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## **PRECISE DEVELOPMENT PLAN**

[NOTE: PORTIONS BELOW ARE EXCERPTED FROM THE TIBURON MUNICIPAL CODE, TITLE IV, CHAPTER 16 (ZONING)]

### **16-52.060 - PRECISE DEVELOPMENT PLAN.**

#### **A. Applicability.**

1. A Precise Development Plan is required in all RPD and RMP zones prior to subdivision, grading, or the making of improvements of any kind.
2. For all development projects that require the division of a lot or parcel, the filing and processing of the subdivision application shall not occur until after the Precise Development Plan, if one is required, has been approved by the Review Authority as provided in this Section.

#### **B. Purpose.** The purposes of the Precise Development Plan are:

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.

#### **C. Submittal Requirements.**

**Contents,** The Precise Development Plan shall be prepared and endorsed by qualified professionals, such as a planning consultant, licensed architect or registered building designer, a land surveyor or registered civil engineer, and registered landscape architect. It shall encompass all contiguous lots under the same, or essentially the same, ownership and shall include the following:

1. **Maps.**

- a. A topographic map of the property prepared by a registered civil engineer or licensed land surveyor, with metes and bounds descriptions, which depicts in accurate detail the topography, existing buildings, land features (including areas subject to flooding or ponding), and pertinent features of adjacent properties that may affect or be affected by the project. Scale shall be one inch equals fifty feet for properties of four acres or more, with a contour interval of no more than five feet; and one inch equals twenty feet for properties less than four acres, with a contour interval of no more than two feet. This map shall delineate all portions of the property that are within fifty vertical feet and/or one hundred fifty horizontal feet of the Tiburon Ridgeline, as depicted in the General Plan Open Space and Conservation Element;
- b. A site plan map, at the same scale as the topographic map, showing in detail the design and location of proposed lots, building envelopes, proposed and existing structures, and all functional use areas such as roads, trails, paths, walkways, parks, common areas, rights-of-way, public and private open spaces, parking, planting, recreation, and so forth. The plan shall also depict the relationship of proposed buildings and structures to these functional areas and with existing and/or projected uses of adjacent property to a distance of two hundred feet from the subject property lines. The site plan map shall include a matrix, in tabular form, providing for each lot the proposed lot area; front, side, and rear setbacks (or their ranges for non-rectilinear building envelopes); area of the building envelope, proposed maximum height of structures, average percent of slope, and principal view direction;
- c. A preliminary grading plan map, at the same scale as the topographic map, depicting at a minimum:
  - (1) Existing contours;
  - (2) Proposed finished contours;
  - (3) All cut areas, depicted by shading or other clear means, with a cubic yard estimate for each cut area;
  - (4) All fill areas, depicted by shading or other clear means, with a cubic yard estimate for each fill area;
  - (5) All areas where both cut and fill are proposed;
  - (6) An estimate of the total amount of cut and fill for the project, a statement as to whether cut and fill will be balanced, and an implementation program describing how surplus earth will be removed from the site or how added fill will be imported to the site. The number of truckloads necessary to accomplish this program should be estimated;

- (7) At least three section drawings representative of the proposal, at the same scale as the grading plan;
  - (8) The location and height of all retaining walls or similar features necessary to accommodate the proposed grading scheme.
- d. A slope map reflecting existing conditions and a slope map reflecting proposed finished conditions. Slope maps shall be at the same scale as the topographic map, depicting by shading or other clear means, areas of slope less than twenty percent, areas of slope between twenty percent and thirty percent, areas of slope between thirty percent and forty percent, and areas of slope greater than forty percent. The acreage of each slope category shall be estimated.
- e. A resource conservation map showing the location of any of the following features on-site and describing how they will be preserved:
- (1) Springs, streams, watercourses, drainageways, ponds, or other water areas,
  - (2) Rare or endangered plant or animal species (survey may be required),
  - (3) Rare or endangered animal habitat areas (survey may be required),
  - (4) Areas of riparian vegetation,
  - (5) Archeological or paleontological resources (survey may be required),
  - (6) Rock outcroppings,
  - (7) Existing trails,
  - (8) Existing trees with trunks greater than twenty inches in circumference at a point two feet above ground level,
  - (9) Knolls, ridges, or other places on-site from which view corridors or vistas are available,
  - (10) Other noteworthy or unusual site characteristics;
- f. A preliminary erosion and siltation control plan map;
- g. A preliminary landscape plan map showing proposed treatment of common areas, roadway berms, entrances to the project, types of ground cover, types and heights of trees (at maturity), walls, irrigation, and details for walkways, paving, and fencing;
- h. Preliminary project elevations or perspective drawings.

## 2. Text.

- a. A general written description of the project and its site;
- b. A transportation analysis addressing circulation patterns (pedestrian, vehicular, and emergency), public and private; and estimating traffic generation as it may affect public streets within and adjacent to the proposed development. Consistency with General Plan Circulation Element policies shall be demonstrated;
- c. The number and type of dwelling units and a tabulation of the total land area and percent thereof designated for various uses. This shall include a matrix, in tabular form, providing for all lots the proposed lot area; front, side, and rear setbacks (or their ranges for non-rectilinear building envelopes); area of the building envelope and its percent of the lot area; proposed maximum height limit of structures; percent of slope of the lot, and principal view direction from each lot;
- d. An analysis of all public, quasi-public, recreational and educational facilities both on- and off-site, existing and proposed, in terms of the adequacy thereof to meet the project needs;
- e. A statement of the provisions for ultimate ownership and maintenance of all areas included within the project, including streets, structures, landscaping, drainage-ways and open space areas;
- f. A proposal describing how the Town's inclusionary housing policies will be addressed;
- g. Floor areas and proposed uses of non-residential buildings, if any;
- h. A description (with graphics) of provisions for storm drainage, sewage, paving, fencing and public utilities;
- i. An acoustical analysis, prepared by a properly registered firm or consultant, with analysis based upon the Town's standards as set forth in the General Plan Noise Element;
- j. A preliminary title report for all involved parcels, including copies of documents referenced in the title report that could have a material effect on the development of the property. The beneficiary property, identified by assessors parcel number, shall be given for each easement burdening and benefiting the subject property. A separate sheet plan shall be provided indicating all proposed and existing easements, their dimensions and purposes clearly labeled;
- k. Engineering studies in sufficient detail to indicate adequacy of soils, flood control, storm drainage, sewage disposal, and public utilities. Such studies shall include in-depth geologic and soils investigations and shall fully and clearly present all pertinent data. Such studies shall also clearly demonstrate the feasibility of the project as proposed;
- l. A statement indicating the stages of construction, or phasing, for the

entire development and a statement from applicable public utilities that service is available;

- m. A draft of proposed deed restrictions, CC&Rs if any, and provision for circulation ways, view easements, maintenance of common or private areas and improvements, and preservation of open spaces. Any areas or improvements proposed for dedication to the Town shall be identified;
- n. A statement describing the proposed materials and colors for the development, its theme (if any), and an explanation of how the proposal will be compatible with surrounding land uses;
- o. A list of all other agencies from which a permit must be obtained, specifying the type of permit where known;
- p. A statement describing whether the development involves diking, filling, dredging or placing structures in open waters, wetlands, or riparian corridors. If yes, then describe the specific nature of the proposal in this regard and note whether an Army Corps of Engineers permit and/or a Bay Conservation and Development Commission permit has been or will be applied for.
- q. A preliminary Vegetation Management Plan conforming to Fire District regulations.

**3. Photos and story poles.** Photo montages of the site as seen from critical vantage points, with accurate depictions of the proposed project superimposed, as well as one or more story poles or equivalent references as necessary to verify heights of buildings. Stakes shall be installed at the corners of building envelopes and along the centerline of proposed roadways.

**4. Other** such information as the Director may reasonably require.

**THIS APPLICATION MUST BE ACCOMPANIED BY A COMPLETED LAND DEVELOPMENT APPLICATION FORM**

The relevancy of some of the above requirements will necessarily depend upon the nature and extent of the particular property and project being proposed. Upon written request, the Director shall advise the applicant of those requirements that may not be required to constitute a complete application.

**D. Precise Development Plan procedure.** Applications for Precise Development Plan shall be reviewed by the Commission, which after holding at least one public hearing, shall forward its recommendation by resolution to the Council. The Council shall consider the recommendation of the Commission, and after holding at least one public hearing, shall take final action on the application. Final action shall be by resolution of the Council. Approval of a Precise Development Plan is a legislative action by the Town, and as such shall not be effective until thirty days after adoption of the resolution by the Council.

**E. Principles.** Principles to be applied in making a determination to approve, deny or modify an application for Precise Development Plan approval are as follows:

1. Significant open space shall be permanently preserved, through dedication or other means acceptable to the Town, consistent with policies of the General Plan Open Space and Conservation Element.
2. Preservation of the natural features of the land shall be achieved to the maximum extent feasible through minimization of grading and sensitive site design. Features worthy of preservation include ridgelines, prominent knolls, desirable native vegetation, trees, significant rock outcroppings, watercourses, and riparian corridors.
3. Slopes created by grading should not exceed thirty percent. Final contours and slopes should reflect natural land features.
4. Every reasonable effort shall be made to preserve principal vistas, view points, view corridors, mature trees, rare plants, significant native flora and fauna, areas of historical significance, access corridors, and habitats of endangered species.
5. Location of development well below ridgelines shall be achieved, in compliance with the General Plan and other Town policies.
6. Prominence of development and construction should be minimized by appropriate location of grading and placing of buildings in order to screen by wooded areas, rock outcroppings and depressions in topography or other features.
7. Due consideration shall be given to avoid, eliminate or reduce areas posing geologic and non-geologic hazards.
8. Minimization of significant adverse impacts, as detailed in the environmental impact report, if one is required.
9. Roads shall be designed for minimum slopes, grading, cutbacks and fill. Narrowing of roadways may be allowed to reduce grading, retaining walls, and other scarring of the land.
10. Proposed arrangement of residential units and design of circulation system shall provide harmonious transition from and be compatible with neighboring development and open space. Monotony in design, and massive or inordinately large or bulky structures and site coverage that overwhelm or that are inconsistent with the surrounding area, shall be avoided.
11. Adequate consideration shall be given to the need for appropriate privacy between residential units and other uses. Design shall ensure minimum visual and aural intrusion into indoor and outdoor living areas from adjacent living areas.
12. Improvements shall be placed so as to minimize intrusion of noise on nearby areas.
13. Landscaping shall be designed so as to result in the least possible disturbance of natural and/or open areas and shall be compatible with the natural setting. Consideration shall be given to fire protection, water

conservation, protection of views and trail areas, and buffering of noise.

14. Utilities shall be underground and streetlights, if needed, shall be of low intensity and low in profile.
15. Materials and colors used in improvements shall blend into the natural environment to the extent reasonably possible.
16. Consistency with other goals and policies of the General Plan elements shall be demonstrated.

**F. Expiration of Precise Development Plan.** Any Precise Development Plan approval shall expire and become null and void unless one of the following happens within thirty-six months after its effective date:

1. A tentative subdivision map is approved consistent with the approved Precise Development Plan;
2. If no subdivision map is necessary, subsequent Zoning or Building Permits have been issued in compliance with the approved Precise Development Plan;
3. An extension has been granted. A request for extension must be filed prior to the expiration date and shall be accompanied by a filing fee to be established by resolution of the Council. The permit holder shall submit sufficient information to the Town to determine whether good cause for an extension exists. Consideration of the extension shall be in compliance with Subsection H. (Amendments).

Upon expiration of a Precise Development Plan, the zoning for the site shall revert to that which existed prior to the Precise Development Plan approval, or if such zone no longer exists, to its nearest equivalent as determined by the Director.

**G. Denial, conditional approval of plan.** If from the facts presented, the Council is unable to make the findings to approve a Precise Development Plan, the application shall be denied. In taking action, the Council may deny the Precise Development Plan as submitted, or may approve such plan subject to specified amendments or conditions.

**H. Amendment.** Amendments to an adopted Precise Development Plan shall be processed using the same procedure as described in Subsection D. (Precise Development Plan procedure) pertaining to original adoption, except that in cases where the Commission votes to deny an application for precise development plan amendment, then the action of the Commission shall be final, and no action of the Council shall be required. Decisions of the Commission may be appealed as provided in Section 16-66 (Appeals).

**I. Moratorium.**

1. The period of time specified for the expiration of the Precise Development Plan shall not include any period of time during which a development moratorium, imposed after the approval of the Precise Development Plan, is in existence, provided, however, the length of the moratorium does not exceed five years.

2. Once a moratorium is terminated, the Precise Development Plan shall be valid for the same period of time as was left to run on the approval at the time that the moratorium was imposed. However, if the remaining time is less than one hundred twenty days, the approval shall be valid for one hundred twenty days following the termination of the moratorium.

**J. Exemption from requirements of Precise Development Plan.**

1. The Director may waive the requirements of a Precise Development Plan, or various parts thereof, where the requirements are, in whole or in part, deemed inappropriate or inapplicable. Any such waiver shall be confirmed by the Commission.
2. Refusal of the Director to waive the requirements of the Precise Development Plan or various provisions thereof, upon written request by an applicant, may be appealed to the Commission by the applicant. The Commission's decision shall be final.

### 3.3 PRIME OPEN SPACE PRESERVATION

Prime Open Space is open space that is worthy of permanent protection due to its characteristics and attributes. The intent of this section is to permanently protect Prime Open Space through the development review process to the maximum extent feasible.

Although they are to be applied to all applications for development, Prime Open Space policies are intended to primarily achieve the objective of preserving the land with the highest open space value on lands subject to

#### Prime Open Space Characteristics

Ridgelines  
Water and Shoreline Areas  
Wetlands  
Streams and Riparian Corridors  
Flood-Prone Areas  
Wildlife and Wildlife Habitat  
Steep Slopes  
Views  
Trees and Woodlands

subdivision or other development, such as those that are designated Planned Development – Residential in the Land Use Element. Often, when designing a subdivision, a developer's last consideration is what should be preserved as open space. This approach can result in land that has little value to the community being proposed as open space. *Tiburon 2020's* Prime Open Space policies define which open space is valuable to the community. Developers are strongly

encouraged to take into consideration all Prime Open Space policies before laying out roads, lots, and building envelopes within a proposed subdivision. Diagram 3.3-1 provides an overview of the general location of some, but not all, of the Prime Open Space characteristics.

#### General Open Space Preservation Policies

**OSC-1:** The Town shall strive to permanently preserve through setbacks, dedication, purchase, easement, or other appropriate means exceptional structures, sites, open space and sensitive environmental resources. The Town shall strongly encourage the permanent protection of open space through: conveyance of fee title to an appropriate government agency or land trust; by easement; deed restriction; or other appropriate mechanism acceptable to the Town.

**OSC-2:** In considering whether open space land shall be dedicated to the Town or other public entity, the benefits to the community of public ownership shall be weighed against the costs of management efforts and other liabilities associated with owning the land.

*OSC-3:* The Town shall strive to secure, through trail easements that connect to other public trails or through other appropriate mechanisms, public access to those portions of open space land most appropriate for public use.

*OSC-4:* Public or private open space shall be permanently protected. It is the Town's general policy that publicly-owned open space land will not be traded or sold.

*OSC-5:* The Town hereby establishes a goal that a minimum of 50% of the area of lands designated as Planned Development – Residential shall be preserved as permanent open space.

*OSC-6:* The Town prefers clustering of lots in new subdivision design to maximize the preservation of open space to the greatest extent feasible. However, where the Town determines that a project would better conform to the goals and policies of the General Plan, "estate lot" type development (i.e., large homes on large lots) may be considered. Easement, deed restriction, or other appropriate mechanism acceptable to the Town shall be used to preserve open space within common areas or individual lots.

### **Open Space Continuity Policies**

Open spaces have greater value when they are larger and contiguous. Natural communities benefit because larger distances are undisturbed from human development or interference. The scenic quality of the open space is also preserved when there are larger tracts uncluttered by development.

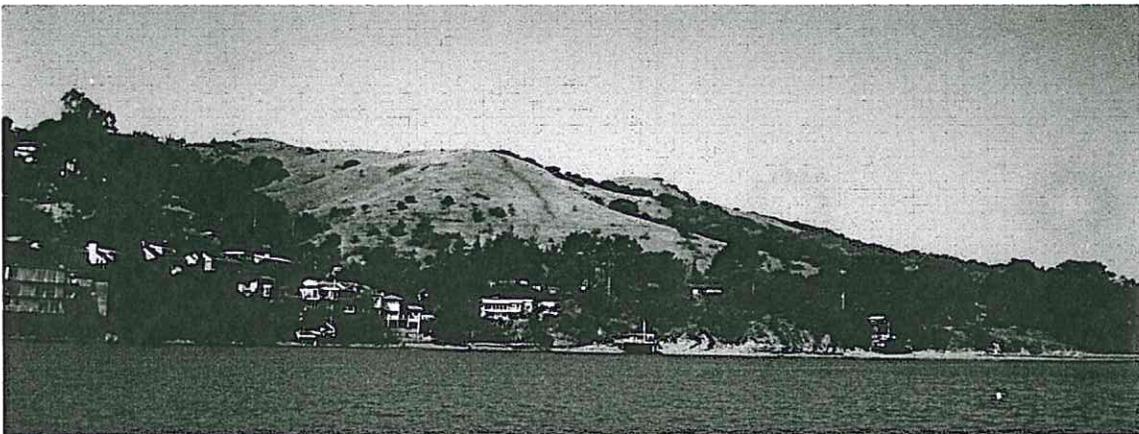
*OSC-7:* Where possible, land that is proposed for preservation as permanent open space shall be contiguous to existing open space and/or open space areas that may in the future be permanently preserved.

*OSC-8:* Where appropriate, greenbelts shall be required to separate development areas or to link open space areas.

## Ridgeline Policies

Besides water, ridgelines are the most visually defining open space attribute in the Planning Area. Ridgelines also provide the greatest opportunity for community scenic value. Public access to the Tiburon Ridge and Significant Ridgelines allows community members to enjoy the views that make Tiburon a special place. The ridgeline policies establish that ridgelines have the highest value to the community as open space.

In 1992, the Town Council adopted a Resolution (2859) which affirmed that “in balancing open space interests with development interests, decision-makers shall consider the protection of ridgelines to the maximum extent



*Significant ridgelines, including these at the end of the Tiburon Peninsula, have been identified by the Town and their protection has been given the highest priority.*

feasible to be of the highest priority.” The Resolution also designated other Significant Ridgelines to be subject to General Plan and Zoning Ordinance policies and regulations concerning “ridgelines, significant ridgelines, and secondary ridgelines.” The Significant Ridgelines designated by Town Council Resolution 2859 are shown on Diagram 3.3-1.

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

**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 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 Tiburon Ridge, measured from the highest point of the roofline of a structure or tree.

*If strict application of policies OSC-10 and OSC-11 prevents all reasonable use of the property, encroachment into the setbacks may be allowed provided that structures are limited to a maximum 15 feet in height, as defined by the Tiburon Zoning Ordinance, and provided that both horizontal and vertical encroachment are minimized.*

**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.

#### Evaluating Significant Ridgelines

In evaluating **Significant Ridgelines** for protection, all characteristics identified in Policy OSC-12 should not be judged equally. Significant Ridgelines that have a high visual prominence, have the potential to connect to the Tiburon Ridge Trail, or have a distinct ridgeline land form, such as those found at the eastern terminus of the Tiburon Ridge, should be afforded greater protection than those that have low visibility, do not connect to the Tiburon Ridge, or do not have distinct ridgeline land forms.

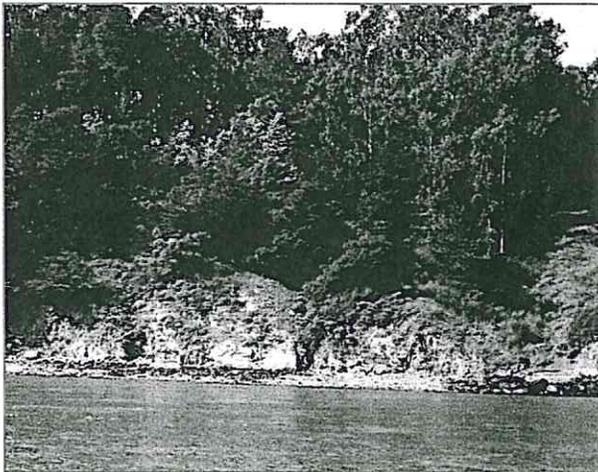
**OSC-13:** Roads and utilities constructed along or across the Tiburon Ridge or Significant Ridgelines shall be strongly discouraged. If no other vehicular access is viable, crossing of ridges shall be minimized and shall be as near to perpendicular to the ridgeline as possible.

## **Water and Shoreline Area Policies**

Because San Francisco Bay is navigable, it is under the jurisdiction of the U.S. Army Corps of Engineers. The Corps has permit authority for activity within the navigable waterways, and the waters of the United States, including wetlands.

The U.S. Coast Guard, a part of the new Department of Homeland Security, is charged with protecting the public, the environment, and economic interests in the nation's ports and waterways and along the coast.

The Bay Conservation and Development Commission (BCDC) has



jurisdiction over bay filling and dredging and shoreline development on the Bay and on a 100 foot band around the Bay. BCDC implements the *San Francisco Bay Plan* by issuing permits for Bay filling and dredging and shoreline development. With respect to shoreline development, the *Plan* calls for BCDC to “ensure that each new shoreline development increases public access to the Bay to the maximum extent feasible.”

*Water and shoreline areas are one of Tiburon's defining natural features.*

**OSC-14:** Use of open water shall be limited to landings for boats; boating, swimming, fishing; and parks.

**OSC-15:** Maintenance and replacement of lawfully existing structures built over San Francisco Bay (bayward of the mean high tide line) may be permitted. However, with the exception of piers, docks, and public access facilities approved by the Bay Conservation and Development Commission (BCDC), expansion of existing structures or construction of new structures that would result in new filling of San Francisco Bay shall be prohibited.

**OSC-16:** The Town shall preserve and enhance the diversity of wildlife and aquatic habitats found in the Planning Area bayfront lands, including tidal marshes, seasonal marshes, lagoons, wetlands, and low-lying grasslands over historical marshlands.

**OSC-17:** 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. Access to environmentally sensitive marshland and adjacent habitat shall be restricted, especially during spawning and nesting seasons.

**OSC-18:** Freshwater habitats in the bayfront areas associated with freshwater streams and small former marshes should be preserved and/or expanded so that the circulation, distribution, and flow of the fresh water supply are facilitated.

**OSC-19:** Those areas underlain by deposits of “young muds” should be reserved for water-related recreational opportunities, habitat, open space, or limited development subject to approval by the Corps of Engineers and other trustee agencies.

## **Wetland Policies**

The U.S. Fish and Wildlife Service define wetlands as:

lands transitional between terrestrial and aquatic systems where the water table is usually at or near the surface or the land is covered by shallow water. For purposes of this classification, wetlands must have one or more of the following three attributes: at least periodically, the land supports predominantly hydrophytes; the substrate is predominantly undrained hydric soil (soil formed under saturated conditions); and the substrate is nonsolid and is saturated with water or covered by shallow water at some time during the growing season of each year.<sup>1</sup>

Under this definition swamps; freshwater, brackish water, and saltwater marshes; bogs; vernal pools, periodically inundated saltflats; intertidal mudflats; wet meadows; wet pastures; springs and seeps; portions of lakes, ponds, rivers and streams; and all other areas which are periodically or permanently covered by shallow water, or dominated by hydrophytic vegetation, or in which the soils are predominantly hydric in nature are considered wetlands.

Wetlands are important for habitat; sediment, erosion and pollution control; flood storage; water recharge; recreation and scientific research; and education.

Under Section 404 of the federal Clean Water Act, the U.S. Army Corps of Engineers (Corps) regulates the discharge of fill materials into waters of the United States, including wetlands, by issuing permits. The type of permit needed depends on the amount of acreage and the purpose of the proposed fill, subject to the discretion of the Corps. To simplify the permit review process, nationwide permits cover a number of routine activities such as minor road crossings, utility line crossings, streambank protection, recreational facilities and outfall structures. The Corps has discretionary authority over projects where impacts are considered significant, requiring adequate mitigation and permit approval.

At the state level, the California Department of Fish and Game (CDFG) has jurisdiction over wetland areas. State law states that “an entity may not substantially divert or obstruct the natural flow of, or substantially change or

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<sup>1</sup> Cowardin, *Classification of Wetlands and Deepwater Habitats of the United States*; FWS/OBS 79/31; December 1979.

use any material from the bed, channel, or bank of, any river, stream or lake, or deposit or dispose of debris, waste, or other material containing crumbled, flaked, or ground pavement where it may pass into any river, stream, or lake” without notifying the CDFG, incorporating necessary mitigation, and obtaining a streambed alteration agreement.

**OSC-20:** Buffer zones of at least 100 feet shall be provided, to the maximum extent feasible, between development and wetland areas.

**OSC-21:** Development and construction shall comply with all federal and state regulations regarding jurisdictional waters and wetlands.

## **Streams and Riparian Corridor Policy**

Streams convey, filter, and store sediment and nutrients, and their floodplains are important for recharge of groundwater aquifers and flood prevention. They also provide critical wildlife movement corridors between important habitats for both aquatic and terrestrial species. Ephemeral channels are important for maintaining healthy watersheds. Perennial and intermittent streams provide fish migration routes.



*Riparian corridors assist in erosion control, provide areas for flood waters, help maintain water quality, and provide habitat for wildlife.*

Riparian vegetation is essential to proper functioning of stream systems and is a critical component of high quality habitat. Woody vegetation provides shade that keeps water temperatures within tolerable ranges for aquatic organisms, stabilizes streambanks and floodplains, and provides protective cover for wildlife.

**OSC-22:** In its review of applications for development, the Town shall require open space buffers of at least 50 feet on each side of the top of the bank of perennial, intermittent, and ephemeral streams on properties less than five acres and of at least 100 feet on each side of the top of the bank on properties greater than five acres, to minimize disturbance of natural vegetation and maintain the environmental and scenic attributes of the corridor. Where modification of corridors is required for flood control or crossings, such modification shall be made in an environmentally sensitive manner that enhances, replaces or retains vegetation.

## **Flood-Prone Area Policies**

In addition to posing a threat to property and improvements, flooding also presents a threat to the natural environment. Flood waters carry pollutants that would normally be out of the reach of surface water. Additionally, flood

plains serve as a natural protection against flooding. Areas within a waterways' natural flood plain are capable of absorbing flood waters. Creation of impervious surfaces reduces this natural function and can create or exacerbate flooding further downstream.

**OSC-23:** New subdivisions shall avoid construction on lands that are shown to be within the 100-year flood hazard zone as shown on the current FEMA Flood Rate Insurance Map.

**OSC-24:** Areas defined as floodplain should serve the dual purpose of habitat and flood protection.

## Wildlife and Habitat Policies

For planning purposes, special-status species include:

- Species officially designated threatened or endangered or candidates for designation by the U.S. Fish and Wildlife Service (USFWS).
- Species officially designated rare, threatened, or endangered or candidates for designation by the California Department of Fish and Game (CDFG).
- Species which are considered sensitive or of special concern due to limited distribution or lack of adequate information to permit listing or rejection for state or federal status, such as those listed in the *Inventory of Rare and Endangered Vascular Plants of California* by the California Native Plant Society.



*The Tiburon Indian paintbrush is a federally listed endangered species.  
Photo © 1991  
California Native Plant Society*

A number of federal and state laws have been enacted to protect sensitive biological resources. The federal Endangered Species Act is implemented by the USFWS and the National Marine Fisheries Service. At the state level, the CDFG is responsible for the administration of the state Endangered Species Act.

### Special-Status Species in Tiburon

The primary information source for the distribution of special-status species is the California Natural Diversity Database (CNDDDB). The CNDDDB is a digital inventory of the locations of the state's special-status plants, animals and natural communities. The CNDDDB records occurrence data are provided by a variety of scientific, academic, and professional organizations. The absence of reported occurrences does not mean that a species does not exist in an area, only that it has not been seen and recorded.

Table 3.3-1 lists the special status species and natural communities that are

known to exist in the Planning Area.

**Table 0-1 Special Status Species and Special Communities Known to Occur within the Planning Area**

<b>Common Name (Scientific Name)</b>	<b>Status Federal/State/CNPS<sup>1</sup></b>	<b>General Habitat</b>
<b>AMPHIBIANS/REPTILES</b>		
California red-legged frog ( <i>Rana aurora draytonii</i> )	FT/--	Varied habitat along streams and ponds
Northwestern pond turtle ( <i>Clemmys marmorata marmorata</i> )	FT / CSC	Streams/ponds/lakes
<b>BIRDS</b>		
Black-crowned night heron ( <i>Nycticorax nycticorax</i> ) (rookery)	-- / --	Colonial nester in trees/shrubs near marshland
California black rail ( <i>Laterallus jamaicensis coturniculus</i> )	--/ ST; FP	Coastal saltmarsh
California clapper rail ( <i>Rallus longirostris obsoletus</i> )	FE/SE	Salt and brackish marsh
Cooper's Hawk ( <i>Accipiter cooperii</i> ) (nesting)	--/CSC	Forest/woodlands/riparian in open areas
Great egret ( <i>Ardea alba</i> ) (rookery)	-- / --	Colonial nester in large trees
Great blue heron ( <i>Ardea Herodias</i> ) (rookery)	--/--	Colonial nester in large trees
Northern harrier ( <i>Circus cyaneus</i> ) (nesting)	-- / CSC	Nesting in marsh and low shrubs
Saltmarsh common yellowthroat ( <i>Geothlypis trichas sinuosa</i> ) (nesting)	-- / CSC	Salt and brackish water marsh
Snowy egret ( <i>Egretta thula</i> ) (rookery)	-- / --	Colonial nester in trees, cliff-sides, near marshland
Western snowy plover ( <i>Charadrius alexandrinus nivosus</i> ) (nesting)	FT / CSC	Nesting along sandy beaches and shorelines
White-tailed kite ( <i>Elanus leucurus</i> ) (nesting)	-- / FP	Nesting in grassland/marshland with trees
Yellow warbler ( <i>Dendroica petechia brewsteri</i> ) (nesting)	-- / CSC	Nesting in willows and riparian cover
<b>INVERTEBRATES</b>		
Monarch butterfly ( <i>Danaus plexippus</i> )	--/--	Overwinters in blue gum eucalyptus
Ricksecker's water scavenger beetle ( <i>Hydrochara rickseckeri</i> )	-- / --	Aquatic habitat/pools and ponds
Tiburon micro-blind harvestman ( <i>Microcina tiburona</i> )	--/--	Serpentine outcrops near spring/seeps
<b>MAMMALS</b>		
Angel Island mole ( <i>Scapanus latimanus isularis</i> )	-- / CSC	Coastal scrub/prairie on Angel Island
Pallid bat ( <i>Antrozous pallidus</i> )	-- / CSC	Roosts in protected locations

<b>Common Name (Scientific Name)</b>	<b>Status Federal/State/CNPS<sup>1</sup></b>	<b>General Habitat</b>
Salt marsh harvest mouse ( <i>Reithrodontomys raviventris</i> )	FE / SE; FP	Coastal saltmarsh
Townsend's western big-eared bat ( <i>Corynorhinus townsendii townsendii</i> )	-- / CSC	Roosts in protected locations
<b>PLANTS</b>		
Bent-flowered fiddleneck ( <i>Amsinckia lunaris</i> )	-- / -- / 1B	Coastal bluff scrub/woodland/grassland
Diablo helianthella ( <i>Helianthella castanea</i> )	-- / -- / 1B	Forest/chaparral/woodland/coastal scrub/grassland
Fragrant fritillary ( <i>Fritillaria lilacea</i> )	SC / -- / 1B	Coastal scrub/prairie/grassland
Hairless popcorn-flower ( <i>Plagiobothrys glaber</i> )	-- / -- / 1A	Meadows/seeps/marshes/swamps
Marin knotweed ( <i>Polygonum marinense</i> )	SC / -- / 3	Marshes/swamps
Marin western flax ( <i>Hesperolinon congestum</i> )	FT/ST/1B	Chaparral/grassland
Napa false indigo ( <i>Amorpha californiaca varnapensis</i> )	-- / -- / 1B	Forest/chaparral/woodland
Point Reyes bird's-beak ( <i>Cordylanthus maritimus ssp. Palustris</i> )	SC / -- / 1B	Coastal salt marsh
San Francisco gumplant ( <i>Grindelia hirsutula var. maritima</i> )	-- / -- / 1B	Coastal bluff scrub/coastal scrub/grassland
San Francisco owl's clover ( <i>Triphysaria floribunda</i> )	SC / -- / 1B	Coastal prairie/grassland
Santa Cruz microseris ( <i>Stebbinsoseris decipiens</i> )	SC / -- / 1B	Forest/chaparral/coastal prairie/coastal scrub
Santa Cruz tarplant ( <i>Holocarpha macradenia</i> )	FT / SE / 1B	Coastal prairie/coastal scrub/grassland
Showy indian clover ( <i>Trifolium amoenum</i> )	FE/--/1B	Grassland/coastal bluff scrub
Soft bird's beak ( <i>Cordylanthus mollis ssp. mollis</i> )	FE / SR / 1B	Coastal saltmarsh
Sonoma alopecurus ( <i>Alopecurus aequalis varsonomensis</i> )	FE / -- / 1B	Freshwater marsh/riparian scrub
Tiburon indian paintbrush ( <i>Castilleja affinis ssp. Neglecta</i> )	FE / ST / 1B	Serpentine grassland
Tiburon jewel-flower ( <i>Streptanthus niger</i> )	FE / SE / 1B	Grassland on serpentine
Tiburon mariposa lilly ( <i>Calochortus tiburonensis</i> )	FT / ST / 1B	Serpentine grassland; narrowly endemic to Ring Mountain
White-rayed pentachaeta ( <i>Pentachaeta bellidiflora</i> )	FE / SE / 1B	Grassland on serpentine
<b>NATURAL COMMUNITIES</b>		
Coastal Terrace Prairie	--/--	
Serpentine Bunchgrass	--/--	

Common Name (Scientific Name)	Status Federal/State/CNPS <sup>1</sup>	General Habitat
<p>1. CNPS – California Native Plant Society</p> <p><b>STATUS DESIGNATIONS</b></p> <p><i>Federal:</i>  FE – Listed as “endangered” under the federal Endangered Species Act  FT – Listed as “threatened” under the federal Endangered Species Act  PE – Proposed for federal listing as “endangered”  PT – Proposed for federal listing as “threatened”  C – A candidate species under review for federal listing.  SC – Species of Concern; formerly considered a candidate species for listing by the USFWS</p> <p><i>State:</i>  SE – Listed as “endangered” under the California Endangered Species Act  SR – Listed as “rare” under the California Endangered Species Act  ST – Listed as “threatened” under the California Endangered Species Act  FP – California fully protected species; individual may not be possessed or taken at any time  CSC – Considered a California Special Concern species by the CDFG; taxa have no formal legal protection but nest sites and communal roosts are generally recognized as significant biotic features</p> <p><i>CNPS:</i>  1A – Plants of highest priority; Plants presumed extinct in California  1B – Plants of highest priority; Plants rare, threatened, or endangered in California and elsewhere  3 – Plants requiring additional information; a review list  4 – Plants of limited distribution; a watch list</p> <p><i>Sources: Environmental Collaborative, April 2005</i></p>		

**OSC-25:** A diversity and abundance of wildlife and marine life shall be protected and maintained. The Town shall strive to preserve and protect to the greatest extent feasible wildlife habitat in the open spaces, shoreline, marshes, mudflats, and other biologically sensitive areas.

**OSC-26:** To the maximum extent feasible, and as required by federal and state laws, development and construction shall not affect special status species or special communities.

**Steep Slope Policy**

Unstable soil and steepness tend to be related. For this reason, development of areas with steep slopes can be dangerous, either for the new development or for any existing improvements that may be located downhill or nearby.

**OSC-27:** The Town shall strongly discourage development on slopes exceeding 40%.

## View Policies

Views are among the most important land-based qualities of open space. The views that the community members enjoy from their homes and open spaces are among the most valued characteristics of the community. In addition, views from or across water give the Planning Area a regional open space value.

**OSC-28:** Principal vistas, view points, and view corridors on land subject to development shall be identified and preserved to the maximum extent feasible.

**OSC-29:** Open space views from key roadways, including Tiburon Boulevard, Trestle Glen Boulevard, and Paradise Drive, shall be protected through the permitting process.

**OSC-30:** Development shall be encouraged in areas where it least interferes with views of and views from open space to the maximum extent feasible.

**OSC-31:** 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.

**OSC-32:** The Town shall protect visual access to the bayfront and scenic vistas of water and distinct shorelines through its land use and development review procedures, to the greatest extent feasible.

## Tree Policies

Trees and woodland areas are important natural resources which provide habitat for birds and shaded, protected areas for other animals; and help to stabilize hillsides. Trees and wooded areas also contribute to the visual character of the community.

Trees and woodlands are valued by the Town for their ecological importance, their visual enhancement of the community, and their contribution to residential privacy and quiet.

**OSC-33:** Protected trees, as defined in the Municipal Code, tree stands, and tree

Protected Trees are defined in the Municipal Code as any of the following:

1. HERITAGE TREE, meaning any tree which has a trunk with a circumference exceeding 60 inches, measured 24 inches above ground level.
2. OAK TREE, including coast live oak, blue oak, California black oak, interior live oak, canyon live oak, Engelmann oak, or valley oak tree.
3. DEDICATED TREE, meaning a tree of special significance so designated by resolution of the Town Council.

clusters shall be preserved to the maximum extent feasible.

*OSC-34:* The Town shall protect natural habitat, and natural wooded areas shall be preserved to the maximum extent feasible.

## **Grading Policies**

Development of land involves grading, which is the process of cutting into land or placing fill onto land in order to achieve a desired topography. Engineering and technology make it possible to achieve nearly any topography from an existing piece of land. However, the Town values the natural contours which exist. Additionally, grading may disturb natural habitats and may affect the flow of water.

*OSC-35:* To the maximum extent feasible, grading shall be kept to a minimum and every effort shall be made to retain the natural features of the land including ridges, rolling landforms, knolls, vegetation, trees, rock outcroppings, and water courses.

*OSC-36:* The Town values the retention of natural landforms. Therefore, site grading that is not required by the Town's Landslide Mitigation Policy is to be avoided to the maximum extent feasible.

*OSC-37:* Where grading is required to stabilize areas of geologic instability, its natural vegetation and habitat shall be restored to the graded area to the maximum extent feasible.

*OSC-38:* Where grading is required, it shall be performed in a manner which minimizes, to the maximum extent feasible, the impact on adjacent properties, water quality, and air quality.

*OSC-39:* Slopes created by grading shall be at a slope angle determined to have long-term stability for the materials being used, not exceeding 30 percent wherever possible. Final contours and slopes shall reflect natural land features, including natural vegetation.

*OSC-40:* The visual impact of retaining walls and similar engineering elements shall be reduced in size and scope to the maximum extent feasible by minimizing their use and requiring appropriate visual screening.

## **Implementing Programs for Prime Open Space Preservation**

*OSC-a:* Applicants shall be required to demonstrate that proposals for development minimize environmental impacts and comply with the General Plan and applicable regulations, ordinances and guidelines. The Town shall require that an assessment of environmental constraints and Prime Open Space characteristics

be prepared prior to the submittal of Precise Development Plan applications for large undeveloped parcels.

- OSC-b:* The Town shall review development applications that are submitted to the County and that are within the Town's sphere of influence and areas of interest in order to encourage conformance with Town policies, including minimizing the visual impact of development on surrounding hills visible from the Town.
- OSC-c:* The Town shall require an environmental assessment for development proposed on sites that may contain sensitive biological resources, including wetlands, occurrences of special-status species and sensitive natural communities, native wildlife nurseries and nesting locations, and native wildlife movement corridors. The assessment shall be conducted by a qualified professional to determine the presence or absence of any sensitive resources which could be affected by proposed development, shall provide an assessment of the potential impacts, and shall define measures for protecting the resource and surrounding buffer habitat.
- OSC-d:* Where hillslope stabilization is proposed as part of development proposals, or wherever such stabilization is required by the Town to protect public safety, the Town shall require the project to evaluate all slope repair-related modifications such as the secondary impacts of subsurface drainage on site and watershed ecological communities, including special-status species, sensitive natural communities, and wetlands. In the event impacts are likely, modifications to the proposed project shall be considered. In the event avoidance and project modification are infeasible, appropriate on- or off-site habitat mitigation shall be required prior to project approval, as mandated by the State and federal regulatory agencies.
- OSC-e:* The Town shall establish a clearinghouse of information for public use related to protection of sensitive biological and wetland resources, maintain contacts for agencies responsible for their protection, and encourage programs dedicated to the restoration and management of the remaining natural area.
- OSC-f:* The Town shall consider revising and expanding the Tiburon Tree Ordinance to provide protection of both individual trees and native woodlands. Factors to consider in expanding the current ordinance include the importance of protecting smaller sapling trees and balancing their protection against those of designated "protected trees", defining critical management guidelines necessary to maintain healthy woodlands, and methods to encourage natural regeneration in woodland habitats.

### **3.4 OPEN SPACE MANAGEMENT**

The Town of Tiburon owns and manages approximately 270 acres of open space. These open spaces are depicted on Diagram 3.4-1.

Open spaces, like other property, requires management to maintain them as healthy and valuable. The Town's Public Works Department has primary responsibility for maintaining the Town's open spaces, including trails and fire roads.

#### **Open Space Management Policies**

- OSC-41:* The Town shall encourage conservation and education uses of its public open space lands.
- OSC-42:* The Town may authorize or provide conservation and education facilities, including nature trails, interpretive exhibits, day camps, nature study areas and other related facilities in areas where the impacts on the natural environment will be minimal.
- OSC-43:* The Town shall encourage and seek agreements with other governmental jurisdictions such as County, State, Federal and other agencies for funding, acquisition, maintenance and use of open space areas.
- OSC-44:* The Town shall encourage and promote cooperation and participation of private groups, organizations, and individuals in the planning, operation and preservation of open space lands as deemed necessary.
- OSC-45:* The Town shall, where desirable, coordinate the use of its open space lands with other public and quasi-public lands that are contiguous or otherwise inter-related to Town open space.

The Town may engage in or authorize landscape restoration and/or enhancement programs where the natural landscape has been altered or degraded and when funding and resources allow on its open space land

# TOWN OF TIBURON LANDSLIDE MITIGATION POLICY

## GOAL

The Town of Tiburon shall require physical improvements to landslides and to potential landslide areas necessary to secure the public health, safety and/or welfare, in instances where avoidance of landslides is not feasible or appropriate. This policy sets forth the framework that the Town will use to determine the type and extent of necessary physical improvements to landslides and potential landslide areas. The intent of such physical improvements is to substantially improve slope stability or construct protective structures to mitigate the impacts of landslide movement.

## APPLICABILITY

This policy shall apply to all applications for Precise Development Plan, Major Subdivision, and Minor Subdivision; and to Conditional Use Permit applications for the construction of any multiple family dwelling (three or more units). This policy also applies to applications for Site Plan & Architectural Review for a new dwelling on a vacant lot or parcel not created as part of a subdivision recorded after June 23, 1964, unless the Town Engineer determines that there is no potential for landslides on the property. This policy shall also apply to new single family residences and major remodels if, in the opinion of the Town Engineer, a potential landslide risk exists.

## REQUIRED GEOLOGIC MAPPING INFORMATION

At a minimum, any project subject to this policy shall submit a geologic map, at a scale suitable for delineating existing landslides and/or potential landslide areas, prepared by a Registered Geologist, Certified Engineering Geologist or Registered Geotechnical Engineer. The mapping shall include a review of available published geologic maps and a site reconnaissance. For sites with more complex geology (i.e. Franciscan melange {KJ<sub>fm</sub>}, serpentinite {KJ<sub>sp</sub>}, colluvium {Qc} on steep, unstable slopes with landslides {Qls}, undocumented man-made fill, etc.), the geologic mapping shall also include a review of historic and recent aerial photographs, and be supplemented with preliminary subsurface exploration. The project geologic map shall identify, locate and define the extent of active landslides<sup>2</sup>, dormant landslides<sup>3</sup> and potential landslide areas<sup>4</sup>.

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<sup>1</sup> Landslides with visible geomorphic features that indicate instability within the last fifty (50) years.

<sup>2</sup> Ancient landslides with poorly defined geomorphic features and no evidence of recent activity.

<sup>3</sup> Areas where the soil type, groundwater conditions and topography are typically associated with landslides and/or debris flows.

## POLICY

The required level of repair, improvement, or mitigation for the mapped landslides will depend on the level of risk for damage to property and to existing or proposed improvements, as set forth below:

- Risk Level A Mitigation

Risk Level A landslides include all active, dormant, or potential landslide areas having a high risk of causing damage to structures and improvements, and: (1) are within 100 feet of any designated building envelope; (2) have debris flow source areas where the flow path crosses any building envelope or residential use area; (3) are active landslides that could affect adjacent public or private property.

All Risk Level A landslides shall be repaired or avoided. Landslide repairs shall improve the stability of a landslide to a level such that the calculated factor of safety<sup>5</sup> is at least 1.5 for static conditions and greater than 1.0 for pseudo-static<sup>6</sup> (seismic) conditions. The improved stability may be accomplished by various methods including: (1) excavation of unstable material, installation of subsurface drainage and construction of a compacted earth fill buttress; (2) design and construction of retaining structures; (3) de-watering; (4) removal of the entire unstable landslide mass; or (5) other methods for landslide stabilization acceptable to the Town.

Landslide avoidance requires that proposed structures and improvements are not located within a Risk Level A landslide, or that they are set back an adequate distance from a Risk Level A landslide as determined by a Registered Geologist, Certified Engineering Geologist or Registered Geotechnical Engineer. Avoidance also requires that existing structures, property, and off-site improvements will not be affected by future Risk Level A landslide movement.

- Risk Level B Mitigation

Risk Level B landslides have a lower risk of causing significant damage to property or improvements within or outside the property than Risk Level A landslides. In most instances, Risk Level B landslides would be those located in proposed open space areas or in areas outside of any building envelope and any residential use area.

All Risk Level B landslides shall be improved or avoided. Landslide improvement requires increasing the stability to a level such that the calculated factor of safety is at least 1.2 for static conditions. Improvement may also include the construction or installation of protective devices to protect structures, property, and improvements located downslope of Risk Level B landslides.

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<sup>4</sup> The factor of safety is defined as the ratio of the resisting forces to the driving forces. Slopes with a factor of safety less than 1.0 are unstable and a landslide will commence. Slopes with a factor of 1.0 are marginally stable. The higher the factor of safety, the more stable the slope.

<sup>5</sup> The seismic acceleration used in the pseudo-static analyses shall be the maximum ground acceleration determined from deterministic methods, or the probabilistic ground acceleration that corresponds with a 10 percent chance of being exceeded in 50 years.

Landslide avoidance requires placement of structures and improvements an adequate distance from the landslide, as determined by a Registered Geologist, Certified Engineering Geologist or Registered Geotechnical Engineer, such that any future slope movement is not likely to affect the structures or improvements.

All mapping, evaluation, analyses and design for repair, improvement or avoidance of landslides is subject to review and acceptance by the Town of Tiburon and/or the Town's Geotechnical Consultant. The Town Engineer shall have sole discretion to determine: (1) the Risk Level of any landslide or potential landslide; (2) whether a proposed project avoids an on-site landslide or landslides; and (3) whether proposed mitigation is adequate under this policy.

By adopting this policy, the Town Council does not intend to self-impose any liability for damages to persons or property arising from any landslide features, slope stability failures or other land movement.

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