



TOWN OF TIBURON
1505 Tiburon Boulevard
Tiburon, CA 94920

Planning Commission Meeting
August 27, 2008
Agenda Item: 1

STAFF REPORT

To: Members of the Planning Commission

From: Community Development Department

Subject: 215 Blackfield Drive: Annual Review of Conditional Use Permit for Kol Shofar Synagogue and Appurtenant Day School; File # 48404(C); Assessor's Parcel No. 034-291-31

Reviewed By: _____

BACKGROUND

In 1985, the Town of Tiburon approved a conditional use permit authorizing synagogue and day school uses on property located at 215 Blackfield Drive. The use permit conditions were subsequently amended by adoption of Planning Commission Resolution Nos. 97-17, 2001-07, and 2004-10. Condition No. 18 of Resolution No. 2001-17 requires annual review of the permit by the Town, and reads as follows:

“This conditional use permit, as amended, shall be initially reviewed by the Planning Commission within nine (9) months of adoption of this resolution. The reviewing body and frequency of reviews shall be determined by the Planning Commission following the initial review, with the provision that, at a minimum, an annual review by Planning Division staff will be required.

“Review of the permit shall be to ensure, among other things, compliance with conditions of approval and continued compatibility of the uses with surrounding residential development, including but not limited to traffic safety, parking, and traffic congestion issues. Permittee shall be responsible for all Town processing costs associated with the review. Permittee shall be responsible for submitting, at least 30 days prior to review date, a detailed narrative of the current use and operation of the synagogue and day school, and supporting documentation to demonstrate compliance with conditions of approval of this permit.”

The most recent Planning Commission review of this use permit was conducted in 2004. Since that time, Kol Shofar submitted another conditional use permit application (File # 10404) to remodel existing structures on the site and construct new facilities. That application was approved in 2007. During its processing, formal review of the existing CUP was deemed

unnecessary, as staff was in ongoing communication with both CKS and affected neighbors. Since it has been some time since a formal review of the CUP was conducted, staff concluded that it would be appropriate for the Planning Commission to conduct this annual review, rather than holding the review at the staff level.

A brief synopsis of the evolution of the CKS conditional use permit is as follows:

1985: The Town Council approves a CUP for a synagogue and day school; few operational conditions of approval are applied.

1997: The CUP is reviewed for the first time. It is substantially revised (Resolution No. 97-17, **Attachment A**) to reflect changed conditions, both in terms of growing membership and activity at the synagogue and the fact that a new residential development had been constructed adjacent to the site.

2001: The use permit is (Resolution No. 2001-07, **Attachment B**) in response to a change in day school tenancy to a high school. The high school remained only one year before moving out of the county.

2004: The use permit is revised (Resolution No. 2004-10, **Attachment C**) to require annual updating of the member database for carpooling, coordination of responses to neighbor issues or complaints that involve the day school, annual inspections of certain eucalyptus trees on the property and traffic controls for all major events and peak period usage.

2007: The Town Council adopts Resolution No. 15-2007 (**Attachment D**) approving the conditional use permit to remodel and expand facilities on the site. This conditional use permit approval is currently pending before the California Court of Appeal, having been upheld by a Marin County Superior Court. Most of the conditions of approval of this resolution pertain to the new facilities on the site or usage of the property once the new facilities have been constructed.

Since these facilities have not yet been constructed, this annual review will be limited to the conditions of approval of Resolution Nos. 97-17, 2001-07, and 2004-10 and those few conditions of approval of Resolution No. 15-2007 related to the ongoing use of the site that are applicable prior to construction of the additions.

REVIEW OF APPLICABLE USE PERMIT CONDITIONS

Below is a listing of the conditions of approval from the applicable resolutions, and a brief staff discussion of compliance based upon the Kol Shofar's updated narrative letter dated August 4,

2008 (**Exhibit 2**), the letter dated May 26, 2004 from IPA, Inc. (**Exhibit 3**), and from meetings and site visits conducted by staff.

1. The baseline characteristics of the synagogue and day school uses are set forth in the letter dated May 7, 2001 from Mark Goldman to the Town of Tiburon, attached hereto as Exhibit A, and made a part of this resolution.
2. No membership cap is established for the synagogue use; however, the Town will continue to monitor and document growth of the membership with regard to adequacy of parking, traffic congestion, and neighborhood compatibility.

Discussion: Based on the detailed information submitted in Exhibit 2, membership units and total members decreased by approximately 7 percent in the past year. Events and activities remained essentially similar over that time period. Staff has received no substantial evidence that parking or traffic congestion impacts have worsened. Neighborhood compatibility issues are addressed elsewhere in this report.

3. The day school shall be limited to a maximum student enrollment of 100 children.

Discussion: The Ring Mountain Day School (RMDS) had a maximum enrollment of 100 pre-school children, but no longer operates at the site. A new Jewish preschool program has been established, with 12 children and 3 employees.

4. On High Holy Days, the synagogue shall provide split religious services. Those services shall be separated by not less than sixty (60) minutes between the end of the first service and the beginning of the second service.

Discussion: Split services have been held for several years running. A 60-minute time gap is observed between services. A shuttle from Westminster Church (Tiburon Boulevard at Greenwood Cove Drive) is used during the High Holy Days, although the Town has received complaints in recent years that the shuttle did not appear to be in operation. During the 2007 High Holy Days services, staff observed few additional cars parking in the Westminster Church parking lot during the services, but also noted little evidence of overflow parking into the surrounding neighborhood.

5. Permittee will conduct an educational program for its members concerning traffic control and parking. The program will include written materials sent to each membership unit providing the following:
 - A. A notice strongly encouraging that parking should be in the synagogue's on-site parking lots.

- B. Diagrams showing parking locations and circulation patterns, including entrances to and exits from parking lots.
- C. A notice informing members of safety measures to be observed regarding neighborhood traffic and pedestrians.
- D. A statement encouraging courteous conduct toward neighbors in all matters relating to the use of the site.

The educational program outlined above should be implemented on an ongoing basis.

*Discussion: Printed materials covering the above items are distributed annually (prior to the High Holy Days) to all membership units. A copy of a previous letter, notice and e-mail to the members is attached as **Exhibit 4**.*

- 6. Permittee shall create a database of its members to facilitate and encourage car-pooling. The carpool database shall be updated annually and confirmation of the update submitted with the request for annual review. The information from this database shall be used to provide information to members about potential car-pool partners, and will be targeted to members for whom car-pooling may be a viable means of reaching the synagogue. Car-pooling information shall be included in the educational program outlined above.

Discussion: Kol Shofar maintains a database of their members that is made available to members for potential carpools and encourages members to consider carpooling in the newsletter distributed to all membership units.

- 7. Improved directional/informational signage relating to parking and site circulation on the property shall be installed. Within 30 days of final approval of this permit, permittee shall submit for review and approval by the Planning Director and Town Engineer such a signage plan. The approved signage plan shall be installed within 30 days of said staff approval.

Discussion: Additional signage was installed prior to the 1998 annual review. The existing signage is adequate. Red curbs were painted along the Kol Shofar frontage of Reedland Woods Way in response to neighborhood concerns. In 2004 Kol Shofar installed a vehicle barrier at the driveway entrance on Reedland Woods Way to better manage use of this driveway and encourage vehicles to use the main parking lot entrances. The Town has received complaints from neighbors regarding an apparent drainage problem which has damaged the surface of the driveway leading onto Reedland Woods Way. Kol Shofar has investigated this situation but has yet to resolve the problem.

8. Operational success of the current Sunday school drop-off location and circulation shall be reviewed pursuant to the review schedule set forth below. This review is especially critical if the approved but as yet unconstructed middle parking lot is completed.
9. A shuttle program shall be in place and implemented for the High Holy Days observance in 1997. Permittee shall develop a shuttle program for review and approval by the Planning Director. For the first year of High Holy Days following completion of the approved middle parking lot, the shuttle service need not be provided but activity shall be monitored and photographed by the permittee for use at the next annual review, when the possible continuing need for a shuttle program shall be considered.

Discussion: The referenced paving of the middle lot never occurred. A shuttle program has been used since 1997 during the High Holy Days, although Town Staff has received complaints from certain neighbors that the shuttle did not appear to be in use during certain periods of some High Holy Days services in recent years.

10. Parking lot lighting shall be on timers to turn off no later than 10:00 P.M. each day. The duration of the lighting may be extended via manual override device when occasions demand, but shall in no event be kept on beyond 11:00 P.M. on any occasion, except for Rosh Hashanah, Yom Kippur, Selichot, Shavuot, and the second night of Passover, at which times the parking lot lighting may remain on until no later than fifteen minutes after the last vehicle has exited the parking lots.

Discussion: Parking lot lights are on a timer that operates in accordance with the condition of approval. Staff has received no complaints regarding parking lot lighting within the past several years.

11. Permittee shall prepare an annual calendar of planned events, usually on or around July of each year. Said calendar shall be submitted to the Planning Director upon completion and shall be posted outside the synagogue in a manner such that it is available for review by the public. Any changes to the calendar shall be forwarded to the Planning Director and shall be posted as described above.

Discussion: The preparation and public posting of the annual calendar was discontinued after the September 11, 2001 terrorist attacks for security reasons. A monthly calendar of events is prepared and made available to members and is posted at the Kol Shofar office. Staff has received no complaints regarding the discontinuance of the annual calendar, and understands the reasons for its discontinuance.

12. Permittee shall advise the Tiburon Police Department when it anticipates that there will be heavy use of access roads to the facility. "Heavy use" shall mean when the Executive Director of Kol Shofar expects that an event scheduled at the facility will result in the

parking lots at the synagogue and Via Los Altos street parking below Vista Tiburon Drive will be full. Permittee shall coordinate such events with the Police Department, and shall be responsible for costs of any additional required traffic control as determined by the Police Department.

Discussion: Synagogue representatives have been coordinating such events with the Tiburon Police Department for years, and this practice will be continued. A Tiburon police officer is typically stationed in the main parking lot during the High Holy Days to monitor and assist with traffic and circulation issues as needed.

13. Exterior amplified sound is approved for the annual Sunday School closing ceremony only, at which time speakers shall be faced toward the facility and away from surrounding residential uses. Any other event at which exterior amplified sound is proposed must secure a Special Event Permit from the Town.

This condition of approval was modified by Town Council Resolution No. 15-2007 to read as follows:

“No outdoor amplification will be allowed except for the annual Sunday School opening and closing ceremonies, at which time audio speakers shall be faced toward the CKS facility and away from surrounding residential uses. No loud bells or buzzers associated with any use on the site shall be allowed. Any system employed to alert students as to class times should not be clearly audible beyond the property boundary. Landscaping shall be enhanced to reduce noise to the surrounding neighborhood.”

Discussion: Planning Division staff received a complaint that amplified sound was used during the opening Sunday school ceremony in 2006, which was addressed to the satisfaction of staff. The Town has received no complaints regarding sound amplification since that time.

14. No specific limitations on outdoor activities after dark are imposed at this time. However, the Town shall review this provision during its periodically-scheduled reviews of the conditional use permit as set forth below.

Discussion: Planning Division staff has received no complaints regarding outdoor Synagogue activities after dark.

15. Permittee will advise and educate its tenant (the day school) concerning this use permit, with special emphasis on minimizing traffic, noise, lighting, courtesy to neighbors, and other issues addressed in the use permit conditions of approval. Permittee shall coordinate closely with the tenant day school regarding securing all required Town

permits prior to making physical improvements at the site, and shall coordinate timely responses to neighbor issues or complaints that involve the day school.

Discussion: Kol Shofar has made the employees of the new Jewish preschool program aware of the Town's resolutions and the pertinent conditions of approval.

16. Permittee shall designate a responsible and accessible person in a position of authority to act as the official contact person for surrounding neighborhoods, and to respond to communications, complaints, or perceived problems. The Town shall be notified of the name and phone number for this contact person, whose name and phone number shall be posted next to the annual calendar of events referenced above.

Discussion: Mr. Mark Levy has been designated as the official contact person for the Congregation Kol Shofar. He works at the site and is regularly available.

17. Any significant expansion or modification of the uses or operations allowed herein, as determined by the Town of Tiburon, shall require an amendment to this permit.

Discussion: The Town Council adopted Resolution 15-2007 approving a conditional use permit to allow Kol Shofar to remodel and expand facilities on the site.

18. This conditional use permit, as amended, shall be initially reviewed by the Planning Commission within nine (9) months of adoption of this resolution. The reviewing body and frequency of reviews shall be determined by the Planning Commission following the initial review, with the provision that, at a minimum, an annual review by Planning Division staff will be required.

Review of the permit shall be to ensure, among other things, compliance with conditions of approval and continued compatibility of the uses with surrounding residential development, including but not limited to traffic safety, parking, and traffic congestion issues. Permittee shall be responsible for all Town processing costs associated with the review. Permittee shall be responsible for submitting, at least 30 days prior to review date, a detailed narrative of the current use and operation of the synagogue and day school, and supporting documentation to demonstrate compliance with conditions of approval of this permit.

Discussion: This condition was discussed on pp. 1-2 of this report. Staff concludes that the use has been operating in a manner compatible with surrounding residential development and has not resulted in unanticipated or unreasonable traffic safety, congestion, or parking problems.

19. The Town of Tiburon reserves the right to amend or revoke this Conditional Use Permit for cause, in accordance with Zoning Ordinance regulations of the Town.

Discussion: Condition noted.

20. The high school tenant will utilize off-site recreational facilities for any programs that it undertakes. A small basketball court or similar on-site recreational area may be utilized provided that it is well shielded from surrounding residential uses and does not result in disturbance to those areas.

21. The high school shall not allow students to drive off campus during school hours, including lunch time and breaks. Parking for the high school shall be limited to the lower paved (largest) parking lot, except for the disabled. Reedland Woods Way shall not be utilized for high school purposes except for disabled access, occasional deliveries of heavy goods or supplies, and as the exit for the lower paved parking lot adjacent to the Reedland Woods Way/Blackfield Drive intersection.

22. The eucalyptus groves shall be off-limits to all high school related uses.

Discussion: These conditions of approval pertain to a high school use that no longer exists at the site.

23. Eucalyptus trees located on the Kol Shofar property in the immediate vicinity of the rear playground area below 32 Via Los Altos shall be inspected annually by a tree expert, who shall file a report as to the tree health and safety. Said report shall be submitted to the Town along with the request for annual review of the conditional use permit.

*Discussion: The purpose of this condition was to ensure that eucalyptus trees overhanging the day school outdoor play area were inspected for safety each year. The day school tenant has vacated the premises and the area is substantially less used than in prior years. Kol Shofar has submitted an arborist's report (**Exhibit 5**) stating that these trees are "in a safe and viable condition that are in no particular need for pruning or tree care at this time," but recommending continued monitoring of the condition of the trees.*

24. Traffic control personnel shall be provided for all major events and peak period usage, including but not limited to High Holy Day services, bar- and bat- mitzvahs, and Saturday (Sabbath) services. A written protocol specifying the traffic control measures shall be established, subject to approval by Town Staff, and shall be implemented within 60 days of this approval.

*Discussion: Kol Shofar has provided traffic control personnel for all major events and peak period usage. A written protocol specifying the traffic control measures has been completed and is attached as **Exhibit 6**. This protocol will remain in effect until such time as the remodel and project additions are constructed, at which time new regulatory provisions from the 2007 use permit approval will apply.*

From Town Council Resolution No. 15-2007:

4. Facilities:

A. The following conditions shall apply to all facilities at the site:

- (i) CKS facilities shall not be rented out to non-member public or private entities, except for the classroom facilities that are rented to an entity operating a private day school on the site.

Discussion: Kol Shofar has confirmed that their facilities are not rented out to non-member public or private entities, with the exception of the Jewish preschool.

C. The following specific conditions pertain to the Classrooms:

- (i) The tenant day school shall be limited to a maximum enrollment of one hundred (100) children, to be operated on weekdays only. Day school use of the site (tenant day school attendance in combination with any CKS-operated pre-school attendance) shall not exceed one hundred fifty (150) school children on weekdays. The educational spaces may be used for religious study and for religious educational instruction by the congregation.
- (ii) Weekday school start and end times at the CKS site shall be separated by a minimum of fifteen (15) minutes from the start and end times of the Bel Aire public school.

Discussion: The Ring Mountain Day School (RMDS) had a maximum enrollment of 100 pre-school children, but no longer operates at the site. A new Jewish preschool program has been established, with 12 children and 3 employees. The toddler program for the preschool operated between 9:00 a.m. and 1:00 p.m. or 3:00 p.m. on Tuesdays and Thursdays, and between the preschoolers program operates during the same hours on Mondays, Wednesdays and Fridays.

PUBLIC COMMENT

Courtesy notices were mailed to property owners within 2,500 feet of the site, and to the surrounding homeowner associations of Bel Aire Estates, La Cresta, Tiburon Hills, Ring Mountain-Blackfield Drive, Ring Mountain-Paseo Mirasol, and Vista Tiburon. As of the date of this report, no letters have been received regarding the current conditional use permit review.

CONCLUSION

It appears to Staff that the synagogue and day school uses are currently operating in overall substantial compliance with the conditions and parameters of the conditional use permit, as currently constituted.

Staff believes that there are a few areas where compliance with the current conditions of use permit approval need improvement. These are:

- Encourage members to carpool or use the parking shuttle for High Holy Days and other major events. Ensure that the shuttle is fully operational during High Holy Days events.
- Find a solution to the apparent drainage problem affecting the driveway leading to Reedland Woods Way.
- Continue to monitor and report conditions of Eucalyptus trees near the playground area on the site if the area is still used as a playground.

RECOMMENDATION

Staff recommends that the Planning Commission:

1. Following the staff report and a presentation by the applicant, hear public testimony on the conditional use permit review and either:
 - a. Make a motion to determine that the use remains in substantial compliance with the applicable terms and conditions of the conditional use permit; or
 - b. Provide direction to staff regarding any changes or amended conditions that the Commission believes would bring the use into compliance with the applicable terms and conditions of the conditional use permit.

EXHIBITS

1. Site Plan dated 3/2004, Kol Shofar property, 215 Blackfield Drive
2. Narrative description of current site uses in letter dated August 4, 2008
3. Letter from IPA dated May 26, 2004
4. Carpooling, shuttle and parking letter, notice and e-mail sent by Kol Shofar, dated 2003
5. Arborist report prepared by Brooks Tree Care, received August 20, 2008
6. Traffic Control Measures, dated January 10, 2005

ATTACHMENTS

- A. Planning Commission Resolution 97-17
- B. Planning Commission Resolution No. 2001-07
- C. Planning Commission Resolution No. 2004-10
- D. Town Council Resolution No. 15-2007

Prepared By: Daniel M. Watrous, Planning Manager

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