

## **TOWN COUNCIL MINUTES**

### **CALL TO ORDER**

Mayor Slavitz called the special meeting of the Tiburon Town Council to order at 7:30 p.m. on Wednesday, August 31, 2011, in Town Council Chambers, 1505 Tiburon Boulevard, Tiburon, California.

### **ROLL CALL**

PRESENT: COUNCILMEMBERS: Collins, Fraser, Fredericks, O'Donnell, Slavitz

PRESENT: EX OFFICIO: Town Manager Curran, Town Attorney Danforth,  
Planning Manager Watrous, Recording Secretary  
Harper

### **ORAL COMMUNICATIONS**

None.

### **PUBLIC HEARINGS**

1. **Alta Robles Precise Development Plan** – Consider actions related to the Alta Robles Precise Development Plan and rezoning applications for the eventual subdivision of 52.2 acres of land, currently developed with one single-family dwelling into 14 single-family residential lots (Planning Manager Watrous) – *item continued from August 3, 2011*
  - Irving and Varda Rabin, Owners and Applicants
  - Address: 3825 Paradise Drive
  - Assessor Parcel Numbers 039-021-13 and 039-301-01

Planning Manager Watrous summarized the key elements of the project, stating on August 3, 2011, the Town Council held a public hearing on the request for precise development plan, rezoning, and EIR for a 14-unit residential project (Alta Robles Precise Development Plan). At that meeting, the Council heard public testimony, closed the public hearing and adopted a Resolution certifying the Final Environmental Impact Report for the project.

Before deliberating merits on the project, the Town Council asked for additional information and continued the hearing which eventually was rescheduled from September 7 to tonight.

The Council requested the following additional information on the project:

- A larger version of the site constraints map. He noted there have been questions raised with regard to the clarity of the map and currency of information received on the vegetation on the site;

- Revised language that would better ensure that future homes constructed on the site would closely resemble the conceptual house designs prepared by the applicant. The applicant’s attorney has prepared draft language that would better tie conceptual house designs of the project included in the staff report. This is similar to what was recommended by the Planning Commission in its resolution and does include several text changes. Councilmember Collins has also expressed some additional potential text changes, as well;
- Analysis of the secondary impacts of the project resulting from landslide repairs, retaining walls and drainage improvements. Much of this was discussed in the Draft and Final EIR. The Planning Commission discussed the potential for a retaining wall along Paradise Drive that would result from site distance analysis of the intersection of the access road in Paradise Drive and prescribed an additional traffic study be prepared to determine whether future retaining walls would be needed at that location for adequate site visibility;
- Revised project maps clearly showing the setbacks of the proposed home locations and Residential Use Areas (RUAs) from the ridgelines on the site. The environmental constraints map shows these areas on the site but not their precise setbacks. During the Planning Commission’s review, they were more concerned with Lots 8, 9 and 10 where ridgelines run directly through the lots, but the ridgelines run as well as through the proposed house locations for lots 3 and 12 and residential use areas for Lots 11 and 14. The General Plan does not require or recommend any setbacks from significant ridgelines other than the Tiburon Ridge but has a policy that includes factors to be considered in reviewing development near ridgelines, and the Council may wish to establish a specific numerical setback for future house locations and/or RUA’s for these lots that are close to the ridgelines on the site;
- Clarification of the role of the trees on the Sorokko property in screening the house on the proposed Lot 13. This property includes a large grove of eucalyptus trees that provide a backdrop to Lot 13, and the future house would become more visually prominent against the bay when viewed from homes on Acacia Drive;
- A more thorough analysis of the environmental site constraints of the proposed Lot 8. As indicated by the constraints map, Lot 8 contains live plant species, coast live oak, and is bordered by a wetlands area. Ridgeline 6 also passes through the center of the proposed house and RUA. There appears to be some potential to move the RUA slightly to the west to place a future home within the wetlands setback on the west side of the ridgeline without interfering with the wetlands to the west and below the house site.

During its review on April 13, 2011 meeting, the Planning Commission utilized a “menu” of possible project revisions to try to create project revisions that would increase the project’s consistency with the General Plan. The Commission used this checklist to create a series of revisions that would do the following:

1. Lot 8 would be eliminated due to its location on Significant Ridgeline 6 and its proximity to serpentine bunchgrass and Marin Flax plant habitat.
2. Lot 9 would be eliminated due to its location on Significant Ridgeline 5.

3. Lot 10 would be eliminated due to its location on Significant Ridgeline 5.
4. Lot 13 would be eliminated due to its visual massiveness when viewed from Paradise Drive, the Seafirth Estates area, and Acacia Drive, consistent with the direction of General Plan Policies LU-13 and OSC-12.
5. The residential use areas for Lots 5 & 6 would be reduced in size to minimize impacts on serpentine bunchgrass habitat, consistent with the direction of General Plan Policy OSC-26, which states that “to the maximum extent feasible, and as required by federal and state laws, development and construction shall not affect special status species or special communities.”
6. The maximum allowable floor area for Lots 5 and 6 would be reduced to 4,500 square feet, with an additional 600 square feet for garage space, to increase compatibility with the size of homes in the surrounding neighborhoods, consistent with the direction of General Plan Policy LU-13 and to reduce visual impacts identified in the EIR. The maximum building height for these homes shall be limited to 16 feet to lessen the visual massiveness of these homes when viewed from nearby public open space, consistent with Mitigation Measure 5.8-1. The Commission did not find it warranted to reduce the applicant-proposed floor area or height of homes on Lots 2, 3 or 7, and found the relocated Lot 4 location, size and height acceptable.
7. The maximum allowable floor area for Lot 12 would be reduced to 6,000 square feet, with an additional 600 square feet for garage space, to increase compatibility with the size of homes in the surrounding neighborhoods, consistent with the direction of General Plan Policy LU-13.
8. The private open space on the northern portions of Lots 1, 2, 4 & 7, across the roadway from the residential use areas, would be incorporated into the Lot “A” private common open space, to increase the protection of sensitive plant habitat, consistent with the direction of General Plan Policy OSC-26.

Mr. Watrous stated the Council may wish to use the project revisions recommended by the Planning Commission as a starting point for its discussions on the merits of the project. Staff has edited this into a checklist form which was attached as Exhibit 1 and may provide a useful tool with which to build a consensus on a final project design. Staff recommends that the Town Council:

1. Continue deliberations on the Alta Robles Precise Development Plan and rezoning, utilizing the Planning Commission’s recommendations as a starting point for reaching consensus on a final project design;
2. If substantial project design changes are required, direct the applicant to make the required changes to the project and continue the application to a date certain;
3. If appropriate, direct staff to return with a density-specific rezoning ordinance as well as resolutions conditionally approving a Precise Development Plan, adopting a Mitigation Monitoring Program, and making any necessary CEQA findings of fact and findings of overriding considerations consistent with the contemplated project approval.

Mayor Slavitz stated as indicated in the staff report, Ridges 5 and 6 run through Lots 12 to a lesser extent and to a greater extent, through Lot 3. He asked why these lots were not removed by the Planning Commission even though they are located on the ridge. Mr. Watrous explained that the Planning Commission felt that for Lot 12, the house location is just barely into the actual ridgeline. For Lot 3, they felt that perhaps since that lot was so far up the ridgeline to a point where it was surrounded by trees, it was hard to distinguish that as being visually prominent on that ridgeline.

Mayor Slavitz asked if the Planning Commission suggested a certain setback from these ridges. Mr. Watrous stated they did not. They opted to remove Lots 8, 9 and 10 completely so as to avoid conflict with the ridgelines rather than try to set a specific standard or setback from the ridgelines.

Councilmember Fredericks asked if the purpose of setting ridgeline setbacks during this procedure would be to provide an opportunity to move instead of eliminate lots or proposed houses that are on the ridge. Mr. Watrous stated that General Plan Policy OSC-12 is to set back development from ridgelines and gives a series of characteristics to try and determine not necessarily how close something could be but how important protection was for that particular part of a ridgeline. It is up to the Council to determine whether protection needs to happen as a result of those individual factors, or in some fashion, whether the designated line on the map is being protected. He noted that the lines were established after a fair amount of thorough analysis, much of it from the bay where these ridges are more pronounced.

Councilmember Fredericks questioned the consequences of redesigning in this manner, and cited the uncertainty of resultant impacts. She felt the maps are somewhat helpful, but there are things that cannot be seen on maps because colors blend into each other, and she was puzzled by the invitation to redesign the Planning Commission's conditions of approval and the site map. Mr. Watrous explained that there are some opportunities for possibly moving some of the lots around. Lots 9 and 10 have fewer environmental constraints in their immediate vicinity than others. Some may not have as much area, but this is why the increased level of detail in the larger constraints map was provided. He did not think it was the Council's job to redesign any changes, but if the Council thinks the Commission's approach of eliminating as a way to address the setback issue goes too far, it is possible to give direction to the applicant to determine opportunities that would accomplish some goals with higher importance, or in terms of moving a house slightly to achieve protection in some areas than others.

Councilmember Fredericks stated the larger map was helpful; however, because some of the areas have more than one biotic constraint, it is often hard to tell what one is looking at. If lots, houses, and RUAs get moved around, she asked to be able to see materials in order to determine consequences at a subsequent meeting. Mr. Watrous said if the Council is asking for additional redesigns of lots, he thinks it would be reasonable to request more detailed maps that would have clearer information as to where those specific site constraints are.

Mayor Slavitz referred to lots 9 and 10 and asked if the Planning Commission investigated revising them to remove them from the ridge. Mr. Watrous replied no. In using the checklist, at least 3 of the 5 Planning Commissioners felt it was more of an inappropriate location as designed. Rather than move things around, they felt that because the ridgeline went right through them, they would stick

with complete protection to be consistent with the General Plan.

Councilmember O'Donnell asked whether the Planning Commission also went through the checklist or a modified checklist. Mr. Watrous said Exhibit 2 to the staff report is the checklist the Planning Commission used, and this was prepared when staff had not yet received Alternative 5. The Commission reviewed it further, made specific changes which are identified on Exhibit 1, and he said this might be useful for the Council in deliberating and achieving consensus.

Vice Mayor Fraser said the Council received a note from Judith Thompson regarding the trail easement incorporated in part of the plan and access to it from Hacienda Drive. As he read the letter and looked at the diagram, it was not clear how this was going to play out and he asked if staff could discuss the access point, whether private property is involved here and whether this will be an issue as laid out in the plan submitted by the applicant, if the Council went forward as designed.

Town Attorney Danforth responded, stating the Town obtained a pedestrian easement from 117 Hacienda Drive up to 139 Hacienda Drive in settling the litigation with the Wayne family. At that time, Council and staff understood that Hacienda Drive veered out of the area covered by the Wayne easement onto property owned by Ms. Thompson and her partner. A small portion of the paved area also traverses the property of another neighbor. Many years ago, the paved road was reconstructed outside of the original easement. Ms. Danforth said she discussed this with Ms. Thompson and spoke with her again today to assure her that the Town knows it still must resolve the connection between the actual of-record easement that goes up Hacienda Drive with the trail head presumed to be at 139 Hacienda Drive. There are a variety of ways this could be done. They want to arrive at a solution to everyone's mutual satisfaction. Possibly, the trail head might be shifted which might satisfy the situation, or construct a walkway around the private area. No one is planning to put a public trail on Ms. Thompson's property without her permission.

Councilmember Collins asked how changes made in the proposed plan affected any physical impacts identified in the approved EIR.

Ms. Danforth said the answer depended on the extent to which the certified document described the impacts that would be reasonably expected to flow from the project as amended. She noted that the EIR evaluated all 14 lots, the document is quite comprehensive and examines a wide range of alternatives. Once changes are identified, the Town would have to evaluate any impacts to determine whether further environmental study is required.

Mayor Slavitz noted that the Council closed public comment at the last meeting and the purpose of this meeting is for the Council to evaluate the merits of the project and come to a determination. He asked for Council comments.

Councilmember Fredericks said that as has been pointed out, this is a site with 18 landslides, 2 ridgelines and significant prime open space resources including protected species. She said the Council's job is to find a balance between the preservation of prime open space as defined in the General Plan and reasonable residential use. Prime open space is a resource for which the whole is really bigger than the sum of the parts. In chopping away at it, a list is not being diminished, but

rather habitat and other things the Town is directed to consider when looking at development. It is ridgelines, streams, riparian corridors, flood prone areas, steep slopes, views, trees. She said this site is so constrained that if these characteristics of prime open space were a mandate to be protected, it would be very difficult to develop this site at all. However, it is not a mandate, but a balancing act. One of the significant characteristics of prime open space is the ridgelines. OSC-12 gives a list of characteristics of ridgelines when considering land owners' desires for residential purposes, but why these ridgelines are really important is because over decades, the community has defined what Tiburon is. What is important is the visual identity of Tiburon, and this is why the desire to preserve this identity is memorialized in the General Plan.

Councilmember Fredericks stated neighborhood compatibility is another issue discussed extensively. The project would set a new standard in home sizes not compatible with surrounding neighborhoods, and some were approved on parcels with different characteristics, under different conditions, and some by different jurisdictions. However, the 26 acre Tiburon Glen project applied for 8 lots and got 3 lots. This is an example of how other things balance the homeowner's desire to use land to the maximum density. It is not something always achieved, especially in parcels that are enormously constrained.

She said there are tradeoffs for everything, especially when dealing with a constrained piece of land. When one tries to control the visual impacts, one ends up grading and digging to bury the floor area. When one wants to keep people and the home site safe by extensive landslide repair, habitat is disrupted. If there are fewer houses, fewer cisterns are needed which means less grading and less landslide repair, and less area used by the landowner.

She stated that a good example which has not been discussed is when a house on a site is reduced and the proposed house is two-story to one-story, you possibly produce a bigger footprint. She hopes this can be mitigated in some way by orienting the house so that the smallest façade is towards the middle ridge open space, which can be discussed in conditions of approval. The Planning Commission made changes to the plans to achieve greater consistency with the Town's General Plan and she personally thinks the Commission struck a reasonable balance. There are significant unavoidable impacts no matter what is done with this piece of land and the Town has been encouraged to think that the house design as a benefit overrides that. She felt it may, but there is some uncertainty as to where it will end up, which could affect open space characteristics. She thinks the Commission allowed reasonable residential use of the land if developed as conditioned. She asked that after this discussion, if there are substantial changes, the Council be provided with the additional information they might need to make an informed decision. She noted that the floor area was to be calculated as described in zoning laws, but in fact, the applicant's representative indicated at a prior meeting that the floor area presented in the plans were calculated to include all square footage. She asked that this be reflected in a condition of approval. There was also a letter commenting about a concern with digging holes for houses below grade and then letting them sit until the lots were actually developed. She would like more information about these impacts prior to approval.

Vice Mayor Fraser echoed Councilmember Frederick's comments. He recognized the applicant, staff and the Planning Commission for the breadth and depth of information provided to the community

as extremely extensive and beneficial. He also thanked the applicant for providing access to the site. He said he has walked the site three different times and found it beneficial to learn each time more about the siting of the various homes and what may or may not be possible. He thinks the Commission addressed the key issues which deal with ridges, landslides, visual impacts, size and mass of the various homes proposed, protected species, natural resources, and preservation of open space. Even though the Planning Commission did what he thinks is a good job, when he looks at what is proposed today, he suggested there may be an alternative way to look at the plans. What concerns him the most was the fact there are several properties which cross the spine of a ridge. He would be troubled if a home were ever to be built on the spine of a ridge.

Vice Mayor Fraser offered a suggestion to consider a setback from the ridgelines. In developing the General Plan, the Town clearly set out guidelines that directed to stay away from developing across ridges. He suggested that the house sizes might need to be smaller if moved away from the ridges. The plan today has extremely large houses and one could argue they are not compatible with the neighborhood, as well as an argument for what has been done to the west on Acacia Drive or to the south on Gilmartin Drive where there are homes of significant size. More important to him is utilization of the space that is available, and he could not support building on the spine of a ridge. However, houses could be built if moved away from the spine, but should not encroach into areas with protected species. He said that protected species are things that will never return if their natural habitat erodes, and while it may change the overall plan as presented by the applicant, it may be for the better. He stated there is a balance between what the General Plan and the community has asked the Council to carry forward.

Councilmember Collins commended staff and the applicant for their work on the project and presentation. He believes this is a tough site to build on for reasons of constraints as stated and said he thinks the Planning Commission got it right—they required that this plan comply with the General Plan and zoning ordinance. He thinks there is a way for the developer to return with something that will take the homes off the ridge; otherwise, he could not support such a project. He would recommend that the architect and owner look at the things the Commission did and see what can be done to address those issues. Maybe all of the lots could be saved, possibly by proposing smaller homes. He also stated the home sizes are a problem for him, and while there are one or two homes in the area larger, they were built after the General Plan was adopted. He noted the proposed homes would be gigantic in comparison to those on Seafirth, Hacienda, Norman Estates and Acacia, which he described. He believes that a 4,000 to 5,000 square foot home is a large enough house and suggested hearing further Council comments.

Councilmember O'Donnell echoed Council comments, stated the presentation of the project was fantastic, and he respects the effort and work that went into the project. He also thinks the Commission did some good things in their work and knows their job is a difficult one. However, he also disagrees with some things. He said he generally agrees with the Commission and staff's recommendations in January to reduce the home sizes and mix them up; and not have every home over 7,000 square feet. He thinks the project presents an extremely environmentally-friendly project design. He thinks the applicant has put together an environmentally-friendly proposal of sod/live roofs, substantial earthwork for square footage, minimal impacts, allowing 75% of the overall land to remain as private and public open space, dedicating a public trail to the Town, and also the

agreement to tie the home designs to the application.

Councilmember O'Donnell voiced interest in the economic considerations that must go into projects, which he feels must be considered. He disagrees with what Mr. Hurd mentioned before about larger homes and more property taxes, but said a project of his size will bring an enormous amount of revenue to the town in building and impact fees. He also empathizes with the applicant when making a substantial investment in the infrastructure to ensure they can pencil out the project. When lots begin to be eliminated, it becomes a difficult situation, and he empathizes with those economic points. He thinks there is a big benefit to the Town to have common interests with the property owner who resides on the land regarding protecting the site.

He would not say which homes should be reduced or moved, which requires a level of expertise and review, but would support a recommendation of making certain numbers for the square footage maintained at a certain level, e.g., a few homes in the 4,000-4,500 square foot range, a few at 7,000 and a few at 6,000 square feet as a way of reducing impacts. He felt in general that this is a fair and balanced application and believes it is a project that will work well for the Town and for those who love and respect open space.

Mayor Slavitz echoed comments about the applicant, staff, and especially the work of the architect. He said the problem for him is that the Town has spent a lot of time and energy developing the General Plan. He said that beautiful design is not a reason for exceptions from the General Plan. It is a document that reflects the sentiments of the Town, and one of the key features is not building on the ridges. The Commission did the right thing by removing these houses on the ridge. It sounds like the Council wants to go further, as some houses still remain on the ridge. He thinks it is an interesting suggestion to give the applicant an opportunity to see if they can be redesigned to not be on the ridge at all. The Council should follow the General Plan, will continue to ask applicants to follow it, and not following it because the homes are beautiful is not fair. He said that the Town cannot let one developer build on ridgelines but not another.

Mayor Slavitz noted that the site at 52 acres is incredibly constrained. Every space on the map that is not constrained is proposed to be built on. He acknowledged the economic viability of the designed project which has created conflicts with the General Plan. The Planning Commission did a great job in striking a balance and not being overly punitive, as there were lots they could have removed and house sizes reduced for consistency with the General Plan. He was open to letting the applicant return and design homes that stay off the ridgeline and to be reflected in the final design drawings.

Councilmember Fredericks asked to address the issue of asking for a redesign, stating one of the pitfalls of this is that houses are moved around and the Council will deal with another set of impacts. The applicant has spent more money, time, and the Council will have to decide how important the stands of Western Flax, the Serpentine Grass or Tiburon Buckwheat are. The way she saw the balance was accepting some ridgeline impacts in order to avoid some other important impacts. Perhaps there is a redesign, but if the Council asks for this, it should keep in mind that it can be costly and the applicant is being put in a position where he is unsure of what is going to be acceptable.

Mayor Slavitz clarified, stating that his intention was not to say to move the houses off of the ridgeline and into protected species. These houses have to stay in the white areas on the constraints map that do not indicate any environmental constraints. The houses could be made smaller and moved off the ridgeline, but not moved into the protected areas.

Councilmember Fredericks stated one of the things suggested was that Lot 8 could be moved off the ridge. Perhaps it can, but it is between two habitats of Western Flax, and there are wetlands. If they start dredging that up, she was not sure how that would affect the Flax. It is a very complicated site to deal with and she is loathed to have the applicant start over. She would want the Council to consider what the burden on the applicant might be.

Mayor Slavitz agreed with Councilmember Fredericks regarding Lot 8. Lots 9 and 10 have a lot of white space and the advantage of taking it away and also building smaller houses, is that it completely removes the impact from the ridge. He said to him, it is going further than the Planning Commission and requiring them to build off the ridge.

Councilmember Collins asked if the applicant could indicate as to whether they were amenable to a redesign. He was also loathe to sending the applicant away and not address the various possibilities.

Mayor Slavitz asked staff if it was reasonable for the Council to provide its thoughts about the different lots and possibilities and ask that the applicant consider these and return. Town Manager Curran suggested getting an initial read from the applicant as to whether there is interest or whether this is possible. She agreed that attempting to redesign things on the spot is not possible, but the applicant might be able to determine what possibilities exist and which do not with what the Council is proposing.

Vice Mayor Fraser questioned what is it that the Council would like the applicant to achieve. There has been some different dialogue and he believes that building on the spine of the ridge is problematic. Quite possibly there is another area that has not been considered for building or another parcel that might be available for building, but he did not believe it was the Council's job to redesign, but rather to follow the guidelines of the General Plan and the applicant return with a plan that works.

Councilmember Fredericks said some of this discussion is predicated on the assumption that the white areas are areas that have no constraints. Mr. Watrous said they are not constrained in any significant environmental manner, in that they do not have landslides, sensitive plant species, or other substantial vegetation around them. Councilmember Fredericks said, therefore, it is a reasonable assumption that if a house can be moved off the ridge within the white space, it will most likely avoid constraints.

Mr. Watrous noted that for Lot 8 he was not sure how the wetlands setback was arrived at and whether intruding into that setback would necessarily affect a wetland. If there is an area of oak woodlands, that is not necessarily a sensitive plant species but depending on the amount of encroachment into it, an encroachment could be considered more sensitive. He suggested that if the Council is looking for direction to the applicant as to which houses are being considered for

redesign, some of the other lots have, to some extent, RUAs or houses on the ridgeline, but the Commission only chose to eliminate Lots 8, 9, 10 and 13 at this point. However, direction could be to look at redesigning those 4 lots and/or possibly go further to take all home sites off the stretches of the entire ridgeline. He thinks there needs to be some consensus to identify which lots to redesign.

Mayor Slavitz requested the applicant speak as to comments surrounding redesign.

Attorney Riley Hurd stated they would very much like to hear the ideas in regards to the particular lots. After hearing this, they would be better able to decide whether this is something they can or cannot undertake.

Councilmembers discussed their individual preferences relating to revisions, as follows:

Councilmember O'Donnell: Maintain all 13 lots and constrain a few. Homes on Lots 13 and 14 should be reduced to 4,500 square feet. He did not see visual impacts with the removal of eucalyptus trees. He supported two smaller homes with clustering. He said that Lots 11 & 12 were fine. He asked to reduce floor area to 6,000 square feet for Lots 9 and 10 and possibly be 100 feet away from the ridgeline. The home for Lot 4 should be reduced to 4,000 square feet. He asked to reduce the size of the home on Lot 8 to 4,500 square feet and work on siting it to have the least impact and ensure it maintains balance with the overall design. The applicant's requested house sizes for Lots 5 and 6 was OK.

Councilmember Collins: Install story poles for the redesigned lots. The home on Lot 14 should be 4,500 square feet. Consider relocated Lot 13 by tucking it below Lot 12 and bending it further north where the entry road comes in. The home on Lot 13 should be 4,500 square feet. Put Lots 9 and 10 on each side of the road and realign the road, maintain the homes at 6,000 square feet with a 100 foot setback from the ridge. Reduce the homes on Lots 11 and 12 to 6,000 square feet. The homes on Lots 5 and 6 feel like a continuous home and should be made more narrow, spread apart and moved toward the Tiburon ridge. He could not support Lot 8 being located on the ridge, but if moved, the home should be 4,000 to 4,500 square feet. Reduce floor area for homes on Lots 2, 3 and 7 to 4,500 square feet. He added that the FAR maximum should include subsurface areas and basement, and asked that grading not occur until house plans are approved and landslide repairs occur.

Mayor Slavitz: He preferred not to indicate specificity for floor areas. The homes for Lots 9, 10 and 12 should be reconfigured and made smaller. He supported the suggestion for reduced floor areas for the homes on Lots 9 and 10 and locating them on either side of the ridge. Lots 8 and 3 sit on Ridge 6, and he questioned how Lot 8 could be built. He supported spreading out and reducing the floor areas of Lots 5 and 6 which would make them not look like one house, as well as moving them off the ridge.

Vice Mayor Fraser: Echoed the Mayor's comments and was opposed to building on the ridge. It would be helpful to provide the applicant with direction about any setback from the ridgeline saying that he was unsure whether a 50 foot or 100 foot setback was appropriate. Encourage the applicant to

consider smaller house sizes. He concurred with comments regarding Lots 3 and 8, but he was not opposed to removal of Lot 8 if the applicant could find a way to build a home and keep it off the ridge. Regarding Lot 13, if it is feasible to reduce the house in mass or move it to the other side of the roadway, this might allow the applicant to achieve a good size house and mitigate visibility aspects from the neighborhood.

Councilmember Fredericks: Voiced opposition to building on the ridge, supported reduction of square footages, and pointed out that the lots include RUAs which could also include both swimming pools and secondary dwellings and accessory buildings up to 15 feet in height. Therefore, both the house sites and RUAs may be made smaller. She agrees with much of what has been said about the possibility of moving Lot 13 but cited its looming visibility and agreed with the Commission's recommendation to remove it. She reminded the Council that Lots 9 and 10 were removed because of the habitat for Western Flax. Lots 5 and 6 are very visible from Middle Ridge and they are a continuous line of development; reducing their size and moving them further apart is an excellent idea. She was open to anything that reduces the built environment on the ridge.

### **BREAK**

Mr. Hurd requested a 10-minute recess, and Mayor Slavitz called for a break at 8:48 p.m. The Council then reconvened the special meeting at 9:06 p.m.

Mr. Hurd commented that the difficulty with this is that they understand the General Plan as the Town's Constitution and this project was designed to balance its requirements, which area often competing elements. The General Plan calls for certain things and others that are not always perfectly compatible which is why they must be balanced. He said an interesting case came out in July where a municipality was instructed that instead of choosing one like ridges, that balance is required. He said that they used the characteristics of OSC-12 to judge whether a ridge should have setbacks at all, whether it can be built on or not built on, and it says each of these characteristics should not be judged equally. Tonight, instead of seeing this OSC-12 analysis, they are hearing from the Council they want nothing on the ridges, which is new. Staff went through the entire analysis and concluded that the ridges do not warrant the high protection of some of the other ridges in town which it sounds as if these are being equated to. He said this has been difficult, compounded by the Town's borrowed view policy, and then looking down at the private property, that policy is not being applied. He said that a 100 foot setback from the ridgelines would be a deal breaker, impossible, and would render the site undevelopable. What they can do is try to explore a scenario in which they move the lots discussed tonight off of the ridge. They cannot guarantee right now what the setbacks are going to be, but if the Council told them that getting them off the ridge by whatever amount would work, they are willing to look at it. They would also like to hear what it is these characteristics apply to ridges to make them untouchable.

Mayor Slavitz confirmed with Mr. Watrous that the Council's deliberation centered directly or indirectly on characteristics in OSC-12. The list talks about local and regional visual prominence, the ability to connect to existing or potential open space, potential act as a neighborhood separator, views of and from length, height, presence of trees, presence of unusual physical characteristics, highly visible open slopes, significant vegetation, sensitive habitat, special silhouette or backdrop features, difficulty of developing or accessing an integrity of ridgeline form. He said the discussion

had to do with why these ridgelines are important to the Town, and he believes the Councilmembers made this clear.

Ms. Curran urged the Council to discuss this further to provide greater clarity to the applicant.

Mr. Watrous reviewed the general (and not majority) consensus of the Council, as follows:

- Make the homes on Lots 9 and 10 smaller and move them off the ridge;
- Make the home on Lot 13 smaller and off the ridge;
- Make the homes on Lots 5 and 6 smaller and spread them out a bit;
- Move the home on Lot 8 off the ridge and make smaller, if possible.

Councilmember Fredericks pointed out that she was opposed to the consensus for Lot 13 and believes it to be extremely prominent.

Mayor Slavitz referred to Lot 11 and confirmed with Mr. Hurd that the closest point it comes to Ridgeline 5 is 10 feet. He asked if the Council was comfortable in setting a particular distance and if so, what would it be.

Councilmember Collins suggested the applicant move them as far as possible away from the spine of the ridge and return with a conceptual drawing. By reducing the size of the homes, it should reduce the size of the RUAs and increase setbacks from the ridges.

Councilmember Fredericks stated one of the reasons she was comfortable with the Planning Commission's finding is because when looking at this balancing, there are some places on this ridge that one cannot see because of the trees, and there are some places very prominent in looking back. Instead of micromanaging the footage of setbacks or what visibility is enough or too much, she felt they balanced among the different sites to allow some and remove some on the ridge, and this is the balancing act in protecting the ridge. Her point is that this kind of grosser balancing was an easier way of protecting the ridge than trying to figure out what setback for each lot would work.

Councilmember O'Donnell said he arrived at square footages using the staff report from January and specific recommendations on what size some of the lots should be, and thinks there has actually been a lot of care and analysis done.

Vice Mayor Fraser said that the General Plan states that these are ridges and he does not believe the Council should support building on the ridges. He also agreed with Councilmember Collins about establishing the best setback possible from the ridgelines, but the Council should give the applicant credit for their excellent design overall, knowledge of the site, and allow them some latitude in building houses that would fit the guidelines that the Council sets forth, which does not include houses on ridges per the General Plan. Protecting ridges is clearly one of the center points and driving forces of the community. He thinks that given the differences of opinion on Lot 13, he would not eliminate it, but the visual mass is larger than it needs to be because of how it is sited. Councilmember Collins' also suggested siting it on the other side of the road, or reducing its size.

Mayor Slavitz said he did not believe the Council was trying to protect these ridges like it does the

Tiburon Ridge, and they are not asking for a 150 feet horizontal setback. However, they are asking for some separation, and he would not want to provide an exact number because what is designed in the relationship to the particular ridge can be different. He would think that the applicant could sketch a redesign, show floor areas, where houses could be relocated, and providing the distance from the ridge. He would be happy to accept the Planning Commission recommendations and shrinking Lots 2 and 3, but he is giving the applicant an opportunity to work out a plan that works out better for them and goes as far as what the Planning Commission suggested. It may be that the Council takes the Commission's recommendation after the applicant returns.

Mr. Watrous reviewed, lot by lot, the majority consensus of the Council, as follows:

- All Lots: Do not build on the ridge;
- Lot 14: No change;
- Lot 13: Move off the ridge and make smaller;
- Lot 12: Move off the ridge;
- Lot 11: No change;
- Lot 10: Move off the ridge and make smaller;
- Lot 9: Move off the ridge and make smaller;
- Lot 8: Move off the ridge and make smaller;
- Lot 7: No change;
- Lot 6: Separate away from Lot 5;
- Lot 5: Separate away from Lot 6, possibly further uphill and further from sensitive habitat
- Lot 4: Reduce size to that recommended by Planning Commission;
- Lot 3: Move off the ridge and make smaller;
- Lot 2: No change.

Councilmember Fredericks said the Council should consider what would happen is if the only place to put an accessory building or secondary dwelling is closer to the ridge or on the ridge, or place it so that it looks like a continuous line of structure.

Mr. Watrous said generally, this is the yard area or an area that can be fenced off, vegetated, or a swimming pool installed, versus areas that are private or common open space that are not to be touched.

Mayor Slavitz asked if it would be safe to say the Council does not want RUAs on or near the ridge, and Mr. Watrous replied that it depends upon how the Council is looking at the structures; whether there may be a problem with someone having a 6-foot fence along a ridgeline or a 12- or 15-foot tall pool house, which he said is allowed.

Mayor Slavitz said if the Council is serious about protecting the ridge he would not support accessory structures or fences on or near the ridge. Councilmembers concurred that RUAs should not be on or near the ridge.

### **BREAK**

Mayor Slavitz called for a break at 9:34 p.m. for the applicant to briefly consider points made by the Council, and thereafter, reconvened at 9:41 p.m.

Dr. Ken Kao, architect, said they appreciate the deliberations and requested the Council to direct staff to write out the specific details, goals and position for compliance for each of the lots as per discussion and detail the terms of compliance for the consulting team to evaluate and to return to the Council, per Councilmember Collins' suggestion for a concept sketch. They can then understand strategically how to develop the concept that can meet the criteria of General Plan compliance.

Mayor Slavitz suggested continuing the hearing to a date certain. Ms. Curran offered September 21, 2011, and Mr. Kao confirmed.

Councilmember Collins suggested there be story poles placed once the concept sketch is presented, and Mr. Kao agreed, and asked to be able to meet with staff prior to September 21, 2011.

MOTION: Direct the applicant to make conceptual changes as described in deliberations and continue the Alta Robles Precise Development Plan and rezoning to September 21, 2011.

Moved: Fredericks, seconded Collins

Vote: AYES: Unanimous

### **TOWN COUNCIL REPORTS**

Councilmember O'Donnell reported on the success of the Art Festival held August 27 and 28, 2011. He noted there were only 7 Plein Air applicants and suggested that next year's competition include a People's Choice Award, which he felt would garner greater interest.

Ms. Curran announced plans and ideas for expansion of the Plein Air for next year and said this year's artists were limited to artists from the Peninsula. Mayor Slavitz also suggested further diversity in vendors for next year's festival.

Councilmember Fredericks announced that as part of the Picnic on the Green, there will be a railroad sing-along, and she invited Council participation.

### **TOWN MANAGER'S REPORT**

None.

**WEEKLY DIGESTS**

- Town Council Weekly Digest – August 26, 2011

No discussion.

**ADJOURNMENT**

There being no further business before the Town Council of the Town of Tiburon, Mayor Slavitz adjourned the meeting at 9:47 p.m.

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JEFF SLAVITZ, MAYOR

ATTEST:

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DIANE CRANE IACOPI, TOWN CLERK