



TOWN OF TIBURON
1505 Tiburon Boulevard
Tiburon, CA 94920

Planning Commission Meeting
July 9, 2008
Agenda Item: **1**

STAFF REPORT

To: Members of the Planning Commission

From: Community Development Department

Subject: 11 Shepherd Way; File #10806; Conditional Use Permit and Negative Declaration to Expand an Existing Daycare Center (The Little School); Shepherd of the Hills Lutheran Church, Owner; The Little School, Applicant; Assessor's Parcel No. 034-291-31

PROJECT DATA

Address: 11 Shepherd Way
Assessor's Parcel Number: 034-291-31
File Number: 10806
Lot Size: 2.96 acres
Zoning: R-1 (Single-Family Residential)
General Plan: Medium High Density Residential
Current Use: Church, Daycare Center and Single-Family Dwelling
Owner: Shepherd of the Hills Lutheran Church
Applicant: The Little School

PROJECT DESCRIPTION

The Little School requests a conditional use permit to expand its daycare center by converting an adjacent single-family dwelling to additional classrooms and converting a portion of the existing church parking lot to an outdoor play area. The property at 11 Shepherd Way is currently developed with a church (Shepherd of the Hills Lutheran Church) and a single-family residence. A daycare center has operated since 1966 in a building that was originally constructed as a fellowship hall.

The current enrollment of the daycare facility is 45 children, ages 3-4, with a maximum of 5 daycare providers on site, as allowed by an approved conditional use permit. This application requests 32 additional children and 3 additional providers, for a total of 77 children and 8 daycare providers. Conversion of the residence would create approximately 1,500 square feet of additional interior space for the daycare use. Approximately 2,580 square feet of parking area adjacent to the residence would be converted into a fenced play area.

The conversion of the residence for daycare use would involve interior modifications to make the building suitable for the proposed use. The bathroom would be remodeled with child-sized facilities. There would be no exterior changes to this building.

The proposed play area would be situated within a portion of the parking lot to the west of the residence measuring approximately 65 feet long and 48 feet wide. The play area would be fenced and would include a prefabricated play structure with climbing sections, platforms and slides.

BACKGROUND/PERMIT HISTORY

A conditional use permit (File #16102) was approved by the County of Marin in 1962 for the construction of a church, fellowship hall and a detached single-family residence on the site. The residence was historically used as a parsonage to house the pastor of the church, but has not been used in this manner for several years.

In 1966, the Town of Tiburon approved a conditional use permit (File #16526) for the operation of a daycare center in the downstairs portion of the fellowship hall, with an adjacent play yard. The Little School has operated its daycare center at this location since 1998.

Demand for daycare center space in Tiburon increased recently due to the fire that destroyed the Belvedere-Tiburon Child Care Center (BTCCC) located on Kleinert Way. The requested expansion is intended in part to allow the Little School to serve some of the children who had used the BTCCC, which is intended to reopen at the Kleinert Way site by the end of this year.

ANALYSIS

Parking and Circulation

The church parking lot has a one-way, circular circulation pattern connecting to Shepherd Way, a privately-maintained street open to public uses, with underlying title held by the Preserve Homeowners Association, which is comprised of property owners along Turtle Rock Court and Indian Rock Court to the west of the site. Shepherd Way provides access to the church and daycare center as well as to two single-family homes located at 10 & 12 Shepherd Way.

The existing church parking lot contains 38 parking spaces. The play area would eliminate four (4) parking spaces near the parsonage. Four new parking spaces would be added west of the main church building on the right side of the driveway to replace the spaces lost by development of the play area. An attached garage for the parsonage provided two parking spaces as required for a single-family residence, but would be converted as part of the daycare expansion.

The Tiburon Zoning Ordinance requires 36 parking spaces for the existing church sanctuary and 10 parking spaces for a daycare center serving 77 children, as requested by this application, for a total of 46 spaces. Section 16-5.8.10 of the Zoning Ordinance (Parking – Multiple Uses) states that a lesser number of parking spaces may be approved for “shared uses” if the Planning Commission finds that “the uses or times for which overlapping parking is being requested do not have overlapping hours of operations sufficient to result in a deficiency of parking spaces” and “the parking lot in question is within a reasonable distance from the uses for which parking requirements are to be overlapped.” As the daycare center operates on weekdays when the

church sanctuary is rarely used, Staff believes that the number of parking spaces on the site would be sufficient for shared use of the church and the expanded daycare center.

Children are dropped off at the daycare center between 8:30 a.m. and 9:30 a.m. and are picked up between 1:30 p.m. and 2:30 p.m., Monday through Friday. School buses are not used for the daycare center, as parents drop off and pick up children in individual vehicles at staggered times so that parents do not all arrive at the center at the same time. The proposed expansion of the daycare center would generate a “worst-case” volume of 24 additional vehicle trips per day Monday through Friday during these hours, increasing the number of vehicles arriving and departing each day from the current maximum level of 32 vehicles to a maximum of 56 vehicles.

There is no history of complaints about traffic levels for the daycare center. Trestle Glen Boulevard has sufficient capacity to handle the increase in traffic generated by the proposed expansion. The lengthy accessway provided by Shepherd Way and the circular driveway on the church site provide ample queuing capacity in case a larger number of cars arrive at the center at any one time. As described in the Initial Study, the increase in traffic generated by the proposed expansion would occur outside the morning and afternoon peak hours at the intersection of Tiburon Boulevard and Trestle Glen Boulevard, and would therefore not result in a significant impact on the traffic levels at this intersection.

The Tiburon Fire Protection District has indicated that the narrowed driveway caused by the proposed play area would not provide adequate room for the passage of fire apparatus. The play area would need to be reconfigured to comply with this requirement, which can occur during the Design Review process prior to issuance of building permits for construction of the play area improvements.

Play Area

The proposed play area would be somewhat visible from several of the nearby homes along Shepherd Way and Turtle Rock Court, but would be situated approximately 150 feet from the nearest residences. The existing play area is situated below the fellowship hall, closer to Trestle Glen Boulevard. Several neighboring residents have raised concerns about potential noise from children playing in the play area. The noise from the use of the play area would be intermittent and lessened by the distance from any homes and by mature trees along the parking lot situated between the play area and neighboring residences. If the Planning Commission determines that noise from the play area could adversely affect nearby homes, there appear to be alternate locations for the play area that would utilize the parsonage building to screen the play area and thereby limit noise for the neighboring residents.

General Plan/Zoning Ordinance Consistency

Daycare centers are uses that are typically found in residential neighborhoods. Section 16-4.4.2 of the Zoning Ordinance (Conditional Use Permits – Purposes) states that one purpose for the review of a conditional use permit application is to “determine whether the Town is adequately served by similar uses presently existing or recently approved by the Town.” As previously noted, the fire at the BTCCC has reduced the overall daycare capacity on the Tiburon Peninsula. The proposed daycare center expansion would provide additional daycare capacity in a location where such a use has existed for over forty years.

ENVIRONMENTAL STATUS

An Initial Study/Draft Negative Declaration was prepared for this project and released for public comment on June 13, 2008 and is attached to this report as Exhibit 3. The public review period ends on July 8, 2008. As of the date of this report no letters have been received at this time regarding the negative declaration.

The initial study focused on the potential for significant traffic and circulation impacts resulting from the daycare center expansion. As described above, the proposed expansion of the daycare center would generate a “worst-case” volume of 24 additional vehicle trips per day, increasing the number of vehicles arriving and departing each day from the current maximum level of 32 vehicles to a maximum of 56 vehicles. The “worst-case” scenario is unlikely, as vehicles would arrive and depart in a staggered fashion over the course of these morning and afternoon hours, and some parents have more than one child in the daycare center or carpool to transport more than one child with each vehicle trip.

Trestle Glen Boulevard has adequate capacity to handle the additional trips generated by the proposed project. A recent traffic study has indicated that the intersection of Trestle Glen Boulevard and Tiburon Boulevard currently operates at Level of Service (LOS) D during morning and afternoon peak hours, but the traffic generated by the proposed project would be outside the morning and afternoon peak traffic hours for this intersection.

The Initial Study also evaluated the potential for noise and aesthetic impacts from the proposed project. Noise from the play area would be somewhat audible from nearby residences, but would not be loud enough to create a significant noise impact on these homes. The play area would be somewhat visible from several nearby homes, but would not create a substantial visual change to the site when viewed from the nearest residences, which are at least 150 feet away.

PUBLIC COMMENT

As of the date of this report, no letters have been received regarding the subject application. Several property owners along Shepherd Way and Turtle Rock Court have raised concerns regarding the visibility and noise from the proposed play area and the physical condition of the Shepherd Way roadway.

RECOMMENDATION

Staff recommends that the Planning Commission:

1. Hold a public hearing on this application; and
2. Adopt the draft resolution (Exhibit 2) adopting the Negative Declaration and conditionally approving the conditional use permit for the project.

EXHIBITS

1. Application form and supplemental materials
2. Draft Resolution
3. Initial Study/Draft Negative Declaration
4. Conditional Use Permit #16526
5. Letter from Tiburon Fire Protection District, dated May 22, 2008
6. Submitted plans

Prepared by: **Daniel M. Watrous, Planning Manager**

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TOWN OF TIBURON
1505 Tiburon Boulevard
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Planning Commission Meeting
July 9, 2008
Agenda Item: 2

STAFF REPORT

To: **Members of the Planning Commission**

From: **Community Development Department**

Subject: **Accept Public Comment on Draft Environmental Impact Report (DEIR) for the "Harbor Light" Commercial Project at 20-22 Main Street; Zelinsky Properties, Owner; Hank Bruce Architects, Applicant; Assessor Parcel Number: 059-102-18**

Reviewed By: _____

PROJECT DATA

Project Name: Harbor Light Commercial Project
Address: 20 & 22 Main Street
Assessor's Parcel Number: 059-102-18
File Number: 10705
Lot Size: 2,514 square feet
General Plan: Village Commercial (VC)
Zoning: Village Commercial (VC)
Current Use: Vacant Building
Owners: Zelinsky Properties
Applicant: Hank Bruce Architects
SCH#: 2008022099

BACKGROUND

The Town of Tiburon is processing an application for demolition of an existing 2-story, 2,415 square foot commercial building and replacing it with a new 2-story, 2,941 square foot commercial building. The project is located at 20-22 Main Street with additional frontage on Juanita Lane.

A draft environmental impact report (DEIR) has been prepared for this project, pursuant to the California Environmental Quality Act (CEQA), by Newman Planning Associates, and is currently being circulated for public review and comment. The 45-day comment period will conclude on July 18, 2008, at 5:00 p.m. At the conclusion of the comment period, the consultants will respond to all oral comments made to the Planning Commission as well as written comments submitted during the comment period.

Reference copies of the DEIR may be reviewed by the public at the Planning Division at Town Hall or at the Belvedere-Tiburon Public Library during normal business hours. Copies are also available for purchase at Town Hall.

ANALYSIS

Purpose of the Planning Commission Hearing

The purpose of this public hearing is to receive any public testimony concerning the contents of the DEIR. While CEQA itself does not require a public hearing on a DEIR, the Town's policy and practice is to hold a public hearing to enhance opportunities for public participation in the CEQA process. Speakers are encouraged to express their views on the adequacy of the DEIR. Comments should focus on:

- Sufficiency of the DEIR in discussing potentially significant impacts on the environment
- Ways in which potentially significant impacts might be minimized
- Alternatives to the project.

Following the conclusion of the public testimony, Planning Commissioners may choose to make their own individual comments on the DEIR, but are under no obligation to do so.

Project Description

The subject property is a 2,514 square foot lot fronting the north side of Main Street in Downtown Tiburon. The rear of the lot fronts Juanita Lane. The project calls for the demolition of the existing dilapidated 2-story, 2,415 square foot Harbor Light commercial building, and replacing it with a new 2-story, 2,941 square foot commercial building. The existing structure occupies nearly all of the property, with the exception of a few parking spaces at the rear. The new building would occupy roughly the same coverage on the lot as the existing building and would continue to provide at-grade parking behind the building, accessed by Juanita Lane. However, the partial second story would be approximately 500 square feet larger than the existing partial second floor. The current building is 22 feet, 3 inches tall; the proposed building would be 27 feet, 4 inches in height. The proposed uses would be retail on the lower floor and office space on the second floor.

The project site plan and drawings submitted by the applicant are included in the DEIR. A color/materials board will be available at the meeting for review by the Commission.

Initial Study

An Initial Study was prepared for the project by Staff and is included in the DEIR as an attachment. The Initial Study examined all topical areas of the project for potential impacts on the environment. These topical areas include: aesthetic resources, air quality, agricultural resources, biological resources, geology and soils, hazards and hazardous materials, hydrology and water quality, land use and planning, mineral resources, noise, population and housing, public services, recreation, transportation, and utilities. Through the Initial Study process, Staff determined that the only topical area that would have a potentially significant impact on the

environment was Cultural Resources, due to the historic nature of the building. Potential impacts in other topical areas would be less than significant through imposition of standard requirements of the Towns permitting process. This EIR is therefore a “focused” EIR, in that it only examines the topical area of Cultural Resources. All other topical areas were “scoped out” during the Initial Study process.

Summary of Key DEIR Findings

Cultural Resources

The project would result in demolition of the Harbor Light Building located at 20-22 Main Street, which is more than fifty years old and is technically eligible for listing on the California Register of Historic Places. The building is currently listed on the Town of Tiburon’s Local Historic Inventory of Buildings Located in Downtown Tiburon. A Historic Resources Report was prepared as part of the EIR process and concluded that the building retains integrity of location, setting, workmanship, feeling and association, but does not display integrity of design or materials. It does retain sufficient integrity to be considered a historic resource for purposes of CEQA, and its demolition is considered a significant adverse impact under CEQA. A buildings’ integrity is not usually affected by its physical condition; however the Harbor Light building is in extremely poor condition, with obvious signs of settling, substandard construction, lack of foundation, failing materials, and evidence of mold, termite and rat infestations. It is currently boarded up and not occupiable for public use.

The DEIR found that demolition of this structure would result in a significant unavoidable impact on cultural resources in that the permanent loss of a historical resource through demolition cannot be mitigated to a less-than-significant level.

Project Alternatives

The DEIR analyzes three alternatives to the proposed project:

- No Project Alternative
- Preserve and Renovate Alternative
- Relocate and Renovate Alternative

The DEIR concludes that the Preserve and Renovate Alternative would be the “environmentally superior alternative” as it would avoid a significant impact to historic resources; however, this alternative is likely to be practically and financially infeasible as the building is in extremely poor condition. This alternative would also not achieve key project objectives. The Relocate and Renovate Alternative is also likely to be infeasible for financial and practical reasons and does not avoid the impact on historic resources.

Comments Received

As of the date of this report, no DEIR comment letters have been received.

Future Action

The Commission will hold a public hearing, after the close of the comment period on July 18, 2008, at which it will hear any testimony and consider all written comments. Following that hearing, the Commission may either:

1. Accept the DEIR as being prepared in conformance with CEQA and the Town's local CEQA Guidelines, or
2. Find that "significant new information" that would require recirculation has been received during the comment period, and order the preparation of a revised DEIR for recirculation.

The regularly scheduled meeting of July 23, 2008 is tentatively scheduled for this hearing. In addition, a hearing will be scheduled for consideration of EIR certification and the project merits. That hearing would be held following the release of a Final EIR (FEIR), which will contain the responses to comments submitted on the DEIR.

RECOMMENDATION

Staff recommends that the Planning Commission:

1. Receive comments on the DEIR.
2. Continue the public hearing on the DEIR to the regular meeting of July 23, 2008.

Exhibits: 1. Draft Environmental Impact Report (previously distributed to Commissioners)

Prepared By: Laurie Tyler, Associate Planner



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Planning Commission Meeting
June 11, 2008
Agenda Item: **5**

STAFF REPORT

To: Members of the Planning Commission
From: Community Development Department
Subject: Study Session on Variances and Findings

BACKGROUND

At the Town Council/Planning Commission/Design Review Board workshop held on April 29, 2008, it was suggested that a variance and findings study session be held by each of the three groups at future meetings, based on an internal training session held by staff earlier in the year. The Planning Commission is the Town's first review authority to hold this particular study session.

ANALYSIS

Overall, the Planning Commission considers very few applications for variance, largely because of the manner in which review authority is apportioned in the Tiburon Zoning Ordinance. The Design Review Board hears nearly all variance applications filed with the Town, and the Town Council must occasionally review those applications on appeal. Nevertheless, the study session is intended to provide useful information to the Commission and provide insights into the thought processes used to evaluate variances and formulate findings for them.

The study session will also touch upon the basics of "findings" associated with development applications in general. The Planning Commission is routinely required to make findings in taking actions on conditional use permits and certain other development applications. These findings tend to be of a more general nature (usually focusing on compatibility of use and consistency with plans and policies) than those findings associated with variance applications, which are typically driven by site-specific characteristics. However, Staff believes that many of the basic rules of preparing adequate findings can be equally applied to applications acted upon by the Planning Commission, and that the study session will be of benefit for that reason alone.

EXHIBITS

1. Outline and Study Session Materials

Prepared by: Scott Anderson, Director of Community Development