



STAFF REPORT

To: Members of the Planning Commission

From: Community Development Department

**Subject: Review of Comprehensive Reformatting and Text Amendments to the Tiburon Zoning Ordinance; File # MCA 2008-09
(Continued from October 28, 2009)**

SUMMARY

At the June 24, 2009 Planning Commission meeting, the Commission began its review of the Town's update to the Tiburon Zoning Ordinance. At that time, the Commission reviewed all of Article I and part of Article II. The Commission reviewed the remainder of Article II at the July 8, 2009 meeting. The Commission reviewed Article III at the July 22, 2009 meeting. The Commission reviewed Article IV and a portion of Article V at the August 26, 2009 meeting. The Commission reviewed the remainder of Article V and a portion of Article VI at the September 9, 2009 meeting. The Commission reviewed the remainder of Article VI and Articles VII, VIII & IX at the October 14, 2009 meeting. The Commission reviewed Article X (Definitions) at the October 28, 2009 meeting. The hearing was then continued to the November 11 meeting for review of any unresolved or outstanding issues related to the Zoning Ordinance update.

ANALYSIS

This report summarizes issues raised during the previous Planning Commission hearings on the updated Zoning Ordinance that were not resolved at those meetings and includes as an attachment a revised draft ordinance incorporating changes made throughout the Planning Commission review process. Changes are **highlighted** in the attached version of the updated ordinance, with deletions shown as struck through (**deletions**) and additions shown as underlined (**additions**).

Remaining Items

16-40.040 – Seasonal rental units

At the August 26 meeting, the Planning Commission directed Staff to revise the approach for this new section of the Zoning Ordinance. The Commission determined that a requirement to obtain a conditional use permit for a seasonal rental unit was too onerous and directed Staff to investigate other methods of regulating such uses.

Staff now recommends that a modified home occupation permit be obtained for a seasonal rental unit instead of a conditional use permit. A seasonal rental of a dwelling can be broadly construed as a commercial use in a residential dwelling unit, similar to that of a home business operated under a home occupation permit. A home occupation permit is administratively reviewed by Planning Division Staff, although the Director may refer the application to the Planning Commission or an aggrieved party may appeal the Director's decision to the Commission.

Section 16-40.40 has been revised to read as follows:

This Section establishes standards for the seasonal rental of a dwelling unit in any residential zone. The intent of these provisions is to ensure compatibility between seasonal rental units and any adjoining zones or uses.

General criteria. Prior to its establishment and/or operation, a seasonal rental unit shall be limited to the following requirements required to obtain a Home Occupation Permit, tailored to seasonal rental purposes, pursuant to the requirements of Section 16-52.110, including Subsections D & F, except that the following general criteria shall be used instead of the general criteria and operating standards contained in Section 16-52.110 (B & C):

1. **Signs.** Signs shall be installed/maintained in compliance with Municipal Code Chapter 16A (Signs);
2. **Parking.** On-site parking shall be provided as required for a single-family dwelling unit in compliance with Section 16-32 (Parking and Loading Standards);
3. **Fire safety.** The seasonal rental units shall comply with all Fire District regulation
4. **Outdoor space.** The use of outdoor yard areas, open decks, pools and the like shall not result in the production of excessive off-site noise, odor and other external disturbances. Said determination to be based on the judgment of the Director. Approval of the seasonal rental unit may be conditioned upon the installation of screening, fencing, plantings and/or other such installations and conditions to help ensure compatibility of the seasonal rental unit with the surrounding area;
5. **Limitations.** In no event shall the owner of the seasonal rental unit or their agent rent an individual room in the seasonal rental unit to a person, family, or other group of persons.
6. **Business license.** A seasonal rental unit shall have a valid business license from the Town.

Staff recommends that the phrase "on a repeated basis" be added to the definition of seasonal rental unit, which would now read as follows:

“A dwelling unit that is rented on a repeated basis for less than 31 consecutive days, or is advertised to be rented for any period less than 31 days.”

In addition, the following changes are recommended to Section 16-52.110 (Home Occupations):

- A new subsection D (Referrals) would be added, which states that “in his sole discretion, the Director may refer any application for a Home Occupation Permit to the Planning Commission for review and action.”
- Subsection E (Appeals) would add the phrase “of the Director” after “any decision,” and would added the following sentence to the end: “Any person aggrieved by any decision of the Planning Commission involving the approval, denial, or revocation of a Home Occupation Permit, may appeal such decision to the Town Council in compliance with Section 16-66 (Appeals).”
- A new Subsection F (Business license) would state that “a home occupation shall have a valid business license from the Town.”

The reference to seasonal rental units would be deleted from Table 2-1.

16-56.040 – Legal remedies & 16-66.020 (C[2]) – Appeal on error

The Town Attorney has reviewed each of these two sections and determined that the language in the draft Zoning Ordinance is the most appropriate for these subjects.

16-21.040 (B[2]) – R-3 zone open space

In response to concerns that the amount of “usable open space” required for each dwelling unit in the R-3 zone was unrealistically high, Staff has reduced the amount of usable open space by half. As a result, the amount of usable open space required for different sizes of dwelling units would be as follows:

- a. Per efficiency or studio apartment: ~~three hundred~~ one hundred fifty square feet;
- b. Per one bedroom apartment: ~~four~~ two hundred square feet;
- c. Per two-bedroom apartment: ~~five hundred~~ two hundred fifty square feet;
- d. Per three or more bedroom apartment: ~~six~~ three hundred square feet.

16-50.070 – Story poles

A new Subsection E is proposed that would read as follows:

- E. Story pole modifications.** When modifications are made to a project design after the story poles are first installed, the applicants shall modify the poles to reflect the

revised project design and shall verify in writing that the story poles have been altered accordingly.

16-52.100 – Secondary dwelling unit & 16-52.110 – Home occupation

These sections have been moved from Article IV (Standards for Specific Land Use Activities) to Article V (Zoning Permit Processes) to better reflect the permit-based nature of these sections.

Article X - Definitions

Staff has included a new definition for “vest” that reads as follows:

“**Vest.** To obtain a right by completing an action required by the Tiburon Municipal Code, State or federal law.”

Late mail policy

At the August 26 meeting, the Planning Commission asked Staff to investigate whether there was an appropriate location in the updated Zoning Ordinance to include a reference to the Town’s late mail policy. Most Town administrative policies are not referenced in the Zoning Ordinance or the Municipal Code unless there are specific issues related to the policy in the existing code. The Zoning Ordinance does not include any references to correspondence received regarding applications. Therefore, there is no appropriate location in the Zoning Ordinance to reference late mail correspondence received after a particular date.

Revised Draft

A revised draft Zoning Ordinance in redline format is attached for Commission review as **Exhibit 1**. This draft incorporates revisions made since release of the public review draft in May, 2009.

ENVIRONMENTAL REVIEW

An Initial Study/Draft Negative Declaration was prepared for this project and released for public comment on May 4, 2009 and is attached to this report as **Exhibit 3**. The public review period ended on June 8, 2009 and no comments were received regarding the negative declaration. The Draft Initial Study concluded that the updated Zoning Ordinance would result in no significant environmental impacts and no mitigation measures are required.

RECOMMENDATION

Staff recommends that the Planning Commission review the remaining issues identified above, review the revised draft Zoning Ordinance, provide direction on any further revisions to the draft Zoning Ordinance, and adopt the draft resolution (**Exhibit 2**) recommending Town Council adoption.

EXHIBITS

1. Revised Draft Zoning Ordinance incorporating Commission changes, dated November, 2009 (separate attachment)
2. Draft resolution
3. Initial Study/Draft Negative Declaration

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