

TOWN OF TIBURON  
1505 Tiburon Boulevard  
Tiburon, CA 94920

Planning Commission Meeting  
January 26, 2011  
Agenda Item: /.

## STAFF REPORT

**To:** Members of the Planning Commission  
**From:** Community Development Department  
**Subject:** 40 Main Street; File #11101;  
Conditional Use Permit to Construct an Addition to the Tiburon  
Playhouse and Serve Alcohol for Consumption on the Premises; Main  
Street Properties, Owner; David Corkill/Cinema West , Applicants;  
Assessor's Parcel No. 059-102-27  
**Reviewed By:** \_\_\_\_\_

## PROJECT DATA

Address: 40 Main Street  
Assessor's Parcel Numbers: 059-102-27  
File Number: 11101  
Lot Size: 13,304 square feet  
General Plan: Village Commercial  
Zoning: VC (Village Commercial)  
Current Use: Movie theatre  
Owner: Main Street Properties  
Applicants: David Corkill/Cinema West  
Flood Zone: AE (subject to 100-year flood)  
Date Complete: January 12, 2011

## SUMMARY

Main Street Properties, owner, and David Corkill and Cinema West, applicants, have submitted an application to construct an addition to the Tiburon Playhouse movie theatres and to serve beer and wine for theatre patrons. The subject property is located at 40 Main Street. An existing 250 square foot office at the rear of the theatre building would be demolished and replaced with a 350 square foot addition to the theatres. The conditional use permit is required for the construction of the building addition and on-site alcohol sales.

## BACKGROUND

The theatre building was originally constructed in the 1950's prior to incorporation of the Town of Tiburon. In 1989 the theatre was converted from one screen to two screens, with a total of 327 seats. In 1994, the Planning Commission adopted Resolution Nos. 94-05 & 94-06 (**Exhibit 2**) approving a conditional use permit to add 288 square foot addition to the lobby and a third 150-

seat screen to the theatre. The theatre has been operating with three screens since that time, but has not operated at the maximum approved capacity of 477 seats.

## **PROJECT DESCRIPTION**

The applicants propose to expand and reconfigure the existing theatre. The existing 250 square foot office at the rear of the original building would be demolished and replaced with a 350 square foot addition. The additional 100 square feet would be created by making the covered porch area to the rear of the existing office into enclosed space. The interior of the building would be reconfigured into four screens, with upgrades to the furniture, fixtures and equipment, including digital projection equipment for all screens. Beer and wine sales for theatre patrons would be part of an expanded line of food concessions, along the lines of a "dinner theatre."

The exact number of theatre seats is uncertain at this time, but would not exceed the current approved seating capacity of the theatre of 477 seats. At least one of the screens would include stadium seating, and seats would be larger and arranged to accommodate the enhanced food and beverage services.

The only exterior change to the building would be the addition to the rear, details of which will be reviewed through the Site Plan and Architectural Review process. The addition would be designed to match the existing building exterior. No other physical changes are proposed for the exterior of the building at this time.

## **GENERAL PLAN AND ZONING CONSISTENCY**

Policy DT-3 of the Downtown Element of the Tiburon General Plan states that "the Town shall actively promote the economic vitality of its Downtown." The proposed modifications to the building and theatre operations would likely revitalize the existing theatre and help ensure its ongoing economic viability.

Policy No. DT-8 of the Downtown Element of the Tiburon General Plan states that:

"minor floor area additions to properties exceeding FAR limits may be approved without the need for a General Plan or Zoning Ordinance amendment. Minor floor area additions are those that do not add demand for parking as defined in the Parking and Loading section of the Zoning Ordinance, and do not increase traffic generation. A finding must be made that there will be no material adverse effects from the granting of the minor floor area addition."

The existing theatre and other commercial buildings on the same lot (24-46 Main Street) already exceed the 0.28 FAR for this property. The project would result in a net increase of only 100 square feet of floor area, but would not increase the seating capacity of the theatre. As a result, the project would not increase parking demand or traffic generation and there would be no material adverse effects from the minor floor area addition.

As noted above, the project would not increase the number of seats for the theatres. As the parking requirements in the Tiburon Zoning Ordinance are based on the seating capacity for a

theatre, there would be no change to the parking requirements for this use as a result of the proposed project. No transfer of intensity would be required for this project.

## PLANNING ISSUES

The proposed reconfiguration and upgrades would bring the theatre up to date with other movie theatres in Marin. Beer and wine service for movie theatre patrons is a growing trend in the entertainment field that serves a niche of the adult movie-going audience. This type of on-site alcohol sales is dissimilar to that offered by nearby bars and restaurants and should be a complementary use to other businesses in Downtown Tiburon.

The addition is proposed in a 100 year floor zone area; however, its size and valuation are too small to trigger application of the Town's Flood Prevention Ordinance provisions that would potentially require raising the base floor elevation of the addition by two feet.

## PUBLIC COMMENT

As of the date of this report, no letters have been received regarding the proposed conditional use permit.

## RECOMMENDATION

Staff recommends that the Planning Commission:

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

## EXHIBITS

1. Application form and supplemental materials
2. Planning Commission Resolution Nos. 94-05 & 94-06
3. Draft resolution
4. Submitted plans

Prepared By: Daniel M. Watrous, Planning Manager

\\shared\planning\pc\staff reports\2011\January 26 meeting\40 Main Street.CUP.report.doc



TOWN OF TIBURON  
**LAND DEVELOPMENT APPLICATION**

**TYPE OF APPLICATION**

- |   |   |   |
|---|---|---|
| <input checked="" type="radio"/> Conditional Use Permit | <input type="radio"/> Design Review (DRB)         | <input type="radio"/> Tentative Subdivision Map |
| <input type="radio"/> Precise Development Plan          | <input type="radio"/> Design Review (Staff level) | <input type="radio"/> Final Subdivision Map     |
| <input type="radio"/> Secondary Dwelling Unit           | <input type="radio"/> Variance                    | <input type="radio"/> Parcel Map                |
| <input type="radio"/> Zoning Text Amendment             | <input type="radio"/> Floor Area Exception        | <input type="radio"/> Lot Line Adjustment       |
| <input type="radio"/> Rezoning or Prezoning             | <input type="radio"/> Tidelands Permit            | <input type="radio"/> Condominium Use Permit    |
| <input type="radio"/> General Plan Amendment            | <input type="radio"/> Sign Permit                 | <input type="radio"/> Certificate of Compliance |
| <input type="radio"/> Change of Address                 | <input type="radio"/> Tree Permit                 | <input type="radio"/> Other _____               |

**APPLICANT REQUIRED INFORMATION**

SITE ADDRESS: 40 MAIN STREET PROPERTY SIZE: 13,034  
 PARCEL NUMBER: S9-102-19 ZONING: VC  
 OWNER OF PROPERTY: C/O SHELTER BAY RETAIL GROUP  
BARBARA Z. ABRAMS, TRUSTEE OF ALAN ABRAMS TRUST  
 MAILING ADDRESS: 655 REDWOOD HWY, #177 CITY/STATE/ZIP MILL VALLEY CA  
 PHONE NUMBER: 415-388-4460 FAX 415-388-4480 94941

APPLICANT: (Other than Property Owner) DAVID CORKILL  
 MAILING ADDRESS: P.O. Box 750595, PETALUMA, CA 94975  
 PHONE NUMBER: 707-762-0990 X 111 FAX 707-762-3969

ARCHITECT/DESIGNER/ENGINEER: KITAHARA ENTERPRISES  
 MAILING ADDRESS: 810 9TH ST., FORTUNA, CA

Please indicate with an asterisk (\*) persons to whom Town correspondence should be sent.

BRIEF DESCRIPTION OF PROPOSED PROJECT (attach separate sheet if needed):  
BEER AND WINE LICENSE AND APPX. 100 SQ. FT. ADDITION  
TO EXISTING THEATRE. THE PROJECT ALSO INCLUDES INCORPORATING  
ADJACENT 260 SQ FT. EXISTING OFFICE SPACE INTO EXISTING  
THEATRE.

I, the undersigned owner (or authorized agent) of the property herein described, hereby make application for approval of the plans submitted and made a part of this application in accordance with the provisions of the Town Municipal Code, and I hereby certify that the information given is true and correct to the best of my knowledge and belief.

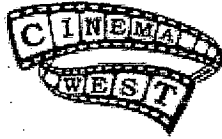
I understand that the requested approval is for my benefit (or that of my principal). Therefore, if the Town grants the approval with or without conditions, and that action is challenged by a third party, I will be responsible for defending against this challenge. I therefore agree to accept this responsibility for defense at the request of the Town and also agree to defend, indemnify and hold the Town harmless from any costs, claims or liabilities arising from the approval, including, without limitation, any award of attorney's fees that might result from the third party challenge.

\*Signature: [Signature] Date: 1/4/11

\*If other than owner, must have letter from owner

| DO NOT WRITE BELOW THIS LINE        |                                 |                            |
|-------------------------------------|---------------------------------|----------------------------|
| DEPARTMENTAL PROCESSING INFORMATION |                                 |                            |
| Application No. <u>11101</u>        | GP Designation                  | Fee Deposit <u>1,340</u>   |
| Date Received: <u>1/6/11</u>        | Received By: <u>[Signature]</u> | Receipt # <u>136383</u>    |
| Date Deemed Complete:               |                                 | By:                        |
| Acting Body:                        | Action:                         | Date:                      |
| Conditions of Approval or Comments: |                                 | Resolution or Ordinance #: |

EXHIBIT NO. 1  
 P. 1 OF 2



P.O. Box 750595 - PETALUMA, CA 94975 - 707-762-0990 Voice - 707-762-3969 Fax

January 5, 2011

Mr. Scott Anderson, Community Development Director  
Town of Tiburon  
1505 Tiburon Blvd.  
Tiburon, CA 94920

Re: Conditional Use Permit Application  
Tiburon Playhouse, 40 Main Street

Dear Mr. Anderson:

I'm writing to provide the use and management information requested in the Conditional Use Permit application for our business.

As you know, we've operated the theatre since 1989 and obtained the theatre's current use permit in 1994. In connection with that use permit approval, the Town determined that the theatre was approved for 477 fixed seats and we'll continue to operate within that limitation. We're proposing a 350 sq. ft. addition of the theatre that will include expanding the building by 100 sq. ft. and converting an existing 250 sq. ft. of office space. The proposal also includes reconfiguring the inside of the existing theatre and substantially upgrading the furniture, fixtures and equipment. We've also made application for an on-premises beer and wine license and the associated sales will be incorporated into a food service program that will expand our concession offerings.

The theatre will continue to operate between the hours of noon and 12:30 a.m. and exhibit first-run motion pictures. We expect to slightly increase the number of employees and there are no planned outdoor activities.

The theatre has been managed to the extent that it has not been detrimental to the neighborhood and we fully expect that to continue with the proposed changes. The changes will make the Tiburon Playhouse a destination for the community and return it to the top spot in the Marin movie-going community. The expected increased patronage will also provide a much-needed boost to the entire downtown and we are excited to move forward with the project.

Sincerely,

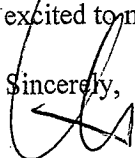
  
David Corkill  
Applicant

EXHIBIT NO. 1

P. 20F2

94-022 11

Rec Fee .00  
Check .00

Recorded  
Official Records  
County of  
MARIN  
JAMES DAL BON  
Recorder  
9:30am 17-Mar-94

RECORDING REQUESTED  
RETURN TO:  
Dan Catron  
Tiburon Planning Department  
1155 Tiburon Boulevard  
Tiburon, CA 94920

GP 4

RESOLUTION NO. 94-06

A RESOLUTION OF THE PLANNING COMMISSION OF THE TOWN OF TIBURON  
APPROVING A CONDITIONAL USE PERMIT TO CONSTRUCT  
A MOVIE THEATER ON AP# 59-102-11

ASSESSOR PARCEL NOS. 59-102-11

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

Section 1. Findings.

- A. The Planning Commission has received an application from Main Street Properties requesting to construct a 150 seat theater and make additions to the lobby area of the existing Tiburon Playhouse Theater. The application consists of the following:
  - 1. Application form received 11-19-93
  - 2. Letter from Dave Corkill dated 12-23-93
  - 3. Plans by Avila Enterprises received 12-20-93
- B. The Planning Commission held a duly-noticed public hearing on February 23, 1994, and has heard and considered testimony from interested persons.
- C. The Planning Commission has found, based upon application materials and analysis presented in the 2/23/94 Staff Report, that the project, as conditioned, is consistent with the Tiburon General Plan and is in compliance with the Tiburon Zoning Ordinance and other applicable regulations.
- D. The Planning Commission has found that all potentially significant environmental impacts of the proposed project will be reduced to less than significant levels through the design of the project or conditions of approval which the applicant has agreed to, as explained in the Initial Study prepared for the project. The Planning Commission further finds that the adoption of a Negative Declaration for the project is appropriate pursuant to Section 15070 of the CEQA Guidelines.

EXHIBIT NO. 2  
P. 10F7

Section 2. Approval.

NOW, THEREFORE BE IT RESOLVED that the Planning Commission of the Town of Tiburon does hereby approve the new theater portion of the Conditional Use Permit application (File #19314, 40 Main Street) subject to the following conditions:

**USE OF PROPERTY**

1. This Conditional Use Permit allows the construction of a 150 seat theater as generally depicted on the floor plans prepared by Avila Enterprises dated 2-17-94. The proposed project includes the proposed viewing room, projection room, and theater. This permit does not approve the lobby additions proposed for AP# 59-102-19.
2. Any substantial modification of the approved use, including but not limited to expansion of the floor area, or changes to the nature of the use, shall require an amendment to this Conditional Use Permit, or a new Conditional Use Permit.

**PARKING AND LOADING**

3. The applicant shall provide 34 off-site parking spaces in the Tiburon Boulevard/Mar West lot to serve the proposed use. The required parking spaces shall be secured by a recorded covenant from the owner for the benefit of the Town pursuant to Section 5.08.02.(1) of the Tiburon Zoning Ordinance. Loss of any required parking space without acceptable replacement may be grounds for revocation of this Conditional Use Permit.
4. Because of the substantial amount of parking now assigned to the remote parking lots owned by Main Street Properties, including the Tiburon Boulevard/Mar West lot and the Beach Road lot, the Beach Road lot shall be brought up to the standards of layout, grading, surfacing, drainage, lighting, and landscaping that are described by Section 5.08.03 of the Tiburon Zoning Ordinance. The improvements shall be installed within one (1) year of occupancy of the new theater. If the improvements have not been completed prior to occupancy, then a monetary security adequate to guarantee the installation of the improvements shall be provided to the Town.

The applicant shall submit a Conditional Use Permit application for the Beach Road lot. (An application has been filed at this time but remains incomplete). The application shall show the details of the design, grading, drainage, surfacing, lighting, landscaping and other features as may be required to ensure that the standards described in Section 5.08.03 of the Tiburon Zoning Ordinance are being met. This

application shall be approved and the improvements installed within one (1) year of occupancy of the new theater.

5. The Tiburon Playhouse theaters shall provide free validated parking for theater patrons. Signs indicating that validation is available shall be clearly posted at the theater.

#### MISCELLANEOUS

6. Permittee shall comply with all requirements of the Tiburon Fire Protection District including, but not limited to, the requirements listed in the District's letter dated 12-20-93.
7. Site Plan and Architectural Review approval shall be required for all new construction and exterior modifications. This review shall focus on the exterior details of the project such as materials and colors, exterior lighting, signage, etc.
8. Sign permits shall be obtained for any proposed signs.
9. No outside activities shall be allowed.
10. The building shall be constructed with noise controlling materials and technologies such that program sound shall not be audible outside the theatres.
11. No roof mounted equipment shall be permitted on any building within the project site, except as may be specifically approved by the Design Review Board.
12. Parking facilities for five (5) bicycles shall be provided in convenient locations to facilitate bicycle access to the project.
13. All new exterior lighting shall be reviewed and approved by the Design Review Board as part of the Site Plan and Architectural Review process. All exterior lighting shall be hooded and directed so as not to shine directly upon adjoining property or public rights-of-way.
14. Permittee shall comply with all requirements of the Marin County Sanitary District #5 including, but not limited to, the requirements listed in the District's letter dated 12-20-93.
15. Prior to the issuance of grading or building permits for the project, the applicant and the Town shall modify the terms of the agreement between the Town and the Zelinsky Trust recorded December 7, 1978 in Book 3473, pages 309 and 310 of the Official Records of Marin County, that provides for the creation of an access easement connecting Juanita Lane and Main Street. The agreement shall be modified, to the

satisfaction of the Town Attorney, so as to allow for a substitute alignment of the easement that will meet the needs and purposes of the Town as expressed in the 1978 Agreement.

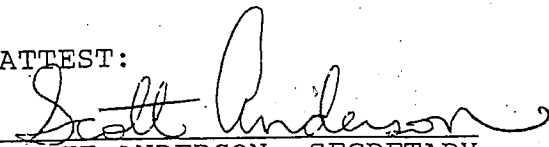
16. A minimum four (4) foot wide pedestrian walk-way shall be provided along the front (parking lot side) of the new theater and lobby expansion. The walk-way shall be provided to facilitate pedestrian passage to and from Main Street through the corridor adjacent to Rooney's Restaurant. The walk-way shall be protected from automobile encroachment by a curb or other physical barrier. The design of the proposed corridor shall be reviewed and approved by the Design Review Board as part of its review of the project. The Design Review Board shall verify that minimum aisle widths are maintained for the Parking Lot adjacent to the walk-way.
17. The four parking spaces displaced by the theater addition shall be replaced in the Main Street Parking lot through rearrangement or reconfiguration of the Lot. The Main Street lot shall maintain 201 spaces. All spaces shall have minimum dimensions and aisle widths as specified by Section 5.08.13.
18. The Town of Tiburon reserves the right to amend or revoke this Conditional Use Permit for just cause, in accordance with the adopted regulations of the Town.
19. This Conditional Use Permit approval shall become null and void if the approved use has not commenced within two (2) year of final approval.

PASSED AND ADOPTED at a regular meeting of the Planning Commission of the Town of Tiburon on February 23, 1994, by the following vote:

AYES: COMMISSIONERS: Clelland, Ginalski, Greenberg, Perlmutter, Siewert

NOES: COMMISSIONERS: None

ATTEST:

  
SCOTT ANDERSON, SECRETARY

  
BECKY CLELLAND, CHAIRPERSON  
TIBURON PLANNING COMMISSION

THIS IS A TRUE AND  
CERTIFIED COPY.

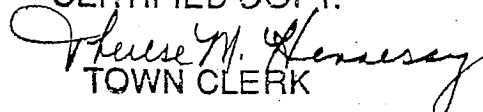
  
THERESA M. HENNESSY  
TOWN CLERK

EXHIBIT NO. 2

P. 4 OF 7

94-027-42

Rec Fee .00  
Check .00

Recorded  
Official Records  
County of  
MARIN  
JAMES DAL BON  
Recorder  
9:30am 17-Mar-94

RECORDING REQUESTED  
RETURN TO:  
Dan Catron  
Tiburon Planning Department  
1155 Tiburon Boulevard  
Tiburon, CA 94920

EP 3

RESOLUTION NO. 94-05

A RESOLUTION OF THE PLANNING COMMISSION OF THE TOWN OF TIBURON  
APPROVING A CONDITIONAL USE PERMIT TO MAKE ADDITIONS TO  
THE EXISTING MOVIE THEATER AT 40 MAIN STREET

ASSESSOR PARCEL NO. 59-102-19

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

Section 1. Findings.

- A. The Planning Commission has received an application from Main Street Properties requesting to construct a 150 seat theater and make additions to the lobby area of the existing Tiburon Playhouse Theater. The application consists of the following:
  - 1. Application form received 11-19-93
  - 2. Letter from Dave Corkill dated 12-23-93
  - 3. Plans by Avila Enterprises received 12-20-93
- B. The Planning Commission held a duly-noticed public hearing on February 23, 1994, and has heard and considered testimony from interested persons.
- C. The Planning Commission has found, based upon application materials and analysis presented in the 2/23/94 Staff Report, that the project, as conditioned, is consistent with the Tiburon General Plan and is in compliance with the Tiburon Zoning Ordinance and other applicable regulations.
- D. The Planning Commission has found that all potentially significant environmental impacts of the proposed project will be reduced to less than significant levels through the design of the project or conditions of approval which the applicant has agreed to, as explained in the Initial Study prepared for the project. The Planning Commission further finds that the adoption of a Negative Declaration for the project is appropriate pursuant to Section 15070 of the CEQA Guidelines.
- E. The Planning Commission has found that an FAR exception is appropriate pursuant to General Plan policy DT-12. The Commission finds that the addition will make the facility more usable to the public.

EXHIBIT NO. 2

P. 50F7

Section 2. Approval.

NOW, THEREFORE BE IT RESOLVED that the Planning Commission of the Town of Tiburon does hereby approve the addition to the existing theater portion of Conditional Use Permit application (File #19314, 40 Main Street) subject to the following conditions:

**USE OF PROPERTY**

1. This Conditional Use Permit allows the construction of an addition to the lobby of the existing Tiburon Playhouse theater as generally depicted on the floor plans dated 12-20-93. The proposed lobby expansion has a floor area of approximately 288 sq. ft..
2. Any substantial modification of the approved use, including but not limited to expansion of the floor area, or changes to the nature of the use, shall require an amendment to this Conditional Use Permit, or a new Conditional Use Permit.
3. This approval does not approve the construction of the additional theater contemplated by Conditional Use Permit #19314

**MISCELLANEOUS**

4. Permittee shall comply with all requirements of the Tiburon Fire Protection District including, but not limited to, the requirements listed in the District's letter dated 12-20-93.
5. Site Plan and Architectural Review approval shall be required for all new construction and exterior modifications. This review shall focus on the exterior details of the project such as materials and colors, exterior lighting, signage, etc.
6. Sign permits shall be obtained for any proposed signs.
7. No outside activities shall be allowed.
8. The building shall be constructed with noise controlling materials and technologies such that program sound shall not be audible outside the theatres.
9. No roof mounted equipment shall be permitted on any building within the project site, except as may be specifically approved by the Design Review Board.

EXHIBIT NO. 2

P. 6 of 7

10. All new exterior lighting shall be reviewed and approved by the Design Review Board as part of the Site Plan and Architectural Review process. All exterior lighting shall be hooded and directed so as not to shine directly upon adjoining property or public rights-of-way.
11. Permittee shall comply with all requirements of the Marin County Sanitary District #5 including, but not limited to, the requirements listed in the District's letter dated 12-20-93.
12. A minimum four (4) foot wide pedestrian walk-way shall be provided along the front (parking lot side) of the new theater and lobby expansion. The walk-way shall be provided to facilitate pedestrian passage to and from Main Street through the corridor adjacent to Rooney's Restaurant. The walk-way shall be protected from automobile encroachment by a curb or other physical barrier. The design of the proposed corridor shall be reviewed and approved by the Design Review Board as part of its review of the project. The Design Review Board shall verify that minimum aisle widths are maintained for the Parking Lot adjacent to the walk-way.
13. The Town of Tiburon reserves the right to amend or revoke this Conditional Use Permit for just cause, in accordance with the adopted regulations of the Town.
14. This Conditional Use Permit approval shall become null and void if the approved use has not commenced within one (1) year of final approval.

PASSED AND ADOPTED at a regular meeting of the Planning Commission of the Town of Tiburon on February 23, 1994, by the following vote:

AYES: COMMISSIONERS: Clelland, Greenberg, Ginalski, Perlmutter, Siewert

NOES: COMMISSIONERS: None

ABSENT: COMMISSIONERS: None

*Becky Clelland*  
 BECKY CLELLAND, CHAIRPERSON  
 TIBURON PLANNING COMMISSION

ATTEST:

*Scott Anderson*  
 SCOTT ANDERSON, SECRETARY

THIS IS A TRUE AND  
 CERTIFIED COPY.

*Therese M. Harney*  
 TOWN CLERK

EXHIBIT NO. 2

p. 70F7

RECORDING REQUESTED  
WHEN RECORDED, RETURN TO:  
Tiburon Planning Division  
1505 Tiburon Boulevard  
Tiburon, CA 94920  
Attn: Daniel M. Watrous

**RESOLUTION NO. 2011-(Draft)**

A RESOLUTION OF THE PLANNING COMMISSION OF THE TOWN OF TIBURON  
APPROVING A CONDITIONAL USE PERMIT  
TO CONSTRUCT AN ADDITION TO A MOVIE THEATRE  
AND SERVE ALCOHOL FOR CONSUMPTION ON THE PREMISES  
AT 40 MAIN STREET

ASSESSOR PARCEL NO. 059-102-27

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

Section 1. Findings.

A. The Planning Commission has received and considered an application to construct an addition to an existing movie theatre (the Tiburon Playhouse) and to serve alcohol for consumption on the premises on property located at 40 Main Street (File #11101). The application consists of the following:

1. Application Form and supplemental materials received January 6, 2011
2. Letter dated January 5, 2011 from David Corkill
3. Site Plan and Building Elevations received January 6, 2011

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

- B. The Planning Commission held a duly-noticed public hearing on January 26, 2011, and heard and considered testimony from interested persons.
- C. The Planning Commission has found that the project is exempt from the requirements of the California Environmental Quality Act per Section 15301 of the CEQA Guidelines.
- D. The Planning Commission has found, based upon the application materials and analysis provided in the January 26, 2011 Staff Report, that the project, as conditioned, is

consistent with the Tiburon General Plan and is in compliance with applicable sections of the Tiburon Zoning Ordinance, specifically Section 16-52.040 (D), and other applicable regulations. The proposed use would be dissimilar to that offered by nearby bars and restaurants and should be a complimentary use to other businesses in Downtown Tiburon. The proposed modifications to the building and theatre operations would likely revitalize the existing theatre and help ensure its ongoing economic viability, which would be consistent with Policy DT-3 of the Downtown Element of the Tiburon General Plan, which states that "the Town shall actively promote the economic vitality of its Downtown." The proposed modifications to the building and theatre operations would likely revitalize the existing theatre and help ensure its ongoing economic viability. The project would not increase parking demand or traffic generation and there would be no material adverse effects from the minor floor area addition. The public convenience and necessity would be served by sale of alcoholic beverages at the theatres, as this service would enhance the economic viability of the use and would offer a distinctive entertainment option that does not currently exist in the community.

Section 2. Approval.

NOW, THEREFORE, BE IT RESOLVED that the Planning Commission of the Town of Tiburon does hereby approve the Conditional Use Permit (File #11101), to construct an approximately 100 square foot addition to an existing movie theatre (the Tiburon Playhouse) and to serve alcohol for consumption on the premises on property located at 40 Main Street, subject to the following conditions of approval:

1. The use shall operate in substantial conformance with the letter dated January 5, 2011 from David Corkill, attached hereto as Exhibit "A" and incorporated herein. This includes the sale of alcoholic beverages for consumption on the premises. Any substantial modification of the approved use, as determined in the reasonable discretion of the Director of Community Development, shall require an amendment to this use permit.
2. All conditions of approval of Planning Commission Resolution Nos. 94-05 & 94-06 shall remain in effect, including the maximum approved seating capacity of 477 seats for theatre use.
3. The applicant shall comply with all applicable regulations of the State of California Alcoholic Beverage Commission (ABC), the Marin County Health Department, the Marin Municipal Water District, Sanitary District No. 5, and the Tiburon Fire Protection District.
4. This Conditional Use Permit approval shall become null and void if the approved use has not commenced within one (1) year of final approval, unless an extension is approved.

5. If this approval is challenged by a third party, the property owner/applicant will be responsible for defending against this challenge. The property owner/applicant agrees to defend, indemnify and hold the Town of Tiburon harmless from any costs, claims or liabilities arising from the approval, including, without limitations, any award of attorney's fees that might result from the third party challenge.

PASSED AND ADOPTED at a regular meeting of the Planning Commission on January 26, 2011, by the following vote:

AYES: COMMISSIONERS:

NOES: COMMISSIONERS:

ABSENT: COMMISSIONERS:

---

CATHY FRYMIER, CHAIR  
TIBURON PLANNING COMMISSION

ATTEST:

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SCOTT ANDERSON, SECRETARY

Attachment: Exhibit "A": Letter dated January 5, 2011 from David Corkill

\\shared\Planning\Planning Commission\Resolutions\2011\40 Main Street CUP.draft.reso.doc

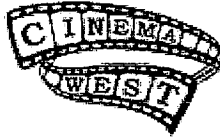


EXHIBIT NO. "A"

P.O. Box 750595 - PETALUMA, CA 94975 - 707-762-0990 Voice - 707-762-3969 Fax

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January 5, 2011

Mr. Scott Anderson, Community Development Director  
Town of Tiburon  
1505 Tiburon Blvd.  
Tiburon, CA 94920

Re: Conditional Use Permit Application  
Tiburon Playhouse, 40 Main Street

Dear Mr. Anderson:

I'm writing to provide the use and management information requested in the Conditional Use Permit application for our business.

As you know, we've operated the theatre since 1989 and obtained the theatre's current use permit in 1994. In connection with that use permit approval, the Town determined that the theatre was approved for 477 fixed seats and we'll continue to operate within that limitation. We're proposing a 350 sq. ft. addition of the theatre that will include expanding the building by 100 sq. ft. and converting an existing 250 sq. ft. of office space. The proposal also includes reconfiguring the inside of the existing theatre and substantially upgrading the furniture, fixtures and equipment. We've also made application for an on-premises beer and wine license and the associated sales will be incorporated into a food service program that will expand our concession offerings.

The theatre will continue to operate between the hours of noon and 12:30 a.m. and exhibit first-run motion pictures. We expect to slightly increase the number of employees and there are no planned outdoor activities.

The theatre has been managed to the extent that it has not been detrimental to the neighborhood and we fully expect that to continue with the proposed changes. The changes will make the Tiburon Playhouse a destination for the community and return it to the top spot in the Marin movie-going community. The expected increased patronage will also provide a much-needed boost to the entire downtown and we are excited to move forward with the project.

Sincerely,

A handwritten signature in black ink, appearing to read "David Corkill".

David Corkill  
Applicant

EXHIBIT NO. 3



TOWN OF TIBURON  
1505 Tiburon Boulevard  
Tiburon, CA 94920

Planning Commission Meeting  
January 26, 2011  
Agenda Item:

## STAFF REPORT

**To:** Members of the Planning Commission  
**From:** Community Development Department  
**Subject:** 3825 Paradise Drive; File # 30701; Final Environmental Impact Report, Precise Development Plan, Rezoning and Annexation for a 14-unit residential project on approximately 52 acres; Planned Development #20; Assessor Parcel Numbers 039-021-13 and 039-301-01  
**Reviewed By:** \_\_\_\_\_

## PROJECT DATA

Project Name: Alta Robles Residential Development  
Address: 3825 Paradise Drive  
Assessor's Parcel Numbers: 039-021-13 and 039-301-01  
File Number: 30701  
Lot Size: Approximately 52 acres  
General Plan: PD-R-a (Rabin) and PD-R-i (S.O.D.A.); (Planned Development-Residential; maximum density 0.4 du/ac)  
Zoning: Rabin - RPD (Residential Planned Development);  
S.O.D.A. - No Tiburon zoning, located outside Tiburon town limits; County Zoning is RMP-0.4  
Current Use: Rabin - Single Family Residential; S.O.D.A. - Undeveloped  
Owners/Applicants: Irving and Varda Rabin, et al  
Flood Zone: X (Outside 500-year flood event)  
State Clearinghouse Number: 2007072104

## SUMMARY

Irving and Varda Rabin, et al, have submitted applications for precise development plan, rezoning and annexation for a 14-unit residential project on 52 acres of land. The proposed project is located at 3825 Paradise Drive, and extends from Hacienda Drive on the south downward to Paradise Drive on the north. The proposed development, known as Alta Robles, involves a proposal for the eventual subdivision of 52.2 acres of land, currently developed with one single-family dwelling, into 14 single-family residential lots. Approximately 20.95 acres (S.O.D.A.) of the site are located within an unincorporated portion of Marin County, within the Town of Tiburon's Sphere of Influence, and approximately 31.26 acres (Rabin) of the site are located within the Town of Tiburon.

## BACKGROUND/PROJECT HISTORY

The following is a brief timeline for the Alta Robles project:

- In 2007, Irving and Varda Rabin, et al submitted applications to the Town for Precise Development Plan, Rezoning and Annexation for the Alta Robles residential project.
- The Town determined that an Environmental Impact Report (EIR) must be prepared for this project, and retained Nichols Berman, an environmental consulting firm to prepare the EIR.
- In compliance with CEQA, the Town sent a Notice of Preparation (NOP) on July 19, 2007 to government agencies, special service districts, organizations, and individuals with an interest in or jurisdiction over the project.
- On August 8, 2007, the Planning Commission conducted a public scoping session on the proposed project to identify environmental issues and concerns of the public about the project in order to evaluate those issues in the EIR.
- A draft environmental impact report (DEIR) was prepared for this project and circulated for public review and comment. The 45-day comment period concluded on October 5, 2009. Public comments on the DEIR were also received at a public hearing held at the September 23, 2009 Planning Commission meeting. After receiving testimony, the public hearing was closed, and this item was continued pending a detailed review of the comments received on the DEIR.
- During the public review period of the Draft EIR, several members of the public and the Tiburon Planning Commission expressed concern for the need to evaluate an additional alternative to the project. Specifically, it was requested that the EIR discuss an additional project alternative that would reduce project grading, reduce the need for retaining walls, and reduce environmental impacts in the areas of biological resources, geology and soils, hydrology and visual quality.
- In response to the Draft EIR findings, as well as the comments received on the Draft EIR, the applicant's development team developed a Revised Proposed Project (Alternative 4). CEQA Guidelines section 15088.5 states that a lead agency is required to recirculate an EIR when significant new information is added to the EIR after public notice is given of the availability of the Draft EIR for public review but before certification. "Significant new information" includes a disclosure showing that 'a feasible project alternative or mitigation measure considerably different from others previously analyzed would clearly lessen the environmental impacts of the project, but the project's proponents decline to adopt it.'" The project applicant has committed in writing to the Town to adopt this new alternative as the proposed project. Therefore, the inclusion of Alternative 4 did not represent "significant new information" and did not require the recirculation of the Draft EIR.

- On February 24, 2010, the Planning Commission held a public meeting to hear and consider the recommendation of the Environmental Coordinator as to whether “significant new information” that would require recirculation of the DEIR was received during the public comment period. At the close of that hearing, the Planning Commission determined that no “significant new information” that would require recirculation of the DEIR was received during the public comment period, and directed the consultant to complete the response to comments and prepare the Final EIR.

## **PROJECT DESCRIPTION**

The subject property consists of two contiguous parcels: the 20.95 acre SODA property and the 31.26 acre Rabin property. The SODA property is located in an unincorporated portion of Marin County within the Town of Tiburon’s Sphere of Influence, and is currently undeveloped. The Rabin property is currently developed with one single-family residence and several ancillary structures and is located within the Town of Tiburon, with a street address of 3825 Paradise Drive. The proposed project involves the eventual subdivision of the 52 acres into 14 single family parcels (one existing residence to remain and 13 new residences to be constructed) and three open space parcels totaling 18.29 acres. The applicants have currently submitted applications for Precise Development Plan; rezoning and annexation; the EIR has been prepared for these applications and all trailing permits (subdivision, design review, etc.), barring substantial changes to the project subsequent to any Precise Development Plan application approval.

### Precise Development Plan

The Precise Development Plan seeks approval for 14 residential lots, comprised of:

- 1 Lot for an existing single family home; and
- 13 Lots for thirteen new single family homes
- 3 Parcels (A, B, & C) are voluntarily offered to be protected by open space easements held by the Town of Tiburon
- Residential use areas, height limits, floor area maximums, representative home designs and footprints, and other zoning parameters would be established
- Design guidelines would be adopted

### Rezoning

The application proposes rezoning the SODA property to RPD (Residential Planned Development) consistent with the Tiburon General Plan designation (single-family dwellings at 0.4 dwelling units per acre or less) and consistent with the Town’s zoning on the adjacent Rabin property. The RPD zoning (Section 16-21 (F[1]) of the Tiburon Municipal Code) proposed for the SODA property is “intended to protect and preserve open space land as a limited and valuable resource without depriving owners of a reasonable use of their property for residential purposes.” The proposed single family residential use is a Permitted Use (Section 16-21.030 of the Tiburon Municipal Code) in the RPD zone. Maximum density for the land shall be established by a

Precise Development Plan approval pursuant to Section 16-52.060 of the Tiburon Municipal Code.

### Annexation

The 20.95 acre SODA property is currently outside the Town's corporate limits, but within Tiburon's Sphere of Influence. The applicants are requesting that this parcel be annexed to the Town for development pursuant to the Town's adopted policies. The Marin Local Agency Formation Commission (LAFCO) would be the decision-making body for the annexation application; however, the Town's EIR must address any environmental impacts associated with the annexation request and the Town must hold public hearings on, and approve the rezoning prior to action by LAFCO. The Town's General Plan calls for annexation of this property to the Town and the Town Council has twice voted its desire to see the SODA property development plan processed through the Town, rather than the County of Marin, and the property annexed.

### Subdivision

Although an application for subdivision has not been submitted at this time, the eventual subdivision configuration would result in 17 subdivision lots, as shown on the Precise Development Plan Maps. These are:

- 14 single-family lots;
- 3 open space lots (A, B, & C)

### Preservation of Scenic and Natural Resources

Extensive land area is proposed as permanent private open space by offer of open space easement or other restriction.

- Private Common Open Space areas (Lots A, B, & C), are voluntarily offered for permanent open space and resource conservation. These lots constitute 18.29 acres or 35.03% of the total land area. A public trail easement is proposed across a portion of Lot C that would complete the Tiburon Ridge walking path in the vicinity. This is a major public benefit of the project, given that the Town was recently required by court order to close a portion of Hacienda Drive to public access.
- Private Open Space, lands proposed in individual private lot ownerships on the 13 proposed new lots, is voluntarily offered for permanent protection through scenic and resource conservation easements. These areas include 8.58 acres or 16.43% of the total land area.
- Private Space (Rabin Private Zone), comprising land surrounding the existing residence at 3825 Paradise Drive (Lot 1), is proposed to be maintained for private resource conservation, open space, and private recreational use. This area includes 10.48 acres or 20.08% of the total land area. A public trail easement discussed above would cross part of the Private Space.

### Modifications to Project Design Resulting from the EIR Process

Since the publication of the Draft EIR, the applicant has revised the submitted project to include the following modifications in order to reduce impacts identified in the Draft EIR (the revised project is identified as Alternative 4 in the FEIR):

- Reduced grading and site disturbance from landslide repair. It was determined that landslide repairs for the project were almost completely driven by the Town's Landslide Mitigation Policy and not by the project design/layout. This is because identified landslides could either impact Paradise Drive, other private properties in the vicinity, or existing improvements on the Rabin property without repair or improvement. Nevertheless, upon careful re-evaluation, substantial reductions in grading, retaining walls, and increased avoidance of special status plants and other bio-resources was possible through alternative landslide repair and improvement measures that meet the intent and purpose of the Town's Landslide Mitigation Policy. These revised repair and improvement measures are set forth in the letter from Miller-Pacific Engineering dated February 8, 2010, attached as **Exhibit 15**. The Town's independent geotechnical consultant, Herzog Geotechnical, has reviewed the revised Miller-Pacific approach in the field and found it acceptable and consistent with the intent and purpose of the Town's Landslide Mitigation Policy (see **Exhibit 16**).
- Redesign of the roadway crossing onto the Rabin Property from the S.O.D.A. property. This was the most challenging portion of project's roadway in terms of environmental impact. A "bridge" design has been developed that would reduce grading, retaining walls, visual impact, tree removal, and disruption of wetlands. While the term "bridge" often connotes an imposing and highly visible structure, technically it means that a structure "spans" an open area beneath it and does not rely on the ground surface or earthen fill for support over its entire length. Staff does not believe that this "bridge" would be a visually prominent project feature.
- House locations on Lots 13 and 14 have been moved to reduce biological impacts, and the home on Lot 14 has been reduced in size by over 1,800 square feet.
- The lot line on Lot 4 has been adjusted north outside the horizontal ridgeline and the roofline has been lowered 17 feet. Any home on Lot 4 would still be located in the vertical setback of the Tiburon Ridge.
- Homes on Lots 5 and 6 have been moved back from sensitive species to provide a larger buffer, and the lot line on Lot 5 has been moved out of the Tiburon Ridge vertical setback.
- Modifications to Lot 8 to reduce biological and visual impacts.

The project design, particularly including the modifications proposed in project Alternative 4, represent substantial efforts to promote future homes and other site improvements that avoid sensitive resources on the site. The clearly articulated representative house plans incorporate green design principles that would considerably reduce the visual impacts of future homes on the site and dramatically lessen the environmental footprint of the project. The Town's ability to rely

on these representative house designs, as publicly committed to by the property owner and his representatives, in the review of future Design Review applications for individual homes is a major benefit of the project.

## ENVIRONMENTAL REVIEW

The Draft EIR was prepared in accordance with the California Environmental Quality Act, including the *CEQA Statutes* (Public Resources Code §§ 21000-21178.1), *CEQA Guidelines*, and relevant court decisions. The key findings of the Draft EIR (DEIR) were summarized in the Staff Report for the September 23, 2009 meeting, which is attached as **Exhibit 6**. In summary, the DEIR identified two significant unavoidable ("SU") impacts of the project that could not be eliminated or reduced to a less-than-significant level through mitigation measures identified in the DEIR. These SU impacts were: 1) that project construction would temporarily increase ambient noise levels in the site vicinity; and 2) that the project as proposed would cause a significant change in the visual quality of the site when viewed from the Middle Ridge Open Space [see Exhibits 5.8-4 and 5.8-5(a), and (b) in the DEIR].

In addition, the DEIR indicated that implementation of the proposed project, in combination with other anticipated future projects at build-out of the Tiburon peninsula, would result in the following unavoidable cumulative impacts:

- The addition of vehicle trips to the signalized Tiburon Boulevard / Trestle Glen Boulevard intersection.
- The addition of vehicle trips to U.S. Highway 101.
- Construction noise.
- Wildlife habitat and connectivity impacts.
- Visual impacts to scenic vistas and scenic resources

During the public review period of the Draft EIR and at the September 23, 2009 Planning Commission meeting, several members of the public and the Planning Commission expressed concern for the need to evaluate an additional alternative to the project. In response to those concerns, staff met with the applicant team to discuss an additional project alternative that would reduce project grading, retaining walls, and environmental impacts in the areas of biological resources, geology and soils, hydrology, and visual quality. After careful review of the DEIR findings as well as the comments received on the Draft EIR, the applicant's team developed Alternative 4. The major elements of this 14-lot alternative were presented to Town staff and the EIR consultant by the applicant's representatives in February 2010, and are described in detail in attached **Exhibits 10 and 11**.

CEQA Guidelines section 15088.5 states that a lead agency is required to recirculate an EIR when significant new information is added to the EIR after public notice is given of the availability of the Draft EIR for public review but before certification. "Significant new information" includes a disclosure showing that "a feasible project alternative or mitigation measure considerably different from others previously analyzed would clearly lessen the environmental impacts of the project, but the project's proponents decline to adopt it." Because the project applicant committed in writing to the Town to adopt this new alternative as the proposed project, the inclusion of Alternative 4 did not represent "significant new information" and therefore did not require the recirculation of the Draft EIR.

On February 24, 2010, the Planning Commission held a public meeting to hear and consider the recommendation of the Environmental Coordinator as to whether "significant new information" that would require recirculation of the DEIR was received during the public comment period. At the close of that hearing, the Planning Commission determined that no "significant new information" that would require recirculation of the DEIR was received during the public comment period, and directed the consultant to complete the response to comments and prepare the Final EIR.

As required by CEQA, the Final EIR includes all written comments received by the Town during the 45-day public review period as well as all oral comments made at the September 23, 2009 Planning Commission public hearing on the Draft EIR and responses to those comments. The Final EIR consists of the Draft EIR and the Response to Comments documents.

The Response to Comments document includes all comments received on the Draft EIR and the project's environmental effects. The original letters are reproduced, and comments are numbered for referencing with responses. Responses to individual comments raising significant environmental points are presented immediately after each comment letter. The minutes from the September 23, 2009 Planning Commission public hearing on the DEIR are also included with comments numbered and responses immediately following the minutes.

There were numerous comments raised during the public review period that pertained to the same topic and/or issue. As a result, a Master Response was prepared for each topic area that appropriately responds to these groups of comments. The three master responses were prepared for Visual Impacts, New Development Alternative and Biological Resources and provide a comprehensive analysis of major environmental issues raised in multiple comments.

With regard to Visual Impacts, several comments on the Draft EIR raised issues regarding the impact of the proposed Alta Robles residential development on views from San Francisco Bay. Views from San Francisco Bay may be affected through tree removal, landslide repair, and the construction of roads and proposed houses. In response to these comments, a visual simulation accurately illustrating the proposed project from the Bay was prepared and included in the Response to Comments document. The Final EIR concludes that the project would result in a less-than-significant visual impact when viewed from San Francisco Bay.

As previously indicated in this staff report, several members of the public and the Planning Commission expressed concern for the need to evaluate an additional alternative. Specifically, it was requested that the EIR discuss an additional project alternative that would reduce project grading, reduce the need for retaining walls, and reduce environmental impacts in the areas of biological resources, geology and soils, hydrology, and visual quality. The applicant's development team developed a Revised Proposed Project which is analyzed in the Response to Comments document as Alternative 4. This alternative, which has been adopted by the applicant as the proposed project, builds on the revised site plan evaluated in the Draft EIR (Alternative 3), plus adds landslide stabilization and grading revisions. The Final EIR concludes that while this revised project (Alternative 4) would reduce the degree of certain impacts identified in the Draft EIR for the proposed project, such impacts would remain significant and in need of mitigation measures. The Alternative 4 project design would still result in significant unavoidable

temporary construction noise impacts and visual impacts when viewed from the Town's Middle Ridge open space area.

With regard to Biological Resources, comments on the Draft EIR included concerns regarding vegetation and special-status species on the project site. In particular, comments on the Draft EIR questioned whether the vegetation findings were current given that the original studies conducted by the applicant's previous biological consultant were conducted between 2002 and 2005. In response to the comments on the Draft EIR, the applicant retained a new biological consultant who conducted updated studies on vegetation and special-status plant species on the site. The updated studies are included in the Final EIR and did not result in any significant new information or the discovery of any previously unidentified significant environmental impacts.

As described in detail in Chapter 6, the DEIR examined several alternatives to the project as proposed. These alternatives include two on-site No Project alternatives, an on-site development alternative and potential off-site locations. Subsequent to the preparation of the Final EIR, the project applicant developed a fourth on-site development alternative, which was evaluated in the Response to Comments document. The EIR concluded, on the basis of the discussion of the proposed project and the on-site alternatives, that Alternative 1 (No Project / No Build) would be the environmentally superior alternative, as it would avoid the environmental impacts associated with construction and operation of the proposed project.

The CEQA Guidelines (Section 15126.6[e]) state that if the environmentally superior alternative is a "no project" alternative, the EIR shall also identify an environmentally superior alternative among the development alternatives. Of those alternatives, Alternative 4 would be the environmentally superior alternative. Although the significant impacts associated with Alternative 4 would be similar to the originally-proposed project, the inclusion of the proposed revisions would reduce the degree of certain impacts; however, such impacts would remain significant and in need of mitigation measures and the two significant and unavoidable project impacts would remain without additional project modifications being imposed.

All mitigation measures are included in the Draft Mitigation Monitoring Program which is included in Appendix A of the Response to Comments document.

## **SUMMARY OF GENERAL PLAN AND ZONING CONSISTENCY**

An analysis of the proposed project's consistency with pertinent goals, policies and principles of the Tiburon General Plan and Zoning Ordinance is attached as **Exhibit 14**. The following is a summary of the issues raised in that analysis:

### General Plan

*Ridgeline Protection.* The Tiburon Ridge and two "significant secondary ridgelines" identified as #5 and #6 by Town Resolution No. 2859 and Diagram 3.3-1 in the Open Space & Conservation Element of the Tiburon General Plan, are located on the project site.

With respect to the Tiburon Ridge, Policies OSC-10 and OSC-11 of the Open Space & Conservation Element state as follows:

OSC-10. Development and the construction of buildings and yard improvements associated with development, including landscaping and trees, shall be set back a minimum of 150 horizontal feet of either side of the Tiburon Ridge.

OSC-11. Development and the construction of buildings and yard improvements associated with development, including landscaping and trees, shall be set back a minimum of 50 vertical feet of either side of the Tiburon Ridge, measured from the highest point of the roofline or tree.

Project development would not encroach into the horizontal setback, but nearly all of the proposed Lot 4 would encroach into the vertical Tiburon Ridge setback. Lot 4 is therefore clearly inconsistent with a quantitative standard set forth in the General Plan and Staff cannot recommend its approval in the location proposed. Staff recommends that Lot 4 be eliminated to achieve consistency with this quantitative standard.

With respect to Significant Ridgelines #5 and #6, Policies OSC-9 and OSC-12 of the Open Space & Conservation Element, and Policy C-4 of the Circulation Element, state as follows:

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

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

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

The Alta Robles DEIR analyzed and addressed these criteria for Significant Ridgelines 5 and 6 at pp. 100-104, and the location and physical limits of the ridgelines on the subject property are graphically depicted on p. 101 of the Alta Robles DEIR and on **Exhibit 13** to this staff report.

All or portions of Lots 3, 4, 7-12 and 14 would approach the crests of Significant Ridgelines 5 or 6. The project would also include construction of roads serving subdivision traffic that would travel along or cross over portions of Significant Ridgelines 5 or 6. In addition, the project would upgrade existing unpaved roadways within the Tiburon Ridge setback, but make them available for emergency vehicle use only.

These circumstances create a major policy decision for the Town decision-makers with respect to the proper "balance" between development and reasonable protection of the secondary significant ridgelines. Staff does not believe it is possible to avoid the secondary ridgelines and still allow

reasonable development of the site, raising the policy question of how much proximity to and impact upon the secondary ridgelines is appropriate under the particular circumstances of this property and project.

Factors that the Planning Commission may consider in making this policy decision, among others, are as follows:

- 1) The plain language of the policies;
- 2) The fact that the Tiburon Ridge setbacks prevent development on the most easily built-upon portion of the site, comprising approximately 30% of the total site area;
- 3) The fact that the Rabin Property is the only remaining large undeveloped or underdeveloped parcel on the Peninsula that would be affected by the Tiburon Ridge setback policies, meaning that there is no potential for precedent-setting.
- 4) The fact that Ridgelines 5 and 6 occupy much of the central portion of the site outside of the Tiburon Ridge setback areas.
- 5) The Draft EIR (P. 102) indicates that most portions of Ridgelines 5 & 6 are not "visually prominent".
- 6) Project access locations have been extensively studied and feasible alternatives to use of the proposed entry point along Ridgeline 5 have been exhausted.
- 7) Review of the photo-simulations in the DEIR (pp. 331-343) and the FEIR (pp. 6-8) that offer evidence as to visual prominence of the ridgelines and the visual effects of the proposed development upon them. Please note the photo-simulations do **not** reflect Alternative 4 modifications made by the applicant, nor staff-recommended changes contained in this report that are intended to reduce the visual impacts of certain homes, including those on Lot 4 (removed), and Lots 2, 3, 5, 6, and 7 (lowered and reduced in size) and Lot 14 (reduced in size and pulled back from Paradise Drive).

*Neighborhood Compatibility.* The density of single-family development proposed on the site would be consistent with the land use designation for the site and lower than the density of other development in the vicinity. However, the floor areas proposed for many of the new homes on the site would be substantially larger than the sizes of other homes in the vicinity, and would be among the largest homes in Tiburon. Goal LU-I of the Land Use Element encourages "intensity of development, density, and house sizes/architectural styles that are consistent and compatible with surrounding neighborhoods." Policy LU-5 states that "new development shall be in harmony with adjacent neighborhoods and open spaces," and Policy LU-15 states that "remodels, tear-down/rebuilds, and new construction shall be compatible with the design, size, and scale of existing dwellings in the surrounding neighborhood."

The floor area of the homes, as originally proposed, ranged from 6,300 to 7,980 square feet, with only one of the new residences proposed to be less than 7,200 square feet. There are currently only approximately 25 homes in all of Tiburon with floor areas over 7,000 square feet, with approximately two-thirds of these larger dwellings clustered in the Mt. Tiburon and Gilmartin Drive neighborhoods and including the existing 8,143 square foot home on the project site. The project as originally proposed would increase the number of such larger homes in Tiburon by almost 50%.

The project site is generally bordered by three different neighborhoods: homes along Hacienda Drive and Noche Vista Lane; Paradise Drive and the Seafirth subdivision; and Acacia Drive. The floor areas of these neighborhoods are characterized as follows:

Hacienda Drive and Noche Vista Lane: The floor areas of the 27 homes in this neighborhood to the south and west of the project site range from 2,146 to 6,324 square feet, with lot sizes ranging from 0.25 to 1.1 acres. Only one of these 27 homes is over 6,000 square feet, only 3 are over 5,000 square feet and only 7 of the 27 dwellings are over 4,000 square feet.

Paradise Drive and Seafirth: The 29 homes in the Seafirth subdivision, to the north of the project site, range in size from 1,936 to 4,331 square feet; Seafirth lots range in size from 0.24 to 0.92 acres, while other unincorporated lots along Paradise Drive range from around half an acre up to over 23 acres. Other homes along the unincorporated portions of Paradise Drive north and east of the site are substantially larger, and the approved Sorokko subdivision on the east side of Paradise Drive could have homes as large as 8,000 square feet.

Acacia Drive: The floor areas of the seven homes in the Acacia Court Subdivision, to the northwest of the project site, range from 2,860 to 6,272 square feet, with lot sizes ranging from 0.9 to 1.79 acres. Five of these seven homes are larger than 5,000 square feet, and three of the dwellings are over 6,000 square feet. One nearby residence on Tanfield Drive is among the largest in Tiburon at 9,599 square feet.

The proposed Lots 2-6 would be located closest to Hacienda Drive, with Lots 7-8 closer to Paradise Drive and Lots 9-13 closer to Acacia Drive and Paradise Drive, with Lot 14 closest to the substantially smaller homes in the Seafirth subdivision. The house sizes on Lots 8-13 would be somewhat larger than most other homes in their adjacent neighborhoods, but within the range of floor areas of existing and potential dwellings in the vicinity.

The applicant subsequently accepted Alternative 4 as the project, reducing the height and square footage of certain homes in response to public comments and the EIR process.

Staff has previously recommended that Lot 4 be eliminated due to its violation of Tiburon Ridge vertical setback policy. Staff also recommends that the floor area for Lots 2, 3, 5, 6 & 7 be reduced to a maximum of 4,500 square feet, with 600 square feet of garage space. This could be accomplished by limiting the homes on Lots 2, 3, 5 & 6 to predominantly one-story designs, with only a partial second story, as the conceptual house designs for these four lots each have one level of living area of at least 4,280 square feet (Mitigation Measure 5.8-1 of the Final EIR recommends limiting the building height for Lots 3, 4, 5 & 6 to 16 feet). The home on Lot 7 would be reduced from three stories to two stories. The resulting reduction in building mass from these project changes would also substantially lessen the visual impact of the project when viewed from the Middle Ridge Open Space (Viewpoint No. 1 in the Draft EIR) and, in combination with the elimination of Lot 4, potentially lessen the significant unavoidable impact on views from this vantage point to a less-than-significant level.

*Visual Impacts.* The project would not substantially interfere with views from any surrounding residences. However, the Final EIR has concluded that the project as proposed would have a significant unavoidable impact on views from the Middle Ridge Open Space. Policy OSC-30 states that "the preservation of visual qualities, views, and the view potential of the natural and

built environment shall be a major consideration of the Town in any development project review.” The building floor area and height reductions on Lots 2, 3, 5, 6 & 7, in combination with the elimination of Lot 4, would reduce the impact on views from the Middle Ridge Open Space area.

*Environmentally Sensitive Areas.* The project has the potential to adversely affect occurrences of special status species, native serpentine grasslands, wetlands and oak woodlands. The project as proposed would impact wildlife movements across the site and limit wildlife access to common open space areas and protected wetlands. The project would remove approximately 107 protected trees from the site, but would avoid disturbance of most of the protect trees on the site. Policy OSC-17 states that “development shall not encroach into sensitive wildlife habitats, limit normal range areas, or create barriers to wildlife that cut off or substantially impede access to food, water, or shelter, or cause damage to fisheries or fish habitats.” Policy OSC-33 states that “protected trees, as defined in the Municipal Code, tree stands and tree clusters shall be preserved to the maximum extend feasible.”

The Final EIR contains mitigation measures that would reduce potential impacts on sensitive biological resources and wildlife movements to less-than-significant levels and would further reduce the number of protected trees affected by the project.

*Usable Open Space.* The proposed project would preserve over 70 percent of the site as common or private open space. Policy OSC-5 establishes a goal that a minimum of 50% of the site area be preserved as permanent open space.

Goal OSC-B calls for the Town “to provide and permanently preserve as much open space as possible to protect shorelines, open water, wetlands, significant ridgelines, streams, drainageways, riparian corridors, steep slopes, rock outcroppings, special status species and their habitat, woodlands, and areas of visual importance, such as views of and views from open space, to be protected by a Town-held open space easement.” As noted above, the project would adversely affect occurrences of special status species, native serpentine grasslands, wetlands and oak woodlands, but the Final EIR includes mitigation measures that would reduce potential impacts on sensitive biological resources to less-than-significant levels. However, individual homes would be located along the two significant ridgelines on the site and could have a significant unavoidable impact on views from the Middle Ridge Open Space. The recommended reductions to building floor areas and heights on Lots 2, 3, 5, 6 & 7, in combination with the elimination of Lot 4, would reduce the impact on views and should achieve consistency with this policy.

*Safety.* Eighteen landslides have been identified on the site. Policy SE-5 of the Safety Element states that “development in areas subject to landsliding shall comply with the Town’s Landslide Mitigation Policy. The Town shall require physical improvements to landslides and to potential landslide areas in instances where avoidance is not feasible or appropriate, as determined through the development review process.” A geotechnical analysis of site landslides has been prepared and reviewed as part of the Final EIR. The conceptual stabilization repair plans have been reviewed to ensure conformance with the Town’s Landslide Mitigation Policy.

*Driveways.* Policy C-19 of the Circulation Element states that “new driveways intersecting Paradise Drive shall be kept to the minimum possible and be situated in safe locations.” Site

access to the project would be provided by a single new roadway from Paradise Drive. However, the project proposes to allow the existing driveway currently serving the Rabin residence to provide exclusive service to that home. To achieve maximum consistency with this policy, Staff recommends that the existing driveway be limited to emergency access use only.

### Zoning Ordinance

*Harmony with Neighboring Development.* As noted above, the floor areas proposed for the homes on Lots 8-14 would be generally compatible with the size of other dwellings in the adjacent neighborhoods along Acacia Drive and Paradise Drive. The same project modifications found in the immediately preceding section are recommended by Staff to address this inconsistency.

*Prominence of development and construction.* Based on the photomontages prepared as part of the Final EIR, the locations of the individual buildings on the site would be visible on the hillsides, but the visibility of the homes would be minimized by appropriate location of grading and building placement. The Town has the ability to require additional changes to individual building designs during the Site Plan and Architectural Review process to ensure consistency with this principle.

*Grading and Preservation of Natural Features.* Although some slopes created by the project as part of landslide repairs would exceed 30%, the final contours and slopes would reflect natural landforms and would not exceed current slopes on the site. This grading is necessary to comply with the Town's Landslide Mitigation Policy. Development on Lot 4 would encroach occur within 50 vertical feet of the nearest peak elevation of the Tiburon Ridge. Staff recommends elimination of Lot 4 to achieve consistency with this policy.

*Minimization of significant adverse impacts.* The Final EIR includes mitigation measures that would reduce most potentially significant impacts of the proposed project to less-than-significant levels. However, the project as proposed would have a significant unavoidable impact on views from the Middle Ridge Open Space. Staff recommends building floor area and height reductions on Lots 2, 3, 5, 6 & 7 to achieve consistency with this policy. The project would also contribute to five significant unavoidable cumulative impacts at build-out of the Tiburon Peninsula, as noted above.

### **ISSUES**

As discussed in the DEIR, the Tiburon Ridge crosses the upper portion of the project site, effectively removing approximately 30% of the subject property from development. In addition to the Tiburon Ridge, the Tiburon General Plan identifies two significant secondary ridgelines on the project site. These ridgelines are designated in Town Resolution No. 2859 as Ridgelines 5 and 6. General Plan Policy OSC-11 states that development and other improvements associated with development, including landscaping and trees, shall be set back a minimum of 50 vertical feet of either side of Tiburon Ridge. As discussed in the Draft EIR, the project, as originally designed, would include development on Lots 4 and 5 within 50 vertical feet of the nearest peak elevation of the Tiburon Ridge. Nearly all of Lot 4, as well as an existing shed (proposed as a detached garage on Lot 5) would be located within the vertical setback of the Tiburon Ridge.

The project as redesigned (Alternative 4) includes changes that reduce the impacts on ridgelines. Specifically, in the redesigned project, the lot line on Lot 4 has been adjusted north outside the horizontal ridgeline and the roofline has been lowered 17 feet and the lot line on Lot 5 has been moved out of the ridgeline setback. With these changes, Lot 5 would no longer violate ridgeline setbacks, but Lot 4 remains within the Tiburon Ridge vertical setback contrary to the General Plan. Staff recommends eliminating Lot 4 (and all proposed development shown on Lot 4) and incorporating it into the Rabin Private Zone on Lot 1.

As indicated in the Final EIR, changes to the project reflected in Alternative 4 would reduce the visual exposure and obtrusiveness of project features as compared to the originally proposed project. However, when viewed from Middle Ridge Open Space, the Final EIR indicates that the revised project would still meet the visual dominance characteristic definition of co-dominant as described in EIR Exhibit 5.8-2. Although the color contrast of the new homes would be relatively low, the buildings, roadways, driveways, and retaining walls that would be visible would attract attention due to their contrast in form, line and texture with those naturally established in the surrounding setting. The Final EIR concludes that the revised project, as designed, would result in a significant visual impact when viewed from the Middle Ridge Open Space. The severity of the visual impact in the revised project would be less than that of the originally proposed project.

The FEIR includes mitigation (Mitigation Measure 5.8-1) to reduce the visual impact such that the project would not attract attention when viewed from the Middle Ridge Open Space. The proposed mitigation includes limiting building heights to 16 feet and limiting total floor area for the proposed homes on Lots 3, 4, 5 and 6; increasing screen planting of native trees and using glass that has a Visible Light Reflectance/Reflection value of less than nine percent for all exterior glass for all proposed homes that are in view from the Middle Ridge Open Space.

Although implementation of Mitigation Measure 5.8-1 would reduce the obtrusiveness of the homes and the visual dominance of project features, the FEIR concludes that the project, when viewed from Middle Ridge Open Space would still appear co-dominant, and therefore the project would result in a significant unavoidable visual impact. When reviewing Exhibit 5.8-5(a) of the Draft EIR (page 332), staff believes that the home on Lot 4 creates the greatest visual impact of the project when viewed from Middle Ridge Open Space. Staff believes that incorporation of Mitigation Measure 5.8-1, coupled with elimination of the home on Lot 4 (as discussed above) and reduction of the height and size of the Lot 7 home, would further reduce the visual impacts of the revised project, possibly to a less-than-significant level. This is a somewhat subjective determination.

The height and visibility of the retaining walls previously proposed for the project have been substantially reduced as part of the Alternative 4 (now the project) design. Exhibit 3.0-13 in the Final EIR (page 148) provides more detail about the proposed retaining walls, including whether the walls would be visible or non-visible, with many of the proposed walls buried in the ground supporting future buildings. Additionally, the retaining wall originally proposed as a mitigation measure in the DEIR has since been determined to be unnecessary and is no longer proposed. Only three (3) visible walls for the project would exceed 6 feet at their highest points, described as follows:

- Wall W5-A on Lot 5, with heights of 0 to 9 feet over a length of 39 feet;

- Wall W12-C on Lot 12, with heights of 0 to 7 feet over a length of 112 feet; and
- Wall W14-B on Lot 14, with heights of 4 to 7 feet over a length of 257 feet.

The final height and appearance of these walls can be further reviewed through the Site Plan and Architectural Review process for individual homes or as part of the review of subdivision improvements for the project as a whole. Staff concludes that the retaining wall visibility issue has been adequately addressed by the applicant.

As discussed above, Staff believes that the major outstanding policy area to be resolved deals with project proximity to Significant Ridgelines 5 & 6. Staff sees no viable alternative to and increase in the number of roadway crossings of ridges on the site (some already exist). Similarly, wholesale elimination of certain lots would appear necessary to avoid lots and homes being in close proximity to, or on, portions of the two secondary ridgelines. As noted above, these two ridgelines dominate the topography (but not necessarily the visibility) of the site and largely constitute the feasibly buildable portions of the site not located within the Tiburon Ridge setbacks.

### **PUBLIC COMMENT**

As of the date of this report, 8 comment letters have been received regarding the revised project design. Additional comments were received from various individuals and responsible agencies during the review of the Draft EIR (see Planning Commission Staff Report, 2/24/10).

### **FUTURE ACTIONS REQUIRED**

Planning Commission action on these applications would be in the form of a recommendation to the Town Council. If the Alta Robles Environmental Impact Report is certified, and the Precise Development Plan and Rezoning applications are approved by the Town Council, LAFCO would then be in a position to consider action on an annexation application.

Subsequent Town permits would likely include a Tentative Subdivision Map, Subdivision Improvement Drawings, Final Subdivision Map, and Site Plan and Architectural Review approval and Building Permits for each of the new residential lots.

### **RECOMMENDATION**

Staff recommends that the Planning Commission:

1. Hear a presentation of the project by the applicant.
2. Open the public hearing on the project, hear all testimony, and close the public hearing.
3. Time allowing, begin deliberations. Staff recommends that the Commission deliberate on the relevant items in the following order:

- a. Consider the adequacy and completeness of the FEIR, and consider adoption of the draft Resolution (**Exhibit 1**) recommending certification of the Final EIR to the Town Council.
- b. Consider the rezoning, and consider adoption of the draft resolution (**Exhibit 2**) recommending rezoning of the SODA property to the Town Council.
- c. Consider the draft resolution (**Exhibit 3**) prepared by Town Staff that would recommend approval of the Alta Robles Precise Development Plan to the Town Council with the incorporation of project modifications.

## EXHIBITS

1. Draft Resolution regarding EIR certification
2. Draft Resolution regarding rezoning
3. Draft Resolution regarding Precise Development Plan approval
4. Draft Environmental Impact Report prepared by Nichols Berman Environmental Planning (previously provided to the Commission)
5. Final Environmental Impact Report/Response to Comments to the Draft Environmental Impact Report prepared by Nichols Berman Environmental Consulting (previously provided to the Commission)
6. Staff Report from the September 23, 2009 Planning Commission meeting
7. Minutes from the September 23, 2009 Planning Commission meeting
8. Staff Report from the February 24, 2010 Planning Commission meeting
9. Minutes from the February 24, 2010 Planning Commission meeting
10. Letter from Scott Hochstrasser dated February 8, 2010 regarding Alternative 4 (previously provided to the Commission)
11. Booklet entitled "DEIR Review and Comments" (a.k.a. Alternative 4), dated February 2010 (previously provided to the Commission)
12. Draft *Alta Robles Architectural Design Guidelines*, dated 3/6/2007
13. Graphic from DEIR depicting ridgelines on the Alta Robles project site
14. Consistency Analysis with the Tiburon General Plan and Tiburon Zoning Ordinance
15. Letter from Miller-Pacific dated February 8, 2010
16. Letter from Herzog Geotechnical dated February 12, 2010.
17. Letter from Steven Sockolov and Susan Snyder, dated January 11, 2011
18. Letter from Carol and Norman Traeger, dated January 12, 2011
19. Letter from Alexander Anolik, dated January 13, 2011
20. Letter from Barbara and Jeffrey Farber, dated January 14, 2011
21. Letter from Jeff and Suzanne Appleman, dated January 15, 2011
22. Letter from Barry Moss, dated January 17, 2011
23. Letter from Don Abramson, dated January 17, 2011
24. Letter from Ronald and Rhea Brown, dated January 18, 2011
25. Drawings prepared by Ken Kao, Architect and CSW Stuber Stroeh

Prepared by: Daniel M. Watrous, Planning Manager  
Diane Henderson, Contract Planner  
Scott Anderson, Director of Community Development

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**RESOLUTION NO. 2011-DRAFT**

**A RESOLUTION OF THE PLANNING COMMISSION OF THE TOWN OF TIBURON  
RECOMMENDING TO THE TOWN COUNCIL CERTIFICATION OF  
THE FINAL ENVIRONMENTAL IMPACT REPORT  
FOR THE ALTA ROBLES PRECISE DEVELOPMENT PLAN & PREZONING PROJECT  
ASSESSOR PARCEL NOS. 039-021-13 & 039-301-01**

WHEREAS, a Draft Environmental Impact Report (DEIR) evaluating the proposed Alta Robles Precise Development Plan and Prezoning Project has been prepared and was transmitted by the Town of Tiburon to all concerned parties for review and comment; and

WHEREAS, notice of the availability of the DEIR was given as required by law; and

WHEREAS, written comments on the DEIR were accepted from the public from August 19, 2009 to October 5, 2009; and

WHEREAS, the Planning Commission held a public meeting and accepted testimony on the DEIR on September 23, 2009; and

WHEREAS, on February 24, 2010 the Planning Commission directed the Town's environmental consultant to prepare the Final Environmental Impact Report (FEIR) and respond to comments on the DEIR; and

WHEREAS, agency and public comments have been addressed in the FEIR for the project; and

WHEREAS, the FEIR was prepared in accordance with the provisions of the California Environmental Quality Act (CEQA); and

NOW, THEREFORE, BE IT RESOLVED, that the Planning Commission recommends to the Town Council that the Final Environmental Impact Report for the Alta Robles Precise Development Plan & Prezoning Project be certified as having been completed in compliance with the California Environmental Quality Act and applicable local guidelines.

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

AYES:            COMMISSIONERS:  
NOES:            COMMISSIONERS:  
ABSENT:         COMMISSIONERS:

\_\_\_\_\_  
CATHY FRYMIER, CHAIR  
Tiburon Planning Commission

ATTEST:

\_\_\_\_\_  
SCOTT ANDERSON, SECRETARY

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**RESOLUTION NO. 2011-DRAFT**

A RESOLUTION OF THE PLANNING COMMISSION OF THE TOWN OF TIBURON  
RECOMMENDING TO THE TOWN COUNCIL PRE-ZONING OF AN UNINCORPORATED  
20.95-ACRE PARCEL WITHIN THE TIBURON PLANNING AREA  
(SODA PROPERTY; ASSESSOR PARCEL NUMBER 039-301-01)

WHEREAS, the property owner has submitted an application for pre-zoning of an unincorporated 20.95-acre parcel within the Tiburon Planning Area; and

WHEREAS, an environmental impact report regarding the rezoning and an accompanying precise development plan has been prepared and has been considered and recommended for certification by the Planning Commission; and

WHEREAS, the Planning Commission did hold duly noticed and advertised public hearings regarding the application on \_\_\_\_\_, at which testimony was received from the public, and

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

NOW, THEREFORE, BE IT RESOLVED that the Planning Commission hereby recommends that the Town Council pre-zone territory commonly identified as Marin County Assessor Parcel Number 039-301-01, as set forth in the draft ordinance attached hereto as **Exhibit 1**.

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

AYES: COMMISSIONERS:

NOES: COMMISSIONERS:

ABSENT: COMMISSIONERS:

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CATHY FRYMIER, CHAIR  
Tiburon Planning Commission

ATTEST:

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SCOTT ANDERSON, SECRETARY

Attachments: Exhibit 1 (Draft Ordinance Rezoning Territory)

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ORDINANCE NO. XXX N.S.

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF TIBURON  
PREZONING UNINCORPORATED TERRITORY (SODA PROPERTY)  
IN THE PARADISE DRIVE PORTION OF  
THE TIBURON PLANNING AREA  
(ASSESSOR PARCEL NUMBER 039-301-01)

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

SECTION 1. FINDINGS.

- A. On \_\_\_\_\_, 2011, the Planning Commission adopted Resolution No. 2011-XX recommending to the Town Council prezoning of certain unincorporated territory within the Tiburon Planning Area.
- B. The Town Council has held a duly noticed public hearing on \_\_\_\_\_ and has heard and considered public testimony on the proposed Ordinance.
- C. The Town Council finds that all notices and procedures required by law attendant to the adoption of this Ordinance have been followed.
- D. The Town Council finds that the actions made by this Ordinance are necessary for the protection of the public health, safety, and welfare.
- E. The Town Council finds the actions made by this Ordinance to be consistent with the goals and policies of the Tiburon General Plan and other adopted ordinances and regulations of the Town of Tiburon.
- F. The Town Council finds that the proposed prezoning action was fully evaluated in the Alta Robles Environmental Impact Report that was certified by the Town Council on \_\_\_\_\_, and that no further environmental review is required.

SECTION 2. PREZONING OF TERRITORY

The territory described below is hereby prezoned with a zoning designation of RPD (Residential Planned Development); with a maximum density not to exceed 0.4 dwelling units per acre (exclusive of secondary dwelling units ancillary to single family dwellings), and is incorporated into Planned Development No. 20 in Title IV, Chapter 16 (Zoning), Section 16-14.020 of the Municipal Code:

Marin County Assessor's Parcel No. 039-301-01, commonly referred to as the SODA property; being approximately 20.95 acres, further described in attached Exhibit A and depicted graphically for illustration purposes only on attached

EXHIBIT NO. 2

Exhibit B, both incorporated herein.

SECTION 3. SEVERABILITY.

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

SECTION 4. 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 \_\_\_\_\_, and was adopted at a regular meeting of the Town Council of the Town of Tiburon on \_\_\_\_\_, by the following vote:

AYES:           COUNCILMEMBERS:  
NOES:           COUNCILMEMBERS:  
ABSENT:        COUNCILMEMBERS:

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

ATTEST:

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

Exhibits:     A.     Legal Description  
               B.     Graphic Depiction

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EXHIBIT NO.   2

## DESCRIPTION

ALL THAT CERTAIN real property situate partly in the City of Tiburon, County of Marin, State of California, described below as follows:

## PARCEL ONE:

Parcel 1, as shown upon that certain Parcel Map entitled "Parcel Map Snyder, Winslow, Kilgore, Mills College Land Division, a Portion of Parcel One, Two and Three under Recorder's Serial No. 84-0029582 and Under Recorder's Serial No. 86-0074047", filed for record March 26, 1997 in Book 26 of Parcel Maps, at Page 32, Marin County Records.

## PARCEL TWO:

A Sanitary Sewer Easement over Land of Smith (2580 OR 89) and being described as follows:

A) A strip of land 20.00 feet in width, lying 10 feet on both sides of the following described line:

Beginning at a point on the Westerly line of Parcel 1, as shown upon that certain Parcel Map entitled "Lands of Neill Smith", filed for record June 8, 1978 in Book 15 of Parcel Maps, at Page 34, Marin County Records; said point being South  $00^{\circ} 15' 20''$  West 27.10 feet from the intersection of the courses "N  $0^{\circ} 15' 20''$  E 48.006 feet & N  $45^{\circ} 26' 21''$  E 1036.625 feet", as shown on said map; thence leaving said Westerly line North  $46^{\circ} 19' 07''$  East 344.18 feet; thence South  $83^{\circ} 29' 26''$  East 87.49 feet; thence South  $33^{\circ} 44' 32''$  East 95.00 feet; thence South  $75^{\circ} 37' 39''$  East 38.16 feet; thence on a curve to the left, tangent to the preceding course, having a radius of 160.00 feet, through a central angle of  $16^{\circ} 35' 04''$ , a distance of 46.31 feet; thence North  $87^{\circ} 47' 17''$  East 112.62 feet; thence South  $63^{\circ} 33' 33''$  East 37.00 feet; thence North  $70^{\circ} 14' 39''$  East 14.13 feet; thence on a curve to the left, tangent to the preceding courses, having a radius of 160.00 feet, through a central angle of  $20^{\circ} 36' 27''$ , a distance of 57.55 feet; thence North  $49^{\circ} 38' 12''$  East 57.14 feet; thence on a curve to the left, tangent to the preceding course, having a radius of 160.00 feet, through a central angle of  $9^{\circ} 24' 05''$ , a distance of 26.25 feet; thence North  $40^{\circ} 14' 07''$  East 184.56 feet; thence on a curve to the right, tangent to the preceding course, having a radius of 160.00 feet, through a central angle of  $10^{\circ} 48' 06''$ , a distance of 30.16 feet; thence North  $51^{\circ} 02' 13''$  East 37.31 feet; thence on a curve to the left tangent to the preceding course, having a radius of 160.00 feet, through a central angle of  $33^{\circ} 04' 44''$ , a distance of 92.37 feet; thence on a reverse curve having a radius of 160.00 feet, through a central angle of  $25^{\circ} 21' 58''$ , a distance of 70.84 feet; thence North  $43^{\circ} 19' 27''$  East 19.22 feet; thence on a curve to the right, tangent to the preceding course, having a radius of 160.00 feet, through a central angle of  $68^{\circ} 07' 44''$ , a distance of 190.25 feet to the termination of this description.

B) Beginning at the termination point of the above described Parcel One; thence North  $21^{\circ} 27' 11''$  East 41.66 feet to the line of Corte Madera Del Presidio, as shown on said Parcel Map (15 P.M. 34); thence along said line of Rancho Corte Madera Del Presidio, South  $66^{\circ} 06' 48''$  East

DESCRIPTION  
Continued

111.06 feet; thence North  $77^{\circ} 53' 12''$  East 138.60 feet thence South  $87^{\circ} 06' 48''$  East 242.88 feet; thence South  $67^{\circ} 06' 48''$  East 220.44 feet to the most Westerly corner of the parcel conveyed to Sanitary District No. 5 of Marin County, recorded November 4, 1968 in Book 2283 of Official Records at Page 49, Marin County Records; thence along the Westerly line of said Sanitary District No. 5 Parcel, South  $11^{\circ} 17' 20''$  East 72.19 feet; thence leaving said Westerly line, North  $47^{\circ} 38' 09''$  West 59.16 feet; thence North  $67^{\circ} 06' 48''$  West 198.16 feet; thence North  $87^{\circ} 06' 48''$  West 230.56 feet; thence South  $77^{\circ} 53' 12''$  West 106.68 feet; thence along a curve to the right, tangent to the preceding course, having a radius of 170.00 feet, through a central angle of  $33^{\circ} 33' 59''$ , a distance of 99.59 feet; thence North  $68^{\circ} 32' 49''$  West 61.29 feet; thence North  $21^{\circ} 27' 11''$  East 10.00 feet to the point of beginning.

c) Beginning at a point on the Westerly line of Parcel 1, as shown upon that certain Parcel Map entitled "Lands of Neill Smith", filed for record June 8, 1976 in Book 15 of Parcel Maps, at Page 34, Marin County Records; said point being the intersection of the courses "N  $0^{\circ} 15' 20''$  E 48.006 feet, and N  $45^{\circ} 26' 21''$  E 1036.625 feet", as shown on said map; thence along said Westerly line, North  $45^{\circ} 26' 21''$  East 20.00 feet; thence leaving said Westerly line, South  $43^{\circ} 40' 53''$  East 9.79 feet; thence South  $46^{\circ} 19' 07''$  West 29.14 feet to the Westerly line of said Parcel 1; thence along said Westerly line, North  $0^{\circ} 15' 20''$  East 13.17 feet to the point of beginning.

Parcel C subject to relocation during construction, should physical conditions so require.

d) Beginning at a point on the Northwesternly line of Parcel One, as shown upon that certain Parcel Map entitled "Lands of Neill Smith", filed for record June 8, 1978 in Book 15 of Parcel Maps, at Page 34, Marin County Records; said point being North  $45^{\circ} 26' 21''$  East 370.74 feet from the intersection of the courses "North  $0^{\circ} 15' 20''$  East 48.006 feet and North  $45^{\circ} 26' 21''$  East 1036.625 feet, as shown on said map; thence leaving said Northwesternly line, South  $44^{\circ} 33' 39''$  East 65.10 feet to the Northerly line of Easement Parcel One, as described herein; thence along said Northerly line of Easement Parcel One, South  $83^{\circ} 29' 26''$  East 31.83 feet; thence leaving said Northerly line of Easement Parcel One, North  $44^{\circ} 33' 39''$  West 89.86 feet to the Northwesternly line of aforementioned Neill Smith Parcel One (15 P.M. 34); thence along said Northwesternly line, South  $45^{\circ} 26' 21''$  West 20.00 feet to the point of beginning.

Parcel D subject to relocation during construction, should physical conditions require:

e) Beginning at a point on the Westerly line of Parcel One, as shown upon that certain Parcel Map entitled "Lands of Neill Smith", filed for record June 8, 1976 in Book 15 of Parcel Maps, at Page 34, Marin County Records; said point being "North  $45^{\circ} 26' 21''$  East 288.15 feet from the intersection of the courses "North  $0^{\circ} 15' 20''$  East 48.006 feet" and North  $45^{\circ} 26' 21''$  East 1036.625 feet, as shown on said map; thence along said Northwesternly line, South  $83^{\circ} 29' 26''$  East 18.10 feet to the Northerly line of Easement Parcel One, described herein; thence leaving said Northerly line of Easement Parcel One, South  $46^{\circ} 19' 07''$  East 30.75 feet; thence leaving said Northerly line of Easement Parcel One, North  $83^{\circ} 29' 26''$  West 18.70 feet to the Northwesternly line of aforementioned Neill Smith Parcel One (15 P.M. 34); thence along said Northwesternly line, South  $45^{\circ} 26' 21''$  West 30.00 feet to the point of beginning.

EXHIBIT NO. 2

DESCRIPTION  
Continued

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PARCEL THREE:

A Utility Easement, 20 feet in width to install and maintain one sewer line as contained in the document recorded November 30, 1999 as Instrument No. 1999 084666 and 1999 84667, Marin County Records.

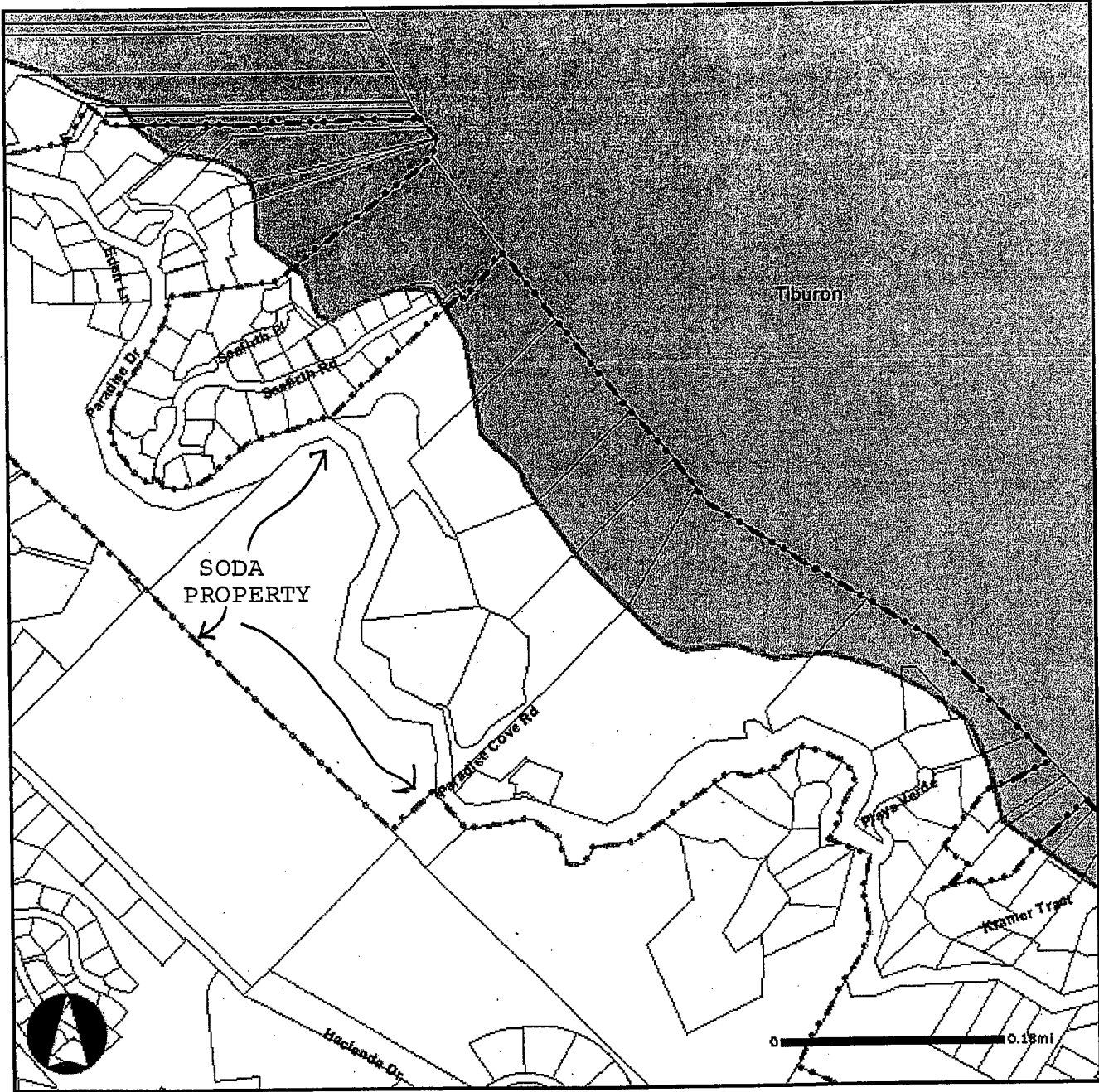
PARCEL FOUR:

Portion of the so-called "Small Reed Ranch" as conveyed by John J. Reed to Clotilde Josephine Reed, by Deed dated November 21, 1899 recorded in Book 58 of Deeds at Page 168, Marin County Records.

Beginning at a point on the Northeasterly line of said tract, distant thereon South 45° 51' East 45 feet from the intersection thereof with the Southeasterly line of the lands conveyed by Hercules Powder Company to T.A. Kilgore, recorded January 26, 1925 in Book 64 of Official Records at Page 394, Marin County Records; said Southeasterly line being also the Northwesterly line of the lands now or formerly owned by Crowley; thence South 44° 09' West 900 feet; thence North 45° 51' West 1525 feet; thence North 44° 09' East 875 feet; thence North 45° 51' West 90 feet; thence North 44° 09' East 25 feet to the Northeasterly line of the "Small Reed Ranch"; thence along said line, South 45° 51' East 1616 feet to the point of beginning.

EXHIBIT NO. 2

# SODA Property



City  
Road Names

Parcels  
County Boundary

BayAreaCounty  
OceanBay

RECORDING REQUESTED  
RETURN TO:  
TOWN CLERK  
TOWN OF TIBURON  
1505 TIBURON BOULEVARD  
TIBURON, CA 94920

**RESOLUTION NO. XX-2011**

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF TIBURON  
AMPLIFYING AND SUPPLEMENTING PROVISIONS OF TITLE IV, CHAPTER 16  
SECTION 16-21.020 (F) OF THE TIBURON MUNICIPAL CODE (ZONING) WITH  
RESPECT TO PLANNED DEVELOPMENT #20  
BY APPROVING A PRECISE DEVELOPMENT PLAN (ALTA ROBLES PDP)  
AND ADOPTING A MITIGATION MONITORING PROGRAM

ASSESSOR PARCEL NOS. 039-021-13 and 039-301-01

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

Section 1. Findings.

- A. The Town of Tiburon has designated 52.21-acres of land located between Paradise Drive and Hacienda Drive Road as Residential Planned Development (RPD) on the Zoning Map and in the zoning regulations of the Tiburon Municipal Code, Title IV, Chapter 16, at Section 16-14.020 (B), with a further zoning designation of Planned Development #20 on the Planned Development Map in the aforesaid Section. All future Tiburon Municipal Code Section references in this resolution and its attachments shall be to Title IV, Chapter 16 (Zoning) unless otherwise specified.
- B. Tiburon Municipal Code Section 16-21.030 (D[3]) provides zone regulations for the RPD zone, specifying the approval of a Precise Development Plan prior to subdivision, grading, or the making of improvements on property so designated. Basic zoning parameters such as density of development, floor area limits, height limits, and setbacks are to be specified in an approved Precise Development Plan for the property, based on site-specific characteristics to which an appropriate amount and layout of development may be tailored. The purpose of the RPD zone is set forth as follows:

The Residential Planned Development (RPD) Zone is intended to protect and preserve open space land as a limited and valuable resource without depriving owners of a reasonable use of their property for residential purposes. The regulations of the zone are designed to insure, to the extent feasible, the

conservation of natural resources and the retention of land in its natural or near natural state in order to, among other things, assist in the containment of urban sprawl and protect the community from the hazards of fire, flood, seismic and other catastrophic activity, and to otherwise implement the goals and policies of the General Plan.

C. Tiburon Municipal Code Section 16-52.060 (B) establishes the Precise Development Plan purposes as follows:

1. To provide for review by the Town a detailed development proposal for a designated area with unique site characteristics or environmental conditions, in both written and graphic form, to ensure that new development in such areas is compatible with the existing land uses, development standards (including but not limited to, setbacks or building envelopes, coverage limits, and height limits) and identified constraints;
2. To demonstrate consistency of a development proposal with the goals and policies of the General Plan;
3. To preserve and conserve critically limited open space for the protection of the ecology and the environment, and to safeguard against the adverse impacts of fire, noise, water pollution, the destruction of scenic beauty and hazards related to geology, fire and flood, while at the same time providing a reasonable use of the land.

Section 16-52.060 (E) sets forth principles to be applied in the review of Precise Development Plan applications. Section 16-52.060 (D) declares approval of a Precise Development Plan by the Town Council to be a legislative act.

- D. The Town of Tiburon has received and considered an application filed by Irving & Varda Rabin for a Precise Development Plan (the Alta Robles Precise Development Plan) to augment and supplement provisions of Section 16-21.030(D[3]) of the Tiburon Municipal Code specific to Planned Development #20 by proposing the development of fourteen single family lots and appurtenant improvements, and three open space parcels, on an approximately 52.21-acres of land. The proposed Alta Robles Precise Development Plan would establish a maximum density of 0.27 dwelling units per acre (exclusive of any secondary dwelling units), and provide a basic layout and RPD zoning district parameters for the property, including but not limited to, permanent open spaces, building envelopes, residential use areas, height limits, and floor area limits.
- E. The Alta Robles Precise Development Plan application consists of File #30701, on file with the Town of Tiburon Community Development Department. The official record for this project is hereby incorporated and made part of this resolution. The record includes

the Staff Reports, minutes, application materials, and all comments and materials received at the public hearing.

- F. An Environmental Impact Report (EIR) analyzing the project has been previously certified by the Tiburon Town Council.
- G. The Planning Commission held a duly noticed public hearing on the application on \_\_\_\_\_, 2011. Following the public hearing the Planning Commission adopted Resolution No. 2011-(Draft) recommending to the Town Council conditional approval of the project and adoption of a Mitigation Monitoring Program for the project.
- H. The Town Council held a duly noticed public hearing on the application on \_\_\_\_\_, 2011, at which it heard and considered testimony from interested persons. The Town Council found, based upon application materials and analysis presented in the staff report and the certified Final EIR, that the proposed project, as modified by conditions of approval, is on balance consistent with the goals and policies of the Tiburon General Plan and in conformance with provisions of the Tiburon Zoning Ordinance. The facts in support of this finding are set forth in the official record for this project.
- I. The Town Council finds that Lot 4 is inconsistent with a quantitative Tiburon Ridge setback standard set forth in the Tiburon General Plan, cannot be modified to avoid this inconsistency, and is therefore eliminated.
- J. The EIR concluded that the project (both the original submittal and Alternative 4) would result in significant and unavoidable visual impacts from the Middle Ridge Open Space area. The Town Council finds that additional conditions of approval and project modifications are necessary and would reduce the visual impacts to a less than significant level. Specific project modifications and conditions include the complete elimination of Lot 4 and the reduction in the allowable height and square footage of homes on Lots 2, 3, 5, 6 and 7 that the Town Council concludes would cumulatively provide material and effective reduction of visual impacts from the Middle Ridge Open Space area to a less than significant level.

Section 2. Conditional Project Approval and Adoption of Mitigation Monitoring Program.

BE IT FURTHER RESOLVED that the Town Council hereby approves the Alta Robles Precise Development Plan (PD #20) subject to the following conditions and adopts a mitigation monitoring program for the project:

- 1. The approved Alta Robles Precise Development Plan shall consist of the following:

Precise Development Plan for Alta Robles, Tiburon, California, including Architectural Design Guidelines prepared by IPA, Inc., dated March 2007 and plans prepared by CSW/Stuber-Sroeh Engineering Group, Inc., dated 05-08-07; Kao Design Group, dated May 08, 2007; and Jim Catlin Landscape Architect, dated March 2006; all as amended by Alta Robles Precise Development Plan DEIR Review and Comments (a.k.a. Alternative 4), prepared by CSW/Stuber-Stroeh Engineering Group, Inc., dated February 2010, and as amended and modified by mitigation measures and conditions contained herein.

Within sixty (60) days of final Precise Development Plan approval, applicant shall submit a complete set of the drawings and documents referenced above incorporating the changes required by the mitigation measures and conditions of approval herein to the Community Development Department for review and acceptance as in substantial conformance with the approval.

2. This Precise Development Plan approval incorporates mitigation measures contained in the Alta Robles Mitigation Monitoring Program, attached hereto as **Exhibit B** and incorporated herein. Applicant shall bear all costs for implementation and monitoring of said Mitigation Monitoring Program.
3. In furtherance of Section 16-21.040 (C[2]) of the Municipal Code, this Precise Development Plan approval establishes a maximum density of 0.25 dwelling units per acre (13 primary dwellings, not including any Town-approved secondary dwelling units incidental to primary dwellings) on the 52.12 acre site and is intended to reflect the ultimate development of the property. Lot 4 as shown on the drawings is eliminated and incorporated into the Rabin Private Zone portion of Lot 1. No additional subdivision for the purpose of creating additional lots and/or building sites is permitted, and a note to that effect shall be placed on the final map.
4. In furtherance of Section 16-52.020 (I[3]) of the Municipal Code, this Precise Development Plan approval establishes the limit of "floor area, gross", as defined in Section 16-100.020 (F) therein, and "height", as defined in Section 16-100.020 (H) therein, that may be constructed on each lot as set forth in attached **Exhibit A**, incorporated herein. Any garage and/or carport floor area in excess of the amount specified above shall be counted as additional gross floor area on a lot. The floor area of all accessory buildings, including without limitation any secondary dwelling unit, pool house, cabana, or other out-building shall be included in the total allowable floor area for each lot. Floor areas meeting the definition of "basement" in the Municipal Code shall not be included in the calculation of gross floor area. It is understood that the floor area for each lot as specified above is a

maximum allowable square footage, and the Design Review Board may, in its reasonable discretion in reviewing Site Plan and Architectural Review applications for each lot, approve a lesser amount of square footage and/or height in order to ensure that the building sizes are consistent and compatible with surrounding neighborhoods in compliance with, and as set forth in, General Plan Land Use Element Goal LU-I. Accessory buildings shall not exceed fifteen (15) feet in height from grade.

5. Accessory buildings or structures and other improvements, including patios, decks, pools, spas, fountains and water features, built-in barbeques, play structures, arbors, gazebos, tool sheds, fencing, ornamental landscaping (including turf lawns), utility improvements, parking areas, driveways, and retaining walls shall be limited to the "residential use area". No new tennis courts on the site are authorized by this Precise Development Plan.
6. In furtherance of Section 16-21.040 (A) of the Municipal Code, this Precise Development Plan approval establishes a designation of "common private open space" for Lots A, B and C, and in furtherance of Section 16-21.030(D[3]) of the Municipal Code, said Lots A, B, and C shall be protected by an open space easement or easements to be offered for acceptance to the Town of Tiburon by separate instrument as part of the final map application. Said open space easement or easements shall be recorded in conjunction with the recordation of the final map and their existence shall be noted on the final map. All portions of said open space easement or easements shall acknowledge, if necessary, any existing improvements, any required roadway, drainage and/or utility easements and any landscape installation (e.g. entry landscaping, retaining wall screening, and mitigation planting) and maintenance agreements that are required as part of this Precise Development Plan or permits issued in reliance thereon. Open space easement or dedication documents shall be reviewed and approved by the Town Attorney and Director of Community Development prior to acceptance for filing of the final map application.
7. In furtherance of Section 16-21.040 (A) of the Municipal Code, no improvements of any type, including fencing, shall be permitted on any lot outside of the approved "residential use area" for each lot, and in furtherance of Section 16-21.030(D[3]) of the Municipal Code, said areas shall be protected by an open space easement or easements offered for acceptance to the Town of Tiburon by separate instrument as part of the final map application. Said open space easement or easements shall be recorded in conjunction with the recordation of the final map and their existence shall be noted on the final map. This limitation does not apply to improvements contemplated in this Precise Development Plan; for example, the private roadways serving the subdivision; driveways, retaining walls supporting driveways; utilities; landslide repair devices and re-vegetation; drainage ditches;

existing water tanks and other existing improvements, or other ancillary improvements necessary for installation of the subdivision improvements as approved in the Precise Development Plan or permits issued in reliance thereon, including the subdivision improvement drawings.

8. In furtherance of Section 16-21.030 (D[3]) of the Municipal Code, the area designated as Rabin Private Zone on Lot 1 shall be reserved for natural resource protection and scenic view preservation. A natural resource protection and scenic view preservation easement shall be offered for acceptance to the Town of Tiburon by separate instrument as part of the final map application. Said easement shall be recorded in conjunction with the recordation of the final map and its existence shall be noted on the final map. Said easement shall acknowledge, if necessary, any existing improvements, any required roadway, drainage and/or utility easements and any landscape installation (e.g. mitigation planting) and maintenance agreements that are required as part of this Precise Development Plan or permits issued in reliance thereon.
9. Any disturbed open space areas shall be landscaped immediately following the landslide repair and/or subdivision improvement/home construction work. Additionally, all landslide repair areas shall be hydro-seeded following grading for dust control and soil stability in accordance with geotechnical engineering recommendations. No new landscaping or vegetation shall be planted on any private open space area other than that approved as part of a detailed landscape plan and palette to be submitted with the tentative subdivision map application and incorporated into the subdivision improvement drawings.
10. Individual house designs submitted for Site Plan and Architectural Review approval shall closely resemble the conceptual designs shown in the above-referenced drawings prepared by KAO Design Group, as revised pursuant to conditions of approval contained herein. In reviewing these applications, the Design Review Board is directed to avoid changes to the conceptual house designs and the precise locations that would: a) increase the project's visibility from off-site; b) have materially greater impacts on views from neighboring homes in the subdivision; c) substantially increase the heights of retaining walls; d) result in substantially more grading; e) increase the project's visibility from off-site; or f) otherwise substantially increase the project's impacts on the surrounding area.
11. Colors and materials of residential improvements shall be low-reflectivity; medium and/or dark hues that minimize contrast with surroundings and reduce visual impacts.

12. Draft CC&R's, deed restrictions, and/or joint maintenance agreements or other similar instruments for the subdivision shall be prepared and submitted for review and approval by the Town Attorney and Director of Community Development as part of the tentative subdivision map application. Said CC&Rs or other instruments acceptable to the Town Attorney shall contain provisions and limitations as set forth in this Precise Development Plan approval and the adopted Mitigation Monitoring Program to the satisfaction of the Town Attorney and Director of Community Development. These instruments shall contain, without limitation, provisions for ongoing maintenance of the private roadway, common areas, ongoing maintenance of drainage structures and facilities, and ongoing removal of invasive plant species (French broom, pampas grass, etc.) from the property, and shall be recorded in conjunction with the final map.
13. As part of the installation of the subdivision improvements, applicant shall remove dilapidated fencing and fence-posts, litter, garbage, and other junk materials from the entire site.
14. If lighting is proposed for the project roadways, lighting details shall be reviewed by the Design Review Board prior to the approval of subdivision improvement drawings for the project.
15. Appearance and any proposed vegetative screening of any publicly-visible project retaining walls shown on the subdivision improvement drawings in excess of forty-two (42) inches in height shall be subject to review and approval by the Design Review Board prior to approval of said drawings. Bonding or other monetary security for maintenance and replacement of retaining wall landscaping for the lifetime of the retaining walls shall be secured by the Town prior to recordation of the parcel map. The amount of monetary security shall be acceptable to the Director of Public Works and the terms of the maintenance and replacement shall be acceptable to the Town Attorney.
16. A detailed landscape plan prepared as part of the subdivision improvement drawing submittal shall be reviewed and approved by the Design Review Board. This landscape plan shall include removal of any remaining invasive plant species, common area plantings, entry landscaping, retaining wall screening, and any landscaping required in adopted mitigation measures.
17. All grading involving the use of heavy construction equipment shall be limited to the period between April 15 and October 31. The Building Official may authorize limited extensions of time to this period in his reasonable discretion.

18. No smoking shall be permitted on site by any person, contractor or employee during any phase of project construction. A water truck shall be present on the site during vegetation removal. These requirements shall be noted on the subdivision improvement drawings and shall be incorporated into construction documents for the contractor(s) performing the work.
19. All residential improvements constructed on the property shall substantially conform to the *Alta Robles Architectural Design Guidelines* dated 3/6/2007. Said Guidelines shall be updated and revised to reflect mitigation measures and conditions of approval herein to the satisfaction of the Director of Community Development and submitted as part of the draft CC&R's with the tentative subdivision map application and recorded in conjunction with the final map.
20. Applicant shall design, survey and install a traversable public access recreational trail within the easement immediately north of Hacienda Drive as part of the subdivision improvement drawings. Applicant-performed work shall be done as part of the subdivision improvement phase of the project. Alternatively, applicant may make a monetary contribution to cover fully the Town's estimated reasonable costs of designing, surveying and installing said path. If an in-lieu monetary contribution is proposed instead of applicant installation, then said payment shall occur prior to recordation of the final map. The amount of any monetary contribution shall be based on an estimate by the Town Engineer. Notwithstanding this condition, Town and applicant may agree to an earlier installation of the public path improvements, by separate agreement that would render this condition moot.
21. Fire apparatus access areas shown on Lot 1 shall be shown as easements for emergency vehicle use and offered for dedication as such on the final map to the satisfaction of the Town Engineer and Fire Marshal.
22. The existing access roadway leading from Paradise Drive to the residence at 3825 Paradise Drive, located at the farthest eastward edge of the property, shall be used for emergency vehicle access only and shall be secured and gated for that purpose to the satisfaction of the Tiburon Fire Protection District.
23. A detailed Tree Protection Plan shall be submitted with the subdivision improvement drawings to set forth protection measures for trees to be retained during project construction. Said Plan shall be reviewed and approved by the Director of Community Development and Director of Public Works.
24. This Precise Development Plan approval shall be valid for thirty-six (36) months following its effective date, and shall expire unless a time extension is granted or

a tentative subdivision map has been approved in reliance on this Precise Development Plan, in which instance the Precise Development Plan shall remain valid coterminous with the tentative map approval.

Section 4. Effective Date.

BE IT FURTHER RESOLVED that this Precise Development Plan approval shall become effective thirty (30) days after adoption of this Resolution, pursuant to Section 16-52.060 (D) of the Tiburon Municipal Code.

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

AYES: COUNCILMEMBERS:

NOES: COUNCILMEMBERS:

ABSENT: COUNCILMEMBERS:

\_\_\_\_\_  
JEFF SLAVITZ, MAYOR  
Town of Tiburon

ATTEST:

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

Attachment: Exhibit A (Table of floor areas and heights)  
Exhibit B (Mitigation Monitoring Program)

*S:\Planning\Planning Commission\Staff Reports\2011\January 26 meeting\Alta Robles PDP Reso Exhibit 1 (Council reso).doc*

# EXHIBIT "A"

ALTA ROBLES PROJECT (PD#20), FILE #30701

## TABLE OF MAXIMUM SQUARE FOOTAGES AND HEIGHTS

| LOT NUMBER | TOTAL HOUSE SQUARE FOOTAGE | GARAGE SQUARE FOOTAGE | MAXIMUM HEIGHT |
|------------|----------------------------|-----------------------|----------------|
| 2          | 4,500                      | 600                   | 16'0"          |
| 3          | 4,500                      | 600                   | 16'0"          |
| 4          | ELIMINATED                 | ELIMINATED            | N/A            |
| 5          | 4,500                      | 600                   | 16'0"          |
| 6          | 4,500                      | 600                   | 16'0"          |
| 7          | 4,500                      | 600                   | 25'0"          |
| 8          | 7,520                      | 750                   | 29'1"          |
| 9          | 7,810                      | 750                   | 25'0"          |
| 10         | 7,400                      | 750                   | 27'0"          |
| 11         | 7,890                      | 750                   | 22'4"          |
| 12         | 7,570                      | 750                   | 21'8"          |
| 13         | 7,930                      | 750                   | 27'4"          |
| 14         | 4,660                      | 600                   | 24'2"          |

EXHIBIT NO. 3

**DRAFT MITIGATION MONITORING PROGRAM  
ALTA ROBLES RESIDENTIAL DEVELOPMENT****INTRODUCTION**

The California Environmental Quality Act (CEQA) requires a public agency to adopt a reporting or monitoring program when approving a project or changes to a project, in order to mitigate or avoid significant effects on the environment (Public Resources Code section 21081.6). The program is based on the findings and the required mitigation measures presented in an Environmental Impact Report (EIR) that has been prepared on the project and certified by the lead agency. The reporting or monitoring program must be designed to ensure compliance during project implementation.

Pursuant to the CEQA Guidelines, a Mitigation Monitoring or Reporting Program (MMRP) must cover the following:

- The MMRP must identify the entity that is responsible for each monitoring and reporting task, be it the Town of Tiburon (as lead agency), other agency (responsible or trustee agency), or a private entity (i.e., the project sponsor).
- The MMRP must be based on the project description and the required mitigation measures presented in the environmental document prepared for the project and certified by the lead agency.
- The MMRP must be approved by the lead agency at the same time of project entitlement action or approvals.

MMRP's are typically designed in chart and checklist format for ease of monitoring and reporting.

**LOCATION AND CUSTODIAN OF DOCUMENTS**

Consistent with the California Environmental Quality Act, an EIR was prepared to address the impacts of the proposed Alta Robles Residential Development. This document, entitled *Alta Robles Residential Development EIR* consists of two volumes (Draft EIR dated August 2009, and Response to Comments to the Draft Environmental Impact Report dated December, 2010), and is on file with the Town of Tiburon Community Development Department, along with all the other documents which constitute the record of proceedings.

**PURPOSE AND USE OF THE MONITORING PROGRAM**

The purpose of the monitoring program is to provide the Town of Tiburon with a simple guideline of procedures to ensure that the mitigation measures required under the Final EIR are implemented properly.

Since each required mitigation measure must be implemented, a monitoring chart was created, which is attached to this report. This chart provides the following information and direction for use.

- 1) The required mitigation measures are listed in the first column, corresponding to the list of measures provided in the Final EIR.
- 2) The second column lists the agency or entity responsible for implementing the mitigation measure.
- 3) The third column lists the timing as to when the mitigation measure is to be implemented.
- 4) The fourth column provides guidance on monitoring to ensure that implementation procedures are followed.
- 5) The fifth column provides a location for Town staff to verify that the mitigation has been implemented and the date of the verification.

The Town's requirements for mitigation monitoring programs are set forth in the Town's Environmental Review Guidelines.<sup>1</sup> Section E.2.c states that "the Town's efforts shall focus on monitoring, not reporting. A memorandum shall be prepared by the case planner, upon completion of the implementation of all mitigation measures, for inclusion in the project file to document satisfactory completion of the Mitigation Monitoring Plan."

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<sup>1</sup> *Town of Tiburon Environmental Review Guidelines*, Town Council resolution No. 62-2002.

**MITIGATION MONITORING PROGRAM - Alta Robles Residential Development**

| <i>Mitigation Measure</i>   | <i>Implemented By</i>  | <i>When Implemented</i>  | <i>Monitored By</i>  | <i>Verified By Date</i> |
|---|--|--|--|-------------------------|
| <p><b>TRANSPORTATION</b></p> <p><i>Mitigation Measure 5.1-2 Cumulative-plus-Project Impact on Signalized Intersections.</i></p> <p>Installation of a second through lane in the eastbound direction at the Tiburon Boulevard / Trestle Glen Boulevard intersection (in addition to the planned lane in the westbound direction).</p>  | <p>Town of Tiburon and Caltrans.</p>   | <p>Town of Tiburon to study feasibility. Timing based on feasibility and when funding available.</p> | <p>Town of Tiburon shall monitor operation of intersection. Mitigation would be successful if intersection operates at LOS C or better at projected buildout of the Peninsula.</p> |                         |
| <p><i>Mitigation Measure 5.1-5 Impact on Regional Roadways</i></p> <p>Same as Mitigation Measure 4.2-4 in the Tiburon General Plan 2020 EIR. Maintain an active role in the Transportation Authority of Marin and / or U.S. 101 Corridor planning program with the purpose of ensuring that improvements enhance inter-city movement. Corridor improvements could include additional travel lanes in some segments, operational improvements at interchanges, and measures to reduce vehicle trips (such as regional transit improvements). Ultimately, implementation of such measures is outside the jurisdiction of the Town of Tiburon.</p> | <p>Town of Tiburon responsible for continued collaboration with regional agencies / Caltrans and TAM responsible for funding improvements.</p> | <p>Ongoing.</p>  | <p>Caltrans, TAM, Town of Tiburon.</p>   |                         |

| <i>Mitigation Measure</i>   | <i>Implemented By</i>                               | <i>When Implemented</i>   | <i>Monitored By</i>                              | <i>Verified By Date</i> |
|---|---|---|--|-------------------------|
| <p><i>Mitigation Measure 5.1-7 Project Impact on Bicycle Facilities and/or Safety</i></p> <p>Provide a consistent-width road section (11-foot travel lane, four-foot wide paved shoulder and two-foot wide dirt shoulder) on the project frontage along the south side of Paradise Drive (directly abutting the project site), beginning at least 200 feet west of the proposed project entrance road and extending east to the existing driveway that serves the Rabin property (a distance of approximately 1,700 feet, or one-third of a mile). Advisory signage shall be installed approximately 500 feet in advance of the proposed project driveway to alert motorists to potential cyclists around blind curves on Paradise Road.</p> <p>Minor deviations from this road section may be permitted in the discretion of the Town Engineer in order to reduce the amount of hillside grading, to preserve existing trees, and to avoid the construction of retaining walls, the need for additional storm drain pipe plus the necessity of relocating utility poles.</p> <p><b>AIR QUALITY</b></p> | <p>Town of Tiburon and Marin County.</p>            | <p>Prior to occupancy of first house.</p>                         | <p>Marin County and the Town of Tiburon.</p>     |                         |
| <p><i>Mitigation Measure 5.2-1 Construction-Period Air Pollutant Emissions</i></p> <p>Mitigate construction air quality impacts by implementing the Construction Management Plan as set forth in the Precise Development Plan and as modified as follows:</p> <ul style="list-style-type: none"> <li>Require use of off-road construction equipment that was manufactured during or after 1996 meeting the California Tier I emissions standard or is equipped with diesel particulate filters or uses alternative fuels (e.g., biodiesel) that result in particulate matter emissions that are at least 20 percent lower than the statewide fleet average reported by the California Air Resources Board.</li> <li>Prohibit the use of "dirty" equipment. Emissions from all</li> </ul>  | <p>Project Applicant and individual lot owners.</p> | <p>Prior to issuance of grading plan and/or building permits.</p> | <p>Town Building Official and Town Engineer.</p> |                         |

| <i>Mitigation Measure</i>  | <i>Implemented By</i>                        | <i>When Implemented</i>                                   | <i>Monitored By</i>  | <i>Verified By Date</i> |
|--|--|---|--|-------------------------|
| <p>construction diesel-powered equipment used on the project site shall not exceed 40-percent opacity for more than three minutes in any one hour. Any equipment found to exceed 40-percent opacity (or Ringelmann 2.0) shall be repaired immediately. In essence, any piece of equipment that emits dark smoke for more than three minutes would be in violation of this mitigation measure.</p> <ul style="list-style-type: none"> <li>Require that diesel equipment standing idle for more than five minutes shall be turned off (including waiting to deliver or receive loads). Rotating drum concrete trucks can keep their engines running continuously as long as they are on-site.</li> <li>Prevent visible tracking of mud or dirt on to public roadways or immediately sweep dirt or mud tracked on to roadways.</li> </ul>   |  |   |  |                         |
| <p><b>NOISE</b></p> <p><i>Mitigation Measure 5.3-1 Construction Noise</i></p> <p>The applicant shall mitigate construction noise impacts by implementing the Construction Management Plan as set forth in the Precise Development Plan and as modified as follows:</p> <ul style="list-style-type: none"> <li>Hours of construction shall be limited to those specified in Chapter 13 of the Town of Tiburon Municipal Code.</li> <li>Include restrictions on idling of construction equipment and trucks (also required by Mitigation Measure 5.2-1).</li> <li>Limit noise from construction workers radios, so as not to be audible off the site.</li> <li>At all times during grading and construction, stationary noise-generating equipment shall be located as far as practical from sensitive receptors and placed so that emitted noise is directed away from residences.</li> </ul> | Project Applicant and individual lot owners. | Prior to issuance of grading plan and/or building permits | Community Development Director; Town Building Official; Disturbance Coordinator. |                         |

| Mitigation Measure  | Implemented By                                   | When Implemented  | Monitored By   | Verified By Date |
|---|--|---|--|------------------|
| <p>Notify neighbors within 500 feet of the construction site of the construction schedule in writing.</p> <p><b>HYDROLOGY AND WATER QUALITY</b></p> <p><i>Mitigation Measure 5.4-2 Alteration of Existing Drainage Patterns on Erosion and Downstream Sedimentation</i></p> <ul style="list-style-type: none"> <li>• Conduct a supplemental analysis of cistern performance for the two-year design rainstorm to determine whether the preliminary cistern outlet design would be sufficient to mitigate any increases in the lot-based, post-project two-year peak flow. If the analysis shows that the outlet was too large to maintain pre-development peak flow rates for this rainstorm, the applicant shall reconfigure the proposed outlet design to successfully mitigate increases in this recurrence interval storm, as well as the 100-year rainstorm.</li> <li>• Prepare a field inspection and geomorphic assessment of the two receiving drainageways noted in <i>Impact 5.4-2</i> (within Lot 7 and Parcel A). If channel instabilities exist or were projected to occur due to the delivery of more concentrated site runoff, suitable channel stabilization measures shall be designed and submitted to the Town Engineer for review. <ul style="list-style-type: none"> <li>▫ Biotechnical techniques based on appropriate hydraulic and fluvial geomorphic analysis shall be employed, to the extent practicable.</li> <li>▫ Any channel stabilization work shall be designed and overseen by a civil engineer or hydrologist familiar with fluvial geomorphic processes and stream restoration technologies.</li> <li>▫ Prior to the construction of any stabilization measures within a defined drainageway, i.e. a channel with defined bed and banks: Obtain permits from appropriate regulatory and resource agencies (San Francisco Bay Regional Water Quality Control Board (RWQCB), the U.S. Army Corps of Engineers (Corps), the</li> </ul> </li> </ul> | <p>Project Applicant; individual lot owners.</p> | <p>Prior to issuance of grading plan and/or building permits.</p> | <p>Town Engineer.<br/>San Francisco Bay Regional Water Quality Control Board (RWQCB), the U.S. Army Corps of Engineers (Corps), the California Department of Fish and Game (CDFG), the Town of Tiburon, and potentially the Marin County Department of Public Works.</p> |                  |

| Mitigation Measure   | Implemented By   | When Implemented   | Monitored By  | Verified By Date |
|--|--|--|---|------------------|
| <p>California Department of Fish and Game (CDFG), the Town of Tiburon, and potentially the Marin County Department of Public Works).</p> <ul style="list-style-type: none"> <li>Revise the depicted outlet position of Culvert 7 such that it crosses onto the Town's right-of-way along Paradise Drive and provides for an acceptable discharge to the culvert inlet sump. This will require coordination with the Town Engineer and, ultimately, the Town's approval of the extension and outlet configuration.</li> <li>Lot cisterns shall be located within the buildable area/grading area designated for each lot in the Precise Development Plan. If a particular lot cistern had to be constructed outside the currently proposed lot grading boundary to facilitate gravity flow to or from the cistern, the applicant shall amend the current project Erosion Control Plan as necessary to mitigate the added potential for erosion and downstream sedimentation.</li> </ul> |  |  |   |                  |
| <p><i>Mitigation Measure 5.4-3 Impact on Groundwater Levels and Groundwater Recharge</i></p> <p>Implementation of Mitigation Measures discussed in <b>Section 5.5 Biological Resources</b>, including on-site replacement of freshwater wetland and seep habitats, would reduce the secondary impacts of grading and subsurface drainage control on affected biotic resources to a less-than-significant level.</p>  | Project Applicant's Consultant Biologist.                                | See Mitigation Measures for Biological Impacts below.  |   |                  |
| <p><i>Mitigation Measure 5.4-4 Impacts on Water Quality</i></p> <p>In addition to implementing Mitigation Measure 5.4-2 (above) and the erosion control and urban runoff pollution prevention measures cited in the Preliminary Erosion Control Plan, the applicant shall incorporate the following additional site-appropriate BMPs or their equivalents, in the project SWPPP for short- and long-term implementation by the applicant and individual lot owners, in order to comply with the requirements of the NPDES General Permit and</p>   | Project Applicant, individual lot owners and the Home Owner Association. | Prior to issuance of grading plan and/or building permits; and before filing final subdivision map | The State Water Resources Control Board responsible for reviewing the NOI and the NPDES permit application, |                  |

| Mitigation Measure  | Implemented By | When Implemented | Monitored By  | Verified By Date |
|---|----------------|------------------|---|------------------|
| <p>provisions of the Town of Tiburon Municipal Code (Stormwater Management and Discharge Control Program”, Chapter 20A, Ordinance 407NS):</p> <ul style="list-style-type: none"> <li>• The Home Owners Association (HOA) shall privately contract with Mill Valley Refuse Service (MVRS) or its equivalent to undertake street sweeping twice a month.</li> <li>• The HOA shall provide each homeowner with pamphlets or other informative documentation regarding the use of less toxic pest management procedures, including integrated pest management. Information related to this requirement can be obtained from MCSTOPP and the TMDL study on pesticides in urban creeks in the San Francisco Bay Region.</li> </ul> <p>The following low impact development (LID) measures shall be integrated into the project drainage design to treat project site stormwater quality to the maximum extent practicable level (MEP) per the NPDES Phase II guidelines:</p> <ul style="list-style-type: none"> <li>• Install in-line water quality filters at roadway storm drain inlets, or incorporate other modes of bioretention facilities (e.g. rain gardens, bioswales, infiltration trenches) designed to remove stormwater contaminants from site runoff. Bioretention measures shall be designed in accordance with MCSTOPP’s <i>Guidance for Applicants: Stormwater Quality Manual for Development Projects in Marin County - A Low Impact Development Approach</i> (Vers. 6, Feb. 2008). For the in-line filtration option, the installed filtration devices shall be those produced by Filterra Bioretention Systems, or an equivalent possessing contaminant removal rates similar to those shown in <b>Exhibit 5.4-7</b> of the Final EIR (see <b>Section 9.4 Response to Comments</b> - Comment B-13). These systems are an at-the-source treatment strategy designed for relatively high pollutant removal efficiency via the use of a plant / soil / microbe treatment media.</li> </ul> |                |                  | <p>including the project SWPPP</p> <p>The Town Engineer would be responsible for review and approval of the in-line filters and appurtenant structures, the proposed HOA filter maintenance schedule and routine, and bioretention facility designs and siting. The Town Engineer would also be responsible for reviewing the submitted filtration device maintenance logs, and making recommendation when necessary for adjustments to the maintenance regime or</p> |                  |

| Mitigation Measure   | Implemented By   | When Implemented  | Monitored By   | Verified By Date |
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| <p>Exhibit 5.4-7 provides the expected pollutant removal efficiency rates shown on the company website.</p> <p><b>BIOLOGICAL RESOURCES</b></p>   |  |   | <p>methods.</p>  |                  |
| <p><i>Mitigation Measure 5.5-1(a) Special-Status Species</i></p> <p>Obtain all necessary permits from the CDFG, Corps, USFWS, and the RWQCB as required by federal and State law to avoid, minimize or offset impacts to any species listed under either the State or federal ESAs or protected under any other state or federal law. A qualified biologist shall conduct informal consultation with each of these agencies to determine likely permit requirements and the extent of modifications to the proposed project plans necessary to secure authorization. This may include: 1) conduct of a habitat assessment and protocol surveys for California red-legged frog to confirm absence; 2) restrictions on remedial grading and subdrain installation proposed to stabilize portions of the site; and 3) adjustments to proposed residential use areas and lot lines as necessary to protect essential habitat for special-status species.</p> | <p>Project Applicant's Consultant Biologist.</p> <p>Evidence of agency authorization / permit issuance shall be provided prior to issuance of grading, building or other construction permits.</p> | <p>Consultation conducted concurrent with Town review of Tentative Map.</p> <p>CDFG, Corps, USFWS and RWQCB authorization before grading and / or building permit issuance.</p> | <p>Community Development Director and Town Engineer.</p> |                  |
| <p><i>Mitigation Measure 5.5-1(b) Special-Status Species</i></p> <p>Revise the proposed Precise Development Plan (including the site plan, grading plan, and landscape plan) to avoid further disturbance to essential habitat for special-status plant species on the site. The revisions shall be prepared based on input received during informal and formal consultation called for in Mitigation Measure 5.5-1(a) (above). Revisions shall include the following project modifications:</p> <ul style="list-style-type: none"> <li>Substantial avoidance of the occurrence of Marin western flax in the western portion of the site. The proposed lot lines shall be revised so that the entire occurrence is contained within Common Open Space (avoid entrusting the future management of this population to an individual private property owner). Future management shall be</li> </ul>   | <p>Project Applicant and Applicant's Qualified Consultant Biologist.</p>   | <p>Before approval of Tentative Map.</p>  | <p>Community Development Director and Town Engineer.</p> |                  |

| <i>Mitigation Measure</i>   | <i>Implemented By</i> | <i>When Implemented</i> | <i>Monitored By</i> | <i>Verified By Date</i> |
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| <p>defined as called for in Mitigation Measure 5.5-1(c).</p> <ul style="list-style-type: none"> <li>• The proposed residential use area on Lot 13 shall be setback a minimum of 100 feet from the limits of Landslide N. This shall be accomplished through adjustments to the proposed lot lines to Lots 13 and 14, and possibly Lots 11 and 12.</li> <li>• Substantial avoidance of the occurrences of Marin western flax and Tiburon buckwheat along the existing driveway off Paradise Drive through Parcel A and Lot 8. Develop alternative methods that minimize or avoid the use of proposed subdrains through this area installed by trenching and disturbance of the ground surface. Potential options (alternative methods) include: <ul style="list-style-type: none"> <li>□ Use additional retaining wall structures installed at the edge of the existing driveway slope.</li> <li>□ Drilling of horizontal subdrains under the slope from the existing driveway.</li> <li>□ Complete removal of the driveway and use of the driveway footprint for stabilization and habitat restoration. Under this third option, pavement would be removed from the footprint of the driveway, which could then be used for retaining wall installation for slope stabilization with the remaining areas restored to natural grassland and woodland habitat.</li> </ul> </li> <li>• Improved protection of the population of north coast semaphore grass along the western edge of the site through adjustments of the proposed boundaries to Lot 1 so that the occurrence is contained within Common Open Space rather than the Private Open Space on Lot 1 and elimination of the proposed trail along the western boundary of the site.</li> </ul> <p>Refine the revised Preliminary Planting Plan and Planting Guidelines to restrict all plantings, seeding and revegetation within Common</p> |                       |                         |                     |                         |

| Mitigation Measure  | Implemented By  | When Implemented   | Monitored By  | Verified By Date |
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| <p>Open Space exclusively to native, indigenous species, and ensure that these plans have been reviewed and approved by the qualified biological consultant called for in Mitigation Measure 5.5-1(c). Eliminate any proposed shrub or tree plantings and revegetation that may compromise essential habitat for grassland dependent special-status plant species known from the site.</p>  |   |  |   |                  |
| <p><i>Mitigation Measure 5.5-1(c) Special-Status Species</i></p> <p>A qualified biological consultant shall be retained by the applicant to prepare a detailed Mitigation and Monitoring Program for Special-Status Species and other Sensitive Resources (Mitigation Program). The Mitigation Program shall be prepared in consultation with the CDFG and USFWS, and shall meet with the approval of the Town of Tiburon. The Mitigation Program shall contain defined measures which accomplish the following:</p> <ul style="list-style-type: none"> <li>Ensure protection of the populations;</li> <li>Salvage of any seed and / or individual plants within the limits of grading;</li> <li>Replanting of salvaged plant material in suitable protected habitat;</li> <li>Long-term protection and management requirements;</li> <li>Monitoring of the habitat avoidance and salvage efforts;</li> <li>Provisions for any compensatory off-site measures if required by regulatory agencies to address on-site losses;</li> <li>Appropriate measures to avoid possible presence of special-status animal species.</li> </ul> <p>Components of the Mitigation Program shall include the following:</p> <ul style="list-style-type: none"> <li>• Refine and expand on the initial mitigation framework outlined in the <i>Mitigation Recommendations</i> and subsequent <i>Management</i></li> </ul> | <p>Project Applicant is responsible for retaining the qualified biological consultant. Applicant's biological consultant is responsible for preparing the Mitigation Program.</p> | <p>Qualified Biologist shall be obtained prior to tentative map approval; Town approval of Mitigation Program before tentative map approval.</p> | <p>Community Development Director and Town Engineer</p> |                  |

| <i>Mitigation Measure</i>  | <i>Implemented By</i> | <i>When Implemented</i> | <i>Monitored By</i> | <i>Verified By Date</i> |
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| <p><i>Plan and Biological Assessment</i> prepared by the applicant's consulting biologists, address input received during informal and formal consultation called for in Mitigation Measure 5.5-1(a), and incorporate avoidance measures called for in Mitigation Measure 5.5-1(b).</p> <ul style="list-style-type: none"> <li>Describe the inadvertent take measures for California red-legged frog called for in Mitigation Measure 5.5-1(d), as well as any development restrictions that may be required by the USFWS during the consultation called for in Mitigation Measure 5.5-1(a).</li> <li>Provide a detailed description of any plant salvage and reinstallation efforts where complete avoidance of the occurrences of special-status plant species is determined to be infeasible and adequate mitigation has been developed in consultation with regulatory agencies.</li> <li>Define the revegetation methods in restoring serpentine bunchgrass and other native grasslands disturbed during grading and installation of any subdrain systems through occurrences of special-status plant species. This shall include details on maintenance and monitoring methods, performance standards for plant re-establishment, and contingency measures if success criteria are not met. Maintenance and monitoring shall be provided for a minimum of ten years in locations where incursion into occurrences of special-status plant species is unavoidable, and a funding mechanism shall be identified.</li> <li>Describe the long-term vegetation management goals and methods to achieve them, with an emphasis on maintaining grassland and freshwater habitats that support the occurrences of special-status plant species on the site. This shall include routine removal of invasive species over the entire site, particularly French broom, and</li> </ul> |                       |                         |                     |                         |

| <i>Mitigation Measure</i>  | <i>Implemented By</i> | <i>When Implemented</i> | <i>Monitored By</i> | <i>Verified By Date</i> |
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| <p>selective control of coyote brush and other native scrub species that may eventually replace much of the grassland cover unless properly managed. Performance standards shall be defined regarding vegetation treatment to eliminate any uncertainty in long-term management on the site. French broom removal shall occur on an annual basis until all mature shrubs and seedlings have been eliminated from the site.</p> <ul style="list-style-type: none"> <li>Identify a mechanism that demonstrates the feasibility of long-term on-site management of proposed Common Open Space, public trail easement areas, and portions of private lots outside the residential use area that contain occurrences of special-status species and sensitive natural communities. This can include obligations defined as part of the Codes, Covenants &amp; Restrictions of the homeowners association for the development. Appropriate development restrictions and vegetation management obligations shall be established over all Common Open Space areas and undeveloped portions of private lots containing essential habitat for special-status species or other sensitive resources.</li> <li>Develop effective interpretive measures to prevent inadvertent take of special-status species by persons utilizing the Common Open Space areas or maintaining undeveloped lands on private lots. Methods shall be described to permanently prevent vehicle access into the Common Open Space areas where they border the private roads and driveways, which shall include an effective barrier system (such as rustic split-rail fence, posts, or boulders). Permanent signage shall be placed at 50-foot intervals along the perimeter of the Common Open Space areas that border roadways adjacent to occurrences of special-status plants or where any public trails pass through the vicinity of occurrences of special-status plants that state:<br/><br/> <p style="text-align: center;"><b>Sensitive Natural Area</b><br/> <b>No Vehicle or Pedestrian Access</b><br/> <b>Please Do Not Pick Wildflowers</b></p> </li> </ul> |                       |                         |                     |                         |

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| <p><b>Mitigation Measure 5.5-1(d) Special-Status Species</b></p> <p>Adequate measures shall be taken to avoid any inadvertent take of California red-legged frog during construction; in the remote instance this species is present on the site. This shall include:</p> <ul style="list-style-type: none"> <li>minimizing disturbance to drainages and wetlands;</li> <li>implementation of preconstruction surveys to confirm the absence of this species on the site;</li> <li>and, adherence to rigid measures to prevent degradation of water quality in the drainages and wetlands as called for in the Stormwater Pollution Prevention Plan (SWPPP).</li> </ul> <p>The preconstruction survey shall be conducted by a qualified biologist (as required in Mitigation Measure 5.5-1(c) prior to any grading or construction within 100 feet of on-site drainages and wetlands. Details of the preconstruction survey shall include the following:</p> <ul style="list-style-type: none"> <li>The qualified biologist(s) shall survey the construction zone two weeks before any construction activities are initiated. If California red-legged frogs, tadpoles, or eggs are found, the biologist shall contact the USFWS to determine if moving any of these lifestages is appropriate and any alternative measures that would be necessary to ensure avoidance of possible take. If authorized, only USFWS-approved biologists shall participate in activities associated with the capture, handling, or monitoring of California red-legged frogs.</li> <li>Before any construction activities begin within 100 feet of the drainages or wetlands, the qualified biologist(s) shall conduct a training session for all construction personnel. At a minimum, the training shall include: (a) a description of the California red-legged frog and its protected status; (b) the general measures that are being implemented to conserve this species as they relate to the project; (c)</li> </ul> | <p>Project Applicant's Consultant Biologist (as specifically required), and Project Applicant, Individual Lot Owner, Construction Personnel.</p> | <p>Verification of ongoing implementation shall occur prior to issuance of grading permits.</p> | <p>Community Development Director and Town Engineer and; USFWS would assist in monitoring implementation if California red-legged frogs, tadpoles, or eggs are found during preconstruction surveys/at the project site.</p> |                  |

| Mitigation Measure  | Implemented By   | When Implemented | Monitored By  | Verified By Date |
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| <p>the boundaries within which the project may be accomplished; and (d) procedure to follow if construction personnel encounter a frog suspected to be a California red-legged frog individual.</p> <ul style="list-style-type: none"> <li>The qualified biologist(s) shall oversee installation of exclusionary fencing prior to grading or vegetation clearance to keep California red-legged frog out of construction areas. Silt fencing installed as part of the required Stormwater Pollution Prevention Plan may function as the exclusionary fencing assuming it is installed at the edge of proposed grading, is at least three feet in height with no breaks, and is routinely monitored and maintained during construction.</li> <li>During project activities, all trash that may attract predators shall be properly contained, removed from the work site and disposed of properly.</li> <li>All fueling and maintenance of vehicles and other equipment, and construction staging areas shall be located at least 100 feet from the drainages and wetlands on the site. All construction personnel shall be informed of the importance of preventing spills and the appropriate measures to take should a spill occur, including containment, cleanup, and proper disposal.</li> </ul> |  |                  |   |                  |
| <p><i>Mitigation Measure 5.5-1(e) Special-Status Species</i></p> <p>Any active raptor nests or other bird nests protected under the Migratory Bird Treaty Act in the vicinity of proposed grading and vegetation removal shall be avoided until young birds are able to leave the nest (i.e., fledged) and forage on their own. Avoidance may be accomplished either by scheduling initial grading and vegetation removal during the non-nesting period (i.e., September through February), or if this is not feasible, by conducting a pre-construction survey for bird nests. Provisions of the pre-construction survey and</p>   | Project Applicant and Applicant's Consultant Wildlife Biologist. | Ongoing.         | Community Development Director and; CDFG, As specified. |                  |

| <i>Mitigation Measure</i>  | <i>Implemented By</i>                                   | <i>When Implemented</i>  | <i>Monitored By</i>                               | <i>Verified By Date</i> |
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| <p>nest avoidance, if necessary, shall include the following:</p> <ul style="list-style-type: none"> <li>• If grading and / or vegetation removal is scheduled during the active nesting period (March through August), a qualified wildlife biologist shall conduct a pre-construction survey no more than 14 days prior to initiation of these activities to provide confirmation on presence or absence of active nests in the vicinity. This shall include both a daytime visual survey for raptors and other diurnal bird species, and a nighttime survey for nesting owls.</li> <li>• If active bird nests are encountered, species-specific measures shall be prepared by a qualified biologist in consultation with the CDFG and implemented to prevent abandonment of the active nest. At a minimum, grading or vegetation removal near the nest shall be deferred until the young birds have fledged. A nest-setback zone based on site conditions and proximity of the nest to existing and proposed development shall be established within which all construction-related disturbance shall be prohibited. The perimeter of the nest-setback zone shall be fenced or adequately demarcated, and construction personnel restricted from the area.</li> <li>• If permanent avoidance of the nest is not feasible, impacts shall be minimized by prohibiting disturbance within the nest-setback zone until a qualified biologist verifies that the birds have either (a) not begun egg-laying and incubation, or (b) that the juveniles from the nest are foraging independently and capable of independent survival at an earlier date. A survey report by the qualified biologist verifying that the young have fledged shall be submitted to the Town of Tiburon prior to initiation of grading in the nest-setback zone.</li> </ul> |   |  |   |                         |
| <p><i>Mitigation Measure 5.5-2 Sensitive Natural Communities.</i><br/>The <i>Mitigation Program</i> called for in Mitigation Measure 5.5-1(c) shall include provisions that provide for the protection, replacement and enhancement of the native serpentine bunchgrass grasslands on</p>  | Project Applicant and Applicant's Consultant Biologist. | Compliance with specific conditions and completion of <i>Mitigation Program</i> prior to issuance of | Community Development Director and Town Engineer. |                         |

| <i>Mitigation Measure</i>  | <i>Implemented By</i> | <i>When Implemented</i>                           | <i>Monitored By</i> | <i>Verified By Date</i> |
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| <p>the site. Additional protection and enhancement measures shall include the following:</p> <ul style="list-style-type: none"> <li>Minimize disturbance to the stands of native serpentine bunchgrass and enhance this sensitive natural community type through removal of non-native species and improved vegetation management on the site. Where temporary, limited incursions into the stands of native grassland are unavoidable, adequate measures shall be taken to provide for the revegetation and restoration of areas disturbed during construction.</li> <li>Adjust the proposed residential use areas and associated landscaping on the south side of the proposed residences on Lots 5 and 6 so that the footprint of new structures, outdoor hardscape areas, and non-native landscaping is setback a minimum of 30 feet from the nearby stand of serpentine grassland. This would allow for improved fire safety clearance around the perimeter of the buildings without adversely affecting the native grasslands as part of routine fuel reduction and maintenance. The area within this setback distance can be restored, enhanced and managed as native grassland habitat, but would most likely be subject to routine cutting of the grassland cover.</li> <li>Refine the revised Preliminary Planting Plan and Planting Guideline to emphasize the use of native plant species indigenous to the site and surrounding area. Of particular concern is the proposed use of non-native grassland species in the grassland zones adjacent to the stands of serpentine bunchgrass, which should be exclusively native in Common Open Space. Highly undesirable species in landscape improvements on the site that could spread into the adjacent grassland and woodland habitat shall not be utilized. These undesirable species include: gum eucalyptus (<i>Eucalyptus globulus</i>), acacia (<i>Acacia</i> spp.), pampas grass (<i>Cortaderia selloana</i>), broom (<i>Cytisus</i> spp. and <i>Genista</i> spp.), gorse (<i>Ulex europaeus</i>), bamboo (<i>Bambusa</i> spp.), giant reed (<i>Arundo donax</i>), English ivy (<i>Hedera</i></li> </ul> |                       | grading, building, or other construction permits. |                     |                         |

| Mitigation Measure  | Implemented By                            | When Implemented  | Monitored By                                      | Verified By Date |
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| <p><i>helix</i>), German ivy (<i>Senecio milanioides</i>), Himalayan blackberry (<i>Rubus discolor</i>), cotoneaster (<i>Cotoneaster pannosus</i>), fennel (<i>Foeniculum vulgare</i>), yellow star thistle (<i>Centaurea solstitialis</i>), purple star thistle (<i>Centaurea calcitrapa</i>), and periwinkle (<i>Vinca</i> spp.).</p> <ul style="list-style-type: none"> <li>Restore any portions of the stands of serpentine bunchgrass disturbed during construction or proposed for enhancement through appropriate revegetation, maintenance and monitoring. Species used in the revegetation effort shall be native and indigenous to the site, utilizing plugs salvaged from the footprint of the construction zone, and seed collected from the vicinity. Salvaged material shall be properly maintained until ready for reinstallation in the fall season after completion of construction-related disturbance, and short-term irrigation may be required to ensure survival during re-establishment.</li> <li>Expand the extent of existing serpentine bunchgrass grassland by removing the non-native trees and shrubs within the footprint of the stands of native grasslands on the site. All slash from vegetation removed shall be disposed of properly. As part of this enhancement effort, consideration shall also be given to limited removal of invasive stands of native coyote bush, as called for in Mitigation Measure 5.5-1(c). The area within the driplines of the removed trees and shrubs shall be restored to a cover of native grassland, with supplemental seeding of locally collected seed provided to ensure successful re-establishment of native grassland cover.</li> <li>Provide long-term maintenance and monitoring of the serpentine bunchgrass grasslands, as called for in Mitigation Measure 5.5-1(c).</li> </ul> | Project Applicant's Consultant Biologist. | Conditions of approval for the project. Compliance with | Community Development Director and Town Engineer. |                  |
| <p><i>Mitigation Measure 5.5-3 Wetlands and Drainages</i></p> <p>(a) The <i>Mitigation Program</i> called for in Mitigation Measure 5.5-1(c) shall include provisions that provide for the protection, replacement and enhancement of the jurisdictional wetland and other waters on the</p>  |   |   |   |                  |

| <i>Mitigation Measure</i>  | <i>Implemented By</i> | <i>When Implemented</i>   | <i>Monitored By</i> | <i>Verified By Date</i> |
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| <p>Avoidance, protection and enhancement measures shall include the following:</p> <ul style="list-style-type: none"> <li>Refine the applicant's <i>Mitigation Recommendations</i> and implement appropriate measures to prevent inadvertent loss and degradation of jurisdictional waters to be protected, including restrictions on the limits of grading and installation of effective sedimentation and erosion controls. All wetland features to be protected shall be flagged by a qualified biologist prior to any grading, and initial construction activities shall be overseen by the qualified biologist, including installation of temporary protective fencing, silt-fencing, and trenching of subdrain systems.</li> <li>Provide adequate mitigation for any direct or indirect impacts on jurisdictional waters as coordinated with the CDFG, Corps, and RWQCB where complete avoidance is infeasible. Replacement wetlands shall be replaced at a minimum 2:1 replacement ratio and shall be established in suitable locations within the proposed Common Open Space. The wetland replacement component of the <i>Mitigation Program</i> shall emphasize establishment of native freshwater marsh habitat to enhance existing habitat values, and shall preferably be consolidated with other existing wetlands to be retained as part of the project.</li> <li>The wetland replacement component of the <i>Mitigation Program</i> shall specify performance criteria that meets the minimum 2:1 replacement ratio and defines the maintenance and long-term management responsibilities, monitoring requirements, and contingency measures. Monitoring shall be conducted by the qualified wetland specialist for a minimum of five years and continue until the success criteria are met.</li> </ul> <p>(b) As discussed in <i>Section 5.4 Hydrology and Water Quality</i> a SWPPP will be prepared and implemented using Best Management Practices to control both construction-related erosion and</p> |                       | <p>specific restrictions and completion of <i>Mitigation Program</i> prior to issuance of grading, building or other construction permits.</p> <p>Authorization from jurisdictional agencies provided prior to issuance of grading, building or other construction permits.</p> |                     |                         |

| <i>Mitigation Measure</i>   | <i>Implemented By</i> | <i>When Implemented</i>   | <i>Monitored By</i>                               | <i>Verified By Date</i> |
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| <p>sedimentation and project-related nonpoint discharge into waters on the site. The SWPPP shall contain detailed measures to control erosion of exposed soil, provide for revegetation of graded slopes before the start of the first rainy season following grading, address nonpoint source pollutants to protect wetlands and water quality in the drainages, and specify procedures for monitoring of the effectiveness of the measures.</p> <p>(c) Appropriate authorizations shall be obtained from the CDFG, Corps, USFWS, and RWQCB for all activities affecting jurisdictional waters, and all conditions required as part of any required agency authorization shall be implemented and adhered to as part of the project. Evidence that agency authorization has been secured shall be provided to the Town of Tiburon prior to issuance of grading, building or other construction permits for the project. The project contractor shall have copies of all agency authorizations available on-site, and shall comply with all conditions required by jurisdictional agencies.</p> | Project Applicant.    | Project approval conditioned to incorporate MM 5.5-4. Compliance with specific restrictions confirmed prior to issuance of grading, building, and construction permits. | Community Development Director and Town Engineer. |                         |
| <p><i>Mitigation Measure 5.5-4 Wildlife Habitat and Connectivity</i></p> <p>Measures recommended in Mitigation Measures 5.5-1, 5.5-2, and 5.5-3 would serve to avoid and minimize the loss of the sensitive habitats associated with the wetlands and native grasslands on the site, would prevent habitat degradation through further spread of invasive exotic plant species and landscape plantings, and would control access into the sensitive habitat areas. The following additional provisions shall be implemented to further protect wildlife habitat resources:</p> <ul style="list-style-type: none"> <li>Fencing shall be restricted to the Residential Use Areas on private lots, with provisions made to allow for continued wildlife movement between clusters of new residences on the site. Proposed deer fencing indicated in the Preliminary Planting Plan shall be revised to maintain opportunities for movement by larger terrestrial wildlife across the site, including deer. The location of deer fencing</li> </ul>  |                       |   |   |                         |

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| <p>shall be carefully sited to provide unobstructed corridors of at least 100 feet in width at key locations. These include the separations between Lots 12 and 13, Lots 10 and 11, Lots 1 and 2, and Lots 7 and 8. Enclosures may be utilized to protect selected plantings within these unobstructed corridors, but continuous fencing that would prevent or obstruct wildlife movement shall be prohibited. Easement restrictions on construction of deer fencing or other fencing that obstructs wildlife movement shall be recorded on the deed to the Common Open Space, individual private lots where wildlife corridors are provided, and the undeveloped portions of private lots outside the Residential Use Area.</p> <ul style="list-style-type: none"> <li>Lighting shall be carefully designed and controlled to prevent unnecessary illumination of the open space areas on the site. Lighting shall be restricted to the minimum level necessary to illuminate pathways, parking areas, and other outdoor areas around residences. Lighting shall generally be kept low to the ground, directed downward, and shielded to prevent illumination into adjacent natural areas.</li> <li>All garbage, recycling, and composting shall be kept in closed containers and latched or locked to prevent wildlife from using the waste as a food source.</li> <li>Pets shall be controlled by leash at all times in the Common Open Space areas on Parcels A and B, private roads, and undeveloped portions of private lots outside the proposed Residential Use Areas.</li> </ul> |   |   |                                 |                         |
| <p><i>Mitigation Measure 5.5-5 Conflicts with Tiburon Tree Ordinance and Wetland Polices</i></p> <ul style="list-style-type: none"> <li>Mitigation Measures 5.5-1 through 5.5-4 would generally serve to provide conformance with the applicable local goals, objectives, and policies.</li> <li>Comply with the Tiburon Tree Ordinance (Title IV, Chapter 15A</li> </ul>   | Project Applicant - refining proposed project plans.<br>Project | Evidence of compliance provided to Town during processing of tentative map. | Community Development Director. |                         |

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| <p>of the Tiburon Municipal Code). The <i>Mitigation Program</i> called for in Mitigation Measure 5.5-1(c) shall include provisions that provide for the protection and replacement of “protected trees” affected by proposed development. Details of the <i>Mitigation Program</i> shall include the following:</p> <ul style="list-style-type: none"> <li>Comply with the Tiburon Tree Ordinance. Section 15A-7 calls for a replacement ratio of up to 3:1 for trees removed. Flexibility with this standard shall preferably be considered by the Town of Tiburon for this project given the importance of protecting grassland resources on the site and the high density of indigenous and planted trees on the site, the majority of which would be preserved as part of the project. In achieving an adequate replacement ratio to mitigate the anticipated loss of protected trees, consideration shall be given to allowing the applicant to pay a partial in-lieu fee or provide a program for partial off-site mitigation if installing all of the replacement tree plantings on-site would compromise the remaining stands of native grasslands to be protected.</li> <li>Adhere to the Tree Preservation Guidelines specified in the <i>2005 Tree Survey</i>. Any provisions for replacement of “protected trees” must be balanced with the importance of maintaining the remaining grassland habitat on the site, which also provides important habitat for wildlife.</li> <li>Refine the Grading Plan to clearly show the location of all trees to be protected, trees at the limits of grading that shall be preserved if determined feasible during site grading and landslide remediation according to the Tree Preservation Guidelines, and those trees recommended for removal. The tree replacement program shall address all trees designated or considered to possibly require removal as a result of site development and landslide remediation.</li> <li>Refine the revised Preliminary Planting Plan to clearly indicate the location of replacement tree plantings on the site. Replacement</li> </ul> | <p>Biologist and landscape architect for refining avoidance and mitigation measures, and development of tree provisions.</p> |                         |                     |                         |

| <i>Mitigation Measure</i>  | <i>Implemented By</i>   | <i>When Implemented</i>  | <i>Monitored By</i>  | <i>Verified By Date</i> |
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| <p>tree plantings shall emphasize the use of native tree species and shall be designed to complement the existing oak woodland habitat without compromising the important native grasslands on the site.</p>   |   |  |  |                         |
| <p><b>GEOLOGY AND SOILS</b></p> <p><i>Mitigation Measure 5.6-1 Seismic Ground Shaking</i></p> <p>Future site development shall comply with all applicable seismic design provisions of the most currently accepted Building Code in effect at the time the applicant or individual lot owner applies for a building permit from the Town.</p>  | <p>Project Applicant; Architect; and individual lot owners.</p> | <p>Plan compliance verified prior to Building Permit issuance.<br/>Field compliance verified during permit inspection, prior to occupancy.</p>   | <p>Town of Tiburon Building Inspector.</p>                         |                         |
| <p><i>Mitigation Measure 5.6-2 Seismic-Related Ground Failure</i></p> <p>The applicant's geotechnical consultant shall analyze Risk Level A landslides to determine the calculated factor of safety using appropriate pseudo-static values. The consultant shall provide recommendations for repairing or improving unstable slopes and landslides that are categorized as Risk Level A to have a calculated factor of safety greater than 1.0 for seismic conditions</p>  | <p>Project Applicant's Geotechnical Consultant.</p>             | <p>Prior to grading permit issuance.</p>   | <p>Town Engineer and / or independent Geotechnical Consultant.</p> |                         |
| <p><i>Mitigation Measure 5.6-3 Landsliding</i></p> <ul style="list-style-type: none"> <li>• Detailed engineering geologic and geotechnical investigations shall be performed before development of roads and utilities and within proposed development areas of each individual lot.</li> <li>• One comprehensive grading plan shall incorporate all roads, lots, and open space. A design-level landslide repair program shall be established and implemented by the applicant.</li> <li>• Based on the design level analysis, all landslides shall be repaired, improved or avoided in accordance with the Town's</li> </ul> | <p>Project Applicant's Geotechnical Consultant.</p>             | <p>Geologic and geotechnical investigations performed prior to grading and / or building permit issuance.<br/>All landslides repaired, improved, or avoided before offering lots for sale.</p> | <p>Town Engineer and / or independent Geotechnical Consultant.</p> |                         |

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| <p><b>Landslide Mitigation Policy before offering lots for sale.</b></p> <p><b>Mitigation Measure 5.6-4 Slope Stability</b></p> <p>In order to mitigate the impacts of low shear strength of some bedrock / fill materials and potential erosion / failure of some slopes:</p> <ul style="list-style-type: none"> <li>• Cut slopes shall be examined during construction to determine whether they would be stable in the long-term. If the applicant's or lot owners' geotechnical consultant determines that the exposed bedrock materials are weaker than expected, this condition shall be mitigated by decreasing the proposed slope angle or by selectively using retaining walls.</li> <li>• Depending on the remolded shear strength of compacted fill materials used on the site, some of the proposed fill slopes shall be reinforced with mechanically stabilized embankments. This would allow for steeper slopes with enhanced long-term stability.</li> <li>• Design appropriate drainage facilities for all slopes with grades steeper than 5:1. Drainage facilities must be designed to be self-cleaning and allow for quick drainage.</li> <li>• Incorporate surficial stabilization methods into slope design to reduce erosion and surficial failures (see Mitigation Measure 5.6-7).</li> </ul> | <p>Project Applicant; individual lot owners; and / or their Geotechnical Consultants.</p> | <p>Prior to grading permit issuance and during construction.</p>                   | <p>Town Engineer and / or independent geotechnical consultant.</p>              |                         |
| <p><b>Mitigation Measure 5.6-5 Grading</b></p> <p>Implement acceptable methods of grading and also, where possible, minimize the extent of grading and the potential resulting corridor of disturbance. Typical performance criteria shall include:</p> <ul style="list-style-type: none"> <li>• Unsuitable materials (such as landslides, colluvium, residual soil and artificial fill) located in or adjacent to areas of proposed grading shall be removed and / or recompacted during landslide repair, grading operations for road and utility construction, or development of individual private lots under the observation of and testing by a</li> </ul>  | <p>Project Applicant; individual lot owners; geotechnical consultant.</p>                 | <p>Prior to grading permit issuance; during construction and before occupancy.</p> | <p>Town Engineer and independent geologist; Community Development Director.</p> |                         |

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| <p>geotechnical engineer.</p> <ul style="list-style-type: none"> <li>• The geotechnical consultant shall observe and direct grading operations, evaluate the effects of bedding or shear orientations and / or soil shear strength on the gross stability of existing and proposed slopes, and make site-specific determinations.</li> <li>• Natural and cut slopes shall be examined during grading to confirm their potential for long-term stability. If the geotechnical consultant determines that the exposed earth materials are weaker than expected, this condition shall be mitigated by recompaction as an earth buttress or stability fill or by the selected use of retaining walls or other acceptable methods.</li> <li>• Cut and fill slopes shall be planted with ground cover or in order to prevent erosion, raveling, or development of rills, sloughs, and other failures which could reduce the effectiveness of stabilization methods. This is because roots of newly planted vegetation would enhance the stability of graded slopes by holding materials in place.</li> <li>• All grading shall be performed in accordance with the Building Code and requirements of the Town.</li> <li>• All fills shall be compacted to a minimum of 90 percent relative compaction in loose lifts of six inches and placed at or near optimum moisture content. Before receiving fills, excavated area shall be stripped of unsuitable materials (such as loose surficial soils, organic materials, and deleterious debris). All unsuitable materials shall be removed from the site.</li> <li>• Geotechnical exploration shall be performed before grading in areas, which have not been thoroughly investigated in order to determine the depths and limits of removal and recompaction.</li> </ul> |  |                         |                     |                         |
| <p><i>Mitigation Measure 5.6-6 Secondary Effects of Grading</i><br/>Implementation of Mitigation Measures discussed in <i>Section 5.5</i></p>  | <p>See Mitigation Measures 5.5-1, 5.5-2, and 5.5-3 (Biological Resources).</p> |                         |                     |                         |

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| <p><b>Biological Resources</b> would reduce the secondary impacts of grading and subsurface drainage control on affected biotic resources to a less-than-significant level.</p> <p>Alternative slope stabilization measures should be considered that would reduce the secondary impacts to the biologic resources.</p> <p>Any alternative landslide stabilization plans shall be submitted to the Town of Tiburon and/or the Town's Geotechnical Consultant for review and conformation that the plans are in accordance with the Town's Landslide Mitigation Policy.</p>   |   |  |                       |                  |
| <p><b>Mitigation Measure 5.6-7 Expansive Soils</b></p> <p>Implement design criteria that would reduce the effects of shrinking and swelling soils on sloped, structures, roads and utilities to negligible level. The following measures shall be implemented:</p> <ul style="list-style-type: none"> <li>The measures in Mitigation Measure 5.6-4 shall be followed during the design and construction of slopes that would be constructed with the onsite expansive soils.</li> <li>Plasticity index or expansion index testing shall be performed after grading to determine the specific shrink-swell potential for development sites as deemed appropriate by the respective geotechnical engineer(s).</li> <li>Site-specific mitigation shall be identified which accounts for conditions present at proposed development sites. Typical measures to mitigate expansive soils shall include the following (or their equivalent): <ul style="list-style-type: none"> <li>Pre-saturate fill soils and place wet fill soils (above optimum moisture content) to expand the soils, thereby reducing potential damage to concrete by allowing room for future shrink / swell movement of the soils.</li> <li>Place a non-expansive imported soil in the upper part of building</li> </ul> </li> </ul> | <p>Project Applicant (roads, retaining walls, utilities); individual lot owners; and / geotechnical consultant.</p> | <p>Prior to grading permit issuance; during construction and before occupancy.</p> | <p>Town Engineer.</p> |                  |

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| <p>pads.</p> <p>Bury expansive soils deep in fills.</p> <p>Treat soil with lime.</p> <p>Mix expansive soils with less expansive soils.</p> <p>Use geogrid reinforcement of compacted fill slopes to increase surficial stability.</p> <p>Combine these techniques to provide the most effective mitigation.</p> <ul style="list-style-type: none"> <li>Residential development on individual lots shall be designed to account for each site's expansive soil conditions. Measures typically incorporated in building design shall include the following:</li> </ul> <p>Design foundation systems to incorporate measured variations of soil swell with effective confinement (dead weight).</p> <p>Strengthen foundations (beams).</p> <p>Use suspended wood floors, drilled piers and grade-beam foundations, floating slabs, or pre-stressed (post-tensions) slab-on-grade.</p> |                           |  |   |                         |
| <p><b>PUBLIC SERVICES</b></p>  |                           |  |   |                         |
| <p><i>Mitigation Measure 5.7-1 Fire Service Impact</i></p> <p>Revise the PDP to reflect standards of the TFPD related to fire apparatus access. This could be accomplished by providing multiple access points to the proposed structures through the inclusion of permanent landscape stairs and paths to the remote portions of the homes.</p>   | <p>Project Applicant.</p> | <p>Incorporated into design review drawings.</p> | <p>Planning Division, Town Engineer and the Tiburon Fire Protection District.</p> |                         |
| <p><i>Mitigation Measure 5.7-7 Water Service Impacts</i></p> <p>Redesign the on-site water supply system so that Lot 14 would be served by MMWD's existing water line in Paradise Drive.</p>   | <p>Project Applicant.</p> | <p>Incorporated into tentative map.</p>          | <p>Town Engineer and Marin Municipal Water District.</p>                          |                         |

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| <p><b>VISUAL QUALITY</b></p> <p><i>Mitigation Measure 5.8-1 View Looking North from Middle Ridge Open Space (Viewpoint No. 1)</i></p> <ul style="list-style-type: none"> <li>• Reduce the visual exposure and perceived mass of proposed houses on Lots 2, 3, 4, 5, 6 and 7 and the visual exposure of houses on the other lots to the extent that project elements do not attract attention when viewed from the Middle Ridge open space and therefore meet the visual dominance characteristic definition of subordinate (see Exhibit 5.8-2 on page 322 of Draft EIR). Means to accomplish this include the following: <ul style="list-style-type: none"> <li><input type="checkbox"/> For proposed houses on Lots 2, 3, 4, 5, 6 and 7: <ul style="list-style-type: none"> <li>▪ Delete Lot 4</li> <li>▪ Limit building height to 16 feet on Lots 2, 3, 5, and 6.</li> <li>▪ Limit total floor area to 4,500 square feet plus 600 square feet of garage space on lots 2, 3, 5, and 6.</li> <li>▪ Limit floor area to 4,500 square feet and height to two stories not to exceed 25 feet on lot 7.</li> </ul> </li> </ul> </li> <li><input type="checkbox"/> For all proposed houses that are in view from the open space: <ul style="list-style-type: none"> <li>▪ Consistent with the mitigation measures in <b>Section 5.5 Biological Resources</b> revise the Preliminary Planting Plan to plant native trees where they would screen the buildings so as to limit the exposure of each visible building façade to no more than 30 percent of the total façade area that would otherwise be seen in the view from Viewpoint No. 1.</li> </ul> </li> </ul> <p>Use glass that has a Visible Light Reflectance / Reflection value of less than nine percent for all exterior glass.</p> | <p>Project Applicant /Architect.</p> | <p>Prior to Design Review approval and before occupancy of homes.</p> | <p>Town of Tiburon Design Review Board and Community Development Director.</p> |                  |
| <p><i>Mitigation Measure 5.8-4 Light Pollution</i></p>   | <p>Project</p>                       | <p>Concurrent with</p>  | <p>Community</p>   |                  |

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| <p>Prepare a <i>Lighting Plan</i> to incorporate into the Precise Development Plan. The lighting plan shall require:</p> <ul style="list-style-type: none"> <li>• All light sources shall be shielded from off-site view.</li> <li>• All lights shall be downcast.</li> <li>• Escape of light to the atmosphere shall be minimized.</li> <li>• Low intensity, indirect light sources shall be encouraged.</li> <li>• Motion-activated lighting systems shall be encouraged.</li> <li>• Security lighting of driveways, parking areas, and garages shall use low-level bollards with shielded light unless this poses a safety hazard (as determined by the Tiburon Police Department), in which case the area shall be lit using as few as possible, motion-activated shielded lights.</li> <li>• Lighting of outdoor use areas and walkways shall be mounted on low-level elevation bollards or posts.</li> <li>• Floodlighting shall be prohibited.</li> <li>• Lighting of outdoor recreation areas shall be prohibited.</li> <li>• Mercury, sodium vapor, and similar intense and bright lights shall not be permitted except where their need is specifically approved and their source of light is restricted.</li> </ul> <p>Submittals for Site Plan and Architectural Review shall include information on the location, types, intensity, and design of exterior lighting consistent with the Lighting Plan.</p> | Applicant / Architect.               | Design Review.                      | Development Director.           |                         |
| <p><b>CULTURAL RESOURCES</b></p>  |                                      |                                     |                                 |                         |
| <p><i>Mitigation Measure 5.9-1 Potential Subsurface Cultural Deposits</i></p> <ul style="list-style-type: none"> <li>• Workers involved in ground disturbing activities shall be trained</li> </ul>   | Project Applicant and individual lot | Before issuance of grading permits. | Community Development Director. |                         |

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| <p>in the recognition of archaeological resources (e.g., historic and prehistoric artifacts typical of the general area), procedures to report such discoveries, and other appropriate protocols to ensure that construction activities avoid or minimize impacts to potentially significant cultural resources;</p> <ul style="list-style-type: none"> <li>In the event that archaeological artifacts, features or other cultural deposits are encountered during future grading, excavation, or other land alteration efforts, all work in the immediate vicinity of the find must be terminated until the discovery can be evaluated by an archaeologist. These discoveries may include prehistoric and / or historic materials. Depending on the extent and cultural composition of the materials, it may be advisable for subsequent excavations to be monitored by an archaeologist who would be ready to record, recover, and / or protect significant cultural materials from further damage. In the case of prehistoric resources, consultation with interested Native American groups is advised; and</li> <li>In the event that human skeletal remains are discovered anywhere on the site, work in the vicinity of the discovery must be discontinued and the Marin County Coroner must be contacted. If skeletal remains are found to be prehistoric Native American (not modern), the Coroner will call the Native American Heritage Commission in Sacramento within 24 hours; they in turn will identify the person(s) believed to be the "Most Likely Descendant" of the deceased Native American. The Most Likely Descendant would be responsible for recommending the disposition and treatment of the remains. The Most Likely Descendant may make recommendations to the landowner or the person responsible for the excavation work regarding the appropriate treatment and disposition of the human remains and any associated grave goods as provided in Public Resources Code Section 5097.98.</li> </ul> | owners.               |                         |                     |                         |