



TOWN OF TIBURON
1505 Tiburon Boulevard
Tiburon, CA 94920

Planning Commission Meeting
December 10, 2008
Agenda Item: 2

STAFF REPORT

To: Members of the Planning Commission

From: Community Development Department

Subject: 2000 Paradise Drive; File #10707; Conditional Use Permit to Replace an Existing Restaurant Building (The Caprice) with a New Restaurant Building; Point Tiburon Plaza, Inc., Owner; Hank Bruce Architects, Applicant; Assessor's Parcel No. 059-172-46

Reviewed By: _____

PROJECT DATA

Address: 2000 Paradise Drive
Assessor Parcel Number: 059-172-46
File Number: 10707
Lot Size: 3,315 square feet
General Plan: Neighborhood Commercial
Zoning: NC (Neighborhood Commercial)
Current Use: Restaurant
Owner: Point Tiburon Plaza, Inc.
Applicant: Hank Bruce Architects

PROJECT DESCRIPTION

The owner of the Caprice Restaurant, located at 2000 Paradise Drive, has submitted an application for a conditional use permit to demolish the existing two-story building and construct a new three-story restaurant building on the site.

The new building would have approximately the same footprint as the existing restaurant. The lower floor of the building would be converted into a 1,300 square foot lounge and wine cellar with 27 seats. The 2,425 square foot first floor level would contain the main dining room, with seating for 44 diners. The new 1,807 square foot upper level would include a 648 square foot banquet room, with seating for 54 diners. The total seating for the restaurant would increase from 114 seats to 125 seats. A small bar with seating for 3-5 patrons is proposed to be installed on each of the three floors. An elevator would connect all three floors. The building would be air conditioned.

The exterior of the building would incorporate a more contemporary design, with a combination of stucco and horizontal wooden siding and a seamed metal roof. Windows on the front of the building facing Paradise Drive would be limited to several larger windows providing light into the entry and stairway, along with several round windows behind the upper level bar. Extensive windows would be installed along the dining areas on the rear and west side of the building facing the bay; these double pane windows would only be opened for cleaning, during “Spare the Air” days or in case of air conditioner failure. No exterior decks are proposed for the restaurant.

Rooftop mechanical equipment would be installed toward the front of the building and shielded by parapets. A gated recycling/trash enclosure would be installed at the front of the building. A paved area at the front of the building would provide a space for a parking shuttle to pick up and drop off customers. No on-site parking is or would be provided.

A valet parking service is proposed to operate during normal restaurant operating hours (Tuesday-Thursday, 5:30 p.m.-9:00 p.m. and Friday-Sunday, 5:00 p.m.-10:30 p.m.) and for all scheduled banquets. Banquet patrons will be directed to park in the Point Tiburon Plaza parking lot, and will be transported back and forth from the restaurant by a 15-passenger shuttle van. For other restaurant patrons, valet parking drop-off and pick-up will take place on the driveway apron directly in front of the restaurant, with the vehicles parked in the Point Tiburon Plaza parking lot. Valets will utilize two-way radios with headsets to minimize noise for the surrounding neighborhood. The applicant also recommends that the Town install a flashing yellow in-pavement light system for the crosswalk leading across Paradise Drive to the restaurant, although the Town has yet to approve installation of such a system.

EXISTING FACILITIES AND SURROUNDINGS

The subject property is a 3,315 square foot parcel situated at the intersection of Paradise Drive and Mar West Street. The two-story building extends to within 8 feet of the front property line and stretches to both side property lines. The building is set on piers and extends beyond the mean high tide line into Racoon Strait.

The main dining room and kitchen are situated on the street level of the building. A small bar and restrooms are also situated on the main floor. The lower level is used primarily for banquets and meetings, and contains another bar and wine storage area. There is no formalized on-site parking; most customers park their vehicles either in the Town-owned public parking lot across the street or use available on-street parking spaces in the vicinity, primarily along Mar West Street. The restaurant provides valet parking service on most busy nights.

A three-story, three-unit apartment building is situated directly to the northeast of the site at 2002 Paradise Drive. The administrative offices and main sewage treatment plant for Sanitary District No. 5 are located across the street at the northwest corner of Paradise Drive and Mar West Street.

A Town-owned parking lot is situated at the other corner of the intersection, with the Bayside units of the Point Tiburon condominium complex further west. Elephant Rock fishing pier and Shoreline Park are situated to the west of the site.

PERMIT HISTORY

County Approvals

A single-family residence was constructed on the subject property in the late 1950's. In 1961, a conditional use permit (File #16103) was approved by the Marin County Planning Commission to "permit the establishment of a dinner-restaurant in an existing one-story residence." This use permit included the following conditions of approval:

1. That there be no bar.
2. That the dining capacity be limited to 50.
3. That off-street parking shall be constructed and maintained in a quantity, at a location and at a time to be determined and set forth by the Marin County Planning Commission with the granting of Architectural Supervision approval.

Later in 1961, an Architectural Supervision application was approved for the project, with the following conditions of approval:

1. That a written lease for 24 parking spaces be filed prior to the issuance of a building permit for the project.
2. That no bar other than a service bar be allowed.
3. That a proposed basement addition be approved only if the County Counsel opinion states that the restaurant use could be extended into that area.

In 1962, the County Planning Commission approved another conditional use permit (File #16201) "to establish a restaurant use in the basement area of the Caprice Restaurant." A subsequent Architectural Supervision application was approved for the basement area later in 1962, and the restaurant has operated continuously since that time.

Physical improvements to the building have been very minor over the years. Town records show permits for only minor mechanical improvements and an entry awning for the restaurant. In 2001, the Town discovered that additional rooftop mechanical equipment had been installed on the restaurant without first obtaining the necessary permits from the Town. The owner of the adjacent residential property at 2002 Paradise Drive complained that the equipment impacted the

views from her home. The Design Review Board ultimately approved a Site Plan and Architectural Review application (File #701147) for the equipment which required the installation of several wooden lattices to screen the equipment.

The restaurant itself appears to have evolved considerably since the 1962 use permit was issued. The current dining capacity has intensified to 114 seats, while the parking lease expired decades ago and was not renewed.

2004-2006 C.U.P. Review

In 2004, the owner filed a conditional use permit application (File #10411) to construct a new upper level banquet room on top of the existing restaurant building. During the review of this application in 2005, nearby residents raised concerns about potential traffic safety, parking and noise impacts that would be generated by the expanded restaurant. The Planning Commission shared these concerns and on June 22, 2005 adopted Resolution No. 2005-08 (**Exhibit 3**) denying the use permit.

The owner subsequently appealed the Planning Commission's denial to the Town Council. The Council held a hearing on the appeal on October 19, 2005. After number of neighboring residents reiterated their concerns about the project, the Council voted to continue the appeal hearing and appointed an ad hoc subcommittee to meet with the applicants and neighbors. The subcommittee met twice, on December 19, 2005 and January 20, 2006. The meetings gave the neighbors opportunities to voice their concerns about the project as originally proposed, and allowed Caprice representatives to propose possible design and operational changes to the project to address these concerns.

Subsequently, the subcommittee directed Staff to send a letter to the Caprice requesting several specific exhibits (a complete shuttle route map, revised plans showing all proposed changes, and a color and materials board). The letter also requested the Caprice to prepare a test to evaluate the traffic, parking and noise alternatives that have been proposed for this project. The intent of the test was to allow the Caprice to demonstrate their proposed parking shuttle, valet parking and sound systems on an evening during which a banquet was to be held in order to evaluate the effectiveness of these proposals for the proposed upper story banquet room.

The applicants did not respond to the requests for information and, later in 2006, Staff was informed that a new architect had been hired to prepare revised plans for the project. The architect subsequently presented revised plans indicating the complete demolition of the existing Caprice building and construction of a new restaurant on the site. Staff determined that the construction of a new restaurant building was substantially different from the previous request to construct an addition to the existing building and required submittal of a new conditional use permit application. When the current use permit application was submitted in December, 2007, the previous use permit application was deemed to be withdrawn.

ANALYSIS

Consistency with Applicable General Plan Policies

The section that follows is a review of the proposal with directly applicable policies of the Tiburon General Plan. In determining consistency of a proposal with a General Plan, the standard of review is that a project is consistent if, on balance, it promotes or furthers the goals and policies of the General Plan.

LU-11. Property owners cherish their views. Development, new construction and associated landscaping shall be so situated or kept low to interfere minimally with existing primary views.

Inconsistent. The proposed upper level of the restaurant would adversely affect views from two of the adjacent dwelling units at 2002 Paradise Drive. This adjacent three-unit residential building has one dwelling unit on each of its three floors. Unit 1 is on the lowest floor, roughly level with the main level of the adjacent restaurant. The proposed upper level would be well above the floor level of this unit, and would not block any significant views for this home.

Unit 2, on the middle floor of the building, has extensive views toward San Francisco and the Golden Gate Bridge from the living room and rear deck. The side windows of the living room and the kitchen window face the adjacent restaurant; the proposed upper level of the restaurant would block almost all views from these windows, including views toward Downtown Tiburon and a portion of Belvedere Island, intruding past the horizon line of the view from these windows. The entry for all three units is also situated on this level; the proposed upper level would block some views and late afternoon sunlight into this glass-walled entry area.

The upper level home, Unit 3, is situated at a level well above both the existing restaurant and the upper level of the proposed restaurant building. The upper level would block a small portion of water views from the side living room and kitchen windows of this residence.

No other homes in the vicinity have significant views that would be affected by the proposed restaurant building. The new restaurant building would substantially increase the visual mass viewed by motorists, bicyclists and pedestrians traveling along Paradise Drive when compared to the mass of the existing building, but would not block any additional water or San Francisco views.

The upper level of the proposed restaurant building has the potential to significantly impact the views from at least one of the adjacent residences. The proposed building would not be “situated or kept low to avoid interference with existing outlooks.” In fact, the overall height of the restaurant would be increased to approximately 36 feet, which would exceed the 30 foot maximum building height allowed in the NC zone, and require approval of a Variance. The

Planning Commission is encouraged to visit the homes at 2002 Paradise Drive to further evaluate these potential view impacts.

LU-26. The Town recognizes and wishes to preserve its bay and waterfront as significant resources and shall closely consider the sensitivity of its coastal environment through the application review process, and shall encourage maximum feasible public access to the waterfront, as called for in the San Francisco Bay Conservation and Development Commission's (BCDC) San Francisco Bay Plan, and where not in conflict with other public uses which are of public benefit.

Consistent. The proposed restaurant building would not have adverse impacts on the waterfront or the coastal environment, nor would it alter any public access to the bay. It is possible that alterations or enhancements to the existing piers supporting the building would be required to provide adequate structural support for the proposed restaurant building. Such supports would need to be engineered to comply with Building Code requirements, but would not extend further into the bay than the current structure.

DT-B. To enhance Downtown's role as the commercial and service center of Tiburon while promoting new resident-serving and visitor-serving uses and facilities.

Consistent. A more usable banquet room for this restaurant would better serve residents and out-of-town visitors looking for an attractive location for larger dining facilities.

DT-8. Minor floor area additions to properties exceeding FAR limits may be approved without the need for a General Plan or Zoning Ordinance amendment. Minor floor additions are those that do not add demand for parking as defined in the Parking and Loading section of the Zoning Ordinance, and do not increase traffic generation. A finding must be made that there will be no material adverse effects from the granting of the minor floor area addition.

Inconsistent. The Town has approved requests for excess commercial floor area on five previous occasions:

- In 1990, a 258 square foot addition to the Servino Restaurant at 114 Main Street was approved.
- In 1991 a 115 square foot addition to the building at 10/14 Main Street was approved.
- In 1998, a 3,000 square foot addition was approved to convert the building at 25 Main Street in the Water's Edge Hotel. Although the size of the addition itself was somewhat large, it represented only a 19.2% increase over the size the previous building.

- In 2001, approval was given to demolish the building at 41 Main Street, and to construct a new 6,740 square foot retail and residential building, representing a 12.3% increase in the floor area for that property.
- In 2008, approval was given to demolish the 2,415 square foot Harbor Light building at 20-22 Main Street and to construct a new 2,914 square foot office building, representing a 21.7% increase in the floor area for that property.

The current application would replace an existing 3,500 square foot building with a new 5,532 square foot building, which would represent a 58.1% increase in the size of the building. The percentage increase is of a larger magnitude than previous requests, and would be more than double the largest percentage increase previously approved. Staff concludes that the addition as proposed could not be considered “minor.”

With respect to parking, the original use permit for this restaurant limited seating for the restaurant to 50 diners and required a lease agreement for 24 parking spaces. The restaurant has been operating for many years with a total seating capacity of 114, which would increase by 11 seats to a capacity for 125 diners under the proposed application. The Tiburon Zoning Ordinance requires that a restaurant provide one parking space for each 60 square feet of seating area. By replacing the existing 426 square foot lower level banquet area with a 648 square foot banquet space on the upper floor, the parking requirement for the restaurant would increase from 22 spaces to 25 spaces. The project would therefore “add demand for parking as defined in the Parking and Loading section of the Zoning Ordinance,” and would therefore be inconsistent with the requirements of Policy DT-8.

The applicant has indicated that at least 24 parking spaces can be made available within the Point Tiburon parking lot for use by the restaurant. These spaces would be marked for use of the restaurant from 5:00 p.m. until midnight each day. The applicant contends that this parking lot is generally used by commuters and daytime patrons and employees of other businesses in the Point Tiburon Plaza, making the needed parking spaces more available for use by restaurant customers in the evening. In general, this arrangement would appear to be consistent with the intent of allowing multiple uses to share parking spaces (described in Section 16-5.8.10). However, the Point Tiburon Plaza parking lot has a history of filling up for long periods on busy weekends, particularly during the summer. The Caprice also allows the banquet room to be used on occasion as early as 11:30 a.m. During these weekends and mornings, the parking spaces proposed to be designated for the restaurant may already be in use, leaving only on-street parking in the vicinity of the restaurant and the nearby public parking lot to meet the needs of the business.

Neighboring residents have raised concerns about the existing and proposed valet parking operations for the restaurant. The neighbors have complained that valets and customers who

park their own cars overwhelm the on-street parking along Mar West Street and occasionally double-park along the street. Residents report that vehicles sometimes back up on Paradise Drive while waiting for valet service or to be picked up by customers leaving the restaurant, and occasionally perform illegal U-turns from the driveway apron. Residents have also raised concerns about pedestrians jay-walking across Paradise Drive and the possibility of customers trespassing through the Point Tiburon Bayside complex when walking to and from the Point Tiburon Plaza parking lot.

As noted above, the applicant proposes to operate a parking shuttle that would transport customers to and from the Point Tiburon Plaza parking lot. The proposed shuttle route would travel east on Paradise Drive from the restaurant through Old Tiburon before turning on left on Solano Street, right on Centro West Street and right on Paradise Drive to the Point Tiburon Plaza lot.

The Initial Study prepared for this application recommends that the shuttle instead pick up and drop off customers at either the small public parking lot opposite the restaurant or utilize two of the parking spaces at the Sanitary District No. 5 property for this purpose. The Sanitary District has submitted a letter (**Exhibit 10**) asking that their parking spaces not be used for valet parking purposes. Point Tiburon Bayside residents have previously complained about possible noise from customers and valets gathering in the public parking lot, which is situated close to several of the homes in this complex.

The proposed upper level banquet area would represent a small increase in the amount of usable dining area for the restaurant, but is more likely to be used on a regular basis than the current lower level banquet space. The Planning Commission should determine whether the proposed project would result in a substantial increase in the parking demand for the restaurant, and whether a parking lease agreement, in conjunction with the proposed valet parking arrangement, would satisfactorily meet the resulting parking demand for the restaurant.

As noted above in the review of Policy LU-11, the proposed upper level of the restaurant would adversely affect views from two of the adjacent dwelling units at 2002 Paradise Drive. Combined with the possible parking, traffic and noise impacts on surrounding residents described above, Staff is unable to identify substantial evidence in the record to support a finding that “there will be no material adverse effects from the granting of the minor floor area addition.”

DT-12. The Neighborhood Commercial land use designation shall permit primarily resident-serving commercial and residential uses. The maximum allowable intensity for lands designated Neighborhood Commercial is an FAR of 0.37, except where a Transfer of Intensity is approved consistent with Policy DT-9.

Inconsistent. The property is located within the Neighborhood Commercial (NC) land use district, which allows resident-serving commercial uses and offices, and mixed (commercial-

residential or office-residential) uses. The restaurant is a commercial business with a history of serving local residents as well as out-of-town customers. The floor area limit for the NC district is nominally 0.37, with existing structures grandfathered at existing FARs if they exceed the 0.37 FAR limit. A transfer of intensity is possible, as the owner of the subject property also owns the Point Tiburon Plaza property, as described below.

DT-9. Transfers of Intensity. A transfer of intensity between commercially-designated Downtown properties (NC and VC districts) may be permitted subject to discretionary review (conditional use permit) by the Town, without requiring General Plan or Zoning Ordinance amendments.

Consistent. While a transfer of intensity to accommodate the additional floor area of the proposed restaurant has not been proposed at this time, it remains a possibility should the Town not find the proposed addition to be “minor” per Policy DT-8. The Point Tiburon Plaza has additional floor area capacity in excess of the additional floor area requested for the subject restaurant. The applicant would need to demonstrate that both of these properties are under the same ownership to pursue a transfer of intensity between the two properties.

OSC-15. Maintenance and replacement of lawfully existing structures built over San Francisco Bay (bayward of mean high tide line) may be permitted. However, with the exception of piers, docks, and public access facilities approved by the Bay Conservation and Development Commission (BCDC), expansion of existing structures or construction of new structures that would result in new filling of San Francisco Bay shall be prohibited.

Consistent. The proposed restaurant building would utilize the same footprint as the existing structure and would not result in new filling of San Francisco Bay.

Zoning Ordinance Conformance

The section which follows comprises an analysis of conformance of the proposal with provisions of the Tiburon Zoning Ordinance.

A restaurant is a conditionally-permitted use (requiring a Conditional Use Permit) under Section 16-2.11.2; construction of a new restaurant building requires a Conditional Use Permit. In reviewing a conditional use permit, the Planning Commission is directed to consider the following issues under Section 16-4.4.2:

(a) *Whether the location proposed for the Conditional Use applied for is properly related to the development of the neighborhood as a whole.*

The location of the existing restaurant is at the edge of Downtown Tiburon, adjacent to the beginning of the Lyford Cove/Old Tiburon residential area. Although the restaurant has

coexisted with its residential neighbors for over 40 years, the new three-story restaurant building would impact the views of adjacent residences. The more significant view blockage impacts that would be caused by the upper level of the proposed restaurant are less appropriate for a restaurant in the midst of a residential neighborhood than for a restaurant more centrally located within Downtown Tiburon.

(b) Whether the location proposed for the particular Conditional Use applied for would be reasonably compatible with the types of uses normally permitted in the surrounding area.

The Caprice Restaurant has been reasonably compatible with its surroundings for many years. The increased usability of the new restaurant building with a dedicated upper level banquet area would likely result in an increased intensity of use of the restaurant that would be less compatible with the surrounding residential uses.

(c) Whether or not adequate facilities and services required for such use exist or can be provided.

Adequate facilities and utilities can be provided to serve the proposed use.

(d) Whether appropriate conditions and requirements have been imposed which would reasonably assure that the basic purposes of this Ordinance and the objectives of the General Plan are served.

The increased parking demand that would be caused by the proposed project could be technically mitigated through conditions of approval that require a valet system and a specific number of off-site parking spaces to be provided for use by the restaurant. As a practical matter, the increased parking demand caused by the proposed addition may be more difficult to accommodate operationally and could still result in traffic, parking and noise that would be noticeable to nearby residents. The view blockage impacts on neighboring residences that would be caused by the addition would likely be inconsistent with the purposes of the Zoning Ordinance and the objectives of the General Plan.

(e) Whether the Town is adequately served by similar uses presently existing or recently approved by the Town.

Staff believes that the existing restaurant is part of an adequate supply of full-service restaurants in Tiburon.

In accordance with Section 16-4.4.3 of the Zoning Ordinance, the following factors shall be considered in determining whether or not any conditional use should be permitted in a specific location:

(a) *The relationship of the location proposed to:*

- (1) *The service or market area of the use or facility proposed;*
- (2) *Transportation, utilities, and other facilities required to serve it; and*
- (3) *Other uses of land in the vicinity.*

Staff believes that the restaurant is properly related to its service area, and that transportation facilities and utilities are available to serve the use. As noted above, the location of the restaurant adjacent to a residential neighborhood has proven to be appropriate in the past, but the increased activity and potential view impacts caused by the upper level banquet room of the proposed new restaurant building may be incompatible with the residential surroundings of this site.

(b) *Probable effects on persons, land uses, adjoining properties, and the general vicinity, including:*

- (1) *Probable inconvenience, damage, or nuisance from noise, smoke, odor, dust, vibration, radiation, or similar causes;*
- (2) *Probable hazard from explosion, contamination, or fire;*
- (3) *Probable inconvenience, economic loss, or hazard occasioned by unusual volume or character of traffic or the congregating of a large number of people; and*
- (4) *The number of such uses presently existing or recently approved within the area.*

The proposed restaurant building is not anticipated to result in significant adverse smoke, odor, dust, vibrations, or explosion/contamination impacts. Neighboring residents have complained about inconvenience caused by traffic, parking and noise from the existing restaurant and occasional traffic hazards caused by parking operations in the vicinity of the restaurant. The volume and character of traffic for the increased number of banquets that would be held at the new restaurant would be unusual for a predominantly residential neighborhood and have the potential to cause further inconvenience for residents in the vicinity. Noise from the operation of the restaurant and the valet parking service in the public parking lot would likely be noticeable from several nearby residences, but would not constitute a significant adverse impact as defined by CEQA. No other restaurants or other commercial activities presently exist or are recently approved in the immediate vicinity of the subject property.

(c) *The need of the community for additional numbers of such uses, paying particular heed to whether the neighborhood is already served by similar uses.*

See response to (b) above.

In addition, as previously noted, the overall height of the new restaurant building would be approximately 36 feet, which would exceed the 30 foot maximum building height for Neighborhood Commercial Zone established under Section 16-2.11.3 (1) of the Zoning Ordinance. The Variance would be considered by the Design Review Board during a review of a subsequent Site Plan and Architectural Review application for this building, if the subject conditional use permit is approved.

ENVIRONMENTAL STATUS

An Initial Study/Draft Negative Declaration was prepared for this project and released for public comment on November 10, 2008 and has been previously distributed to the Planning Commission. The public review period ends on December 10, 2008. As of the date of this report five (5) letters have been received at this time regarding the negative declaration.

The initial study focused on the potential for significant traffic, parking and noise impacts resulting from the proposed restaurant building. The consultant conducted several site visits and observed the valet parking service currently used by the restaurant. The following issues are addressed in the initial study:

- U-turn parking. Valets were observed making illegal U-turns from the front of the restaurant into the easternmost Sanitary District driveway, then backing onto Paradise Drive before heading west. Although acknowledging this as an illegal maneuver, the consultant did not observe any traffic hazards with these turning movements, but noted the risk for accidents due to limited line of sight for westbound drivers approaching the restaurant.
- Cars stacking on Paradise Drive. The consultant observed only a few occasions where more than one vehicle was stacked up waiting for the valet in front of the restaurant and noted that these occasions lasted only a few seconds. The applicant has indicated that a sufficient number of valets would be hired to avoid any backup in the future.
- Parking spaces used by valets. The valets were observed using the on-street parking spaces across from the restaurant on Paradise Drive and the off-street spaces in the small parking lot at Mar West Street and Paradise Drive. In instances when cars needed to be temporarily stored before finding a parking space, the valets often used the Sanitary District parking spaces or parked the cars in the red curbed zone across from the restaurant. Cars were often delivered to customers leaving the restaurant in the red curbed portion of Paradise Drive.
- Pedestrian safety. The consultant did not observe any hazardous conditions for pedestrians walking to or from the restaurant, although many customers were observed jaywalking instead of using the crosswalk.
- Shuttle route. As noted above, the proposed shuttle route would travel east on Paradise Drive from the restaurant through Old Tiburon before turning on left on Solano Street, right on Centro West Street and right on Paradise Drive to the Point

Tiburon Plaza parking lot. The consultant has recommended a mitigation measure (Measure T-1) requiring that the shuttle pick up and drop off customers either in the public parking lot across the street from the restaurant or in the Sanitary District parking spaces. The District has submitted a letter asking that their parking spaces not be used for valet parking purposes. The public parking lot is owned by the Town of Tiburon, and the Town has previously determined that there is no legal impediment to the Town authorizing use of this lot for shuttle pick up and drop-off. The consultant also recommended (Mitigation Measure T-2) that this lot not be used to park cars for the restaurant, but only for the shuttle pick up and drop-off. The use of this lot for shuttle pick-up and drop-off would eliminate the need for the shuttle to travel through the Old Tiburon neighborhood on the way to the Point Tiburon Plaza parking lot.

- Noise. The initial study found that the proposed restaurant would not generate significant noise that would affect the residents next door at 2002 Paradise Drive or in the Point Tiburon Bayside complex. However, if the shuttle pick-up and drop-off location is moved to the parking lot at Mar West Street and Paradise Drive, the initial study includes a mitigation measure (N-1) that requires that shuttle buses be turned off while in the parking lot and that banquet contracts include a requirement that customers refrain from excessive noise while on their way to and from the restaurant. The initial study found that the two-way radios and headsets that would be used by the valets would adequately limit any additional noise from the valet operations.

The initial study found that the traffic and noise mitigation measures would reduce these impacts to less than significant levels. The initial study also recommended mitigation measures for potential impacts on air quality, biological resources and hydrology and water quality that would reduce these impacts to less than significant levels.

PUBLIC COMMENT

As of the date of this report, 20 letters have been received regarding the merits of this application.

CONCLUSION

The Caprice Restaurant was established in a time when there were fewer residents around the site and a railroad yard in operation on what is now the Point Tiburon Bayside condominium complex. Over time the area around the Caprice has changed to become more predominantly residential in character. While the continued operation of the existing restaurant may still be suitable at this location, this site is inappropriate for an expanded restaurant that could create view, parking, traffic and noise impacts on neighboring residents. Although the initial study has determined that these potential impacts can be mitigated to less than significant levels, Staff concludes that the new restaurant building would be inconsistent, on balance, with the policies of the general plan and zoning ordinance. If the new restaurant building is not approved, it is recommended that the Planning Commission, in the near future, consider a review of the existing conditional use permits for the restaurant to bring their requirements into closer conformance with the current operations of this use.

RECOMMENDATION

Staff recommends that the Planning Commission:

1. Hold a public hearing on this application:
2. Direct staff to prepare a resolution denying the conditional use permit to construct a new restaurant building at 2000 Paradise Drive.

EXHIBITS

1. Application form and supplemental materials
2. Draft Mitigated Negative Declaration and Initial Study, prepared by Leonard Charles & Associates (previously distributed)
3. Planning Commission Resolution No. 2005-08
4. Minutes of the April 13, 2005 Planning Commission meeting
5. Minutes of the June 8, 2005 Planning Commission meeting
6. Minutes of the October 19, 2005 Town Council meeting
7. Letter from Rudolph and Shirley Cutino, dated November 13, 2008
8. Letter from Elisabeth Stromberg-Baker, dated November 14, 2008
9. Letter from Patricia Montag, dated November 18, 2008
10. Letter from Sanitary District No. 5, dated November 20, 2008
11. Letter from Ed Lederer, dated November 21, 2008
12. Letter from Sam and Mandy Parke, dated November 29, 2008
13. Letter from Robert and Mary Fishman, dated December 1, 2008
14. Letter from Ron Glantz, dated December 1, 2008
15. Letter from Susan and Robert Wolfe, dated December 1, 2008
16. Letter from Branwell Fanning, dated December 1, 2008
17. Letter from Linda Tripp, dated December 1, 2008
18. Letter from Lyford Cove Old Tiburon Homeowners' Association, dated December 2, 2008
19. Letter from the Belvedere-Tiburon Chamber of Commerce, dated December 3, 2008
20. Letter from Madeleine Wood, dated December 3, 2008
21. Letter from Sissy Davis, dated December 3, 2008
22. Letter from Phil Owen, dated December 3, 2008
23. Letter from Bill Abelmann, dated December 4, 2008
24. Letter from James Draeger, dated December 4, 2008
25. Letter from Riley Hurd, dated December 4, 2008
26. Petition signed by Susan and Bob Wolfe, et al, received December 4, 2009
27. Submitted plans

Prepared By: Daniel M. Watrous, Planning Manager

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