



TOWN OF TIBURON
1505 Tiburon Boulevard
Tiburon, CA 94920

Planning Commission Meeting
January 12, 2011
Agenda Item: 1.

STAFF REPORT

To: Members of the Planning Commission

From: Community Development Department

**Subject: Repeal of Zoning Ordinance-Based Green Building Regulations:
Consider Making a Recommendation to Town Council Regarding
Repeal of Article IX (Green Building) and Related Sections of Chapter
16 (Zoning) of the Tiburon Municipal Code**

BACKGROUND

The Town adopted its current “green building” regulations in 2008 as part of its Zoning Ordinance. The green building standards were based on the LEED methodology for non-residential buildings and on the GreenPoint rating system for residential projects.

Effective January 1, 2011, the State of California’s new CALGreen construction code went into effect. CALGreen applies to both new residential and non-residential projects, and implements approaches green building from a mandatory state-wide building code perspective that is somewhat different than existing systems used by the Town. CALGreen is more rigorous than the Town’s GreenPoint system. Since any local amendments made to the California building codes must be more restrictive (as opposed to more lenient), the Town’s current green building regulations must be replaced by CALGreen or something even more rigorous. Repeal of the Town’s current zoning-based green regulations is a necessary step at this time.

ANALYSIS

Local governments in Marin County are taking several different approaches to dealing with CALGreen. This code was not envisioned at the time most local green programs were adopted, and it was developed over a stunningly short period of time (for a state-wide code) with strong support from former Governor Schwarzenegger. CALGreen offers local communities the option of adopting “tiers” of increasing rigor. Tier 1 sets tougher standards than the basic CALGreen code, while Tier 2 goes even further. Many communities (including Belvedere) are simply adopting CALGreen as written; others have adopted Tier 1, while still others (who had previously adopted the BERST methodology) have hastily grafted a new BERST-based overlay onto the new code. To staff’s knowledge, no local government in Marin County has adopted Tier 2. Building officials and inspectors throughout the state are still wrestling with the myriad code changes presented by CALGreen and a new state residential construction code, and most are reluctant to further complicate an already challenging situation until they have a better grasp on basic CALGreen implementation. The Town Council has held first reading of an ordinance adopting the basic CALGreen code and is scheduled to adopt it on January 19, 2011.

Over the coming months, staff will evaluate the range of options available with respect to the Town's green building regulations and report back to the Commission and Council.

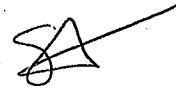
RECOMMENDATION

Staff recommends that the Commission adopt the resolution recommending appeal of the Town's zoning ordinance-based green building regulations to the Town Council.

EXHIBITS

1. Draft Resolution (with draft ordinance attached)

Prepared by: Scott Anderson, Director of Community Development



RESOLUTION NO. 2011-DRAFT

A RESOLUTION OF THE PLANNING COMMISSION
OF THE TOWN OF TIBURON RECOMMENDING TO THE TOWN COUNCIL ADOPTION
OF AN ORDINANCE REPEALING THE GREEN BUILDING REGULATIONS CONTAINED
WITHIN THE ZONING ORDINANCE CHAPTER OF THE TIBURON MUNICIPAL CODE

WHEREAS, the Town of Tiburon has initiated the repeal of its zoning ordinance-based green building regulations due to the fact that more stringent building code-based green building regulations have been adopted by the State of California and went into effect on January 1, 2011; and

WHEREAS, notice of the Planning Commission's public hearing on the matter was published in the Ark newspaper on December 22, 2010 and was publicly posted; and

WHEREAS, the Planning Commission did hold a duly noticed and advertised public hearing on January 12, 2011 and considered any testimony received during the public hearing; and

WHEREAS, the Planning Commission finds that adoption of the ordinance is exempt from the requirements of the California Environmental Quality Act pursuant to Section 15061(b)(3) of the CEQA Guidelines; and

WHEREAS, the Planning Commission finds that adoption of the proposed ordinance is consistent with the goals, policies, and programs of the Tiburon General Plan, and is consistent with the objectives of the Zoning Ordinance.

NOW, THEREFORE, BE IT RESOLVED that the Planning Commission hereby recommends that the Town Council adopt the ordinance repealing Article IX (Green Building) of Title IV, Chapter 16 (Zoning) of the Tiburon Municipal Code, as set forth in the attached Exhibit "A", incorporated herein.

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:

CATHY FRYMIER, CHAIR
Tiburon Planning Commission

ATTEST:

SCOTT ANDERSON, SECRETARY

Attachment: Exhibit "A", Draft Ordinance

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ORDINANCE NO. XXX N.S.

**AN ORDINANCE OF THE TOWN COUNCIL
OF THE TOWN OF TIBURON
REPEALING THE ZONING ORDINANCE-BASED GREEN BUILDING
REGULATIONS CONTAINED IN TITLE IV, CHAPTER 16 (ZONING) OF THE
TIBURON MUNICIPAL CODE**

WHEREAS, Article IX of Chapter 16 (Zoning) of the Tiburon Municipal Code sets forth green building regulations for the Town of Tiburon; and

WHEREAS, the Town of Tiburon is obligated under state law to adopt a new construction code, known as CALGreen, that provides more stringent green building standards than are set forth in the Town's green building regulations in Article IX; and

WHEREAS, state law requires that local amendments to building code may not be less stringent than those contained within the state-adopted code, thereby necessitating the repeal of the Town's Green Building provisions contained in Article IX and referenced in other sections of the Zoning Ordinance; and

WHEREAS, the Town Council finds that adoption of the ordinance is exempt from the requirements of the California Environmental Quality Act pursuant to Section 15061(b)(3) of the CEQA Guidelines; and

WHEREAS, the Town Council hereby adopts this ordinance in order to promote and protect the public health, safety, and general welfare and achieve compliance with state-mandated construction codes.

NOW, THEREFORE, the Town Council of the Town of Tiburon does ordain as follows:

Section 1. Repeal.

The following portions of Title IV, Chapter 16 of the Tiburon Municipal Code are hereby repealed:

- A. Article IX (Green Building) of Title IV, Chapter 16 (Zoning) of the Tiburon Municipal Code is repealed in its entirety, including from the Table of Contents.

- B. Article V, Section 16-52.020 (E) (5) is repealed.
- C. Article VI, Section 16-66.020 (C) (4) is repealed.
- D. Article X, Section 16-100-020 (C), the definition of "Certified green building rater" is repealed.
- E. Article X, Section 16-100-020 (G), the definition of "Green building rating checklist" is repealed.

Section 2. Publication and 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 passage by the Town Council, 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 L. CRANE IACOPI, TOWN CLERK

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TOWN OF TIBURON
1505 Tiburon Boulevard
Tiburon, CA 94920

Planning Commission Meeting
January 12, 2011
Agenda Item:

STAFF REPORT

To: Members of the Planning Commission

From: Community Development Department

Subject: 1599 Tiburon Boulevard; File #11005;
Conditional Use Permit to Operate a Drug Store and Pharmacy;
Zelinsky Properties, LLC, Owner; CVS/pharmacy & Armstrong
Development Properties, Inc., Applicants;
Assessor's Parcel Nos. 058-171-89 and a portion of 058-171-88

Reviewed By: _____

PROJECT DATA

Address: 1599 Tiburon Boulevard
Assessor's Parcel Numbers: 058-171-89 and a portion of 058-171-88
File Number: 11005
Lot Size: 1.63 acres
General Plan: Neighborhood Commercial/Affordable Housing Overlay
Zoning: NC/AHO (Neighborhood Commercial/Affordable Housing Overlay)
Current Use: Vacant commercial building
Owner: Zelinsky Properties, LLC
Applicants: CVS/pharmacy & Armstrong Development Properties, Inc.
Flood Zone: X (Building; outside 500-year flood event); AE (parking lot; subject to 100-year flood)
Date Complete: December 22, 2010

SUMMARY

Zelinsky Properties, owner, and CVS/pharmacy, applicant, have submitted an application to operate a drug store and pharmacy (CVS/pharmacy) in a building previously occupied by a grocery store (most recently IGA/Delano's Market) on property located at 1599 Tiburon Boulevard. A drive-through facility is proposed for the pharmacy on the eastern side of the building, with egress onto Beach Road. A 1,800 square foot portion of the existing building would be leased to a future retail sales tenant.

The conditional use permit is required for: 1) a change in use from a supermarket to a drug store/pharmacy with liquor sales; 2) the construction of a 90 square foot building addition for the drive-through; and 3) modification of parking requirements established in the original 1963 conditional use permit for this building.

BACKGROUND

The origins of the commercial building on this property predate the incorporation of the Town of Tiburon. In 1963, the Marin County Board of Supervisors approved a conditional use permit and a building permit for a supermarket on the site. Since that time, the building has been occupied by various different grocery store/markets, including Safeway, Bon Appetit (a division of Safeway), Bell Market and, most recently, Delano/IGA Market.

The Delano/IGA Market closed in 2009. Since then, the building has been vacant and the parking spaces on the site have been used as part of a public pay parking lot under the same ownership as the parking lot on the adjacent property to the northwest.

PROJECT DESCRIPTION

The proposed drug store and pharmacy would occupy 18,182 square feet of the approximately 20,000 square foot existing building. The store would sell a full range of convenience consumer products, including food items and alcoholic beverages. The proposed store hours would be from 7:00 a.m. to 10:00 p.m., seven days a week. The applicants intend to sublease a 1,800 square foot space in the southwest corner of the building to an unspecified future retail sales tenant.

A two-lane drive-through pharmacy facility would be added to the eastern side of the building. A small addition to the building would connect the interior of the pharmacy to an exterior window facing the drive-through lanes. A porte-cochere-type covering would be constructed above the drive-through lanes. The drive-through pharmacy would operate during the regular store hours. No other substantial physical changes are proposed for the exterior of the building at this time, although the future retail tenant space would require exterior alterations to that portion of the building.

The business would have the use of 72 parking spaces on the site through a lease with the property owners which covers the entire lot on which the building is located and a small portion of the adjacent parcel to the northwest. The remainder of the parking lot on the adjacent parcel is not part of the applicant's lease. The applicants propose to provide eight additional parallel on-street public parking spaces in the Tiburon Boulevard right-of-way. Landscaping on the site would be replaced with new trees and vegetation. Public sidewalks along Tiburon Boulevard and Beach Road would be widened.

GENERAL PLAN AND ZONING CONSISTENCY

The Downtown Element of the Tiburon General Plan indicates that a drug store/pharmacy is a preferred use for Downtown Tiburon, as verified by community preference polls conducted in 2005. There has been no pharmacy in Downtown since the 1990's, forcing Tiburon residents to drive to Strawberry or Mill Valley to fill prescriptions. Policy LU-24 of the Land Use Element states that "the Town shall encourage the addition of under-represented retail and service businesses to enhance shopping and service opportunities for Tiburon." Policy No. DT-2 of the Downtown Element further states that "resident-serving land uses shall be encouraged throughout Downtown." The proposed pharmacy would serve local residents and enhance shopping and service opportunities for the community.

Section 16-52.040 (D) of the Tiburon Zoning Ordinance lists the following factors to be considered in determining whether or not any conditional use should be permitted in a specific location:

1. *The relationship of the location proposed to the service or market area of the use or facility proposed; transportation, utilities, and other facilities required to serve it; and other uses of land in the vicinity.* The proposed drug store and pharmacy would be centrally located in Downtown Tiburon on Tiburon Boulevard and readily accessible by public transportation. This use would be compatible with other retail and service uses in Downtown.
2. *The compatibility of the design, location, size, and operating characteristics with the existing and future land uses in the vicinity.* The general design and size of the building would remain unchanged from its previous use as a grocery market. The proposed hours of operation would be longer than most other Downtown businesses, but would be consistent with those normally associated with a drug store and pharmacy. The porte-cochere might be somewhat visible from some of the adjacent Point Tiburon Marsh residences, but is unlikely to substantially intrude into any views toward Downtown Tiburon from these homes.
3. *The probability of impairment to the architectural integrity and character of the zoning district in which it is to be located.* With the exception of the minor building addition and drive-through pharmacy facility, the project would not involve any significant changes to the building exterior which would impair the architectural integrity and character of the NC (Neighborhood Commercial) zone.
4. *The protection of the public interest, health, safety, convenience, or welfare of the Town, or any probability of injury to property or improvements in the vicinity and zoning district in which the real property is located.* The establishment of a drug store and pharmacy in Downtown Tiburon would improve the convenience of retail services serving Tiburon residents.
5. *The need of the community for additional numbers of such uses, paying particular heed to whether the neighborhood or vicinity is already adequately served by similar uses.* There has been a need for a drug store and pharmacy in Downtown Tiburon for many years. The sale of convenience retail items at the store should offer an appropriate retail balance with the more upscale Woodlands Market that should soon be operating across the street in the Boardwalk Center.

PLANNING ISSUES

As noted above, the applicants currently intend to operate the store between the hours of 7:00 a.m. and 10:00 p.m., seven days a week. However, the applicant has requested the ability to remain open 24 hours a day if there is a community demand for such hours of operation. Extended hours for the drive-through pharmacy could create late night noise impacts for

neighboring residents in the adjacent Point Tiburon Marsh condominiums, with vehicle noise and audio speakers disrupting the otherwise quiet night conditions. Staff recommends that the Planning Commission set the daily hours of operation from 7:00 a.m. to 10:00 p.m. for this use. The applicant may request an amendment to the use permit at a later date to extend the hours if desired.

Truck deliveries to the store create a similar potential noise concern for nearby residents. The applicant indicates that up to 3 weekly deliveries to the store would be made, with efforts made to schedule deliveries during “non-peak hours of operation.” Nighttime and early morning truck deliveries to the previous supermarket uses on this site have generated noise complaints from Point Tiburon residents. Section 23-19A (a) of the Tiburon Municipal Code prohibits commercial trucks in portions of Downtown Tiburon (including Tiburon Boulevard east of Beach Road, but does not apply to the subject site or other properties west of Beach Road) outside the hours of 7:00 a.m. to 10:00 p.m. on weekdays and 8:00 a.m. to 10:00 p.m. on weekends and holidays. Staff recommends that truck deliveries for the proposed use comply with these regulations, and a condition of approval to that effect is included in the draft resolution for this application.

In 1963, the Marin County Board of Supervisors approved a conditional use permit for a supermarket on the site, subject to a series of conditions of approval (see **Exhibit 2**). Condition of Approval No. 2 required that the use provide three square feet of parking area for every one square foot of market floor area, which is an obsolete parking standard for retail uses. The Tiburon Zoning Ordinance requires one parking space for every 250 square feet of gross floor area for retail uses, such as the requested drug store and pharmacy; using this ratio, the 20,000 square foot building on the site would require 80 parking spaces. Staff believes that the 72 parking spaces provided by the applicant, combined with up to 4 stopping and stacking spaces associated with the drive-through pharmacy and 8 additional parallel parking spaces to be provided on Tiburon Boulevard, would be sufficient to meet the Town’s parking requirements for this property. Section 16-32.040 (A) of the Zoning Ordinance gives the Planning Commission discretion to determine the appropriate amount of parking required for a specific use. Staff recommends that a condition of approval be adopted for this application superseding the previous County parking standards and requiring the applicant to provide the parking spaces as proposed.

Site improvements proposed by the applicant will be reviewed by the Town through the Design Review process. The minor building addition and drive-through facility will require Site Plan and Architectural Review approval and all new signage will be require sign permits. Landscaping improvements and all exterior lighting will also be reviewed through the Design Review process. Any new or replacement exterior noise-generating equipment (such as HVAC equipment) will need to comply with Town noise standards for such equipment.

In 2002, the Town Council adopted the *Downtown Tiburon Design Handbook*, which contains guidelines to be used in evaluating buildings, storefronts and streetscape designs in the Downtown area. These guidelines would be used during the Design Review process for this project and would likely result in the following requirements:

- Replacement of all parking lot and building lighting fixtures with more appropriate and consistent lighting fixtures, guidelines for which are contained in the *Site Furnishings Supplement* to the *Downtown Tiburon Design Handbook*.

- Trash receptacles, bicycle racks and any new outdoor seating or furniture shall be consistent with the palette established by the *Site Furnishings Supplement* to the *Downtown Tiburon Design Handbook*;
- Replacement of trees along Tiburon Boulevard with a single new street tree species that would be moderate in height and probably deciduous;
- Widening of the sidewalks along Tiburon Boulevard and Beach Road to 8 feet;
- The news rack area adjacent to the bus shelter on Tiburon Boulevard needs to be modified to keep news racks off the public sidewalk width; and
- Screening of any utility boxes, dumpsters and/or small sheds.

Staff recommends that the applicant be required to address certain building exterior improvements during the Design Review process. Since the construction of the building on the site in the 1960's, the level of the parking lot has sunk due to natural settlement, while the level of the building itself (which is supported by piers) has remained unchanged. As a result, ramps have been constructed to lead from the parking lot to the front doors of the building. These elevation changes have also caused gaps to occur between the foundation of the building, including the front porch and walkways, and the adjacent planters and parking lot. These gaps are more of an aesthetic issue rather than a structural or safety issue. Staff recommends that these gaps be remedied through the site improvement process, and the draft resolution contains a condition of approval to that effect.

The Tiburon Building Official, a certified disability specialist, has conducted a preliminary inspection of the site and has determined that the project will require some improvements to the handicapped access to the building. A representative of the property owner has indicated that such improvements have already been anticipated for this project.

It appears that an unpermitted contractor's yard has been established to the rear of the building. This use will be required to be abandoned. Staff will also recommend that the dilapidated fencing along the rear property line be replaced with a solid wall up to eight (8) feet in height to provide a better noise buffer for the adjacent Point Tiburon residents.

PUBLIC COMMENT

As of the date of this report, no letters have been received regarding the proposed conditional use permit. The Smoke Free Marin Coalition has requested that the proposed drug store either be prohibited from selling tobacco products or store such products in areas that are out of sight. If the Planning Commission determines that such a restriction is appropriate, a condition of approval should be added to the draft resolution.

RECOMMENDATION

Staff recommends that the Planning Commission:

1. Hold a public hearing on this item and hear and consider all testimony, and
2. Revise as appropriate and adopt the attached resolution (**Exhibit 3**) approving the subject conditional use permit.

EXHIBITS

1. Application form and supplemental materials
2. Minutes of April 16, 1963 Marin County Board of Supervisors meeting
3. Draft resolution
4. E-mail from Smoke Free Marin Coalition, dated December 15, 2010
5. Submitted plans

Prepared By: Daniel M. Watrous, Planning Manager

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TOWN OF TIBURON
1505 Tiburon Boulevard
Tiburon, CA 94920

Planning Commission Meeting
January 12, 2011
Agenda Item: **3.**

STAFF REPORT

To: Members of the Planning Commission

From: Community Development Department

Subject: Preliminary Draft Housing Element: Accept Public Comment and Provide Commission Comments & Recommendations

BACKGROUND

State Law Requirements for Housing Elements

State law requires each city and county to adopt a general plan containing at least seven elements including a housing element. Rules regarding Housing Elements are found in the California Government Code Sections 65580-65589. Housing Elements must be updated on a cycle ranging from 5-8 years. All Bay Area jurisdictions are required to update their housing elements to cover the 2007-2014 housing element planning period to comply with State law. The Town's current Housing Element was adopted in 2005 and certified by the State of California Department of Housing and Community Development (HCD).

Unlike the other mandatory General Plan elements, the Housing Element is subject to much more detailed statutory requirements and mandatory review by the State of California Department of Housing and Community Development (HCD). According to State law, the Housing Element must:

- Provide goals, policies, quantified objectives and scheduled programs to preserve, improve and develop housing.
- Identify and analyze existing and projected housing needs for all economic segments of the community.
- Identify adequate sites that will be zoned and available (prior to Housing Element adoption) within the current housing cycle to meet the Town's fair share of regional housing needs at all income levels.
- Be internally consistent with other parts of the General Plan (which is critical to having a legally adequate General Plan).

- Be submitted to the State Department of Housing and Community Development (HCD) to determine if HCD “certifies” that the Housing Element is in compliance with state law.

State Law establishes detailed content requirements for Housing Elements and requires a regional “fair share” approach to distributing housing needs — called the Regional Housing Needs Allocation (RHNA). State Housing Element law recognizes that in order for the private sector to address housing needs and demand, local governments must adopt land use plans and implementing regulations that provide opportunities for, and do not unduly constrain, housing development.

In accordance with State law, the Housing Element must be consistent and compatible with other General Plan elements. Additionally, the Housing Element should provide clear policy and direction for making decisions pertaining to zoning, subdivision approval, housing allocations, and capital improvements. The housing action program must also identify adequate residential sites available for a variety of housing types for all income levels; assist in developing adequate housing to meet the needs of low and moderate income households; address governmental constraints to housing maintenance, improvement, and development; conserve and improve the condition of the existing affordable housing stock; and promote housing opportunities for all persons.

Organization of the Preliminary Draft Housing Element

The Preliminary Draft Housing Element contains four primary sections: Introductory material; Background material; the Town’s Vision, Goals, Policies and Programs; and Appendices. The most important parts of the Housing Element are the goals, policies and programs contained in Sections V and VI (pages 112-142).

Pages 6-9 of the Preliminary Draft Housing Element provide definitions of key housing terms, such as the various household income categories used in the element (extremely low income, very low income, low income, moderate income, and above moderate income). Income limits are updated annually by the U.S. Department of Housing and Urban Development (HUD) for Marin County. The “Extremely Low Income,” “Very Low Income,” and “Low Income” schedules contained in the Housing Element were published by the U.S. Department of Housing and Urban Development (HUD), effective May 14, 2010. These income limits are shown by family size below for various housing programs administered by the Marin Housing Authority.

Marin County FY 2010 Median Household Income Schedule

Family Size	Public Housing, Section 8, CDBG, Inclusionary			Inclusionary, BMR Ownership		
	Extremely Low	Very Low	Lower	Median	Moderate	Above
	30%	50%	80%	100%	120%	Moderate
1	\$22,600	\$37,650	\$60,200	\$69,600	\$83,500	>\$83,500
2	\$25,800	\$43,000	\$68,800	\$79,550	\$95,450	>\$95,450
3	\$29,050	\$48,400	\$77,400	\$89,450	\$107,350	>\$107,350
4	\$32,250	\$53,750	\$86,000	\$99,400	\$119,300	>\$119,300
5	\$34,850	\$58,050	\$92,900	\$107,350	\$128,800	>\$128,800
6	\$37,450	\$62,350	\$99,800	\$115,300	\$138,350	>\$138,350

Source: Department of Housing and Urban Development, effective May 14, 2010

Process for the Town's Housing Element Update

Marin County jurisdictions are unique in the State of California because of the coordination that has occurred on housing elements. The Town participated in a collaborative effort involving all the jurisdictions in Marin County as part of the Marin Housing Workbook process. The Marin Housing Workbook provides background information for the housing element and included outreach to various stakeholder groups, with the goal of connecting with all segments of the population. Material from the Marin Housing Workbook is available at <http://www.marinhousingworkbook.com/>.

In addition, Town staff conducted a community workshop on May 12, 2009 to solicit comments from the community on directions for the Housing Element. The comments from the workshop and the Marin Housing Workbook activities helped identify key issues and strategic directions to pursue in the Housing Element update. Meeting summaries are included in the Appendices to Preliminary Draft Housing Element.

Near-term activities related to the Housing Element include: (1) review of the Preliminary Draft Housing Element by the Planning Commission; (2) review of the Preliminary Draft Housing Element by the Town Council; and (3) modifications and preparation of the Draft Housing Element based on Planning Commission and Town Council review, and then submittal to HCD for a mandatory 60-day review and comment period.

HCD's comments will probably require modifications to the Draft Housing Element. Staff will strive to respond to all of HCD's comments and then will bring the Draft Housing Element with suggested any modifications back to the Planning Commission and then the Town Council prior to adoption. The Town will also conduct environmental review under CEQA on the Draft Housing Element and any proposed modifications as a result of HCD review.

Key Changes from the 2005 Housing Element

The current update builds upon the 2005 Housing Element as an important starting point. As with the 2005 Housing Element, this element recognizes there are limitations as to what the Town can do about these problems due to the limited availability of developable land. The Town is currently at just about total build-out. With the exception of infill and mixed-use areas, most other available residential sites are limited to small or steep sites with limitations due to access problems, soil stability, drainage, parking, etc.

The Town has been very effective in implementing many of the programs contained in the 2005 Housing Element (see pages 15-29 of the Preliminary Draft Housing Element). The updated Housing Element recommends a precise and do-able set of implementing programs as well. Below are the goal areas and policies with related implementing programs (see pages 112-135).

Goal H-A — Town Leadership and Outreach. Establish a Town leadership role in providing a mix of housing types that matches the needs of people of all ages and income levels.

Implementing Programs Include

- Focus Town Resources on Key Housing Sites
- Review the Housing Element Annually

Goal H-B — Special Needs Housing. Provide housing for special needs populations that is coordinated with support services.

Implementing Programs Include

- Provision of Affordable Housing for Special Needs Households
- Adopt Procedures for Reasonable Accommodation

Goal H-C — Protecting and Conserving Existing Housing. Protect and conserve the existing housing stock and mix of unit types.

Implementing Programs Include

- Rehabilitation Loan Programs
- Use of Rental Assistance Programs

Goal H-D — (1) Infill, Higher Density Housing Opportunities. Facilitate the development of new infill housing in Downtown Tiburon and on identified underutilized sites throughout the Town that have existing infrastructure and few physical constraints. **(2) Lower Density Housing.** Focus development of lower density housing on vacant legal lots incapable of further subdivision and on undeveloped parcels where infrastructure constraints, physical constraints, and other non-governmental constraints prevent their development with more affordable housing. **(3) Second Units and In-Lieu Fees.** Continue to encourage and legalize secondary dwelling units in appropriate locations and use affordable housing in-lieu fees or impact fees on less constrained sites.

Implementing Programs Include

- Facilitate Development at Key Housing Opportunity Sites
- Modify and Implement “Affordable Housing Overlay Zone” Zoning for Affordable Projects
- Establish Variable Density Standards for Affordable Projects on Key Housing Opportunity Sites

Many Preliminary Draft Housing Element changes are updates reflecting what has happened over the past several years. Key changes from the Housing Element adopted in 2005 include the following:

(A) Updated Data on Employment, Housing and Population Projections, Housing Needs, Affordability, Land Availability, Potential Governmental and Non-Governmental Constraints. The updated Housing Element contains updated statistics and analysis of housing issues per State law. The projections in the Housing Element are consistent with ABAG projections and the California Department of Finance.

(B) New Programs Supporting Housing for Special Needs Populations. The Preliminary Housing Element contains a program to adopt procedures for “reasonable accommodation.”

(C) Modification to the Town’s “Affordable Housing Overlay Zone.” Perhaps the most significant change contained in the Preliminary Draft Housing Element is the staff and consultant recommendation to reduce the affordable housing requirements (percentages) for sites zoned for affordable housing overlay from 60% to 25% in recognition of the feasibility of developing housing on these sites. Housing Element law requires that the Town inventory vacant and underdeveloped sites, as well as sites with known potential for redevelopment which are available for housing development. The Town has an obligation to identify adequate sites which will be made available through appropriate zoning and development standards and with public services and facilities needed to encourage the development of housing consistent with Town’s “fair share” regional need. The table attached as **Exhibit 1** identifies potential housing sites and housing unit potential in Tiburon.

State law requires that the Town address its RHNA, including the provision of sufficient sites to meet the Town’s RHNA for very low and low income housing on sites designated at 20 or more units per acre. Under the Town’s “Affordable Housing Overlay Zone” this density can be achieved. However, the staff and consultant are convinced that requiring 60% of the units at the current affordability percentages and levels (20% for very low income, 20% for low income, and 20% for moderate income) unduly constrains development of housing on potential housing sites. The proposed new balance would be 15% very low income and 10% low income, for a total of 25% of units being affordable. Also, it is particularly critical for the Town to provide housing at 20 units or more per acre to meet the combined need for very low and low income households

(see “Lower Income Subtotal” column). Below are the Town’s RHNA numbers compared to other jurisdictions in Marin County.

Marin County Jurisdictions — ABAG Regional Housing Needs Allocation — RHNA (2007 - 2014)

Jurisdiction	Extremely Low Income *	Very Low Income	Low Income	Lower Income Subtotal **	Moderate Income	Above Moderate Income	Total Units	Default Density Required**
Belvedere	3	5	4	9	4	4	17	20 units/acre
Corte Madera	34	68	38	106	46	92	244	20 units/acre
Fairfax	12	23	12	35	19	54	108	20 units/acre
Larkspur	45	90	55	145	75	162	382	20 units/acre
Mill Valley	37	74	54	128	68	96	292	20 units/acre
Novato	138	275	171	446	221	574	1,241	30 units/acre
Ross	4	8	6	14	5	8	27	20 units/acre
San Anselmo	13	26	19	45	21	47	113	20 units/acre
San Rafael	131	262	207	469	288	646	1,403	30 units/acre
Sausalito	23	45	30	75	34	56	165	20 units/acre
Tiburon	18	36	21	57	27	33	117	20 units/acre
Unincorporated	92	183	137	320	169	284	773	30 units/acre
Total	548	1,095	754	1,849	977	2,056	4,882	
Percent	11.2%	22.4%	15.4%	37.9%	20.0%	42.1%	100.0%	

*Extremely Low Income (ELI) need equals 50% of Very Low Income Need (50% of 26 Very Low Units = 13 Units)

**Required per AB 2348 — Default density on sites appropriate for Lower Income Unit Need (see Lower Income Subtotal above)

Source: Association of Bay Area Governments (May, 2008)

See http://www.abag.ca.gov/planning/housingneeds/pdfs/Final_RHNA.pdf

(D) Establishment of Variable Density Standards at Key Housing Opportunity Sites.

Modeled after the program used in Santa Barbara, Variable Density Standards, described on p. 132 of the Preliminary Draft Element, reflects the varying impact of units based on size; in terms of traffic, parking, mass and bulk, and other characteristics. The program encourages the provision of a greater range of housing unit types and sizes than would otherwise likely be built in Tiburon, greatly helping to address provision of housing across all economic segments of the community.

NEXT STEPS

Following review and comment by the Planning Commission and Town Council, the Element will be forwarded to HCD for its initial review and comment. Following receipt of those comments, Staff will make any necessary revisions, release a Draft Housing Element for public review, and proceed to hold public hearings before the Commission and Council to consider

adoption of the Element. Once adopted, the Element must be forwarded to HCD for its final review and, if found acceptable, certification by HCD.

PUBLIC COMMENT

As of the writing of this report, no comments have been received from the public.

RECOMMENDATION

Staff recommends that the Planning Commission:

- 1) Take testimony from interested persons;
- 2) Discuss and make comments on the document;
- 3) Forward any comments or recommendations to the Town Council.

EXHIBITS

1. Summary Table of Housing Sites in Draft Element

PREVIOUSLY DISTRIBUTED

Preliminary Draft Housing Element (available on-line at www.ci.tiburon.ca.us)

Prepared by: Jeffrey Baird, Planning Consultant
Scott Anderson, Director of Community Development



Summary of Site Inventory and Relationship to the Town's RHNA

Location	Zoning	General Plan Designation	Acres	Density	Range of Units Possible	Realistic Capacity	Existing Uses	Infra-structure Capacity	On-site Constraints
1555 Tiburon Boulevard	NC/AHO	Neighborhood Commercial/Affordable Housing Overlay (up to 0.31 FAR and 15.3 units/gross acre; 20.7 units/gross acre with density bonus)	1.00	12.9 - 20.7	13 to 20	20	Parking Lot	Yes	None
Chase Bank 1535 Tiburon Boulevard	NC/AHO	Neighborhood Commercial/Affordable Housing Overlay (up to 0.31 FAR and 15.3 units/gross acre; 20.7 units/gross acre with density bonus)	0.73	12.9 - 20.7	9 to 15	15	Bank	Yes	Existing Building and Use
Bank of America 1601 Tiburon Boulevard	NC/AHO	Neighborhood Commercial/Affordable Housing Overlay (up to 0.31 FAR and 15.3 units/gross acre; 20.7 units/gross acre with density bonus)	0.57	12.9 - 20.7	7 to 11	11	Bank	Yes	Existing Building and Use
Cove Shopping Center 1 Blackfield Drive (portion)	NC/AHO	Neighborhood Commercial/Affordable Housing Overlay (up to 0.31 FAR and 15.3 units/gross acre; 20.7 units/gross acre with density bonus)	0.60	12.9 - 20.7	8 to 12	12	Shopping Center	Yes	Drainage Channel (can be mitigated)
Reed Elementary School 1199 Tiburon Boulevard (upper vacant portion)	RMP/AHO	Very High Density Residential/Affordable Housing Overlay (up to 18.4 du/acre, 24.8 du/acre with density bonus)	1.80	12.4 - 24.8	12 to 37	35	Vacant	Yes	Slope 1 - 1 1/2 acres are developable.
SUBTOTAL FOR SITES OVER 20 UNITS PER ACRE					49 - 95	93			
Second Units	Various	Residential	Varies	Varies	12	6	Developed / Vacant	Yes	Varies
Single Family	Various	Residential	Varies	Varies	300	300	Developed / Vacant	Yes	Varies
TOTAL CAPACITY					374 - 407	399			