



**TOWN OF TIBURON**  
Tiburon Town Hall  
1505 Tiburon Boulevard  
Tiburon, CA 94920

Regular Meeting  
Tiburon Planning Commission  
July 27, 2016  
7:30 p.m.

**AGENDA**  
**TIBURON PLANNING COMMISSION**

**CALL TO ORDER AND ROLL CALL**

**Chair Williams, Vice Chair Corcoran, Commissioners Kulik, Weller and Welner**

**ORAL COMMUNICATIONS**

Persons wishing to address the Planning Commission on any subject not on the agenda may do so under this portion of the agenda. Please note that the Planning Commission is not able to undertake extended discussion, or take action on, items that do not appear on this agenda. Matters requiring action will be referred to Town Staff for consideration and/or placed on a future Planning Commission agenda. Please limit your comments to no more than three (3) minutes. Testimony regarding matters not on the agenda will not be considered part of the administrative record.

**COMMISSION AND STAFF BRIEFING**

Commission and Committee Report  
Director's Report

**PUBLIC HEARINGS**

**1. 72-130 MAIN STREET**

Request for a Lot Line Adjustment, amendment to an existing Conditional Use Permit and granting Variances for minimum lot area and floor area ratio limit; File #CUP2016003, LLA2016002, VAR2016020 & VAR2016025; Zelinsky Properties LLC, Owner/Applicant; Assessor's Parcel Nos. 059-102 -20 & 28 [DW]

Documents:

[72-130 MAIN STREET.PDF](#)

**2. TIBURON GLEN RESIDENTIAL PROJECT (PD #22)**

Request for extension of time on an approved Tentative Subdivision Map for the creation of three lots on 26 acres of land on Paradise Drive near Norman Way; File # TM2016-002; Assessor's Parcel No. 039-241 -01 [SA]

Documents:

## MINUTES

### 3. Planning Commission Minutes - Meeting of July 13, 2016

## ADJOURNMENT

## GENERAL PUBLIC INFORMATION

### **ASSISTANCE FOR PEOPLE WITH DISABILITIES**

In compliance with the Americans with Disabilities Act, if you need special assistance to participate in this meeting, please contact the Planning Division Secretary at (415) 435-7390. Notification 48 hours prior to the meeting will enable the Town to make reasonable arrangements to ensure accessibility to this meeting.

### **AVAILABILITY OF INFORMATION**

Copies of Design Review Board Agendas, Staff Reports, project files and other supporting data are available for viewing and inspection at Town Hall during business hours. Agendas and Staff Reports are also available at the Belvedere-Tiburon Public Library and on the Town of Tiburon website ([www.ci.tiburon.ca.us](http://www.ci.tiburon.ca.us)) after 5:00 PM on the Friday prior to the regularly scheduled meeting. Any documents produced by the Town and distributed to a majority of the Design Review Board regarding any item on this agenda, including agenda-related documents produced by the Town after distribution of the agenda packet at least 72 hours in advance of the Board meeting, will be available for public inspection at Town Hall, 1505 Tiburon Boulevard, Tiburon, CA 94920.

Upon request, the Town will provide written agenda materials in appropriate alternative formats, or disability-related modification or accommodation, including auxiliary aids or services, to enable individuals with disabilities to participate in public meetings. Please deliver or cause to be delivered a written request (including your name, mailing address, phone number and brief description of the requested materials and preferred alternative format or auxiliary aid or service) at least five (5) days before the meeting to the Planning Division Secretary at the above address.

### **PUBLIC HEARING ITEMS AND BUSINESS ITEMS**

Public Hearing items and Business items provide the general public and interested parties an opportunity to speak regarding items that typically involve an action or decision made by the Board. If you challenge any decision in court, you may be limited to raising only those issues you or someone else raised at the meeting, or in written correspondence delivered to the Board at, or prior to, the meeting.

### **GENERAL PROCEDURE ON ITEMS AND TIME LIMIT GUIDELINES FOR SPEAKERS**

The Design Review Board's general procedure on items and time limit guidelines for speakers are:

- Staff Update on Item (if any)
- Applicant Presentation – 5 to 20 minutes
- Design Review Board questions of staff and/or applicant
- Public Testimony (depending on the number of speakers) – 3 to 5 minutes for each speaker; members of the audience may not allocate their testimony time to other speakers
- Applicant may respond to public comments – 3 minutes
- Design Review Board closes the public testimony period, deliberates and votes (as warranted)
- Time limits and procedures may be modified in the reasonable discretion of the Chairman

Interested members of the public may address the Design Review Board on any item on the agenda.

### **ORDER AND TIMING OF ITEMS**

No set times are assigned to items appearing on the Design Review Board agenda. While the Design Review Board attempts to hear all items in order as stated on the agenda, it reserves the right to take items out of order without notice.

*NOTE: ALL PLANNING COMMISSION MEETINGS ARE AUDIO RECORDED*

**TOWN OF TIBURON LATE MAIL POLICY**

**(Adopted and Effective 11/7/2007)**

The following policy shall be used by the Town Council and its standing boards and commissions, and by staff of the Town of Tiburon, in the identification, distribution and consideration of late mail.

**DEFINITION**

"Late Mail" is defined as correspondence or other materials that are received by the Town after completion of the written staff report on an agenda item, in such a manner as to preclude such correspondence or other materials from being addressed in or attached to the staff report as an exhibit.

**IDENTIFICATION OF LATE MAIL**

All late mail received by Town Staff in advance of a meeting shall be marked "Late Mail" and shall be date-stamped or marked with the date of receipt by the Town. Late mail received at a meeting shall be marked as "Received at Meeting" with a date-stamp or handwritten note.

**POLICY**

For regular meetings of the Town Council and its standing boards and commissions:

1. All late mail that is received on an agenda item prior to distribution of the agenda packet to the reviewing authority shall be stamped or marked as "Late Mail" and shall be distributed to the reviewing authority with the agenda packet.
2. All late mail received on an agenda item before 5:00 PM on the Monday prior to the meeting shall be date-stamped and marked as "Late Mail" and distributed to the reviewing authority as soon as practicable. Such mail shall be read and considered by the reviewing authority whenever possible. If the Monday, or Monday and Tuesday, prior to the meeting are a Town-recognized holiday, the deadline shall be extended to the following day at Noon.
3. Any late mail received on an agenda item after the deadline established in paragraph (2) above shall be date-stamped, marked as "Late Mail" and distributed to the reviewing authority as soon as reasonably possible, but may not be read or considered by the reviewing authority. There should be no expectation of, nor shall the reviewing authority have any obligation to, read or consider any such late mail, and therefore such late mail may not become part of the administrative record for the item before the reviewing authority.

These provisions shall also apply to special and adjourned meetings when sufficient lead time exists to implement these provisions. If sufficient lead time does not exist, the Town Manager shall exercise discretion in establishing a reasonable cut-off time for late mail. For controversial items or at any meeting where a high volume of correspondence is anticipated, Town staff shall have the option to require an earlier late mail deadline, provided that the written public notice for any such item clearly communicates the specifics of the early late mail deadline, and the deadline corresponds appropriately to any earlier availability of the agenda packet.

Pursuant to state law, copies of all late mail shall be available in a timely fashion for public inspection at Tiburon Town Hall, 1505 Tiburon Boulevard, Tiburon.



TOWN OF TIBURON  
1505 Tiburon Boulevard  
Tiburon, CA 94920

Planning Commission Meeting  
July 27, 2016

Agenda Item: **PH-1**

## STAFF REPORT

**To:** Members of the Planning Commission

**From:** Community Development Department

**Subject:** 72-130 Main Street; File #CUP2016003, LLA2016002, VAR2016020 & VAR2016025; Request for a Lot Line Adjustment, Amend an Existing Conditional Use Permit and Grant Variances for Minimum Lot Area and Floor Area Ratio Limit; Zelinsky Properties LLC, Owner/Applicant; Assessor's Parcel Nos. 059-102-20 & 28

**Reviewed By:** \_\_\_\_\_

## PROJECT DATA

Address:	72-130 Main Street
Assessor's Parcel Numbers:	059-102-20 & 059-102-28
File Numbers:	CUP2016003, LLA2016002, VAR2016020 & VAR2016025
Lot Size:	2.5 acres
Zoning:	VC (Village Commercial)
General Plan:	VC (Village Commercial)
Current Use:	Mixed Use (Commercial and Office)
Owner/Applicant:	Zelinsky Properties LLC
Flood Zone:	AE-10 and X-0.2

## PROPOSAL

The applicant proposes to adjust the lot lines for two lots located at 72-130 Main Street. The proposed lot line adjustment would relocate an existing lot line located between the Tiburon Vintners Building at 72 Main Street and the remainder of Ark Row (74-130 Main Street) such that the Vintners Building would be on the same parcel as the other buildings on Ark Row, while 130 Main Street would be on a separate parcel of land. The result would be that 130 Main Street would be located on its own separate parcel while the other buildings on Ark Row (72-122 Main Street) would all be located on a single separate parcel. A conditional use permit is proposed to modify existing conditions of approval for the existing office use at 130 Main Street. Variances are proposed for minimum lot area and floor area ratio for the resulting lot at 130 Main Street.

## BACKGROUND

The two subject lots comprise nearly all of upper Main Street, commonly called Ark Row. The easterly lot (A.P. No. 059-102-28) contains the Tiburon Vintners Building at 72 Main Street and a small portion of the Main Street parking lot. The westerly lot (A.P. No. 059-102-20) contains

the remainder of the buildings along upper Main Street (74 through 130 Main Street) and the bulk of the Main Street parking lot.

The building at 130 Main Street was originally developed as a single-family dwelling and served as the home (an office) for Fred and Juanita Zelinsky until their deaths in the 1980s. In 1988, the Planning Commission approved a conditional use permit to convert the residential portion of 130 Main Street to office use. The building is now utilized as the offices for Zelinsky Properties, owned and operated by Laleh Zelinsky. The use permit required that three (3) on-site and three (3) off-site parking spaces be provided, the latter in what is now the pay parking lot located at 1525 Tiburon Boulevard. In 1988, both properties were owned by the Zelinsky family. Subsequent to Edward Zelinsky's passing in 2004, the family holdings were divided and a portion (including the parking lot at 1525 Tiburon Boulevard) is no longer held by the Zelinsky family.

## ANALYSIS

### Lot Line Adjustment

The proposed lot line adjustment would consolidate most of the buildings on Ark Row and the Main Street parking lot onto one parcel and leave only the existing office building at 130 Main Street on the other lot. This smaller parcel is directly adjacent to residential uses. The applicant has indicated that this request would enable the future possibility of converting this office building back to its original residential use and allow it to be sold separately or remain as a Zelinsky family holding. The proposal aims for a more logical arrangement of the lot boundaries without any physical changes to buildings or improvements.

As a result of the lot line adjustment, the larger lot (72-122 Main Street) would have a total area of 2.38 acres. The 130 Main Street lot would be 6,020 square feet in area and consist of the existing office building and its three on-site parking spaces. The lot line adjustment application has been reviewed by staff and found to be in compliance with the Town's regulations with the exception of the requested variances described further below.

### Conditional Use Permit

The conditional use permit amendment would modify existing conditions of approval for the office use at 130 Main Street. As noted above, the existing conditional use permit for this property requires that three required off-site parking spaces be maintained for this use in the parking lot at 1525 Tiburon Boulevard. As this parking lot is no longer owned by the applicant, a request has been made to relocate these required parking spaces to the Main Street parking lot, which is owned by Zelinsky Properties and located directly adjacent to 130 Main Street.

Staff recommends that the following condition of approval be adopted to reflect the current and future parking situation for the property at 130 Main Street:

4. Three (3) off-site parking spaces for the office use shall be secured and maintained at all times in the adjacent Main Street Parking Lot (AP#059-102-20). Said spaces shall be secured by a long-term lease agreement, the terms of which shall be reviewed and approved by the Town, prior to the recordation of the lot line

adjustment (LLA2016-002) grant deeds associated with this conditional use permit amendment. A copy of the executed lease shall be provided to the Town for its files immediately upon execution. Provisions of the lease shall require written Town approval prior to termination of the lease or modification of its terms. Loss of required parking spaces secured by the lease shall constitute valid cause for revocation of the conditional use permit. It is understood that future conversion of 130 Main Street to single family residential use would obviate the continuing need for the parking lease.

### Variances

A variance is requested for minimum lot area, as the resulting lot at 130 Main Street would be 6,020 square feet, which is less than the 10,000 square foot minimum lot size specified for the Village Commercial zone. A variance is also requested for floor area ratio, as the existing building at 130 Main Street has a floor area of 2,673 square feet (0.44 FAR), which is greater than the 0.28 floor area ratio limit specified in the Village Commercial zone.

In order to grant the requested variances, the Planning Commission must make all of the following findings required by Section 16-52.030 (E) of the Tiburon Zoning Ordinance:

- 1. Because of special circumstances applicable to the property, including size, shape, topography, location, or surroundings, the strict application of this Ordinance will deprive the applicant of privileges enjoyed by other properties in the vicinity and in the same or similar zones.***

### Lot Area

The subject properties form Ark Row and represent a unique physical arrangement of buildings, with the main parcel holding 13 separate buildings, many of which are former “arks” and have historical significance. The other parcel contains the Tiburon Vintners Building, also a structure of historical significance. The office building at 130 Main Street is of newer construction and is not of architectural or historic significance. It is a structure that was originally designed as a single-family dwelling that is used now for office purposes, but unlike any other building on Ark Row it has its own separate vehicular access and dedicated on-site parking. The other structures along Ark Row are restored “arks” later converted to commercial use, or are buildings designed as commercial buildings. Together these form a cohesive and unbroken span of commercial businesses with a unique ambience, before one reaches the driveway entrance to 130 Main Street. The separate and distinct physical nature of 130 Main Street is a physical characteristic that would create special circumstances that would deprive the applicant of privileges enjoyed by other properties in the vicinity and in the same or similar zones if minimum lot size requirement is strictly applied. It is not logical to require a larger lot area than proposed for this structure given the layout of the adjoining parking lot and the presence of on-site parking already on the property. The 10,000 square foot minimum lot size standard for the Village Commercial Zone was primarily intended to be applied to newly-subdivided (or re-subdivided) lands. Numerous other parcels in this zone have lot areas less than 10,000 square

feet, which is not unexpected in an older commercial area such as downtown Tiburon.

#### Floor Area Ratio

As noted above, the proposed lot at 130 Main Street was originally developed with a single-family dwelling, as opposed to other commercial uses in the vicinity. The floor area ratio for the NC zone was intended primarily to limit the amount of commercial space on a lot in this zone, and thereby prevent overdevelopment on any given lot. No additional development is proposed here, and the approved and possible future uses of the building do not contemplate an overburdening of the site. The intended purpose of the floor area ratio and the separate and distinct nature of the structure at 130 Main Street are special circumstances that would deprive the applicant of privileges enjoyed by other properties in the vicinity and in the same or similar zones if maximum floor area ratio is strictly applied in this instance.

- 2. The Variance will not constitute a grant of special privileges, inconsistent with the limitations upon other properties in the vicinity and in the same or substantially the same zone.***

#### Lot Area

As noted above, the minimum lot area standard for the Village Commercial zone was primarily to regulate creation of newly-created subdivisions or re-subdivisions of land, presumably resulting from large-scale property redevelopment. No changes to the development pattern are proposed here. Numerous existing lots with single structures in downtown Tiburon have lot areas as small as or smaller than the size of the proposed lot at 130 Main Street. Therefore, the requested variance would not be a grant of special privileges, inconsistent with the limitations upon other properties in the vicinity and in the same or substantially the same zone.

#### Floor Area Ratio

The 0.44 floor area ratio for the proposed lot at 130 Main Street would be consistent with, or less than, the floor area ratio of many of the other smaller lots developed with a single structure in downtown Tiburon. Therefore, the requested variance would not be a grant of special privileges, inconsistent with the limitations upon other properties in the vicinity and in the same or substantially the same zone.

- 3. The strict application of this Zoning Ordinance would result in practical difficulty or unnecessary physical hardship. Self-created hardships may not be considered among the factors that might constitute special circumstances. A self-created hardship results from actions taken by present or prior owners of the property that consciously create the very difficulties or hardships claimed as the basis for an application for a Variance.***

Lot Area

The strict application of the minimum lot area standard would result in an unnecessary hardship by preventing the property owner from creating a separate ownership for this independently-accessible and largely stand-alone building at 130 Main Street from the remainder of Ark Row. It makes far more sense to consolidate the currently separate Tiburon Vintners Building with the remainder of Ark Row buildings while separating the building at 130 Main Street from the others, for the reasons stated above. The end result will be a more logical and superior arrangement of parcel lines and interface with the Main Street parking lot than currently exists.

Floor Area Ratio

The strict application of the maximum floor area standard would result in an unnecessary hardship by either requiring the size of the existing structure to be reduced in order to approve its separate lot ownership or requiring this distinctive use to be permanently attached to dissimilar uses as part of a larger mixed-use lot and perpetuating an inferior existing physical relationship between the building at 130 Main Street and the larger Main Street parking lot.

4. ***The granting of the variance will not be detrimental to the public welfare or injurious to other properties in the vicinity.***

Lot Area

The proposed lot configuration would not change the existing use or area of the building at 130 Main Street or the remainder of Ark Row and therefore would not be injurious to other properties in the vicinity. Parking for any continuation of the office use would be through a long-term lease with an adjoining lot and would replace a current situation where off-site parking is allocated several hundred feet away from the building on a property now under separate ownership.

Floor Area Ratio

The proposed lot would not change the size or use of the existing building at 130 Main Street or the remainder of Ark Row and therefore would not be injurious to other properties in the vicinity.

From the evidence provided, Staff believes that there is sufficient evidence to support the findings for the requested variances. Staff is of the opinion that these applications would result in a more sensible and superior physical lot arrangement than currently exists, notwithstanding the technical non-conformities of lot area and floor area ratio involved in making the approval.

## **ENVIRONMENTAL REVIEW**

Staff has preliminarily determined that the subject applications are exempt from the requirements of the California Environmental Quality Act (CEQA) under various categories, including Section 15301(k) of the CEQA Guidelines, Section 15305(a) of the CEQA Guidelines, Section 15061(b)(3) of the State CEQA Guidelines, and the ministerial exemption found in the Town of Tiburon's Environmental Guidelines for minor lot line adjustments involving four or fewer adjoining parcels and where no increased number of lots is created.

## **PUBLIC COMMENT**

As of the date of this report, no letters have been received regarding the subject application.

## **RECOMMENDATION**

Staff recommends that the Planning Commission:

1. Hold a public hearing on this item and hear and consider all testimony, and
2. In a single motion, move to adopt the resolutions approving the lot line adjustment (**Exhibit 1**), conditional use permit (**Exhibit 2**) and variances (**Exhibit 3**).

## **EXHIBITS**

1. Draft Resolution approving the lot line adjustment
2. Draft resolution approving the conditional use permit
3. Draft resolution approving the variances
4. Application form and supplemental materials
5. Submitted plans

Prepared By: Daniel M. Watrous, Planning Manager  
Scott Anderson, Director of Community Development

**RESOLUTION NO. 2016-DRAFT**

**A RESOLUTION OF THE PLANNING COMMISSION OF THE TOWN OF TIBURON  
APPROVING A LOT LINE ADJUSTMENT FOR PROPERTIES LOCATED AT  
72-130 MAIN STREET**

ASSESSOR PARCEL NOS. 059-102-20 & 059-102-28

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

Section 1. Findings.

- A. The Planning Commission has received an application (LLA2016002) to adjust the lot lines between two lots under the same ownership. Said application consists of the application form and supplemental materials received on June 15, 2016. 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 July 27, 2016, and heard and considered testimony from interested persons.
- C. The Planning Commission has found that the lot line adjustment is exempt from CEQA under Section 15305(a) of the CEQA Guidelines and under the "general rule", pursuant to Section 15061(b)(3) of the State CEQA Guidelines. The project is also ministerially exempt under the Town of Tiburon's Environmental Guidelines as it is a minor lot line adjustment involving four or fewer adjoining parcels and no new lots are created.
- D. The Planning Commission has found, based upon the application materials and analysis provided in the July 27, 2016 Staff Report, that the lot line adjustment, as conditioned, is consistent with the Tiburon General Plan and is in compliance with applicable sections of the Tiburon Municipal Code, specifically Section 14-11.2, and other applicable regulations, as follows:
  - 1. The project constitutes a minor lot line adjustment, pursuant to Government Code Section 66412(d), in that it involves four or fewer adjoining parcels, where the land is taken from one parcel and is added to an adjoining parcel, and where a greater number of parcels than originally existed is not thereby created. The Town's discretion is therefore limited by State law to a determination of whether the lot line adjustment will conform to the Tiburon General Plan, the Tiburon Zoning Ordinance, and the Building Regulations of the Town.

2. The project is consistent with the General Plan land use designations for the properties.
3. The project is consistent with provisions of the Tiburon Zoning Ordinance relative to minimum required yards, minimum required lot width and all other standards and regulations, with the exception of variances requested for minimum lot area and floor area ratio limit.
4. The proposed lot line adjustment will not result in any new building code violations or other non-conformities with the building regulations of the Town.
5. The proposed lot line adjustment is consistent with the Tiburon Subdivision Ordinance sections regulating lot line adjustments in that no additional lots or parcels would be created; no new encroachments into public right-of-way will result; and no violation of the building regulations will result.

Section 2. Approval.

NOW, THEREFORE, BE IT RESOLVED that the Planning Commission of the Town of Tiburon does hereby approved the lot line adjustment application (File #LLA2016001). This approval shall be valid for one year from the date of this letter and shall expire unless the lot line adjustment deed or map is recorded by appropriate means, pursuant to state law, with the office of the Marin County Recorder.

PASSED AND ADOPTED at a regular meeting of the Planning Commission on July 27, 2016, by the following vote:

AYES:            COMMISSIONERS:

NAYS:            COMMISSIONERS:

ABSENT:        COMMISSIONERS:

\_\_\_\_\_  
ERICA WILLIAMS, CHAIR  
TIBURON PLANNING COMMISSION

ATTEST:

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

RECORDING REQUESTED  
WHEN RECORDED, RETURN TO:  
Tiburon Planning Division  
1505 Tiburon Boulevard  
Tiburon, CA 94920  
Record without fee per GC 27383

**RESOLUTION NO. 2016-DRAFT**

A RESOLUTION OF THE PLANNING COMMISSION OF THE TOWN OF TIBURON  
AMENDING A CONDITIONAL USE PERMIT TO REVISE THE LOCATION AND  
PROVISIONS REGARDING OFF-SITE PARKING ASSOCIATED WITH AN OFFICE USE  
LOCATED AT 130 MAIN STREET  
ASSESSOR PARCEL NO. 059-102-20

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

Section 1. Findings.

- A. On September 14, 1988, the Planning Commission adopted Resolution No. 448-88 approving a change of use for the building located at 130 Main Street from residential/office to office. That permitted required that in addition to three on-site parking spaces, three off-site parking spaces be provided for the expanded office use. Specifically, Condition No. 4 of Resolution No. 448-88 read as follows:
4. Three (3) off-site parking spaces shall be provided and maintained at all times in the Mar West Parking lot (AP#58-171-78) in a manner that conforms with the Town's laws and statutes and in a manner that shall be revocable by the Town should the use of the Mar West lot be changed.
- B. The Planning Commission finds that over the intervening 28 years, circumstances have changed such that Condition No. 4 should be modified to reflect current ownership patterns in Downtown Tiburon, to relocate the required off-site parking to a property adjacent to and under the same ownership as 130 Main Street, and to set forth provisions in the event that ownership changes in the future such that the off-site parking is no longer under the direct control of the owner of 130 Main Street.
- C. The Planning Commission has received an application (CUP2016003) to amend the conditional use permit. Said application consists of the application form and supplemental materials received on June 15, 2016. 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.

- D. The Planning Commission held a duly-noticed public hearing on July 27, 2016, and heard and considered testimony from interested persons.
- E. The Planning Commission has found that the amendment is exempt from the requirements of the California Environmental Quality Act per Section 15301 (Existing Facilities) of the CEQA Guidelines.
- F. The Planning Commission has found, based upon the application materials and analysis provided in the July 27, 2016 Staff Report, that the conditional use permit amendment, as conditioned, is consistent with the Tiburon General Plan and is in compliance with applicable sections of the Tiburon Zoning Ordinance, specifically Section 16-32.030, and other applicable regulations.

Section 2. Approval.

NOW, THEREFORE, BE IT RESOLVED that the Planning Commission of the Town of Tiburon does hereby modify Condition No. 4 of Resolution No. 448-88, adopted September 14, 1988, to read as follows:

4. Three (3) off-site parking spaces for the office use shall be secured and maintained at all times in the adjacent Main Street Parking Lot (AP#059-102-20). Said spaces shall be secured by a long-term lease agreement, the terms of which shall be reviewed and approved by the Town, prior to the recordation of the lot line adjustment (LLA2016-002) grant deeds associated with this conditional use permit amendment. A copy of the executed lease shall be provided to the Town for its files immediately upon execution. Provisions of the lease shall require written Town approval prior to termination of the lease or modification of its terms. Loss of required parking spaces secured by the lease shall constitute valid cause for revocation of the conditional use permit. It is understood that future conversion of 130 Main Street to single family residential use would obviate the continuing need for the parking lease.

PASSED AND ADOPTED at a regular meeting of the Planning Commission on July 27, 2016, by the following vote:

AYES:            COMMISSIONERS:

NAYS:            COMMISSIONERS:

ABSENT:        COMMISSIONERS:

\_\_\_\_\_  
ERICA WILLIAMS, CHAIR  
TIBURON PLANNING COMMISSION

ATTEST:

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

**RESOLUTION NO. 2016-DRAFT**

**A RESOLUTION OF THE PLANNING COMMISSION OF THE TOWN OF TIBURON  
APPROVING VARIANCES FOR MINIMUM LOT AREA AND FLOOR AREA RATIO  
LIMIT FOR PROPERTY LOCATED AT 130 MAIN STREET**

ASSESSOR PARCEL NO. 059-102-20

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

Section 1. Findings.

- A. The Planning Commission has received applications (VAR2016020 & VAR2016025) for variances for minimum lot area and floor area ratio limit accompanying a request to adjust the lot lines between two lots under the same ownership. Said application consists of the application form and supplemental materials received on June 15, 2016. 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 July 27, 2016, and heard and considered testimony from interested persons.
- C. The Planning Commission has found that the variances are exempt from CEQA under Section 15305(a) of the CEQA Guidelines.
- D. The Planning Commission has found, based upon the application materials and analysis provided in the July 27, 2016 Staff Report, that the lot line adjustment, as conditioned, is consistent with the Tiburon General Plan and that findings can be made in conformance with the requirements of Section 16-52.030 (E) of the Tiburon Zoning Ordinance.

Section 2. Approval.

NOW, THEREFORE, BE IT RESOLVED that the Planning Commission of the Town of Tiburon does hereby approve the variance applications (File #VAR2016020 & VAR2016025). This approval shall be valid for one year from the date of this letter and shall expire unless the lot line adjustment deed or map is recorded by appropriate means, pursuant to state law, with the office of the Marin County Recorder.

PASSED AND ADOPTED at a regular meeting of the Planning Commission on July 27, 2016, by the following vote:

AYES:                      COMMISSIONERS:

NAYS: COMMISSIONERS:

ABSENT: COMMISSIONERS:

\_\_\_\_\_  
ERICA WILLIAMS, CHAIR  
TIBURON PLANNING COMMISSION

ATTEST:

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



JUN 15 2015  
PLAN ROOM 151011

# TOWN OF TIBURON LAND DEVELOPMENT APPLICATION

## TYPE OF APPLICATION

- Conditional Use Permit
- Precise Development Plan
- Secondary Dwelling Unit
- Zoning Text Amendment
- Rezoning or Prezoning
- General Plan Amendment
- Temporary Use Permit
- Design Review (DRB)
- Design Review (Staff Level)
- Variance(s) \_\_\_\_\_ #
- Floor Area Exception
- Tidelands Permit
- Sign Permit
- Tree Permit
- Tentative Subdivision Map
- Final Subdivision Map
- Parcel Map
- Lot Line Adjustment
- Condominium Use Permit
- Seasonal Rental Unit Permit
- Other \_\_\_\_\_

## APPLICANT REQUIRED INFORMATION

SITE ADDRESS: 130 MAIN ST. PROPERTY SIZE: 2.5 ACRES  
 PARCEL NUMBER: 059-102-20 f 28 ZONING: VC

PROPERTY OWNER: ZELINSKY PROPERTIES LLC, LALEH ZELINSKY  
 MAILING ADDRESS: 130 MAIN ST. TIBURON 94920

PHONE/FAX NUMBER: 415-435-1053 E-MAIL: LALEH\_ZELINSKY@SBKGLOBAL.N

APPLICANT (Other than Property Owner): CLAUDE PERASSO  
 MAILING ADDRESS: 41 PENINSULA RD, BELVEDERE 94920

PHONE/FAX NUMBER: 415-609-7135 E-MAIL: CLAUDEPERASSO@YAHOO.COM

ARCHITECT/DESIGNER/ENGINEER JAY HALLBERG JL ENGINEERING  
 MAILING ADDRESS: 1539 FOURTH ST. SAN RAFAEL CA, 94901

PHONE/FAX NUMBER: 415-457-6647 E-MAIL: ADMIN@JLENGERS.COM

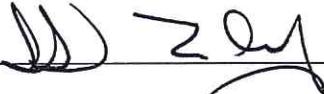
*Please indicate with an asterisk (\*) persons to whom Town correspondence should be sent.*

### **BRIEF DESCRIPTION OF PROPOSED PROJECT (attach separate sheet if needed):**

LOT LINE ADJUSTMENT TO SEPARATE 130 MAIN ST. TO  
BE ON ITS OWN SEPARATE PARCEL.  
MINOR LOT LINE ADJUSTMENT

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, with the defense counsel subject to the Town's approval. 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: \*  Date: 6.15.16

The property involving this permit request may be subject to deed restrictions called Covenants, Conditions and Restrictions (CC&Rs), which may restrict the property's use and development. These deed restrictions are private agreements and are NOT enforced by the Town of Tiburon. Consequently, development standards specified in such restrictions are NOT considered by the Town when granting permits.

You are advised to determine if the property is subject to deed restrictions and, if so, contact the appropriate homeowners association and adjacent neighbors about your project prior to proceeding with construction. Following this procedure will minimize the potential for disagreement among neighbors and possible litigation.

Signature: \* \_\_\_\_\_ Date: \_\_\_\_\_

*\*If other than owner, must have an authorization letter from the owner or evidence of de facto control of the property or premises for purposes of filing this application*

**NOTICE TO APPLICANTS**

Pursuant to California Government Code Section 65945, applicants may request to receive notice from the Town of Tiburon of any general (non-parcel-specific), proposals to adopt or amend the General Plan, Zoning Ordinance, Specific Plans, or an ordinance affecting building or grading permits.

If you wish to receive such notice, then you may make a written request to the Director of Community Development to be included on a mailing list for such purposes, and must specify which types of proposals you wish to receive notice upon. The written request must also specify the length of time you wish to receive such notices (s), and you must provide to the Town a supply of stamped, self-addressed envelopes to facilitate notification. Applicants shall be responsible for maintaining the supply of such envelopes to the Town for the duration of the time period requested for receiving such notices.

The notice will also provide the status of the proposal and the date of any public hearings thereon which have been set. The Town will determine whether a proposal is reasonably related to your pending application, and send the notice on that basis. Such notice shall be updated at least every six weeks unless there is no change to the contents of the notice that would reasonably affect your application. Requests should be mailed to:

**Town of Tiburon**  
**Community Development Department**  
**Planning Division**  
1505 Tiburon Boulevard  
Tiburon, CA 94920  
(415) 435-7390 (Tel) (415) 435-2438(Fax)  
[www.townoftiburon.org](http://www.townoftiburon.org)

**DO NOT WRITE BELOW THIS LINE**

<b>VAR 2016020</b>			<b>DEPARTMENTAL PROCESSING INFORMATION</b>		
<b>Application No.:</b>	CU P 2016003 & LA 2016002	<b>GP Designation:</b>		<b>Fee Deposit:</b>	\$2950 <sup>00</sup>
<b>Date Received:</b>	6/15/16	<b>Received By:</b>	DCW	<b>Receipt #:</b>	R1386
<b>Date Deemed Complete:</b>		<b>Action:</b>		<b>By:</b>	
<b>Acting Body:</b>				<b>Date:</b>	
<b>Conditions of Approval or Comments:</b>	_____		<b>Resolution or Ordinance #</b>	_____	





## APPLICATION FOR VARIANCE

A Variance is a form of regulatory relief available when a strict or literal application of zoning development standards would result in practical difficulties or unnecessary physical hardships for an applicant. These difficulties and/or hardships must be caused by physical conditions on, or in the immediate vicinity of, a site. Please refer to Section 16.52.030 of Chapter 16 (Zoning) of the Tiburon Municipal Code for additional information regarding Variances.

### WHAT VARIANCE(S) ARE YOU REQUESTING?

<u>Condition</u>	<u>Zoning VC Requirement</u>	<u>Existing Condition</u>	<u>This Application Proposes</u>	<u>Magnitude Of Variance Requested</u>
Front Yard Setback	CUP <sup>12</sup> / <sub>15'</sub>	28.2 FT.	28.2 FT.	0
Rear Yard Setback	CUP 18-25' max.	16.5 FT.	16.5 FT.	2'
Left Side Yard Setback	CUP 8'	5.9 FT.	5.96 FT.	2.2'
Right Side Yard Setback	CUP 8'	10.6 FT.	10.6 FT.	0
Lot Coverage	CUP		40.5%	
Height	30	28.3 FT.	28.3 FT.	0
Parcel Area Per Dwelling Unit	10,000	87,212	6,020	- 40%
Usable Open Space				
Parking	3-6	3-6	3-6	0
Expansion of Nonconformity				
Other (Please describe):	_____			
	_____			
	_____			

EXHIBIT NO. 4 P. 4 OF 5

(C) Use and management information:

(1) Written statement(s) describing the characteristics of the use proposed, including, but not limited to, the following:

- a. Number of people involved either as employees, clients, students, customers, etc.

**With respect to office use, there are typically 5 or more people in the building, comprised of employees, tenants and other guests.**

- b. Type of vehicular traffic involved--auto only, truck deliveries, parent drop off/pick up, etc.

**The building use does not create vehicular traffic other than the use of one parking space.**

- c. Hours of operation.

**Office hours are Monday-Friday 8:30 to 5pm. Occasional use on the weekends.**

- d. Product produced.

**No product is produced.**

- e. Outdoor activities (storage, work, auto-stacking for drive-up windows).

**No outdoor activities.**

- f. Odors, noise, dust, or glare involved.

**None**

- g. Hazardous or volatile materials or chemicals involved.

**None**

- h. In multi-tenant buildings, a list of all other tenants, their square footage occupied, number of employees at maximum shift, and parking spaces available may be required.

**N/A. Single user building.**

- (2) Written statement setting forth any lease controls or management programs that will ensure that the use will not be detrimental to surrounding uses in the area or to the Town in general.

**With respect to residential use, the building would function as a single-family dwelling. This use is in keeping with the neighborhood. With respect to office use, it would function as a traditional office, with extraordinary noise or parking.**

- (3) If the use is to be established in a location previously occupied by a different use, briefly describe the last use which existed there.

**The present use is office. Previous use was residential.**

EXHIBIT NO. 4 P. 5045



TOWN OF TIBURON  
1505 Tiburon Boulevard  
Tiburon, CA 94920

Planning Commission Meeting  
July 27, 2016  
Agenda Item: **PH-2**

## STAFF REPORT

To: **Members of the Planning Commission**

From: **Community Development Department**

Subject: **Tiburon Glen Residential Project (PD#22): Request for Extension of Time on an Approved Tentative Subdivision Map for the Creation of Three lots on 26 Acres of Land on Paradise Drive near Norman Way**

## PROJECT DATA

Address: 3700 Block (upslope side) of Paradise Drive  
Assessor's Parcel Number: 39-241-01  
File Number: TM2016-002 (formerly #60604)  
General Plan: PD-R (Planned Development-Residential)—Up to 0.3 du/acre  
Zoning: RPD (Residential Planned Development)  
Property Size: 26.04 acres  
Current Use: Undeveloped Land  
Owner: Xanadu Property Holdings, LLC  
Applicants: Sam Kapukchyan & Armen Nersisyan  
Flood Zone: X (outside 500 year storm event flood area)

## BACKGROUND

On March 28, 2007, the Planning Commission approved a tentative subdivision map for the Tiburon Glen project, which proposed three single family lots on 26 acres of land on Paradise Drive near Norman Way (see **Exhibit 1**). In April 2006, the Town Council had approved a precise development plan application for this property. The precise development plan approved the project density, size, location, and height of homes; and resolved the controversial issues associated with development of this property. The project review process had been lengthy and detailed, involving over five years of Town review and four volumes of environmental impact report documents. By the time of approval, the original 8-unit proposal was reduced to three lots with roughly 95% of the site preserved as open space outside of approved residential use areas.

The Town's 2007 tentative map approval was valid for three years, but automatic time extensions repeatedly authorized by the California State Legislature during the economic recession have extended the life of the tentative map to March 28, 2017.

The staff report and Planning Commission resolution for the 2007 tentative map approval are attached as **Exhibits 2 and 3** and provide additional background information on the project.

## **ANALYSIS**

The request before the Commission is a time extension of the approved tentative map for up to three years. The Commission may choose to approve a lesser time extension if warranted. Neither the Tiburon Subdivision Ordinance nor the State Subdivision Map Act contains specific criteria for assessing time extension requests for tentative maps. Generally speaking, time extensions for tentative maps are largely routine and automatic, unless the project is no longer consistent with the community's general plan or circumstances in the project area have changed so dramatically that the project could no longer be reviewed in the same context. Neither of these factors exists in this case. The General Plan is virtually unchanged since 2007 and the project vicinity has changed little in the nine years since initial approval of the tentative map.

Furthermore, it is clear that the applicants have not abandoned the project, and in fact have a parcel map application currently on file with the Town that would complete the subdivision process and create the three lots. For several years the ongoing national economic recession inhibited forward movement on the project; the State Legislature automatically extended all approved tentative maps throughout California precisely for this reason. Additionally, this is a challenging site with numerous environmental complexities, and the various state and federal agencies that require approvals subsequent to the Town's tentative map approval are still reviewing the project's detailed subdivision improvement drawings and may require project changes that could trigger revisions to the Town's Precise Development Plan approval. The Planning Commission (and Town Council) would review any such revisions through the public hearing process once they may become known, but it is not out of the question that a full three-year time extension might be necessary to complete all of the local, state and federal permitting associated with this project and complete the parcel map and subdivision improvement drawing review and approval process prior to the extended expiration date of the tentative map.

## **PUBLIC COMMENTS**

As of the date of this report, no public letters or phone calls have been received regarding this application. Notification of the application was mailed out to all property owners within 500 feet of the property comprising approximately 60 households plus affected homeowner associations.

## **ENVIRONMENTAL STATUS**

An environmental impact report was certified by the Town Council for this project. No changes to the project are proposed that would require additional environmental review. All adopted mitigation measures apply.

## **RECOMMENDATION**

Staff recommends that the Planning Commission take any public testimony on this item and adopt the draft resolution (**Exhibit 4**) granting a three year time extension of the tentative map, with a new expiration date of March 28, 2020.

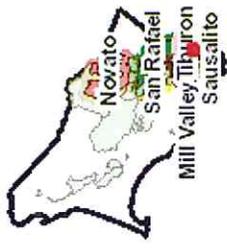
**EXHIBITS**

1. Vicinity Map.
2. Planning Commission Staff Report dated March 28, 2007.
3. Planning Commission Resolution 2007-02.
4. Draft Resolution extending the lifetime of the tentative map approval.
5. Tiburon Glen Estates Tentative Map drawings (4 sheets).

Prepared by: Scott Anderson, Director of Community Development

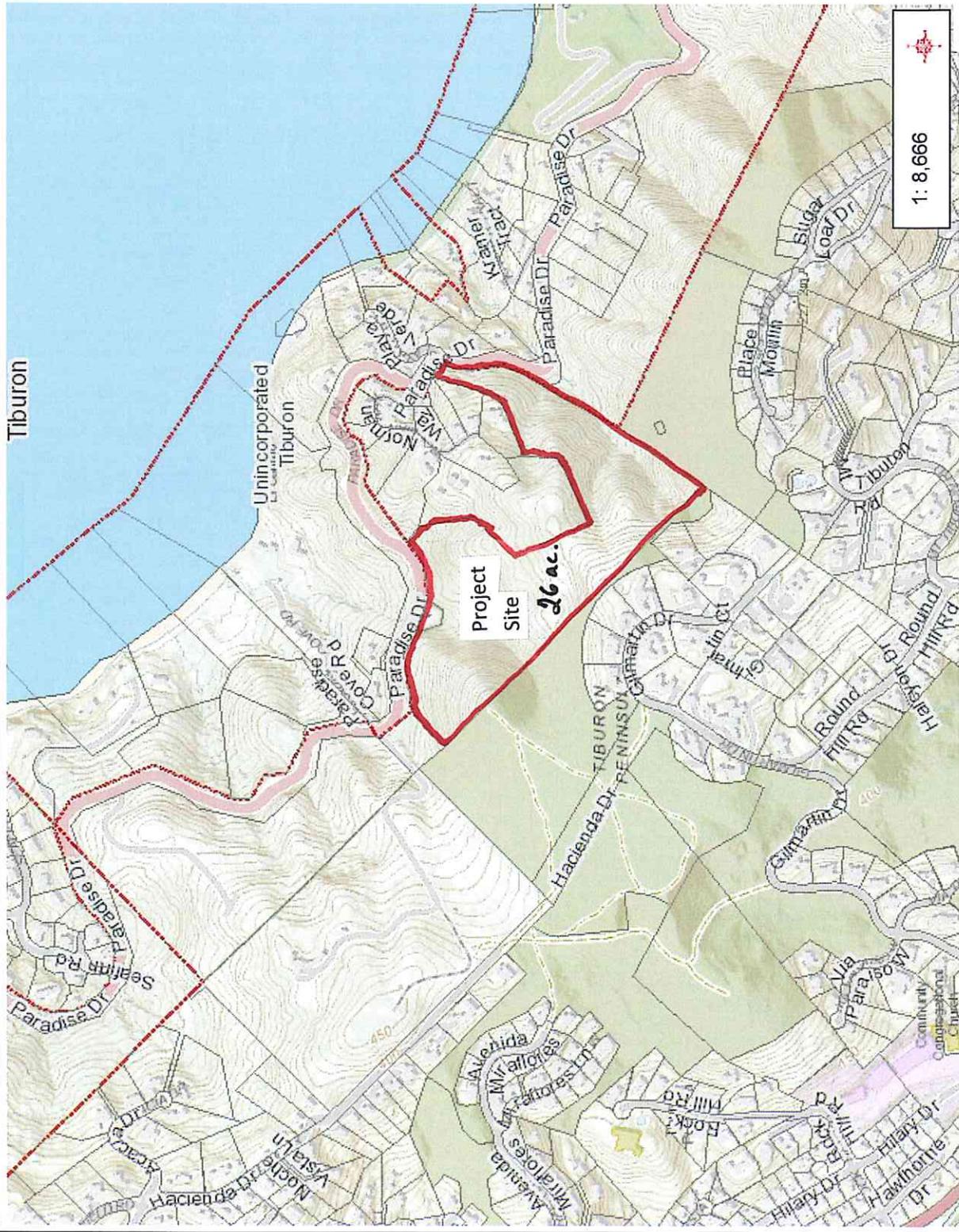
A handwritten signature in blue ink, appearing to be 'SA', with a long horizontal stroke extending to the right.

# Tiburon Glen Project Vicinity Map



Legend	
Address	Parcel Secured
Condominium Common Area	Mobile Home Pad
City	Community
Marin County Legal Boundary	Other Bay Area County
Ocean and Bay	

**Notes**



1 : 8,666

This map is a user generated static output from an Internet mapping service for reference only. Data layers that appear on this map may or may not be accurate, current, or otherwise in compliance with applicable laws. THIS MAP IS NOT TO BE USED FOR NAVIGATION.

0.3 Miles  
0.14  
0.3



**TOWN OF TIBURON**  
 1505 Tiburon Boulevard  
 Tiburon, CA 94920

Planning Commission Meeting  
 March 28, 2007  
 Agenda Item:

<b>STAFF REPORT</b>	
To:	<b>Members of the Planning Commission</b>
From:	<b>Community Development Department</b>
Subject:	<b>Tiburon Glen Residential Project (PD#22): Tentative Subdivision Map Application (File #60604) for the creation of three lots off Paradise Drive near Norman Way</b>

**PROJECT DATA**

Address: 3700 Block (upslope side) of Paradise Drive  
 Assessor's Parcel Number: 39-241-01  
 File Number: 60604  
 General Plan: PD-R (Planned Development-Residential)—Up to 0.3 du/acre  
 Zoning: RPD (Residential Planned Development)  
 Property Size: 26.04 acres  
 Current Use: Undeveloped Land  
 Owner: Xanadu Property Holdings, LLC  
 Applicant: Gregory Fishman  
 Date Complete: March 15, 2007  
 Permit Streamlining Act Deadline: May 4, 2007

**BACKGROUND**

On April 19, 2006, the Town Council approved a precise development plan application (the Tiburon Glen Precise Development Plan; PD#22) for this property by adopting Resolution No. 22-2006 (**Exhibit 1**). The precise development plan approved the project density; the size, location, and height of homes; and resolved the controversial issues associated with development of this property. The applicants are now applying for the tentative subdivision map approval that would establish the lot lines for the subdivision. Future applications would include a parcel map, subdivision improvement drawings, site plan and architectural review applications, and building permits for each residence.

## PROJECT DESCRIPTION

The proposal requests the subdivision of an approximately 26-acre parcel located off Paradise Drive into three residential lots, each to be developed with a single family residence, and an open space/conservation parcel. The proposed lot/parcel sizes are as follows:

Residential Lot 1:	2.47 acres
Residential Lot 2:	1.9 acres
Residential Lot 3:	6.7 acres
Open Space Parcel:	14.97 acres
TOTAL	26.04 acres

The lots would be accessed by a new privately-maintained access road connecting to Paradise Drive. The new roadway would fork, with the west fork leading to two home sites and the east fork leading to one home site. The Tentative Map drawings are attached as **Exhibit 3**.

The tentative map application proposes no substantive changes to the project as approved in the Tiburon Glen Precise Development Plan. All conditions and specifications of the approved precise development plan would continue to be in effect.

## ANALYSIS

The tentative map application stage of review in the Town of Tiburon is a secondary or “trailing permit” process for projects located in the RPD zone for which a Precise Development Plan (PDP) has been approved and CEQA review has been completed. The main thrust of review at the tentative map stage is to better delineate the “when”, “how”, and “by whom” of actual project implementation. Conditions of approval typically focus on project dedications, implementation of mitigation measures and PDP conditions of approval, requirements for preparation of subdivision improvement drawings, requirements for monetary securing (bonding), and payment of development impact fees.

A recitation of consistency with various Town land use regulations is also required, although these issues were determined and resolved during the PDP stage of review.

### General Plan Consistency and Zoning Compliance

The land areas of the three proposed lots are consistent with the established General Plan density for the site, and are consistent with the zoning for the property, as established in the adopted Tiburon Glen Precise Development Plan. The proposed lot lines on the tentative map are somewhat realigned from the configurations in the approved precise development plan; however, the line changes have no impact on development of the project.

## Tiburon Subdivision Ordinance

Section 14-3.6 of the Tiburon Municipal Code (Subdivisions) requires that the Planning Commission make the following findings in approving a tentative map application for a minor subdivision:

- a. Plan Consistency. As stated above, the proposed map is consistent with the Tiburon General Plan and the Tiburon Glen Precise Development Plan.
- b. Design or Improvement. The design of the proposed subdivision is consistent with the Tiburon General Plan and the Tiburon Glen Precise Development Plan.
- c. Type of Development. The proposed detached single family residential lots, focused on approximately 5% of the project site, are consistent with the type of development suitable for this steep and environmentally constrained property.
- d. Density of Development. Three residences on the 26.04-acre site would yield a density of 0.12 units per acre; approximately one-third of the maximum density of 0.3 units/acre allowed under the General Plan and a suitably low density for this constrained property.
- e. Fish or Wildlife. The design of the proposed subdivision and its improvements minimizes the disruption of riparian areas and other areas harboring wildlife or vegetation.
- f. Public Health. The design of the proposed subdivision has no characteristics that would cause significant public health problems.
- g. Access. The private roadway providing access to the three proposed lots would not conflict with other access easements in the area.
- h. Dedications. Several “sliver” portions of the property are being offered for dedication for public roadway purposes as portions of Paradise Drive. Open space and conservation easements are required over about 95% of the property per the precise development plan approval.
- i. Discharge of Waste. The houses on the three proposed lots would connect into the Sanitary District #5 public sewer system, in conformance with the requirements of the Town of Tiburon.
- j. Regional Housing Needs. The subdivision of this property to allow the construction of three new single-family homes would be compatible with the need to construct additional housing within the Southern Marin area. Affordable housing in-lieu fees will be collected to meet the Town’s inclusionary housing requirements.

## **PUBLIC COMMENTS**

As of the date of this report, no public letters or phone calls have been received regarding this application. Notification of the application was mailed out to all property owners within 500 feet of the property comprising approximately 60 households.

## **ENVIRONMENTAL STATUS**

An environmental impact report was certified by the Town Council for this project. No changes to the project are proposed that would require additional environmental review. All adopted mitigation measures apply.

## **TIMELINE FOR DECISION**

The Permit Streamlining Act (PSA) allows a relatively short window (only 50 days from the date of application completeness) for a local agency to reach a decision on a tentative subdivision map application. The PSA deadline for this application is May 4, 2007.

## **CONCLUSION**

Staff concludes that all of the required findings can be made for conditional approval of this tentative map application.

## **RECOMMENDATION**

Staff recommends that the Planning Commission take any public testimony on this item and adopt the draft resolution (**Exhibit 2**) granting conditional approval of the tentative map application.

## **EXHIBITS**

1. Town Council Resolution No. 22-2006.
2. Draft Planning Commission Resolution.
3. Tiburon Glen Estates Tentative Map drawings (4 sheets).

Prepared by: **Scott Anderson, Director of Community Development**

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## RESOLUTION NO. 2007-02

A RESOLUTION OF THE PLANNING COMMISSION OF THE TOWN OF TIBURON  
CONDITIONALLY APPROVING A TENTATIVE SUBDIVISION MAP FOR A 3-LOT  
SUBDIVISION ON PARADISE DRIVE NEAR NORMAN WAY  
(PD#22, TIBURON GLEN PROJECT)  
ASSESSOR PARCEL NO. 39-241-01

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

Section 1. Findings.

- A. An application for a Tentative Subdivision Map to subdivide approximately 26 acres of land into three (3) developable residential lots has been received from Xanadu Property Holdings, LLC. The subject property is located on Paradise Drive near Norman Way and is identified as APN 039-241-01.
- B. The application consists of the following:
1. Land Development Application Form received September 22, 2006.
  2. Tentative Map (4 sheets) entitled "Tiburon Glen Estates, APN 39-241-01", dated August 2006, latest revision dated February 15, 2007, prepared by LTD Engineering, Inc.
  3. Paradise Drive Culvert Analysis; Tiburon Glen Subdivision, dated December, 2006, prepared by LTD Engineering, Inc.
  4. Draft Tiburon Glen Architectural Review Guidelines, revised February 15, 2007.
- C. The Planning Commission finds that an Environmental Impact Report was previously prepared and certified in conformance with the requirements of the California Environmental Quality Act for this development project, and that no further environmental review is required.
- D. The Planning Division and the Town Engineer have reviewed the project in accordance with applicable regulations and have recommended conditional approval of the application to the Planning Commission, as set forth in the Staff Report dated March 28, 2007.
- E. The Planning Commission held a duly-noticed public hearing on March 28, 2007, and has heard and considered testimony from interested persons.
- F. The Planning Commission finds that the project, as conditioned, is consistent with the goals and policies of the Tiburon General Plan. The Commission further finds that the project is in conformance with the provisions of the Tiburon Glen Precise Development

Plan and is consistent with the provisions of Chapter 14 of the Tiburon Municipal Code regulating the subdivision of land.

Section 2. Approval.

NOW, THEREFORE BE IT RESOLVED that the Planning Commission of the Town of Tiburon does hereby approve the Tiburon Glen Estates Tentative Map application (File #60604) subject to the conditions:

Public Works & Engineering

1. All requirements of the Town Engineer shall be met prior to the approval of the Parcel Map, including the ability to provide all essential utilities to the site. Two copies of a recent (within six months of submittal) preliminary title report, plus traverse calculations in electronic form, shall accompany the Parcel Map submittal.
2. All engineering requirements and standards, including but not limited to landslide repair, drainage, dust control, erosion control and winterization, soils stabilization, construction criteria, tree and other resource protection, roadway geometrics, and grading shall be subject to review and approval by the Town Engineer through the subdivision improvement process. Landslide repair shall be based upon the letter report from Herzog Geotechnical Consulting Engineers dated July 15, 2005, and the several prior geotechnical studies and letters referenced therein.
3. Prior to approval of the Parcel Map, project sponsor shall enter into a subdivision improvement agreement with the Town of Tiburon and post all required monetary securities. Said agreement shall be recorded with the Parcel Map.
4. The Parcel Map shall provide the location and elevation of the benchmark referenced to the NGVD 29 elevation datum.

Prior to approval of the Parcel Map, project sponsor shall submit detailed subdivision improvement drawings addressing all elements in Condition #2 above for review and approval by the Town Engineer, Director of Community Development, County of Marin, and other agencies.

5. The public trail easement across Lot 1 shall be offered for dedication on the Parcel Map.
6. Applicant shall survey and install (or make a monetary contribution to cover fully the Town's estimated reasonable costs of surveying and installing) a traversable pedestrian trail within the easement and/or its adjoining easement located on assessor parcel 039-021-07. Applicant-performed work shall be done as part of

the subdivision improvement phase of the project. If an in-lieu monetary contribution is proposed instead of applicant installation, then said payment shall occur prior to recordation of the Parcel Map. The amount of any monetary contribution shall be based on an estimate by the Town Engineer.

7. The Parcel Map shall offer for dedication to the public for roadway purposes those portions of land shown for such purposes on Sheet 4 of the Tentative Map. A Non-Access Easement along Paradise Drive frontage of Parcel 4 of the Tentative Map shall also be offered to the public on the Parcel Map. . It is understood that the improved roadways to the buildable lots are private and shall be included in a private roadway maintenance agreement that will encumber the developable lots.
8. As part of the subdivision improvement drawings submitted with the Parcel Map application, project sponsor shall incorporate storm water treatment Best Management Practices (BMPs) into the design of the project to the extent practicable. Consideration of these BMPs shall include, but not be limited to, the use of grassy swales, landscaped areas, grasscrete, and similar measures in accordance with NPDES and MCSTOPP. All storm drain inlets shall be imprinted with a sign indicating "no dumping, flows to creek".
9. The street name for the private roadway serving the development shall be finalized prior to acceptance of the Parcel Map application for filing. The name shall be acceptable to the Town of Tiburon, Tiburon Fire Protection District, and the U. S. Postal Service.
10. The Parcel Map shall depict all portions of lots outside of the "residential use area" and the "roadway and utilities easement" as being offered to the Town of Tiburon within an open space easement or easements. Said open space easement(s) shall be recorded by separate instrument in conjunction with the recordation of the Parcel Map. Said open space easement(s) shall acknowledge any required roadway, drainage and/or utility easements and any landscape installation and maintenance agreements that are required to fulfill conditions of the project approval. The open space easement language shall be reviewed and approved by the Town Attorney and Director of Community Development prior to approval of the Parcel Map.
11. All of "Parcel A – Open Space and Conservation Easement", as it is shown on Exhibit 2-1.1 (Page 2.0-3) of the November 2005 Second Addendum to the August 2003 EIR, a 7.49 acre parcel, is voluntarily offered to the Town for additional open space beyond what the General Plan, Zoning, and other Town regulations require. Said Parcel A is to be protected by an open space easement and conservation easement as described in the preceding condition of approval.

12. Boundaries of the open space easement at the perimeter of the “residential use areas” of each Lot shall be clearly and permanently demarcated in the field. This demarcation shall initially occur as part of the subdivision improvements, and shall be restored as necessary prior to issuance of a certificate of occupancy for each completed residence. A suitable mechanism for this permanent demarcation shall be specified on the subdivision improvement drawings.
13. Prior to issuance of a grading permit for the subdivision improvements, a dust control and erosion control monetary security deposit, in an amount determined by the Town Engineer, shall be posted with the Town to ensure that any dust and/or erosion problems can be addressed in a timely fashion.
14. The Subdivision Improvement Drawings shall include a call-out or detail note to address any pad grading that may be proposed.
15. Street lighting proposed within Town boundaries on the subdivision improvement drawings shall be limited to the minimum amount necessary to safely illuminate points of access, as determined by the Town Engineer. Street light design and specifications shall be approved in writing by the Planning Division as part of the review of the subdivision improvement drawings. Street lighting maintenance and utility expense (if any) shall be included in the private roadway maintenance agreement.
16. To the extent possible and within recommendations of the project geotechnical engineer, runoff should be directed across grassy swales and comply with C3 provisions of the NPDES permit.
17. Prior to issuance of a grading permit for the subdivision improvements, the project sponsor shall hold a preconstruction meeting with the Town, all other reviewing agencies associated with the project, and the subdivision improvement contractors. At that time, a final review of the implementation of the mitigation measures and determination of monitoring responsibilities shall be completed and agreed upon.

#### Affected Agencies & Utilities

18. All applicable requirements of the Tiburon Fire Protection District (TPFD) shall be met prior to approval of the Parcel Map. The project sponsor shall provide a letter from the TPFD to that effect. These requirements include the recordation of easements in favor of the TPFD on Lots 1 and 3 regarding the fire apparatus turnaround areas, as shown on Sheet 2 of the Tentative Map drawings.
19. Domestic water shall be supplied by the Marin Municipal Water District. The project sponsor shall comply with all District rules and regulations. The project

sponsor shall provide a will-serve letter from the District prior to approval of the Parcel Map.

20. Connection of all lots to Sanitary District No. 5 is required. All requirements of the District shall be met. The project sponsor shall provide a will-serve letter from the District prior to approval of the Parcel Map.
21. A will-serve letter from Pacific Gas & Electric Company shall be provided prior to approval of the Parcel Map.
22. A copy of the approved and issued Encroachment Permit from the County of Marin Public Works Department shall be provided prior to issuance of a grading permit for the subdivision improvements. Said Encroachment Permit shall include any and all upgrades to culverts within Paradise Drive affected by the project and following guidelines established in Mitigation Measure 5.2-2. Said permit shall also depict the widening of the Paradise Drive paved shoulder as specified in Mitigation Measure 5.5-5.
23. A copy of permits issued by the County of Marin authorizing work (debris barrier, landslide repair) to be performed on adjoining parcel APN 058-100-09 shall be submitted prior to issuance of a grading permit for the subdivision improvements.
24. Prior to issuance of a grading permit for the subdivision improvements, project sponsor shall provide the Town with a copy of the Section 1603 Streambed Alteration Agreement issued to the project by the State Department of Fish & Game pursuant to Mitigation Measure 5.3-5.
25. In accordance with Mitigation Measure 5.3-5, the applicant shall secure permits and certification from the Army Corps of Engineers, Regional Water Quality Control Board, and California Department of Fish & Game in conjunction with the Wetlands Restoration Plan required to off-set the loss of wetlands on the site.

#### Community Development Department

26. All mitigation measures contained within the adopted Mitigation Monitoring Program for the project shall be implemented prior to finalization of the project by the Town of Tiburon. Project sponsor shall submit with the application for Parcel Map a detailed narrative describing how these mitigation measures are being complied with, or will be complied with, at the appropriate phase of project development.
27. As part of the installation of the subdivision improvements, applicant shall remove all old fencing and fence-posts, litter, garbage, and other junk materials from the entire site. Extreme care (up to removal and off-hauling by hand) shall

be used during the removal process to avoid impacts to sensitive biological resources. Details of this work shall be shown on the subdivision improvement drawings. The applicant shall call for and receive a detailed inspection of the removal work prior to sign-off on the subdivision improvement completion.

28. Location and size all trees to be removed shall be shown on the subdivision improvement drawings on a site plan sheet(s) prepared for that exclusive purpose.
29. Prior to issuance of a grading permit for the subdivision improvements, project sponsor shall obtain and implement provisions of a NPDES General Construction Permit pursuant to MM 5.2-5. A Storm Water Pollution Prevention Plan (SWPPP), if required under that mitigation measure, shall also be obtained and implemented.
30. Parcel Map/Subdivision Improvement Drawing application materials shall include/address all adopted mitigation measures generally, and the following Mitigation Measures (MM) specifically, to the satisfaction of the Town Engineer and Director of Community Development:
  - a. Detailed engineering geologic and geotechnical investigations performed pursuant to MM 5.1-1.
  - b. Subdivision improvement drawing notes shall include provisions of MM 5.1-2, 5.1-4, 5.1-5, 5.1-6, 5.1-7, and 5.1-8.
  - c. Applicant shall comply with provisions of MM 5.2-2 (last bullet point) that address adequacy of engineered drainage structures downstream of Paradise Drive.
  - d. The Habitat Enhancement Plan required under MM 5.3-1 and any provisions required by MM 5.3-2.
  - e. All provisions of Mitigation Measure 5.3-4. The Tree Mitigation and Enhancement Plan shall be prepared by a registered professional and shall be peer reviewed by a consultant of the Town's choosing at the applicant's cost.
  - f. Implement raptor nesting mitigations pursuant to MM 5.3-8, to be performed by a qualified biologist.
  - g. Comply with construction traffic impacts mitigations as set forth in MM 5.5-6.
  - h. Prior to issuance of a grading permit for the subdivision improvements, project sponsor shall demonstrate compliance with MM 5.6-1 regarding asbestos and dust.
  - i. Comply with MM 5.7-1 regarding construction noise. Construction notes shall be included on the drawings individually listing in full text the relevant mitigation measures for this impact.
  - j. A detailed traffic control plan as set forth in MM 5.5-6.
  - k. Subdivision improvement drawings shall contain notes in full text reflecting cultural resources mitigations as set forth in MM 5.9-1.

31. Appearance and vegetative screening of all retaining walls in excess of forty-two (42) inches in height shall be subject to review and approval by the Design Review Board. This includes all such walls shown on the subdivision improvement drawings as well as walls associated with individual home design and construction.
32. Timing of screening landscaping installation as shown on the approved Precise Development Plan drawings, as well as irrigation and ongoing maintenance of said landscaping, shall be determined by the Town and memorialized by an agreement to be recorded in conjunction with the Parcel Map.
33. A detailed construction staging area/construction parking/materials storage/debris box/portable restroom/protective fencing plan for the subdivision improvement installation phase of the project shall be submitted for approval by the Town Engineer as part of the subdivision improvement drawings.
34. Bonding or other monetary security for maintenance and replacement of retaining wall landscaping for the lifetime of the retaining walls shall be provided by the applicant as directed 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.
35. Exterior lighting (for roadways and residential improvements) shall be limited to the minimum amount necessary to safely illuminate points of access and outdoor use areas. Prior to the approval of subdivision improvement drawings for the project, the Design Review Board shall review all aspects of the proposed roadway lighting. In its review of individual homes, the Design Review Board shall carefully review all proposed lighting to minimize its visibility from surrounding properties and Paradise Drive.
36. The Tiburon Town Council must approve the Broom Eradication and Habitat Restoration Program (BEHR) required by Mitigation Measure 5-3.4(c) prior to issuance of a grading permit for the project's subdivision improvements. The Mitigation Monitoring Plan (MMP) required by the mitigation measure shall incorporate the general requirements set forth in the memorandum (four pages) from Nichols-Berman to the Town of Tiburon dated April 6, 2006 (**Exhibit "B"**). To the extent feasible, the BEHR shall locate replacement trees on Town-controlled land, preferably near existing woodlands and preferably located on the north or northeast (Paradise Drive) side of the Tiburon Peninsula. Fulfillment of the BEHR shall be guaranteed by either: 1) physical implementation by the project sponsor as deemed acceptable to the Town; or 2) through provision of funding to the Town in an amount deemed acceptable by the Town such that the BEHR may be physically implemented by the Town. The Town shall have sole authority to

select which option or combination of the options is used to implement the BEHR. If option 1 is selected, implementation (including ongoing broom removal, maintenance, and tree replacement for the monitoring life of the BEHR) shall be guaranteed through full performance bonding and/or other appropriate monetary security as required and approved by the Town Attorney. The issues of potential soil erosion, drainage, soil instability, view blockage, fire prevention (should "flaming" of seeds be proposed), shall be addressed to the satisfaction of the Town Council prior to approval of the BEHR. An encroachment permit shall also be required prior to commencement of work on Town parcels.

37. At least 50% of the "Large Canopy Trees" shown on Sheet 1 of the *On-Site Tree Mitigation Plan* shall be upgraded to 24" box trees (from 15-gallon trees) in order to provide more immediate strategic screening of retaining walls, homes, and other site disturbance. These upgrades shall be shown on the Landscape Plan submitted as part of the subdivision improvement drawings.
38. The Landscape Plan associated with subdivision improvements shall be reviewed and approved by the Design Review Board, with special attention paid to the strategic location of larger-canopy trees for maximum screening of project improvements from Paradise Drive. The Design Review Board shall also ensure that the entry roadway landscaping more closely resembles prevailing landscaping along Paradise Drive and does not form a visibly abrupt change from informal native landscaping to formal, obviously introduced landscaping.
39. 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. The applicant shall bear the cost for any Town-required third party review of the Tree Protection Plan.
40. Final CC&R's for the subdivision shall be subject to review and approval as satisfactory by the Town Attorney and Director of Community Development prior to approval of the Parcel Map, and shall be recorded in conjunction with the Parcel Map. Said CC&Rs shall contain provisions and limitations as set forth in the Precise Development Plan and other relevant permit approvals, including but not limited to the following:
  - a. Include the Tiburon Glen Architectural Design Guidelines as part of the CC&R's.
  - b. Include the elements of the last sentence of Condition No. 5 of the Precise Development Plan approval resolution (22-2006) in the CC&R's.
  - c. CC&R's must include a provision requiring Town of Tiburon approval to amend certain sections of the CC&R's as determined by the Town.
  - d. Precise Development Plan and MMRP provisions applicable to Parcel 4

- (open space) must be addressed through an easement agreement or other method acceptable to the Town if they are not to be made applicable to Parcel 4 as part of the CC&R's.
- e. The relevant open space and/or conservation easements granted to the Town affecting shall be an exhibit or exhibits to the CC&R's.
  - f. The common facilities maintenance plan and provisions as set forth in Mitigation Measure 5.1-9.
  - g. Zoning limitations on the property as set forth in the Tiburon Glen Precise Development Plan shall be referenced or incorporated into the CC&R's for information purposes, to an extent deemed appropriate in the discretion of the Director of Community Development, including but not limited to fencing restrictions and "Residential Use Area" restrictions as set forth in the Tiburon Glen Precise Development Plan.
  - h. The Vegetation Modification Plan information and wild-land building fire exposure provisions as set forth in Mitigation Measure 5.8-2.
  - i. Educational text as set forth in Mitigation Measure 5.3-1.
  - j. Provisions regarding no planting of invasive plant species, pursuant to Mitigation Measure 5.3-9.
  - k. A reference to the Town of Tiburon's Tree Ordinance requirements.
  - l. Provisions allowing Town authorized consultants access to any portion of the property for mitigation monitoring purposes and for replacement of vegetation as may be required by the Mitigation Monitoring Plan for a term not less than the duration of the requirements of Mitigation Measure 5.3-4(b).
  - m. A fund for maintenance and/or replacement of bollards or other permanent demarcation devices for the "residential use areas" shall be established.
  - n. A provision that the Town may enforce provisions of the CC&R's as deemed necessary, but with no obligation to do so.
  - o. Provisions for maintenance of the project roadways (if not established by separate recorded agreement).
  - p. Provisions for maintenance of private storm drains and facilities.
  - q. A provision that specified portions of the CC&R's as determined by the Town Attorney, which are directly related to Town interests, shall not be amended without prior written approval of the Town of Tiburon.
41. A mitigation monitoring consultant shall be retained by the Town at the project sponsor's expense to provide monitoring of the project and its mitigation measures, as set forth in the approved Mitigation Monitoring Program. Prior to issuance of a grading permit for the subdivision improvements, the project sponsor shall enter into a written agreement with the Town and submit a deposit for the anticipated cost of retaining the mitigation monitoring consultant to perform said work. The agreement shall contain provisions for post-construction monitoring and vegetation replacement in addition to monitoring during project construction.

42. The Parcel Map shall contain a note indicating that this property cannot be further subdivided.
43. The Parcel Map shall contain a note or notes referencing the various limitations and restrictions contained within the Precise Development Plan, including a Public Information Sheet showing building envelopes and describing other zoning limitations, as determined by and to the satisfaction of the Director of Community Development.
44. Traffic mitigation fees shall be paid prior to issuance of a building permit for each residence in accordance with the adopted fee schedule at that time.
45. Park and recreation in-lieu fees, as required by Chapter 14 of the Tiburon Municipal Code, shall be paid prior to recordation of the Parcel Map. The public trail easement and open space easements associated with the project may be considered by the Town Council as off-sets in the final determination of the applicable fees.
46. Inclusionary housing in-lieu fees, as required by Chapter 16-6 of the Tiburon Municipal Code, shall be paid prior to recordation of the Parcel Map.
47. All fees and deposits required by the Town or other agencies having jurisdiction shall be paid prior to the Town's approval of the Parcel Map or issuance of any grading permit, whichever comes first.
48. Violations of the permit or permit conditions shall be subject to stop-work orders, fines, penalties, and all other enforcement methods authorized by law.
49. This approval shall be valid for three years and shall expire and become null and void unless a Parcel Map is approved and recorded prior to expiration, or unless a time extension is granted.

PASSED AND ADOPTED at a regular meeting of the Planning Commission of the Town of Tiburon on March 28, 2007, by the following vote:

AYES: COMMISSIONERS: Aguirre, Collins, Fraser & O'Donnell

NOES: COMMISSIONERS: None

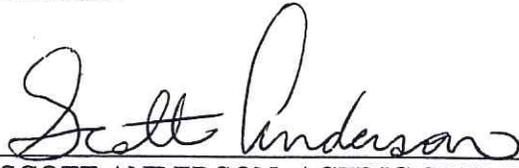
ABSENT: COMMISSIONERS: Kunzweiler



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JIM FRASER, CHAIRMAN  
TIBURON PLANNING COMMISSION

ATTEST:



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SCOTT ANDERSON, ACTING SECRETARY

**RESOLUTION NO. 2016-DRAFT**

A RESOLUTION OF THE PLANNING COMMISSION OF THE TOWN OF TIBURON  
APPROVING A TIME EXTENSION FOR A TENTATIVE SUBDIVISION MAP APPROVAL  
FOR 3 LOTS ON 26.04 ACRES OF LAND LOCATED ON  
PARADISE DRIVE NEAR NORMAN WAY  
ASSESSOR PARCEL NO. 039-241-01

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

Section 1. Findings.

- A. On March 28, 2007 the Tiburon Planning Commission adopted Resolution 2007-02 approving a Tentative Map application (#60604) to subdivide 26.04 acres into three lots. The approval was valid for three years and was subsequently extended by state legislation to March 28, 2017.
- B. On June 27, 2016, the Planning Division received an application (TM2016-02) from the property owner, Xanadu Property Holdings, LLC, for a three (3) year time extension of the tentative map approval.
- C. The Planning Commission finds that the time extension request is exempt from further review under the California Environmental Quality Act.
- D. The Planning Commission held a duly-noticed public hearing on July 27, 2016, and heard and considered any testimony from interested persons.
- E. The Planning Commission finds that the time extension request is consistent with state law and local regulations regarding time extensions for subdivision maps.

Section 2. Approval.

NOW, THEREFORE BE IT RESOLVED that the Planning Commission of the Town of Tiburon does hereby approve a time extension of three (3) years for the Tiburon Glen Estates Tentative Subdivision Map, with the new expiration date for the tentative subdivision map approval being March 28, 2020.

PASSED AND ADOPTED at a regular meeting of the Planning Commission of the Town of Tiburon on \_\_\_\_\_, 2016, by the following vote:

AYES:            COMMISSIONERS:

NAYS:            COMMISSIONERS:

ABSENT:        COMMISSIONERS:

\_\_\_\_\_  
ERICA WILLIAMS, CHAIR  
TIBURON PLANNING COMMISSION

ATTEST:

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

**Scott Anderson**

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**From:** john kunzweiler [johnkunzweiler@yahoo.com]  
**Sent:** Tuesday, July 19, 2016 9:52 AM  
**To:** Scott Anderson  
**Cc:** 'Ross Tibbits'; 'Bill Tellini'; 'David Simms'; 'Bella Simms'; 'Lark Raveche'; 'John Raveche'; 'Olav/Kelly Norman'; 'John McGuinn'; 'Cynthia B. McGuinn'; 'Cynthia B. McGuinn'; 'Julie LaNasa'; 'Ahmed Koraishi'; 'David Greenberg'; 'Michelle Farabaugh'; 'Crystal Benbow'; Randy Greenberg; Crystal & Bob Benbow  
**Subject:** Re request for extension of the Tiburon Glen Tentative Map

Scott,  
Been a long time....I hope all is well with you.

I writing on behalf of the Norman Way Homeowner's Association. We'd like to express our support for the extension of the Tiburon Glen Tentative Map, as originally drafted. We do not support any modifications to the Map and would like to be informed if any changes are contemplated or proposed.

best regards

John Kunzweiler +1 415 706 1996 Tiburon, CA 94920