

PLANNING COMMISSION
MINUTES NO. 1068
Regular Meeting
October 26, 2016
Town of Tiburon Council Chambers
1505 Tiburon Boulevard, Tiburon, California

CALL TO ORDER AND ROLL CALL:

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

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

Absent: None

Staff Present: Planning Manager Dan Watrous and Associate Planner O'Malley

ORAL COMMUNICATIONS:

There were none.

COMMISSION AND STAFF BRIEFING

Planning Manager reported that there were several items scheduled for the November 9, 2016 Commission meeting.

PUBLIC HEARINGS

1. 10 Main Street: Consider approval of a Conditional Use Permit to allow bicycle rentals in a commercial building; File #CUP2016004; K2 Properties, LLC, Owner; Pedego Tiburon, Applicant; Assessor's Parcel No. 059-102-17 [DW]

Planning Manager Watrous gave the staff report, stating the applicant currently operates a business that sells electric bicycles (Pedego Tiburon) within an existing commercial building at 10 Main Street and wishes to allow bicycle rentals as part of this business. The applicant intends to rent out 5 to 15 bicycles per day with all transactions and bicycles for sale conducted indoors, although the applicant intends to display several rental bicycles outside the store.

The property line for this business extends beyond the building line toward Fountain Plaza approximately 8 feet and although most of the use would incur inside the building, there is intent to display several bicycles outside the store on private property. Staff recommends certain limitations be established on the number of bicycles displayed outside the store and ensure no outside advertising is displayed. Staff also recommends that the outdoor display area be limited to that space directly adjacent to the corner entrance to the store to avoid bicycle display along the entire Tiburon Boulevard frontage of the building.

Staff noted that the Tiburon Municipal Code includes some limitations on riding motorized bicycles in certain locations and staff is currently in the process of modifying the Municipal Code for Old Rail Trail which was written prior to electric bikes being commonly recognized.

Staff reviewed the permit and found it to be consistent with the Tiburon General Plan and zoning ordinance and recommended that the Commission hold a hearing on the item, hear and consider all testimony and adopt the attached resolution conditionally approving the conditional use permit.

Commissioner Welner asked if the Old Rail Trail rules were being reviewed in order to allow electric bikes, and Mr. Watrous confirmed.

Chair Williams said that she believed that there are different classes of electric bikes per California law and as she understood it, these bikes do not go more than 20 mph. Mr. Watrous confirmed and said these would also be allowed to operate in more areas and that the proposed ordinance changes would be consistent with State law.

John Orndorff, applicant, described his personal experiences with Pedego bikes that led him to open up his own dealership in Carlsbad, which led Pedego to contact him to help open up this store. He stated that their bikes are all considered type-2 bikes per the State code and this law was changed in January so their bikes are limited to 500 watt motors and 20 mph. He understood that the Old Rail Trail has a 15 mph speed limit, so they can detune their bikes down to 15 mph.

Deanna DiCostanzo, applicant, spoke about the popularity of the Pedego bikes and she displayed a brief presentation of slides showing local users of the bikes. She gave an historical account of electric bikes and the Pedego brand. She said that she came back to work for the business because she saw the huge impact it was having on local communities and in benefitting people's lives. She said that Tiburon is the perfect location because of the great community engagement, the hills and bike trails here.

Mr. Orndorff stated that Tiburon currently does not have a local bike shop except for Demo Sports which is only open a couple of days a week. As a result, he said that they will have a full-service shop to serve electric and regular bikes and carry a full line of accessories. He stated that he noticed a definitive decrease in traffic in Carlsbad and he thought that the bicycles will be extremely popular here.

Ms. DiCostanzo said that they offer full service on all bicycles and look at this as a small boutique showroom where they allow anybody to come in and try out any of the bikes, because once people try the bicycle, they understand it. She said that 50% of the people who try their bikes end up purchasing a bike. She stated that rentals are a big piece of their revenue and they could not survive in this location without the rental business.

Mr. Orndorff agreed and said people try the bikes and then ask about purchasing, and this is integral to the part of their success. He said that they do not want to compete with larger bike

rental businesses as they do not have the space and their niche is more for people to try the bikes and purchase them.

Ms. DiCostanzo cited comments of support from people in the community. For the rental side of the business, Ms. DiCostanzo said that they would target residents who are looking for an activity in town, friends and families who visit, and those looking to try a bicycle to see the effects of electric bikes would have on their lives. She said that visitors to Tiburon arrive by ferry and are able to explore Angel Island, sites around town, spend their money in different locations in town, pack up picnics and enjoy outdoor parks. She said that they also want to work with visitors staying at hotels, eliminating additional cars coming onto the peninsula.

In summary, Ms. DiCostanzo said that they are passionate about making a positive impact to the lifestyles of Tiburon and Belvedere residents by alleviating parking issues, reducing traffic entering and exiting the peninsula, and by providing people who have special needs and health limitations an option for riding a bicycle. She said that they are passionate about supporting the downtown revitalization program, encouraging people to shop local and dedicated to bike safety.

Mr. Orndorff said that he did not intend to circumvent anything when he applied for the business and included exactly what they were doing. He noted that Town staff told them that the property line went all the way up to the building and they found out afterwards that they had 8 feet where they could display bikes outside. He said that they initially wanted to display 5-15 rental bikes outside but they would prefer to have more like 15-20 bikes.

Ms. DiCostanzo said that they would be thoughtful about bicycle rentals outside and have the display look very appealing and aesthetically pleasing. She said that they want to attract people to come in and go inside the store.

Commissioner Weller asked whether the applicants agree with the limitations on the maximum number of displayed bikes outside the store. Mr. Orndorff said that perhaps more than 5 or 6 bikes could fit in that location, but he hoped to expand the area somewhat to display a few more bikes without impeding pedestrians in the area. He said that he would like to be allowed to have up to 10 bikes outside and noted that the maximum number of bikes inside at any time would be 40. Ms. DiCostanzo said that instead of identifying a number of bicycles, they should be simply allowed to display bikes in the area on the Tiburon Boulevard side of the building. She said that they had no intention of blocking this area but there is 8 feet of space and plenty of area that does not intrude into the Fountain Plaza.

Vice Chair Corcoran stated Condition No. 2 states that "All outdoor display and commercial activities including bicycle test rides shall be limited to areas on private property and shall not extend into the plaza," which he felt seemed a bit unrealistic. Mr. Watrous said that staff's concern was not so much with the test rides but more with demonstrations and suggested changing the language in the condition of approval to reflect that.

Vice Chair Corcoran referred to limitations on signage. Mr. Orndorff said that they will follow all rules and guidelines of the Town's sign ordinance and have applied for a sign permit and would not put any additional signage outside unless permitted.

Chair Williams asked how many bikes would be available for rental, and Mr. Orndorff said between 15 and 20.

Commissioner Kulik asked about the typical rental period and specifics for customers. Mr. Orndorff said that some customers want to rent a bike for 3 days to see if they like it, but most rentals are for a minimum of 2 hours on weekends. He said that they have children's trailers they can use to tow and baby seats as well.

Ms. DiCostanzo said that they want to promote visitors to take the bicycles and go over to Angel Island, where they would leave on the ferry and be gone for at least 2 hours. She said that they plan to work with the local restaurants to pack picnic lunches and are looking to have visitors gone for an extended amount of time. Mr. Orndorff added that they would like to do team building events for corporations and will plan excursions for them as well.

Commissioner Kulik asked what kind of waiver or liability forms do riders assume and asked if there is a conduct pledge. Mr. Orndorff said that they have a comprehensive liability form and any damage done will have to be paid for. Ms. DiCostanzo noted that there is a conduct pledge in the liability form. Mr. Orndorff stated that based on other factors they do not allow people to rent and ride bikes if they do not know how to ride one and that safety is very important to them.

Chair Williams opened the public hearing.

Steve Sears, proprietor of Sam's Café and President of the Tiburon Chamber of Commerce, said that he rode one of the bikes which are fabulous and easy to ride. He was unaware of anyone who would be opposed to the bike rental proposal and encouraged the Commission to approve the application. He said that the business community is excited about having Pedego here and having the store vacant has been an eyesore to the downtown. He felt that it was unfortunate that the applicants had to submit a supplemental application after they opened not knowing that they needed a use permit and he hoped that the Town could look into the use permit application and business permit process to make it simpler in the future. He also recommended that the Commission not put limitations on the number of bikes that can be rented.

Lynn Olsen said she met Ms. DiCostanzo and immediately became interested in electric bikes and she and her friends tested them out. She said that she lives within walking distance to the downtown and uses many local businesses. She supported the request and said that the previous weekend it seemed like the Town was bustling with energy around the Pedego store.

Jordan Emerson said that he comes to Tiburon frequently and thought that this would be a great business for the community. He said that bikes open doors to people's health and getting back to their inner child. He said that Pedego is a very family-oriented activity and his son has been on the bikes and enjoys them.

Chair Williams closed the public hearing.

Commissioner Weller asked if there was a way for the Commission to not impose a numerical limitation on outdoor bicycle display but preserve the right to act if the displays caused any impediments to pedestrian traffic. Mr. Watrous suggested that the limitations could be eliminated and a review could be held in 6 months to determine whether there are any issues. Commissioner Weller said that he favored that approach rather than setting a numerical limitation on the use permit.

Commissioner Kulik he asked if there was a limit, how many bikes would be on display. Ms. DiCostanzo said over the last few weeks they had between 4 and 6 bicycles outside. Mr. Orndorff said that ideally, 20 bikes would be the highest amount, although not all would necessarily be on display all the time given rental periods. In response to a question from Vice Chair Corcoran, Mr. Orndorff suggested that the display area be extended to the side. Mr. Watrous suggested that the condition of approval state “bicycles to the area to the west of the corner entrance door” which would keep displays on the Tiburon Boulevard side. Commissioner Weller suggested it state, “Display of outside bikes will be limited to the west side of the store” and not include a numerical limitation, and add a 6 month review period to determine whether the number of bikes placed there has or has not created a problem.

Chair Williams stated that the overwhelmingly positive feedback was a testament to the applicant’s business and for that reason she favored Commissioner Weller’s approach to allow flexibility and revisit the permit in 6 months.

Vice Chair Corcoran echoed Chair Williams’ comments and described his personal cycling experiences. He said that Tiburon has a beautiful bike path and he wished more people could replace their cars with bikes. He said that he tested an electric bike at a shop in San Anselmo and it was amazing riding up the hills with two kids on the back. Therefore, he felt that this use is a wonderful addition to the community and he hoped that more people in the community will use these bikes. He said felt that 20 bikes out front would be too many and look way too congested. He personally supported 10 bikes at most but suggested waiting after another summer to re-evaluate the situation in a year and determine a limit. He thanked the applicant for bringing a bike repair and rental shop to Tiburon because it is a pain for him to drive outside of town to repair his bike.

Commissioner Welner welcomed the applicant to town and said that when he first saw the store with his family downtown, everyone was so excited. He said that the colorful festive energy that comes from the store was great to see. He said that he liked Commissioner Weller’s approach but was also concerned about 20 bikes being displayed and was more inclined to cap the number at 10.

Mr. Watrous clarified and said that the applicant had indicated that the number of available rentals was to be set at 20, but this was not the number of bikes necessarily on display. Mr. Orndorff said he did not think there would be more than 10 or 12 bikes outside at any one time as it will fluctuate, but confirmed that they were requesting up to 20 bikes to be on display.

Commissioner Welner said he could be persuaded to provide a period of time to see how things go, but he felt that this spot is central to the downtown and in front of the sculpture and 20 bikes

seemed a bit excessive. He said that he was on the fence about either a cap of 10 bikes or a “wait and see” approach. Vice Chair Corcoran stated that the number of bikes outside may vary by time of day, but he thought that 20 bikes would look a bit too congested.

Commissioner Weller said that neither he nor any of the Planning Commissioners was in the bicycle business and therefore had no idea of what the consequences of a given number of bicycles would be, so he was not prepared to set a specific number. He believes that the Commission can determine if there are any impacts after the business decides what was appropriate for its use. He felt that there should be no set number initially but the Commission should look at how the business operated and take action if anything interferes, either visually or otherwise, with the use of the Plaza. He said that this use is a welcome addition and a benefit to the community and he did not want to limit the business’s ability to succeed. He opposed a numerical limit and liked Vice Chair Corcoran’s suggestion for a 12 month review.

Vice Chair Corcoran referred to the sentence in the draft resolution stating that “rental transactions shall be conducted wholly within the building interior.” He noted that the transaction could be made outside the store by someone with a phone. Ms. DiCostanzo stated that they currently have in-store kiosks but everything is mobile, but they encourage business inside, as customers must be given a helmet and have their credit card and I.D. checked. Chair Williams suggested that since this has not been requested, it should not be required.

Commissioner Welner said that he was inclined to consider a wait and see approach but he felt that displaying 20 bikes in front would be too much. He said that anyone who lives in the community is familiar with that area and can imagine what 10 versus 20 bikes sitting in front of the windows might look like.

Commissioner Kulik said that General Plan Policy DT-3 states that the Town shall “actively promote the economic vitality of its downtown by promoting additional recreational opportunities for visitors and residents alike centered in downtown Tiburon.” He referred to negative comments made about the speed of cyclists and that residents have safety concerns. He suggested that efforts be made to promote awareness to rental cyclists specifically regarding Old Rail Trail and speed limits to maintain a positive image. He said that the business is doing the Town a great service and that riding around Angel Island with a lunch was an awesome way to spend a day in Tiburon and would result in derivative effects on other local businesses. He thought that it was valid to discuss the location of display, noting that Fountain Plaza is one of the most visible spots in Tiburon. He said that there should be discussion about potential limits on display and a review period later without being too onerous on the business and making them come back for review after 12 months.

Chair Williams said that ultimately, the Commission tries to encourage business activity downtown and uses that produce a thriving, bustling and vital downtown area. She said that there appeared to be a consensus to impose no limits on the number of bicycles outside on display, but to be sensitive to not having congestion and an unattractive space. She added that there would be conditions requiring a 12 month review period and increasing the number of rentals up to 25.

Commissioner Welner said that he was willing to allow a test period and for the applicants to use their own judgment about how to put bikes outside. However, he said that he would feel more comfortable with a 6 month review period, stating that by that time the Commission will have an idea of whether it is working or not. Commissioner Weller, Vice Chair Corcoran and Chair Williams agreed to that amendment.

Vice Chair Corcoran asked if the use, if approved, could be transferred and a larger rental business could come in. Mr. Watrous stated that the new use would be subject to the conditions of approval of the adopted resolution, which includes information in the use and information management document limiting the number of rentals. He said that a larger bike rental business could not operate in a fashion which conflicts with the use permit.

ACTION: It was M/S (Weller/Williams) that the Commission adopt the resolution approving the conditional use permit, as amended as follows: At the end of Condition No. 1's sentence, amend to state, "...except as modified by this resolution"; and modify Condition No. 2 to read "Outdoor display of merchandise shall be limited to the west side of the corner entrance door. No other outdoor storage of materials or signage, other than display of bicycles, is permitted. Rental transactions shall be conducted wholly within the building interior. All outdoor display and commercial activities, including bicycle demonstrations, shall be limited to areas on private property and shall not extend onto Town-owned property. Up to twenty-five (25) bicycles may be available for rental per day. The Planning Commission shall determine six (6) months after the adoption of this resolution whether any other limits shall be imposed on the bicycle display area." Motion carried 5-0.

2. 60 Monterey Drive: Consider approval to amend the Cypress Hollow Precise Development Plan (PD #45) to increase the maximum floor area for an existing single-family dwelling; File #PDPA2016002; Michael and Kelly Day, Owner; Ayse Sercan, Applicant; Assessor's Parcel No. 034-394-06 [KO]

Associate Planner Kyra O'Malley gave the staff report, and said the project is the proposed amendment to a precise development plan (the Cypress Hollow Precise Development Plan) for property located at 60 Monterey Drive. The property owner proposes to increase the maximum floor area permitted for this lot.

This single-family residence on this property was originally constructed with a floor area of 3,072 square feet which is 29.5% floor area. The property owners wish to convert undeveloped space beneath the garage, into a 640 square foot den, a second study, storage, and a half bathroom adjacent to the upper floor level of the house, and also add an elevator on the east side of the home.

The proposed addition would increase the floor area of the house to 3,712 square feet, resulting on a floor area ratio of 35.7%. The Cypress Hollow Development Plan was originally approved in 1988 by the Marin County Board of Supervisors. She said 8 properties have been approved since 2000 to amend the precise development plan to increase the maximum allowable floor area. She then referred to page 2 of the staff report which summarizes those amendments as well as the outcome of all approvals.

The majority of the request would be situated within the existing footprint of the originally constructed house with a minor addition for an elevator. The elevator would involve a minor exterior expansion to the walls of the residence and would be seen from the front and east side of the home. In addition, the proposed elevator would not serve all three levels, but would only provide access to the garage level and upper level.

Staff believes that the bathroom, study and the elevator addition could potentially increase the intensity of use and increase the potential for this separate space to be used as a separate rental unit. Staff has reviewed this application and has found it consistent with the Tiburon General Plan and requirements of the Tiburon Zoning Ordinance, and the majority of proposed construction would be within the existing footprint of the house and would be similar to the numerous other homes approved in the Cypress Hollow neighborhood, with the exception of the elevator addition that would have a small pop-out. Staff concludes that the proposed elevator addition would be inconsistent with the Town approvals for the floor area addition within the Cypress Hollow subdivision and staff recommends that the Commission consider limiting the approval to construction within the existing building footprint, thus eliminating the proposed elevator addition.

Staff recommended that the Commission hold a public hearing, and if the Commission concludes that the proposed amendment would be consistent with the intent of the Cypress Hollow Precise Development Plan, the Commission should consider the draft resolution as Exhibit 3 recommending approval of the amendment to the Town Council.

Chair Williams said her understanding is that staff believes the elevator is not consistent with the spirit of prior amendments because it adds to the mass and bulk, and that she did not understand this conclusion in light of the plans. Mr. Watrous stated that the issue had more to do with previous decisions made for other amendments and consistency where the Council has allowed additional floor area only within the existing building footprint and less a matter of the visual massiveness or creation of visual impacts.

Commissioner Kulik asked what the current condition of the undeveloped space was. Ms. O'Malley stated that it is crawl space under the garage, which is common for the subdivision. He asked and confirmed that the conversion would be completely contained within the volume limit of the house.

Commissioner Welner confirmed that there was no opposition relating to the request.

Ayse Sercan, designer, showed pictures of the existing house and topography and the location of the proposed addition. She said that they consulted with engineers to find the best location for the elevator due to the existing house foundations and slope. She said that they were unable to move the elevator further into the house because it would be disruptive to the foundation, and they did not want to dig out a hole in the hillside to put an elevator in to serve all three floors. She said that the elevator would enable the homeowners to bring groceries and items up and down and not have to travel up and down 22 steps to the street level.

Michael Day, owner, stated they have two children and it would be nice to have a large area for the kids to play and a study so they can do their homework and let the main floor look like an adult house.

Kelly Day, owner, said that they were very concerned about aging out of the house. She said that as they and their friends get older, they may need to live up on the main floor but will still need to get up and down the stairs. Ms. Sercan added that their firm does a lot of work with aging in place and accessible housing, and their goal was to enable the homeowners to remain in their house and it seemed like a small request to make the home more accessible.

Mr. Day explained that the stairs within the house to the bottom floor to the bedroom are not very steep and easy to travel, but the stairs up from the main floor to the garage are very steep.

Ms. Sercan stated that the proposed rooms would not have legal egress windows that would enable them to be used as a bedroom, so she felt that it would be short-sighted to not allow the elevator.

Chair Williams opened the public hearing. There were no speakers and she closed the public hearing.

Commissioner Welner said that for a precise plan that was approved so long ago he was swayed by to whether there is opposition. He said that it spoke volumes that there were no neighbors or letters submitted opposing the request. He felt that this would be a very minor change and he was inclined to approve the request, including the elevator.

Vice Chair Corcoran agreed and observed that only one of the other amendments to the precise plan was approved in the last 10 years and the plan was approved over 25 years ago. He said that the Commission will be faced with more of these requests and wants residents to be able to age in place and stay in their homes in communities they love. He supported the request as submitted.

Commissioner Kulik echoed Commissioner Welner's comments and said that the Commission has been cautious about approving precise development amendments in the past if there was significant push-back from neighbors. He said that the lack of opposition here was noteworthy. He said that there were 8 different conversions of similar space nearby and he felt that this request was consistent with the precedent of previous approvals, even if the approved FAR would be slightly higher than the previous maximum approved. He said that he understood staff's concerns about the elevator, but since this would have no visual impact, he supported approval.

Commissioner Weller said that he completely agreed with his fellow Commissioners and supported the project.

Chair Williams concurred and said that she could make the findings to approve the elevator, which would be contained within the existing structure of the home and would not substantially increase the bulk of the house and would be consistent with the overall development.

Commissioner Kulik asked if there was anything in the original Cypress Hollow plan that forbids a second unit. Mr. Watrous said that there was not. He noted that unpermitted second units occur less often in Tiburon than in other jurisdictions and he believed that the applicants properly addressed these concerns. Ms. O'Malley added that the Town Council had raised concerns about the intensity of use when looking at other Cypress Hollow amendments and this was why staff raised the concern regarding a second unit.

ACTION: M/S (Williams/Corcoran) to find that proposed amendment is consistent with the intent of the Cypress Hollow Precise Development Plan; adopt the draft resolution as amended to recommend approval of the project as submitted to the Town Council. Motion carried 5-0.

ACTION ITEMS

1. Planning Commission Minutes –Meeting of September 14, 2016

Commissioner Welner requested the following amendments:

- Page 4, 3rd paragraph; amend to read: “Commissioner Welner asked about EIR certification. He understands how the extensions have worked for the tentative map.”
- Page 6, 3rd paragraph, amend to read: “Commissioner Welner had a comment said he is a bit perplexed about the letters that arrived just before the meeting. Normally, the Town receives complaints about criticisms of what is going to be built. However, the letters are in this case are complaining ~~This appears to be a complaint~~ about how long it has taken and he is sympathetic to that.”
- Page 6, 4th paragraph, amend to read: “He said he would therefore vote in favor of the extension in the interest of moving forward. He admonished the letter writers that even if the project is approved it still might take years for the project to be actually built.”, ~~but also emphasized the question about the end product of the process. He said the land could sit there for years and nothing could happen, and he suggested the Littles simply paint their house and not wait. The bulldozers will take time even if the processing moves forward quickly, and he supported adoption of the resolution to extend.~~

Vice Chair Corcoran requested the following amendments:

- Page 6, 2nd paragraph, 2nd sentence, amend to read: “The recession caused many inconveniences for many people, but based on the general guidelines and time extensions for tentative maps, they are generally granted unless the project is not consistent with the General Plan or if any more of circumstances around the project area have changed dramatically, neither of which has happened.

ACTION: M/S (Corcoran/Welner) to approve the meeting minutes of September 14, 2016, as amended. Motion carried: 5-0.

ADJOURNMENT

The Planning Commission adjourned the meeting at 9:15 p.m.

ERICA WILLIAMS, CHAIR
Tiburon Planning Commission

ATTEST:

DANIEL M. WATROUS, SECRETARY