provided and are included in the Final EIR, which identified no new significant impacts. She stated that staff has reviewed the Final EIR and believes it to be compliant with the California Environmental Quality Act (CEQA) and recommended that the Commission recommend certification of the Final EIR to the Town Council.

She described issues related to ridgeline setbacks with the revised project design. As currently proposed, Lot 4 still remains within the vertical Tiburon Ridge setback and it is unlikely any development could occur on that lot without violating the setback. As a result, staff has recommended elimination of Lot 4 and any development in that location. Alternative 4 adjusted lot lines of Lots 4, 5 and 6, moved lot lines of Lots 13 and 14, and reduced the house size of Lot 14 by 1,800 square feet. The alternative also greatly reduced the amount of grading proposed,

much of which was in response to the Town's Landslide Mitigation Policy. The revised project now includes only 3 retaining walls that exceed 6 feet in height, and most walls become either walls of the house or will not be visible from off-site. Alternative 4 made significant changes to the roadway connecting the two sites, which previously required significant grading and retaining walls. The new solution essentially constructs a bridge connecting the two terrains.

She stated that staff believes that the applicants have truly addressed the concerns raised, with the one outstanding issue being impacts to Significant Ridgelines 5 and 6. Staff believes it would be very difficult to develop this site without violating some of the terms of policies regarding developing on ridgelines. Ms. Henderson noted the Town has shown some flexibility with significant ridgeline setbacks in the past and, in fact, the location of the existing roadway is in violation of what the current ridgeline policies would allow.

Commissioner Kunzweiler requested more information on cumulative impacts and how this truly relates to an individual project application. Director of Community Development Anderson said that cumulative impacts have previously been identified in the Tiburon General Plan EIR as impacts that will occur with build-out of the Tiburon peninsula. He said that these impacts do not amount to much at an individual project level, and only become cumulative at the General Plan build-out level. He stated that in approving its General Plan, the Town accepted and agreed to live with these cumulative development impacts.

Commissioner Kunzweiler said that he was taken aback by Alternative 4, which makes modest changes to Alternative 3 but does not address the significant unavoidable impacts. He asked what guidance CEQA offers in determining the adequacy of an alternative and whether Mr. Berman was satisfied with the analysis provided by Alternative 4.

Environmental consultant Berman stated that the intent of Alternative 4 was to look at ways to reduce specific impacts identified in EIR. He said that the alternative was successful in terms of reducing those impacts to less than significant levels with the exception of views from Middle Ridge Open Space. He said that the Commission now has a range of alternatives with a range of units from which it may choose and to which it may also make further revisions. He noted that alternatives typically deal with physical impacts as opposed to policy conflicts, and some of the remaining issues with this project are not the types of variations to be dealt with in an EIR. He believed Alternative 4 to be an adequate response in keeping with the EIR process and that the EIR provides the Commission with adequate information to proceed.

Ms. Henderson said that staff concurs with the position that Alternative 4 is a separate and adequate alternative. She reviewed the additional modifications recommended in the staff report, which do attempt to address policy impacts further than was done in the EIR.

Chair Frymier noted that the Commission had read all correspondence items related to the project, including late mail, and she asked the public to limit comments to new information. She opened the public hearing and requested the applicant's presentation of the project.

Shira Rabin, applicant, said that her family takes great pride in having created a sustainable and environmentally harmonious development that would minimize the impacts associated with such a constrained site. She said that since the last project hearing, they have further revised and improved the plan to address additional concerns and constraints. She said that they hosted an additional community meeting the previous week and were pleased to hear some praise and thoughtful comments. She said that the primary theme of concern was related to the potential for

a “bait and switch” on the proposed home designs, and this has never been their plan, nor is it what they want. In addition to the Town’s own practices and policies, she said that they would like to commit that the Ken Kao-designed homes proposed would be what would actually be built on the property and they would agree to language that deviations from this plan would require individual property owners to obtain a PDP amendment.

She said that her family has been an excellent steward of the land and as they would be most affected by what happens here; they have designed a project that they can live beside. She thought that this application was one of the most thorough and well thought out ever submitted the Town and encouraged the Commission to certify the EIR.

Scott Hochstrasser, environmental consultant, presented a PowerPoint slide show. He discussed both existing and approved development in the surrounding area and said that the SODA parcel, if developed under the County’s jurisdiction, could likely yield the same significant development potential as the Sorokko property below. He reviewed the studies commissioned by the applicant, which were combined in an overlay map to demonstrate the development constraints identified in the general plan. He stated that this leaves two relatively small envelopes of developable area on the site. He noted that a significant portion of the project’s ridgeline impacts result directly from these site constraints.

He discussed what he felt were concessions on the applicant’s part, including reducing the density from the maximum 20 units allowed under the general plan to 14 units and proposing homes mostly ranging from 6,500 to 7,500 square feet in size on 1.5-acre lots. He noted that some homes were further reduced in size as a result of the EIR findings. He added that the applicant was offering 21.5% more open space than required by the general plan as well as development of a trail adjacent to Hacienda Drive.

Ken Kao, project architect and master planner, continued the PowerPoint presentation. He demonstrated how the project attempts to cluster buildings and how each home would be individually shaped to conform to the contours of the land. He discussed the latest revisions to Lots 4, 5, 6, and 14. He also discussed the green design elements of the project, which attempt to minimize the perception of massing by limiting exposed volume and appreciable view. He stated that this would be accomplished through bermed-type homes, terraced designs, reduced exposed apertures, natural materials, and earthen forms. He said that the project presents a wonderful opportunity to expand on passive home design, perhaps through geothermal or solar energy and vegetative covering.

Mr. Hochstrasser stated that approximately 776 trees currently exist on the property, only 323 of which are native. While the project proposes to remove about 261 trees, he said that 253 trees would be planted. He explained that the removal to planting ratio is just short of one for one because of the extensive native grassland and plant habitats that should not be changed. He discussed Alternative 4 in greater detail, stating that in addition to reducing landslide repair grading by roughly 5%, it would eliminate 362 linear feet of retaining walls and limit the average visibility of retaining walls to 2 to 5 feet in height. He briefly discussed the proposed bridge and landscape design.

Varda Rabin said that as stewards of the property, she and her family focused on the selection of an architect who truly understood the land and could offer the most integrated design. She said that Mr. Kao is the foremost architect in the field of environmentally integrated design. She is not a professional developer and as such, is looking to preserve the valuable features of the land

while also creating something where she, her children, and others would be proud to live. She believed that the proposal truly captured the spirit of Tiburon and requested the Commission's support.

Chair Frymier asked if her fellow Commissioners had any questions of the applicants.

Commissioner Kunzweiler acknowledged the applicant's comments regarding stewardship, but said that he had trouble reconciling that with such an intense use of the land.

Mr. Hochstrasser replied that it is unlikely there are many projects of this size that would show similar sensitivity to and use of the guidelines and direction provided within the general plan. He said the general plan indicates that this site has potential for up to 20 units, but in respecting the other goals and constraints identified, the applicant reduced that back to 14 units. He said that the home size proposed would be consistent with the character of the community and surrounding land use patterns. He also noted that while Lot 4 would present some ridgeline setback issues, a close look at the surrounding area would show no less than 16 other homes violating ridgeline constraints.

Commissioner Kunzweiler said that the conceptual designs are lovely, but he asked how the applicant proposed to enforce what was presented. Mr. Hochstrasser said that that would be more an issue of how the Town would propose to enforce its own approvals. He said that the Town has the policies, programs, and laws in place to ensure that the project as proposed would be the project that would be built. He stated that the Rabin family is committed to building the cutting-edge project outlined through the design criteria proposed, and approval of the project should offer the Town the ability to enforce those criteria.

Chair Frymier asked Mr. Kao to discuss his experience with residential projects of this size. Mr. Kao said he has worked on several projects with homes ranging in size from 3,500 to 15,000 square feet. He said that most of his work relates to the master planning phase and few clients see the need to design as intensively in this phase as the Rabins have. He said that none of the projects are complete developments yet, as something of this magnitude takes a significant amount of time.

Commissioner Doyle asked how the applicants see this proceeding, should the Commission approve the project.

Mr. Hochstrasser said that there would be another 2.5 to 3 years of additional processing before any work could begin. He said that there is no intent to construct the entire development at once, but they would likely address all infrastructure improvements up front.

Chair Frymier opened the public hearing to comments from interested persons.

Mark Goldstein said the architectural work done for the project is phenomenal but he voiced concerns with the utopian sense of vision. He fully supported the applicant being able to profit from their land, but he could not understand why stewards of the land would propose this density, mass, and grading. He was hoping for much more than a nip and tuck in Alternative 4. He said the Sorokko property was a poor model to cite and what happens there or has happened in the past is less important than what will happen in the future.

Eva Buxton said that she had many concerns relating to the project, portions of which she

addressed in a letter to staff. She noted that the project calls for removal of roughly 165 native oaks trees, a number of which are heritage trees and would result in a great loss. She requested that tree mitigation measures be expressed in more detail and that a specific in-lieu fee value be determined. She also asked that the applicant consult with a botanist before installing plantings, as some of the species shown in the presentation were not native.

Douglas Currens said that he has been an immediate neighbor of the Rabins for 20 years and he strongly supported the application. He said that he should be generally opposed to any development here, but he found this to be an acceptable compromise over what is allowed under the Town's general plan. He said that the project does an excellent job of integrating design into the natural environment while still allowing for expansive views. He thought that the desirable and visionary design elements would bring architectural and environmental acclaim to the town. He said that the applicants, who would suffer most from poor planning, were clearly just trying to preserve their legacy and have done an exemplary job of trying to meet the high standards set forth in the Town's guidelines. He felt that the project was worthy and he would be pleased to see such homes built across from his own.

Sharon Strauss said that she has known the applicants as philanthropists, supporters of many community causes, and environmentally sensitive. She said that they designed their project with the utmost attention to green design because it is the right thing to do. She supported the project without hesitation and hoped that the Commission would do the same.

Norm Traeger said that he owns 23 acres contiguous to the Sorokko and SODA properties. He supported this project, but greatly regretted that it was not proposed 20 years ago. He felt that a project of this scope and sensitivity would have sent the right signal to the Design Review Board, the Building Division, and other developers. He said that the project would forever change the character of Paradise Drive for the better and he asked the Commission to both support and to encourage this sort of landmark construction.

Nona Dennis, Marin Conservation League, said that she has watched the progressive increase in size, density, and insensitivity to scene and character along Paradise Drive. She questioned the Commission's ability to make the finding of overriding considerations needed to certify the EIR. She characterized Alternative 4 as a variant, not an alternative, and asked why Alternative 2 was not given greater attention. She was baffled by the continued creep of home size, particularly as recent surveys are finding that larger homes are becoming obsolete in the demography of increasing age. She asked how the common open space areas would be managed over time so that they truly constitute a whole and viable open space. She said that although individual areas of concern have been mitigated, the project as a whole was too much for this site.

Annette Gellert said that she is a long-time environmentalist and has worked with Varda Rabin in the advocacy of green planting. She asked the Commission to envision what a different community this would be if each home were designed with the sensitivity shown here. She said that the applicants have done an amazing job of evaluating how the project will impact the community and said that from an environmental standpoint, the Town can do no better than what is proposed.

Alex Gerson said that the project would provide the community with a tremendous amount of open space in exchange for a low density development. As a close neighbor, he was pleased with the proposal, said that this showed the hard work and diligence of the Planning Commission. He said that the applicant's record of accomplishment supported the green concept and the proposal was in line with market demands.

Regina Waldman said that the Rabins are staunch and relentless defenders of ecology, clean air, and open space, and the project directly reflects the nature of their philosophy. She supported the project as something the Town could be proud of and future generations would benefit from.

Dan Waldman said that he views this property directly from his home and he travels past the proposed project frequently. He expressed concern with what the visual impacts would mean for him and the community, but said that he had great respect for the applicants and their vision. He appreciated that 1/3 of the property would be dedicated in perpetuity to open space and also that the applicant was willing to lock in the scope and forward thinking design presented as part of the project. He understood the applicants to be great stewards of the land and felt that their high ethical standards would ensure the implementation of this design.

Sandra Swanson said that the California Supreme Court calls the general plan the Town's "Constitution" for future development. She read from the general plan, noting particular areas that speak to land use. She said that the Seafirth neighborhood would be tremendously affected by the significant unmitigated impacts, and asked the Commission to consider what 15 years' worth of construction noise would mean for the community. She requested that controls be put in place to require that Mr. Kao's specific designs be built. She also requested that the Commission either re-establish the original traffic study or require a new one using a consultant not hired by the applicant. She said that the remaining impacts could be greatly reduced by requiring fewer and smaller homes, increased clustering, and no ridgeline interference.

Randy Greenberg stated that Alternatives 3 and 4 were identical in terms of impacts and mitigation measures. She said that the inability to provide an alternative that both accomplishes the project objectives and minimizes impacts made the project merits questionable. She said that the project did not give ridgeline policies the respect they are due and only applies general plan policies where convenient. She said that these policies, which are very clear and important to the residents of Tiburon, should be defended. She stated that ridgelines give a sense of place and space and, as many were lost to development that preceded implementation of these policies, those that are left should be protected. She said that the Commission's direction to the applicant should not be about what specific number of units would be suitable, but rather that the project must be amended to bring impacts more in line with the Town's goals and policies, and to leave the most visible portions of the ridgelines undeveloped.

Becky Pringle said that she supported the efforts of the applicants but hoped the Commission would be able to balance private property rights with the rural character of Paradise Drive, traffic from both existing and approved development using Paradise Drive and Trestle Glen Boulevard, and a more appropriate concept of home size. She said that the applicants have done a nice job, but there was still room for more thoughtful care of these concerns.

Judith Thompson said that she lives immediately next door to the applicants. She said that she had repeatedly raised issues with the proposed trail head which begins right in her front yard. She said that the applicant had proposed plantings to separate the entrance from her property, but this would obstruct her views. She said that there would not be suitable access and parking at the proposed trail location, leaving the public to park on and traverse her property, and she was frustrated that the issue has not been addressed, but she otherwise supported the project.

Robert Swanson said that many of the concerns with the EIR that he raised at the last public hearing have not been addressed. He said that while there has been a drastic erosion of private

property rights over the years, the applicants' efforts to exercise their rights would greatly infringe upon his rights. He asked what assurances the applicant could provide that future site owners would be constrained to build a home as designed by Mr. Kao and questioned how they would know what is expected of them.

Chair Frymier closed the public hearing. She asked the Commissioners to provide their comments at this time on the issues of EIR certification and the rezoning of the SODA property.

Commissioner Kunzweiler said that this is a very challenging project. He said that it was unfortunate that a richer and more illustrative range of alternatives was not offered in the EIR, as the project had improved with each revision. That said, he believed that the Commission had the opportunity to review and refine the project during the merits phase. He continued to be very concerned with the traffic studies, noting that the most recent study conveniently came up with speeds that were perfectly in line with the site distances available. He expressed specific concern with the use of the fire road for construction equipment. He thought that there was no question that the applicants had good intentions but the project needed to be better balanced with the general plan's objectives. He doubted that the EIR process would offer any more assistance in this area and said that he would support certifying the EIR so that the merits phase and project refinement process could begin.

Commissioner Tollini concurred. She said that the Draft EIR, response to comments and Final EIR were all quite extensive. She did not necessarily agree with all their conclusions, but felt that any other issues could be addressed during review of the project merits and she recommended certification of the EIR.

Vice-Chair Corcoran concurred. He said that both the Commission and members of the public requested an additional alternative that would provide concrete changes over what was previously presented. He was rather disappointed with what came back [Alternative 4] and did not think that it was in line with what was requested; however, he felt that the EIR was adequate and complete and he could support recommending its certification.

Commissioner Doyle also agreed. He said that what was presented by the applicant was clearly the product of considerable work, which was exactly what this project deserved. He voiced support of certification of the EIR but said that there was clearly much more to discuss.

Chair Frymier echoed the previous comments, stating that most of the comments heard at this meeting relate to the project merits, and she was prepared to move forward with very specific direction to the applicant.

ACTION: It was M/S (Kunzweiler/Corcoran) to adopt the resolution recommending certification of the Alta Robles Final EIR to the Town Council. Motion carried: 5-0.
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ACTION: It was M/S (Kunzweiler/Tollini) to adopt the resolution recommending rezoning of the SODA property to the Town Council. Motion carried: 5-0.
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**BREAK** – Chair Frymier called a brief break, and thereafter, reconvened the meeting at 10:15 p.m.

She asked Commissioners to provide their initial comments on the merits of the Precise Development Plan (PDP).

Commissioner Kunzweiler said that his concerns in no way reflect his opinion of the applicants' intent, but there is debate over what constitutes intense development, reasonable development, and good stewardship. He said that he approaches his position as a Commissioner with the belief that the general plan is in fact the Town's equivalent of the "Constitution" and that it contains guidelines that both the Commission and the public spent much time developing. He said that this site presents real difficulties in balancing a profitable development with the general plan's policies, which very strongly discourage construction on ridgelines.

He said that the general plan also discusses neighborhood compatibility, and while this project may be consistent with certain developments that have not yet been built, such as the Sorokko project, it would be inconsistent with the Seafirth, Acacia and Norman Way neighborhoods. He said that the project flies in the face of much of the general plan. He said that he was prepared to be flexible, but he could not see an argument to support the contention that the proposed density and size would be consistent with the general plan. He said that it was disconcerting to see so little progress made with [Alternative 4] since the last meeting, but did commend the applicants' willingness to encourage innovative design and to keep Mr. Kao involved.

He said that he was not prepared to vote on the PDP at this time but would ask the development team to return with a design that demonstrates consistency with the general plan. He wanted to see if there were other alternatives, including reducing the number and/or size of homes or clustering dwellings, that would be more consistent with the general plan or lessen the impacts of the project.

Commissioner Tollini said that she believes in the applicants' rights to develop their own property, but it is the Commission's role to ensure it is done responsibly and in accordance with the general plan. She said that while the proposed density was technically supported by the general plan, the overall project was not in line with its direction regarding ridgelines. She said that she would like to see another project design that better addresses ridgeline policies, whether that is achieved by decreasing the density or perhaps by clustering homes away from sensitive areas. She was impressed with the amount of work done thus far, loved the design of the homes, and said that she would be more comfortable if it could be guaranteed that the homes presented this evening would be the homes that would be built. She said that there was not sufficient protection of the ridgelines. She said that she would also like to see more in the way of traffic studies and alternative locations for the public trailhead for the Ridge Trail.

Vice-Chair Corcoran said that he was impressed with the comments received so far and echoed Commissioner Kunzweiler's comments that the project merits are not related to the applicants' character. He noted the Commission's responsibility to enforce the zoning ordinance and the general plan. He said that there is a lot he liked about the project, including green design, open space, and the public trail easement, but he concurred that more refinement was needed. He said that the project needed more clustering, less grading, smaller residential use areas and smaller home sizes. He said that the proposed home sizes were not compatible with surrounding neighborhoods and did not like the fact that numerous homes approached the crest of a ridgeline. He said that he mostly agreed with the staff report and recommendations, and thought Ms. Greenberg's suggestion (addressed in her letter) relative to paragraph 10 of the resolution would be appropriate. He said that the recommendation that the Rabin's existing driveway be limited to emergency access needed further discussion, noting that the general plan recommends that there

be few access points to Paradise Drive. He said that the Commission had been quite clear in its obligations to the general plan and, while he appreciated the work invested to date, the project was not quite at a point that he would be comfortable supporting it.

Commissioner Doyle concurred with the previous comments. He said that development on Red Hill Circle was an important impetus in Tiburon establishing itself as an incorporated community and as more and more of the town is developed the general plan provides the guidelines by which to do it properly. He said that there is an opportunity to preserve the ridgelines on the site and the project could do a little better in that regard. He said that he would be quite pleased if he knew these homes would be built exactly as shown, but he was unsure how to guarantee that. He said that he was not as concerned about home size because the reality is that by digging homes into the hillside, one can increase floor area without increasing bulk. He questioned whether clustering was really the answer but said he would like the benefit of seeing how that could work, and felt that both the applicant and the Commission were in the position to require something even better than what is currently proposed.

Chair Frymier said that she concurred with the majority of the Commissioners' comments. She agreed that clustering is not always better and said she liked the way the project was laid out, which does an exceptional job of connecting residents to the land. She agreed that much of what was previously developed in town is not ideal and that this is an opportunity to do it right. She felt that just because there are larger homes nearby did not mean that large homes were appropriate at this location. She said she found the home sizes to be in conflict with the theory of green design, though she very much appreciated the green elements of the project. She had no issue with the proposed density but had a significant issue with the potential ridgeline impacts, noting that the Commission's role is to look at the general plan on balance and weigh what is proposed against what is ultimately possible. She said that while the project was very positive overall, the Commission needed to provide very specific direction to the applicant on further refinements to the project.

Commissioner Kunzweiler recognized that ridgelines take up a large portion of the site, but the Commission seemed to be unanimous in the position that the Tiburon Ridge is off limits. He suggested that the Commission request an alternative design that eliminates interference with the Tiburon Ridge and minimizes or significantly reduces impacts to Significant Ridgelines 5 and 6. He said that the applicant could decide whether they prefer fewer, larger homes or a greater number of smaller homes, and then identify footprints that would have the least damage.

The applicant was recognized as wishing to respond to the Commission's comments. Mr. Hochstrasser said that he was frustrated with the lack of direction provided by the Commission. He stated that he had provided the Commission with a composite analysis demonstrating that nearly all development opportunities on the site are limited to areas on or near the secondary ridgelines. He requested more specific direction from the Commission on the number of homes that would be acceptable.

Chair Frymier said that the Commission was very specific in requesting that they limit the size of homes or lower the number of homes.

Commissioner Doyle said that some concerns relating to size and bulk might be alleviated with better visualization of what the overall project would look like. He said he understood the concept that had been presented, but many people might not.

Vice-Chair Corcoran respectfully disagreed, noting that the staff report pointed out that reduced mass on Lot 4 would still encroach into the Tiburon Ridgeline.

Commissioner Kunzweiler said that Mr. Hochstrasser's reaction and comments surprised him. He said the Commission was attempting to be reasonable and consistent in its direction, rather than spoon feed the applicant when it knows little of the specifics or costs of the project. He said that the applicant would not be well served by having the Commission design the project for him.

Mr. Hochstrasser asked if the Commission would be open to some sort of subcommittee to facilitate the process, as he felt that the current proposal was their best attempt. He said that the record reflected a constant desire to preserve ridgelines, which he felt was accomplished. He felt that the project balanced the goals of the general plan on the whole and the applicant would require specific direction to make any more changes.

Vice-Chair Corcoran said that while the Commission does not all speak with a single voice, he felt that there had been little change in its direction to the applicant over the past two years. In reviewing the minutes of prior meetings, he felt that it was evident that direction was given for specific changes to be made. He recognized the changes that had been made and acknowledged the constraints of the site, but said that more changes were needed to bring the project in line with the general plan. He said that the staff report provided some solid direction and, while he would argue that the resulting home sizes would still not be compatible with the surrounding area, these changes would go a long way toward minimizing ridgeline impacts and increasing support for the project.

Commissioner Tollini said that she could not suggest anything specific but generally felt the project encroached on the ridgelines. She said that the staff report provided solid recommendations that she fully supported. She said that she could likely get behind a project that moved further in that direction, particularly with more concessions related to home size and height and perhaps eliminating a lot or two.

Commissioner Kunzweiler said that the staff recommendation was certainly a step in the right direction but should be looked at only as a starting point.

Chair Frymier echoed the previous comments. She said that she would like the applicant to better demonstrate how the language of the general plan and Zoning Ordinance supports what is being proposed. She said that she would like to see Ms. Greenberg's comments regarding Mr. Kao's designs incorporated into the resolution and asked if a deed of trust would be appropriate for this situation. Mr. Anderson stated that a deed of trust is a possible tool and Chair Frymier said that she would strongly favor that sort of requirement. She said that she felt very strongly about this particular development and would like it made very clear that anyone purchasing a future lot in this development would need to comply with these requirements.

<p><b>ACTION:</b> It was M/S (Corcoran/Kunzweiler) to continue the item to the March 9, 2011 regular Planning Commission meeting. Motion carried: 5-0.</p>
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**ADJOURNMENT:**

The Planning Commission adjourned the meeting at 11:10 p.m.

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CATHY FRYMIER, CHAIR  
Tiburon Planning Commission

ATTEST:

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SCOTT ANDERSON, SECRETARY (ACTING)