



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

Action and Approved Minutes - Regular Meeting  
Tiburon Planning Commission  
April 13, 2011– 7:30 PM

## ACTION MINUTES

### TIBURON PLANNING COMMISSION

#### CALL TO ORDER AND ROLL CALL 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

#### NEW BUSINESS

1. END OF ANTONETTE DRIVE AND END OF PARENTE ROAD: PARENTE VISTA RESIDENTIAL PROJECT (PD #4): VESTING TENTATIVE SUBDIVISION MAP APPLICATION (FILE #61002) FOR THE CREATION OF TWO LOTS ON A 10.2 ACRE PARCEL; Lionel Achuck, Owner; Tom Newton, Applicant; Assessor's Parcel No. 038-111-16 [DW] *Approved (5-0)*

#### OLD BUSINESS

2. 3825 PARADISE DRIVE: PRECISE DEVELOPMENT PLAN (PD #20) FOR A 14-UNIT RESIDENTIAL PROJECT ON APPROXIMATELY 52 ACRES; (FILE # 30701); Irving and Varda Rabin, Owners and Applicants; Assessor Parcel Numbers 039-021-12 and 039-301-01 [DW] (*Continued from January 26, 2011*)  
*Recommended Approval to Town Council (5-0)*

3. EXTENSION OF DESIGN REVIEW APPROVALS---REFERRAL FROM TOWN COUNCIL REGARDING AN AMENDMENT TO THE DESIGN REVIEW TIME EXTENSION ORDINANCE THAT WAS NOT PREVIOUSLY CONSIDERED BY THE PLANNING COMMISSION; FILE MCA 2011-01 [DW] **Recommendation made to Town Council (5-0)**

**MINUTES**

4. PLANNING COMMISSION MINUTES – Regular Meeting of March 23, 2011  
**Approved as Amended (5-0)**

**ADJOURNMENT** **At 10:35 In Memory of Charles McGlashan**

PLANNING COMMISSION  
APPROVED MINUTES NO. 1008  
April 13, 2011  
Regular Meeting  
Town of Tiburon Council Chambers  
1505 Tiburon Boulevard, Tiburon, California

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**CALL TO ORDER AND ROLL CALL:**

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

**Present:** Chair Frymier, Commissioners Corcoran, Doyle, Kunzweiler and Tollini  
**Absent:** None  
**Staff Present:** Planning Manager Watrous, Associate Planner Laurie Tyler and Minutes Clerk Levison

**ORAL COMMUNICATIONS:** None

**COMMISSION AND STAFF BRIEFING:**

The Planning Manager recommended adjourning the meeting in memory of Supervisor Charles McGlashan.

Vice-Chair Corcoran stated that Supervisor McGlashan was a good friend and had done much for the Town. He said that there was some consolation to be found in what he achieved for the community and cited several examples of his efforts.

Commissioner Kunzweiler echoed Vice-Chair Corcoran's comments. He stated that Supervisor McGlashan accomplished a tremendous amount in a relatively short amount of time and served the community well.

**NEW BUSINESS:**

- 1. END OF ANTONETTE DRIVE AND END OF PARENTE ROAD: PARENTE VISTA RESIDENTIAL PROJECT (PD #4): VESTING AND TENTATIVE SUBDIVISION MAP APPLICATION (FILE #61002) FOR THE CREATION OF TWO LOTS ON A 10.2 ACRE PARCEL; Lionel Achuck, Owner; Tom Newton, Applicant; Assessor's Parcel No. 038-111-16**

Mr. Watrous presented the staff report, stating that in the end of September 2010 the Town Council approved the Parente Vista Precise Development Plan to subdivide 10.2 acres into 2 lots. The applicant has now filed the trailing permit for the Vesting Tentative Subdivision Map for the actual subdivision. Lot 1 consists of 2.07 acres and Lot 2 of 8.11 acres. Staff has reviewed the application and found it to be in compliance with the requirements of the Tiburon Subdivision Ordinance. He recommended that the Commission take public testimony and adopt the draft resolution granting conditional approval of the Vesting Tentative Map.

There was no public comment.

The Commission expressed support for the Resolution, as drafted.

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| ACTION: It was M/S (Kunzweiler/Tollini) to adopt the Resolution granting conditional approval of the Vesting Tentative Map. Vote: 5-0. |
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**OLD BUSINESS:**

- 2. 3825 PARADISE DRIVE: PRECISE DEVELOPMENT PLAN (PD #20) FOR A 14-UNIT RESIDENTIAL PROJECT ON APPROXIMATELY 52 ACRES; (FILE # 30701); Irving and Varda Rabin, Owners and Applicants; Assessor Parcel Numbers 039-021-12 and 039-301-01**

Mr. Watrous presented the staff report, stating that the application is for a Precise Development Plan (PDP) and rezoning for a 14-unit residential project on 52 acres. The Planning Commission most recently reviewed this application on January 26, 2011. At that meeting, the Commission expressed concerns about the project that focused on its consistency with the Town's ridgeline policies, neighborhood compatibility and consistency policies, and the lack of changes presented by Alternative 4. The Commission suggested that the applicant explore the possibility of reducing the number, size and height of the proposed homes and better cluster the dwellings on the site to achieve improved consistency with the General Plan policies. The Commission also requested clarification on how the Town could ensure that future homes constructed on the site would closely resemble the conceptual house designs prepared by the applicant.

He stated that the applicant had submitted a revised alternative project design known as Alternative 5, which moved from its previous location within the vertical Tiburon Ridge setback to a location within the previous Lot 1. He stated that other changes had been made to the residential use areas of Lots 2, 3 and 6 and the submitted materials included calculations on the façade surface areas based on the conceptual house designs for each lot. He said that no other

changes have been made to the previous 14-unit Alternative 4 project design and the number of lots and maximum floor areas and building heights remain the same.

Planning Manager Watrous described a previously distributed memo providing additional information and analysis regarding the project's relation to the two Significant Ridgelines on the site and additional comparative information on neighborhoods surrounding the site. He noted that the analysis was based on a review of Alternative 4 prior to the applicant's submittal of Alternative 5 and assumed inclusion of the project modifications that had been recommended in the January 26<sup>th</sup> staff report. He said that in staff's opinion, the changes to the project design included in Alternative 5 are not substantially responsive to the direction provided by the Commission at its January 26<sup>th</sup> meeting, and therefore the memo listed numerous project revisions that could produce a level of improved policy consistency and attempt to meet the expectations expressed by the Commission at the previous meeting. He encouraged the Commission to use this checklist as a tool with which to build consensus on a revised project design to recommend for approval to the Town Council. He also recommended the inclusion of condition of approval No. 14, which specifies that the house design shall closely resemble the conceptual designs presented by the applicant, in order to ensure that the architectural design of the homes built on the potential lots would be consistent with the designs included in the PDP.

Planning Manager Watrous summarized that in order to achieve improved consistency with the policies of the Tiburon General Plan the Commission should take action to further shape the project design. He recommended that some or all of the measures recommended in the staff report should be utilized to come up with a project design that the Commission can recommend for approval by the Town Council. He stated that the resulting project design, as revised by these recommended measures, would be substantially consistent with General Plan policies regarding protection of Significant Ridgelines and neighborhood consistency and compatibility.

Daniel Rabin apologized that the remainder of his family was unable to attend the meeting. He thanked the Commission for attending the property tour and hoped that it helped them to realize the uniqueness of the project. He stated that the current proposal was one of the most thorough and carefully thought-out development projects in the history of Tiburon, and had been further revised and improved to respond to concerns raised by the public and the Commission. He said that the changes made this a much better project. He stressed that the applicants are not absentee developers and that his family sincerely hopes to live in the homes proposed by this project. He said that as the residents most impacted by the project, they have crafted something they would be proud to live alongside. He encouraged the Commission to recommend the project as presented to the Town Council for approval.

Scott Hochstrasser, land-use and environmental consultant for the applicant, gave a PowerPoint presentation reviewing the changes proposed by Alternative 5. He noted his late mail submission and stated that the memo referred to by Mr. Watrous was done without the benefit of the Alternative 5 application. He stated that the staff report failed to properly analyze the new alternative. He compared the recommendations of the memo with the changes proposed in Alternative 5. He said that Lot 4 was not eliminated but reduced in size, relocated and clustered tightly between Lots 1 and 2. He said that while Alternative 5 did not propose the recommended reductions to size and height for Lots 2 and 3, this would be mitigated by landscape screening and an increase in the open space buffer. He said that Lot 5 was reduced in size and additional vegetative screening added to Lot 7. He stated that the maximum height of the lower buildings

and vegetative screening of Lots 1, 8, and 9 would effectively shield them from view. He said that the staff recommendation that would combine Lots 11 and 13 seemed contradictory to Commission concerns relating to ridgeline proximity, as these lots were closer to the actual ridgeline than other lots.

Ken Kao, architect, continued the PowerPoint presentation. He presented illustrations of the revisions in Alternative 5 and provided visual comparisons between standard hipped roof homes and the conceptual designs of larger homes substantially embedded into the hillside. He said that the average vertical surface area for the project would be 36.39% below grade and he stressed that while the square footage of the proposed homes seems large, the massing style would be consistent with the Town's Hillside Design Guidelines. He provided visual demonstrations of screening and views from Paradise and Acacia Drives. He stated that the access to the Ridge Trail had been moved as close to the pillars on Hacienda Drive as possible.

Riley Hurd, attorney for the applicant, said that numerous residents had already expressed their support for the project. He asked the Commission to focus on the Environmental Impact Report (EIR), which was prepared by an independent consultant of the Town's choosing and at great expense to the applicant. He said that the EIR identified Alternative 3 as the environmentally superior alternative, and that Alternatives 4 and 5 improve the project even further. He asked that the Commission provide specific findings supported by evidence in the administrative record if it determines that further deviance from those recommendations are warranted. He recited the requirements relating to the Commission's decision and argued that the proposed resolution lacked legally adequate findings or evidence to support the deletions or size changes recommended by staff. He requested that any evidence supporting how such a change would achieve a measurable net positive difference be stated for the record.

Mr. Hurd discussed neighborhood compatibility and argued that the nearby Sorokko project was indeed worthy for comparative purposes. He said that if the Commission truly sought neighborhood compatibility the project would consist of numerous, 5,000+ square foot wholly above-ground structures with little to no articulation or spacing between them. He said that instead, the applicant has proposed primarily subterranean residences with considerably less visual mass than the outdated designs of the past.

Mr. Hurd stated that the Town's attempt to rezone the Rabin and Martha properties in the early 2000's was defeated by Measure M and that the Town simply embedded the same concept in its General Plan under the guise of ridgeline protection. He discussed the property's significant ridgelines, noting that both staff and site visitors essentially found them to lack visual prominence. He cited the ridgeline evaluation characteristics contained in General Plan Policy OSC-12 and concluded that the caliber of ridgelines found on the applicants' property warranted less protection than other, more prominent ridgelines. He said that the proposed house designs essentially preserve all landforms on the site and that while the ridgelines should not have been mapped, they would not be truly affected by the project.

He discussed views and cited the Hillside Design Guideline principle that views over undeveloped property are temporary or borrowed views and characterized any views across the undeveloped site as borrowed views. He said that despite this, the applicant has proposed only 13 new bunker-like residences that would preserve nearly all of the borrowed views. He questioned whether the Town was more concerned about the numbers and square footages as they look on

paper rather than the actual visibility of the future homes and stated that the proposed homes represented the superior choice. He challenged the Commission to have the wherewithal to recognize that the application is based on data, mapped constraints and economic viability. He asked that the Commission not just eliminate lots just to do so, but to point to specific evidence of measurable improvement that would result from eliminating lots. He characterized the project as a strategy litmus test, as the applicant had not submitted a larger “straw man” application to be reduced in density by the Commission, but rather an appropriate level of development from the beginning. He asked that the Commission judge the project on its actual merits rather than using an arbitrary list of changes that would lead to a capricious result.

Commissioner Kunzweiler stated that the conceptual house designs were a key rationale for supporting the project and asked how the applicant proposed to guarantee that the homes would be built as presented. Mr. Hurd said the concern has been raised repeatedly and stemmed from a lack of understanding of the Commission’s ability to condition the project. He stated that the applicant was committed to the house designs and was willing to accept a condition of approval requiring that the houses be built as designed. He said that any future property owner who did not want to build the homes as designed would need to request an amendment to the PDP.

Commissioner Kunzweiler stated that the current proposal includes a number of other assumptions, such as screening offered by existing trees, and he asked who would make sure that the trees would remain to screen the homes. Mr. Hurd stated that vegetation is the most commonly used screening tool following good design. He said that the issue would fall to the Town to enforce the landscape plan.

Chair Frymier opened the public hearing.

Eva Buxton said that the impacts on natural resources had yet to be mitigated in her opinion. She reiterated her request for new grassland mapping. She asked if the project would entail a construction staging area, adding that such an area might disturb more vegetation. She appreciated the concept of sod roofs but questioned whether native species would be used on the roofs. She noted that sod roofs are not conducive to rooftop solar installation, and asked if solar panels would be allowed on private open space. She expressed concern with the proximity of the story poles to existing oak trees, noting that most would not survive the impacts of construction and environmental changes. She supported the elimination of Lots 5 and 6 due to their proximity to wetlands and native grasslands and Lot 13 due to its proximity to federally endangered plant species. She also recommended that Lots 11 and 12 be decreased in size to reduce impacts to sensitive species.

Jerry Riessen submitted a late mail item to Mr. Watrous. He questioned the value of segmented open space and recommended the Commission alter lot lines as needed to make this space more contiguous. He doubted the value of private open space and requested specific oversight of common open space. He disagreed with Mr. Hurd’s comments regarding Measure M, stating that ridgeline protection existed long before that ballot measure and that the measure was defeated due to threats of lawsuits. He asked the Commission to respect the will of the people by protecting the Town’s ridgelines from development.

Craig McDow cited several complaints relating to noise coming from the Rabins’ property. He said that the construction of the fire road on the site was an example of the applicant’s disregard

for neighbors' private property and the preservation of native vegetation. He said that he was strongly opposed to the visual nuisance of homes along the ridgeline from his vantage point.

Sandra Swanson stated that drawing vegetation on plans is an art, not planning. She said that when the applicant originally came forward with plans for his own home, he sited the house on the least constrained part of the lot and the Planning Commission advised him that he would be unlikely to develop the rest of the site to its maximum density. She read from General Plan Policy LU-4 that projects may not achieve their maximum density if other General Plan policies require lower density. She said that there was no guarantee that the conceptual house designs would be built. She said that while the applicant's proposal focuses on green design, it makes no acknowledgement of the environmental desecration resulting from excavating over 100,000 cubic yards of dirt, encroaching into ridgeline setbacks, constructing hundreds of feet of retaining walls, and destroying hundreds of trees. She said that Alternative 5 only included minor changes to the project and could not be characterized as "green." She asked the Commission to protect and preserve the Town's natural resources by applying the General Plan policies as intended.

Nona Dennis, Marin Conservation League, said that the EIR found impacts to views from Middle Ridge to be a significant and unavoidable impact of the project and that it was incumbent on the Commission to mitigate this impact to the extent possible. She stated that while the applicant was relying on innovative design and LEED Platinum Certification to sell the project, LEED fails to properly address the issues of traffic impacts, excavation, and home size. She questioned whether the excavation quantities stated include that grading required for recessing the homes into the hillside. She said that LEED also fails to account for ridgelines protected by local policy, views, neighborhood compatibility, removal of trees and other vegetation, and fragmentation of habitats. She recommended that the Commission reduce all home sizes and residential use areas, reconnect at least a portion of the open space areas, and eliminate parcels as needed to truly achieve an ecologically sound master plan.

Randy Greenberg stated that the Commission has both the right and an obligation to reduce impacts beyond what is considered significant by the EIR. She expressed concern with the concept of private versus common open space, noting that the proposed private open space would exceed the size of the common open space and includes areas of sensitive species. She read from the Easton Point EIR which states that habitat is not protected by private open space and that one could expect its loss regardless of oversight. She said that the applicant had repeatedly failed to respond to the Commission's request for appropriate changes. She said that the applicant continued to treat the site as though it has only nominal constraints rather than 18 landslides and 3 ridgelines and took a disproportionate share of the land for his own house. She asked the Commission to consider changes that address home size and the fragmentation of open space parcels, including possible elimination of lots.

Barry Wootton said that he shared the same concerns already expressed. He said that while he appreciated the concept of green building, many of the design features proposed present real challenges.

Larry Gelb, Secretary, Seafirth Estates Association, stated that the association shared many of the concerns expressed, particularly those related to house size, neighborhood compatibility, and design guarantees. He said that he was very impressed with the most recent staff report and

found he could support much of its analysis and recommendations. He also cited concern with the ongoing wear and tear to Paradise Drive and asked who would be responsible for mitigating further damage to the road.

Mr. Hurd said that his client was aware that densities are not guaranteed, as evidenced by a proposal containing significantly fewer than the 24 units allowed at the time of purchase. He said that the applicant mapped the site constraints in advance of the application and had positioned units in response to those constraints. He said that the application would offer 70% of the Rabin's private property as open space that would be contiguous to existing open space. In addition to design conditioning, he said that private CC&Rs would ensure that homes would look like what was proposed in the PDP.

Chair Frymier closed the public hearing.

Vice-Chair Corcoran asked if solar panels are allowed in private open space. Mr. Watrous stated no but noted that there is no restriction on their placement in residential use areas.

Vice-Chair Corcoran asked if the public has access to all portions of open space for recreational purposes such as hiking. Mr. Watrous said that there is little that can be done to enforce restrictions on that type of use on open space. He said that the establishment of specific trails is fairly effective at maintaining remaining open space areas in a relatively natural condition.

Commissioner Tollini commended the applicant for the time and energy invested in this process and stated that the architectural designs were beautiful. She said that the Commission gave clear direction regarding density and ridgeline policies at the last hearing, and although Alternative 5 had made some changes, it did not go far enough. She said that this is a very constrained site. She cited General Plan Policy LU-4 with respect to density and Policy OSC-12 with respect to Significant Ridgelines, noting that while the ridgelines did not appear to be obvious when viewed from the site, they are more noticeable from nearby properties. Referring to the menu of possible project revisions contained in Exhibit 7, she supported the following: 1(a), 2(a), 3(b), 4(a) and (b), 6 (c), and 7(a). She said that Lot 13 would be very visually prominent, and even more so once the trees on the Sorokko site are removed.

Additionally, Commissioner Tollini recommended reducing the floor areas for the homes on Lots 2, 3, 5 & 6 based upon their proximity to the ridgelines and neighborhood compatibility. She said that most of the house sizes should be reduced in size to match home sizes in surrounding neighborhoods. She also recommended that the residential use and private open space areas on Lots 5 & 6 be reduced in size to eliminate areas of serpentine bunchgrass and include those grassland areas as part of common open space. She said that the project would still have three homes over 7,000 square feet, which was appropriate given the sizes of other nearby homes. She recommended that open space areas across the roadway from Lots 1 through 4 and private open space areas fronting the road on Lots 2-4 be added to common open space Lot A. Similarly, she said that the area of the eliminated Lot 8 should be included in Lot A common open space to protect Marin flax and bunchgrass habitat. She also recommended conditioning approval on the use of Mr. Kao's architectural plans.

Vice-Chair Corcoran stressed that the Commission's decision was not a reflection on the applicant's personality or demeanor but was based on the fact that the current proposal fails to

comply with the goals and policies of the General Plan. He stated that the General Plan is the Town's constitution and the current proposal is not consistent with the General Plan. He said that the Commission asked for a lot of changes to the project and did not get many. He acknowledged the constraints on the site and said that he appreciated the public trail dedication, relocation of Lot 4, open space preservation, and home designs, but said that the main issue was the combined impacts of the number and size of proposed homes.

Referring to Exhibit 7, Vice-Chair Corcoran recommended the following: 2(a), 5(a), 6(b) and (c), and 7(a). He recommended reducing Lots 2, 3, 7, and 11 to 4,500 square feet plus 600 square feet of garage space; eliminating Lots 5 and 6 or reducing their residential use areas to place sensitive plant species in common space; and eliminating Lots 9 and 10 to create a broad swath of open space connecting to the opposite end of the site and better habitat protection. He recommended that if Lots 11 and 13 were combined, the size of each home should be reduced to 3,500 square feet. He felt that Lot 13 should be eliminated due to the visual impacts from the Paradise Drive, the Seafirth neighborhood and Acacia Drive.

He said that the residential use areas should be reduced in size to avoid large paved areas that could create a visual eyesore from a distance. He discussed the concept of adding the Town to the CC&Rs as an interested party and said that there are many examples of this in other jurisdictions. He explained that this would give the Town the ability but not the obligation to enforce those conditions and said that that would be important for a project of this significance. He also said he would like the Town to have some oversight over common open space. He also recommended that private open space across the road from Lots 2-4, as well as a significant portion of Lot 7, be added to common open space.

Commissioner Kunzweiler gave a PowerPoint presentation summarizing the project's progress, outstanding issues and his recommendations. He said that the project has a level of complexity that is beyond the normal scope of the Planning Commission. He said that no one had ever brought forward such a "big idea" to the Town before and he wanted to preserve the idea but make sure it would be consistent with the General Plan. Rather than contemplating every critical detail, he recommended providing the Town Council with meaningful direction that balanced public and private interests and best reflected the intent of the General Plan. He stated that the applicant's premise of an implied right to enjoy maximum use of this site lacked basis and that the project's consistency with the General Plan was still being debated.

He said that that the factors driving the consideration of the project were the number, location and size of proposed homes. He said that the applicant had made virtually no progress in addressing these factors over nearly 3 years of public discussion and, in fact, had achieved only a 2% to 6% reduction in total home floor area in that time. He said that he wanted to avoid reducing the sizes of individual lots or homes, as this creates an ongoing cycle of redesign. He stated that downsizing the project would reduce critical environmental, aesthetic, construction, and traffic impacts. He felt that it would be bad policy to promote a project that is too complicated. He recommended the following eliminations: Lots 5 & 6 for open space considerations; Lots 9 & 10 for their proximity to ridgelines; Lot 13 for the size of the house itself; and Lot 14 for neighborhood character. He did not recommend relocating or reducing any other lots but did say much could be accomplished by reducing residential use areas.

Commissioner Kunzweiler requested a more meaningful traffic study that would better account

for speed of traffic as well as retaining walls and bike lanes, consistent with Mitigation Measure 5.1-7. He also recommended that the applicant and staff seek opportunities to reduce private open space in favor of more common open space. He said that the remaining houses should be built exactly as proposed.

Commissioner Doyle said that at the last meeting the applicant asked what the Commission wanted, was told what to do and did not do it. He noted that there was a certain level of frustration surrounding the applicant's failure to apply the Commission's recommendations in a meaningful way. He said that he concurred with much of Commissioner Kunzweiler's comments. He said that he hoped to apply a common sense approach to the project. He said that he was less opposed to the size of homes than other Commissioners, as he felt that the perceived impacts of homes can vary greatly depending on architectural style and massing. Referring to Exhibit 7, he supported revisions 2(a) and 7(a). He also supported elimination or reduction of Lots 5 and 6. He said the value of private open space was often diminished by homeowners wishing to enclose it and recommended reducing the private open space areas on Lots 5 and 6. He cited concern related to the guarantee of the proposed house designs and particularly appreciated the draft Condition of Approval 14, though it would place a significant burden on the Town.

Chair Frymier referred to Condition of Approval 14 and asked whether requiring this as a deed restriction would lessen the burden on the Town. Mr. Watrous stated that the concept of a deed restriction was intended as an additional way to inform property owners of their parcel's design limitations. He said that regardless, there is burden on staff and the Design Review Board to ensure that each project complies with the Precise Development Plan and the originally approved design.

Commissioner Kunzweiler noted that the Design Review Board has a fair amount of latitude in its deliberations. Mr. Watrous said that that would remain a critical point no matter what, as the Board always has to interpret how a house design complies with zoning or PDP requirements, but that is not an unreasonable burden on the Town.

Chair Frymier supported Councilmember Kunzweiler's comments regarding micro-management. She discussed floor area which she felt should be reduced significantly throughout the project for purposes of neighborhood compatibility. She noted that most of the larger neighboring homes were developed prior to the Town's floor area restrictions and therefore using the size of those earlier, larger homes for comparison was not a valid argument. She added that the homes on the Sorokko site were in an unincorporated portion of the county and had not yet been built, and therefore did not present a strong argument for neighborhood compatibility of the larger proposed homes.

She cited General Plan Policy LU-13, which specifically speaks to neighborhood character. She stated that the language in the General Plan protecting ridgelines is very strong and the project needs to respect Ridgelines 5 and 6 more closely than Alternative 4 and 5 do. She cited General Plan Policy LU-4, which states that any maximum densities are maximums that may not be achieved. Referring to Exhibit 7, she recommended the following: 1(a),(b),(c) and (d), 2(a), 6 (a),(b) and (c) and 7(a). She also recommended elimination of Lots 3, 9, 10, and 14 as well as reduction of Lot 11 to 6,000 square feet.

The Commission held further discussion and ultimately reached consensus on the following:

- Eliminating Lots 8, 9, 10 & 13;
- Reducing the floor area for Lots 5 & 6 to 4,500 square feet and their maximum building height to 16 feet, and eliminating the bunchgrass areas from the residential use areas and private open space, moving it to common open space;
- Reducing the floor area for Lot 12 to 6,000 square feet and 750 square feet of garage space;
- Converting the private open space on the north sides of Lots 1, 2, 4 & 7 (across the roadway) to common open space;
- Making reference to Mitigation Measure 5.1-7 in Condition of Approval No. 25 requiring the traffic study;
- Adding language giving the Town the ability to enforce CC&Rs, based on language in the Martha DEIR; and
- Include language within the resolution reflecting the rationale that the Commission has expressed to support these changes.

**ACTION:** It was M/S (Tollini/Kunzweiler) to direct staff to prepare a Resolution recommending approval of the Precise Development Plan to the Town Council, as drafted in the staff report and with the following changes: 1) to eliminate Lots 8, 9, 10, and 13; 2) to reduce the floor area for Lots 5 & 6 to 4,500 square feet and their maximum building height to 16 feet, and eliminating the bunchgrass areas from the residential use areas and private open space, moving it to common open space; 3) to reduce the floor area for Lot 12 to 6,000 square feet and 750 square feet of garage space; 4) to convert the private open space on the north sides of Lots 1, 2, 4 & 7 (across the roadway) to common open space; 5) to make reference to Mitigation Measure 5.1-7 in Condition of Approval No. 25 requiring the traffic study; 6) to add language giving the Town the ability but not the obligation to enforce CC&Rs, based on language in the Martha DEIR; and 7) to include language within the resolution reflecting the rationale that the Commission has expressed to support these changes. Vote: 5-0.

**BREAK:**

Chair Frymier called a 5-minute break at 10:15 p.m. and thereafter, reconvened the regular meeting.

**3. EXTENSION OF DESIGN REVIEW APPROVALS – REFERRAL FROM TOWN COUNCIL REGARDING AN AMENDMENT TO THE DESIGN REVIEW TIME EXTENSION ORDINANCE THAT WAS NOT PREVIOUSLY CONSIDERED BY THE PLANNING COMMISSION; FILE MCA 2011-01**

Mr. Watrous stated that the Planning Commission held its hearing on February 23<sup>rd</sup> about language to extend the Design Review approvals. The Town Council held a public hearing on the draft ordinance on April 6<sup>th</sup> and introduced it, but made one change to delete the last sentence reading: “Additional one-year extensions may be authorized by resolution of the Town Council.” Since this deletion was not considered by the Commission, the item was referred to the Commission with no public hearing required, and discussion is limited to the deletion only.

He said that the Town Council expressed its discomfort with the concept of additional extensions beyond the one-year authorized in the ordinance, noting that the result would be de facto five-year approvals for certain Design Review applications. He recommended that the Commission forward its recommendation to the Town Council supporting the deletion of the sentence regarding additional extensions.

Mr. Watrous advised that changes to the language to retroactively apply this to previous or expired approvals were discussed and ultimately defeated by the Town Council. He further advised that any public comment should be limited to the deletion in question.

Vice-Chair Corcoran asked if other towns have retroactively applied this type of ordinance. Mr. Watrous could not confirm, but thought not.

Chair Frymier opened the public hearing.

Riley Hurd respectfully disagreed with the suggestion that the Commission could limit public testimony. He stated that he was unable to speak before the Commission at the previous public hearing. He said that his client's situation triggered this amendment and the client did not receive notice of the ordinance. He said that approval of this amendment, with or without the deletion in question, fails to help those that it should be looking to protect.

Chair Frymier closed the public hearing.

Vice-Chair Corcoran stated that the originally proposed amendment was the direct result of one letter from one resident. He supported the principle of applying the extension to those most blindsided by the real estate downturn and he could not see the rationale in applying it solely to applications that have not expired. However, he also noted that the Town has a generous three-year design review approval period compared to other jurisdictions. He expressed support for the deletion.

Commissioner Kunzweiler expressed support for the deletion and also voiced concern about the genesis of the ordinance, in that the revision essentially ignored the resident who requested the extension. Mr. Watrous stated that the Town's discussion on the matter was not solely initiated by that resident, nor was that request the primary genesis for the ordinance.

Chair Frymier and Commissioners Doyle and Tollini expressed their support for the deletion.

## **MINUTES:**

### **2. PLANNING COMMISSION MINUTES – Regular Meeting of March 23, 2011**

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

- Page 2, 3<sup>rd</sup> paragraph – "...information indicates ~~it~~ **that Tiburon's downtown, including Town Hall, ...**"
- Page 9, 1<sup>st</sup> full paragraph – "...and suggested that the ~~stretch~~ **proposal to paint the red curb ...**"

Commissioner Kunzweiler requested the following amendments to the Minutes:

- Page 2, 6<sup>th</sup> paragraph – “...take a ~~strong~~ **supportive** ...”
- Page 8, last paragraph – “...improve the ~~experience~~ **appearance** ...”

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| ACTION: It was M/S (Kunzweiler/Tollini) to approve the minutes of March 23, 2011, as amended. Vote: 5-0. |
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**ADJOURNMENT:**

The Planning Commission adjourned the meeting at 10:35 p.m. in memory of Supervisor Charles McGlashan.