

PLANNING COMMISSION
MINUTES NO. 1061
Regular Meeting
February 24, 2016
Town of Tiburon Council Chambers
1505 Tiburon Boulevard, Tiburon, California

CALL TO ORDER AND ROLL CALL:

Chair Kulik called the meeting to order at 7:30 p.m.

Present: Chair Kulik, Vice Chair Williams and Commissioners Corcoran and Weller

Absent: Commissioner Welner

Staff Present: Director of Community Development Anderson, Planning Manager Dan Watrous and Associate Planner Kyra O'Malley

ORAL COMMUNICATIONS:

There were none.

COMMISSION AND STAFF BRIEFING

Planning Manager Watrous reported that the appeal for the Sam's Café deck was heard by the Town Council. The Council denied the appeal, but amended the cut-off hours for serving food and alcohol on any portion of the deck until 10:30 p.m. from May through October. The Planning Commission had set a cut-off of 9:30 p.m. year-round.

Mr. Watrous also stated that no items were scheduled for the March 9, 2016 Planning Commission meeting and the meeting would likely be cancelled.

PUBLIC HEARINGS

1. 1550 TIBURON BOULEVARD: Conditional Use Permit to expand an existing commercial building (the Boardwalk Shopping Center) by a café and bakery (Rustic Bakery); File # CUP2016001; Belvedere Land Company, Owner; Rustic Bakery, Applicant; Assessor's Parcel No. 060-082-57

Associate Planner Kyra O'Malley gave the staff report, stating the applicant is proposing to expand an existing commercial building located at the Boardwalk Shopping Center by 200 square feet in order to provide additional space for their business. The majority of the tenant space to be occupied by Rustic Bakery is located in Belvedere, with only a small portion located in Tiburon, including the 200 square foot expansion.

Rustic Bakery would be a small, specialized café offering a variety of small meals, drinks, pastries and breads, along with beer and wine for consumption on the premises. The proposed hours of operation would be daily from 7:00 A.M. to 6:00 P.M and the applicant indicates there will be a maximum of four employees.

The primary purpose of the proposed addition is to provide improved interior circulation, as the existing space is too narrow to provide adequate space for customers to circulate freely through the cafe between the service counters and the exterior walls facing the courtyard. The addition would essentially bump out the existing glass walls into a 10 foot by 20 foot unenclosed area of the courtyard, to the point where the relocated walls would reach existing support posts in the open courtyard area.

Staff concluded that the use and addition would be consistent with the Tiburon General Plan and would be in compliance with the applicable sections of the Tiburon Zoning Ordinance for Neighborhood Commercial zoning. Staff recommended that the Planning Commission hold a public hearing on the item and adopt the attached resolution approving the conditional use permit .

Carol Levalley, co-owner of Rustic Bakery, said that they were delighted to be opening in Tiburon and have many customers from this area that travel to the other Rustic Bakery locations. She said that the decision to expand the café was a difficult one because they are anxious to get it opened; however, they have signed a 10-year lease for the space and have a 5-year option. She said that in looking at the space, the corridor for travel would be tight once they build their customer counter and some customers may have trouble getting through the narrow space. She believed that adding 200 square feet would improve the flow of customers significantly through the café, and the enjoyment of their customers was well worth the delays they may incur in getting the additional space approved.

Chair Kulik opened the public hearing. As there were no speakers, he closed the public hearing.

Vice Chair Williams said that the proposed addition was consistent with the General Plan and other Town ordinances. She thought this would be a wonderful use of this area, promote Tiburon's village-like commercial area, provide an enhanced gathering spot and serve residents and other business patrons. She said that it would be consistent with other uses in the center and she supported the request.

Commissioner Weller agreed that the project was consistent with the General Plan and would be a very beneficial addition to the community. He wholeheartedly supported the application.

Commissioner Corcoran also agreed that the project was consistent with the General Plan and zoning ordinance. He said that he was excited for the owners to be able to open and thought that this would be an amazing addition. He noted that the Cove Shopping Center was completely revitalized when Peet's Coffee opened, along with the new grocery store. He believed that this project would likewise serve as an anchor to draw more people to that side of Tiburon Boulevard.

Chair Kulik lightheartedly commended the applicants on their efforts to reduce emissions from cars in Tiburon by shortening their customers' drives. He felt that the strongest policy pertinent to this use was that "Retail storefronts and active outdoor spaces for community gatherings such as sidewalk cafes which are strongly encouraged." He said that the only practical use for the existing courtyard area would be for alfresco dining or seating for the bakery, so having a little bit of both would be great.

ACTION: It was M/S (Williams/Corcoran) to adopt the Resolution approving the conditional use permit. Motion carried: 4-0.

2. 3825 PARADISE DRIVE: Vesting Tentative Map for the subdivision of a 52.2-acre site (Alta Robles) into 14 single-family residential lots; File #TM2015001; SODA LLC, Owner and Applicant; Assessor's Parcel Nos. 039-301-01 and 039-021-13

Planning Manager Dan Watrous gave the staff report, stating on February 15, 2012, the Town Council approved the Alta Robles Precise Development Plan which created the allotments for 14 homes that could be developed on this property. The applicants are now applying for the vesting tentative subdivision map approval to establish the proposed lot lines for the subdivision.

The proposal requests the subdivision of an approximately 52.2-acre parcel located at 3825 Paradise Drive, extending from Hacienda Drive on the south, up to the Tiburon Ridgeline, then downward to Paradise Drive on the north. Fourteen (14) residential lots would be created. There is currently a single family dwelling that exists on one lot and of the other 13 lots, they would range in size from 1.03 to 1.67 acres.

Private open space easements and common open space cover approximately 77% of the site. The Vesting Tentative Map application proposes no substantive changes to the project as approved in the Alta Robles Precise Development Plan. All conditions and specifications of the approved precise development plan would continue to be in effect.

Staff reviewed the application and found it to be consistent with the Alta Robles Precise Plan, the Tiburon General Plan, the zoning ordinance and the Tiburon subdivision ordinance. Staff concluded that all required findings can be made for conditional approval for this application. Staff recommended that the Commission take public testimony on this item and adopt the draft resolution recommending approval of the vesting tentative map to the Town Council.

Commissioner Weller noted that some of the comments from the public invited the Commission to revisit one aspect of the approval. He said that his impression was that the applicant was given the right by the Town Council to build the number of units that this map reflects, and that it was really not in the Commission's jurisdiction to change that. Mr. Watrous confirmed this and said that the precise development plan would need to be amended to make any substantive changes.

Chair Kulik added that some of the public comments included concerns about construction parking and staging, and he thought that Condition No. 31 of the draft resolution addressed that issue. Mr. Watrous stated that concerns about those specific issues were covered in the mitigation measures and conditions of approval.

Daniel Rabin, applicant, thanked the Commission and said that they were excited to move forward with this project. He said that this project went through extensive planning and review when the precise development plan was reviewed in 2012 and the culmination of that process was before the Commission today. He said that his family remains committed to the unique vision of this plan and hope it will set an example for thoughtful and environmentally conscious development for generations to come.

Chair Kulik opened the public hearing and there were no speakers. He closed the public hearing.

Commissioner Weller said that he views the Commission's role as very narrow on this application and not one that involves making a decision about the precise development plan that was already debated and approved. He said that the conditions of approval seemed to accurately reflect the concerns from the public comments. To address the neighbors' concerns about construction parking, he recommended a modification to Condition No. 31 to state, "The construction management plan shall specify that no parking or staging of construction vehicles shall be permitted along or adjacent to Paradise Drive." He supported the resolution with that modification.

Commissioner Corcoran acknowledged the concerns of nearby neighbors, but stated that the Planning Commission did not have much discretion on this particular application. He thought that some of the construction concerns would be addressed when the construction management plan is submitted in the future. He supported approval of the resolution.

Vice Chair Williams agreed with her fellow Commissioners and said that this was a fairly routine process and the Commission's review was quite limited for this application. She appreciated addressing the concerns raised in the letters and said that this is an important role of the Commission. She said that the precise development plan is in full force and effect as are the conditions therein and, as she was informed, the applicant has satisfied all conditions regarding additional studies and mitigation requirements to the satisfaction of the Planning Division. She agreed with Commissioner Weller's proposed modification to the construction management plan condition. She felt comfortable making all of the findings the Commission is required to make under the subdivision ordinance.

Chair Kulik concurred and thought the resolution addressed the concerns in the letters.

ACTION: It was M/S (Weller/Williams) that the Planning Commission make findings and adopt the draft resolution, as modified, recommending approval of the Alta Robles Vesting Tentative Map application to the Town Council, with Condition No. 31 amended to state, "The construction management plan shall specify that no parking or staging of construction vehicles shall be permitted along or adjacent to Paradise Drive." Motion carried: 4-0.

3. **ZONING TEXT AMENDMENTS:** Consider Recommendation to the Town Council Regarding Various Amendments to Chapter 16 (Zoning) of the Tiburon Municipal Code, Including but not Limited to Regulations Regarding Firearms, Marijuana Sales and

Cultivation, Yards and Setbacks, and Use-for Use Changes; File MCA 2016-01; Town-initiated Amendments

Community Development Director Scott Anderson gave the staff report, stating that there were two sets of zoning text amendments. The first group dealt with regulations tied to firearms which are regulated by a separate chapter of the Municipal Code, but overlap somewhat in the zoning ordinance. Mr. Anderson stated that the amendment process began when the Council initiated amendments to the Town's firearms regulations, and among those more extensive amendments there are overlaps with zoning that require Commission review prior to adoption. The Council is tentatively scheduled to hear the firearms amendments in March, and these zoning amendments would dovetail with those and go to the Council at the same time. Anderson summarized the proposed firearms zoning amendments as follows: 1) a definition would be added for "firearm sales"; 2) that term would be added to the list of conditionally permitted uses in commercial zones; and 3) firearms sales would be prohibited as an allowable type of home occupation.

The second set of amendments deal with a miscellany of topics. He said that changes involving yards and setbacks would eliminate some confusion in the ordinance regarding any distinction between these two terms, essentially by removing all referenced to "yard" and replacing it with the more specific term "setback." There are also provisions regarding marijuana sale and cultivation, both of which the Town Council has already prohibited by resolution, but it has always been the Town's belief that it is better to prohibit undesirable such uses in an ordinance. He said that there was also a clarification proposed regarding use-for-use changes, aiding staff in determining when a conditional use permit would or would not be required.

Mr. Anderson recommended that the Commission hold a public hearing, take any public testimony, deliberate on the proposed amendments, and then adopt the two resolutions recommending approval to the Town Council.

Commissioner Weller asked if there were any consequences to the elimination of the term "yards." He said that a yard is an area that is designed to be incorporated into the use of a structure, whereas a setback is a definition of where improvements can start with respect to the lot lines or the public areas. He described the accompanying diagrams and asked if this would change where improvements could be placed on a property. Mr. Anderson said that there would be no change in practice or interpretation, and stated his belief that staff has always interpreted "yard" and "setback" to mean exactly the same thing.

Commissioner Corcoran referred to the marijuana restriction and asked if it would limit home deliveries of medical marijuana delivered to their house. Mr. Anderson said that the amendment would not prohibit such delivery, noting that when the Council adopted its resolution prohibiting marijuana sale and cultivation, it specifically decided not to address the delivery because they did not want the status quo to change on that particular issue. Delivery is legal in Tiburon as long as payment is not made at the point of sale, and he thought that cash on delivery was probably not a typical method of payment for marijuana sales to Tiburon residents. Chair Kulik opened the public hearing and there were no speakers. He closed the public hearing.

Commissioner Corcoran said that he had no objections to the proposed modifications and voiced his support.

Vice Chair Williams agreed and said that the redlined version provided by staff was quite helpful. She said that the changes seemed non-controversial and she thought that it was reasonable to limit any potential firearms sales uses to commercial areas.

Commissioner Weller and Chair Kulik concurred with their fellow Commissioners.

ACTION: It was M/S (Weller/Williams) to adopt the resolution recommending to the Town Council approval of the zoning text amendments relating to firearms and ammunition. Motion carried: 4-0.

ACTION: It was M/S (Williams/Weller) to adopt the resolution recommending to the Town Council approval of the remaining zoning text amendments. Motion carried: 4-0.

NEW BUSINESS

4. **GENERAL PLAN ANNUAL STATUS REPORT:** Consider Recommendation to Town Council to Accept the Annual General Plan Implementation Status Report for Calendar Year 2015

Director of Community Development Scott Anderson gave the staff report, stating this is the 11th annual implementation status report that the Town has prepared since their current General Plan was adopted in 2005. Staff asked the Commission review the report and make any comments or changes, and then recommend it be forwarded to the Council for acceptance. He noted that the Housing Element was new for 2015 and the housing portion of the status report was based on the newly adopted element.

Chair Kulik asked if the Alta Robles project included any low-income or moderate-income units. Mr. Anderson said that the applicant will be required to comply with the Town's inclusionary housing ordinance and would pay a sizeable in-lieu fee to help fund construction of actual affordable housing in a more appropriate location than the Alta Robles project site.

Commissioner Corcoran asked for an update regarding the former Shark's Deli site referred to under Policy DT-e. Mr. Anderson said the owners have architects working on preliminary designs for that site and are looking at a mixed use project with housing and commercial uses.

Commissioner Corcoran referred to the gallows wheels relocation project referred to under Policy DT-h and asked whether the potential traffic roundabout at the intersection of Tiburon Boulevard and Mar West Street was still being considered. Mr. Anderson said that the roundabout is on the Circulation Element list of improvements and there have been some preliminary drawings created for different variations of a roundabout. He thought that this was likely to move forward, possibly in conjunction with the construction of the library expansion.

Vice Chair Williams said that one program referred to coordinating with Marin County and she asked about the process of the Town reviewing applications submitted to the County. Mr. Anderson stated that Town staff reviews quite a few referrals the County sends to the Town each year, but the smaller projects get less attention than the larger ones.

Chair Kulik opened the public comment period, and there were no speakers.

Vice Chair Williams said that it is helpful for the Commission to see how much the Town accomplishes throughout the year through this report and she commended Director Anderson and staff. She supported forwarding the report to the Town Council.

Councilmember Weller voiced his support as well and said that the report was consistent with prior reporting and provided a fair picture of what has and has not been done.

Commissioner Corcoran echoed the other Commissioners' comments and said that 2015 was a busy year with many projects completed throughout the year.

ACTION: It was M/S (Weller/Williams) to forward the Annual Report to the Town Council for acceptance. Motion carried: 4-0.

MINUTES

5. Planning Commission Minutes – Special Meeting of January 13, 2016

Vice Chair Williams explained that she recused herself from the Los Lomas Lane agenda item because she had done work on the underlying quiet title action, but she was fine with being marked absent. Director Anderson indicated that he had advised Vice Chair Williams that there was no point in attending the meeting since she would need to recuse herself from the only agenda item of substance.

ACTION: It was M/S (Weller/Corcoran) to approve the meeting minutes of January 13, 2016 as submitted. Motion carried: 4-0.

ADJOURNMENT

The Planning Commission adjourned the meeting at 8:10 p.m.

DAVID KULIK, CHAIR
Tiburon Planning Commission

ATTEST:

SCOTT ANDERSON, SECRETARY