



TOWN OF TIBURON
1505 Tiburon Boulevard
Tiburon, CA 94920

Planning Commission Meeting
March 12,
2008
Agenda Item:

STAFF REPORT

To: Members of the Planning Commission

From: Community Development Department

Subject: Scoping Session for an Environmental Impact Report (EIR) to be Prepared for the Proposed Commercial Project at 20 & 22 Main Street; Zelinsky Properties, Owner; Hank Bruce Architects, Applicant; Assessor Parcel Number 059-102-18

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); (up to 0.28 FAR)
Zoning: Village Commercial (VC)
Current Use: Vacant
Owners/Applicants: Zelinsky Properties/Hank Bruce Architects
SCH#: 2008022099

ROLE OF THE SCOPING SESSION

The Town of Tiburon is processing an application for demolition of an historic existing 2-story, 2,415 square foot commercial building and replacing it with a new 2-story, 2,941 square foot commercial building. The Town has determined that an Environmental Impact Report (EIR) must be prepared for this project, and the scoping session is a required element of the EIR process.

The California Environmental Quality Act (CEQA) and the Town of Tiburon Environmental Review Guidelines describe the procedures for the preparation of an EIR. To insure that the EIR addresses all pertinent environmental issues related to the project, CEQA provides for a "scoping session" to be held at the beginning of the process. The scoping session helps to identify the reasonable range of actions, project alternatives, mitigation measures, and potentially significant effects to be analyzed in depth by the EIR. In the Town of Tiburon, the scoping session is set at a public meeting of the Planning Commission to solicit input from the public, interested agencies and organizations, and the Planning Commission regarding the issues to be addressed in the EIR.

In order to be included within the scope of the EIR, CEQA requires that substantial evidence be presented which supports a fair argument that a potentially significant impact would be caused by the project. Speculation about potential impacts that is founded upon hearsay, conjecture and/or other unsubstantiated evidence cannot be used to require study of additional areas by the EIR. The Town has selected an independent professional consulting firm to prepare the EIR under contract to the Town.

The scoping session is the first public meeting to be held regarding this application. Once the Draft EIR (DEIR) has been prepared and the 45-day public comment period begins, the Commission will hold a public meeting to accept comments on the DEIR. Following closure of the 45-day comment period, a public meeting will be held at which the Planning Commission will consider whether revision and recirculation of the DEIR is required based on comments received. Following release of the Final EIR/Response to Comments document, another hearing will be held on the project merits. Therefore, comments at the scoping session should be limited to issues or alternatives that should be addressed in the EIR. Comments regarding the merits of the project itself should be reserved for public hearings held after release of the Final EIR.

HARBOR LIGHT COMMERCIAL PROJECT DESCRIPTION

The subject property is a 2,514 square foot lot fronting Main Street in Downtown Tiburon. The rear of the lot fronts Juanita Lane. The project calls for demolition of the existing dilapidated 2-story, 2,415 square feet 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 area on the lots 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 is attached as **Exhibit 1**. A color/materials board will be available at the meeting for review by the Commission. Copies of all application materials, including technical studies, are available for public review at the Tiburon Planning Division.

ENVIRONMENTAL ANALYSIS

Staff envisions that the EIR will focus on the significant adverse environmental impact of demolishing a building of historical value. The building is over 50 years old (it is believed to have been built in 1921) and is listed on the Town's *Historic Inventory of Downtown Buildings*. These factors alone require an EIR to be prepared for the project.

Staff envisions a closely "focused" EIR in that other potential impacts of the project are localized and are typical of other demolition/reconstruction projects that have occurred on Main Street. These include construction noise impacts and traffic and circulation issues. A Notice of Preparation (NOP) (**Exhibit 2**) stating that an EIR would be prepared for this project was distributed on February 21, 2008. Mailing of a public notice (**Exhibit 3**) announcing the scoping meeting occurred on February 20, 2008. The NOP comment period ends on March 21, 2008.

As noted above, while all relevant areas of potential impact must be addressed at least briefly in the EIR, Town Staff anticipates that the most in-depth analysis in the EIR will be related to cultural/historic resources. The following summarizes the potential issues that will be reviewed by the EIR for this project:

- Geology and soils: The site is underlain by fill and compressible bay mud soils, and therefore subject to experience settlement as a result of consolidation of compressible bay mud under the combined weight of the fill and the building. Any future construction on the site would have to be done with potential future settlement in mind, and provisions for flexible utility connections and re-leveling must be incorporated into future foundation design.
- Traffic and circulation: The subject site is a confined space between two narrow streets. Access to the site would remain the same, with frontage along Main Street and rear access off Juanita Lane. In order to ensure that regular access to adjacent businesses in the downtown area are minimally impacted during construction, the applicant shall submit a detailed construction parking/materials storage/temporary restroom plan and drawing, delineating adequate areas for each during the construction phase of the project. Enforcement mechanisms shall be included in the drawing and shall include one warning, followed by fines, penalties, and stop-work orders. It should be noted that this would not be the first building to be demolished and reconstructed on Main Street in recent years.
- Cultural/Historic Resources: The subject building is more than 50 years old and is listed on the Town's Historic Inventory of Downtown Buildings. Currently, the building is unoccupied due to its dilapidated state. Previously the building was occupied by a retail carpet store, prior to which the Harbor Light Bar was located on the lower level with an apartment above. The design of the replacement structure is intended to complement and continue the historic context through means of scale, color, materials, detailing and building form. The applicant intends to blend the replacement building with adjacent downtown structures, rather than establish a contrasting appearance.
- Noise: Due to the subject site proximity to adjacent downtown businesses, noise impacts from construction activities are to be anticipated. In order to monitor noise impacts, hours of construction involving heavy equipment would be limited between the hours of 7:00AM and 5:00PM, Monday through Friday, and Saturday's 9:30AM to 4:00PM, in accordance with Section 13-6 of the Tiburon Municipal Code.
- Alternatives: The CEQA Guidelines, in section 15126.6, require that:

An EIR shall describe a range of reasonable alternatives to the project, or to the location of the project, which would feasibly attain most of the basic objectives of the project but would substantially lessen any of the significant effects of the project, and evaluate the comparative merits of the alternatives.....The range of potential alternatives to the proposed

project shall include those that could feasibly accomplish most of the basic objectives of the project and could avoid or substantially lessen one or more of the significant effects.

The EIR will describe the mandatory “no project” alternative and address off-site locations as a potential project alternative. The EIR will also describe a rehabilitation alternative for the building.

The EIR will also provide an analysis of the existing site conditions. Potentially significant impacts will be described and analyzed in the EIR.

RECOMMENDATION

Staff recommends that the Planning Commission conduct the scoping session and accept any comments on scoping issues. At the conclusion of the public comment, the Commissioners may wish to provide their own comments on the scope of issues and alternatives to be addressed in the Environmental Impact Report.

EXHIBITS

1. Proposed Site Plan and Project Drawings (Commissioners only)
2. Notice of Preparation
3. Public Notice of Scoping Meeting

Prepared by: Laurie Tyler, Associate Planner

Reviewed by: Scott Anderson, Director of Community Development



TOWN OF TIBURON
1505 Tiburon Boulevard
Tiburon, CA 94920

Planning Commission Meeting
March 12, 2008
Agenda Item:

STAFF REPORT

To: **Members of the Planning Commission**

From: **Community Development Department**

Subject: **Consider Request for Time Extension of an Approved Tentative Subdivision Map for Property Located at 1655 Mar West Street; File #60402; Diane Ho, Property Owner, Assessor Parcel Number 059-051-18**

PROJECT DATA

Address: 1655 Mar West Street
Assessor's Parcel Number: 059-051-18
File Number: 60402
General Plan: H (High Density Residential)—Up to 12.4 du/acre
Zoning: R-2 (Two-Family Residential)
Property Size: 22,090 square feet
Current Use: Single family dwelling
Owner: Diane Ho
Applicant: Douglas Matteson, Civil Engineer
Date Complete: February 29, 2008

BACKGROUND

On March 23, 2005, the Planning Commission adopted a resolution (**Exhibit 1**) approving a Tentative Subdivision Map application to subdivide property located at 1655 Mar West Street into two lots. The Tentative Map approval is set to expire on March 23, 2008, and the applicants have timely filed for an extension of the map approval.

The applicants have previously filed a Parcel Map application to finalize the lot split. This application is currently incomplete but diligent progress is being made and staff anticipates that the Parcel Map will be recorded within the next 60-90 days.

TIME EXTENSION REQUEST

The applicants are requesting a standard three (3) year time extension of the approved tentative map. No changes to the approved tentative map are proposed; however, the applicant has pointed out a minor inconsistency in the 2005 Resolution, which should be officially reviewed and, if warranted, corrected at this time. Condition No. 14 of the 2005 resolution lists certain items that are to be included in deed restrictions placed on the property at the time of Parcel Map

recording. Item 14(d) requires a square footage limit of 2,200 for the proposed home and 500 square feet for the accompanying garage. In reviewing the official minutes of the 2005 meeting (see **Exhibit 2**), the applicant described the proposed garage as “2-car” (p.3). The direction of the Planning Commission (pp. 4-5) was that the deed restriction regarding square footage should read as follows:

Specify the square footage of the new house on Lot 2 and state that it is not to exceed 2,200 square feet plus a two-car garage.

The only specific reference in the Town’s file to garage square footage is on the original routing form for the application prepared by Staff in 2004, where the project description states that the applicant is seeking a “single family home of approximately 2,500 square feet with a 600 square foot garage” (see **Exhibit 3**). Staff notes that 600 square feet is the Town’s standard allowed garage size for all lots less than 60,000 square feet in land area. The Planning Commission should review this issue and determine whether any adjustment of Condition No. 14(d) regarding garage size is appropriate. If a correction is warranted, the precise text of the correction can be formulated at the meeting and added to the draft Resolution.

Staff is unaware of any changes to circumstances in the vicinity of the project that would have a bearing on the project, or warrant further review, prior to granting of the time extension.

Staff has reviewed provisions of the State Subdivision Map Act and Chapter 14 (Subdivision of Land) of the Tiburon Municipal Code applicable to time extensions for tentative subdivision maps and found that the application complies with all procedures and requirements. The approved Tentative Map drawings are attached as **Exhibit 5**.

PUBLIC COMMENTS

As of the date of this report, no public letters or phone calls have been received.

ENVIRONMENTAL STATUS

As a simple time extension, the project is exempt from CEQA review.

RECOMMENDATION

Staff recommends that the Planning Commission take any public testimony on this item and adopt the draft resolution (**Exhibit 4**) granting a three year time extension of the tentative map approval.

EXHIBITS

1. Planning Commission Resolution 2005-03.
2. Planning Commission minutes of March 23, 2005.
3. Excerpt from project routing form dated August 4, 2004.
4. Draft Planning Commission Resolution approving the time extension.
5. Tentative Map drawings (6 sheets).

RESOLUTION NO. 2008-DRAFT

**A RESOLUTION OF THE PLANNING COMMISSION OF THE TOWN OF TIBURON
APPROVING A TIME EXTENSION FOR A TENTATIVE SUBDIVISION MAP APPROVAL
FOR A 2-LOT SUBDIVISION OF PROPERTY LOCATED AT 1655 MAR WEST STREET
ASSESSOR PARCEL NOS. 059-051-18**

WHEREAS, the Planning Commission of the Town of Tiburon does resolve as follows:

Section 1. Findings.

- A. On March 23, 2005 the Tiburon Planning Commission adopted Resolution 2005-03 approving a Tentative Map application to subdivide a 22,090 square foot parcel into 2 lots. The approval is valid for three years and would expire on March 23, 2008.
- B. On February 20, 2008, the Planning Division received an application from the property owner, Diane Ho, for a three (3) year time extension of the tentative map approval.
- C. The Planning Commission finds that the time extension request is exempt from review under the California Environmental Quality Act.
- D. The Planning Commission held a duly-noticed public hearing on March 12, 2008, and heard and considered any testimony from interested persons.
- E. The Planning Commission finds that the time extension request is consistent with state law and local regulations regarding time extensions for subdivision maps.

Section 2. Approval.

NOW, THEREFORE BE IT RESOLVED that the Planning Commission of the Town of Tiburon does hereby approve a time extension of three (3) years for the Ho Tentative Subdivision Map, with the new expiration date for the tentative subdivision map approval being March 23, 2011.

PASSED AND ADOPTED at a regular meeting of the Planning Commission of the Town of Tiburon on _____, 2008, by the following vote:

AYES: COMMISSIONERS:

NOES: COMMISSIONERS:

ABSENT: COMMISSIONERS:

AL AGUIRRE, CHAIRMAN
TIBURON PLANNING COMMISSION

ATTEST:

SCOTT ANDERSON, SECRETARY

S:\Planning\Planning Commission\Resolutions\2008\60402-TE draft pereso.doc



TOWN OF TIBURON
1505 Tiburon Boulevard
Tiburon, CA 94920

Planning Commission Meeting
March 12, 2008
Agenda Item:

STAFF REPORT

To: Members of the Planning Commission

From: Community Development Department

Subject: Conditional Use Permit #10802; Conditional Use Permit to Expand a Fixed Pier and Decks; 2306 Mar East Street; Magdalena Yesil, Owner; W.B. Clausen Structural Engineers, Applicant; Assessor's Parcel No. 059-400-04

PROJECT DATA

Address: 2306 Mar East Street
Assessor's Parcel Number: 059-400-04
File Number: 10802
Lot Size: 21,050 square feet
General Plan: R-2/M (Two-Family Residential/Marine)
Zoning: High Density Residential/Marine
Current Use: Single-Family Dwelling
Owner: Magdalena Yesil
Applicant: W.H. Clausen Structural Engineers

PROJECT DESCRIPTION

A proposal has been made to expand an existing fixed pier and decks on property located at 2306 Mar East Street. The parcel is currently developed with a single-family residence, with decks to the rear and a fixed pier extending past the mean high tide line into Raccoon Strait.

The proposed pier would be 24 feet long and 12 feet wide and would follow the same general alignment as the existing pier. An 6 foot by 10 foot floating dock would extend from the end of the pier and a new boat lift would be installed on the right (west) side of the pier. A 13 foot by 36 foot, 4 inch deck would extend to the sides and rear of the proposed pier, situated at level 2 feet below the decks to the rear of the house, which would be extended by 11 feet and supported by 11 new steel piles.

ANALYSIS

Design Issues

The house on the subject property is situated on the small dry land portion of the site, with the rear of the dwelling and a rear deck connecting to an existing pier. The only access to the pier is from the rear deck. The existing pier is 12 feet wide and 42 feet long.

The proposed pier would be situated in the same general location as the existing pier and raised 22 inches above the height of the existing pier. The new fixed pier would end just short of the end of the current pier, but the proposed floating dock would extend beyond the existing pier location. The new steel piles are intended to not only support the extended deck but to provide additional support for the existing house.

A number of other private piers and docks are located in this portion of Old Tiburon, including at the adjacent property to the west at 2304 Mar East Street and two doors to the east at 2310 Mar East Street. The applicant has coordinated the placement of the proposed pier and decks with this neighboring property owner and has designed the pier and floating dock to extend roughly the same distance into the water as the adjacent dock.

The eastern end of the existing rear deck projects into the water views toward the Golden Gate Bridge from the adjacent home at 2308 Mar East Street. These neighboring residents are concerned that the proposed deck extensions would further intrude into these water views. The deck extension would appear to block additional water views from the lower living area of this adjacent home. Staff recommends that eastern portion of the deck be moved back to avoid further intrusion into the neighbors' views. The Planning Commission may either require that these changes be made during the Site Plan and Architectural Review process, or may continue the hearing to require modifications to the proposed plans before approval of the subject conditional use permit.

The submitted plans indicate that a new 9 foot tall wooden trellis would be installed on top of the decks adjacent to the rear of the house. The applicant has eliminated this feature to avoid additional view impacts on the home at 2308 Mar East Street.

General Plan Consistency and Zoning Compliance

A portion of the subject parcel extends out into the bay. The area beyond the mean high water line is zoned M (Marine), while the landward area is zoned R-2. Section 16-2.9.2 of the Tiburon Zoning Ordinance states that piers and docks for pleasure craft are permitted only with a conditional use permit. The proposed pier therefore requires such a permit.

The construction of a new pier and floating dock also requires approval from the Bay Conservation and Development Commission (BCDC). The applicant has submitted an application to BCDC for approval of the pier and boat dock. BCDC will not act upon its application until the Town has approved the project by approving a conditional use permit. BCDC has indicated a concern about the potential presence of eel grass beds in the vicinity of the proposed pier, and has requested the applicant to contact the Department of Fish and Game regarding this matter.

Policy LU-26 of the Land Use Element of the Tiburon General Plan states that:

“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 or with private uses which are of public benefit.”

The presence of several other private piers along this stretch of Mar East Street indicates that this is not a pristine or particularly sensitive section of shoreline. The proposed decks, pier and floating dock would not interfere with private views across the bay, and therefore would not harm the visual character of other properties in the vicinity.

ENVIRONMENTAL STATUS

Staff has made a preliminary determination that the subject application is categorically exempt from the requirements of CEQA per Section 15303 (e) of the CEQA Guidelines.

PUBLIC COMMENT

No comments have been received regarding the subject application.

RECOMMENDATION

Staff recommends that the Planning Commission take public testimony on this item, close the public hearing and deliberate upon the project merits, and then adopt the draft resolution conditionally approving the project.

EXHIBITS

1. Application form and supplemental materials
2. Draft Resolution
3. Submitted plans

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

S:\Planning\Planning Commission\Staff Reports\2008\2306 Mar East.report.doc

RECORDING REQUESTED
RETURN TO:
Tiburon Planning Department
1505 Tiburon Boulevard
Tiburon, CA 94920
Attn: Daniel M. Watrous

RESOLUTION NO. 2008-(Draft)

A RESOLUTION OF THE PLANNING COMMISSION OF THE TOWN OF TIBURON
APPROVING A CONDITIONAL USE PERMIT
TO EXPAND AN EXISTING PIER AND DECKS
AT 2306 MAR EAST STREET

ASSESSOR PARCEL NO. 059-400-04

WHEREAS, the Planning Commission of the Town of Tiburon does resolve as follows:

Section 1. Findings.

A. The Planning Commission has received and considered an application for a Conditional Use Permit filed by Magdalena Yesil to expand an existing pier and decks on property located at 4144 Paradise Drive. The application consists of the following:

1. Application form and materials received February 5, 2008
2. Site Plan and Elevations dated March 5, 2008

The official record for this project is hereby incorporated and made part of this resolution. The record includes the Staff Reports, minutes, application materials, and all comments and materials received at the public hearing.

B. The Planning Commission held a duly-noticed public hearing on March 12, 2008 and heard and considered testimony from interested persons.

C. The Planning Commission has found that the project is exempt from the requirements of the California Environmental Quality Act per Section 15303 (e) of the CEQA Guidelines.

D. The Planning Commission has found, based upon the application materials and analysis provided in the March 12, 2008 Staff report, that the project, as conditioned, is consistent with the Tiburon General Plan, and specifically with the land use element of said plan, and is in compliance with the Tiburon Zoning Ordinance and other applicable regulations.

Section 2. Approval.

NOW, THEREFORE, BE IT RESOLVED that the Planning Commission of the Town of Tiburon does hereby approve the Conditional Use Permit application (File # 10802), to expand an existing pier and decks at 2306 Mar East Street, subject to the following conditions:

1. The dimensions of the approved dock shall be as shown on the plans submitted to the Town of Tiburon on March 5, 2008. The deck shall be modified through the Site Plan and Architectural Review process to avoid any substantial increase in view impacts for the home at 2308 Mar East Street. The trellis above the deck indicated on the plans shall be eliminated.
2. The applicant shall obtain Site Plan and Architectural Review approval for the final design of the dock, pier and associated improvements.
3. The applicant shall obtain all necessary permits from the Town Building Division for the proposed addition.
4. The applicant shall meet all requirements of the Bay Conservation and Development Commission and all other applicable agencies.
5. The Town reserves the right to amend or revoke this Conditional Use Permit for cause, in accordance with adopted regulations of the Town.
6. This Conditional Use Permit approval shall become null and void if the approved use has not commenced within one (1) year of final approval.

PASSED AND ADOPTED at a regular meeting of the Planning Commission on March 12, 2008 by the following vote:

AYES: COMMISSIONERS:

NOES: COMMISSIONERS:

ABSENT: COMMISSIONERS:

AL AGUIRRE, CHAIR
TIBURON PLANNING COMMISSION

ATTEST:

SCOTT ANDERSON, SECRETARY



TOWN OF TIBURON
1505 Tiburon Boulevard
Tiburon, CA 94920

Planning Commission Meeting
March 12, 2008
Agenda Item:

STAFF REPORT

To: Members of the Planning Commission

From: Community Development Department

Subject: Green Building Program: Consider Recommendation to Town Council To Adopt Municipal Code Amendments to Chapter 13 (Building) and Chapter 16 (Zoning), and take related actions to adopt Enhanced Energy Efficiency Regulations and Adopt Additional Zoning Text Amendments Related to Remodels and Wireless Communication Facility Permit Durations (Continued from January 9 and February 13, 2008)

BACKGROUND

On January 9, 2008, the Planning Commission considered a proposed Green Building Program. Among the components of that program were the adoption of amendments to Chapters 13 (Building) and 16 (Zoning) of the Municipal Code, and the adoption of enhanced energy efficiency standards for large single family homes, to be accomplished through amendments to the Town's adopted version of Title 24 of the California Building Code. The draft ordinance considered by the Commission also included miscellaneous "clean-up" zoning amendments involving remodel projects and wireless communication facility permits. The Planning Commission expressed concern over several aspects of the proposed green building program, appointed a subcommittee to work with Staff, and continued the item for further refinement.

The subcommittee met on January 22, 2008 and provided direction to staff for revisions to the Green Building Program. The subcommittee, joined by a Town Council-appointed subcommittee, met again on February 29, 2008 and recommended that the Town move immediately to adopt the enhanced energy efficiency standards, while other components of the Green Program are being further refined prior to returning to the Planning Commission for public hearing. The immediacy of the amendments is driven by a narrow window of time allowed by state law for local agencies to adopt amendments to standards contained within the California Building Code. Staff is also recommending that the text amendments concerning remodel projects and wireless communication facility permits, initially considered by the Planning Commission on January 9, 2008, be moved forward for adoption at this time.

ANALYSIS

Energy Efficiency Standards

The enhanced energy efficiency standards would apply in new or expanded homes that exceed 3,500 square feet. The proposed enhanced energy efficiency regulations were initially developed and adopted by the County of Marin and subsequently approved by the California Energy Commission as a qualifying local amendment to the California Building Code Title 24 regulations. The cities of San Rafael and Mill Valley have subsequently adopted these enhanced energy efficiency requirements. Other municipalities in Marin County are expected to follow suit.

The regulations would require that homes larger than 3,500 square feet meet the same energy budget as a home of 3,500 square feet, using computations from State Title 24. Based on implementation of this ordinance by the County, when homes approach 6,500 square feet or more in floor area, the primary way to achieve the required energy budget would be to include photovoltaic panels (i.e. solar panels). The typical construction budget for a home of this size would be such that the cost of a photovoltaic system might add 1-2% in construction costs, but would eventually result in payback due to energy savings.

The Green Building Subcommittee and Town Staff see the energy enhanced energy efficiency standards as having immediate and meaningful environmental effects with respect to reduction of greenhouse gas emissions. The proposed energy efficiency ordinance is attached as **Exhibit 1**.

Proposed Zoning Text Amendments

Two text amendments to the Zoning Ordinance are proposed as part of this item. The first involves clarifying text that distinguishes a “remodel” project from a “new construction” project, as found in Section 16-4.2.10 of the Municipal Code (see **Exhibit 2**). The new text would provide more detail as to the measures used by Town officials in determining that the project constitutes “new construction” as opposed to a mere “remodel”.

The second amendment, required due to changes in state law, establishes the duration of the initial validity of a wireless communication facility use permit approved after January 1, 2007 at ten years, and establishes a renewal length of five years for wireless communication facility use permits issued prior to January 1, 2007. The draft Planning Commission resolution and proposed Town Council ordinance are attached as **Exhibit 3**.

RECOMMENDATION

Staff recommends that the Planning Commission:

1. Hold a public hearing and take any testimony.
2. By motion, recommend to the Town Council adoption of enhanced energy efficiency standards as set forth in Exhibit 1.
3. Adopt the Resolution (Exhibit 3) recommending Town Council approval of the zoning text amendments regarding remodel projects and wireless communication facility permits.
4. Continue the remainder of the Green Building Program item to the meeting of April 9, 2008.

EXHIBITS

1. Draft ordinance establishing enhanced energy efficiency standards for large homes.
2. Section of Zoning Ordinance addressing remodel projects versus new construction.
3. Draft resolution recommending approval of certain zoning text amendments to the Town Council.

Prepared by: Scott Anderson, Director of Community Development

ORDINANCE NO. _____

**AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF TIBURON
AMENDING TITLE IV, CHAPTER 16 (ZONING) OF THE TIBURON
MUNICIPAL CODE BY MAKING TEXT AMENDMENTS THERETO**

The Town Council of the Town of Tiburon does ordain as follows:

SECTION 1. FINDINGS.

- A. On March 12, 2008, the Planning Commission adopted Resolution No. 2008-XX recommending to the Town Council that text amendments be made to Title IV, Chapter 16 (Zoning) of the Tiburon Municipal Code.
- B. The Town Council held duly noticed public hearings on April 2, 2008 and April 16, 2008, and heard and considered any public testimony on the proposed Ordinance.
- C. The Town Council finds that all notices and procedures required by law attendant to the adoption of this Ordinance have been followed.
- D. The Town Council finds that the amendment actions made by this Ordinance are necessary for the protection of the public health, safety, and welfare.
- E. The Town Council finds that the amendments made by this Ordinance are consistent with the goals and policies of the Tiburon General Plan and other adopted ordinances and regulations of the Town of Tiburon.
- F. The Town Council finds that these amendments are exempt from the requirements of the California Environmental Quality Act (CEQA) pursuant to Section 15061 [b(3)] of the CEQA Guidelines.

**SECTION 2. ADOPTION OF AMENDMENTS TO MUNICIPAL CODE, TITLE IV,
CHAPTER 16 (ZONING).**

NOW, THEREFORE IT IS ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF TIBURON THAT TITLE IV, CHAPTER 16 (ZONING) OF THE MUNICIPAL CODE IS AMENDED AS FOLLOWS:

- 1. Section 16-4.2.10 of Title IV, Chapter 16, is amended to replace the second (middle) paragraph with the following paragraph:

Remodel applications for Site Plan & Architectural Review must include a statement, calculations, and demolition plan drawing of sufficient detail to demonstrate the percentage of existing exterior wall framing and roof structure to be removed as part of the project. The project shall be deemed new construction, with the expectation that the building is to conform with the appropriate zoning standards for new construction, if either of the following occurs:

1. The roof is removed and more than 50% of the existing exterior wall framing on the upper level is removed. A single-story dwelling is considered to be the upper story for purposes of this clause.
2. The roof remains, but more than 50% of the exterior wall framing is removed.

2. Section 16-4.13.5 of Title IV, Chapter 16, is amended to read as follows:

16-4.13.5 Length of permit--Mandatory review/renewal.

(a) A conditional use permit for a WCF approved on or after January 1, 2007 shall be valid for an initial period of ten (10) years after final discretionary approval, unless a shorter duration is approved on the basis of public safety reasons or substantial land use reasons. At least ninety (90) days prior to expiration of the ten-year approval, the permit holder shall file an application for review/renewal of the WCF permit. The permit holder shall be solely responsible for timely filing of, and for all costs associated with, the processing of applications for mandatory reviews/renewals.

(b) A conditional use permit for a WCF approved prior to January 1, 2007 shall be subject to the specific conditions of the permit with respect to duration and periodic mandatory review/renewal. At least ninety (90) days prior to expiration of the permit, the permit holder shall file an application for review/renewal of the WCF permit. The Planning Commission shall conduct a public hearing for the purposes of verifying continued compliance with the findings and conditions of approval under which the application was originally approved, as well as compliance with other applicable provisions in the municipal code. Permit reviews/renewals are required every five (5) years, unless a longer time period is approved by the acting body, or another time period is set forth in the permit conditions. The permit holder shall be solely responsible for timely filing of, and for all costs associated with, the processing of applications for mandatory reviews/renewals.

SECTION 3. SEVERABILITY.

If any section, subsection, sentence, clause or phrase of this chapter is for any reason held by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of the remaining portions of this chapter. The Town Council declares that it would have passed this chapter and each section, subsection, sentence, clause and phrase thereof, irrespective of the fact that any one or more section, sentences, clauses or phrases be declared invalid.

SECTION 4. EFFECTIVE DATE.

This Ordinance shall take effect and be in force thirty (30) days after the date of passage, and before the expiration of fifteen (15) days after passage by the Town Council, a copy of the ordinance shall be published with the names of the members voting for and against it at least once in a newspaper of general circulation in the Town of Tiburon.

This Ordinance was introduced at a regular meeting of the Town Council of the Town of Tiburon on _____, 2008, and was adopted at a regular meeting of the Town Council of the Town of Tiburon on _____, 2008, by the following vote:

AYES: COUNCILMEMBERS:
NOES: COUNCILMEMBERS:
ABSENT: COUNCILMEMBERS:

JEFF SLAVITZ, MAYOR
TOWN OF TIBURON

ATTEST:

DIANE CRANE IACOPI, TOWN CLERK

S:\Planning\Planning Commission\Staff Reports\2008\zo amend draft ord 3-12-08.doc

RESOLUTION NO. 2008-DRAFT

**A RESOLUTION OF THE PLANNING COMMISSION
OF THE TOWN OF TIBURON RECOMMENDING TO THE TOWN COUNCIL ADOPTION OF
AMENDMENTS TO TITLE IV, CHAPTER 16 (ZONING) OF THE TIBURON MUNICIPAL CODE**

WHEREAS, the Town of Tiburon has initiated text amendments to the Town's Zoning Ordinance, codified as Title IV, Chapter 16 of the Tiburon Municipal Code; and

WHEREAS, the Planning Commission has determined that the project has no potential to result in adverse impacts on the environment and is exempt from the requirements of CEQA pursuant to Section 15061 [b(3)] of the CEQA Guidelines; and

WHEREAS, this item was noticed pursuant to state and local law; and

WHEREAS, the Planning Commission did hold duly noticed and advertised public hearings on January 9, 2008 and March 12, 2008, and considered any testimony that was received from the public, and

WHEREAS, the Planning Commission finds that the proposed Municipal Code amendments are consistent with the goals, policies, and programs of the Tiburon General Plan, and are consistent with the objectives of the Zoning Ordinance.

NOW, THEREFORE, BE IT RESOLVED that the Planning Commission hereby recommends that the Town Council adopt the Municipal Code text amendments to Title IV, Chapter 16 (Zoning), as set forth in the attached Exhibit A.

PASSED AND ADOPTED at a regular meeting of the Planning Commission of the Town of Tiburon held on March 12, 2008, by the following vote:

AYES: COMMISSIONERS:

NOES: COMMISSIONERS:

ABSENT: COMMISSIONERS:

AL AGUIRRE, CHAIRMAN
Tiburon Planning Commission

ATTEST:

SCOTT ANDERSON, SECRETARY

S:\Planning\Planning Commission\Resolutions\2008\2008-DRAFT zo amend.doc

ORDINANCE NO. ___ N. S.

**AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF TIBURON
AMENDING MUNICIPAL CODE TITLE IV, CHAPTER 13 (BUILDING
REGULATIONS) TO ADOPT ENHANCED ENERGY EFFICIENCY
STANDARDS FOR SINGLE-FAMILY DWELLINGS GREATER THAN 3,500
SQUARE FEET OF CONDITIONED FLOOR AREA**

SECTION 1. FINDINGS.

WHEREAS, the Town Council has identified green building and energy efficiency efforts as a greatly desired and necessary objective of the Town; and

WHEREAS, The Town's general plan Tiburon 2020 promotes energy efficiency in new construction in

WHEREAS, California Health & Safety Code Section 18938 and 17958 provide that the California Building Standards Code establishes building standards for all occupancies throughout the State; and

WHEREAS, Health & Safety Code Section 17958.5 provides that a municipality may establish more restrictive building standards if they are reasonably necessary due to local climatic, geological, or topographic conditions; and

WHEREAS, the Town Council finds that provisions of this ordinance are reasonably necessary because of climatic, geologic, or topographical conditions as follows: During periods when arctic masses dominate the weather, nighttime lows drop into the high twenties with daytime highs in the thirties or forties. The average summer temperature highs approximate 70 degrees Fahrenheit with a low of 60 degrees Fahrenheit, with winter temperatures averaging 60 degrees Fahrenheit and lows of 25 degrees Fahrenheit. Extreme high and low temperatures range from 100 degrees Fahrenheit to 25 degrees Fahrenheit. Winds are generally mild at less than 10 miles per hour, but can reach 75 miles per hour on occasion. The average house size is growing larger and homes are using more energy. During the 1970's, most home construction was approximately 2,000 to 3,000 square feet, while during the 1990's and into the 21st century, the new average home size has increased to between 3,000 to 5,000 square feet. During the same period, the average number of occupants of homes has declined. These larger homes, being occupied by fewer persons, are using more energy and more resources. Due to local climatic conditions and increasing house size, total estimated energy consumption increased from 619 million kWh to 734 kWh in Marin County from 1995 to 2000. This 18.5% increase in energy use raises the per capita contribution of greenhouse gasses, global warming, pollution, and energy supply shortages. Due to local climatic conditions, it is reasonably necessary to enhance the State of California energy code requirements for homes over 3,500 square feet; and

WHEREAS, Public Resources Code Section 25402.1(h)(2) states that the local enforcement agency may adopt more restrictive energy standards when they are cost effective and approved by the Energy Commission; and

WHEREAS, Gabel Associates, LLC conducted a study and submitted it to the California Energy Commission demonstrating the feasibility and cost-effectiveness of the proposed ordinance that was subsequently adopted by the Marin County Board of Supervisors on October 16, 2001 and was approved by the California Energy Commission in June, 2002; and

WHEREAS, the burning of fossil fuels used in the generation of electrical power and heating of buildings has been found to contribute to global warming that will likely have a significant adverse effect on the local climate and economy; and

WHEREAS, the governor of California signed Assembly Bill 32 into law on September 27, 2006, said law directing the California EPA to put a cap on the generation of greenhouse gas emissions; and

WHEREAS, it is estimated that implementation of the proposed energy ordinance will require that new, larger single-family dwellings will have to exceed the current requirements of Title 24 of the California Building Code between 8 and 30%, depending on the size of the proposed dwelling; and

WHEREAS, the Planning Commission has reviewed and recommended approval of the proposed Municipal Code amendments; and

WHEREAS, the Town Council has held public hearings on _____, 2008 and _____, 2008 and has heard and considered all testimony on the proposed Municipal Code amendments; and

WHEREAS, the Town Council determines that these amendments are covered by the general rule that the California Environmental Quality Act (CEQA) applies only to projects that have the potential for causing a significant effect on the environment pursuant to CEQA Guidelines Section 15061(b)(3), and are not subject to environmental review.

SECTION 2. ADOPTION OF AMENDMENTS.

NOW, THEREFORE, BE IT ORDAINED that the Town Council of the Town of Tiburon hereby amends the Tiburon Municipal Code, Title IV, Chapter 13 (Building Regulations) by adding Section 13-5.1 to read as follows:

Section 13-5.1

ENERGY EFFICIENCY STANDARDS FOR SINGLE-FAMILY DWELLINGS GREATER THAN 3,500 SQUARE FEET OF CONDITIONED FLOOR AREA

13-5.1.1 Purpose.

The purpose of this section is to reduce the annual and peak energy consumption of large single-family homes.

13-5.1.2 Definitions.

As used in this section:

“Adjusted proposed design total” means the proposed building energy use, in KBtu/sf-yr, calculated by the state approved alternative calculation method (ACM) less any PV credit.

“Adjusted standard design total” means the performance energy budget, in KBtu/sf-yr, which this section establishes for all building to which it applies. It is defined as the standard design total (KBtu/sf-yr) obtained from any state-approved residential alternative calculation method (ACM) multiplied by the Standard Design Adjustment Factor contained in Table A.

“Conditioned floor area” has the meaning set forth in Section 101(b) of the 2005 California Building Energy Efficiency Standards.

“PV credit” means the energy credit applicable to the proposed design for a solar photovoltaic system that is capable of generating electricity from sunlight and supplying it directly to the building; and is connected, through a reversible meter, to the utility grid. The amount of PV credit under this chapter is defined as W_o multiplied by 13.262 KBtu/sf-yr time dependent value energy, where W_o is a unitless value calculated as the rated watts of the proposed photovoltaic system divided by the total conditioned floor area of the building.

13-5.1.3 Buildings covered.

The provisions of this section shall apply to all new single-family dwellings greater than three thousand five hundred (3,500) square feet of total conditioned floor area, and additions to existing single-family dwellings which together with any other additions made after the enactment of this chapter in the aggregate exceed five hundred (500) square feet where the total conditioned floor area of the building exceeds three thousand five hundred (3,500) square feet.

13-5.1.4 Exceptions.

The provisions of this section shall not apply to building area used for a secondary dwelling unit, or to any project that received and maintains a valid planning approval or a building permit, or which has submitted a complete planning application or building permit application prior to the effective date of the ordinance, unless otherwise required as a condition of approval of the planning application.

13-5.1.5 Basic requirements.

All buildings covered by this section shall meet both of the following:
A. The adjusted standard design total energy budget, in source KBtu/sf-yr, using the state-approved performance compliance approach, and
B. All other provisions applicable to low rise residential buildings contained in the California Building Energy Efficiency Standards.

13-5.1.6 Permit forms.

In addition to the standard Title 24 report submitted to the building division, an ordinance compliance form and worksheet will be required, which shall be available at the building division.

**Table A
Standard Design Adjustment Factors**

House Size (Total Conditioned Sq. Ft.)	Adjustment Factor
3,501—4,499	0.918
4,500—5,499	0.826
5,500—6,499	0.700
6,500—7,499	0.629

SECTION 3. SEVERABILITY.

If any section, subsection, clause, sentence, or phrase of this Ordinance is for any reason held to be invalid or unconstitutional by a decision of a Court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of the Ordinance. The Town Council of the Town of Tiburon hereby declares that it would have passed this Ordinance, any section, subsection, sentence, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases may be declared invalid or unconstitutional.

SECTION 4. EFFECTIVE DATE.

This Ordinance shall take effect and be in force thirty (30) days after the date of passage, and before the expiration of fifteen (15) days after passage by the Town Council, a copy of the ordinance shall be published with the names of the members voting for and against it at least once in a newspaper of general circulation in the Town of Tiburon.

This Ordinance was introduced at a regular meeting of the Town Council of the Town of Tiburon on _____, 2008, and was adopted at a regular meeting of the Town Council of the Town of Tiburon on _____, 2008, by the following vote:

AYES: COUNCILMEMBERS:

NOES: COUNCILMEMBERS:

ABSENT: COUNCILMEMBERS:

JEFF SLAVITZ, MAYOR
TOWN OF TIBURON

ATTEST:

DIANE CRANE IACOPI, TOWN CLERK

S:\Planning\Planning Commission\Staff Reports\2008\energy efficiency ordinance.doc



TOWN OF TIBURON
1505 Tiburon Boulevard
Tiburon, CA 94920

Planning Commission Meeting
March 12, 2008
Agenda Item:

STAFF REPORT

To: **Members of the Planning Commission**

From: **Community Development Department**

Subject: **Consider Recommendation to Town Council to Accept the Annual General Plan Implementation Status Report for Calendar Year 2007**

BACKGROUND

Government Code Section 65400(b)(1) requires that an annual report be prepared by the planning agency of each town or city, which is then forwarded to the appropriate legislative body, on the status of the General Plan and progress in its implementation. In Tiburon, the “planning agency” is the Planning Commission.

The statute also requires a progress report on meeting the community’s regional fair share housing allocations.

State law also requires that the annual report be forwarded to the State Department of Housing and Community Development (HCD) and to the Governor’s Office of Planning & Research (OPR) in Sacramento by April 1 of each year.

ANALYSIS

The Planning Commission (“planning agency”) last reviewed the General Plan Annual Report on March 14, 2007. Progress by the Town in the implementation of General Plan programs since that time is summarized in attached **Exhibit 1**.

RECOMMENDATION

Staff recommends that the Planning Commission review the draft Annual Report, make any desired revisions, and direct Staff to forward the report to the Town Council for acceptance.

EXHIBITS

1. Draft Annual General Plan Implementation Status Report for Calendar Year 2007 dated March 3, 2008.

Prepared by: Scott Anderson, Director of Community Development