



TOWN OF TIBURON
Tiburon Town Hall
1505 Tiburon Boulevard
Tiburon, CA 94920

Regular Meeting
Tiburon Planning Commission
December 13, 2016
7:30 p.m.

AGENDA
TIBURON PLANNING COMMISSION

CALL TO ORDER AND ROLL CALL

ORAL COMMUNICATIONS

Persons wishing to address the Planning Commission on any subject not on the agenda may do so under this portion of the agenda. Please note that the Planning Commission is not able to undertake extended discussion, or take action on, items that do not appear on this agenda. Matters requiring action will be referred to Town Staff for consideration and/or placed on a future Planning Commission agenda. Please limit your comments to no more than three (3) minutes. Testimony regarding matters not on the agenda will not be considered part of the administrative record.

COMMISSION AND STAFF BRIEFING

Commission and Committee Report
Director's Report

PUBLIC HEARINGS

1620 Tiburon Boulevard (File CUP2016005)

Consider approval of a Conditional Use Permit Amendment to Expand and Existing Wireless Communication Facility; File #CUP2016005; ACV Argo Tiburon, LP, Owner; T-Mobile, Applicant; Assessor Parcel 059-101-03 [KO] TO BE CONTINUED TO A DATE SPECIFIC AT THE REQUEST OF THE APPLICANT]

Documents:

[1620 TIBURON BLVD WCF CONTINUANCE.PDF](#)

Zoning Ordinance Text Amendments (File MC2016006)

Consider recommendation to Town Council regarding amendments to Tiburon Municipal Code Chapter 16 (Zoning) Article X (Definitions), and Sections 16-52.100 (Secondary Dwelling Units) and 16-52.105 (Junior Accessory Dwelling Units), among others, to achieve compliance with newly-enacted state laws; and consider recommendation to the Town Council regarding adoption of revised "Standards" to be applied in the review of such permit applications that would be consistent with the new state laws; File #MCA 2016-006 [SA]

Documents:

[ZONING TEXT AMENDMENTS SDUS REPORT.PDF](#)

ACTION ITEMS

MINUTES

ADJOURNMENT

GENERAL PUBLIC INFORMATION

ASSISTANCE FOR PEOPLE WITH DISABILITIES

In compliance with the Americans with Disabilities Act, if you need special assistance to participate in this meeting, please contact the Planning Division Secretary at (415) 435-7390. Notification 48 hours prior to the meeting will enable the Town to make reasonable arrangements to ensure accessibility to this meeting.

AVAILABILITY OF INFORMATION

Copies of Design Review Board Agendas, Staff Reports, project files and other supporting data are available for viewing and inspection at Town Hall during business hours. Agendas and Staff Reports are also available at the Belvedere-Tiburon Public Library and on the Town of Tiburon website (www.ci.tiburon.ca.us) after 5:00 PM on the Friday prior to the regularly scheduled meeting. Any documents produced by the Town and distributed to a majority of the Design Review Board regarding any item on this agenda, including agenda-related documents produced by the Town after distribution of the agenda packet at least 72 hours in advance of the Board meeting, will be available for public inspection at Town Hall, 1505 Tiburon Boulevard, Tiburon, CA 94920.

Upon request, the Town will provide written agenda materials in appropriate alternative formats, or disability-related modification or accommodation, including auxiliary aids or services, to enable individuals with disabilities to participate in public meetings. Please deliver or cause to be delivered a written request (including your name, mailing address, phone number and brief description of the requested materials and preferred alternative format or auxiliary aid or service) at least five (5) days before the meeting to the Planning Division Secretary at the above address.

PUBLIC HEARING ITEMS AND BUSINESS ITEMS

Public Hearing items and Business items provide the general public and interested parties an opportunity to speak regarding items that typically involve an action or decision made by the Board. If you challenge any decision in court, you may be limited to raising only those issues you or someone else raised at the meeting, or in written correspondence delivered to the Board at, or prior to, the meeting.

GENERAL PROCEDURE ON ITEMS AND TIME LIMIT GUIDELINES FOR SPEAKERS

The Design Review Board's general procedure on items and time limit guidelines for speakers are:

- Staff Update on Item (if any)
- Applicant Presentation – 5 to 20 minutes
- Design Review Board questions of staff and/or applicant
- Public Testimony (depending on the number of speakers) – 3 to 5 minutes for each speaker; members of the audience may not allocate their testimony time to other speakers
- Applicant may respond to public comments – 3 minutes
- Design Review Board closes the public testimony period, deliberates and votes (as warranted)
- Time limits and procedures may be modified in the reasonable discretion of the Chairman

Interested members of the public may address the Design Review Board on any item on the agenda.

ORDER AND TIMING OF ITEMS

No set times are assigned to items appearing on the Design Review Board agenda. While the Design Review Board attempts to hear all items in order as stated on the agenda, it reserves the right to take items out of order without notice.

NOTE: ALL PLANNING COMMISSION MEETINGS ARE AUDIO RECORDED

TOWN OF TIBURON LATE MAIL POLICY

(Adopted and Effective 11/7/2007)

The following policy shall be used by the Town Council and its standing boards and commissions, and by staff of the Town of Tiburon, in the identification, distribution and consideration of late mail.

DEFINITION

"Late Mail" is defined as correspondence or other materials that are received by the Town after completion of the written staff report on an agenda item, in such a manner as to preclude such correspondence or other materials from being addressed in or attached to the staff report as an exhibit.

IDENTIFICATION OF LATE MAIL

All late mail received by Town Staff in advance of a meeting shall be marked "Late Mail" and shall be date-stamped or marked with the date of receipt by the Town. Late mail received at a meeting shall be marked as "Received at Meeting" with a date-stamp or handwritten note.

POLICY

For regular meetings of the Town Council and its standing boards and commissions:

1. All late mail that is received on an agenda item prior to distribution of the agenda packet to the reviewing authority shall be stamped or marked as "Late Mail" and shall be distributed to the reviewing authority with the agenda packet.
2. All late mail received on an agenda item before 5:00 PM on the Monday prior to the meeting shall be date-stamped and marked as "Late Mail" and distributed to the reviewing authority as soon as practicable. Such mail shall be read and considered by the reviewing authority whenever possible. If the Monday, or Monday and Tuesday, prior to the meeting are a Town-recognized holiday, the deadline shall be extended to the following day at Noon.
3. Any late mail received on an agenda item after the deadline established in paragraph (2) above shall be date-stamped, marked as "Late Mail" and distributed to the reviewing authority as soon as reasonably possible, but may not be read or considered by the reviewing authority. There should be no expectation of, nor shall the reviewing authority have any obligation to, read or consider any such late mail, and therefore such late mail may not become part of the administrative record for the item before the reviewing authority.

These provisions shall also apply to special and adjourned meetings when sufficient lead time exists to implement these provisions. If sufficient lead time does not exist, the Town Manager shall exercise discretion in establishing a reasonable cut-off time for late mail. For controversial items or at any meeting where a high volume of correspondence is anticipated, Town staff shall have the option to require an earlier late mail deadline, provided that the written public notice for any such item clearly communicates the specifics of the early late mail deadline, and the deadline corresponds appropriately to any earlier availability of the agenda packet.

Pursuant to state law, copies of all late mail shall be available in a timely fashion for public inspection at Tiburon Town Hall, 1505 Tiburon Boulevard, Tiburon.



TOWN OF TIBURON
1505 Tiburon Boulevard
Tiburon, CA 94920

Planning Commission Meeting
December 13, 2016
Agenda Item: **PH-1**

STAFF REPORT

To: Members of the Planning Commission

From: Community Development Department

Subject: 1620 Tiburon Boulevard: Request for a Conditional Use Permit Amendment to Expand an Existing Wireless Communication Facility; ACV Argo Tiburon, LP, Owner; T-Mobile, Applicant; File No. CUP2016005; Assessor's Parcel No. 059-101-03 [KO]

BACKGROUND

The applicant has requested a continuance for this item. At this point in time it is uncertain whether the item would be continued to the meeting of January 11, 2017 or January 25, 2017.

RECOMMENDATION

Staff recommends that this item be moved to the end of the agenda and that The Commission continue the item to a date specific (either January 11 or January 25) prior to adjournment.



TOWN OF TIBURON
1505 Tiburon Boulevard
Tiburon, CA 94920

Planning Commission Meeting
December 13, 2016
Agenda Item: **PH-2**

STAFF REPORT

To: Members of the Planning Commission
From: Community Development Department
Subject: Amendments to Chapter 16 (Zoning) of the Tiburon Municipal Code Regarding Secondary (Accessory) Dwelling Units and Junior Accessory Dwelling Units; Town File MCA2016006
Reviewed By: _____

BACKGROUND

The California Legislature passed three bills in 2016 that have substantive effects on the existing regulatory framework for secondary (accessory) dwelling units and upon junior accessory dwelling units. All three bills were signed by the governor. The two bills affecting secondary dwelling units will become effective on January 1, 2017; the bill affecting junior accessory dwelling units went into effect upon its signing by the governor in September. Cities and counties throughout the state are now amending their zoning ordinances in response to the new laws. The general purpose of the legislation was to provide additional opportunities for affordable housing in California.

Secondary Dwelling Units

Prior to July 1, 2003, secondary dwelling unit applications were subject to a conditional use permit process in the Town of Tiburon. The Town approved 39 such units by conditional use permit between 1984 and 2003. After that date, state law required ministerial or non-discretionary review and approval secondary dwelling units, subject to locally-adopted standards that retained a limited level of local discretion as to their content. The Town has ministerially approved eight secondary dwelling units since 2003.

Under the new state laws, secondary dwelling units are now required to be called “accessory dwelling units” (ADU). They were previously referred to as “second units” in state language, and as “secondary dwelling units” in Town regulations, but are also commonly known as granny units, in-law suites, or carriage houses. Such units are defined generally as independent, self-contained dwelling units, which may be attached or detached from a primary unit and may be constructed in single family residential zones and/or in multi-family residential zones subject to local discretion. ADU are strongly encouraged and facilitated by the state and are supported by the Town through General Plan policies.

Junior Accessory Dwelling Units

Junior accessory dwelling units (JADU) are a recent phenomenon adopted by relatively few jurisdictions in California thus far. Tiburon and Novato were at the forefront in Marin County, having adopted JADU ordinances in early 2015. To date, no applications for a JADU have been filed in Tiburon. Certain elements of the state legislation are intended to remove some of the obstacles to creation of JADUs that were posed by special district and utility provider requirements, including fire sprinklers throughout the entire residence, separate utility meters, and utility connection fees that can no longer be required in most instances.

ANALYSIS

Overview

Assembly Bill 2299 and Senate Bill 1069 regarding accessory dwelling units were coordinated to contain nearly identical provisions in the event one or the other did not become law. Assembly Bill 2406 authorized adoption by local agencies of a permit process for junior accessory dwelling units and specified the regulatory scope of any such ordinance. Due to the complex nature of the legislation, extensive consultation with the Town Attorney was required during the preparation of the proposed amendments.

Secondary Dwelling Units

The state legislation requires substantive revisions to the Town's regulations governing secondary dwelling units, including new or modified definitions and clarifications of appeal procedures and time lines for action. However, a virtually complete re-write of the Town Council-adopted "standards" used in the review of these applications is required. The Commission should note that the Town is proposing adoption of these revised standards by "resolution"; the method by which they were originally adopted. The state law suggests that the standards be adopted by ordinance, which would then require a lengthy and cumbersome amendment process. Given the propensity of the state to frequently modify accessory unit laws, and the strong likelihood that subsequent state legislation will be required to clarify ambiguous provisions contained in the new state laws, Town Staff believes adoption of the standards by resolution is a superior approach and poses little risk provided that the adopted standards are in compliance with the statutes.

Junior Accessory Dwelling Unit Regulations

Assembly Bill 2406 was based on the same general model used to create the Town's ordinance in 2015 and relatively few changes are needed to the ordinance provisions. Modest revisions are required to the "standards" used in the ministerial review of applications. These include appeal provisions that have been clarified and a time limit imposed for action on JADU applications to match that contained in state law. A process for sending "courtesy notices" of a pending JADU application to nearby property owners has also been added, although such notices are not required by state law and the decision on an application must be ministerial and not discretionary in nature.

Changes to State Law

The following is a summary of the changes to local regulation required under the new state laws.

Secondary (Accessory) Dwelling Units

- Newly-created “Secondary Dwelling Units” must be referred to as “Accessory Dwelling Units” going forward.
- No minimum lot size restriction may be imposed.
- The statute appears to restrict local government regulation of ADU square footage in the ADU standards themselves within specified limits, but allows for local regulation through other discretionary permits (e.g., design review) in instances other than the simple conversion of existing floor space to an ADU. Where additions or new floor area are proposed for an ADU, the Town will apply typical zoning parameters such as height limits, floor area ratio limits, lot coverage limits, minimum setbacks, and the general principles of site plan and architectural review to prevent or ameliorate unreasonable adverse effects that might be caused by construction of additions. However, the Town would have very limited ability to regulate the subsequent conversion of such floor space to an ADU once it is built.
- Either the ADU or the primary unit can still be required to be owner-occupied, although exemptions have been created for units owned by a governmental agency, a land trust, or a housing organization.
- The Town may continue to prohibit rental of ADUs for periods of less than 30 days, in other words as “short term” rentals.
- Local standards regulating the conversion of existing floor space in a single family home or an existing detached accessory building into an ADU are narrowly circumscribed; for instance, no parking can be required for the ADU in such instances. Local agencies retain some latitude (in the form of standards) over accessory dwelling units that require new construction or additions to existing single family dwellings, but less latitude than under the prior state laws.
- Local agencies are now prohibited from imposing parking standards on ADU that are:
 - Located within one-half mile of public transit;
 - Located within an architecturally and historically significant district;
 - In part of an existing primary residence or in an existing detached accessory structure (with no expansion of exterior walls);
 - In areas where parking permits are required but are not offered to the ADU occupant;
 - Within one block of a car sharing vehicle.
- Some of the most substantive changes in the state law have implications for building, fire and utilities that are not necessarily reflected in the proposed zoning amendments, but will be addressed by the applicable Town Departments as appropriate. These changes are summarized below:
 - ADU shall not be required to provide fire sprinklers if they are not required for the primary residence.
 - ADU shall not be considered new residential uses for the purposes of calculating local agency connection fees or capacity charges for utilities, including water and sewer service.
 - For ADU created within an existing structure, a local agency shall not require the applicant to install a new or separate utility connection directly between the ADU and the utility or impose a related connection fee or capacity charge.
 - For ADU created through the addition of new floor area, a local agency may require a new or separate utility connection directly between the ADU and the utility.

Junior Accessory Dwelling Units

As the state did not previously regulate JADUs, there is no basis to compare changes in state law. To summarize, the Town may:

- Limit JADUs to a single family dwelling located in a single family zone.
- Require owner occupancy of the lot on which the JADU is located, unless the lot is owned by a governmental agency, a land trust, or a housing organization.
- Require the utilization of a pre-existing bedroom and require that the unit be located within the existing walls of the primary residence.
- Require that the existing residence complies with current parking standards (no new parking must be created or provided for the JADU itself).
- Require deed restrictions to be recorded that also bind future owners.
- Continue to prohibit rental of ADUs for periods of less than 30 days, in other words as short-term rentals.

Specific Town Documents Requiring Amendment

The Town documents requiring amendment are:

1. Various sections of the Zoning Ordinance (Chapter 16 of the Municipal Code), including definitions, regulations governing secondary dwelling units and junior accessory dwelling units, tables and other miscellaneous sections referencing secondary dwelling units (due to the required name change to “accessory dwelling unit”). State law requires that the Planning Commission hold a public hearing and make its recommendations to the Town Council on these proposed amendments.
2. The Town Council resolutions establishing “standards” for review and approval of secondary dwelling units and junior accessory dwelling units. Due to the nature of the new state laws, there will now be two separate sets of standards for ADU. The first will govern ADUs where new construction or additions are involved; the second will govern exclusive conversion of existing floor space. The latter will have far fewer standards as dictated by state law. State law does not require a public hearing or formal Planning Commission recommendation on the adoption of the “standards”; although it is long-standing Town practice and tradition to do so and is therefore part of this business item.

Accordingly, the Planning Commission recommendations are set forth in separate resolutions (**Exhibit 1 and Exhibit 2**) covering these two areas of recommendation.

State Government Code sections setting forth the text of the new laws are attached as **Exhibits 3 and 4** for accessory dwelling units and junior accessory dwelling units, respectively.

Redline documents depicting the extensive revisions required to existing Town definitions, regulations, and standards are attached as **Exhibits 5, 6, and 7**.

ENVIRONMENTAL DETERMINATION

The proposed amendments to the zoning ordinance and to the accompanying standards are statutorily exempt from further review under the California Environmental Quality Act (CEQA) pursuant to Section 15282, subsection (h) of the CEQA Guidelines.

RECOMMENDATION

Staff recommends that the Planning Commission:

- 1) Hold a public hearing and consider all testimony.
- 2) Make any revisions as appropriate.
- 3) Move to adopt the attached resolution recommending approval to the Town Council of various zoning text amendments.
- 4) Move to adopt the attached resolution recommending adoption of revised “standards” for accessory dwelling units and junior accessory dwelling units to the Town Council.

EXHIBITS

1. Draft resolution recommending zoning text amendments to the Town Council.
2. Draft resolution recommending revised standards to the Town Council.
3. Government Code Section 65852.2 governing ADU.
4. Government Code Section 65852.22 governing JADU.
5. Redline showing proposed revisions to zoning definitions related to ADU and JADU.
6. Redline showing proposed revisions to ADU regulations and standards.
7. Redline showing proposed revisions to JADU regulations and standards.

Prepared By: Scott Anderson, Director of Community Development