



## **STAFF REPORT**

**To:** Members of the Planning Commission  
**From:** Community Development Department  
**Subject:** Green Building Program Six Month Review  
**Reviewed By:** \_\_\_\_\_

### **BACKGROUND**

The Planning Commission last discussed the Green Building Program at its meeting of June 11, 2008, when it recommended approval of the program to the Town Council.

The Commission also recommended that Town Staff provide a review and report on the program after six months of program operation, to be discussed at a public meeting of the Planning Commission.

The Town Council approved the Green Building Ordinance on October 1, 2008. The ordinance went into effect on November 3, 2008.

### **ANALYSIS**

The green building program applies to both residential and non-residential construction. New homes and residential projects that constitute at least a fifty percent (50%) increase in conditioned space are required to achieve at least sixty (60) points. Additions to dwellings greater than five hundred (500) square feet that constitute less than a fifty percent (50%) increase in conditioned space are required to achieve at least six (6) points with a minimum of two (2) points from at least three (3) categories. New non-residential construction, including town-sponsored projects is required to achieve LEED ratings depending on the size of the structure proposed.

Since the green building ordinance went into effect, five design review applications subject to the ordinance have received approval. Six other design review applications subject to the green building ordinance remain incomplete or are awaiting review by the Design Review Board. As of the date of this report, only two of the five projects that have received design review approval have submitted for building permits, and neither has been issued.

One such application is unusual in that it is seeking LEED Platinum certification for a new single-family dwelling (5035 Paradise Drive), instead of the standard green building program requirement of 60 points on the Build It Green Checklist. Since LEED certification surpasses the requirements for green building at 60 points, this project was accepted and approved as a LEED structure instead of requiring the green building checklist. To date, building plan check of this

project is on hold until the applicant supplies the Building Official with the appropriate LEED material in order to obtain a building permit.

In addition to the LEED certified single-family dwelling project, the second project that has submitted for building permits is a major addition/remodel project located at 42 Reed Ranch Road. In accordance with the green building program, this project would need to achieve a total of six points on the Build It Green Checklist in order to receive a building permit. Staff is currently in the process of reviewing the checklist submitted with the building permit application.

Staff provided adequate outreach and information on the green building program such that its launch has been smooth and problem free. The fact that a number of Marin County and Bay Area jurisdictions had previously implemented Build-It-Green checklist-based programs helped to make the implementation easier for all.

## **CONCLUSION**

Due in large part to the downturn in the economy, there have been few project submittals that would be subject to the green building program. However, in the last month staff has noticed an increase in planning submittals that would require conformance with the green building program. As the economy rebounds, the number of projects subject to the green building program will increase.

## **RECOMMENDATION**

Staff recommends that the Planning Commission accept the six month status report of the implementation of the green building program and direct staff to return with an additional report on the program in approximately another six months.

Exhibit: 1. List of approved Design Review applications subject to the Green Building Program

Prepared By: Laurie Tyler, Associate Planner



**TOWN OF TIBURON**  
1505 Tiburon Boulevard  
Tiburon, CA 94920

Planning Commission Meeting  
June 10, 2009  
Agenda Item: **2**

## **STAFF REPORT**

**To:** Members of the Planning Commission

**From:** Community Development Department

**Subject:** **NOTICE OF CONTINUANCE**  
**End of Parente Road and End of Antonette Drive; File #30703; Precise Development Plan to Create Two Building Sites on a 10.2 Acre Parcel; Lionel Achuck, Owner; Tom Newton, Applicant; Assessor's Parcel No. 038-111-16 (Continued from April 22, 2009)**

**Reviewed By:** \_\_\_\_\_

### **SUMMARY**

On April 22, 2009, the Planning Commission held a public hearing on the Parente Vista Precise Development Plan to subdivide a vacant 10.2 acre parcel into two lots. After taking public testimony on the application, the Commission continued the application to the June 10, 2009 meeting, with direction given to the applicant to lessen the scale of the proposal and pull improvements away from the ridgeline on the site.

At this time, the applicant has prepared a preliminary revised plan, but has not yet submitted the plan or additional information necessary for a thorough review of the revised proposal. Therefore the application has been continued to the July 22, 2009 Planning Commission meeting.

Prepared By: Daniel M. Watrous, Planning Manager

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**TOWN OF TIBURON**  
1505 Tiburon Boulevard  
Tiburon, CA 94920

Planning Commission Meeting  
June 10, 2009  
Agenda Item: **3**

## **STAFF REPORT**

**To:** Members of the Planning Commission

**From:** Community Development Department

**Subject:** 1600 Mar West Street; File #10406; Review of Conditional Use Permit Granted to Expand a Private Recreational Facility (Tiburon Peninsula Club); Parcel Nos. 058-171-17, 76 & 84, and 058-240-21

**Reviewed By:** \_\_\_\_\_

### **PURPOSE OF THE REVIEW**

The purpose of his hearing is to conduct the annual review of the conditional use permit for the Tiburon Peninsula Club. During this review, the Planning Commission shall have the authority to add, delete, or modify the conditions of this permit and schedule future annual reviews of the permit.

### **SUMMARY**

On February 23, 2005, the Planning Commission adopted Resolution No. 2005-02 (Exhibit 1) approving a conditional use permit (File #10404) for the expansion of a private recreational facility (Tiburon Peninsula Club, or TPC) on property located at 1600 Mar West Street. The use permit approved the following improvements on the site:

- Demolition of the existing 3,600 square foot clubhouse facility and construction of a new 6,000 square foot, single-story clubhouse, which would include a large meeting/event room, administrative offices, youth space and a pro shop.
- Construction of a one-story, 4,200 square foot addition to the existing fitness center, increasing its size to 6,600 square feet. The expanded structure would provide additional fitness equipment space, private studio space for yoga and aerobic activities, and floor exercise space.
- Adding two additional swim lanes to the existing main swimming pool.
- Installation of a small outdoor spa near the existing southern swimming pool and relocation of the existing children's pool.

- Construction of two unlighted tennis courts on the south side of Mar West Street, adjacent to the existing tennis courts.
- Removal of the existing basketball and volleyball courts construction of a new basketball court adjacent to the fitness center, and relocation and reduction in size of the children's playground.
- Removal of most of the existing parking spaces on the north side of Mar West Street and creation of a new formalized 194-space parking area on the south side of Mar West Street, with overflow parking for 84 additional more cars.
- Installation of miscellaneous landscaping, site screening, ADA compliance and pedestrian traffic control improvements on the site.

On September 28, 2005, the Planning Commission adopted Resolution No. 2005-15 (Exhibit 2) to modify the use permit to also allow the demolition of an existing 3,000 square foot locker room building and replacement with a new 4,600 square foot locker room building at the same location.

Condition of approval No. 3 of Resolution No. 2005-02 provides for review of the permit and reads as follows:

“The subject permit shall be reviewed by the Planning Commission at a public hearing approximately one (1) year after occupancy of the clubhouse building to assess conformance with conditions of approval and evaluate noise, light and glare, biology, parking, traffic and pedestrian safety issues. During this review, the Planning Commission shall have the authority to add, delete, or modify the conditions of this permit.”

The Planning Commission conducted the required review of this use permit at the March 26, 2008 and May 28, 2008 meetings. At the May 28 meeting, the Commission concluded that TPC was in substantial compliance with its conditional use permit and directed staff to schedule an additional review of the conditional use permit in approximately one year. The subsequent review of the use permit has now been scheduled.

## ANALYSIS

Following are the conditions of approval contained within Planning Commission Resolution No. 2005-02 and the status of compliance for each:

1. *The use shall be in substantial conformance with the following documents as approved herein:*
  1. *Land Use Plan dated October 1, 2004*
  2. *Floor plans dated September 21, 2004*

3. *Project description dated October 14, 2004*
4. *Existing and Proposed Usages and Activities table, dated February 24, 2005*
5. *Playground Site Plan dated April 30, 2008 and supplemental materials dated May 12, 2008.*

*Any substantive intensification of use, as determined within the reasonable discretion of the Director of Community Development, shall require an amendment to this use permit.*

*Status:* The construction of the clubhouse, fitness center, locker room, swimming pools, parking areas and associated improvements complied with these plans.

2. *The conditional use permit approval shall incorporate all of the mitigation measures required in the Mitigation Monitoring Program attached as Exhibit E.*

*Status:* Most of the mitigation measures included in the adopted Mitigation Monitoring Program (attached as Exhibit 6) pertain to construction-related issues and were implemented during the construction of the club facilities. There are only two measures that involve post-construction requirements. Mitigation Measure 2b, requiring installation of a grate around the tennis court and ongoing efforts to ensure that tennis balls do not enter Railroad Marsh, is addressed under Conditions of Approval Nos. 14 & 15. Mitigation Measure Traffic-3, requiring implementation of a parking management plan, is addressed under Condition of Approval No. 7.

3. *The subject permit shall be reviewed by the Planning Commission at a public hearing approximately one (1) year after occupancy of the clubhouse building to assess conformance with conditions of approval and evaluate noise, light and glare, biology, parking, traffic and pedestrian safety issues. During this review, the Planning Commission shall have the authority to add, delete, or modify the conditions of this permit.*

*Status:* At the May 28, 2008 review of the use permit required by this condition, the Planning Commission directed staff to schedule an additional review of the conditional use permit in approximately one year.

The Town has received no complaints regarding noise emanating from TPC regarding the new sound systems associated with the expansion project. The Town received numerous complaints about noise from early morning swim practices caused by a coach yelling at swimmers, but these complaints have stopped since the coach for these practices was replaced by the Club. The Tiburon Police Department responded to noise complaints at the club on seven (7) occasions in the past year.

The Town received numerous complaints regarding the second day of the club's 60<sup>th</sup> anniversary celebration on Sunday afternoon, October 5, 2008. Amplified music from an

outdoors sound system during that event was audible hundreds of feet from TPC. According to the Tiburon Police Department, police officers attempted to intervene after receiving many complaints from neighbors in the surrounding area. On March 11, 2009, the Planning Commission adopted Resolution No. 2009-02 (Exhibit 5), which modified Condition of Approval No. 5 of Resolution No. 2005-02 and prohibited outdoor amplified sound at any future TPC social events. The Town has received no noise complaints since that time, although no special social events have been held in that time. A special event for the graduating class of Del Mar Middle School is scheduled for Friday, June 12, 2009, with no outdoor amplified sound proposed for this event.

At the review of the use permit on March 26, 2008, the Planning Commission raised concerns about dust and mud from the new unpaved parking area on the south side of Mar West Street. At the May 28, 2008 meeting, TPC proposed to install a new pervious parking surface consisting of a reinforced plastic grid system covered with tan colored, small diameter gravel. This surface has been installed on the largest, most heavily used (southern) portion of the parking lot. The northern portion of the lot is covered with grey colored gravel, but does not include the underlying plastic grid system. Both parking areas are being kept in much better condition than at the time of the previous permit review, with no evidence of dust or mud. The Town has received no complaints about parking issues since the installation of the new parking surface system. The Commission is encouraged to visit the site to review the effectiveness of this new surface system.

Condition of Approval No. 7 of the use permit adopted a "Special Event Parking Management Plan" (Exhibit 7) to be utilized for all major special events held at the club. TPC held a tennis tournament on September 7-9, 2007 that generated complaints about overflow parking in the area. Since the new parking surface system has been installed, the Town has received no complaints about overflow parking in the area.

4. *Total membership for the Tiburon Peninsula Club use shall not exceed 700 regular memberships, 175 senior memberships and 10 scholarship memberships. Any increase in membership of any nature shall require approval of an amendment to the subject use permit following a public hearing before the Planning Commission.*

*Status:* On May 28, 2008, the Planning Commission adopted Resolution No. 2008-11 (Exhibit 3) which amended the membership levels established under Resolution No. 2005-02 and established the membership levels as described above. TPC currently has 681 regular members, 153 senior members and one scholarship membership.

5. *The following limits shall be placed on social events:*
  - a. *Indoor social events and use of meeting rooms shall be permitted only until 9:00 p.m. on any day. Outdoor social events shall be permitted only until 8:00 p.m. on any day.*

- b. *Outdoor amplified sound shall not be used at any social events. Exterior doors and windows shall not be propped open when amplified sound is used for indoor social events.*
- c. *The Tiburon Town Manager may grant up to eight (8) exceptions to these requirements each calendar year, for hours no later than 11:00 p.m. on Fridays and Saturdays and no later than 10:00 p.m. on Sundays through Thursdays, by approving a Special Event Permit. Exceptions shall be granted for official TPC-sponsored or member-sponsored events only.*
- d. *TPC shall notify neighboring property owners and residents within a radius designated by Town Staff, but no less than 500 feet of the TPC property, by mail at least fourteen (14) days in advance of events authorized by such exceptions. These notices shall include the name and phone number of a contact person in charge for neighbors to call regarding noise from outdoor events.*
- e. *Signs shall be posted on TPC property encouraging members and guests to be courteous of neighbors when exiting the club following events that end after 9:00 p.m.*
- f. *This condition of approval shall be reviewed by the Planning Commission at a public hearing in October, 2009.*

*Status:* On July 23, 2008, the Planning Commission adopted Resolution No. 2008-14 (Exhibit 4) to amend the hours and limitations for social events at TPC. This amendment allowed the Town to grant up to three exceptions each year to the time limits for social events, under a special event permit to be granted at the discretion of the Town Manager. TPC requested and received approval for two special events in 2008 pursuant to the amended condition of approval. On Saturday, October 4, 2008, the club held a 60<sup>th</sup> anniversary celebration that extended until 11:00 p.m., with an amplified steel drum band playing until 9:00 p.m. On Saturday, November 15, 2008, the club held a casino night event that lasted until 11:00 p.m., with amplified music provided by a deejay in the clubhouse with the doors and windows closed. TPC properly applied for special event permits for each event and mailed notices to neighboring property owners and residents in compliance. The Town received no complaints regarding either of these two events.

During a required review of this condition of approval on January 28, 2009, the Planning Commission raised concerns about noise from another outdoor event held on October 5, 2008 that generated a substantial number of noise complaints. At that time, TPC officials also requested that the number of exceptions that could be granted each year through the special event permit process be increased from three to eight. In return, TPC agreed to prohibit outdoor amplified sound at any social events and that exterior doors and windows not be propped open when amplified sound is used for indoor social events.

On March 11, 2009, the Planning Commission adopted Resolution No. 2009-02 which further amended this condition of approval to read as noted above. Since that time, TPC

has not held any social events using the special event permit procedure. The Town Manager has approved a special event permit for an event following the Del Mar Middle School graduation on Friday, June 12, 2009, with no outdoor amplified sound proposed for this event.

6. *Club facilities shall not be rented out, leased, or offered for use by non-members.*

*Status:* TPC has indicated that club facilities have not been rented out, leased, or offered for use by non-members. Staff has received no information to the contrary.

7. *The Tiburon Peninsula Club Special Event Parking Management Plan is adopted as part of this use permit, and shall be utilized for all major special events held at the club where it is reasonably foreseeable that spillover parking would result. This plan is intended to ensure that spillover parking does not impact neighboring properties.*

*Status:* As noted above, the spillover parking issues noted in the previous review of this conditional use permit appear to have abated since the modified parking lot surface system was installed.

8. *All construction shall comply with the hours permitted in Section 13-6 of the Tiburon Municipal Code. At the time of construction, the contractor shall post a notice at the site identifying a "Noise Disturbance Coordinator (NDC)" with a telephone number that neighboring residents may call regarding complaints. The NDC shall be available during all construction hours and shall respond to all complaints, as necessary.*

*Status:* Project construction complied with the hours permitted by the Municipal Code. The Town received no noise-related complaints during construction of the project.

9. *Prior to the issuance of grading or building permits for project construction the project developer shall submit and receive approval for a Site Plan and Architectural Review application. In addition to standard application materials, this application shall include:*

- a. *A noise attenuation plan which includes specific noise attenuation measures to be taken during construction of this project; attenuation measures for other amplified sound systems on the property (i.e., loudspeakers, bullhorns, etc.); and methods of increasing awareness of noise issues for club members.*

*Status:* A noise attenuation plan was prepared and reviewed by the Design Review Board on June 16, 2005 as part of the Site Plan and Architectural Review application for this project. TPC has implemented the requirements of this plan for amplified sound systems on the property. As noted above, the Town received numerous complaints about noise from early morning swim practices before the swim coach was replaced, and TPC no longer allows outdoor amplified sound at any social event.

- b. *A detailed lighting plan, with exterior lighting of the building, landscaped and parking areas shielded to prevent glare, to direct lighting downwards, and to reduce visibility from nearby residences and light pollution to the Old St. Hilary's Open Space Preserve. The lighting plan shall also be reviewed by County of Marin Department of Parks and Open Space staff.*

*Status:* The Site Plan and Architectural Review application included the detailed lighting plan. The Town has not received any complaints regarding light and glare from the site.

- c. *A site plan that avoids, to the extent feasible, the removal of native trees and construction within the drip line of native trees, along with a tree replacement plan in the case that avoidance of native trees is not feasible.*

*Status:* The landscaping plan reviewed by the Design Review Board as part of the Site Plan and Architectural Review application for this project minimized the removal of trees on the site, limited to areas around the new buildings. TPC has discussed the possibility of removing a number of unhealthy non-native trees around the perimeter of the site, which would require approval of a Tree Permit.

- d. *A parking lot plan that includes enhanced landscaping planters and appropriate parking space delineation. Larger, mature trees and native species are encouraged to be planted wherever possible. Only non-invasive plant species are to be planted anywhere on the site as part of this project.*

*Status:* Enhanced planters providing separation between spaces within the modified parking areas were installed pursuant to the landscaping plan reviewed as part of the Site Plan and Architectural Review application for this project. New landscaping has been concentrated in the main planter near Mar West Street, with little additional landscaping through most of the parking lot. No invasive plant species have been planted.

- e. *Design provisions to ensure that the overflow parking lot will be aesthetically consistent with the new unpaved parking lot.*

*Status:* During review of the Site Plan and Architectural Review application for this project, the overflow parking lot was required to have the same surface as the new unpaved parking lot. Although the new parking lot surface system has been installed on only the central portion of the parking lot and has a different colored gravel than the remainder of the parking lot, Staff believes that the entire parking lot is aesthetically consistent and is in compliance with this requirement.

10. *The applicant shall offer a public access easement to the Town of Tiburon for purposes of a pedestrian trail across the subject property that will connect Judge Field to Teather Park, prior to issuance of the building permit for the project.*

*Status:* The required public access easement has been offered to and accepted by the Town.

11. *In addition to the improvements shown on the Land Use Plan, curb, gutter and sidewalk shall be installed along the south side of Mar West Street all the way to the western property line.*

*Status:* Curb, gutter and sidewalk have been installed along the south side of Mar West Street all the way to the western property line.

12. *Lighting in the parking lots established south of Mar West Street shall be lit by bollard light fixtures or other similar fixtures approved by Planning Division Staff. Pole-mounted lighting fixtures are strongly discouraged, but, if found to be necessary for public safety, shall be minimized.*

*Status:* The parking lot is currently lit only by three pole-mounted fixtures that were approved by the Design Review Board during the review of the Site Plan and Architectural Review application for this project. TPC has indicated a desire to increase the lighting in the parking lot by installing additional bollard light fixtures, which would be reviewed through a separate Design Review process. At this time, these bollard light fixtures have not been installed.

13. *The new tennis courts and sports courts shall not be lit for nighttime use. Hours of use for the sports courts shall be limited to 8:00 a.m. to dusk.*

*Status:* The new tennis courts are not lit for nighttime use and have been used in compliance with this time limitation.

14. *A grate shall be installed and maintained at all times above the cement-lined ditch that is located adjacent to the Judge Field tennis courts to keep tennis balls out of the ditch.*

*Status:* The grate was installed above the cement-lined ditch located adjacent to the Judge Field tennis courts. A recent inspection of the site by Planning staff indicated that the grate has been removed on the southern and southwestern sides of the tennis courts, with many tennis balls visible in the drainage ditch. TPC has indicated that the grate was removed at the request of the local mosquito vector control district. Staff has directed that the grate be reinstalled and will work with the vector control district to insure that tennis balls are kept out of the marsh while allowing for appropriate mosquito vector control for the site.

15. *The applicant shall implement an ongoing program to retrieve and remove tennis balls from around the tennis courts before they can enter Railroad Marsh. This program shall be submitted in writing with the Site Plan and Architectural Review application and approved by the Town.*

*Status:* A recent inspection of the site by Planning staff indicated that more tennis balls appear to be left around the tennis courts and in the drainage ditch surrounding the Judge Field tennis courts. Improvement is needed in this area.

16. *Rocks, soil and debris that have collected on the southern fringe of Judge Field near Railroad Marsh shall be removed to the satisfaction of the Director of Community Development, and this portion of the property shall be continuously maintained in a clean and orderly condition.*

*Status:* The rocks, soil and debris that collected on the southern fringe of Judge Field near Railroad Marsh were removed. A pile of rocks that was added along the southwest perimeter of the parking lot has been removed.

17. *Dilapidated fencing along the southern property line in the vicinity of the Railroad Marsh shall be removed. The applicant shall cause a survey of the entire southern property boundary (from Mar West Street to Mar West Street) to be completed, and shall install bollards or other marking devices (type, size and spacing to be determined by Planning Division Staff) along the southern property line to appropriately delineate the boundary between the subject property and Town property.*

*Status:* The dilapidated fencing has been removed and bollards have been installed in conformance with this requirement.

18. *The applicant shall obtain all necessary permits from the Town Building Division for the proposed addition.*

*Status:* All necessary permits from the Town Building Division were obtained for the proposed addition.

19. *The applicant shall meet all requirements of the Tiburon Fire Protection District, Sanitary District No. 5, and all other applicable agencies. Any Fire District requirements for establishment of defensible space around new structures shall be evaluated for effect on the Old St. Hilary's Open Space Preserve.*

*Status:* The project met all requirements of the Tiburon Fire Protection District and other agencies during construction of the project. As noted above, the Fire District has required TPC to keep the gate open near the fitness center, which has encouraged additional member parking on Mar West Street. A recent inspection of the site by Planning staff indicated that fewer members are parking along the street since the new parking lot surface system has been installed. The Town has received only one complaint about on-street parking since the installation, which resulted in a citation issued by the Police Department in June, 2008 for parking along the red curbed portion of Mar West Street.

20. *Demolition of the clubhouse building shall comply with Regulation 11, Rule 2 requirements of the Bay Area Air Quality Management District regarding asbestos*

*removal. A letter to this effect shall be submitted prior to foundation inspection by the Building Division.*

*Status:* Demolition of the clubhouse building complied with the BAAQMD requirements for asbestos removal.

21. *The Town Engineer shall review and approve all proposed improvements within the Mar West Street right-of-way. An encroachment permit shall be secured before any work begins within the Mar West Street public right-of-way.*

*Status:* The Town Engineer reviewed and approved all improvements within the Mar West Street right-of-way and issued an encroachment permit on July 28, 2006 before work began within the Mar West Street public right-of-way. The encroachment permit included a condition of approval requiring installation of yellow flashing beacons at the crosswalk leading from the parking lot to the clubhouse. This has since been modified by the Public Works Director to instead require installation of standard “pedestrian crossing” signs, which have been installed. The Public Works Director also required removal of red curb painting along Mar West Street that was done by TPC without Town approval and installation of standard “no parking” signs instead.

22. *The Tiburon Fire Protection District and Tiburon Police Department shall review and approve all crosswalk and circulation improvements to insure appropriate emergency access and pedestrian safety. Approved plans shall be reviewed and approved by the Planning Commission prior to installation.*

*Status:* The Tiburon Fire Protection District and Tiburon Police Department reviewed and approved all crosswalk and circulation improvements to insure appropriate emergency access and pedestrian safety. The Planning Commission reviewed the crosswalk and circulation improvements on August 9, 2006. As noted above, several modifications have been made to the approved crosswalk design since that time and the crosswalk and pedestrian circulation improvements appear to be working well and safely.

23. *Construction of any fence along the east side of the property shall be coordinated with the County of Marin Department of Parks and Open Space staff to ensure that the fence does not encroach onto the adjacent Old St. Hilary’s Open Space Preserve or affect sensitive habitat. If a fence does not already exist, a permanent fence shall be constructed between the subject property and the Preserve to prevent inadvertent damage to sensitive resources.*

*Status:* As of the date of this report, the required fence on the border of the site with the Old St. Hilary’s Open Space Preserve has not been installed. Planning Division staff has inspected this portion of the site with TPC officials and believes that the fence is not necessary, as vegetation and the sloping hillside leading up to the shared property line have historically discouraged encroachment of activities onto the adjacent open space and any inadvertent damage to sensitive resources. TPC has indicated that they intend to meet with County Open Space District officials to request that this requirement, which was suggested by the District during the original use permit process, be eliminated. The

Planning Commission also has the authority to eliminate this condition of approval during as part of the current review of the conditional use permit.

24. *The Town reserves the right to amend or revoke this Conditional Use Permit for cause, in accordance with adopted regulations of the Town.*

*Status:* As noted above, the modified parking lot surface system has eliminated the parking-related concerns raised during the previous review of this conditional use permit. The amendment to prohibit outdoor amplified sound at any social event should minimize future noise impacts on nearby residences. Staff has directed that the grate over the drainage ditch near the Judge Field tennis courts be reinstalled to prevent tennis balls from reaching the nearby Railroad Marsh. The Commission is encouraged to provide direction on additional or modified conditions of approval that would further address any other concerns with the operation of the club.

## **PUBLIC COMMENT**

As of the date of this report, no letters have been received regarding the review of the TPC use permit.

## **CONCLUSION**

The Tiburon Peninsula Club appears to be in substantial compliance with most of the conditions of approval of its use permit and has made considerable efforts to limit possible parking and noise impacts on other properties in the vicinity. As noted above, the grate needs to be reinstalled above the drainage ditch near the Judge Field tennis courts to prevent tennis balls from reaching the nearby Railroad Marsh.

## **RECOMMENDATION**

Staff recommends that the Planning Commission take public testimony on this item, close the public hearing, determine whether TPC is operating in substantial compliance with the requirements of their conditional use permit, and consider any modifications should be made to the adopted conditions of approval for this use permit.

## **EXHIBITS**

1. Planning Commission Resolution No. 2005-02
2. Planning Commission Resolution No. 2005-15
3. Planning Commission Resolution No. 2008-11
4. Planning Commission Resolution No. 2008-14
5. Planning Commission Resolution No. 2009-02
6. Adopted Mitigation Monitoring Program
7. Tiburon Peninsula Club Special Event Parking Management Plan
8. Minutes of the March 26, 2008 Planning Commission meeting
9. Minutes of the May 28, 2008 Planning Commission meeting
10. Minutes of the July 23, 2008 Planning Commission meeting

11. Minutes of the January 28, 2009 Planning Commission meeting
12. Minutes of the March 11, 2009 Planning Commission meeting

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

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TOWN OF TIBURON  
1505 Tiburon Boulevard  
Tiburon, CA 94920

Planning Commission Meeting  
June 10, 2009  
Agenda Item: 4

## STAFF REPORT

**To:** Members of the Planning Commission  
**From:** Community Development Department  
**Subject:** Introduction and Overview of Comprehensive Reformatting and Text Amendments to the Tiburon Zoning Ordinance; File # MCA 2008-09  
**Reviewed By:** \_\_\_\_\_

### SUMMARY

In 2008, Town Staff and Lisa Wise Consulting began work on an update to the Tiburon Zoning Ordinance. The text amendments would update the Zoning Ordinance, which contains the zoning regulations for all land within the Tiburon Town limits.

The Zoning Ordinance was last comprehensively updated in 1990. Since that time, a number of minor amendments have been made, but most of the standards and requirements contained in the ordinance have stood the test of time and seem to work well for the Town of Tiburon and its residents and property owners.

### ANALYSIS

The proposed text amendments include, but are not limited to, the following changes to the existing Zoning Ordinance, with the location of the changes noted in parentheses:

1. **Modified format.** The format of the ordinance has been completely modified, with new type face, illustrations and tables to make it easier to read and use. The code sections have been reorganized to make specific requirements easier to find, with a more detailed table of contents. Illustrations have been added and updated to more clearly reflect standards for building height, setbacks and other concepts.
2. **Definitions.** Additional definitions have been created for terms contained in the Zoning Ordinance and some of the current definitions have been updated to eliminate archaic or outdated language. Definitions have been included for terms that had not been previously defined in the Zoning Ordinance and old and archaic terms that were no longer used in the ordinance have been eliminated. (Article X)
3. **Child daycare facilities.** Changes have been made to the child daycare facilities regulations to reflect current provisions in State planning laws. Standards for location of

facilities, parking, passenger loading, fencing and lighting would be established as allowed by State law. (Section 16-40.070)

4. **Emergency shelters.** State laws now require municipalities to include zoning provisions for emergency shelters for the homeless and to permit said uses “by right” in at least one zone where such a facility would be reasonably possible. These shelters would be allowed only in commercial zones. Performance standards would be established in conformance with State law requiring on-site security, adequate light, parking and refuse storage for shelters. (Section 16-40.080)
5. **Tidelands Permit.** A Tidelands Permit procedure would take the place of a conditional use permit for construction of minor additions to piers and docks in the M (Marine) zone beyond the mean high tide line. Staff recommended this change to create a permit process that is more appropriate for minor changes that currently require approval of a conditional use permit. Town Staff would have the ability to approve minor and incidental construction projects in the M zone that would have no significant environmental impacts. Larger projects and those expected to have a significant environmental impact would be referred to the Planning Commission to obtain a conditional use permit, as currently required. (Section 16-52.080)
6. **B&B’s and seasonal rentals.** The Town has received an increasing number of requests to establish Bed & Breakfast Inns (B&Bs) and for seasonal rental of residential dwelling units. As neither of these uses is addressed in the current Zoning Ordinance, Staff recommends that provisions be established for these uses. B&B’s would be allowed with a conditional use permit in the R-1 and RO zones and would need to provide appropriate parking. Existing dwellings in the R-1, R-1-B and R-2 zones could be rented out as a seasonal rental for a period of no longer than 31 days with a conditional use permit. (Sections 16-40.050 & 16-40.060)
7. **Driveway gates.** The Town has adopted an administrative policy that requires driveway gates to be set back 15 feet back from a roadway or shared driveway, curb, gutter or sidewalk. This safety precaution allows vehicles to pull out of the traveled roadway while waiting for a driveway gate to open. As this policy has been almost uniformly enforced throughout Town by Planning Division Staff and the Design Review Board, Staff recommends that this requirement be included in the Zoning Ordinance. (Section 16-30.030 [H])
8. **Roof changes.** Minor Site Plan and Architectural Review applications for projects that would otherwise only be reviewed at the Staff level that would also increase the height of an existing roofline currently do not require story poles and only require notification of property owners within 100 feet. In the past, some property owners have complained that they were never notified about or properly understood roof changes more than 100 feet away that nonetheless affect their views. To address this concern, Staff recommends an amendment to the Zoning Ordinance to codify the current Town administrative policy that requires story poles to be installed and property owners within 300 feet to be notified for any projects that would increase the height of an existing roofline. (Section 16-52.020 [L])

9. **Sports courts.** The current Zoning Ordinance does not include specific information about Design Review requirements for sports courts and assorted accessory improvements. In response to numerous requests to install sports courts and complaints from neighbors about minor incidental recreational improvements, the Town adopted an administrative policy that requires Design Review approval for specified sports court improvements, including fencing over 42 inches in height, exterior lighting and non-portable basketball standards. Staff recommends that this policy now be codified in the updated Zoning Ordinance. (Section 16-30.060)
10. **Storage and debris boxes.** Parking of storage and debris boxes on Town streets often generates complaints from neighboring residents and can create traffic safety and street maintenance concerns. The current Zoning Ordinance does not include specific information about placement of storage and debris boxes on public and private property. Staff recommends that the adopted Town administrative policy for storage and debris boxes be adopted. These requirements would allow storage and debris boxes only when associated with a construction project, would require storage boxes to be placed on private property and off the street, and would require debris boxes to be similarly located unless Staff determines that there is no practical on-site location. (Section 16-30.090)
11. **Story poles.** The Town has a long-standing practice of requiring story poles during the Design Review process to illustrate the scope of construction projects. Adopted Town policies establish standards for story poles, including requirements to take down story poles after a decision is made on an application and to connect poles with tape or other material for projects appealed to the Town Council. To make these standards more enforceable, Staff recommends that these policies be codified in the new Zoning Ordinance. (Section 16-50.070)
12. **Staff approvals.** The current Zoning Ordinance requires a formal Site Plan and Architectural Review application process for construction of all exterior changes to existing buildings and most new structures. In order to provide better customer service and a streamlined “over the counter” process for minor property improvements, Planning Division Staff has administratively approved a number of very minor projects (e.g. windows, siding changes, deck additions, fences) that do not include additional floor area or skylights if the plans have been approved by potentially affected neighbors identified by Staff. This process has been very successful, saving applicants weeks of time for minor construction projects. Staff’s has used appropriate discretion in determining which applications would qualify for this streamlined procedure, as none of the approvals made in this manner has ever resulted in complaints from neighboring property owners. Staff recommends that this procedure be codified in the Zoning Ordinance to carry on this enhanced customer service. (Sections 16-54.070 & 16-52.020 [G]))
13. **Conversion of two-family and multi-family dwellings.** Program H-13 of the Housing Element of the Tiburon General Plan calls for the modification of zoning standards that apply to two-family dwellings in “Old Tiburon” to limit conversion of existing two-family and multi-family dwellings into single-family dwellings or buildings with fewer units than currently exist. This requirement is intended to help preserve the housing

stock in the Old Tiburon neighborhood. To implement this program, property owners in the R-2 zone (which makes up almost the entirety of Old Tiburon) would be required to obtain a conditional use permit to convert existing two-family or multi-family dwellings into single-family dwellings or buildings containing fewer dwelling units. (Section 16-21.030 [D(1)])

No properties within Tiburon would be rezoned a part of these text amendments and there would be no changes to the Zoning Map other than the section reference on its face. The project will involve no physical development of any property with Tiburon Town Limits.

The Design Review Board will conduct a courtesy review of the updated Zoning Ordinance at their June 4, 2009 meeting. Comments from the Board will be summarized at the Planning Commission meeting.

## **ENVIRONMENTAL STATUS**

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 1. The public review period ends on June 8, 2009. As of the date of this report no letters have been 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.

## **FUTURE ACTIONS**

Once the Commission has recommended approval of the update, a Town Council hearing will be set to adopt the updated ordinance.

## **RECOMMENDATION**

It is recommended that the Planning Commission accept the introduction and overview and provide initial comments on the updated Zoning Ordinance. Depending on the level of detail of the comments and questions from the Commission, one or more additional hearings may be required to comprehensively review the updated ordinance. At such time as the Commission has reviewed the updated ordinance to its satisfaction, the Commission should direct Staff to prepare a resolution recommending approval of the Updated Zoning Ordinance to the Town Council.

## **EXHIBITS**

1. Initial Study/Draft Negative Declaration
2. Public Review Draft Zoning Ordinance (previously distributed)

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