



## STAFF REPORT

**To:** Members of the Planning Commission  
**From:** Associate Planner Tyler  
**Subject:** Review and Comment On Draft Climate Action Plan  
**Reviewed By:** \_\_\_\_\_

### LEGISLATIVE HISTORY

Assembly Bill 32, officially called the Global Warming Solutions Act of 2006 (“Act”), institutes a mandatory limit on greenhouse gas pollution and requires a reduction in emissions in California to 1990 levels by the year 2020. The Act also directs the California Air Resources Board (CARB) to establish a mandatory reporting system to track and monitor emission levels, and requires CARB to develop various compliance options and enforcement mechanisms.

In December 2008, CARB adopted a “Climate Change Scoping Plan” that outlines the actions required for California to reach its 2020 reduction target. The Scoping Plan does not require local governments to track greenhouse gas emissions or to meet the state reduction target; instead, CARB “encourages” local governments to use the adopted protocols to track emissions and progress in reducing emissions. CARB also “encourages local governments to adopt a reduction goal for municipal operation emissions and move toward establishing similar goals for community emissions that parallel the State commitment to reduce greenhouse gas emissions by approximately 15 percent from current levels by 2020”. CARB does not yet require cities to adopt climate action plans as part of the Act’s implementation efforts, but it appears likely to do so in the not too distant future. Marin jurisdictions are on the early end of the movement to adopt Climate Action Plans.

### PURPOSE

The purpose of the Town’s Climate Action Plan (“Plan”) is to compile existing and potential strategies (i.e., actions, projects, and programs) that Town government operations and the community can feasibly take to address climate change. The Plan provides a brief background on what constitutes climate change and discusses its potential impacts. The Plan’s focus is on efforts Tiburon can take to reduce its greenhouse gas (GHG) emissions and begin to address the impacts of climate change.

### BACKGROUND

In 2009, the Town completed an inventory of GHG emissions for both government operations and the community, using year 2005 data as a baseline. The inventory found that Tiburon

government operations produced approximately 389 metric tons of CO<sub>2</sub>e (carbon dioxide equivalent), while the community produced approximately 53,143 metric tons of CO<sub>2</sub>e. The Town Council reviewed the GHG Inventory Report in May 2009. No Town GHG reduction target was established at that time.

Since that time, staff has collaborated with members of the Marin Climate and Energy Partnership (MCEP), a group of representatives from all 11 Marin jurisdictions and other public agencies, to develop a model climate action plan. In June 2010, the Marin Community Foundation awarded an \$80,000 grant to MCEP to prepare individual climate action plans.

Using the emissions data from the GHG Inventory, staff worked with MCEP and the current MCEP Sustainability Coordinator, Christine O'Rourke, to prepare a climate action plan for the Town. The work of Ms. O'Rourke in providing the GHG reduction calculations and working on the overall text and format of the document is gratefully acknowledged.

Several Marin jurisdictions have either adopted or are in the process of adopting a climate action plan and GHG emission reduction goal. These are as follows:

**City of Belvedere.** Belvedere is in the process of developing a climate action plan. In September 2010, Belvedere's Planning Commission recommended that the City Council adopt a GHG reduction target of 15% below 2005 levels by 2020.

**City of Mill Valley.** In 2007, the Mill Valley City Council established a GHG emission reduction target for government operations of 20% below 2005 levels by 2020, and a goal for the community of 15% below 2005 levels by 2020. Mill Valley produced a draft climate action plan to achieve these targets, but it has yet to be adopted.

**City of Larkspur.** The Larkspur City Council adopted a climate action plan in July 2010 with a goal of reducing GHG emissions by 15% below 2005 levels by 2020.

**Town of Ross.** The Ross Town Council adopted a climate action plan in October 2010 with a goal of reducing GHG emissions by 15% below 2005 levels by 2020.

**City of San Rafael.** San Rafael adopted its "Climate Change Action Plan" in April 2009. The plan sets an emission reduction target of 25% below 2005 levels by 2020.

**City of Novato.** Novato's "Climate Change Action Plan", adopted in December 2009, sets a GHG emission reduction goal of 15% below 2005 levels by 2020 and a 40% reduction below 2005 levels by 2035.

**County of Marin.** Marin County adopted its "Greenhouse Gas Reduction Plan" in 2006, which established a GHG emission reduction goal of 15-20% below 1990 levels for County operations and 15% below 1990 levels for the community by 2020.

**Other Communities.** San Anselmo and Fairfax have committed to drafting climate action plans and will be presenting their respective plans for Council approval by May 2011 as part of the grant provided to MCEP by the Marin Community Foundation. Sausalito and Corte Madera have

not participated in the climate action planning process for some time. It is unknown if or when they will be adopting climate action plans.

## **ANALYSIS**

Below is a discussion of the proposed greenhouse gas emissions reduction target and the proposed climate action programs.

### Greenhouse Gas Emissions Reduction Target

The Town's Plan proposes an emissions reduction target of 15% below 2005 levels by 2020, which is consistent with the State's direction to local governments in the CARB Scoping Plan. Figure 7 in the climate action plan provides a comparison of the business-as-usual forecast for 2020 to the 2005 baseline year and the 15% reduction target.

Taken as a whole (i.e. both Town government and the community), the programs recommended in the Climate Action Plan would achieve in excess of a 15% reduction in GHG emissions below 2005 levels. This percentage includes emission reductions from government (Town of Tiburon) operations, Tiburon community actions, and actions at the State level. The State has proposed actions that address a broad set of clean energy, clean transportation, and efficiency standards.

The Tiburon Climate Action Plan acknowledges the emission reductions that will result from statewide actions and incorporates those reductions into its GHG reduction scenario (see GHG emission reduction summary, page 17 of the Climate Action Plan). The GHG emission reductions are calculated as percentages less than the 2005 emission levels. To the extent it could be estimated, the cost associated with each action program is identified.

### Climate Action Plan Overview

The Climate Action Plan proposes action programs to reduce GHG emissions in four focus sectors:

- Land Use and Transportation
- Green Building, Energy Efficiency and Renewable Energy
- Waste Reduction, Recycling and Zero Waste
- Water and Wastewater

Each sector contains background information on the focus area, recommended programs to reduce GHG emissions in that sector, and a quantification of GHG emission reductions for both the community and government operations resulting from the proposed programs. In 2005, the emissions from government operations produced approximately 0.7% of total community emissions.

### Land Use and Transportation (starting on page 18 of the Plan)

This section discusses the relationship between land use patterns and transportation. Low density housing dominates suburban communities such as those in Marin County, causing residents to depend on private automobile use for most of their transportation needs. Accordingly, the

Tiburon GHG inventory found the transportation sector (in both community and government operations) to be one of the largest emissions sources. Some of the programs in this section intended to reduce GHG emissions include:

- Encourage the use of fuel-efficient and low GHG-emitting vehicles and driver behaviors.
- Encourage a “balanced” community, where residents do not have to travel long distances for service needs.
- Support and promote public transit.

The proposed programs could reduce community GHG emissions by 2.4% and government emissions by 32.0%.

#### Green Building, Energy Efficiency and Renewable Energy (starting on page 20 of the Plan)

According to the U.S. Department of Energy, buildings account for approximately 39% of total energy use, over 12% of the total water consumption, and 38% of all carbon dioxide emissions annually in the United States. The mitigation measures recommended in this section include:

- Replace street lights and parking lot lights with energy-efficient technologies.
- Install photovoltaic panels at Town facilities, if feasible.
- Support efforts of PG&E and Marin Energy Authority to maximize residential and business subscription rates for energy efficiency programs and to promote conservation and renewable energy use.

The proposed programs could reduce community GHG emissions by 18.2% and government emissions by 27.8%.

#### Waste Reduction, Recycling and Zero Waste (starting on page 23 of the Plan)

As landfills approach capacity and the environmental impacts of waste disposal continue to mount, it is necessary to shift consumption patterns and maximize the reuse of items and recycling of materials. Reducing waste production will alleviate the burden on landfills and help foster a sustainable use of our resources. Some of the programs in this section include:

- Provide education and publicity about reducing waste and available recycling services.
- Promote commercial and residential composting.
- Strengthen recycling programs, purchasing policies, and employee education at Town facilities.

The proposed programs could reduce community GHG emissions by 1.6% and government emissions by 2.5%.

#### Water and Wastewater (starting on page 25 of the Plan)

Conserving hot water use could reduce GHG emissions from the combustion of electricity and natural gas used to heat water. Reducing water use would also reduce energy use associated with water treatment and delivery. Some of the programs recommended in this section include:

- Use plant materials native to northern California and/or Marin County.
- Encourage homeowners to avoid turf and replace existing turf areas with more appropriate drought tolerant landscaping.
- Provide education about water conservation and available programs and incentives.

The proposed programs could reduce community GHG emissions by 1.3%.

Appendix (starting on page 1- end of document)

The Appendix provides a summary of the sources, formulas, and assumptions used to determine the potential emission reductions for each program.

### **PRELIMINARY ENVIRONMENTAL DETERMINATION**

Planning Division Staff has made a preliminary determination that the climate action plan would be exempt from the provisions of the California Environmental Quality Act (CEQA), as specified in Section 15061(b)(3) and Section 15308 of the CEQA Guidelines.

### **RECOMMENDATION**

Staff recommends that the Planning Commission hear public testimony, provide comments or concerns on the Draft Plan, and forward them to the Town Council.

EXHIBIT:           1.           Draft Climate Action Plan

Prepared By:       Laurie Tyler, Associate Planner



## STAFF REPORT

**To:** Members of the Planning Commission  
**From:** Community Development Department  
**Subject:** 215 Blackfield Drive: Review of Conditional Use Permit for Kol Shofar Synagogue and Appurtenant Day School; File # 10404; Assessor's Parcel No. 038-351-34  
**Reviewed By:** \_\_\_\_\_

### BACKGROUND

On February 21, 2007, the Town Council approved on appeal a conditional use permit to remodel and expand the facilities and operations of the existing synagogue (Congregation Kol Shofar) and private day school uses on property located at 215 Blackfield Drive. The decision overturned a previous denial by the Planning Commission. The application approval process was highly charged, contentious, and eventually resulted in litigation. The applicant and Town prevailed in the litigation.

Fully aware of the extreme controversy and complexity of the permit approval, the Town Council imposed Condition No. 8 (A) of Resolution No. 15-2007, which reads as follows:

“The CUP shall be reviewed by the Planning Commission at a public hearing six (6) months after occupancy of the MPB [Multi-Purpose Building]. Additional reviews shall occur once every six (6) months for the next two and one-half (2 ½) years thereafter, and annually after the first three (3) years. The Planning Commission shall have the authority to modify the restrictions of this CUP. However, the Town Council intends that the effectiveness of the project design, mitigations, conditions, and restrictions of the use permit should be tested over a substantial period of time before the Planning Commission entertains any proposal to relax conditions or restrictions.”

The Building Official granted occupancy of the Multi-Purpose Building on August 29, 2010. This is the first scheduled review of the conditional use permit.

A brief synopsis of the evolution of the CKS approvals and the implementation of the current conditional use permit is as follows:

1984: The County of Marin approves a CUP for a synagogue and day school on the former Reedland Woods Middle School site; the property is annexed into the Town of Tiburon shortly thereafter.

1985: The Town Council approves a CUP for a synagogue and day school; few operational conditions of approval are applied, although the permit is made “subject to annual review” on an as-needed basis.

1997: Neighborhood complaints result in the CUP being reviewed for the first time. It is substantially revised (Resolution No. 97-1) to reflect changed conditions, both in terms of a greatly increased membership and more intensive activity at the synagogue, as well as the fact that a new residential development had been constructed adjacent to the site.

2001: The use permit is amended (Resolution No. 2001-07, **Exhibit 1**) in response to a change in day school tenancy to a high school. The high school remained only one year before moving out of the county.

2004: The use permit is revised (Resolution No. 2004-10) to require annual updating of the member database for carpooling, coordination of responses to neighbor issues or complaints that involve the day school, annual inspections of certain eucalyptus trees on the property and traffic controls for all major events and peak period usage.

2004-2007: Kol Shofar applies for a conditional use permit (File # 10404) to remodel and expand facilities on the site. The primary additions are a 8,300 square foot multi-purpose building and a 3,662 square foot classroom building.

2007: The Town Council adopts Resolution No. 15-2007 approving the conditional use permit. Most of the conditions of approval of this resolution pertain to the new facilities on the site or usage of the property once the new facilities have been constructed. Additional events are authorized beyond those historically conducted on the site.

2007: The Design Review Board approves a Site Plan and Architectural Review application for the multi-purpose building and classroom building.

2008: The Town Council adopts Resolution No. 12-2008 partially granting the appeal of the Tiburon Neighborhood Coalition of the Design Review Board’s approval of Site Plan and Architectural Review for the expansion project. The Council added several conditions of approval to those set forth by the Design Review Board.

2009: The Planning Commission approves an amendment to the use permit to reduce the maximum day school enrollment from 150 children to the pre-2007 level of 100 children.

2010: Construction is completed on the multi-purpose room addition and remodeling of the main building and annex building on the site. The classroom addition is not constructed as part of the first phase of the expansion.

## **REVIEW OF APPLICABLE USE PERMIT CONDITIONS**

Below is a listing of the conditions of approval from the applicable resolutions, and a brief staff discussion of compliance based upon unannounced monitoring reports, neighbor

communications, the Kol Shofar's CUP review notes received February 25, 2011 (**Exhibit 2**), and from meetings and site visits conducted by staff.

1. Physical Plant Improvements. The approved physical improvements for Congregation Kol Shofar (CKS) are depicted on the Proposed Site Plan Diagram (Sheet A1.1) dated 4/16/2004 prepared by Herman & Coliver and as further detailed on Sheets, A0.1-0.3, A1.2, A2.0, A3.0, A3.1, L1.0, L1.0, C2.0, and C3.0 (all dated 4/16/2004); and Sheets A1.3 and A-3.2 (revised 11/04/05), as modified herein and summarized below:

A. Construction of a new one-story, 3,662 square foot, 20-foot high classroom building consisting of four (4) classrooms and a service building.

*Discussion: The classroom building has not yet been built.*

B. Construction of a new one-story, approximately 8,300 square foot, 23-foot high Multi-Purpose Building (MPB), which represents a 15% reduction from that shown on the referenced drawing. The MPB shall be pulled back from the hill-slope to a distance at least five (5) feet from the top of slope and appropriately landscaped. The multi-purpose room portion of the MPB shall not exceed 4,500 square feet of net usable area. In addition to the approximately 8,300 square feet of MBP, an attached facility is approved that shall consist of a fully enclosed eight hundred (800) square foot one-story loading/unloading area for catering, clean-up and related purposes at the western edge of the MPB, as shown on Exhibit A, attached hereto and incorporated herein.

*Discussion: The multi-purpose building was constructed in compliance with these requirements. The approved multi-purpose building contains 8,420 square feet of space, including approximately 4,100 square feet of net usable area. The building is set back 5 feet from the top of the slope at the closest point, with a series of shrubs and Coast Live Oak trees planted on the slope below. An 815 square foot enclosed loading area is attached to the building. The maximum height of the addition is 23 feet.*

C. Interior remodeling of the existing main building and annex building on the site.

*Discussion: The interior of the existing main building and the annex building on the site were extensively remodeled as part of the construction project.*

D. CKS shall modify the primary parking lot layout to optimize circulation and provide a minimum of one hundred fifty-six (156) total on-site parking spaces, including handicapped spaces. The primary parking lot shall be designed as "enter only" from Via Los Altos and "exit only" onto Reedland Woods Way. The exit from the primary parking lot onto Reedland Woods Way shall be as narrow as practicable to the satisfaction of the Town Engineer. No parking structure is approved herein. Improvements to the existing service parking lot (accessed from the upper driveway on Via Los Altos) shall provide staff parking, handicapped parking and service access. This lot shall not be available to the public as a

parking area, except for those needing handicapped parking (see also Mitigation Measure 3.3-B.1).

*Discussion: A total of 156 parking spaces have been provided on the site. The primary parking lot was redesigned as “enter-only” from Via Los Altos and “exit only” onto Reedland Woods Way. The exit from the primary parking lot onto Reedland Woods Way was narrowed to a width of 20 feet. The upper parking lot provides staff parking, handicapped parking and service access and is not available to the public as a parking area, except for those needing handicapped parking.*

- E. Landscape improvements as shown on Sheets A1.1 and L1.0 are subject to further refinement at the Design Review application phase to implement mitigation measures and conditions of approval herein. Approved landscaping shall be professionally-maintained at all times in a healthy, weed-free and litter-free condition. Dead or dying plants shall be promptly replaced. A landscape maintenance bond for a term of three years beyond occupancy of the MPB shall be required prior to occupancy of the MPB. The landscape plan shall call for the removal of invasive plant species such as French broom and pampas grass from the site.

*Discussion: The landscape plans were reviewed and approved by the Design Review Board. Kol Shofar has submitted the required landscape maintenance bond. The Town has received complaints from neighboring property owners about the maintenance of landscaping on the site (Exhibits 18-20), including concerns about dead or dying plants and stumps on the property. Town Staff’s inspections of the site have indicated that the overall property maintenance is in compliance with this requirement. However, Staff has requested that the applicant be prepared to address the issue of non-replacement of trees and shrubs that do not survive.*

- F. The reconstruction and expansion plans approved as part of the Conditional Use Permit provide a framework, in terms of the site plan “footprint” and established maximum development intensity, which will be subject to further refinement during the Design Review Permit process. Plans submitted for Design Review shall provide detailed design information, particularly for the facilities that are identified for further study and modification, as noted above, such as the MPB, parking lot design, and landscape plans. The Design Review Board shall not have the authority to unilaterally further reduce the square footage of the MPB or classroom additions.

*Discussion: The plans approved by the Design Review Board were consistent with the requirements of the conditional use permit.*

## 2. Uses Regulated.

- A. The project will accommodate greater intensity of use than the site would support at present and accordingly could cause increased impacts to the neighborhood. In imposing the conditions herein, the Town intends to ameliorate the potential for such increased impacts. The Town does not intend that this use permit impose

new attendance restrictions on the existing events and activities that have been conducted at CKS since the inception of its operation in 1984. The Town has not previously limited attendance at these events and activities. The types and times of these events and activities and the number typically attending these events and activities, based on information provided by the applicant, are set forth in Table A, attached hereto as Exhibit C. This list is not exhaustive, but establishes a general baseline for this permit. Any substantial increase in use from that already established that creates identifiable adverse neighborhood impacts shall require an amendment to the CUP, as determined by the Planning Commission.

*Discussion: Staff's general observations indicate that the synagogue may be operating at a somewhat reduced level of activity from that which existed prior to the remodel. The day school is operating at an enrollment of only 59 students. Kol Shofar currently has 465 membership units, a substantial decrease from 598 membership units in 2004.*

- B. CKS has applied for an increase in the number of Friday evening congregational dinners from twenty-five (25) annually to thirty (30) annually. According to CKS, such dinners are held until 9:00 pm and have a maximum attendance of approximately one hundred (100) persons. CKS has also applied for added adult education classes for approximately twenty (20) to thirty (30) persons on Monday evenings from 7:00 pm to 9:00 pm approximately twenty-five (25) to thirty (30) weeks per year. The requested increase in the number of Friday evening congregational dinners and added Monday evening adult education classes are hereby approved. No member-sponsored events have been applied for, are currently held according to the applicant, or are authorized by this use permit for Monday through Friday. Existing parameters of activity during Monday through Friday are set forth in the baseline (Exhibit C).

*Discussion: Kol Shofar has indicated that they have been in compliance with this requirement. Fifteen (15) Friday evening congregational dinners following services have been scheduled for 2011, to end by 9:00 p.m. each evening. At this time, no Monday evening classes have been scheduled.*

- C. This permit authorizes and regulates member-sponsored weekend evening events on Saturday and Sunday. A member-sponsored event is defined as a private function pursuant to an agreement between the member and the synagogue, at which a sponsoring member must be present at the event for substantially the entire event. Member-sponsored weekend evening events shall be limited as follows:
  - (i) Saturday member-sponsored events shall be limited to sixteen (16) total annually (six (6) existing plus ten (10) new): eight (8) events with a maximum attendance of one hundred fifty (150) people; six (6) events with a maximum attendance of two hundred (200) people; one (1) event with a maximum of two hundred fifty (250) people, and one (1) event with no specified attendance limit provided that all conditions applying to an event

expected to exceed ninety percent (90%) of on-site parking capacity, as set forth below, are met. All events must end by 10:00 pm.

*Discussion: Kol Shofar has indicated that they have been in compliance with this requirement. The only member-sponsored event held in 2010 was the grand opening event, sponsored by the Kol Shofar Board of Directors. An annual fundraising event to be held on March 27, also sponsored by the Board of Directors, is the only such event scheduled thus far in 2011.*

- (ii) Sunday member-sponsored events shall be limited to seven (7) total annually (all new): four (4) with a maximum attendance of one hundred (100) people; two (2) with a maximum attendance of one hundred fifty (150) people; and one (1) with a maximum attendance of two hundred (200) people. All events must end by 8:00 pm.

*Discussion: Kol Shofar has indicated that no Sunday member-sponsored events have been held.*

3. The Mitigation Monitoring Program, attached hereto as Exhibit B and made a part of this resolution, is hereby adopted and its provisions shall be implemented.

*Discussion: All of the mitigation measures contained in the Mitigation Monitoring Program either pertain to requirements completed during the construction of the expansion project or are duplicated in Resolution No. 15-2007, with the following two exceptions:*

Mitigation Measure 3.3-C.5 & 3.9-A.1-2: All events or combinations of events/activities at CKS with a cumulative attendance expected to exceed ninety percent (90%) of the on-site parking capacity, calculated at 2.3 persons per vehicle (except for Sunday School programs) will require trained traffic control monitors provided to the satisfaction of the Tiburon Police Department, located as follows: 1) at the corner of Blackfield Drive/Via Los Altos; 2) CKS driveway at Reedland Woods Way; and 3) at the CKS parking lot entrance on Via Los Altos. Additional monitors may be necessary to adequately direct traffic and parking, to be determined by CKS based upon need. CKS shall inform the Tiburon Police Department five (5) days in advance of any such event.

*Discussion: This mitigation measure applies to all events/activities with a cumulative attendance that equates to 323 or more. As noted in the response to Condition No. 5.B.i.c. below, the monitoring report for the September 17 Yom Kippur Eve services indicated that the monitor at the corner of Blackfield Drive/Via Los Altos held a sign pointing to the Kol Shofar parking lot, but did not actively direct traffic. In most instances a Police Sergeant was observed at the Reedland Woods Way driveway. There was a monitor/controller wearing a reflective jacket at the Kol Shofar parking lot entrance on Via Los Altos until commencement of services. Kol Shofar informed the Tiburon Police Department more than five days in advance of the High Holy Days services.*

Mitigation Measure 3.5-C.2: The Town will have the right to monitor the project once the new circulation improvements are completed and require additional measures to confirm that headlight intrusion into residences is minimized. In addition, MM 3.5-A.2 requires

that landscaping on the site be enhanced to reduce impacts from headlight intrusion into residences.

*Discussion: The Town has not yet monitored the site to evaluate headlight intrusion into nearby residences. The Town has not received any complaints regarding headlight impacts.*

4. Facilities:

A. The following conditions shall apply to all facilities at the site:

- (i) CKS facilities shall not be rented out to non-member public or private entities, except for the classroom facilities that are rented to an entity operating a private day school on the site.

*Discussion: Kol Shofar has indicated that facilities have not been rented out to non-member entities, with the exception of the private day school.*

- (ii) All HVAC units shall be baffled to reduce noise to surrounding residents. HVAC units shall not be operated after the facility is closed each day. The Building Permit application specifications shall include best practices for minimizing sound from all ventilation and air circulation equipment.

*Discussion: The installed HVAC units are baffled to reduce noise. Kol Shofar has indicated that the HVAC units have been operated in compliance with this requirement. The building permit included appropriate best practices for minimizing sound from all ventilation and air circulation equipment.*

- (iii) No outdoor amplification will be allowed except for the annual Sunday School opening and closing ceremonies, at which time audio speakers shall be faced toward the CKS facility and away from surrounding residential uses. No loud bells or buzzers associated with any use on the site shall be allowed. Any system employed to alert students as to class times should not be clearly audible beyond the property boundary. Landscaping shall be enhanced to reduce noise to the surrounding neighborhood.

*Discussion: Kol Shofar has indicated that they have operated in compliance with these requirements. Landscaping was reviewed by the Design Review Board for enhancement of noise reduction.*

B. The following conditions pertain specifically to the Multi-Purpose Building (MPB) and its Courtyard:

- (i) The MPB lobby shall not be used for event seating except for High Holy Day services.

*Discussion: Kol Shofar has indicated that they have operated in compliance with this requirement.*

- (ii) Doors and windows of the MPB shall remain in the closed position during functions of one hundred (100) or more persons and during amplified indoor events (such as life-cycle events) except for High Holy Day services (when the doors and windows can be left open only during the services), and those events listed in 4(B)(iv) below.

*Discussion: Kol Shofar has indicated that they have operated in compliance with this requirement.*

- (iii) Windows and doors of the MPB shall be designed to minimize noise leakage to outside areas.

*Discussion: The windows and doors of the MPB were reviewed during the building permit process for compliance with this requirement and were installed as approved.*

- (iv) Use of the Courtyard area for events is authorized only for High Holy Day events, opening and closing Sunday School ceremonies, Sukkot, and Saturday Kiddush lunches. Outdoor use of the Courtyard during events, other than the High Holy Days, Sunday School opening and closing ceremonies, Sukkot, and Saturday Kiddush lunches, shall be limited to people stepping out for air and casual conversation. Except for Sukkot and the Kiddush lunches, no food or drinks shall be served in the Courtyard. No organized activities, other than those listed in this condition, will be held in the Courtyard.

*Discussion: Kol Shofar has indicated that they have operated in compliance with these requirements. The only scheduled use of the courtyard is the closing Sunday School ceremonies and celebration scheduled for May 22, 2011.*

- (v) The Design Review Permit application drawings for the MPB shall include a design for a fully enclosed, heavily sound-insulated area connecting to kitchens wherein catering vehicles would be loaded and unloaded and for storage of garbage and recyclables. This area shall be large enough to accommodate van-type catering vehicles, and no catering or supply vehicles such as equipment rental trucks shall be permitted unless they load and unload within the enclosed area with the doors closed. To the extent practicable, use of “back-up warning devices” on vehicles using this loading and unloading area shall be minimized.

*Discussion: An 815 square foot enclosed loading area is attached to the MPB in compliance with this requirement.*

C. The following specific conditions pertain to the Classrooms:

- (i) Total day school use of the site (tenant day school attendance in combination with any CKS-operated pre-school attendance) shall not

exceed one hundred (100) school children on weekdays. The educational spaces may be used for religious study and for religious educational instruction by the congregation. Total day school use of the site (tenant day school attendance in combination with any CKS-operated pre-school attendance) shall not exceed one hundred (100) school children on weekdays. The educational spaces may be used for religious study and for religious educational instruction by the congregation.

*Discussion: This condition of approval was modified by the Planning Commission on June 24, 2009 by the adoption of Resolution No. 2009-05. Resolution No. 15-2007 originally allowed a maximum total day school attendance of 150 children. Kol Shofar has indicated that the tenant day school currently has an enrollment of 59 students.*

- (ii) Weekday school start and end times at the CKS site shall be separated by a minimum of fifteen (15) minutes from the start and end times of the Bel Aire public school.

*Discussion: Kol Shofar has indicated that they have operated in compliance with this requirement.*

D. The following specific conditions apply to the Annex Building:

- (i) The Annex Building is approved for accessibility upgrades and fire sprinkler and other safety upgrades.

*Discussion: Minor upgrades to the annex building were performed during the construction of the expansion project.*

- (ii) Use of the Annex Building shall be limited to storage and religious and educational activities.

*Discussion: The use of the annex building has been in compliance with this requirement.*

5. The following Traffic and Parking Management program shall be implemented:

A. Physical Improvements

- (i) Fencing or a landscaping barrier shall be installed along or near the CKS frontage of Reedland Woods Way to effectively discourage pedestrian access to the site from Reedland Woods Way.

*Discussion: A 2 foot tall wooden barrier fence has been installed along the Reedland Woods Way frontage to discourage pedestrian access to the site from this street. Landscaping was first installed along the sidewalk for this stretch of Reedland Woods Way, but left an open section that allowed pedestrian access from the sidewalk to the new parking lot above. Staff required the installation of the barrier fence to discourage use of this access point.*

- (ii) A minimum of one hundred fifty-six (156) total on-site parking spaces shall be provided, including handicapped parking spaces. Finalized parking lot design, circulation and layout shall be provided as part of the Design Review application.

*Discussion: A total of 156 parking spaces have been provided on the site, as approved by the Design Review Board and Town Council.*

- (iii) A lighted directional sign to be reviewed by the Design Review Board shall be required at the corner of Blackfield Drive and Via Los Altos to direct vehicles to the CKS parking lot entrance on Via Los Altos and to discourage use of Reedland Woods Way by CKS-related inbound traffic. The sign shall be constructed of natural materials with low-impact lighting.

*Discussion: On August 5, 2010, the Design Review Board approved a sign permit for the installation of a wooden directional sign mounted on top of the existing monument sign near the intersection of Blackfield Drive and Via Los Altos. The sign is illuminated by an upward-facing ground-mounted light fixture in front of the sign, set to an electronic timer.*

*Town Staff has received complaints from several neighboring residents that the light for the sign has been left on throughout the night. The Southern Marin Fire Protection District has required that the monument sign be illuminated during all nighttime hours so that the attached address plate is visible to emergency vehicles.*

- (iv) Red “No Parking” curbs shall be painted at the following locations:
  - (a) along both sides of Via Los Altos from Blackfield Drive to the curve below 32 Via Los Altos;
  - (b) along the northwest side of Blackfield Drive from Via Los Altos to the property at 231 Blackfield Drive;
  - (c) along the east side of Reedland Woods Way to the property line with 20 Reedland Woods Way;
  - (d) along the west side of Reedland Woods Way to the CKS property line with 35 Reedland Woods Way.

*Discussion: Red curbs have been painted at the required locations. Several nearby property owners have complained that the extent of the red curbs has substantially limited the amount of on-street parking available to residents and their guests. The owner of the residence at 201 Blackfield Drive (at the southwest corner of the intersection of Blackfield Drive and Via Los Altos) has requested that the red curbs adjacent to his home along Via Los Altos be eliminated.*

*As part of the current use permit review, Kol Shofar is requesting the red curbs be eliminated from the following locations:*

1. *On Via Los Altos, all areas below the Kol Shofar driveway except as required to allow proper visibility for those making turns;*
2. *On Blackfield Drive, on the Kol Shofar side of the street from Reedland Woods Way to Via Los Altos; and*
3. *On Reedland Woods Way from the Kol Shofar driveway to the intersection of Blackfield.*

*The Tiburon Public Works Director has preliminarily reviewed Kol Shofar's request and would support restoring the red curbs to their original condition, noting that portions of the curbs in the vicinity had previously been painted red for other traffic safety purposes.*

*Staff believes that any changes to the red curbs need to be done only as part of a careful examination of all parking prohibitions around Kol Shofar and should not be done on a lot-by-lot basis. For example, if red curbs are eliminated in front of one house (as requested by the owner of 201 Blackfield Drive), this on-street parking space will become desirable for Kol Shofar event attendees and could promote hazardous turning movements (such as mid-block u-turns on Via Los Altos) for vehicles trying to park in that spot.*

*The Planning Commission should evaluate the overall effectiveness of the Kol Shofar parking regulations contained in this conditional use permit and determine whether a relaxation of the red curb requirement is justified or whether additional observation of parking conditions at Kol Shofar events is necessary before making changes to this requirement. Staff believes that the current six month review period has not been long enough to properly evaluate the effects, or the effectiveness, of the red curb requirements. Staff recommends that the Town make additional observations of parking at the next High Holy Days services (prior to the next scheduled review of the use permit) before making any substantive changes to this requirement. The red curbing was also a CEQA mitigation measure contained in the certified EIR and would need to be reviewed from an environmental standpoint prior to substantial relaxation or elimination of this requirement.*

- (v) "No U-turn" signs shall be placed along Blackfield Drive above the Via Los Altos intersection and on Via Los Altos below 32 Via Los Altos, with precise number and placement to be determined by the Town Engineer. Tiburon Police shall be authorized to ticket drivers who make U-turns in these areas.

*Discussion: The required signage has been installed.*

- (vi) The Town Engineer shall review the condition of the "hump" at the upper Via Los Altos driveway to CKS and determine whether minor modifications are necessary to enhance circulation in and out of that driveway.

*Discussion: The Town Engineer reviewed this situation and required removal of some vegetation uphill from the driveway to improve visibility for vehicles exiting onto Via Los Altos. More substantial mitigation was deemed infeasible.*

B. Management

- (i) The following traffic and parking management measures shall be imposed for events or combinations of events/activities at CKS with a cumulative attendance expected to exceed ninety percent (90%) of the on-site parking capacity, calculated at 2.3 persons per vehicle (except for Sunday School programs):

*Discussion: Since the occupancy of the MPB, the only events or activities that have been held that have triggered this requirement have been the “grand opening” of the MPB on August 29, 2010 and the 2010 High Holy Days services on September 8-17, 2010. Kol Shofar underestimated the attendance at the grand opening and, as a result, did not implement the required traffic and parking management measures for that event.*

*The Town hired a consultant (Crane Transportation Group) to monitor the September 17 Yom Kippur Eve services for compliance with the parking, traffic and noise requirements for an event of that size. A monitoring report (**Exhibit 3**) was prepared that summarizes the compliance with these requirements as described below:*

- (a) “Resident Traffic Only” temporary signs placed on Reedland Woods Way and Via Los Altos.

*Discussion: Temporary signs were in place as required.*

- (b) “No Parking” temporary signs placed on the southeast side of Blackfield Drive between Corte San Fernando and Karen Way.

*Discussion: Temporary no parking signs were in place along the east side of Blackfield Drive, limited to the area between Via Los Altos and just northeast of Reedland Woods Way. There was only a very partial “temporary parking prohibition” on the south and east side of Blackfield Drive between Reedland Woods Way and Via San Fernando.*

- (c) Trained traffic control monitors/controllers provided to the satisfaction of the Tiburon Police Department, located as follows: 1) at the corner of Blackfield Drive/Via Los Altos; 2) CKS driveway at Reedland Woods Way; and 3) at the CKS parking lot entrance on Via Los Altos. Additional monitors may be necessary to adequately direct traffic and parking, to be determined by CKS based upon need. CKS shall inform the Tiburon Police Department five (5) days in advance of any such event.

*Discussion: The monitor at the corner of Blackfield Drive/Via Los Altos held a sign pointing to the Kol Shofar parking lot, but did not actively direct traffic. In most instances a Police Sergeant was observed at the Reedland Woods Way driveway. There was a monitor/controller wearing a reflective jacket at the Kol Shofar parking lot entrance on Via Los Altos until commencement of services.*

- (d) Total minimum event/service parking shall be calculated by dividing the expected number of attendees by 2.3 (attendees per vehicle). Adequate off-site parking spaces shall be secured at a remote parking lot or lots in advance for any event, function, or combination thereof that is expected to exceed the on-site parking capacity. Written verification of the off-site parking lot availability must be presented to a CKS-designated person by contract, letter or e-mail from a remote lot owner or operator at least five (5) days prior to an event/activity or service. If such verification is not timely presented, or is subsequently withdrawn, the event shall be relocated, rescheduled, or reduced in magnitude unless sufficient substitute off-site parking can be found and verified in writing prior to the event. Such written verification is to be kept on file at CKS and made available to the Director of Community Development upon request. Parking lot locations shall be pre-assigned and notification provided by mail or e-mail. CKS will issue parking passes to attendees indicating their assigned parking lot. Attendees should display their parking passes in the windshield during the event or service.

*Discussion: Kol Shofar obtained the use of the parking lots at Bel Aire School, Westminster Presbyterian Church and Tiburon Baptist Church. Parking permits were not utilized for attendees, and according to the senior Kol Shofar parking monitor, parking assignments to specific lots were not made. Parking appeared to be conducted on a first-come-first-served basis.*

- (e) Shuttle service to and from the remote parking lot or lots shall be required. A traffic control monitor shall be provided by CKS at the remote parking lot or lots to facilitate parking and use of the shuttle by attendees. CKS shall develop a detailed shuttle program for review and approval by the Director of Community Development at least one hundred twenty (120) days prior to issuance of the Certificate of Occupancy for the MPB. Shuttle runs shall begin at least thirty (30) minutes prior to the start of an event or service and shall end no earlier than one (1) hour after the end of the event or service. A minimum of two (2) shuttle buses shall be in operation at all such times. Shuttles shall not be diesel powered and shuttle engines shall not idle except when loading or unloading.

*Discussion: Shuttle service was provided to and from the remote parking lots and monitors were observed at each lot. Kol Shofar prepared a parking plan (**Exhibit 4**) that was reviewed and approved by the Director of Community Development. The first shuttle was observed at 6:35 PM on Blackfield Drive; it is unknown whether shuttles were active in the remote lots at least 30 minutes prior to the start of the event. A shuttle departed Kol Shofar at 9:45 PM, and it appeared that runs transporting attendees ceased shortly after 10:00 PM. Two marked shuttles (a large Ford van and a smaller minivan, neither of which was a diesel vehicle) were in use.*

*The monitoring report observed that numerous vehicles dropped off passengers at Kol Shofar, then left to park at the remote parking lots, with only the driver taking the shuttle. This process was repeated at the end of the services, with drivers taking the shuttle to the remote parking lots and returning to pick up passengers. Staff believes that the shuttle requirements in this condition of approval was intended to require drivers and passengers to utilize the shuttle and to discourage the additional traffic around Kol Shofar generated by vehicles dropping off and picking up passengers at the site.*

- (f) To the extent practicable, attendees shall be issued parking passes and maps with directions sent by mail or e-mail two (2) weeks prior to the event indicating the assigned parking lot (on-site or off-site) with a copy of the mailed information (map, directions, sample parking pass) sent to the Neighborhood Advisory Committee, Tiburon Police Department, and Director of Community Development. Invitations to events shall include traffic, noise and circulation reminders as well as a reminder to please limit noise in the CKS parking lot and grounds upon arrival and upon leaving an event.

*Discussion: As noted above, parking permits were not utilized for attendees, and parking assignments to specific lots were not made. Parking appeared to be conducted on a first-come-first-served basis.*

- (g) CKS shall be responsible for implementing all required traffic controls.

*Discussion: The compliance with the required traffic controls is summarized above.*

- (ii) For the High Holy Days services, the following shall apply in addition to the measures identified in B(i) above:
  - (a) CKS shall provide a courtesy mailing or e-mailing to all property addresses within three hundred (300) feet of the CKS property at least ten (10) days but no more than twenty-one (21) days before the start of High Holy Days services;

*Discussion: Kol Shofar has indicated that the required courtesy notice was sent prior to the High Holy Days services. Courtesy e-mails have also been sent to neighboring residents for other religious events, such as funerals, when a sizable crowd has been expected.*

- (b) Carpool/shuttle/parking permit/information and map shall be distributed to members at least twenty-one (21) days before the start of High Holy Days services. This distribution shall include traffic, noise and circulation reminders as well as a reminder to please limit noise in the parking lot and grounds upon arrival and upon leaving an event.

*Discussion: Kol Shofar has indicated that the parking information was distributed as required.*

C. Monitoring, Education, and Enforcement

- (i) In order to enforce the use, traffic and parking management provisions, a minimum of three (3) unannounced traffic and parking monitoring events per year shall be performed by Town-retained independent observers for at least the first two (2) years following occupancy of the MPB. The cost of the independent observers shall be paid by CKS. The purpose of the monitoring events shall be to ensure that the use and traffic and parking provisions, including off-site parking, shuttle service, and the use of on-site parking have been complied with and become routine. To assist with the selection of unannounced monitoring times, CKS shall provide the Director of Community Development a list of all known events or combination of events/activities with the estimated cumulative number of attendees on site in excess of three hundred (300) persons on a quarterly basis, with said list to be provided at least ten (10) days prior to the first event on each quarterly list.

*Discussion: As noted above, the Town hired a consultant to conduct an unannounced monitoring event for the September 17 Yom Kippur Eve services. Kol Shofar paid for the cost of the monitoring. Kol Shofar has indicated that there have been no events/activities since the High Holy Days that have had more than 300 attendees. This lack of large events has limited the Town's opportunities to conduct additional monitoring.*

*The monitoring report for the Yom Kippur Eve services indicated that the Kol Shofar parking lot was full and a maximum of 71 cars were noted in the Westminster Presbyterian and Bel Aire parking lots combined. The monitors observed approximately 140 vehicles from event attendees parked on surface streets surrounding Kol Shofar, mostly on Blackfield Drive and elsewhere in the Bel Aire neighborhood.*

*The monitors also reported the following hazardous vehicular and pedestrian movements associated with the services:*

- *Numerous unpermitted u-turns in areas where there are "no u-turn" signs by vehicles searching for on-street parking in the vicinity.*
  - *Pedestrians walking in the roadways or crossing the street mid-block.*
  - *Vehicles stopping in areas marked with red curbs to pick up or drop off pedestrians.*
  - *Poor visibility at the crosswalk at the intersection of Blackfield Drive and Via Los Altos, due primarily to limited street lighting .*
- (ii) Results of each traffic and parking monitoring event shall be forwarded by the Director of Community Development to CKS and to the Neighborhood Advisory Committee (see Condition #9) within fourteen (14) days of receipt, and will be made available to the Planning Commission for each CUP review. If a traffic and parking monitoring event results in a finding

of non-compliance, the Director of Community Development shall first inform CKS and the Neighborhood Advisory Committee in writing about the non-compliance issues and require immediate correction. If subsequent monitoring results in a second finding of non-compliance within one (1) year of the previous finding of non-compliance, the Director of Community Development shall refer the matter to the Planning Commission for review of the CUP provisions and recommendation of corrective action.

*Discussion: The monitoring report was forwarded to Kol Shofar and the Neighborhood Advisory Committee within fourteen (14) days of receipt. Based on the overall findings of the monitoring report, the Town did not make a finding of non-compliance, but Town staff did meet with Kol Shofar and neighborhood representatives to discuss areas where Kol Shofar was apparently not in compliance with the requirements of the conditional use permit for the event and where there was room for improvement.*

- (iii) CKS shall conduct a multi-part educational program concerning traffic control and parking. The program shall include:
  - (a) The strong discouragement of any parking in the surrounding neighborhoods (including Bel Aire neighborhood streets) when there are available spaces in the on-site parking lot. CKS shall advise event attendees to avoid parking in surrounding neighborhood streets.
  - (b) CKS shall mail or e-mail written reminders at least twice annually to all congregants that they should park in CKS on-site parking lots or at pre-approved and identified off-site parking lots associated with the shuttle program.
  - (c) Diagrams showing parking locations and circulation patterns, including entrances and exits from on-site and any assigned off-site parking lots shall be included. A statement encouraging courteous conduct toward neighbors shall also be included.
  - (d) CKS shall conduct an ongoing educational program for its members and for attendees of CKS events concerning traffic and parking, including a statement that Reedland Woods Way is not to be used by inbound CKS-related traffic and that U-turns and turn-arounds using residential driveways are not to be made in the surrounding streets and will be enforced by the Tiburon Police Department.
  - (e) CKS shall maintain an up-to-date database of its members to facilitate and encourage carpooling. The carpool database shall be updated annually and confirmation of the update (but not the database itself) shall be submitted with the periodic review

application information. The information from this database shall be used by CKS to provide information to its members about potential carpool partners and will be targeted to members for whom carpooling may be a viable means of reaching the property.

- (f) CKS shall maintain a log of all events/activities that have exceeded ninety percent (90%) of the on-site parking capacity.
- (g) The CKS log shall be made available to the Neighborhood Advisory Committee and the Director of Community Development upon reasonable notice of a request to review the log.
- (h) CKS shall maintain a website available to the neighborhood, the congregation, and the Town to provide regular information on events, activities, parking and traffic. The website shall provide an e-mail address for written comment from interested persons.

*Discussion: Kol Shofar has indicated that they have conducted the required educational program in compliance with this requirement. There have been no programmed events/activities that have exceeded ninety percent (90%) of the on-site parking capacity other than the grand opening event and the High Holy Days services. A recent funeral service for a prominent Tiburon resident may have exceeded the 90% capacity, but activities of this nature cannot realistically be programmed. A page of the Kol Shofar website ([www.kolshofar.org](http://www.kolshofar.org)) is updated regularly and explains all parking regulations and is attached as **Exhibit 6**.*

6. Lighting, Parking Lot Lighting, and Landscaping:

- A. Parking lot lighting shall be on timers to turn off no later than 10:00 pm on weekdays. The duration of lighting may be extended by manual override device when occasions demand, but in no event shall be kept on later than 10:30 pm except for High Holy Days, Selichot, Shavuot, the second night of Passover, or other religious observances, at which times the parking lot lighting shall remain on until no later than thirty (30) minutes after event ending time.

*Discussion: The Town received several complaints from neighbors shortly after the completion of the MPB that the parking lot lights were being left on beyond the proscribed hours. Kol Shofar adjusted the timer for the lights and now appears to be in compliance with this requirement.*

- B. Landscaping shall be enhanced in the Design Review application drawings to achieve the goals of reducing off-site noise, light and glare impacts.

*Discussion: The Design Review Board determined that the project landscape plans achieved these goals.*

- C. Eucalyptus trees located on the CKS property in the immediate vicinity of the area below 32 Via Los Altos shall be inspected annually by a certified arborist or

registered professional forester who shall file a report as to the tree health and safety. Said report shall be submitted to the Town annually.

*Discussion: The first annual inspection report regarding the eucalyptus trees that has been submitted to the Town was completed on February 24, 2011 and is attached as **Exhibit 7**. The report recommended trimming of some trees and removing smaller "volunteer" trees.*

- D. All skylights shall have blackout blinds to be closed at sunset whenever the facility is in use.

*Discussion: Blackout blinds have been installed for all skylights. The Town has received no complaints regarding the operation of the blackout blinds.*

- 7. Noise Controls: (see Condition No. 4 and Exhibit B of this Resolution).

*Discussion: See discussion under Condition Nos. 3 & 4 above.*

- 8. CUP Review:

- A. The CUP shall be reviewed by the Planning Commission at a public hearing six (6) months after occupancy of the MPB. Additional reviews shall occur once every six (6) months for the next two and one-half (2 ½) years thereafter, and annually after the first three (3) years. The Planning Commission shall have the authority to modify the restrictions of this CUP. However, the Town Council intends that the effectiveness of the project design, mitigations, conditions, and restrictions of the use permit should be tested over a substantial period of time before the Planning Commission entertains any proposal to relax conditions or restrictions.

*Discussion: The MPB was granted occupancy on August 29, 2010. This hearing constitutes the first review under this condition of approval.*

- B. CKS shall be responsible for submitting, at least forty-five (45) days prior to the periodic review date, a detailed narrative report of the current use and operation of the synagogue and day school and supporting documentation to demonstrate compliance with conditions of approval of this permit, including adopted mitigation measures. The Director of Community Development shall review the report for completeness and may request clarification or additional documentation as necessary. CKS shall be responsible for all Town processing costs associated with the review and shall deposit in advance sufficient funds to cover such cost.

*Discussion: Kol Shofar submitted the required narrative (**Exhibit 2**) on February 25, 2011, less than 45 days before the review date for the use permit.*

- C. CKS will advise and educate its tenant (the day school) concerning provisions of this CUP, with special emphasis on minimizing traffic, noise, light and glare, providing courtesy to neighbors, and other issues addressed in these use permit

conditions of approval. CKS shall coordinate closely with the tenant day school regarding securing all required Town permits prior to making physical improvements at the site, and shall coordinate timely responses to neighbor issues or complaints that involve the day school.

*Discussion: Kol Shofar has indicated that they have conducted the required educational program and coordination in compliance with this condition.*

9. Neighborhood Advisory Committee:
  - A. CKS shall support the formation and operation of a Neighborhood Advisory Committee (NAC), which shall be composed of the CKS Executive Director, a Board Member, a Congregation Member and three neighborhood members selected by the surrounding neighborhood.
  - B. The NAC shall have two co-chairs (one from CKS and one neighborhood representative) responsible for agendas and acting as committee liaison to the Town. The NAC shall provide a brief, written report to the Director of Community Development annually or as deemed useful by the committee.
  - C. The NAC shall meet periodically; initially once a month but not less than twice a year.
  - D. The primary purpose of the NAC is to foster communication and discussion and recognize and resolve issues before they escalate or result in CUP compliance problems. The NAC shall be advisory in nature for the purpose of discussing matters related to CKS operations such as, but not limited to, CUP compliance issues, traffic management, coordination before and analysis following special events, ongoing operations and activities of the school(s), noise, landscaping and lighting. The Town shall have sole and ultimate authority over CUP compliance determinations and enforcement matters.
  - E. CKS shall advise the NAC at least two weeks in advance of events/activities or combinations thereof that are anticipated to exceed ninety percent (90%) of the on-site parking capacity (except the Sunday School program).
  - F. NAC meetings shall be held where the public may observe in a space to be provided by CKS. Persons who place their name on a mailing or e-mailing list maintained by the NAC shall be notified by CKS of all meeting dates, times and locations. CKS shall maintain agendas and summary notes describing the nature of NAC discussions and recommendations during meetings.
  - G. NAC meetings shall not be considered member-sponsored events.

*Discussion: The NAC has met twice: on August 22, 2010, shortly before the grand opening ceremonies, and on October 22, 2010. Although neighboring residents have attended each of the NAC meetings, only one neighbor has been officially "selected by the surrounding*

*neighborhood.” The Vista Tiburon neighborhood (properties along Reedland Woods Way and Vista Tiburon Drive) has an active homeowners association, but the Bel Aire neighborhood and the homes to the northeast of Kol Shofar (along Porto Marino Drive, Blackfield Drive and Via Capistrano) do not have an active HOA to “select” NAC representatives, and residents from these neighborhoods have not felt sufficiently authorized to speak on behalf of anyone but themselves. A resident of each of these two neighborhoods has sent out letters to their neighbors asking for participation in the NAC, without success.*

*The inability of the surrounding neighborhoods to “select” NAC representatives is a structural problem for this committee that has stymied efforts to comply with the required meeting schedule. The Planning Commission may wish to consider alternative membership solutions for the committee or suggest other neighborhood outreach and communication possibilities that would otherwise achieve the goal of this condition of approval to foster communications between Kol Shofar and neighboring residents.*

10. An encroachment permit shall be secured from the Tiburon Public Works Department for any work on Town streets, rights-of-way, or land over which the Town holds a real property interest.

*Discussion: An encroachment permit was obtained for all work done on Town streets and rights-of-way.*

11. Applicable traffic mitigation fees shall be paid at the time of building permit issuance.

*Discussion: Kol Shofar paid any applicable traffic mitigation fees for the expansion project.*

12. The Town of Tiburon reserves the right to amend or revoke this CUP for cause, in accordance with regulations of the Town.

*Discussion: No need for review.*

13. The Town intends the conditions of approval of this permit to ameliorate the project’s impacts on the neighborhood without imposing a substantial burden on CKS’s religious exercise. In the event that the implementation of these conditions imposes a substantial burden on CKS’ religious exercise, the Town will, upon application by CKS, amend the conditions to reduce that burden to a less than substantial level. Notwithstanding the foregoing, the Town will not approve any such amendment request that is contrary to a compelling Town interest.

*Discussion: No need for review.*

## **PUBLIC COMMENT**

As of the writing of this report, three letters have been received regarding the review of the CKS use permit, attached as **Exhibits 18-20**. The Town has received additional correspondence from neighboring residents regarding Kol Shofar operations since the occupancy of the Multi-Purpose Building; copies of this correspondence are attached as **Exhibits 11-17**.

## CONCLUSION

Staff's concludes that it appears that the synagogue and day school uses are operating in substantial compliance with the conditions of approval of their conditional use permit. As noted in the report above, Staff believes that there is room for improvement in the following areas:

1. Kol Shofar needs to refine and improve its implementation of the required parking and traffic controls for large events. There should be more consistent placement of temporary "no parking" signs, parking needs to be assigned for vehicles in remote parking lots, and drivers should be discouraged from dropping off and picking up passengers at Kol Shofar;
2. The composition of the Neighborhood Advisory Committee may need to be restructured. Consideration may be given to allowing voluntary, rather than "selected," membership of the committee;
3. The location and extent of red curbs should be further evaluated and mitigated prior to modification; and
4. Kol Shofar needs to make and submit the required reports on trees and events on a more and timely regular basis.

As noted in Condition No. 8 (A) of Resolution No. 15-2007, the Planning Commission has the authority to modify the restrictions of this CUP. However, the resolution clearly states that:

"The Town Council intends that the effectiveness of the project design, mitigations, conditions, and restrictions of the use permit should be tested over a substantial period of time before the Planning Commission entertains any proposal to relax conditions or restrictions."

Staff notes the substantial good faith efforts that have been made by Kol Shofar thus far to comply with the complex requirements of their use permit. Staff believes that additional observations of Kol Shofar events and operations are warranted before making changes to the conditions of approval of the conditional use permit. The next review of this use permit is tentatively scheduled to occur after the next High Holy Days services, which would allow for additional unannounced monitoring and the preparation of another monitoring report, along with continuing Staff observations of ongoing operations.

## RECOMMENDATION

Staff recommends that the Planning Commission take public testimony on this item, close the public hearing, and conclude that Kol Shofar is in substantial compliance with its conditional use permit. The Commission should provide direction regarding areas where improvement is warranted and may consider whether any modifications should be made to the adopted conditions of approval for this use permit at this time.

## EXHIBITS

1. Town Council Resolution No. 15-2007
2. Kol Shofar notes for CUP review, dated February 25, 2011
3. Monitoring Report for Yom Kippur event, dated September 28, 2010
4. Kol Shofar parking plan
5. Parking and traffic information distributed by Kol Shofar
6. Kol Shofar website parking information
7. Arborist report prepared by Treemasters, dated February 24, 2011
8. Memo to file regarding Kol Shofar grand opening, dated September 1, 2010
9. Memos to file regarding High Holy Days services dated September 9 & 10, 2010
10. Noise complaint received December 12, 2008
11. Letter from Logan Boles, dated August 30, 2010
12. Letter from Christy Seidel, dated September 1, 2010
13. Letter from Tim Metz, dated September 1, 2010
14. Letter from Logan Boles, dated September 9, 2010
15. Letter from Logan Boles, dated September 12, 2010
16. Letter from Samantha Winter, dated September 30, 2010
17. Letter from Tim Metz, dated October 14, 2010
18. Letter from Christy Seidel, dated March 14, 2011
19. Letter from Timothy Metz and Jennifer Jorgensen, dated March 14, 2011
20. Letter from Samantha and James Winter, dated March 16, 2011

Prepared By: Daniel M. Watrous, Planning Manager

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