



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

Action and Approved Minutes - Regular Meeting
Tiburon Planning Commission
May 25, 2011 – 7:30 PM

ACTION MINUTES

TIBURON PLANNING COMMISSION

CALL TO ORDER AND ROLL CALL At 7:30 PM

Chairman Frymier, Vice Chair Corcoran, Commissioner Doyle, Commissioner Kunzweiler,
Commissioner Tollini All Commissioners Present

ORAL COMMUNICATIONS There Were None

Persons wishing to address the Planning Commission on any subject not on the agenda may do so under this portion of the agenda. Please note that the Planning Commission is not able to undertake extended discussion, or take action on, items that do not appear on this agenda. Matters requiring action will be referred to Town Staff for consideration and/or placed on a future Planning Commission agenda. Please limit your comments to no more than three (3) minutes. Testimony regarding matters not on the agenda will not be considered part of the administrative record.

COMMISSION AND STAFF BRIEFING

Commission and Committee Reports
Director's Report

NEW BUSINESS

1. 1501 TIBURON BOULEVARD: DETERMINATION AS TO WHETHER RECIRCULATION IS REQUIRED FOR THE REVISED DRAFT ENVIRONMENTAL IMPACT REPORT (RDEIR) FOR THE BELVEDERE-TIBURON PUBLIC LIBRARY EXPANSION PROJECT; FILE #GPA 2008-02; R2008-01; 30804 & 40801; 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] No Recirculation Required (5-0)
2. 669 HAWTHORNE DRIVE; AMENDMENT TO A CONDITIONAL USE PERMIT TO CONTINUE TO ALLOW A SECONDARY DWELLING UNIT; FILE #11104; Daryl Smith, Owner/Applicant; Assessor's Parcel No. 055-191-11 [DW] Approved (5-0)

3. REVIEW OF DRAFT CAPITAL IMPROVEMENT PLAN BUDGET FOR CONSISTENCY WITH THE TIBURON GENERAL PLAN [SA] **Found Consistent with General Plan (5-0)**

MINUTES

4. PLANNING COMMISSION MINUTES – Regular Meeting of April 27, 2011 **Approved as Amended (5-0)**

ADJOURNMENT **At 8:25 PM**

PLANNING COMMISSION
APPROVED MINUTES NO. 1010
May 25, 2011
Regular Meeting
Town of Tiburon Council Chambers
1505 Tiburon Boulevard, Tiburon, California

CALL TO ORDER AND ROLL CALL:

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

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

ORAL COMMUNICATIONS: None

COMMISSION AND STAFF BRIEFING:

Planning Manager Watrous reported that the Commission has no formally scheduled items until the Library Expansion Project merits hearing on July 27th. Commissioners Corcoran and Tollini informed staff that they would be absent that date.

Chair Frymier noted that this would be her last meeting. She thanked staff for their support, guidance and the opportunity to serve the community over the last five years. She also thanked her fellow Commissioners and stressed how fortunate Tiburon is to have people of their caliber serving the community.

Vice-Chair Corcoran returned her thanks. He admired her courage and willingness to always speak her mind.

NEW BUSINESS:

1. 1501 TIBURON BOULEVARD: DETERMINATION AS TO WHETHER RECIRCULATION IS REQUIRED FOR THE REVISED DRAFT ENVIRONMENTAL IMPACT REPORT (RDEIR) FOR THE BELVEDERE-TIBURON PUBLIC LIBRARY EXPANSION PROJECT; FILE #GPA 2008-02; R2008-01; 30804 & 40801; 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

Community Development Director Anderson presented the staff report and said that a Revised Draft Environmental Impact Report (RDEIR) for the project was prepared and released for a 45-day public review period that ended on May 9, 2011. The RDEIR focused specifically on impacts to biological resources, transportation/parking, and alternatives, including the introduction of a new alternative. The question before the Commission was whether any “significant new information” was introduced in any of the comments received during the comment period that would trigger recirculation of the document for additional analysis. Mr. Anderson reviewed the typical circumstances that would require recirculation, which staff and the consultant did not believe had been met. Staff recommended that the Planning Commission find that no “significant new information” was received during the comment period that would clearly require recirculation of the RDEIR at the present time.

Chair Frymier opened the public hearing.

Nona Dennis, Marin Conservation League, said that she disagreed with some of the RDEIR’s conclusions. Specifically, she felt that neither the extension of the marsh buffer nor a General Plan amendment would lessen the significance of the impacts identified. Additionally, she said that the RDEIR fails to acknowledge the ambiguity of policies related to wetland margins. However, she noted that the RDEIR does point out the value of the buffer and provides enough information for the Commission to make the critical decisions relating to the project’s impacts on the marsh. She felt that recirculation of the RDEIR would gain no new information and was not warranted, and hoped the Commission made the right decision with respect to marsh impacts.

Chair Frymier closed the public hearing.

Commissioner Doyle concurred with the staff recommendation.

Commissioner Tollini said that she trusted that the Final EIR would sufficiently address the comments made and predicted some spirited discussion during the merits phase of the project. She expressed support for the staff recommendation.

Vice-Chair Corcoran thanked all participants for the comments received and said that he did not believe the information was at the level that would require recirculation of the RDEIR.

Commissioner Kunzweiler concurred and expressed support for the staff recommendation.

Chair Frymier also expressed support for the staff recommendation. She felt confident that the options set forth in the RDEIR and merits process would align the project more with the goals of the General Plan and the community.

ACTION: It was M/S (Kunzweiler/Tollini) to find that no “significant new information” was received during the comment period that would require recirculation of the RDEIR. Motion carried: 5-0.

2. 669 HAWTHORNE DRIVE; AMENDMENT TO A CONDITIONAL USE PERMIT TO CONTINUE TO ALLOW A SECONDARY DWELLING UNIT; FILE #11104; Daryl Smith, Owner/Applicant; Assessor’s Parcel No. 055-191-11

Planning Manager Watrous presented the staff report, and said that in 2000, the Planning Commission approved a Conditional Use Permit (CUP) for a secondary dwelling unit (SDU) in conjunction with the construction of a new single-family dwelling located at 669 Hawthorne Drive. During the review of the use permit, the Commission raised concerns about potential parking impacts and adopted a condition of approval that required a deed restriction to be recorded on the property. The deed restriction was to have provided that the secondary unit would be converted back to a portion of the primary residence when the elderly mother no longer lived on the site or the property was sold.

The single-family dwelling and secondary dwelling unit were subsequently approved by the Design Review Board and constructed. However, the deed restriction was never recorded for the property. Since that time, the property has changed ownership several times and the secondary dwelling unit has not been removed from the building. The current property owner has recently been made aware of the requirement to remove the SDU and requested an amendment to the CUP to delete the requirement.

Mr. Watrous stated that the unit has been in existence for almost 10 years, during which time staff has received no comments or complaints about the unit. Staff believed this to be an indication that the SDU is appropriate in this location. He also noted that State laws regarding SDUs have changed since the unit was constructed. Staff believed that the unit would comply with the Town’s current SDU requirements and would be consistent with the Housing Element policy encouraging promotion of SDUs, and recommended that the Commission adopt the draft resolution amending the CUP.

Vice-Chair Corcoran proposed deletion of Condition of Approval No. 9, which he believed to be unnecessary since the project was completed. He also proposed deletion or amendment of Condition of Approval No. 8, which requires consent to annual review.

Mr. Watrous concurred regarding Condition of Approval No. 9. He clarified that the annual review referred to in Condition of Approval No. 8 is more of a biannual reporting process to see what units are still in place and being used. Mr. Anderson elaborated further and suggested that while staff would not recommend removing the provisions of Condition of Approval No. 8, it could be modified to fit the Town’s current practices.

Vice-Chair Corcoran questioned events leading to issues surrounding the deed restriction. Mr. Watrous stated that the planning staff person responsible for this particular project should have

caught this when the final permit was issued for the house itself, though it clearly fell through the cracks. He noted that deed restrictions being imposed as part of a minor single-family residential addition are rarely seen today, and are usually associated with new subdivisions.

Commissioner Tollini asked staff whether the property owner responded during the last biannual review. Mr. Watrous believed so, but said that staff was not aware of the condition of approval at that time. Once discovered, staff relayed the information to the current property owner and laid out their options.

Daryl Smith, applicant, stated that he purchased his home in June 2009. He said that he was not made aware of the restriction on the SDU at that time, nor was it indicated on the deed itself, and the property was advertised as including a fully legal second unit. He said that he was notified of the unit's illegal status during the biannual review process, after which he filed application to retain the unit. He said that he had since learned that the original applicant never paid the water fees related to the unit, which he has had to cover. He said that the second unit is an attractive feature and a nice eventual option for his aging parents and he had spoken with neighbors and received no complaints regarding the unit.

Commissioner Tollini questioned and confirmed with the applicant that he was not aware of the CUP at the time he purchased the home. Mr. Smith noted that the property had been sold twice since construction and that it was apparently not a legal second unit for the previous owner either.

Chair Frymier opened the public hearing.

Patricia Ferrin said that she lives adjacent to the applicant and would welcome Mr. Smith's parents as residents of the unit. She said that her only concern related to parking, which she raised at the time of the original application. She stated that there is little to no street parking in the immediate area and asked how parking would be addressed if Mr. Smith were to move or rent the unit out.

Mr. Watrous stated that the Town's parking requirements for SDUs are dictated by the number of bedrooms. The subject SDU has only 1 bedroom and therefore requires only 1 parking space. He stated that the applicant has provided 1 dedicated off-street parking space that complies with all parking requirements for SDUs.

Mr. Smith added that he could effectively park 6 cars in his driveway alone and said that parking there has not been an issue he has ever observed.

Chair Frymier closed the public hearing.

Commissioner Tollini said that it was very much a shame that the original applicant did not follow through on the conditions of the CUP and that this would be a very different situation if they were the ones submitting this request. She said that she could support the staff recommendation, particularly since the unit complies with all current regulations pertaining to SDUs.

Commissioner Doyle concurred and said that he saw no reason to disassemble a perfectly good SDU.

Commissioner Kunzweiler also concurred. He noted that despite the ball having been dropped, the applicant has an SDU, which is what the Town now very much wants.

Vice-Chair Corcoran agreed with Commissioner Tollini that the situation would be different if the original applicant were present. Given that State law has changed, that the Town now encourages SDUs, and that the applicant was not aware of the CUP prior to purchasing his home, he said that he could support the request. He said that he would also like to eliminate Condition of Approval No. 9 and to amend Condition of Approval No. 8 as discussed.

Chair Frymier concurred and expressed her sympathy for the applicant's situation.

<p>ACTION: It was M/S (Kunzweiler/Corcoran) to adopt the resolution, as modified per Commissioner Corcoran's comments. Motion carried: 5-0.</p>
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3. REVIEW OF DRAFT CAPITAL IMPROVEMENT PLAN BUDGET FOR CONSISTENCY WITH THE TIBURON GENERAL PLAN

Community Development Director Anderson provided a brief summation of the staff report. State law requires that the Commission review the proposed Capital Improvement Plan (CIP) prior to adoption in order to ensure consistency with the Town's General Plan. The CIP is divided into 3 portions: streets, drainage, and community development improvements. The allocation for streets projects had been reduced this year, reflecting the essential completion of the Town's failed streets program, with final failed streets work to be performed as part of the Del Mar Utility Undergrounding project. Allocations to drainage and community projects have been increased, though a good portion of the latter reflects carryover of larger projects from prior years. New projects would be concentrated on the Downtown area, both as part of the Downtown Vibrancy Project approved by the Town Council and in relation to activities for the America's Cup 34 event. Staff has reviewed the draft CIP and concludes that its components are, on balance, consistent with the goals and policies of the General Plan.

Commissioner Doyle said that he approved of the proposed improvements. He particularly felt that the proposed signage would be an important component of revitalizing the downtown.

Commissioner Tollini asked what the Marketing Communications Program would entail. Mr. Anderson said that the Town Council had agreed to appoint a task force that will be charged with fleshing that out.

Commissioner Doyle inquired about the Donahue Building restroom project. Mr. Anderson stated that the CIP item has now been changed to a "feasibility study" for a public restroom in the vicinity of the Donahue Building.

Commissioner Kunzweiler said that he was pleased to see the increased drainage budget. He recalled that the Town's drainage system, particularly in the hillier areas, is old and failing. He cautioned that drainage issues in terrain like Tiburon's could be multi-billion dollar liabilities. He stated that the Town needs to get a clear grasp on the drainage issue and what the investment needs are.

Vice-Chair Corcoran concurred. He congratulated the Director of Public Works on the tremendous work involved in the failed streets program and asked if there are plans to allocate those resources towards drainage now.

Director of Public Works Nguyen responded that the 2006 Storm Drain Master Plan provided an inventory and deferred maintenance estimate of \$11 million for the Town's drainage infrastructure on a network level. He said that while the intent would be to ramp up investments in drainage infrastructure, the current economic climate means that the Town has been collecting fewer funds to invest in future work related to drainage or roads and has been drawing down those reserves. If property tax revenues do not recover, he said that there will eventually be no funds to invest here aside from those received from state gas taxes and local measures. He also noted that funds collected for street rehabilitation purposes are generally restricted, but that the Town endeavors to upgrade drainage when reconstructing streets as the two are often inseparable components of a project.

Chair Frymier asked what the \$215,000 allocated for drainage would accomplish. Mr. Nguyen said that the funds would address reactionary measures that could be married to current street improvement projects.

Vice-Chair Corcoran said that he was glad to see funding for downtown revitalization. He suggested that the money allocated for the Donahue Building restroom project should be reduced, given that it is only a feasibility study. He requested more information on the Teather Park-to-Tiburon Peninsula Club Trail item.

Mr. Nguyen explained that the project is a placeholder to potentially improve an existing footpath on an easement situated between the portion of Teather Park near the Point Tiburon Marsh condominium complex, around the southeast side of the marsh, and onto the Judge Field portion of the Tiburon Peninsula property. The improvements would be funded by a partnership between the Conservation Corps of the North Bay and the Town.

Chair Frymier voiced her complete support for the Downtown Vibrancy Project and the requested funding amount. She asked whether improvements to the bicycle path along Trestle Glen Boulevard would qualify under multi-use pathway improvements. She noted a particularly worrisome section that has seen numerous "near-accidents" and inquired about the potential for improved signage in that area. Mr. Nguyen responded that the bicycle/pedestrian path along the west side of Trestle Glen Boulevard is part of a phased approach in concert with the eventual right-of-way dedication on the opposite side of the street for a path in that location as well. He suggested that informational signage, which could be funded out of the operational budget, could certainly help in improving confusion at the existing path location on Trestle Glen Boulevard.

<p>ACTION: It was M/S (Tollini/Kunzweiler) to find the draft CIP budget consistent with the General Plan. Motion carried: 5-0.</p>

MINUTES:

Vice-Chair Corcoran requested the following amendment to the minutes:

- Page 4, 2nd paragraph – “He noted that **the language of the RDEIR...**”

ACTION: It was M/S (Corcoran/Tollini) to approve the minutes of April 27, 2011, as amended. Motion carried: 5-0.

ADJOURNMENT:

The Planning Commission adjourned the meeting at 8:25 p.m.

CATHY FRYMIER, CHAIR
TIBURON PLANNING COMMISSION

ATTEST:

SCOTT ANDERSON, SECRETARY (ACTING)