

PLANNING COMMISSION  
MINUTES NO. 1070  
Special Meeting  
December 13, 2016  
Town of Tiburon Council Chambers  
1505 Tiburon Boulevard, Tiburon, California

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**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 Weller and Welner

Absent: Commissioner Kulik

Staff Present: Director of Community Development Anderson

**ORAL COMMUNICATIONS:**

There were none.

**COMMISSION AND STAFF BRIEFING**

Director Anderson gave the following staff briefing:

- The meeting of December 28, 2016 will be canceled.
- He recommended the Commission hear the report on the wireless communications facility at the end of the agenda to determine the date for it to be heard in 2017.
- The Scoping Session for the Tiburon Peninsula Club EIR is scheduled for January 25, 2017 relating to the addition of a couple of new tennis courts and the lighting of 8 courts. There may be additional items on that agenda, as well.

**PUBLIC HEARINGS**

2. 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]

Mr. Anderson stated as noted in the staff report the state legislature passed three bills in 2016 that made changes to the second unit laws and put in place junior accessory dwelling unit laws. The Governor signed all three bills, and cities and counties are working to bring their regulations in line with the new legislation, most of which go into effect on January 1, 2017.

The staff report includes a brief history about secondary dwelling units, which will now be called “accessory dwelling units”. From 1984 until 2003 these were all approved by conditional use permit, which is a discretionary process, until the law changed in 2003. Thirty-nine second units were approved using this process. Since 2003 the Town has approved 8 additional second unit applications. Under new law, these permits will continue to be non-discretionary, and there would be more limited criteria for local governments to apply in the review of accessory dwelling unit permits.

Anderson stated current state law does not exist for junior accessory unit permits, but that the Town was in the forefront of permitting such uses, having adopted its ordinance in 2015. To date, the Town has received no applications for junior accessory dwelling unit, in large part due to some of the restrictions and costs applied by utilities and special districts. Some of the legislative provisions are intended to prohibit those kinds of costs and obstacles. Therefore, the Town may see more applications for junior accessory dwelling unit in the future.

As an overview, Mr. Anderson said the current regulations will need to change moderately, but the Town’s “standards” had to be completely rewritten to comply with new law. Revisions for junior accessory dwelling units affect both standards and regulations more modestly because the state used the same model ordinance that the Town used to craft its recent legislation.

In terms of changes to state law for accessory dwelling units, the Town can no longer have a minimum lot size restriction. It has limited control over the square footage allowed in accessory dwelling units; however, there is still the design review process for accessory units where new square footage is being added or created, which will address most issues that arise. The Town is also still able to have owner occupancy requirements and the Town can also prohibit short term rental of these units. The Town is prohibited in many instances of imposing any parking requirements on accessory dwelling units, and special districts and utilities now have several limiting factors, as well.

In terms of junior accessory dwelling units not much has changed. These units are still limited to a single family dwelling located in a single family zone, and owner occupancy is required. They must involve a pre-existing bedroom and must be located within the walls of the existing unit and involve no additions. There is also no ability to apply parking standards to the junior accessory unit. The existing dwelling unit or “primary residence” must meet current parking standards. There are also deed restrictions which have not changed much, and again, the Town can apply the short-term rental prohibition to these units, and they must be rented for at least 30 consecutive days.

Mr. Anderson stated that the documents requiring revision are before the Planning Commission. One is the actual regulations from the zoning ordinance, comprised of definitions as well as the specific regulations for both accessory dwelling units and junior accessory dwelling units. The second document adopts the “standards” under which the Town’s ministerial review is conducted.

Staff prepared two resolutions. The first deals with the zoning text amendments and a public hearing is required by law, with a Commission recommendation forwarded to the Town Council.

Staff also prepared a resolution recommending to the Town Council adoption of revised “standards” for both the accessory dwelling units and junior accessory dwelling units.

Mr. Anderson said he was available for questions and requested the Commission hold a public hearing, make any revisions as appropriate, and move to adopt the resolutions.

Chair Williams referred to the text amendments on page 1 of Exhibit 6 and page 1 of Exhibit 7 which is the same language for each, under “Director of Community Development has review authority” or Section B states, “applications for accessory dwelling unit”. She asked if this should include an “s” or whether it should state, “accessory dwelling unit permit” to be consistent with surrounding sections.

Mr. Anderson concurred with the Chair’s suggestion to add the word “permit”.

Chair Williams referred to the courtesy notice provision and noted that because this is a non-discretionary process, will this provision give people the sense that they have the ability to comment on the application.

Mr. Anderson stated that a courtesy notice it is something staff believes is a good practice and beneficial. The notice is very clear it is a non-discretionary permit. However, if there is information someone has, such as the owners never living in the unit, this is a legitimate concern the Town would like to hear about. Owner occupancy is a requirement and staff’s traditional methods of determining owner occupancy (such as assessment rolls) are not foolproof.

Chair Williams opened the public hearing. Seeing no speakers she closed the public hearing and returned discussion to the Commission.

Vice Chair Corcoran supported the provision of notice to neighbors. He said the new state law is clear as to what needs to be done with the Town’s regulations and guidelines and had no other comments.

Commissioner Welner thanked staff for translating the state requirements and had no comments.

Commissioner Weller supported the recommendation, and noted the Town has little discretion given the new law.

Chair Williams concurred with comments and thanked staff for interpreting the law and making appropriate amendments.

**ACTION: M/S (Williams/Corcoran) to adopt the resolution recommending that the Town Council adopt the zoning text amendments as amended to add the word “permit” in Exhibits 6 and 7. Motion carried 4-0.**

**ACTION: M/S (Williams/Welner) to adopt the resolution recommending that the Town Council adopt standards for both accessory dwelling units and junior accessory dwelling units. Motion carried 4-0.**

## ACTION ITEMS

1. 215 BLACKFIELD DRIVE: Adoption of Resolution Amending a Conditional Use Permit to operate a synagogue and appurtenant day school; File #10404; Congregation Kol Shofar, Owner and Applicant; Assessor's Parcel No. 038-351-34 [DW]

Mr. Anderson stated that at its prior meeting the Commission determined that henceforth Kol Shofar's CUP should be reviewed every two years as opposed to annually, as had been the practice for some years, and directed staff to return with a resolution memorializing that action. The resolution before the Commission amends Condition 8A such that the use permit will be reviewed every two years, and staff recommends its adoption.

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

ACTION: M/S (Weller/Corcoran) to adopt the resolution modifying Condition 8A to require that the CUP be reviewed every two years. Motion carried 4-0.

Chair Williams moved the Commission's attention to consider Public Hearing Item 1.

1. 1620 TIBURON BOULEVARD: Consider approval of a Conditional Use Permit to modify an existing wireless communications 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]**

Mr. Anderson stated that since the zoning item has been acted on, staff recommends this item be continued to January 25, 2017 since that would be the only item on January 11<sup>th</sup>. The applicant indicated they have no preference as to which meeting it placed on the agenda.

Vice Chair Corcoran noted this address is his office building and he stated he could recuse himself to avoid any conflict. Mr. Anderson inquired as to whether Vice-Chair Corcoran's lease was still month-to-month.

Mr. Anderson stated he will check with the Town Attorney; however, since Mr. Corcoran's lease is month-to-month he did not believe there would be any conflict for Vice Chair Corcoran to participate in the item.

ACTION: M/S (Williams/Weller) to continue 1620 Tiburon Boulevard to the January 25, 2017 Planning Commission meeting. Motion carried 4-0.

2. Planning Commission Minutes–Meeting of November 9, 2016

ACTION: M/S (Williams/Weller) to approve the Minutes of November 9, 2016 as submitted. Motion carried 3-0-1 (Welner abstained).

**ADJOURNMENT**

The Planning Commission adjourned the meeting at 7:49 p.m.

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ERICA WILLIAMS, CHAIR  
Tiburon Planning Commission

ATTEST:

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SCOTT ANDERSON, SECRETARY