



TOWN OF TIBURON
1505 Tiburon Boulevard
Tiburon, CA 94920

Planning Commission Meeting
February 13, 2008
Agenda Item: **1**

STAFF REPORT

To: Members of the Planning Commission

From: Community Development Department

Subject: Consider Recommendation to the Town Council for Approval of the Ling Precise Development Plan (PD #24) to Create Three Building Sites on a 5.6 Acre Parcel; End of Stony Hill Road; Joe Ling, Et Al, Owners; Assessor's Parcel No. 055-261-10; File No. 30705

PURPOSE OF THE MEETING

The purpose of this meeting is for the Planning Commission to conduct a public hearing on the merits of a revised and scaled back Ling Precise Development Plan application and forward its recommendation to the Town Council.

RECOMMENDATION

Staff recommends that the Planning Commission recommend that the Town Council conditionally approve the revised three-lot project evaluated in the Addendum to the certified environmental impact report (EIR) for this project.

PROJECT DATA

Address: End of Stony Hill Road
Assessor's Parcel Number: 055-261-10
File Number: 30705
Lot Size: 5.6 Acres
General Plan: Medium Low Density Residential (PD-R-u, up to 1.0 unit/acre)
Zoning: RPD (Residential Planned Development)
Current Use: Undeveloped (Large Undeveloped Parcel)
Owners: Joe Ling, et al
Applicant: William Verelley
Date Complete: October 26, 2007

BACKGROUND/PROJECT HISTORY

The following is a brief timeline for the ling Precise Development Plan:

- In July 2003, the Ling Precise Development Plan application was submitted, requesting development of a 5.6 acre property located at the end of Stony Hill Road into five (5) single-family residential lots.
- The application was deemed complete in February 2004 and a Draft Environmental Impact Report (DEIR) was prepared and released in April 2004.
- On June 8, 2005 the Planning Commission directed Staff to prepare the responses to comments and a Final EIR.
- On December 8, 2005 the Planning Commission recommended certification of the EIR to the Town Council. The Town Council certified the Final EIR on January 4, 2006.
- On August 23, 2006, the Planning Commission considered the merits of the Precise Development Plan. The Commission determined that the five-lot project design was unacceptable and adopted Resolution No. 2006-20 recommending that the Town Council approve a modified version of a two-lot project (Alternative 5) evaluated in the certified EIR, with building envelopes shifted 90 feet eastward.
- The applicant withdrew the Precise Development Plan application prior to the Town Council hearing on the project.

The applicant has subsequently hired a new architect and submitted revised plans to develop three (3) homes on the property. The Town's environmental consultant has prepared an Addendum to the certified EIR which evaluates the changes in potential environmental impacts associated with the revised project design. The EIR Addendum and the Precise Development Plan merits for the revised project design are now before the Planning Commission for action.

PROJECT DESCRIPTION

The application seeks approval of a precise development plan to subdivide a currently undeveloped 5.6 acre parcel into three single-family residential lots, and the construction of homes and ancillary residential improvements, a roadway, driveways and installation of utilities.

The precise development plan would provide for the development of a single-family dwelling on each of the three proposed lots. The property is located at the end of Stony Hill Road to the southeast of Gilmartin Drive, above Las Palmas Way, Mantegani Way and Tiburon Boulevard, and would be served by an extension of Stony Hill Road within an existing 50 foot wide roadway and utility easement (RUE) connecting to Gilmartin Drive. The site is generally surrounded by single-family residential homes along Las Palmas Way, Mantegani Way, Tiburon Boulevard, Owlswood Road, Stony Hill Road and Via Paraiso East.

The Stony Hill Road extension would terminate at a new cul-de-sac. The applicant intends to offer this road extension for dedication to the Town for public street purposes. Individual driveways would connect each of the three proposed homes to the proposed public street. The Stony Hill Road extension would also provide access to a recently constructed home at 15

Mantegani Way, as required as part of a 1998 legal settlement between the Town and the owner of 15 Mantegani Way. The existing access to 15 Mantegani Way from Tiburon Boulevard and Las Palmas Way would be closed to traffic.

The topography of the property is characterized by a Town-designated ridgeline on the northerly end of the site near the current terminus of Stony Hill Road, with the remainder of the site sloping down generally from northwest to southeast. Slopes on the site range from near level to over 40%.

Vegetation on the site consists primarily of French broom, interspersed with small areas of non-native grassland. Mature trees are located on portions of the upper and lower reaches of the site. A proposed 20 foot wide public access easement (described as dedicated public open space on the submitted drawings) would provide pedestrian access from the proposed Stony Hill Road extension to the existing public open space adjacent to the northeast boundary of the property. Approximately 58.2% of the site is proposed as open space (either private or public) with no structural improvements.

Most of the site is underlain by landslides that would be stabilized as part of this project. Up to approximately 75,000 cubic yards of material would be excavated and replaced as part of the landslide repair. The remainder of the grading proposed for the project would require 9,500 cubic yards of cut and fill, which would balance the earthwork on the site and require no trucking to off-haul material.

PREVIOUS REVIEW BY THE PLANNING COMMISSION

During the review of the EIR for this project, the Planning Commission raised several issues about the overall project design. There was a consensus that the Town-designated ridgeline was not a prominent geographic feature, and that the potential existed for the applicant to move some of the proposed dwellings closer to the ridgeline in order to address impacts on existing residences to the east of the site. Other concerns were also raised that the proposed open space portions of the project needed to be better integrated with the surrounding neighborhood and existing adjacent open space. The landslide repairs required by the EIR and the Town's landslide mitigation policy were characterized as unavoidable if the property is to be developed, but the Commission acknowledged that the site and other homes in the vicinity would be substantially safer after completion of the landslide repair work.

As early as the EIR scoping session, the Planning Commission also encouraged the applicant to explore the possibility of reducing the number and size of the proposed homes on the site. Staff had similarly advised a density reduction as part of the project incompleteness letter sent to the applicant on October 29, 2003. The possible need to reduce the number of homes was reiterated by the Planning Commission at the December 8, 2005 meeting.

On August 23, 2006, the Planning Commission considered the merits of the original five-lot design Precise Development Plan. The Commission determined that five lots were too many on this property, citing Town policies that encourage limiting densities and maximizing open space. The Commission also concluded that the five-lot project did not address the issues raised by the EIR and other general plan and zoning ordinance concerns. As a result, the Commission adopted Resolution No. 2006-20 recommending that the Town Council approve a modified version of a

two-lot project. As previously noted, the applicant withdrew the five-lot Precise Development Plan application prior to the Town Council hearing on the project.

REVISED PROJECT DESIGN

The revised project design for the Ling Precise Development Plan would establish the following building envelopes and other planning limitations for the future lots:

- Lot 1 would have an area of 0.99 acre and would be situated in the southwest corner of the site, accessed by a driveway leading from the end of the proposed cul-de-sac for the proposed Stony Hill Road extension, with an 18,582 square foot residential use area and 2,431 square feet of private common landscape area.
- Lot 2 would have an area of 1.39 acres and would be situated in the northwest corner of the site, accessed by the first driveway on the right of the cul-de-sac, with a 17,008 square foot residential use area and 3,495 square feet of private common landscape area.
- Lot 3 would have an area of 2.80 acres and would be situated on the eastern (uphill) portion of the site, accessed by a driveway on the left side of the proposed Stony Hill Road extension, with an 23,821 square foot residential use area and 9,969 square feet of private common landscape area.

Lot 1 would be developed with a single-family residence of up to 4,750 square feet in size and a 730 square foot garage. Lot 2 would be developed with a single-family residence of up to 4,880 square feet in size and a 720 square foot garage. Lot 3 would be developed with a single-family residence of up to 6,040 square feet in size and a 750 square foot garage. The residential use areas indicate the general building footprints, but do not indicate a traditional primary building envelope where a house would be located. The residential use areas also indicate the limits of fenceable areas and conventional landscaping for each lot. Each lot also contains areas designated as “private common landscape area,” which is primarily situated along the proposed Stony Hill Road extension to provide landscaping along this roadway.

A total of 2.3 acres, or 41.3% of the area of the subject property, is listed as “private open space,” which would be located around the perimeter of the project site. A 0.19 acre strip of land indicated as “dedicated public open space” would run diagonally in a west-to-east direction from the proposed driveway extension beyond the roadway extension cul-de-sac to the northeast corner of the site; this strip is intended to provide a public pedestrian connection from the roadway to existing Town open space adjacent to the site. Lastly, 0.75 acres of the site is designated as “private common open space area” located on each lot between the residential use area and areas shown as “private open space.” Private common open space areas would not be actively landscaped, but would allow for vegetation in these areas to be maintained for fire abatement and drainage maintenance purposes.

The applicant has submitted detailed conceptual house designs for each of the three proposed lots. Each house would have two main levels of living area plus a smaller basement. The homes on Lots 1 & 2 would be terraced into the hillside, with garages at the upper level of the structure and overall building heights approaching 30 feet. The house on Lot 3 would be angled to more

closely follow the contours of the slope and spread out more across the lot, with a building height of 24 feet. Large retaining walls for each lot would be incorporated into the rear walls for each house, with a 5 foot maximum height for most of the visible retaining walls (although a portion of the retaining wall adjacent to the garage for Lot 3 would be up to 17 feet in height). The height of the roadway retaining walls, which was a concern with the previous project design, has now been limited to 4 feet or less.

ENVIRONMENTAL REVIEW

A Draft Environmental Impact Report was prepared for this project and released in April 2004. On June 8, 2005 the Planning Commission directed Staff to prepare the responses to comments and a Final EIR. The Planning Commission recommended certification of the EIR to the Town Council on December 8, 2005. The Town Council certified the Final EIR on January 4, 2006.

The revised project design was not considered as a development alternative in the certified Final EIR, although it is similar to Alternative 4 in the EIR and is squarely within the range of alternatives discussed in the EIR. Therefore, the Town's environmental consultant for the project has prepared an addendum to the EIR, which is intended to:

- Determine whether the revised project would have new impacts or an increased or decreased severity of impact from those identified in the certified FEIR;
- Determine whether there have been any changes in the environmental circumstances that would result in a new or substantially more significant environmental impact;
- Determine which mitigation measures recommended in the EIR can be eliminated or need to be revised, and whether any new mitigation measures are required;
- Determine whether recommended mitigation measures reduce the impacts to a less than significant level; and
- Examine the project alternatives analysis included in the EIR and determine whether any new alternative is feasible.

The certified EIR identified one significant unavoidable ("SU") impact of the project that could not be eliminated or reduced to a less-than-significant level through mitigation measures identified in the EIR: that the proposed residences would adversely affect views from public and private vantage points. The EIR Addendum has concluded that the revised project design would reduce the potentially significant visual impact on views from the Richardson Bay Lineal Park Multi-Use Path, the path along San Rafael Avenue and the Town's open space to a less than significant level. The Addendum recommends mitigation measures that would also reduce the potentially significant visual impacts on the of homes on Mantegani Way, Las Palmas Way, Owlswood Road, Owlswood Lane and Rolling Hills Road to a less than significant level.

The EIR reviewed six (6) separate project alternatives, ranging from the "no project" alternative to a revised five-lot project similar to the applicant's preferred alternative. The Addendum does

not identify any new alternatives, stating that the revised project design is similar to Alternative 4 in the EIR, which included the development of three residential lots. The EIR Addendum concludes that the revised project, with recommended mitigation measures, would be superior to the original project and Alternatives 2, 3, 4 and 6. Alternatives 1 and 5 (with zero or two lots, respectively) would be superior to the revised project since that would reduce development and therefore reduce visual impacts, maintain more of the site as open space and further reduce other impacts. However, adoption of one of these alternatives is not required to reduce the potentially significant impacts of the project to a less than significant level, since the impacts of the proposed three-lot project can all be reduced to less than significant levels.

The EIR extensively reviewed possible geological impacts associated with the proposed project due to the presence of two large landslide deposits on the site. These landslides would be repaired by excavating soil in the landslide areas down to bedrock, then benching the bedrock and keying fill back into the bedrock to stabilize the area. The landslide repair would be conducted in a gradual manner, starting from the bottom of the site and working uphill, to lessen the amount of graded hillside at any one time and minimize the potential for landslides occurring during the repair process.

Alternative landslide repair techniques were investigated in an attempt to reduce both the extent and duration of grading activity. Both the project geotechnical engineer and the Town's consulting geotechnical engineer found that these alternative landslide repair measures would be feasible, but were less desirable as a long-term solution to the landslide concerns on the property. Further, the EIR concluded that the alternative landslide repair technique would probably not substantially reduce the secondary noise and dust impacts associated with the necessary landslide repairs for the site.

The EIR concluded that repairing the landslides so they no longer pose a hazard to the area would be a beneficial impact of the project. Mitigation measures were identified in the EIR that would reduce project geologic impacts to a less than significant level. The EIR Addendum concluded that these same mitigation measures would continue to reduce the geologic impacts of the revised project to a less than significant level.

SUMMARY OF GENERAL PLAN AND ZONING CONSISTENCY

An analysis of the proposed project's consistency with pertinent goals, policies and principles of the Tiburon General Plan and Zoning Ordinance is attached as **Exhibit 6**. The following is a summary of the issues raised in that analysis:

General Plan

Visual Impacts. The previous project design would have intruded into the primary views for the adjacent existing home at 840 Stony Hill Road. In particular, the proposed house on Lot 5 would have intruded into views of San Francisco from several primary living areas of this neighboring residence. The house on the proposed Lot 2 of the revised project, which would be closest to this neighboring residence, would not appear to intrude into these views. The house on Lot 2 has also been relocated further away from the home on 1 Owlswood Road to avoid any visual impacts on that neighboring residence.

Neighborhood Compatibility. The proposed house sizes include homes larger than those located to the south of the project site, but similar in size to homes to the north, east and west. The overall density of this residential project (three homes on a 5.6 acre site) would be consistent with that of the surrounding area.

Environmentally Sensitive Areas. The primary environmentally sensitive areas on the subject property are the landslide deposits that cover much of the site. It would not be feasible to avoid the landslide areas and still develop the property. Further, the Town's landslide mitigation policy directs that these landslides must be repaired as part of any development of the property.

Usable Open Space. The project would preserve 58.2% of the site as open space. Most of the proposed open space would not be directly adjacent to other dedicated open space, and likely will remain as privately owned and maintained open space. Some of the proposed open space is contiguous to existing Town open space at the northeast corner of the site. Although much of the open space would surround the proposed three residences and would not be contiguous to existing open space, this open space would provide a greenbelt between the development and Town open space as well as to provide an appropriate buffer between homesites and existing homes in the area. The public access easement would provide a local connection to other Town open space parcels, although there is not a developed trail network in the area at present.

Ridgeline Protection. During the EIR review process, there was discussion on the importance of protecting the designated ridgeline on the site, with the Planning Commission recognizing that moving the proposed house locations closer to the ridgeline could give the applicant needed flexibility in siting buildings to avoid impacts on existing nearby homes. The revised project design takes advantage of the visual barrier provided by this ridgeline and the revised location for the future house on Lot 2 would not block views from the neighboring residence at 840 Stony Hill Road.

Safety. The repair of the landslides on the property consistent with Town landslide repair policies would result in improved safety conditions on the site and for other properties in the vicinity.

Zoning Ordinance

Quality of Open Space. More than 58 percent of the site would be designated as open space, and a public pedestrian access to public open space would be provided. However, other than the access easement, none of the open space would be public, and much of the proposed private open space would be around the edges of the building envelopes. Since much of the onsite open space is not of high recreational or sensitive resource protection value, Town staff considers the optimum use to be for visual and for greenbelt/buffer purposes.

Minimizing Adverse Impacts and Visual Intrusion. The EIR Addendum determined that that the revised project design would no longer have a significant, unavoidable impact on views from public and private vantage points.

ISSUES

The revised three-lot project design is much closer to the design of the previously recommended two-lot alternative design (Alternative 5) than the five-lot project previously proposed by the

applicant and would be similar to the three-lot design discussed in the EIR as Alternative 4. Lots 1 & 2 would be situated in approximately the same locations as the homes for the modified design previously recommended by the Planning Commission. The single house on the upper portion of the site for Lot 3 would extend along the hillside, follow the topography of the site, and have a maximum height of 24 feet. This location would allow the house to better visually blend into the hillside when viewed from further away and would keep the building out of the view corridors for nearby homes. This project design would substantially address the view-related impact concerns of the previous five-lot designs.

The house for Lot 2 would be situated 60 feet from the secondary ridgeline across the west end of the site. However, the EIR Addendum concluded that from a visual perspective, retaining the east end of the site as open space provides more of a visual separator than leaving even a 100-foot separator from the ridgeline. Therefore, this revised project design would be consistent with the objective of providing separation between structures and the undeveloped ridgeline. The revised project design would also leave much more open area along western side of the site adjacent to Town-owned open space, creating a better and more practical buffer between the homes and adjacent open space area.

The revised project design includes “residential use areas” for each lot and does not specify a traditional building envelope for the placement of a house on the lot. The plans indicate a building footprint for the conceptual house design, but leave a much larger area (ranging from 17,008 to 23,821 square feet for the three lots) in which a house could be situated. Dwellings constructed in the indicated building footprints would not result in any view impacts on neighboring residences, but this result could not be guaranteed if houses were constructed in other portions of the residential use area. It is unlikely that the houses on Lots 1 & 2 would be moved further downhill (closer to the homes on Mantegani Way and Las Palmas Way below and possibly into the view corridor for the home at 840 Stony Hill Road), as lower home sites would result in reduced views for the new dwellings and steeper, more difficult driveway access. However, substantial movement of any of the house locations could result in other visual impacts that are difficult to determine at this time.

In order to reduce the uncertainty regarding the potential house locations, staff recommends that building envelopes be created for location of the house and garage on each lot. One approach would be to establish building envelope boundaries that extend 10 horizontal feet beyond the proposed building footprints, but in no case beyond the residential use area limits. This would allow some flexibility of the house design on each lot during the Design Review process without substantially changing the location of the homes from what is shown on the revised project design.

Public Comment

As of the date of this report, no comment letters have been received regarding the revised project design. Comments were received from various responsible agencies during the review of the EIR, including the Tiburon Fire Protection District, Marin Municipal Water District and CalTrans, but no further written comments have since been received from these agencies. Staff also attended a neighborhood meeting conducted by the applicants, at which the surrounding property owners were generally supportive of the revised project design.

Future Actions Required

The Planning Commission's action on this project would be in the form of a recommendation to the Town Council. If the Ling Precise Development Plan is approved by the Town Council, subsequent Town permits would likely include a Tentative Subdivision Map, Parcel Map, Subdivision Improvement Drawings, Site Plan and Architectural Review approval for each lot, and Building Permits for each lot.

RECOMMENDATION

Staff recommends that the Planning Commission:

1. Hold a public hearing on this item and hear and consider all testimony, and
2. Adopt the draft resolution (**Exhibit 1**) recommending conditional approval of the Ling Precise Development Plan to the Town Council.

EXHIBITS

1. Draft resolution
2. Project narrative and supplemental materials
3. Drainage Report prepared by Oberkamper & Associates, dated May 8, 2007
4. Defensible Space & Vegetation Management Plan Report prepared by Caitlin Landscape Associates, dated June 21, 2007
5. Geotechnical Update letter prepared by Earth Science Consultants, dated November 5, 2007
6. Consistency Analysis with the Tiburon General Plan and Tiburon Zoning Ordinance
7. Minutes of the May 26, 2004 Planning Commission meeting
8. Minutes of the May 11, 2005 Planning Commission meeting
9. Minutes of the June 8, 2005 Planning Commission meeting
10. Minutes of the December 8, 2005 Planning Commission meeting
11. Minutes of the August 23, 2006 Planning Commission meeting
12. EIR Addendum (previously distributed)
13. Submitted plans from KAO Design Group and Oberkamper & Associates

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Consistency Analysis of the Ling Precise Development Plan with the Tiburon General Plan and Tiburon Zoning Ordinance

General Plan Consistency

The following section addresses consistency of pertinent policies of the Tiburon General Plan as they relate to the proposed project:

Land Use Element

Goals

LU-D: To ensure that all land uses, by type, amount, design, and arrangement, serve to preserve, protect and enhance the small-town residential image of the community and the village-like character of its Downtown commercial area.

Consistent: Because the EIR Addendum concluded that the project would not result in significant impacts on views from public and private vantage points, the proposed residential project would be consistent with the general land use pattern recommended in the General Plan.

LU-E: To propose future land uses within environmental constraints and consistent with Prime Open Space preservation and other General Plan policies, and the ability of the land and related infrastructure, streets, utilities, public services and other facilities to support such land uses.

Consistent: The EIR Addendum concluded that since the project would not include development on a significant ridgeline, visual impacts would be reduced to a less than significant level and the project would not block inboard or outboard views, the project would not affect Prime Open Space resources as defined by the Open Space and Conservation Element of the General Plan. Otherwise, the project includes adequate access and infrastructure.

LU-F: To preserve and protect Tiburon's views, scenic environment, natural beauty, and open space.

Consistent: The EIR Addendum determined that the proposed project would not result in significant changes to the visual environment.

LU-H: To protect and preserve existing neighborhood character and identity.

Consistent: The EIR Addendum concluded that visual impacts of the revised project would not result in significant changes to the visual environment. The proposed house sizes include homes larger than those located to the south of the project site, but somewhat smaller than homes to the north, east and west. If necessary to ensure

consistency with this goal, house sizes can be reduced when approving the Precise Development Plan.

LU-I: To encourage intensity of development, density, and house sizes/architectural styles that are consistent and compatible with surrounding neighborhoods.

Consistent: The revised project residences would include homes larger than those located to the south of the project site, but similar in size to homes to the north and west. If the Planning Commission finds that the revised project is inconsistent with this goal, house sizes can be reduced when approving the Precise Development Plan.

Policies

LU-2: The Town shall limit the type and amount of uses within the Town to those that are compatible with the nature, character and image of the Town as a quiet, small-town residential community with a village-like commercial area.

Consistent: The project would include three units on 5.6 acres of land. The overall density of this residential project would be consistent with that of a “small-town” residential community.

LU-5: New development shall be in harmony with adjacent neighborhoods and open spaces.

Consistent: Visual impacts of the revised project would be reduced to a less than significant level. As described in the EIR Addendum, the proposed residences are similar to other new homes approved by the Town in the area. If the Planning Commission determines that the proposed new residences are not in harmony with surrounding homes, the Town can require changes in residence design during the Site Plan and Architectural Review process.

LU-6: The Town shall closely consider the environmental constraints of land and Prime Open Space preservation and other General Plan policies through the development review process in determining the location, type, and density and/or intensity of development.

Consistent: The EIR Addendum concluded that the proposed residences would not include development on a significant ridgeline, visual impacts would be reduced to a less than significant level and the project would not block inboard or outboard views, the project would not affect Prime Open Space resources as defined by the Open Space and Conservation Element of the General Plan.

LU-7: Development should be located on the least environmentally sensitive, including habitat in the open spaces, shoreline, marshes, mudflats, and other biologically sensitive areas, and least hazardous portions of the land wherever feasible to promote sound land development and planning practices. Special emphasis shall

be placed on keeping significant ridgelines open and unobstructed to the maximum extent feasible.

Consistent: The EIR Addendum has determined that the revised project does not include construction on the ridgeline and maintains the east end of the site as open space.

LU-11: Property owners cherish their views. Development, new construction, and associated landscaping shall be so situated or kept low to interfere minimally with existing primary views.

Consistent. The revised project would not block significant views from any surrounding residence.

LU-12: The Town shall encourage projects that enhance its character and image through the development and design review processes. Monotony in design, and massive or inordinately large or bulky structures and site coverage that overwhelm or that are inconsistent with the surrounding area, shall be avoided.

Consistent. The EIR Addendum has determined that the Town has the ability during the Site Plan and Architectural Review process to make changes to the project design so that it is consistent with this policy.

LU-13: Neighborhood character, which is defined by the predominant architectural styles, type of buildings, building heights, mass, setbacks, landscaping, and natural characteristics, shall be of material consideration and preserved in all construction projects, including remodels and additions, to the maximum extent feasible.

Consistent. The EIR Addendum concluded that the Town has the ability during the Site Plan and Architectural Review process to make changes to the project design so that it is consistent with this policy.

LU-15: Remodels, tear-down/rebuilds, and new construction shall be compatible with the design, size, and scale of existing dwellings in the surrounding neighborhood.

Consistent. The EIR Addendum concluded that the Town has the ability during the Site Plan and Architectural Review process to make changes to the project design so that it is consistent with this policy.

Open Space Element

Goals

OSC-A: To maximize, protect, preserve and enhance the Town's unique open and natural beauty.

Consistent: The revised project design would provide public open space and a public access to Town-owned open space and would not significantly affect views from that open space.

OSC-B: To provide and permanently preserve as much open space as possible to protect shorelines, open water, wetlands, significant ridgelines, streams, drainageways, riparian corridors, steep slopes, rock outcroppings, special status species and their habitat, woodlands, and areas of visual importance, such as views of and views from open space.

Consistent: The revised project design would not include development on a significant ridgeline.

OSC-C: To permanently protect to the maximum extent feasible, the unique open space character of the Town which is attributable to its large amounts of undeveloped land and open water.

Consistent: The project would preserve more than half the site as open space and would not include development on a significant ridgeline.

Policies

OSC-1: The Town shall strive to permanently preserve through setbacks, dedication, purchase, easement, or other appropriate means exceptional structures, sites, open space and sensitive environmental resources. The Town shall strongly encourage the permanent protection of open space through: conveyance of fee title to an appropriate government agency or land trust; by easement; deed restriction; or other appropriate mechanism acceptable to the Town.

Consistent: The revised project would preserve approximately 58% of the site as open space.

OSC-2: In considering whether open space land shall be dedicated to the Town or other public entity, the benefits to the community of public ownership shall be weighed against the costs of management efforts and other liabilities associated with owning the land.

Consistent: The revised project would preserve approximately 58.2% of the site as open space. The Town will later need to determine whether this open space shall be dedicated to a public entity. However, as most of the proposed open space would not be directly adjacent to other dedicated open space, it is likely that this space will remain as privately owned and maintained open space.

OSC-3: The Town shall strive to secure, through trail easements that connect to other public trails or through other appropriate mechanisms, public access to those portions of open space land most appropriate for public use.

Consistent: The project includes a trail easement to allow access from the street extension of Stony Hill Road to the Town open space to the northeast.

OSC-4: Public or private open space shall be permanently protected. It is the Town's general policy that publicly-owned open space land will not be traded or sold.

Consistent: The revised project would preserve approximately 58.2% of the site as open space.

OSC-5: The Town hereby establishes a goal that a minimum of 50% of the area of lands designated as Planned Development – Residential shall be preserved as permanent open space.

Consistent: The revised project would preserve approximately 58.2% of the site as open space.

OSC-6: The Town prefers clustering of lots in new subdivision design to maximize the preservation of open space to the greatest extent feasible. However, where the Town determines that a project would better conform to the goals and policies of the General Plan, "estate lot" type development (i.e., large homes on large lots) may be considered. Easement, deed restriction, or other appropriate mechanism acceptable to the Town shall be used to preserve open space within common areas or individual lots.

Consistent: The EIR Addendum concluded that the revised project clusters the three residential lots to the degree feasible for large homes and the need to avoid developing the ridgeline. The town has the option of requiring smaller homes or additional clustering during the Site Plan and Architectural Review process.

OSC-7: Where possible, land that is proposed for preservation as permanent open space shall be contiguous to existing open space and/or open space areas that may in the future be permanently preserved.

Consistent: The EIR Addendum concluded that all of the land proposed as open space attaches to existing Town open space at the northeast corner of the site, and much of the private open space also is adjacent to or attaches to the Town open space.

OSC-8: Where appropriate, greenbelts shall be required to separate development areas or to link open space areas.

Consistent: The project includes undeveloped open space (i.e., a greenbelt) between the development and Town open space as well as to provide some buffer between homesites and existing homes in the area.

OSC-9: Undeveloped ridgelines have overriding visual significance to the Town. In balancing open space interests with development interests, the protection of predominantly undeveloped ridgelines shall have the highest priority.

Consistent: The revised project design would not intrude into the ridgeline crossing the site.

OSC-12: Development shall be set back from Significant Ridgelines. Setbacks shall be based on an evaluation of the following characteristics: local and regional visual prominence, ability to connect to existing or potential open space, potential to act as a neighborhood separator, views of and views from, length, height, presence of trees, presence of unusual physical characteristics, highly visible open slopes, significant vegetation, sensitive habitat, special silhouette or back-drop features, difficulty of developing or accessing, and integrity of the ridgeline land form.

Inconsistent. The proposed residence on Lot 2 would be about 60 feet from the ridgeline. However, EIR Addendum concluded that from a visual perspective, retaining the east end of the site as open space provides more of a visual separator than leaving a 100-foot separator from the ridgeline.

OSC-13: Roads and utilities constructed along or across the Tiburon Ridge or Significant Ridgelines shall be strongly discouraged. If no other vehicular access is viable, crossing of ridges shall be minimized and shall be as near to perpendicular to the ridgeline as possible.

Consistent. Although the access road to the site will cross the ridgeline on the site, there is no alternate access to the site, and the crossing would be perpendicular to the ridgeline.

OSC-27: The Town shall strongly discourage development on slopes exceeding 40%.

Inconsistent: There are small areas in the building envelopes for Lots 2 and 3 that exceed 40% slopes. However, after slide repair and grading, slopes within the building envelopes would not exceed 40%.

OSC-28: Principal vistas, view points, and view corridors on land subject to development shall be identified and preserved to the maximum extent feasible.

Consistent: The revised project would maintain a view corridor on the east end of the site and includes over half of the site as open space. The EIR Addendum concluded that these revisions, plus the ability of the Town to require additional changes during the Site Plan and Architectural Review process, would make the project consistent with this policy.

OSC-29: Open space views from key roadways, including Tiburon Boulevard, Trestle Glen Boulevard, and Paradise Drive, shall be protected through the permitting process.

Consistent: The EIR Addendum concluded that the revised project would not result in significant visual impacts on views from public and private vantage points.

OSC-30: Development shall be encouraged in areas where it least interferes with views of and views from open space to the maximum extent feasible.

Consistent: The revised project would maintain a view corridor on the east end of the site adjacent to the Town open space and includes over half of the site as open space. The EIR Addendum concluded that these revisions, plus the ability of the Town to require additional changes during the Site Plan and Architectural Review process, would make the project consistent with this policy.

OSC-31: The preservation of visual qualities, views, and the view potential of the natural and built environment shall be a major consideration of the Town in any development project review.

Consistent: The Town has the ability to require additional changes during the Site Plan and Architectural Review process needed to make the project consistent with this policy.

OSC-35: To the maximum extent feasible, grading shall be kept to a minimum and every effort shall be made to retain the natural features of the land including ridges, rolling landforms, knolls, vegetation, trees, rock outcroppings, and water courses.

Inconsistent: Much of the site would be graded in order to repair site landslides. Once the landslides are repaired, the access road, driveways, and building pads would be graded. However, it is the intention of the applicant to return the grade to preexisting conditions except for the locations where the road, driveways, and the three homes would be located. Most vegetation would be removed, but this is mainly comprised of broom. Its removal and replacement with proposed plantings would increase the value of the biological habitat on the site.

OSC-37: Where grading is required to stabilize areas of geologic instability, its natural vegetation and habitat shall be restored to the maximum extent feasible.

Consistent: Areas to be regraded after landslide repair which are currently dominated by broom would be replanted with mostly native plants.

OSC-38: Where grading is required, it shall be performed in a manner which minimizes, to the maximum extent feasible, the impact on adjacent properties, water quality, and air quality.

Consistent: With implementation of EIR-recommended mitigations, grading should not affect adjacent properties. The EIR and Addendum contain mitigation measures to reduce water quality and air quality impacts associated with the grading to a less than significant level.

OSC-39: Slopes created by grading shall be at a slope angle determined to have long-term stability for the materials being used, not exceeding 30 percent wherever possible. Final contours and slopes shall reflect natural land features, including natural vegetation.

Consistent: With implementation of EIR-recommended mitigations, grading would result in stable slopes on the site. Slopes would exceed 30% only in those locations where the existing slope exceeds 30% in order to restore the natural slope and topography to the site. The site would be replanted with mostly native vegetation.

OSC-40: The visual impact of retaining walls and similar engineering elements shall be reduced in size and scope to the maximum extent feasible by minimizing their use and requiring appropriate visual screening.

Consistent: The EIR Addendum concluded that the visual impacts of the revised project would be reduced to a less than significant level.

OSC-51: Where impervious surface construction and storm drain system installation and/or hillside stabilization (e.g. landslide repair) are proposed as part of development proposals, or wherever such stabilization is required by the Town to protect public safety, the Town shall require project applicants to analyze the impacts of these drainage pattern modifications on groundwater recharge and on downslope water wells and their yields. In the event impacts are likely, modifications to the proposed project, including possible downsizing, should be considered.

Consistent: The site contains steep slopes that are not a significant groundwater recharge area, and there are no known wells downslope of the site.

OSC-56: The Town shall promote the reduction of particulate matter from construction sites, roads, parking lots, and other sources through best management practices (BMPs).

Consistent: The EIR and Addendum contain a series of recommended mitigation measures to reduce construction-related air quality effects of the project to a less than significant level.

OSC-57: The Town shall require the use of feasible control measures to reduce PM₁₀, NO_x, and diesel particulate matter related to construction activities.

Consistent: The Initial Study found that other than particulate matter, project construction emissions would be below significance levels, and therefore no mitigation was required as regards diesel particulates or NO_x. However, the Town has the ability to require that all construction equipment used on the site be properly muffled and maintained and that diesel equipment be powered with diesel engines that meet the most current requirements of the California Air Resources Board as described in its "Diesel Risk Reduction Plan" (adopted September 2000).

Circulation Element

Goals

C-C: To maintain all existing, as well as to design all future, residential streets with consideration of a combination of residents' safety, cost of maintenance, and protection of residential quality of life.

Consistent: With the implementation of recommended mitigations contained in the EIR and Addendum, safe access would be provided by the extension to Stony Hill Road. Project-generated traffic would not adversely affect the residential character of any nearby neighborhood.

Policies

C-4: In connection with the ridgeline policies of the Open Space & Conservation Element, the Town shall ensure that no new streets, driveways, or utilities are installed along or over the Tiburon Ridge or Significant Ridgelines except for the use of emergency services, or where no other access is viable.

Consistent: The access road for the project would cross the ridgeline on the western portion of the site, but there is no other viable access.

C-5: For signalized intersections in the Tiburon Planning Area, the average peak hour level of service (LOS) shall not deteriorate below LOS C, with the exception of intersections located near the U.S. 101 interchange, as depicted in Diagram 5.5-1, which shall not deteriorate below LOS D.

Consistent: The project would not result in deterioration in the level of service at any signalized intersection.

Safety Element

Policies

SE-3: The Town shall continue to require detailed geotechnical investigations for development proposals. Such investigations shall determine the actual extent of geotechnical hazards, specify adequate repair/improvement techniques, describe optimum design for structures and improvements, and set forth any special requirements for the sites.

Consistent: A geotechnical analysis of site landslides has been prepared and reviewed as part of the EIR and Addendum. The landslides can be repaired consistent with Town landslide repair requirements.

SE-4: Development allowed within areas of potential geologic hazard shall neither be endangered by, nor contribute to, the hazardous conditions on the site or on surrounding properties.

Consistent: A geotechnical analysis of site landslides has been prepared and reviewed as part of the EIR and Addendum. The repair of the landslides consistent with Town landslide repair requirements would result in improved safety conditions on the site and for other properties in the vicinity.

SE-5: Development in areas subject to landsliding shall comply with the Town's Landslide Mitigation Policy. The Town shall require physical improvements to landslides and to potential landslide areas in instances where avoidance is not feasible or appropriate, as determined through the development review process.

Consistent: A geotechnical analysis of site landslides has been prepared and reviewed as part of the EIR and Addendum. The landslides can be repaired consistent with Town landslide repair requirements.

SE-6: The Town should actively encourage owners of developed property to repair or improve unstable slopes, install drainage facilities, and take other measures that may reduce potential safety hazards.

Consistent: A geotechnical analysis of site landslides has been prepared and reviewed as part of the EIR and Addendum. The repair of the landslides consistent with Town landslide repair requirements would result in improved safety conditions on the site and for other properties in the vicinity.

SE-12: On-site detention of stormwater runoff shall be utilized to ensure that post-development peak flow rates from a site resulting from both the two-year

and 100-year design rainstorms are not increased by new subdivisions or other permitted development projects.

Consistent: The EIR and Addendum require drainage retention mitigation consistent with this policy.

Noise Element

Policies

N-4: If the projected noise environment for a project exceeds the standards identified in the Noise and Land Use Guidelines, the Town shall require an acoustical analysis so that noise mitigation measures can be incorporated into the project design.

Consistent: An acoustical analysis (including mitigation measures) was prepared for the project EIR. The EIR and Addendum include mitigation measures to address construction-related noise which would reduce any potential impacts to less than significant levels.

N-10: Standard quiet construction methods shall be used where feasible and when construction activities take place within 500 feet of noise sensitive areas.

Consistent: Standard noise control mitigations for construction noise are included in the EIR and Addendum.

Zoning Ordinance Consistency

Section 16-4.08.04 of the Tiburon Zoning Ordinance sets forth the principles to be evaluated in the review of Precise Development Plan applications. A summary of the subject application's conformance with these principles is as follows:

(a) Significant open space shall be preserved through dedication or other means acceptable to the Town, consistent with policies of the Open Space and Conservation Element of the Tiburon General Plan.

Consistent: Approximately 58.2% of the site would be designated as open space, including a public access open space that would allow trail construction to connect to Town open space.

(b) Preservation of the natural features of the land shall be achieved to the maximum extent feasible through minimization of grading and sensitive site design. Features worthy of preservation include ridgelines, prominent knolls, desirable native vegetation, significant rock outcroppings, water courses, and riparian corridors.

Deleted: Partly

Partially Consistent: There are no sensitive resources, other than open space views, on the property. There are very few native oaks, and only two would be removed as part of the site development. The project would not include development on a significant ridgeline.

(c) Slopes created by grading should not exceed 30 percent. Final contours and slopes should reflect natural landforms.

Consistent: The property contains slopes exceeding 30%, but site grading would not create any new slopes exceeding 30% and would result in final contours and slopes that would generally reflect existing landforms on the site.

(d) Every reasonable effort shall be made to preserve view corridors, mature trees, rare plants, significant flora and fauna, areas of historical significance, access corridors, and habitats of endangered species.

| *Consistent:* The EIR Addendum concluded that the project would include a view corridor connecting to the Town's open space. The site does not contain sensitive biological resources. More than half of the site would be retained as open space, and the project would provide greater biodiversity than currently occurs on the site.

Deleted: Partly

(e) Location of development well below ridgelines shall be achieved, in conformance with General Plan and other policies.

| *Inconsistent:* The residence on Lot 2 would be within 60 feet of the ridgeline across the site. The EIR Addendum concluded that when considering the merits of the Precise Development Plan, the Town could require that this residence be moved or reduced in size to provide further setback from the ridgeline, although there would not be a substantial visual gain from such relocation unless the entire ridgeline were to be left undeveloped.

Deleted: Partly

(f) Prominence of development and construction should be minimized by appropriate location of grading and placing of buildings so that they are screened by wooded areas, rock outcroppings, and depressions in topography or other features.

| *Inconsistent:* The site does not contain rock outcroppings, trees, or other features that allow screening. The EIR Addendum concluded that the photosimulations indicate that the proposed residences would be visible on the hillside. The Addendum noted that project landscaping would provide some screening in the future and that the Town has the ability to require additional changes during the Site Plan and Architectural Review process to ensure consistency with this principle.

Deleted: Partly

(g) Due consideration shall be given to avoidance of areas posing geologic hazards.

| *Inconsistent:* Much of the site is a landslide, making avoidance of geologic hazards a near impossibility in the development of this site. The landslide would be required to be

Deleted: Partly

repaired prior to site development. The EIR Addendum notes that if this principle refers to geologic hazards that are existing when construction of residences on the site begins, then the project would be consistent with this principle.

(h) Minimization of significant adverse impacts, as detailed in the Environmental Impact Report, if one is required.

Consistent: The EIR Addendum concluded that the revised project, with the completion of the recommended mitigation measures, would not have any remaining significant and unavoidable impacts.

Deleted: Partly

(i) Roads shall be designed for minimum slopes, grading, cutbacks, and fill. Narrowing of roadways may be allowed to reduce grading, retaining walls, and other scarring of the land.

Consistent: The proposed road alignment follows that of an existing unpaved access road. Grading for this road would not be extensive, once the landslide repair is completed.

(j) Proposed arrangement of residential units and design of circulation system shall provide harmonious transition from and be compatible with neighboring development and open space. Monotony in design shall be avoided.

Consistent: The EIR Addendum concludes that the revised project would be compatible with surrounding development and provide open space that would visually connect to the Town open space. The Town has the ability to require additional changes during the Site Plan and Architectural Review process to ensure consistency with this principle.

Deleted: Partly

(k) Adequate consideration shall be given to the need for privacy and with minimal visual and aural intrusion into indoor and outdoor living areas from other living areas.

Consistent: The EIR Addendum concludes that although the new homes would be visible from existing residences to the immediate south and southeast, the revised plan would maintain existing landscaping and trees along the south side of the property. The revised design and landscaping would further buffer views from these adjacent homes. The Town can require additional landscaping or site redesign consistent with this principle during the Site Plan and Architectural Review process.

Deleted: Partly

(l) Improvements shall be placed so as to minimize intrusion of noise on nearby areas.

Consistent: The project would not cause significant noise at existing residences near the site once the construction phase is completed.

(m) Landscaping shall be designed so as to result in the least possible disturbance of natural and/or open areas and shall be compatible with the natural setting.

Consideration shall be given to fire protection, water conservation, protection of views and trail areas, and buffering of noise.

Consistent: Project landscaping should improve the biodiversity of the site, given its current dominance by French broom. The landscaping recommendations included in the EIR and Addendum should result in the planting of many native species. The site plan contains adequate provisions for fire protection and provides public access. The project would not generate substantial noise once construction is completed. Views of undeveloped land will be lost, but over half the site would remain open space.

(n) Utilities shall be underground and street lights, if needed, shall be of low intensity and low in profile.

Consistent: Utilities would be placed underground. Lighting will be developed consistent with Town requirements when residences are designed.

(o) Materials and colors used in improvements shall blend into the natural environment to the extent reasonably feasible.

Consistent: Conditions of approval and mitigation measures will achieve this principle.

(p) Consistency with other goals and policies of the General Plan Elements shall be demonstrated.

Inconsistent: As previously described, the proposed project is inconsistent with five General Plan policies.

Deleted: Partly

Although individual house designs for each lot would not be reviewed until Site Plan and Architectural Review applications are submitted for each lot, Section 16-4.02.07 (a) states that in reviewing site plans for Site Plan and Architectural Review, the acting body shall consider “the proposed location of the structure on its site in relation to the location of buildings on adjoining sites, with particular attention to view considerations, privacy, adequacy of light and air, and topographic or other constraints on development imposed by particular site conditions.” The EIR Addendum concludes that although the new homes would be visible from existing residences to the immediate south and southeast, the revised plan would maintain existing landscaping and trees along the south side of the property. The revised design and landscaping would further buffer views from these adjacent homes. The Town can require additional landscaping or site redesign consistent with this principle during the Site Plan and Architectural Review process.

RESOLUTION NO. 2008-(Draft)

**A RESOLUTION OF THE PLANNING COMMISSION OF THE TOWN OF TIBURON
RECOMMENDING CONDITIONAL APPROVAL OF THE LING PRECISE
DEVELOPMENT PLAN (PLANNED DEVELOPMENT NO. 24) AND
ADOPTION OF A MITIGATION MONITORING PROGRAM
(ASSESSOR PARCEL NO. 055-261-10)**

WHEREAS, the Planning Commission of the Town of Tiburon does resolve as follows:

Section 1. Findings.

- A. The Town of Tiburon has received and considered an application filed by Joe K. Ling, et al, for a Precise Development Plan (the Ling Precise Development Plan) to develop the following project:

The development of three (3) single-family dwellings and appurtenant improvements on an approximately 5.6-acre property. The Ling Precise Development Plan would establish the maximum density and basic layout and RPD zoning district parameters of the development, including but not limited to building envelopes, height and floor area limits, and other zoning elements for the three (3) proposed future lots.

- B. The Precise Development Plan application consists of File #30705, on file with the Town of Tiburon Community Development Department. Materials from that application include but are not limited to the following:

1. Project description, dated July 2, 2007;
2. Project plans (36 sheets) prepared by KAO Design Group, dated June 21, 2007;
3. Project plans (16 sheets) prepared by Oberkamper & Associates, dated June 21, 2007
4. Revised drainage calculations and plans prepared by Oberkamper & Associates, dated September 21, 2007
5. Drainage Report prepared by Oberkamper & Associates, dated May 8, 2007;
6. Drainage narrative prepared by Oberkamper & Associates, dated October 24, 2007;
7. Geotechnical Update letter prepared by Earth Science Consultants, dated November 5, 2007;
8. Defensible Space & Vegetation Management Plan Report prepared by Caitlin Landscape Associates, dated June 21, 2007.

The official record for this project is hereby incorporated and made part of this resolution. The record includes the Staff Reports, minutes, application materials, and all comments and materials received at the public hearing.

- C. An Environmental Impact Report for this project was certified by the Tiburon Town Council on January 4, 2006. The Planning Commission has considered the certified EIR in making its recommendation to the Town Council on the merits of the project.
- D. The Planning Commission held duly a noticed public hearing on February 13, 2008 at which it heard and considered testimony from interested persons. The Planning Commission found, based upon application materials and analysis presented in the staff report, the certified Final EIR and the Addendum thereto, that the proposed project is, on balance, consistent with the goals and policies of the Tiburon General Plan and in conformance with provisions of the Tiburon Zoning Ordinance. The facts in support of this finding are set forth in the staff reports and the certified Ling EIR and its Addendum, all of which are incorporated into the project record.

Section 2. Recommendation for Acceptance of Addendum to the EIR

NOW, THEREFORE, BE IT RESOLVED that the Planning Commission has considered and does hereby recommend to the Town Council acceptance of the Addendum to the Final Environmental Impact Report [“Addendum”] dated December 2007. CEQA guidelines sections 15164 (a) and (b) state that an addendum should be prepared when none of the conditions triggering a subsequent EIR or supplemental EIR have occurred. Section 15162 of the CEQA Guidelines advises the preparation of a subsequent or supplemental EIR when substantial changes to the project require major revisions to the EIR because of new significant environmental effects or a substantial increase in the severity of previously identified effects. The three-lot Ling project that is currently proposed is within the range of alternatives and impacts discussed in the certified EIR. The Addendum concludes that this project design would not result in new significant environmental effects or a substantial increase in the severity of previously identified effects. The Final Environmental Impact Report and Addendum were prepared under contract to the Town of Tiburon by the consulting firm of Leonard Charles & Associates. The Addendum further concludes that with the implementation of Mitigation Measures contained therein, all environmental impacts associated with the three-lot project design have been or would be mitigated to a less-than-significant (LTS) level.

Section 3. Recommendation for Adoption of Resolution Granting Conditional Approval of the Project and Adoption of a Mitigation Monitoring Program

BE IT FURTHER RESOLVED that the Planning Commission hereby recommends that the Town Council adopt the resolution, set forth in attached **Exhibit 1**, approving the Ling Precise Development Plan subject to the following conditions approval contained therein and adopting a mitigation monitoring program for the project. The Planning Commission hereby incorporates by reference the findings in Exhibit 1 and accepts them as its own independent judgment.

PASSED AND ADOPTED at a regular meeting of the Planning Commission of the Town of Tiburon held on February 13, 2008 by the following vote:

AYES:
NOES:
ABSENT:

ATTEST:

AL AGUIRRE, CHAIRMAN
Tiburon Planning Commission

SCOTT ANDERSON, SECRETARY

EXHIBIT 1

RESOLUTION NO. (Draft)-2008

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF TIBURON
AMPLIFYING AND SUPPLEMENTING PROVISIONS OF SECTION 16-2.7 OF THE
TIBURON MUNICIPAL CODE (ZONING) WITH RESPECT TO PLANNED
DEVELOPMENT #24
BY APPROVING A PRECISE DEVELOPMENT PLAN (LING PDP)
AND ADOPTING A MITIGATION MONITORING PROGRAM

ASSESSOR PARCEL NO. 055-261-10

WHEREAS, the Town Council of the Town of Tiburon does resolve as follows:

Section 1. Findings.

- A. The Town of Tiburon has designated a 5.6-acre property located at the end of Stony Hill Road as Residential Planned Development (RPD) on the Zoning Map and in the zoning regulations of the Tiburon Municipal Code at Section 16-2.16, with a further zoning designation of Planned Development #24 on the Planned Development Map in the aforesaid Section.

- B. Tiburon Municipal Code Section 16-2.7 provides zone regulations for the RPD zone, specifying the approval of a Precise Development Plan prior to subdivision, grading, or the making of improvements on property so designated. Basic zoning parameters such as density of development, floor area limits, height limits, and yards (setbacks) are to be specified in an approved Precise Development Plan for the property, based on site-specific characteristics to which an appropriate amount and layout of development may be tailored. The purpose of the RPD zone is set forth as follows:

The Residential Planned Development (RPD) Zone is intended to protect and preserve open space land as a limited and valuable resource without depriving owners of a reasonable use of their property for residential purposes. The regulations of the Zone are designed to insure to the extent feasible, the conservation of natural resources and the retention of land in its natural or near natural state in order to, among other things, assist in the containment of urban sprawl and protect the community from the hazards of fire, flood, seismic and other catastrophic activity, and to otherwise implement the goals and policies of the Tiburon General Plan.

- C. Tiburon Municipal Code Section 16-4.8 establishes the Precise Development Plan purposes as follows:

- a. To provide for review by the Town a detailed development proposal for a site, in both written and graphic form, establishing the specifics normally associated with a residential zone, including but not limited to, setbacks or building envelopes, coverage limits, and height limits.
- b. To demonstrate consistency of a development proposal with the goals and policies of the Town's adopted General Plan Elements.
- c. To preserve and conserve critically limited open space for the protection of the ecology and the environment, and to safeguard against the adverse impacts of fire, noise, water pollution, the destruction of scenic beauty and hazards related to geology, fire and flood, while at the same time providing a reasonable use of the land.

Section 16-4.8.4 sets forth principles to be applied in the review of Precise Development Plan applications. Section 16-4.3 declares approval of a Precise Development Plan by the Town Council to be a legislative act.

- E. The Town of Tiburon has received and considered an application filed by Joe K. Ling, et al, for a Precise Development Plan (the Ling Precise Development Plan) to augment and supplement provisions of Section 16-2.7 of the Tiburon Municipal Code specific to Planned Development #24 by proposing development of three (3) single-family dwellings and appurtenant improvements on an approximately 5.6-acre property. Approximate lot acreages would be 0.99 acre for Lot 1, 1.39 acres for Lot 2 and 2.80 acres for Lot 3. The proposed Ling Precise Development Plan would establish a maximum density of 0.54 dwelling units per acre, provide a basic layout and RPD zoning district parameters for the property, including but not limited to, permanent open spaces, building envelopes, residential use areas, height limits, and floor area limits.
- F. The Precise Development Plan application consists of File #30705, on file with the Town of Tiburon Community Development Department. Materials from that application include but are not limited to the following:
 - 1. Project description, dated July 2, 2007;
 - 2. Project plans (36 sheets) prepared by KAO Design Group, dated June 21, 2007;
 - 3. Project plans (16 sheets) prepared by Oberkamper & Associates, dated June 21, 2007
 - 4. Revised drainage calculations and plans prepared by Oberkamper & Associates, dated September 21, 2007
 - 5. Drainage Report prepared by Oberkamper & Associates, dated May 8, 2007;
 - 6. Drainage narrative prepared by Oberkamper & Associates, dated October 24, 2007;
 - 7. Geotechnical Update letter prepared by Earth Science Consultants, dated

- November 5, 2007;
8. Defensible Space & Vegetation Management Plan Report prepared by Caitlin Landscape Associates, dated June 21, 2007.

The official record for this project is hereby incorporated and made part of this resolution. The record includes the Staff Reports, minutes, application materials, and all comments and materials received at the public hearing.

- G. An Environmental Impact Report (EIR) analyzing a five-lot project on this site was certified by the Tiburon Town Council on January 4, 2006. An Addendum to the EIR, dated December, 2007, was prepared to evaluate the current three-lot project design. The Planning Commission considered the certified EIR and the EIR Addendum in making its recommendation to the Town Council on the merits of the project.
- H. The Planning Commission held a duly noticed public hearing on the application on February 13, 2008. Following the public hearing, the Planning Commission adopted Resolution No. 2008-02 recommending to the Town Council conditional approval of the project as evaluated in the EIR Addendum for the project.
- I. The Town Council held a duly noticed public hearing the application on _____, 2008, at which it heard and considered testimony from interested persons. The Town Council found, based upon application materials and analysis presented in the staff report, the certified Final EIR and the Addendum thereto, that the proposed project is, on balance, consistent with the goals and policies of the Tiburon General Plan and in conformance with provisions of the Tiburon Zoning Ordinance. The facts in support of this finding are set forth in the staff reports and the certified Ling EIR and its Addendum, all of which are incorporated into the project record.

Section 2. Acceptance of Addendum to the EIR

NOW, THEREFORE, BE IT RESOLVED that the Town Council hereby accepts the Addendum to the Final Environmental Impact Report [“Addendum”] dated December 2007. CEQA guidelines sections 15164 (a) and (b) state that an addendum should be prepared when none of the conditions triggering a subsequent EIR or supplemental EIR have occurred. Section 15162 of the CEQA Guidelines advises the preparation of a subsequent or supplemental EIR when substantial changes to the project require major revisions to the EIR because of new significant environmental effects or a substantial increase in the severity of previously identified effects. The three-lot Ling project that is currently proposed is within the range of alternatives and impacts discussed in the certified EIR. The Addendum concludes that this project design would not result in new significant environmental effects or a substantial increase in the severity of previously identified effects. The Final Environmental Impact Report and Addendum were prepared under contract to the Town of Tiburon by the consulting firm of Leonard Charles & Associates. Detailed CEQA findings have been adopted by separate resolution. The Addendum further concludes that with the implementation of Mitigation Measures contained therein, all environmental impacts associated with the three-lot project design have been or would be

mitigated to a less-than-significant (LTS) level.

Section 3. Conditional Project Approval and Adoption of Mitigation Monitoring Program.

BE IT FURTHER RESOLVED that the Town Council hereby approves the Ling Precise Development Plan (PD #24) subject to the following conditions and adopts a mitigation monitoring program for the project:

1. The approved Ling Precise Development Plan drawing shall consist of the Project Design, as shown on the project plans (36 sheets) prepared by KAO Design Group, dated June 21, 2007, the Project plans (16 sheets) prepared by Oberkamper & Associates, dated June 21, 2007, and the project narrative, as modified to establish a “building envelope” for each lot. The dimensions of the primary building envelopes shall correspond to those shown with a ten (10) foot buffer around the building footprint for each lot as depicted on Sheet SP-11 of the drawings prepared by KAO Design Group, received July 2, 2007, but not to extend beyond the “residential use area” boundaries on the same drawings. The applicant shall submit revised drawings in compliance with these modifications no later than thirty (30) days after approval of this Precise Development Plan becomes effective.
2. This Precise Development Plan approval incorporates mitigation measures as shown in the Ling Mitigation Monitoring Program, attached hereto as **Exhibit A**. Applicant shall bear all costs for implementation and monitoring of said Mitigation Monitoring Program.
3. In furtherance of Section 16-2.7.3(a)(1) of the Tiburon Municipal Code, this Precise Development Plan approval establishes a maximum density of 0.54 dwelling units per acre on the property and is intended to reflect ultimate development of the property. No additional subdivision for the purpose of creating additional building sites is permitted, and a note to that effect shall be placed on the parcel map.
4. In furtherance of Section 16-2.7.3(f) of the Municipal Code, this Precise Development Plan approval establishes the limit of “floor area, gross”, as defined in Section 16-1.5 therein, that may be constructed on each lot as follows:
 - Lot 1: 4,750 square feet, with additional garage/carport area of up to 730 square feet.
 - Lot 2: 4,880 square feet, with additional garage/carport area of up to 720 square feet.
 - Lot 3: 6,040 square feet, with additional garage/carport area of up

to 750 square feet.

Any garage/carport floor area in excess of the amount allowed above shall be counted as additional gross floor area on the lot. Floor areas meeting the definition of “basement” in the Tiburon Municipal Code shall not be included in the calculation of gross floor area. It is understood that the square footage of each dwelling unit as specified above is a maximum allowable square footage, and the Design Review Board may, in its reasonable discretion in reviewing Site Plan and Architectural Review applications for each house, approve a lesser amount of square footage for the dwelling unit on any or all of the lots in order to ensure that the house sizes are consistent and compatible with surrounding neighborhoods in compliance with and as set forth in General Plan Land Use Element Goal LU-I.

5. In furtherance of Section 16-2.7.3(b) of the Municipal Code, this Precise Development Plan approval establishes that the dwelling unit (main building on each lot) shall be confined to the approved “building envelope” on each lot. Dwelling units on Lots 1 and 2 shall not exceed thirty (30) feet in height from grade, and the dwelling unit on Lot 3 shall not exceed twenty-four (24) feet in height from grade. It is understood that these height limits represent a maximum height, and the Design Review Board may, in its reasonable discretion in reviewing Site Plan and Architectural Review applications for each house, approve a lesser height for the dwelling unit on any or all of the lots pursuant to guiding principles of site plan and architectural review as set forth in the Municipal Code Chapter 16 (Zoning). Accessory buildings and structures shall not exceed fifteen (15) feet in height from grade.
6. In furtherance of Section 16-2.7.3(d) of the Municipal Code, this Precise Development Plan approval establishes that accessory buildings or structures and other improvements, including patios, decks, pools, spas, fountains and water features, built-in barbeques, play structures, arbors, gazebos, fencing, ornamental landscaping (including turf lawns), parking areas, driveways, and retaining walls may be permitted in both the “building envelope” and “residential use area” on each lot.
7. In furtherance of Section 16-2.7.3(d) of the Municipal Code, this Precise Development Plan approval establishes that “private common landscape areas” may be planted with ornamental or decorative landscaping. No new landscaping or vegetation shall be planted on any other private open space areas outside the “building envelopes” or “residential use areas” other than that approved as part of a detailed landscape plan and palette to be submitted with the tentative subdivision map application and incorporated into the subdivision improvement drawings.
8. In furtherance of Section 16-2.7.3(d) of the Municipal Code, no improvements of any type, including fencing, shall be permitted outside the approved residential

use areas for each lot. This limitation does not apply to the Stony Hill Road extension; driveways and retaining walls supporting driveways; utilities; landslide repair devices; drainage ditches; or other ancillary improvements necessary for installation of the subdivision improvements as approved in the subdivision improvement drawings.

9. In furtherance of Section 16-2.7 of the Municipal Code, all portions of each lot not included within a “building envelope”, “residential use area” or a “private common landscape area” on drawings approved herein shall be contained within and protected by an open space easement or easements to be offered for acceptance to the Town of Tiburon by separate instrument as part of the parcel map application. Said open space easement or easements (if accepted) shall be recorded in conjunction with the recordation of the parcel map. All portions of said open space easement or easements shall acknowledge, if necessary, any existing or required roadway, drainage and/or utility easements and any landscape installation (e.g. entry landscaping, retaining wall screening, and mitigation planting) and maintenance agreements that are required as part of this Precise Development Plan or permits issued in reliance thereon. Open space easement or dedication documents shall be reviewed and approved by the Town Attorney and Director of Community Development prior to acceptance for filing of the parcel map application.
10. Colors and materials of residential improvements shall be low-reflectivity; medium and/or dark hues that minimize contrast with surroundings and reduce visual impacts.
11. Applicant shall offer to the Town for dedication for public street purposes that portion of the Stony Hill Road extension down to, and including, the project cul-de-sac. Said dedication offer shall appear on the face of the parcel map. All improvements within the area to be offered for dedication shall be subject to review and approval by the Town Engineer.
12. All of the 0.19-acre area shown as “Dedicated Public Open Space” on Sheet C4 of the Oberkamper drawings received July 2, 2007 shall be offered to the Town as an easement for public access purposes as part of the parcel map. Applicant shall install (or make a monetary contribution to cover fully the Town’s estimated reasonable costs of installing) a traversable pedestrian trail within the public access easement. Applicant-performed trail installation shall be done as part of the subdivision improvement phase of the project. If an in-lieu monetary contribution is proposed instead of applicant installation, then said payment shall occur prior to recordation of the parcel map. The amount of any monetary contribution shall be based on an estimate by the Town Engineer.
13. Draft CC&R’s, deed restrictions, and/or joint maintenance agreements or other similar instruments for the subdivision shall be prepared and submitted for review and approval by the Town Attorney and Director of Community Development as

part of the tentative subdivision map application. Said CC&Rs or other instruments acceptable to the Town Attorney shall contain provisions and limitations as set forth in this Precise Development Plan approval and the adopted Mitigation Monitoring Program to the satisfaction of the Town Attorney and Director of Community Development. These instruments shall contain, without limitation, provisions for ongoing maintenance of common areas, ongoing maintenance of drainage structures and facilities, and ongoing removal of invasive plant species (French broom, pampas grass, etc.) from the property, and shall be recorded in conjunction with the parcel map.

14. As part of the installation of the subdivision improvements, applicant shall remove dilapidated fencing and fence-posts, litter, garbage, and other junk materials from the entire site.
15. Lighting details for the Stony Hill Road extension shall be reviewed by the Design Review Board prior to the approval of subdivision improvement drawings for the project.
16. Appearance and vegetative screening of all public roadway retaining walls in excess of forty-two (42) inches in height shall be subject to review and approval by the Design Review Board prior to approval of the subdivision improvement drawings.
17. The detailed landscape plan prepared as part of the subdivision improvement drawing submittal shall be reviewed and approved by the Design Review Board. This landscape plan shall include removal of any remaining invasive plant species, common area plantings, entry landscaping, retaining wall screening, and any landscaping required in adopted mitigation measures.
18. A Tree Protection Plan (text and drawing), prepared by a qualified arborist or similar professional, shall be submitted with the subdivision improvement drawings to set forth protection measures for existing trees to be retained during project construction. Said Plan shall be reviewed and approved by the Director of Community Development and Director of Public Works prior to approval of the subdivision improvement drawings.
19. This Precise Development Plan approval shall be valid for thirty-six (36) months following its effective date, and shall expire unless subsequent zoning and/or building permits have been issued pursuant to this approval. A time extension may be granted if such request is filed prior to the expiration date.

Section 4. Effective Date.

BE IT FURTHER RESOLVED that this Precise Development Plan approval shall not become effective for thirty (30) days from adoption of this Resolution, pursuant to Section 16-4.8.3 of the Tiburon Municipal Code.

PASSED AND ADOPTED at a regular meeting of the Town Council of the Town of Tiburon held on _____, 2008 by the following vote:

AYES:

NOES:

ABSENT:

JEFF SLAVITZ, MAYOR
Town of Tiburon

ATTEST:

DIANE CRANE IACOPI, TOWN CLERK