



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

Action and Approved Minutes - Regular Meeting
Tiburon Planning Commission
April 27, 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

OLD BUSINESS

1. 3825 PARADISE DRIVE; FILE # 30701; ADOPTION OF RESOLUTION RECOMMENDING APPROVAL OF PRECISE DEVELOPMENT PLAN FOR A 10-UNIT RESIDENTIAL PROJECT ON APPROXIMATELY 52 ACRES; PLANNED DEVELOPMENT #20; Irving and Varda Rabin, Owners and Applicants; Assessor Parcel Numbers 039-021-13 and 039-301-01 [DW] **Adopted with Amendments 3-0**

NEW BUSINESS

2. 1501 AND 1505 TIBURON BOULEVARD: ACCEPT PUBLIC COMMENT ON A REVISED DRAFT ENVIRONMENTAL IMPACT REPORT (RDEIR) FOR THE PROPOSED 18,000 SQ. FT. BELVEDERE-TIBURON LIBRARY EXPANSION PROJECT; FILE #s GPA 2008-02, MCA 2008-14, 40801, and 30804; Belvedere-Tiburon Library Agency and Town of Tiburon, Owners; Belvedere-Tiburon Library Agency, Applicant; Assessor Parcel Numbers 058-171-92, 93, 94, and a portion of 058-171-62 [SA] **Comments Accepted**

MINUTES

3. **PLANNING COMMISSION MINUTES – Regular Meeting of April 13, 2011**
Approved as Amended 3-0

ADJOURNMENT **At 8:30 PM**

PLANNING COMMISSION
APPROVED MINUTES NO. 1009
April 27, 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 and Tollini

Absent: Commissioners Doyle and Kunzweiler

Staff Present: Planning Manager Watrous, Community Development Director Anderson and
Minutes Clerk Levison

ORAL COMMUNICATIONS: None

COMMISSION AND STAFF BRIEFING:

Vice-Chair Corcoran reminded the public of the following upcoming events:

- April 30th – Salmon Release at Blackie’s Pasture
- May 7th – Walk Your History

OLD BUSINESS:

**1. 3825 PARADISE DRIVE; FILE #30701; ADOPTION OF A RESOLUTION
RECOMMENDING APPROVAL OF A PRECISE DEVELOPMENT PLAN FOR
A RESIDENTIAL PROJECT ON APPROXIMATELY 52 ACRES; PLANNED
DEVELOPMENT #20; Assessor Parcel Numbers 039-021-13 and 039-301-01**

Planning Manager Watrous presented a brief staff report, noting that the conditions of approval, as modified by the consensus of the Commission at the April 13th meeting, were included as Exhibits 1 and 2. He also noted that the Commission specified no building heights for Lots 2, 3, and 4. Those listed in the table on draft Exhibit 2 were estimates based on surrounding homes and he said that the Commission should indicate whether those were appropriate or specify something different.

Vice-Chair Corcoran referred to Finding K(5) of the resolution, which describes a reduction in residential use areas on Lots 5 and 6, but was not specific. Mr. Watrous referred him to Condition 3(b) of Exhibit 1 of the resolution which, in turn, refers to Sheet SP-30. He confirmed that staff believed the reference to SP-30 to be sufficient.

Chair Frymier referred to Condition of Approval No. 29, which speaks to the removal of junk materials, and said she that found it to be rather open-ended. Mr. Watrous explained that this was a fairly standard condition for precise development plans that would be conducted during installation of the subdivision improvements. He said that staff was not aware of any specifics that needed to be addressed as part of this application and this was intended to clean up the site from older improvements that are no longer necessary.

Chair Frymier opened the public hearing.

Scott Hochstrasser, representing the applicant, stated that the resolution under consideration represented a defective decision of the Commission. He said that the resolution lacked the required facts and evidence to demonstrate a meaningful change between what the applicant submitted and the Commission decided.

Chair Frymier closed the public hearing.

Commissioner Tollini respectfully disagreed with the applicant, stating that the changes required by the Commission would have significant and meaningful impacts on the surrounding neighborhood, views, and the project's compliance with the Town's General Plan and Zoning Ordinance. She referred to Finding K(4) and said her rationale was also based on General Plan Policy OSC-12, and to add that policy reference to the finding. She requested removal of the brackets surrounding "except Lot 1" in Condition of Approval No. 7 and said she had no strong feelings with regard to maximum building heights for Lots 2, 3, and 4.

Vice-Chair Corcoran stated that he could support the resolution.

Chair Frymier requested clarification on the height alternatives for Lots 2, 3, and 4. Mr. Watrous stated that the original application indicated Lot 2 with a maximum height of 23 feet 6 inches, and Lots 3 and 4 with a maximum height of 29 feet. He said that at one point staff recommended reduced heights of 16 feet for Lots 2 and 3. He noted that Lot 4 in its new location is a fairly interior lot and staff did not feel it appropriate to place a restrictive height limit on this lot. The Commission agreed that Lots 2 and 3, which the Commission did not reduce in overall square footage, could remain at the originally proposed height and determined that a 25 foot height limit was appropriate for Lot 4.

Chair Frymier extended her compliments to staff on their application of the Commission's direction at the prior meeting. She too respectfully disagreed with the applicant's assertions regarding the Commission's decision.

<p>ACTION: It was M/S (Corcoran/Tollini) to adopt the resolution, as amended, recommending conditional approval of the Precise Development Plan to the Town Council. Motion carried: 3-0.</p>
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NEW BUSINESS:

- 1. 1501 AND 1505 TIBURON BOULEVARD: ACCEPT PUBLIC COMMENT ON A REVISED DRAFT ENVIRONMENTAL IMPACT REPORT (RDEIR) FOR THE PROPOSED BELVEDERE-TIBURON PUBLIC LIBRARY EXPANSION PROJECT; FILE #S GPA 2008-02, MCA 2008-14, 40801 AND 30804; Assessor Parcel Numbers 058-171-92, 93, 94 and a portion of 058-171-62**

Community Development Director Anderson presented the staff report, stating the Library Expansion Project's DEIR was prepared and released in June 2010. When the Response to Comment document was being prepared, it became clear that recirculation of certain portions would be required. The Town's consultant prepared an RDEIR that updated and revised certain sections of the original DEIR and those sections are the focus of comments tonight for this item.

The three areas identified as requiring revision and recirculation were biological resources, transportation/parking, and alternatives sections. The other topical impact areas of the project were adequately addressed in the original DEIR. The Response to Comments will address the comments made to those latter sections in the original DEIR, as well as responding to comments received tonight on the three recirculated sections described above.

The key findings of the RDEIR were that the original DEIR had underestimated the biological impacts of the project on the marsh and the sensitive species that use or inhabit it, and that without creation of a larger buffer between the development and the marsh, there would be significant and unavoidable biological impacts. The RDEIR also concluded that parking impacts, which were originally identified as being significant and unavoidable, could be reduced to less than significant levels with certain mitigation measures. With respect to alternatives, a new Alternative D was developed that included shrinking the project and creating a larger space between it and the Town Hall building. That alternative served to reduce visual impacts to the extent that the remaining views to the ridge would be expanded over the original project design, and it also reduced biological impacts to less than significant levels with mitigation, according to the RDEIR. The project and all the development alternatives studied would still result in significant unavoidable impacts to air quality, consistency with an adopted air quality plan, and temporary noise and ground borne vibration increases due to construction.

Director Anderson noted that staff has received very few comments to date on the RDEIR. The public comment period will remain open until May 9th. Staff anticipates the RDEIR issue will return to the Commission at its May 25th meeting, at which the Commission will consider the issue of whether recirculation is required based on the new comments received on the RDEIR. Assuming that no recirculation is required, the consultant will then prepare the Final EIR. The Final EIR and project merits will return to the Commission for hearing this summer.

Chair Frymier opened the public hearing.

Deborah Mazzolini, Belvedere-Tiburon Library Director, said the Library is very appreciative and is grateful for the community interest and comments received to date. All comments have been helpful in focusing on a building design that the community can both love and respect.

Connie Pierce, Cove Road, expressed concerns related to general view blockage from Tiburon Boulevard and specific view blockage of Old St. Hilary's Church from her home. She shared general requests for clarification about the project, to which Mr. Anderson invited her to contact him the following day.

Ms. Mazzolini said she would also be happy to meet with Ms. Pierce.

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

Vice-Chair Corcoran thanked the applicant for their responsiveness to the comments received. He said he had only brief oral comments, and would submit more detailed comments in writing. He had questions about the role of the biological monitor during the mitigation process, specifically inquiring about consultant selection and payment. He wanted to ensure a certain degree of independence for this role and thought it should be addressed in the EIR. He referred to a suggestion in the RDEIR that spoke to the potential modification of General Plan Policy OSC-20, which establishes setbacks or buffer zones from wetlands. He cautioned against any modification of the policy and stated his belief that the current policy language provided sufficient flexibility to make the findings without an amendment if infeasibility could be demonstrated. He noted that the language of the RDEIR states that the photo simulation of Alternative D on p. 109 of the RDEIR shows reduced window area and lighting impacts, but the image depicts the second story addition being almost completely obscured by trees. He requested a new photo without the trees, which would be more in line with the description of Alternative D.

Commissioner Tollini said she did not necessarily believe Alternative D to be the environmentally superior development alternative. She thought that a combination of Alternatives C and D might prove more suitable for that purpose. She said Alternative D does not go far enough in its project revisions to mitigate impacts to her satisfaction, and tries to walk the line by either ignoring or revising certain parts of the General Plan. She stated that amending General Plan Policy OSC-20 as a mitigation measure for the project is not consistent with the Planning Commission's repeated affirmations of the General Plan as the Commission's "Constitution". She noted that on p. 111 of the RDEIR, the definition of "wetland" is being ignored and urged that the General Plan definition be used rather than developing another to suit the needs of the project. She wanted to see an option that better respects the 100 foot buffer from the Marsh wetlands, uses the General Plan definition of wetlands, and better complies with General Plan Policies OSC-20 and OSC-29 for discussion at the merits phase of review. She disagreed with the conclusion on p. 108 that "all aesthetic impacts of this alternative [would be] reduced to a less than significant level, and felt that the RDEIR discussion was not honest with its view impact discussion. She acknowledged that certain aspects of the discussion would be more appropriate during the merits phase, but said she strongly opposed a General Plan amendment to the wetlands setback policy.

Chair Frymier concurred with the prior comments by Commissioners and said she could not support a General Plan amendment for this project with respect to Policy OSC-20. The mitigations for biological impacts fall short, particularly in light of the goals and policies of the General Plan. She suggested that the traffic analysis may also be insufficient, noting there was no discussion on the new businesses potentially coming into town, and disagreed that the traffic generation levels identified are less than significant.

The Commission and staff discussed the concept of blending alternatives already identified in the EIR to come up with yet another, which is within the range of alternatives discussed in the EIR, and which could be taken up at the merits phase of review. Mr. Anderson cautioned that proposing an entirely new and significantly different alternative at this point would require recirculation of the RDEIR. He explained that any conceptual project design falling within the range of alternatives that have been analyzed, as well as enhancements to already proposed mitigation measures, would not require recirculation and could be discussed at the merits stage of review. He also suggested that the idea of blending alternatives could be addressed in the Response to Comments, in terms of discussing how such a blending might occur.

The Commission was clear in its position that granting a General Plan amendment for purposes of avoiding biological impacts of the project was inappropriate, but agreed that any actual policy consistency discussion would properly take place at the merits phase of review.

Mr. Anderson noted that while the project and all development alternatives propose General Plan amendments, the Commission has the authority to approve a project with the finding that it does, on balance, further the goals and objectives of the General Plan without being consistent with each and every policy. He also noted that while General Plan Policy OSC-20 would not necessarily require amendment in order to approve the project, the re-designation of a portion of the project site from Open Space to Public/Quasi-Public would require such an amendment.

Chair Frymier noted that the General Plan clearly states its support for a Library expansion of some kind.

Mr. Anderson also noted that a prior approval was granted for a library expansion several years ago, and at the time the General Plan policy regarding the 100-foot wetlands setback did not exist and was not an issue.

MINUTES:

2. PLANNING COMMISSION MINUTES – Regular Meeting of April 13, 2011

Commissioner Tollini requested the following amendments to the Minutes:

- Page 2, last paragraph – “...described a previously distributed a memo...”

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

- Page 8, second paragraph – replace “encompass” with “place”
- Page 8, third paragraph, second to last sentence – “He also said he would **like** the Town...”
- Page 10, 6th bullet point – “...giving the Town the ability, **but not the obligation,**...”
- Page 11, 8th paragraph – change “principal” to “principle”
- Page 11, 8th paragraph – “...the Town has a generous **three-year Design Review** approval...”

<p>ACTION: It was M/S (Corcoran/Tollini) to approve the minutes of April 13, 2011, as amended. Motion carried: 3-0.</p>
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ADJOURNMENT:

The Planning Commission adjourned the meeting at 8:30 p.m.

CATHY FRYMIER, CHAIRMAN
TIBURON PLANNING COMMISSION

ATTEST:

SCOTT ANDERSON, SECRETARY (ACTING)