

**TOWN COUNCIL
MINUTES**

CALL TO ORDER

Mayor Slavitz called the regular meeting of the Tiburon Town Council to order at 7:30 p.m. on Wednesday, August 3, 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,
Director of Community Development Anderson,
Planning Manager Watrous, Director of Public
Works/Town Engineer Nguyen, Police Chief
Cronin, Town Clerk Crane Iacopi

ORAL COMMUNICATIONS

None.

CONSENT CALENDAR

1. **Town Council Minutes** – Adopt minutes of the July 22 special meeting (Director of Community Development Anderson)
2. **League of California Cities** – Appoint delegate to represent Town of Tiburon at annual Business meeting of the League of California Cities (Town Clerk Crane Iacopi)

MOTION: To approve Consent Calendar items, as written.

Moved: Fraser, seconded Fredericks

Vote: AYES: Unanimous

PUBLIC HEARINGS

1. **65 Reed Ranch Road Appeal** – Consider appeal of Design Review Board approval of a site plan and architectural review for construction of additions to an existing single-family dwelling at 65 Reed Ranch Road (Planning Manager Watrous) – *continued from July 6, 2011*

- James Parsons and Andrea Hong, Owners
- Jeffrey Wong, Applicant
- Dan Mihalovich, Appellant
- Assessor Parcel Number 038-301-35

Planning Manager Watrous summarized the key elements of the written staff report. He said that on July 6, 2011, the Town Council held a public hearing on the appeal. At that time, he said the Council dismissed the appellant's concerns regarding privacy, grading and the changes to the walkway and driveway. However, Watrous stated it was the consensus of the Council that the proposed additions would look too massive when viewed from Reed Ranch Road and that the amount and/or area of the windows proposed for the additions were excessive.

Mr. Watrous said the Council continued the application and directed the applicant to revise the project plans to address these remaining issues, and made the following specific suggestions on how to accomplish this:

1. Modify the garage roofline;
2. Move windows on the west side of the addition to the east side;
3. Eliminate the west-facing bedroom windows or move these windows to the front of the bedroom;
4. Eliminate the hallway windows; and
5. Design interior light fixtures to shine on the floors and stairs and not onto windows.

The Planning Manager said that the applicants subsequently submitted revised project plans that include the following changes:

1. The roofline of the garage above the two easternmost spaces has been lowered by 8 inches.
2. The larger hallway windows on the west side of the building have been replaced with smaller windows.
3. The row of 8 small windows on the upper level guest bedroom facing the street has been replaced with 3 larger windows.

In conclusion, Mr. Watrous said that the revised plans appear to be somewhat responsive to the Town Council's direction at the July 6, 2011 meeting. However, he said that no changes had been made to the windows on the west side of the upper level of the addition.

He recommended that the Town Council take testimony on the revised project plans and indicate its intention to partially grant the appeal and make any further modifications to the project plans as deemed necessary.

Mayor Slavitz opened the public hearing.

The applicant's architect, Jeff Wong, made a brief presentation, describing the adjustments that had been made to the project and the reasons for them. He said that during the Design Review process, the Board had instructed the applicants to integrate the new roof and existing roof; he said that it was important to look at how this was achieved.

Mr. Wong said the garage roof had been lowered eight inches since the Council hearing on July 6, 2011. He said the new garage replaced a garage and an existing deck and that the only difference was the new deck. He showed an overlay drawing to illustrate the perspective.

Mr. Wong also said that after the July 6 meeting, the applicants had removed five windows from the garage plans to address the Council's concerns. He said this reduced the overall glazing by 30% which he said was a third of the glazing that exists at appellants' residence at 67 Reed Ranch Road.

Mayor Slavitz asked whether the windows were the ones the Council instructed the applicant to remove from the plans. Mr. Wong replied that they had reduced the number of windows from eight to three to address the Council's concerns.

Councilmember Collins noted that there were no windows on the east side of the new garage and asked whether they might be removed from the west side, as well. Mr. Wong said that these windows represented a design element to break up the plane of the wall.

Councilmember Collins asked why there were two pedestrian doors in the garage. Mr. Wong said that there was one on each side to allow a person to cut through the garage.

Councilmember Collins asked why the garage was so high (in elevation). Mr. Wong said that it was a very important feature for overall proportionality, and that it "stepped back" the project as a whole. He said this was the direction given to the applicants through three Design Review Board hearings. He also noted that the garage had been lowered from 15 feet down to 14 feet, four inches.

Vice Mayor Fraser said he agreed with the previous Council comments about the windows. Fraser also asked whether there was another option for ingress/egress for the garage. Mr. Wong said there was not because the sill height was barely below the required height.

In response to a similar question from Councilmember Collins, he said that the bedrooms required an emergency exist, by Code.

The appellant, Mr. Mihalovich, said that the staff report stated that the Council had "dismissed" some of his concerns at the July 6 hearing, and that this was not the case. Mihalovich said that the Council had directed the applicant to modify the garage roofline and to flatten it out to one story; he said this was not done in the new plans. He also said that Item Nos. 2-4 were ignored and that the condition placed on interior lighting (Item No. 5) was not enforceable.

Mihalovich also said that there were issues with grading for the project.

Mr. Mihalovich said that the current design continued to infringe on his privacy and was in violation of various subsections of Section 16-52.020 of the Zoning Ordinance: H-1, 2, 3 and H-5; also H-8 (to minimize lighting). He noted that subsection I-1 said that the FAR of a project could be reduced in order to keep the character of the neighborhood. He asked the Council to consider this section to reduce the mass of the project, and to consider whether the revised plans were a legitimate solution to the Council's direction and the issues raised by the appellants. He asked the Council to please ensure that "our privacy is protected" as the applicants would pass less than nine yards from his house, if the project is approved.

Applicant Jay Parsons gave a brief rebuttal. He reiterated the comment that his project had a third of the glass than Mr. Mihalovich's house which faced him. (While he was speaking, Mr. Wong passed out some photos of five houses in the neighborhood with similar frontage to the street, along with a petition of support.)

Mr. Parsons said that most of the affected neighbors had chosen to remain neutral in this discussion, and that they (the applicants) had attempted to appease just one neighbor by spending significant time and money, going through five hearings, and with significant changes to their plans. He asked that the Council not require him to start over.

Mayor Slavitz closed the public hearing.

Councilmember O'Donnell commented that privacy did not seem to be an issue and that neighbors ultimately have to get used to changes in a neighborhood. He said that he did not have a problem with the glass [windows] on the west side of the garage, claiming that it should not be a "cave". O'Donnell said that the applicants had reduced the size and scale of the project and that he also supported their plans for landscape screening.

O'Donnell said that the design was not his favorite and seemed to him to be a little bulky in the front; he also wondered about the necessity of a three-car garage. However, O'Donnell said that the property owner had a right to his choice of design and that it was in conformance with all of the Town's guidelines.

Councilmember Fredericks said she was comfortable with the original design with its height and scale; she said that the issue of light pollution was easily handled [with the requirement of down-lighting in the hallway] and that the applicants' efforts to make changes were commendable.

Vice Mayor Fraser said he, too, had concluded that privacy was not an issue, and that the plans to screen the project with landscaping were favorable. However, he continued to think that the number of windows was excessive, and that he, and the Council, had clearly asked for elimination of windows in the hallway. He said he was disappointed that this had not been done.

Councilmember Collins also noted that the neighbor's [appellants'] windows which were impacted by the project were in their bedrooms and not the garage. He said that he could not support the west-side windows and that there were too many windows in the front of the project.

Mayor Slavitz concurred with these comments; he asked whether the hallway and garage windows could be eliminated.

Councilmember Fredericks said that the hallway might be dark without windows; she said that former Councilmember Berger said that there were fixtures that provided down-facing light, and that she would condition an approval on this and not the elimination of the windows.

Mayor Slavitz said that he could support this if the number of windows in the garage was reduced.

MOTION: To direct staff to return with a resolution of findings partially upholding the appeal, as described by Council, and with revised plans to eliminate the four west-facing windows on the lower level of the garage, and the two windows in the hall, and the additional down-lighting requirements.

Moved: Collins, seconded Fraser

Vote: AYES: Unanimous

2. 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; consider certification of the Final Environmental Impact Report (Planning Manager Watrous)

- Irving and Varda Rabin, Owners and Applicants
- Address: 3825 Paradise Drive
- Assessor Parcel Numbers 039-021-13 and 039-301-01

In his staff report, Planning Manager Watrous summarized the key elements of the project which involves the eventual subdivision of the 52 acres into 14 single family parcels (consisting of one existing residence and 13 new residences to be constructed) and three open space parcels totaling 18.69 acres.

Watrous described the environmental review process and said that the draft EIR had noted two significant and unavoidable impacts: 1) project noise from construction that would temporarily increase ambient noise levels in the site vicinity; and 2) that the project as proposed would cause a significant change in the visual quality of the site when viewed from the Middle Ridge Open Space. In addition, he said the draft EIR indicated that implementation of the proposed project, in combination with other anticipated future projects at build-out of the Tiburon peninsula, would result in the following unavoidable cumulative impacts:

- Additional vehicle trips at the Tiburon Boulevard / Trestle Glen Boulevard intersection.
- The addition of vehicle trips to U.S. Highway 101.
- Construction noise.
- Wildlife habitat and connectivity impacts.
- Visual impacts to scenic vistas and scenic resources

Due to these unavoidable impacts, Mr. Watrous said that approval of the project or any of the “development alternatives” studied in the EIR would require that findings of overriding considerations to be made at the time of project approval.

Mt. Watrous said that the Final EIR concluded that while the revised project (Alternative 4) would reduce the degree of certain impacts identified in the Draft EIR for the proposed project, such impacts would remain significant and in need of mitigation measures. The Alternative 4 project design would still result in significant unavoidable temporary construction noise impacts and visual impacts when viewed from the Town’s Middle Ridge open space area. The updated studies are included in the Final EIR and did not result in any significant new information or the discovery of any previously unidentified significant environmental impacts.

On January 26, 2011, Watrous said the Planning Commission reviewed the Final EIR and adopted Resolution No. 2011-04 recommending certification of the Final EIR to the Town Council and also adopted a resolution recommending approval of rezoning for the SODA parcel.

In its review of the merits of the project, first considered by the Planning Commission in January 26, 2011, the Planning Manager said that a majority of the Planning Commission expressed concerns about the Precise Development Plan with regard to consistency with ridgeline policies and neighborhood compatibility. He said it was noted that the modifications to the original project proposed by the applicant’s Alternative 4 project design did not appear to make substantial changes to the development pattern of the project and did not materially improve ridgeline protection and neighborhood compatibility.

At the April 13, 2011 Planning Commission meeting, Mr. Watrous said that the applicant submitted a revised alternative project design (Alternative 5) as described in the staff report. He said that prior to this meeting Town staff had prepared and distributed a memo that provided additional information and analysis regarding the project’s relationship to the two Significant Ridgelines located on the project site and additional comparative information on surrounding neighborhoods. He said the analysis was based upon a review of Alternative 4, prior to the applicant’s submittal of Alternative 5.

At the April 13, 2011 meeting, Watrous said the Commission used the checklist provided in the staff memo as a tool to make recommendations about revisions to the project design, but also identified additional revisions that went even further toward increasing consistency with General Plan policies.

Watrous said that during the Commission's deliberations, staff tallied the recommendations of individual Commissioners. The following revisions from the provided checklist were each recommended by a majority of the Commission for the reasons stated below:

1. Lots 8, 9, 10 & 13 would be eliminated
2. The residential use areas for Lots 5 & 6 would be reduced in size
3. The maximum allowable floor area for Lots 5, 6 & 12 would be reduced.
4. 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.

Planning Manager Watrous said that the Planning Commission unanimously directed staff to prepare a resolution recommending approval of the Alta Robles Precise Development Plan to the Town Council with the revisions noted above. On April 27, 2011, he said the Commission adopted Resolution No. 2011-10, recommending approval of the revised project to the Council.

In conclusion, the Planning Manager said that the Planning Commission thoroughly reviewed the Alta Robles project for consistency with goals and principles of the Zoning Ordinance and the General Plan. In particular, he said the Commission placed a very strong emphasis on General Plan policies related to ridgeline protection and neighborhood compatibility. He recommended that the Town Council take public testimony and consider certification of the Final EIR at the hearing tonight, then deliberate on the merits of the project and/or continue the item to a subsequent hearing.

Mayor Slavitz opened the hearing to the applicant.

Irving Rabin, applicant, said that he bought his initial 30-acre property 20 years ago. He said that he and his neighbor, Dr. Kilgore, whose 20-acre property he subsequently purchased, had jointly planned a 23-home development in 1993. He said they wanted a good development, since they both lived on the property, and from the beginning they envisioned homes that would be both architecturally stunning and have a low profile and impact on the land. He said that Alternative 5 was the culmination and pinnacle of these efforts, and that it represented an environmentally and architecturally superior plan in which over three-quarters of the property would remain in open space conservation, greater than the 50% town requirement. In addition, he said the proposal would allow the Tiburon Ridge Trail to be extended at the top of the property.

Mr. Rabin said that most of the letters included with the staff report supported the project, and he said it was also supported by the close and contiguous neighbors, the Vogelheim, Burley, Maisel, Appleman, and Brown families, and on Paradise Drive, the Traeger, Kilgore, and Slater (Winter property) families.

Mr. Rabin also asked for the Council's endorsement, stating that the project should be welcomed and heralded as a model project in Tiburon and beyond.

Scott Hochstrasser, 25-year planning consultant, representing the applicant, stated that the Rabin family had been good stewards of the land and that their application represented the most comprehensive "green" plan in the County and Town of Tiburon.

In his powerpoint presentation, Mr. Hochstrasser showed a site analysis which he said was one of the most comprehensive baseline maps ever created. He said this map helped guide his clients by showing the limited development potential of the project and that during the five-year application process, his client had voluntarily reduced the density of the project. He stated that even though the draft EIR had deemed the applicant's project superior, his client nevertheless had met with staff and had subsequently drafted Alternative 4, which had become the current project application. He said that while there was a range of alternatives discussed in the EIR, the final EIR said that Alternative 4 was even more superior than other options considered.

Mr. Hochstrasser said that it would be appropriate for the Town Council to adopt the Final EIR, as recommended by the Planning Commission.

Mr. Hochstrasser introduced Dr. Ken Kao to address the Planning Commission's concerns expressed during its deliberations on the merits of the project, as well as the latest iteration of the project, Alternative 5.

Dr. Ken Kao explained the way the lots were clustered along the existing driveway and sub-clusters on the fire trails, thereby allowing 75% of the land to remain as open space. He said that most of the lots were around an acre (1.5 acres being the largest) and were set back from sensitive areas, including sensitive plant habitats. He also said that some of the houses were located in the trees to reduce the visual impacts and to address the concerns of the Seafirth Drive neighbors. He showed what they might look like from three visual perspectives.

Dr. Kao said that the design strategies followed the Hillside Design Guidelines with a partial subterranean approach and low profiles. He said they would be energy efficient, with solar panels and vegetative roofs.

Attorney Riley Hurd, representing the Rabin family, spoke in favor of Alternative 4 and described why the Planning Commission's recommendation was neither viable nor legally supported. He discussed three aspects of the project about which the Commission had raised concerns: ridgelines, neighborhood compatibility, and economics.

Mr. Hurd said that the Town's General Plan Policy OSC-12 stated that all significant ridgelines should not be judged equally; that the ridgelines on this property were not only low profile, but that it was hard to determine exactly where they were, and therefore they warranted less protection. He said he had more fully delineated in his correspondence how the Alta Robles project complied with the Town's guidelines.

With regard to neighborhood characteristics, Mr. Hurd agreed that the Alta Robles project would be incompatible with the existing pattern of development in the neighborhood, stating that Dr. Kao's designs were superior and intelligent and were not the large-scale "McMansions" found on Gilmartin and Acacia Drives.

Finally, Mr. Hurd said that the project was a "deal" for the Town in its "value to visibility ratio" because in his analysis, larger homes represented greater tax revenue, while still being less visible. He said that the Planning Commission's recommended alternative would not pencil out and could not be built. He said that the infrastructure costs of the project were static and that the ridge trail could not be built under this scenario.

Mr. Hurd said that the Planning Commission, while being a sophisticated group, had not gone through the required visual analysis needed for a project of this complexity. He said one commissioner has stated that the application was "too complex". He said instead, the Commission settled for simplistic modifications, which consisted of reducing the number of lots and the sizes of the homes.

Mr. Hurd said there was no evidence that such modifications would result in a net benefit, and that cutting the project would punish the applicant who had shown sensitivity to the planning and environmental process and had been "self-editing" all along. He said the lack of data to support the Commission's recommendations would represent a gross disproportionate exaction from the applicant. He said that the Planning Commission's recommendations would allow use of less than 20% of the land and retain 80% as open space. He said this would not be legal.

Mr. Hurd said that a Town Council approval of the applicant's project would ensure responsible development of the site, would "lock up" preservation of open space, as well as close a gap in the Tiburon Ridge Trail. In addition, the project would include the forward-thinking designs of Dr. Kao. Mr. Hurd concluded by stating that if the property was sold, the Town would not see this type of project again.

Mr. Hurd responded to questions from Council.

Councilmember Fredericks asked for electronic copies of the presentation materials. Mr. Hurd said that he would do so.

Councilmember O'Donnell said that while everyone liked the home designs, he asked what assurances there were they would actually be designed that way, once the lots were sold.

Town Attorney Danforth said that it was not common at this stage of the review process to mandate design; nevertheless, she said the conditions of approval could mandate general compliance with the applicant's architectural guideline and would guide review of future homes on the site by the Design Review Board.

Councilmember O'Donnell asked whether the designs could be included in CC&R's for the project. For example, he said that without a "live roof", the home on Lot 12 would look completely different. Town Attorney Danforth said that Council could require this design feature and if the builder wanted to change it, he/she would have to come to Council for approval.

Director of Community Development Anderson concurred, stating there were ways to incorporate the designs into the PDP to resemble what is ultimately approved by the Town Council. He also said there were also ways to incorporate a process for revisions into the CC&R's so that the Town could have control over and approve those revisions. Nevertheless, he said a certain amount of uncertainty remained in the question of whether these designs would be built, especially if many years elapsed before a lot was constructed upon.

Councilmember Fredericks asked for clarification of a comment from the applicant's representative that the Town Council had "voted twice" to control [development of] the subject property.

Director Anderson said that twice previously, some years ago, the Rabins had requested that the Town waive or defer annexation and allow the County of Marin to process development applications for the site. On both occasions, the Town Council indicated that it desired to process the development applications and annex the property to the Town.

Councilmember Fredericks also asked whether the entire square footage of the proposed houses was stated on the plans, for instance, did a 7,000 square foot home include that portion of the square footage that was underground.

Planning Manager Watrous said that he did not believe that the house sizes included garage square footage or the FAR underground. He said he would check, but that normally, subterranean area was not included in FAR numbers.

Mr. Hurd commented that the numbers presented were gross numbers intended to include any basements. He did note that the applicant had not done an FAR analysis. Town Attorney Danforth added that because this is a PDP review, the Council could impose floor area maximums that included the subsurface areas.

Vice Mayor Fraser asked what latitude existed for the Council in siting the houses around Ridgelines 5 and 6. Town Attorney Danforth said that the Council had a great deal of latitude; that it could make findings regarding the importance of on-site ridges and impose distance restrictions for consistency the General Plan.

Councilmember Fredericks asked what kind of findings would support the home sites near the ridge. Town Attorney Danforth said for instance that the findings might find that the home sites were too near a significant ridge but allow them because of the benefits of the public trail as an overriding consideration.

Councilmember O'Donnell said that the staff memo said that some of the ridgelines on the property did not meet the "significant ridge" criteria.

Director of Community Development stated that he would not characterize the memo quite that way, but stated that the memo indicated that the ridgelines on the Rabin property were less prominent than some other significant ridgelines, such as that located on the Martha Company property, which was "in another league".

Erin Tollini, Tiburon Planning Commissioner, described the Planning Commission's review. She said that many hours had been spent in discussion and research and that the Commission was "up to the task" of the application review and had made its conclusions accordingly.

Ms. Tollini said that the statement that the maximum development potential of 20 sites that could be allowed on this 52-acre site was only valid if the property was a "blank slate". She said the Commission had concluded that the maximum density was lower based on the fact that the lot for the existing Rabin residence occupied a large portion of the proposed project and other environmental constraints of the site. She said that the density maximum in the General Plan was not a guaranteed number, and noted the EIR found 18 landslides on the property, serpentine grasslands, and other protected species would ultimately help determine the final number of sites allowed for the project.

Ms. Tollini said that the principles of the General Plan and Zoning Ordinance had been applied during the Planning Commission's review and the Commission's recommendation was not arbitrary.

Mayor Slavitz asked for comment on Policy OSC-12. Ms. Tollini said that the applicant's photo simulation looked different than what was in the EIR and application. She said there were significant slopes and ridgelines on the property; also, an important feature was the ability to visually connect the open space areas of the project.

Vice Mayor Fraser asked about the Planning Commission's comments on traffic impacts. Ms. Tollini said that the EIR described traffic at certain times of the day; she said that the entrance to the property needed more of a sightline for safety reasons; she said the Commission would like to have seen an independent traffic study to address the issue of traffic safety.

Councilmember Fredericks asked why the Planning Commission recommended elimination of Lot 13, which was more than 100 feet from the ridgeline, rather than lowering the height and roofline of the proposed house.

Ms. Tollini said that the Commission thought the trees that screen that lot would be removed to develop the Sorokko property, thereby making the home on that site much more visually prominent and "looming" over the ridge.

Mayor Slavitz opened the hearing to the public.

The following members of the public spoke:

- Nona Dennis, Marin Conservation League (MCL), commended the Rabin family but said that a project “takes on a life of its own” and would be developed over a long period of time, with no guarantees that it would look as it does on paper; that precedents were being set for home size and that the resource cost of large homes should be considered; also, that private open space does not guarantee continuity of species or viability; that a fully functioning open space was not “chopped up”; that views of the ridges would be impacted; that there would be cumulative impacts of traffic at Trestle Glen Boulevard and Highway 101. Dennis said that the MCL had been tracking the cumulative impacts of development on Paradise Drive for a long time; she urged the Council to make sure the benefits of the project off-set the impacts.
- Eva Buxton, botanist, said the project had been designed without a botanical survey and that there was inadequate mapping of species; said the CEQA requires a lessening or avoidance of impacts on special species; that serpentine grasses were a special community and that the extensive grasslands on Lots 11 and 12 would be obliterated by landslide repair; said that the elimination or reduction of [house] size on Lots 11 and 12 would be results in a measurable benefit to the grasslands.
- Ariel Rabin read a letter from Douglas Currens, who could not be present at the hearing. The letter said that the project represented a long and complex journey and that the Rabin family had brought forward an exemplary project which resulted in preservation of a ridgeline trail and 70% open space. He said that the home designs were commendable and could have been influenced by a ground-breaking book by Ian McHarg entitled “Design with Nature”. He said the family was trying to leave a legacy and deserved approval for their vision for the property. He said that minor course corrections could be made.
- Mordecai Winter, Peninsula Road, Belvedere, said his family owned the 27-acre Slater property. He spoke in support of the project and gave credit to the Rabin family; stated that 14 homes would have a minimal impact
- Roberta Zucker, Pt. Tiburon, said that traffic would not really be a problem because it ‘let up’ once you got to Trestle Glen; she commended the Rabins for their project and home designs and that it was desirable not to have more “Italianate Mansions”; said she was a walker and a hiker and appreciated the generous offer of the family to extend the Ridge Trail.
- Mark Goldstein, Paradise Drive, said that he and many other property owners in the area would be affected by the development and said that the Planning Commission had done an admirable job in reducing the density to nine units; he warned of “bait and switch” tactics in that the house designs were not guaranteed, as presented.

The Mayor and staff had another discussion about the design features of the project. Director of Community Development Anderson said that the actual wording in the Planning Commission resolution said that the designs shown would “closely resemble” the approved designs and that the DRB was instructed to disallow changes except in very limited circumstances. He said that another proposed condition of approval required that the CC&R’s incorporate relevant portions

of the PDP, and that those sections of the CC&R's could not be modified without permission from the Town.

Planning Manager Watrous commented that in some projects, the direction given to the DRB was often more generic and simple where specificity was not as crucial to the application. He said, for instance, that the direction given by the Board for "craftsman style" homes in Vista Tiburon was clear enough to be effective for that PDP.

Vice Mayor Fraser referenced a chart in Alternative 5 [the Façade Vertical Surface Area Comparison table] and asked whether these numbers could be incorporated into the approval process. Planning Manager Watrous said that the calculations referenced by the Vice Mayor were provided by the applicant and were not calculations ever previously used by the Town; he said it might be difficult to apply this to the FAR calculations and limits normally used by the Town.

Vice Mayor Fraser noted that a key component of the design of the homes as depicted was their subterranean nature, and that if that were to change, it would be a much different project.

Planning Manager Watrous said that the subterranean design, living roof, elevations, and other design features could be incorporated into the approval.

Mayor Slavitz commented on the 29-foot height which would be exposed on the front of some of the homes.

Councilmember O'Donnell noted that in Lots 2, 3 and 4, the topography dropped off sharply and that the height was a necessary outcome.

- Walter Sanford, Seafirth Place, downhill neighbor from the project, said that the sight lines and photos did not show his neighborhood and that there would be a visual impact on a lot of homes there; cautioned the Council to be aware of the danger of the proposed designs which he described as a "Trojan horse"; stated that if all the homes in future development of Paradise Drive were maximum height, it would be a problem.
- David Joyner, Seafirth, said that the designs were nice but not enforceable; said that he hears traffic now and that the noise and impacts on Paradise Drive would be exacerbated by earthwork, dust, and tree removal during construction; asked the Council to please help preserve the rural character of Paradise Drive in considering this and future developments. He added that the Planning Commission had been very thoughtful in its approach.
- Alex Gerson, Mateo Drive, resident since 1981, said that the Rabins were stewards of the land and that the Town Council had a difficult job to balance zoning and usage; stated that the Planning Commission should set a precedent to develop meaningful plans and make a showcase of Tiburon rather than just trying to cut a project; noted that Tiburon Vista and Turtle Rock had much more density than the proposed project.

- Sandra Swanson, Seafirth, said that some of their homes looked straight at the project; warned the Council not to rely on future Design Review Boards to do the right thing; said that to develop this project 100,000 cubic yards of earth would be moved and that the natural habitat would be replaced by retaining walls and swimming pools; said that development was not entitlement; suggested that Lots 9, 10 and 13 be eliminated, because they were most visible to the open space, also Lots 5 and 6; noted that the Tiburon General Plan (Tiburon 2020) goal was “to protect and preserve” Tiburon.
- Randy Greenberg, Norman Way, said she appreciated the careful consideration being given to this application; that it was a “project, not a family,” and that the supporters of the project were also landowners who wanted to develop their parcels. She said that four to five lots should be eliminated and that the existing lot took up 29% of the developable land; said that reliance on architecture should not be a factor because it would change; said that the houses located near species with special status should be eliminated, and that the size of the remaining homes should be reduced.
- Jerry Riessen, Vistazo West, reminded the Council that open space is the most important value of this community; added that the General Plan couldn’t be more specific as to the protection of ridgelines; said that Planning Commission did a good job in its review; said that applicant’s financial risk was part of the process and should not be a concern of the Council; asked the Council to focus on its statement of overriding consideration and what it would say; said the General Plan allowed the Council “tons of power to restrict” the project; said that the threat of losing the ridge trail was embarrassing.

The applicant made some final comments prior to Mayor Slavitz closing the public hearing.

- Mr. Hurd said that 1) his client’s designs were a crucial part of the project and were not a “bait and switch”; said that there were many legal ways to condition approval of the project based on those designs; 2) said his client would commit to those designs if Alternative 5 was approved; said that his client, too, also wanted compliance with the General Plan, which allowed up to 20 units, but that the Planning Commission had used the General Plan to “cherry pick” and cut the 14 proposed units; 3) said that the issue of trees on Lot 13 was not relevant because the Sorokko project was downhill from Paradise Drive; 4) noted that this Council for years had relied on the principle of “borrowed views” and asked how much the opponents of the project were relying on these views; 5) said that no statement of overriding considerations was required in the Final EIR for ridgelines; finally, that the stated traffic and botany impacts were no different between the draft and final EIRs.

Mayor Slavitz closed the public hearing.

Councilmember Fredericks said that the EIR was complete but that it did raise issues that needed to be addressed. Councilmember Collins concurred and said that the process started in 2007 and suggested that it might be worthwhile to continue the discussion of the merits of the project to a future Council meeting. Council concurred with this recommendation.

MOTION: To adopt the resolution certifying the FEIR.
Moved: O'Donnell, seconded Fraser
Vote: AYES: Unanimous

Town Attorney Danforth said that it might be worthwhile to begin the discussion of the merits of the project and give staff some direction for additional information it might require for the future hearing.

Mayor Slavitz said that he would like to go back for another site visit and that he would like to hear more about the guidelines for the proposed designs. Vice Mayor Fraser concurred, stating he would like staff to come back with specific recommendations about how to codify the designs. Councilmember O'Donnell also concurred with these remarks.

Councilmember Fredericks said that it was not up to the Council to re-design the project, but that she would like to get a sense of the secondary impacts of the project from earth movement, retaining walls, landslide repairs, and de-watering. She also said that she was amazed at the constraints on the project demonstrated by the applicant's map.

Councilmember Collins said that he would like to see where the proposed homes and residential use areas sit in relation to the ridgelines.

Mayor Slavitz said he would like clarification of the tree issue on Lot 13. Planning Manager Watrous clarified that the trees formed a "backdrop" to Lot 13, rather than screening that lot, but that the removal of the trees [approved as part of the Sorokko project] would make the proposed home more visible.

Councilmember Collins said that he would like to see a large map showing the environmental constraints of the site, with the homes and lots superimposed. Mayor Slavitz said that full-size plans would be helpful.

Councilmember O'Donnell said he would like to hear more from the applicant about the possibility of re-sizing the building envelope on Lot 8.

Councilmember Fredericks said she was confused by information on whether or not retaining walls would be required on Paradise Drive.

Director of Community Development Anderson said that east of the project entrance, the area had been identified in the EIR as one where line of sight improvements might be necessary in the form of a retaining wall and shave-back of the hillside. He said that the Planning Commission created a condition of approval, with which the applicant agreed, that a traffic speed study would be conducted immediately prior to project construction to determine whether the retaining wall was necessary to achieve safe sight-line distances.

Mayor Slavitz asked if the Council had to decide on maximum heights for retaining walls. The Director said that all project retaining walls were listed in detail in the Final EIR. He said that most of the tall ones formed the rear wall of homes and would not be visible, and that there were few remaining visible retaining walls over 6 to 8 in height.

Vice Mayor Fraser said he had heard that this project had a potential for building a temporary “construction” road across the ridges. Director Anderson said he had not heard anything to indicate this.

MOTION: To continue the discussion of the merits of the project (Precise Development Plan) to the September 7, 2011 regular meeting.

Moved: Collins, seconded Fredericks

Vote: AYES: Unanimous

3. **Water Conservation Ordinance** – Consider amendments to Title IV, Chapter 13E (Water Efficient Landscape) of the Tiburon Municipal Code to incorporate latest Marin Municipal Water District (MMWD) regulations (Director of Community Development Anderson) – *introduction and first reading of ordinance*

Director of Community Development gave the report. He said that in 2011, newly-adopted state regulations went into effect that imposed additional water-efficiency restrictions on permits issued by local agencies. In response, MMWD amended its water efficient landscape regulations in December 2010. The proposed Town ordinance would have the Town amend its current water efficient landscape regulations by adopting by reference the latest MMWD regulations.

Councilmember O’Donnell asked if these new regulations would be consistent with Tiburon Fire District regulations. He cited an example of installing new landscaping pursuant to MMWD regulations, only to find out that Tiburon Fire District had more stringent regulations.

Director Anderson said that this question had been raised with MMWD and that the water district and fire district were making a more concerted effort to coordinate their regulations.

Mayor Slavitz opened the public hearing. There was no public comment.

Mayor Slavitz closed the public hearing.

MOTION: To read the ordinance by title only.

Moved: Fraser, seconded Fredericks

Vote: AYES: Unanimous

Mayor Slavitz read, “An ordinance of the Town Council of the Town of Tiburon amending Title IV, Chapter 13E (Water Efficient Landscape) of the Municipal Code and adopting by reference Marin Municipal Water District (MMWD) Ordinance No. 421 regarding water conservation.”

MOTION: To pass first reading of the ordinance.
Moved: Collins, seconded Fraser
Vote: AYES: Unanimous

TOWN COUNCIL REPORTS

None.

TOWN MANAGER'S REPORT

Town Manager Curran reported that Town staff had obtained a quote for a sign similar in design to the new sign at Blackie's Pasture; she said that it would be the same color and style, only a single sign instead of a double sign. Curran said the quote was \$1,500 and asked for Council's consensus to use the Manager's discretionary fund since it was not a budgeted item. Council concurred.

In response to a question from the Mayor about how these signs would fit into the overall planning for future Town signage, Curran said that they were constructed with this in mind, and that the top portion, for instance, could be removed if a different design theme was chosen down the road.

Town Manager Curran said that a possible date of September 15 had been selected for the annual Homeowner's Association meeting. She also said the August 17 regular meeting was being cancelled due to the Mayor's absence.

WEEKLY DIGESTS

- Town Council Weekly Digest – July 22, 2011
- Town Council Weekly Digest – June 29, 2011

No discussion.

ADJOURNMENT

There being no further business before the Town Council of the Town of Tiburon, Mayor Slavitz adjourned the meeting at 10:50 p.m.

JEFF SLAVITZ, MAYOR

ATTEST:

DIANE CRANE IACOPI, TOWN CLERK