



TOWN OF TIBURON  
1505 Tiburon Boulevard  
Tiburon, CA 94920

Planning Commission Meeting  
March 9, 2011  
Agenda Item: 1

## STAFF REPORT

To: **Members of the Planning Commission**

From: **Community Development Department**

Subject: **Recommendation to Town Council Regarding Adoption of an Ordinance Establishing a Streamlined Development Review Procedure for the Lyford Drive Multi-modal Parking Lot Project Located Southeast of the Intersection of Lyford Drive and Tiburon Boulevard; File S 2010-05; Assessor Parcel No. 060-061-15 & Tiburon Boulevard Right-of Way**

## BACKGROUND

For over twenty years, the Town has expressed interest in improving the gravel shoulder area along Tiburon Boulevard southeast of its intersection with Lyford Drive (see **Exhibit 1**). Discussions with Caltrans regarding “park and ride” type improvements to this area began in the late 1980’s, but were interrupted by the 1989 Loma Prieta Earthquake, which caused Caltrans to divert all resources away from local right-of-way improvement projects for several years. In 1997 Caltrans prepared and presented a park-and-ride-type improvement design to the Town; it is believed that Caltrans would have fully funded the improvements at that time. The 1997 Caltrans drawing showed approximately 40 parking spaces utilizing both sides of Tiburon Boulevard, with an all-asphalt surface and no landscaping. The scheme was rejected by the Town Council following unsuccessful efforts to have the aesthetics and parking efficiency of the project improved by Caltrans. Active pursuit of improvements to this unpaved area ceased for several years, but was rekindled by the Town in 2008, this time envisioned as a Town-designed and funded project with safety and aesthetic upgrades incorporated into the design.

## PROJECT DESCRIPTION

While still in the design stages, the project proposes to construct a paved parking lot at the existing unpaved and informal parking area along Tiburon Boulevard near Lyford Drive. The improvements would include constructing a parking lot with approximately 50 stalls (including six for over-sized vehicles), reconstructing an existing bus stop, constructing a modular concrete retaining wall facing the Tiburon Multi-use Path, installing a bicycle rack, installing lighting and landscaping, and conveying drainage to an existing drainage outlet. The total limits of grading are approximately 1.1 acre. The project would be located approximately half within the Tiburon Boulevard street right-of-way and half within a Town of Tiburon-owned parcel through which the Tiburon Multi-use path crosses.

Funding for the project would come from a variety of sources, including a \$314,000 Transportation Agency of Marin (TAM) grant for multi-modal transportation projects. The Town

has already designated \$785,000 in the FY 2010-2011 capital improvement budget for this project, including the TAM grant money. Redevelopment Agency funding of \$290,000 is also potentially available for the project, bringing the total available to \$1,075,000, which is the current cost estimate for the project. Additional funding, if necessary, would probably be drawn from general fund reserves.

The Town Council is pursuing a streamlined Town review and approval process for the following reasons: (1) the broad public interest served by the Project; (2) the Town Council has initiated the Project and its ad-hoc Lyford Drive Parking Lot committee has over the course of two years or more developed an intimate knowledge of the Project and has been charged with formulating recommendations to the full Town Council regarding the Project; (3) the need to preserve scarce public monies by minimizing the expense required of public projects to comply with the Town's laws and regulations, while still meeting the intent thereof; (4) the potentially limited time-frame in which to expend the grant money and redevelopment funds available for project construction; and (5) current construction costs are unusually low and the Town Council believes that they are likely to rise by the end of the year.

The Town's practice in recent years has been to adopt streamlined development review procedures for major public projects, especially those in which the Town Council would otherwise have no permit review authority, except on appeal. The streamlined approach has previously been used for the Belvedere-Tiburon Public Library, the Tiburon Town Hall, the Tiburon Police Station, and the Ned's Way recreation facility projects.

## **DESCRIPTION OF ORDINANCE PROVISIONS**

The proposed ordinance would do several things, as discussed below:

1. *Exempt the project from provisions of the Tiburon Zoning Ordinance (Title IV, Chapter 16 of the Municipal Code)*

Discussion: Under current zoning regulations, separate conditional use permit and site plan and architectural review approvals would be required prior to issuance of building permits for the project. The ordinance would exempt the project from all provisions of the Tiburon Zoning Ordinance and create a Town review and decision-making process vested solely with the Town Council. Courtesy referrals to any other reviewing body, such as the Planning Commission or Design Review Board, would be at the option of the Town Council. This procedure is the same used by the Town on prior major public projects.

The proposed ordinance attempts to conserve scarce public monies and advance the extraordinary public interest associated with this project by focusing and shortening the review process and any associated appeal processes, not by relaxing standards or criteria. To that end, the proposed ordinance states as follows:

*In conducting its review and evaluation of the Project, the Town Council shall utilize those standards and criteria that the Planning Commission and Design Review Board would have normally applied absent the adoption of this streamlined processing procedure.*

The proposed ordinance clarifies that for purposes of compliance with state law, the Town Council shall act as the Town's planning agency with respect to the Lyford Drive Multi-modal Parking Lot project. Because the proposed ordinance is considered an amendment to the Zoning Ordinance (albeit for purposes of this project only), under provisions of state law, the Planning Commission must hold a public hearing and forward a recommendation to the Town Council on the proposed ordinance itself. No formal Planning Commission recommendation is legally required for the other elements of the proposed ordinance (for example, the encroachment-permit related provisions), but for purposes of simplicity the entire ordinance is discussed in this report.

2. *Exempt the project from provisions of the Tiburon Encroachment Permit Ordinance (Title V, Chapter 19 of the Municipal Code) and any policies adopted pursuant thereto*

Discussion: Under current Municipal Code provisions, the project would require an encroachment permit and would be subject to the Town's adopted encroachment permit policy. The ordinance would exempt the project from all encroachment permit provisions of the Municipal Code and any written policies derived from the encroachment permit chapter of the Municipal Code.

3. *Establish the Town Council as the sole Town review authority for purposes of review under the California Environmental Quality Act*

Discussion: This provision clarifies that for Town of Tiburon CEQA review purposes there will be no "advisory" body to the Town Council, and provides the Town Council sole local CEQA review authority. The Planning Commission would typically act as the "advisory" body to the Town Council for CEQA purposes and the Commission's CEQA review would normally occur at the conditional use permit stage of review.

## **ANALYSIS**

Town staff has reviewed the proposed ordinance for consistency with the Tiburon General Plan. The General Plan Circulation Element is very direct in its discussion of the Lyford Drive/Tiburon Boulevard parking area, and staff believes that the proposed ordinance would appear to be consistent with and implement relevant General Plan goals and policies. These include the following:

**Goal C-G:** *To promote an integrated transportation system, including the preservation and enhancement of transit, in order that residents and visitors can efficiently and conveniently transfer and connect between different transportation modes.*

**Policy C-15:** *To provide a more attractive entrance to Downtown, the informal parking area on Tiburon Boulevard near Lyford Drive should be beautified while maintaining as much parking as possible.*

### **STAFF RECOMMENDATION**

Staff recommends that the Planning Commission:

1. Hold a public hearing on the matter and consider all testimony.
2. Adopt the resolution (**Exhibit 2**) recommending adoption of the proposed ordinance (attached thereto) to the Town Council.

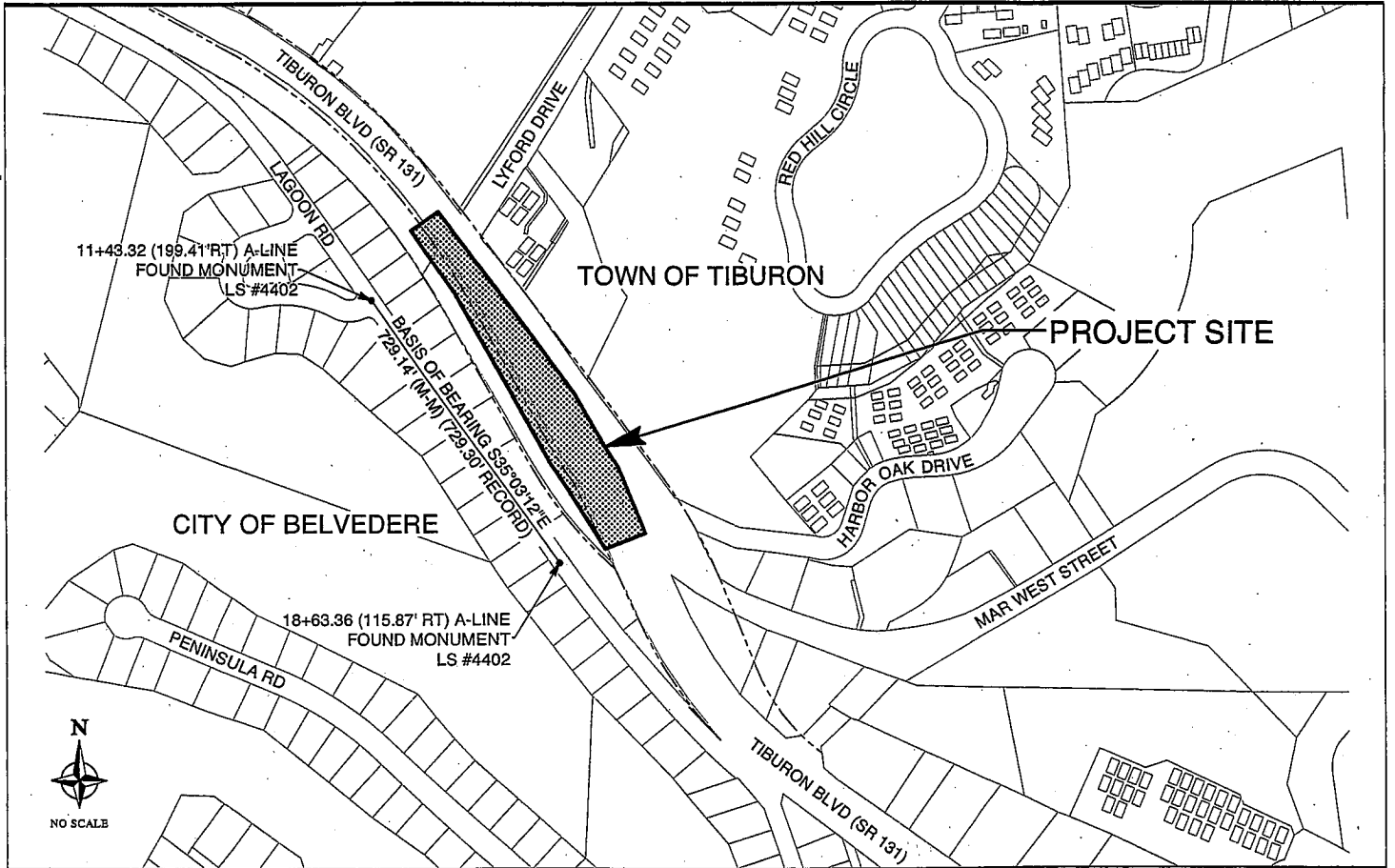
### **EXHIBITS**

1. Project Location Map.
2. Draft Resolution with proposed streamlining ordinance attached.
3. Public hearing notice with brief description of project.

Prepared by: Scott Anderson, Director of Community Development 

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SITE LOCATION



LYFORD DRIVE MULTI-MODAL PARKING LOT

Source: Harrison Engineering Inc. (2010)

**RESOLUTION NO. 2011-DRAFT**

**A RESOLUTION OF THE PLANNING COMMISSION  
OF THE TOWN OF TIBURON RECOMMENDING TO THE TOWN COUNCIL, AMONG  
OTHER ACTIONS, ADOPTION OF AMENDMENTS TO THE TIBURON MUNICIPAL  
CODE (CHAPTER 16, ZONING) IN THE FORM OF AN ORDINANCE ADOPTING  
STREAMLINED REVIEW AND DECISION-MAKING PROCEDURES FOR THE  
LYFORD DRIVE MULTI-MODAL PARKING LOT PROJECT**

WHEREAS, the Town of Tiburon has initiated, among other actions, zoning ordinance amendment procedures to the Town's Zoning Ordinance, codified as Chapter 16 in Title IV of the Tiburon Municipal Code, in order to adopt streamlined review and decision-making procedures for the Lyford Drive Multi-modal Parking Lot project ("Project"); and

WHEREAS, the Planning Commission finds that the adoption of the ordinance establishing the streamlined processing procedures has no potential to result in adverse impacts on the environment and is exempt from the requirements of the California Environmental Quality Act (CEQA), pursuant to Section 15061[b(3)] of the CEQA Guidelines; and

WHEREAS, notice of the public hearing on this matter was published in a newspaper of general circulation in the Town of Tiburon on February 23, 2011, and other noticing was provided as required by law; and

WHEREAS, the Planning Commission held a duly noticed and advertised public hearing on March 9, 2011, at which it considered any testimony received from the public; and

WHEREAS, the Planning Commission finds that the proposed ordinance would be consistent with and would implement the relevant goals, policies, and programs of the Tiburon General Plan, as set forth in the Staff Report dated March 9, 2011; and

WHEREAS, the Planning Commission finds that the proposed ordinance, specifically at Section 6, is consistent with the objectives and purposes of the Zoning Ordinance.

NOW, THEREFORE, BE IT RESOLVED that the Planning Commission hereby recommends that the Town Council adopt an ordinance establishing streamlined review and decision-making procedures for the Lyford Drive Multi-modal Parking Lot Project, as generally set forth in attached Exhibit "A".

PASSED AND ADOPTED at a regular meeting of the Planning Commission of the Town of Tiburon held on \_\_\_\_\_, 2011, by the following vote:

AYES:            COMMISSIONERS:

NOES:           COMMISSIONERS:

ABSENT:        COMMISSIONERS:

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CATHY FRYMIER, CHAIR  
Tiburon Planning Commission

ATTEST:

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SCOTT ANDERSON, SECRETARY

Attachments: Exhibit A

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Not for Codification

ORDINANCE NO. XXX N.S.

**AN ORDINANCE OF THE TOWN COUNCIL OF THE  
TOWN OF TIBURON ESTABLISHING REVIEW AND DECISION-MAKING  
PROCEDURES FOR THE LYFORD DRIVE MULTI-MODAL PARKING LOT  
PROJECT AND EXEMPTING SAID PROJECT FROM THE TIBURON ZONING  
ORDINANCE, THE TIBURON ENCROACHMENT ORDINANCE, AND FROM  
APPLICABLE ENCROACHMENT PERMIT POLICIES**

The Town Council of the Town of Tiburon does ordain as follows:

SECTION 1. PURPOSE AND INTENT.

A. The Town of Tiburon is considering a construction project (the "Project") that would provide safety and aesthetic improvements along the Tiburon Boulevard right-of-way and an adjacent Town-owned parcel of land in the vicinity of the Lyford Drive intersection with Tiburon Boulevard. While still in the design stages, the Project proposes to construct a paved parking lot at an existing unpaved, informal parking area along Tiburon Boulevard. The improvements would include constructing a parking lot with approximately 50 stalls, reconstructing an existing bus stop, constructing a modular concrete retaining wall facing the Tiburon Multi-use Path, installing a bicycle rack, installing lighting and landscaping, and conveying drainage to an existing drainage outlet. The total limits of grading are approximately 1.1 acre. The Project would be located on the west (water side) of Tiburon Boulevard, immediately south of the Lyford Drive intersection with Tiburon Boulevard. Approximately half of the Project site is within the Tiburon Boulevard (State Highway 131) right-of-way and half within a Town of Tiburon-owned parcel through which the Tiburon Multi-use path crosses. The Marin County Assessor Parcel Number for the Town of Tiburon owned parcel is 060-061-15.

B. The Project would be a public benefit project in terms of improving traffic safety, upgrading the aesthetics of the vicinity, and improving multi-modal transportation facilities and opportunities on the Tiburon Peninsula. The Project site lies partially within and partially contiguous to the Tiburon Redevelopment Project Plan Area. The Town Council and the Redevelopment Agency found that the Project is consistent with the Tiburon Redevelopment Plan.

C. The Town and the Redevelopment Agency will partially fund the Project. Accordingly, the Town Council wishes to exercise direct control over the permitting process. Further, the Town wishes to expedite the permitting process to take advantage of prevailing low construction costs. The purpose and intent of this Ordinance is to streamline the Town's normally applicable permit review procedure for the Project by exempting it from certain Town regulations and consolidating review and approval processes under the authority of the Town Council.

SECTION 2. FINDINGS.

1. The Town Council finds that pursuant to the provisions of Tiburon's zoning ordinance (Tiburon Municipal Code Title IV, Chapter 16), the Project would be required to secure various land development permits, including but not limited to conditional use permit approval by the Planning Commission, and site plan and architectural approval by the Design Review Board (DRB), prior to the issuance of a building permit. The Town Council also finds that pursuant to provisions of Tiburon's encroachment ordinance (Tiburon Municipal Code Title V, Chapter 19), the Project would require issuance of an encroachment permit and would be subject to provisions of Resolution 16-2010 establishing a policy for the issuance of encroachment permits. The Town Council further finds that under the current regulatory framework the Council would have no direct permit authority over the project, except on appeal.
2. The Town Council finds it appropriate to adopt this Ordinance in order to establish a streamlined development review process and decision-making procedure for the Project for the following reasons: (1) the broad public interest served by the Project; (2) the Town Council has initiated the Project and its ad-hoc Lyford Drive Parking Lot committee has intimate knowledge of the Project and has been charged with studying the Project and formulating recommendations to the full Town Council regarding the Project; (3) the need to preserve scarce public monies by minimizing the expense required of public projects to comply with the Town's laws and regulations, while still meeting the intent thereof; (4) the potentially limited time-frame in which to expend the grant money and redevelopment funds available for project construction; and (5) current construction costs are unusually low and the Town Council believes that they are likely to rise by the end of the year.
3. The Town Council finds that the Ordinance appears consistent with and would further applicable General Plan goals and programs. These include but are not limited to the following:  
  

**Goal C-G:** *To promote an integrated transportation system, including the preservation and enhancement of transit, in order that residents and visitors can efficiently and conveniently transfer and connect between different transportation modes.*

**Policy C-15:** *To provide a more attractive entrance to Downtown, the informal parking area on Tiburon Boulevard near Lyford Drive should be beautified while maintaining as much parking as possible.*
4. The Town Council finds that similar streamlining processes have been adopted by the Town for other major public projects, including but not limited to the Belvedere-Tiburon Public Library building, Tiburon Town Hall building, the Tiburon Police

Department building, and the Ned's Way recreation facility.

5. The Town Council further finds as follows:

- (A) Notices of the public hearings on this matter were published in a newspaper of general circulation in the Town of Tiburon on \_\_\_\_\_ and \_\_\_\_\_, 2011, and other noticing, including mailed notices, were provided as required by law.
- (B) The Planning Commission held a duly noticed and advertised public hearing on \_\_\_\_\_, 2011, at which testimony was received from the public; and recommended \_\_\_\_\_ of the ordinance to the Town Council.
- (C) The Town Council held a duly noticed public hearing on \_\_\_\_\_, 2011, at which it heard and considered public testimony on this item.
- (D) The Town Council finds that the proposed ordinance would be consistent with the goals and policies of the Tiburon General Plan, as set forth herein and in the Staff Report dated \_\_\_\_\_, 2011.
- (E) The Town Council finds that the proposed ordinance is consistent with the objectives set forth in the Zoning Ordinance.

SECTION 3. EXEMPTION FROM ZONING ORDINANCE.

The Project shall be exempt from all provisions of the Tiburon Zoning Ordinance, codified as Title IV, Chapter 16 of the Tiburon Municipal Code. For purposes of compliance with state law, the Town Council shall act as the Town's planning agency with respect to the Project.

SECTION 4. EXEMPTION FROM ENCROACHMENT ORDINANCE AND POLICIES.

The Project shall be exempt from all provisions of the Tiburon Encroachment Ordinance, codified as Title V, Chapter 19 of the Tiburon Municipal Code, and from all encroachment permit policies authorized by and adopted thereupon, including without limitation, Town Council Resolution No. 16-2010.

SECTION 5. ENVIRONMENTAL DETERMINATION.

Adoption of this ordinance has no potential to result in a significant impact on the environment pursuant to Section 15061(b)(3) of the CEQA Guidelines and is therefore exempt from the requirements of the California Environmental Quality Act.

SECTION 6. REVIEW AND DECISION-MAKING PROCEDURES ESTABLISHED.

Development applications for the Project shall be reviewed pursuant to the following procedures:

(A) The Town Council shall hold one or more public meetings to review and, if appropriate, approve or conditionally approve the site plan, architectural, and related drawings for the project. This review shall include but not be limited to site planning, project elevations, landscaping, parking lot layout, and other ancillary improvements. In conducting its review and evaluation of the Project, the Town Council shall utilize those standards and criteria that the Planning Commission and Design Review Board would have normally applied absent the adoption of this streamlined processing procedure.

(B) At any time during the process, the Town Council may, as deemed appropriate, refer the Project to the Planning Commission, Design Review Board, or any other Council-appointed Committee for that body's expeditious review and comment. Any such referral shall be at the Town Council's sole discretion and such referral shall not confer the role of "advisory" body upon the Board, Commission or Committee to which the Project is referred for review and comment, and comments shall not be binding on the Town Council.

(C) The Project shall be subject to review and compliance with the California Environmental Quality Act (CEQA). The Town Council shall be the sole review authority for the Project and there shall be no "advisory" body to the Town Council for CEQA purposes.

#### SECTION 7. SEVERABILITY.

If any section, subsection, clause, sentence, or phrase of this Ordinance is for any reason held to be invalid or unconstitutional by a decision of a Court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of the Ordinance. The Town Council of the Town of Tiburon hereby declares that it would have passed this Ordinance, any section, subsection, sentence, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases may be declared invalid or unconstitutional.

#### SECTION 8. EFFECTIVE DATE.

This Ordinance shall take effect and be in force thirty (30) days after the date of passage and before the expiration of fifteen (15) days after its passage a copy of the ordinance shall be published, with the names of the members voting for and against it, at least once in a newspaper of general circulation in the Town of Tiburon.

This Ordinance was introduced at a regular meeting of the Town Council of the Town of

Tiburon on \_\_\_\_\_, 2011 and was adopted at a regular meeting of the Town Council of the Town of Tiburon on \_\_\_\_\_, 2011, by the following vote:

AYES: COUNCILMEMBERS:

NOES: COUNCILMEMBERS:

ABSENT: COUNCILMEMBERS:

\_\_\_\_\_  
JEFF SLAVITZ, MAYOR  
TOWN OF TIBURON

ATTEST:

\_\_\_\_\_  
DIANE CRANE IACOPI, TOWN CLERK

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## TOWN OF TIBURON NOTICE OF PUBLIC HEARING

Notice is hereby given that the Tiburon Planning Commission will hold a public hearing to consider adoption of an ordinance exempting the Lyford Drive Multi-Modal Parking Lot Project from provisions of the Tiburon Zoning Ordinance and the Tiburon Encroachment Ordinance (Title IV, Chapter 16 and Title V, Chapter 19 of the Tiburon Municipal Code, respectively) and from provisions of Town Council Resolution No. 16-2010 establishing an encroachment permit policy, and establishing streamlined review and decision-making procedures for the processing of any future land development applications for this project. The proposed ordinance would establish an alternate approval process for future land development permits and would exempt the project from the usual conditional use permit and site plan and architectural review permit requirements of the Zoning Ordinance, as well as from encroachment permit requirements contained in the Tiburon Municipal Code and any associated encroachment permit policies. The streamlined review procedure would designate the Tiburon Town Council as the sole decision-making body for future Town discretionary permits associated with this project, with the authority to refer an application to other Town Boards or Commissions for advisory comment. The project would be located along the western (water side) of Tiburon Boulevard immediately south of the Lyford Drive intersection with Tiburon Boulevard. The project would be located approximately half within the Tiburon Boulevard street right-of-way and half within a Town of Tiburon-owned parcel within which the Tiburon Multi-use path is located. The Marin County Assessor Parcel Number for the Town of Tiburon owned parcel is 060-061-15.

While still in the design stages, the project is proposed to construct a paved parking lot at an existing asphalt and gravel parking area along Tiburon Boulevard. The improvements would include constructing a parking lot with approximately 50 stalls, reconstructing an existing bus stop, constructing a modular concrete retaining wall facing the Tiburon Multi-use Path, installing a bicycle rack, installing lighting and landscaping, and conveying drainage to an existing drainage outlet. The total limits of grading are approximately 1.1 acre.

The proposed exemptions would apply exclusively to the Lyford Drive Multi-modal Parking Lot Project. A copy of the proposed ordinance is available for review in the Tiburon Community Development Department at 1505 Tiburon Boulevard, and can be viewed from a link on the Town's website at [www.ci.tiburon.ca.us](http://www.ci.tiburon.ca.us) from the News box in the lower left hand corner of the home page. Questions regarding the proposed ordinance should be directed to Scott Anderson, Director of Community Development, at (415) 435-7392.

**The public hearing will be held at the Town Council Chambers, 1505 Tiburon Boulevard, Tiburon, California. The Planning Commission will meet on Wednesday, March 9, 2011. The meeting will begin at 7:30 P.M. The Planning Commission will be considering only the ordinance exempting the project from the above-specified regulations, and will not be discussing or considering the project itself or its merits.**

### NOTICE OF LIMITATION ON LEGAL CHALLENGES

**Pursuant to Section 65009 of the California Government Code, please be advised that if you challenge the Town's action on this item in court, you may be limited to raising only those issues you or someone else raised at the public hearing described in this notice, or in written correspondence delivered to the Town at, or prior to, the public hearing.**

**LEGAL NOTICE—PUBLISH ONCE IN THE ARK ON FEBRUARY 23, 2011**

EXHIBIT NO. 3