



TOWN OF TIBURON
1505 Tiburon Boulevard
Tiburon, CA 94920

Planning Commission Meeting
September 8, 2010
Agenda Item: **I**

STAFF REPORT

To: Members of the Planning Commission

From: Community Development Department

Subject: Determination as to Whether Recirculation is Required for the Draft Environmental Impact Report (DEIR) for the Belvedere-Tiburon Public Library Expansion Project

PROJECT DATA

Project Name: Belvedere-Tiburon Public Library Expansion Project
Address: 1501 and 1505 Tiburon Boulevard
Assessor's Parcel Number: 058-171-92, 93, & 94 and a portion of 058-171-62
File Number: GPA 2008-02; R2008-01; 30804 & 40801
Project Land Area: Approximately 2.4 acres
General Plan: P/PQ (Public/Quasi-Public), OS (Open Space) & NC (Neighborhood Commercial)
Zoning: P/PQ (Public/Quasi-Public), OS (Open Space) & NC (Neighborhood Commercial)
Current Use: Public Library, Tiburon Town Hall, Public Park and Open Space
Owners/Applicants: Belvedere-Tiburon Library Agency and Town of Tiburon
State Clearinghouse #: 2009052003

BACKGROUND

The Town of Tiburon is processing applications for a proposed expansion of the Belvedere-Tiburon Public Library. The Town determined that an Environmental Impact Report (EIR) was required for this project and retained the firm of Christopher A. Joseph & Associates to prepare the EIR.

The draft environmental impact report (DEIR) was circulated for public review and comment in June 2010. The 45-day comment period concluded on July 26, 2010. Thirteen (13) comment letters were received. In addition, oral comments on the DEIR were received at a public hearing held at the July 14, 2010 Planning Commission meeting.

Shortly after the close of the public comment period, the firm of Christopher A. Joseph & Associates went out of business. The Town has since retained the firm of Leonard Charles & Associates to complete the EIR for the Library project. The delay in bringing the recirculation question to the Commission is a direct result of the necessity of retaining a new EIR consultant and bringing that firm up to speed with the prior EIR work and the issues.

ANALYSIS

Purpose of this Meeting

The primary purpose of this public meeting is for the Planning Commission to hear and consider the recommendation of the Environmental Coordinator as to whether “significant new information” that would require immediate recirculation of the DEIR was received during the public comment period. If not, then the Planning Commission shall direct the EIR consultant to begin work on the responses to comments. It is possible that as work progresses on the response to comments, a recirculation requirement may still be triggered or deemed advisable. The Planning Commission’s determination at this time is whether the DEIR is so facially inadequate in identifying or addressing impacts that the need for recirculation is clear and unequivocal and there is no possibility that the deficiencies could be addressed in the response to comments and Final EIR while still complying with CEQA.

Summary of Key DEIR Findings

The key DEIR findings were summarized in the Staff Report for the July 14, 2010 meeting, which is attached as **Exhibit 1**. Very briefly, the DEIR identified five (5) significant unavoidable (“SU”) impacts of the project, which could not be eliminated or reduced to a less-than-significant level through mitigation measures identified in the DEIR. These were:

- 1) That the project would be inconsistent with an applicable Bay Area Air Quality Management District (BAAQMD) air quality plan;
- 2) That construction would temporarily increase ambient noise levels in the site vicinity;
- 3) That construction would temporarily cause ground-borne vibration in the vicinity;
- 4) That the project would obstruct a scenic vista (Tiburon Ridge) from Tiburon Boulevard;
- 5) That the project would result in inadequate parking capacity.

In addition, the DEIR identified the following significant unavoidable cumulative impacts (impacts from the project in conjunction with other reasonably foreseeable projects):

- Conflicts with an applicable air quality management plan;
- Impacts to scenic vistas

Public Comments

Several comment letters and oral communications were received during the comment period, and are indexed and attached in **Exhibit 2**. The comments focused on the following environmental issues:

- Biological resources. Whether impacts to Railroad Marsh, especially long-term biological impacts on sensitive species with only a 25-foot buffer being proposed, were adequately addressed in the DEIR.
- Transportation and parking. Concerns over inadequacy of parking and concerns over increased vehicular traffic, potential signalization at Mar West Street, and turning movements were raised as issues that merit further discussion in the EIR.

- Hazards. The issue was raised as to whether the DEIR adequately addressed potential release of hazardous substances, primarily associated with proposed grading activity in Zelinsky Park.
- Visual quality. View blockage issues, especially of Old St. Hilary's Church, were raised as needing further analysis. Visual representations of alternatives were requested.
- Consistency with Town policies. Concern was expressed regarding the project's inconsistency with General Plan policy regarding a 100 foot buffer from wetlands. Comments also expressed a desire for additional analysis of consistency with the Town's Railroad Marsh Management Plan.

Action Item for this Meeting

At this meeting, the Commission shall determine whether or not "significant new information" has been received during the public comment period that would legally require recirculation of the DEIR pursuant to CEQA. As the public comment period on the DEIR is closed, any public comment at the meeting should be confined to whether revision and recirculation of the DEIR is required at this time. The Planning Commission should either:

1. Determine that no "significant new information" that would unequivocally require recirculation of the DEIR has been received during the public comment period, and direct the consultant to begin the responses to comments and any additional analysis required therefore; or
2. Find that significant new information that obviously requires recirculation of the DEIR has been received during the public comment period, and continue the matter pending preparation of analysis of this new information by the consultant and recirculation of a revised DEIR.

In accordance with the Town of Tiburon Environmental Review Guidelines, any decision by the Planning Commission regarding recirculation of the DEIR is appealable to the Town Council within five (5) days of the decision. Said appeal shall be heard at the next feasible Town Council meeting.

Discussion of Thresholds for Recirculation

CEQA Guidelines section 15088.5 indicates that a lead agency is required to recirculate an EIR when significant new information is added to the EIR after public notice is given of the availability of the draft EIR for public review but before certification. "New information" can include changes in the project or environmental setting as well as additional data or other information. "New information" is routinely added to an EIR during the response to comments phase, and is therefore "not significant unless the EIR is changed in a way that deprives the public of a meaningful opportunity to comment upon a substantial adverse environmental effect of a project or a feasible way to mitigate or avoid such an effect (including a feasible alternative project) that the project's proponents have declined to implement". The CEQA Guidelines provide four examples of thresholds that, if reached, would require recirculation. These are:

1. *The draft EIR was so fundamentally and basically inadequate and conclusory in nature that meaningful public review and comment were precluded.*

Staff Response: The DEIR was prepared by a qualified professional environmental consulting firm in accordance with fundamentally sound planning and environmental review procedures, as set forth in the CEQA statutes and guidelines, and consistent with the Town of Tiburon Environmental Review Guidelines. Staff sees no evidence that the document is fundamentally inadequate or conclusory in nature, although, as with any DEIR, the document could be improved through additional analysis and in the response to comments process.

2. A new significant environmental impact would result from the project or from a new mitigation measure proposed to be implemented.

Staff Response: Although the public comments provided additional information about potential environmental impacts identified by the DEIR, and expressed disagreement with certain conclusions reached by the DEIR, the public comments received did not identify any new significant environmental impacts that were not identified in the DEIR that would obviously result from the project or from the proposed mitigation measures.

3. A substantial increase in the severity of an environmental impact would result unless mitigation measures are adopted that reduce the impact to a level of insignificance.

Staff Response: No new information was submitted during the public comment period that clearly and convincingly indicated that the severity of the environmental impacts of the project would be substantially greater than those identified in the DEIR and could not be mitigated. However, additional information and analysis generated in response to comments, especially regarding long-term biological impacts on Railroad Marsh, could result in identification of a substantial increase in the severity of an environmental impact of the project. If so, recirculation of the affected parts of the DEIR would be required at that time unless mitigation measures are identified that would reduce the impacts to a less-than-significant level.

4. A feasible project alternative or mitigation measure considerably different from others previously analyzed would clearly lessen the environmental impacts of the project, but the project's proponents decline to adopt it.

Staff response: The desire to look at additional project mitigation measures (or project alternatives) for significant impacts identified in the DEIR was raised in comments received during the public comment period, and was echoed by Planning Commissioners. Biological impacts and parking/transportation were the primary issues identified for possible additional mitigation or project redesign. If additional feasible mitigation measures or alternatives are identified through subsequent analysis, they could also potentially trigger recirculation of those sections of the DEIR to which they pertain. Any such determination would be premature at this time.

RECOMMENDATION

Staff recommends that the Commission finds that no “significant new information” was received during the comment period that would clearly and unequivocally require recirculation of the

DEIR at this time, prior to additional analysis and information be developed in response to the comments. The environmental consultant should be directed to begin the additional analysis associated with responses to the comments.

EXHIBITS

1. Staff Report from the July 14, 2010 Planning Commission meeting (wo/exhibits).
2. All DEIR comments, including written comments and verbal comments (minutes) from the July 14, 2010 Planning Commission meeting.

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