

MARIN COUNTY PLANNING COMMISSION MINUTES
JANUARY 27, 2003
Marin County Civic Center, Room #328 - San Rafael, California

Commissioners Present: Ray Buddie
Allan Berland
Ross Herbertson
Patty Garbarino
Jo Julin
Hank Barner
Steve Thompson

Commissioners Absent:

Staff Present: Alex Hinds, Agency Director
Brian C. Crawford, Deputy Director of Planning Services
Tim Haddad, Environmental Planning Coordinator
Christine Gimmler, Senior Planner
Alexandra Morales, Planning Commission Secretary

Eric Steger, Department of Public Works

Minutes Approved on: ***FEBRUARY 10, 2003***

Convened at 1:05 p.m.
Adjourned at 5:00 p.m.

1. ROUTINE TRANSACTIONS:

- a. M/s Barner/Julin, and passed unanimously of those present, to incorporate Staff Report into Minutes. Motion passed 7/0.

- b. Continuances:

M/s Berland/Julin, and passed unanimously of those present, to reschedule the Tobias Variance Appeal to the hearing of March 24, 2003 as requested by the applicant. Motion passed 7/0.

- c. Minutes:

M/s Berland/Julin, and passed unanimously of those present, to approve the Minutes of December 16, 2002, as modified. Motion passed 6/0/1 (Commissioner Buddie abstained).

(Discussion of the January 13, 2003 Minutes was postponed until the conclusion of Item #7.)

M/s Barner/Julin, and passed unanimously of those present, to approve the Minutes of January 13, 2003 as modified. Motion passed 6/0/1 (Commissioner Buddie abstained). Note: This action was take at the conclusion of Item #7.

2. COMMUNICATIONS

The Commission acknowledged additional correspondence regarding the Waldo Point Harbor Master Plan and Precise Development Plan from T.J. Nelson, Dave Plummer of the California State Lands Commission, Ellen M. Sampson of the San Francisco Conservation and Development Commission, and Planning Consultant Scott Hochstrasser.

3. DIRECTOR'S ORAL REPORT

- a. Report on Progress of General Plan Updates

Staff informed the Commission that a Final Draft of the Development Code Update was now available and that a notice of availability would be mailed by the end of the week.

- b. Update on Board of Supervisors Actions

January 14, 2003: Lenchner Appeal of the Simon Design Review granted in part.

January 24, 2003: Wild Horse Valley HOA Appeal of the Schardt Second Unit Use Permit approval; Tomales Bay Association Appeal of the Weber Coastal Permit and Tidelands Permit

February 11, 2003: Town of Fairfax Appeal of the Melvin Design Review approval; Moritz Design Review Appeal

- c. Report on On-Going Development Projects

4. TIME FOR PUBLIC EXPRESSION ON ITEMS NOT ON TODAY'S AGENDA

None.

5. FUTURE AGENDA DISCUSSION ITEMS, FIELD TRIPS

February 10, 2003

Fitzgerald Design Review (San Rafael)

Nick's Cove Master Plan/Development Plan/Coastal Permit and Negative Declaration (Marshall)

Thompson Appeal (San Anselmo)

February 24, 2003

Dickens Subdivision (San Rafael)

Milstein Design Review (Kentfield)

Dreyful Coastal Permit/Design Review (Stinson Beach)

Oakview Final EIR Certification

6. VARIANCE APPEAL: TOBIAS

Application proposing to allow an addition to the existing residence that was constructed within the required side yard setback. The addition maintains a setback of 4 feet, 8 inches from the western side property line, where 6 feet is required. The subject property is located at **1122 Idylberry Road, San Rafael**, and is further identified as **Assessor's Parcel 164-422-14**.

M/s Berland/Julin, and passed unanimously of those present, to reschedule this matter to the hearing of March 24, 2003 as requested by the applicant. Motion passed 7/0.

7. MASTER PLAN AND PRECISE DEVELOPMENT PLAN: WALDO POINT HARBOR

Hearing to consider recommending approval of the applications proposing the reauthorization, reconfiguration and expansion of the existing 245-berth Waldo Point Harbor houseboat marina. This action involves a recommendation by the Marin County Planning Commission to the Marin County Board of Supervisors, which will be considered by the Board at a future hearing to be scheduled. As proposed, the project would allow for the expansion of Waldo Point Harbor to 283 berths to accommodate 38 Gates Cooperative houseboats presently situated in areas of the marina designated as open water in the original Waldo Point Harbor Use Permit. The additional berths would be accommodated both along existing docks as well as on a new, approximately 300 foot long dock which would be constructed north of the existing Main Dock, in the vicinity of the existing Gates Cooperative area. To accommodate the parking demand for the reconfigured marina, the applicant proposes to construct a new parking lot for 134 vehicles northeast of the Gate 6 Road/Bridgeway Boulevard intersection, and make minor modifications to existing parking areas, resulting in a total of 484 private and 10 public parking spaces on the project site. Additional proposed improvements include the construction of a shoreline park and a public access pathway along the entire perimeter of the site. Finally, the project proposes implementation of a land exchange between Waldo Point Harbor and the State Lands Commission which would provide Waldo Point Harbor with fee title (subject to a public trust easement) to submerged lands within the marina under existing and proposed docks and houseboat berths, and would provide the State with fee title to most of the open space and open water areas within the marina, which would be made available for public trust purposes or retained in a natural state. The project site comprises approximately 45.2 acres of land, tideland, and water areas immediately north of the corporate limits of the City of Sausalito, east of Bridgeway Boulevard, and between Gates 5 and 6 Roads. The site occupies nineteen Assessor's Parcels between Eureka Street (north), Railroad Avenue (east), Monterey Street (south), and Petaluma Street (west) as follows: Assessor's Parcel Numbers 52-301-04 & 08, 52-304-01, 52-312-01, 52-313-01, 52-314-01, 52-331-01, 52-332-01, 52-333-01 through 04, 52-334-01, 52-335-01, 52-336-01, 52-341-01, 52-342-01, 52-344-01, and 52-345-01. Portions of the following street right-of-ways are also within the property boundary: Donahue Avenue, Humboldt Avenue, Petaluma Street, Grove Street, Yuba Street, Myrtle Street, Waldo Street, and Monterey Street. In order to complete the proposed land exchange with the State Lands Commission, Assessor's Parcel Number 52-252-01, comprising 0.7 acres, which lies north of the project site, is being included as open space for the project. The Planning Commission previously recommended at their meeting of October 15, 2001, that the Board of Supervisors certify the Final Revised Environmental Impact Report for the above project. Therefore, the January 27, 2003, Planning Commission hearing will address the merits of the proposal.

Christine Gimmler, project planner, presented the merits of the proposed project, including the background history, planning process, configuration of docks, and other issues regarding housing, park and bayshore improvements, parking, and transportation, as set forth in the staff report. Additionally, she noted staff's supplemental memorandum dated January 23, 2003 responding in detail to comments received from the Bay Conservation and Development Commission (BCDC) with regards to public trust and land exchange, public access, the Gates qualifying criteria, Appleton Ark, harbor maintenance area on A Dock, relocation and removal plan and enforcement provisions, and wetlands and mitigation. She concluded by responding to Commissioners' questions in the following manner:

- Public parking spaces have been designated for the park area. Since different schemes for parking enforcement have been presented, staff was not recommending a specific plan. Parking enforcement will be determined by the community. However, it is anticipated that parking for the marina would be enforced by the Harbor and public parking would be enforced by the Sheriff's Department.

- Not only is it typical for the County to approve a project prior to the project obtaining approval from other applicable permitting agencies, but in many cases other agencies will not consider a project until County approval has been obtained.
- EAH will participate in establishing rental rates.

The hearing was opened to public testimony.

Scott Hochstrasser, planning consultant for the applicant, briefly commented on the long history of the project. He then expanded on some of the issues raised in the following manner: 1) a formal application has been filed with BCDC, however it can not be deemed complete until local government approval is obtained; 2) an application has been filed with the US Corps of Engineers; 3) affordability can be ensured if Condition 9b was modified to read "The affordability of the existing Gates boats and approved berths shall be maintained for a minimum of 20 years plus any additional options granted consistent with valid entitlements; and 4) the applicant is more than eager to move forward with the public trust and land exchange issue. Mr. Hochstrasser presented a drawing reflecting the project approved in 1970, which included a different dock configuration, an 8,000 square foot restaurant with 60 parking spaces where the park is now proposed, 30,000 square feet of marine commercial area, and land exchange for parking areas. He urged the Commission to recommend that the Board of Supervisors approve the project as proposed not only because it was the result of a long and thorough review process, but because it would: 1) improve the area; 2) provide 38 affordable housing units that meet public health and safety standards and building codes; 3) provide logical boundaries between public and private uses; 4) provide public access improvements and a public park; and 5) improve the water quality of Richardson Bay.

Gary Giacomini, representing Harbor Equity, stated that the project as proposed represented not only community consensus, but consensus from major stake holders such as Harbor Equity, Gates Coop, Ecumenical Association for Housing, Marin Community Foundation, and the County. He stated that he was confident that issues raised by other applicable permitting agencies would be addressed. In the interest of time, he concluded by asking supporters of the proposed project to stand up. Approximately 100 people stood up. Chair Herbertson then invited those opposing the proposed project to stand, but no one accepted the offer.

Chair Herbertson then asked those in opposition of the project to stand up, but no one accepted the offer.

Stan Barbarich, Harbor Equity, noted that the project was approximately 34 years old. He then commented on the planning and review process, noting that since the community was actively involved throughout the process, the project was almost unanimously supported.

John Roberto, representing Waldo Point Harbor residents, reaffirmed the community's consensus to support the proposed project, but noted the delicacy of the consensus. He then noted that the current plan was environmentally superior to the one approved in 1970 in terms of bay fill and view preservation. He concluded by urging the Commission to forward a recommendation for approval to the Board of Supervisors.

Suki Sennett (Floating Homes Association), Henry Baer (Waldo Point Harbor Residents' Committee), Richard Haskell (Gates Coop), Jane Koestel (Gates Co-Op resident and representing her daughter Sady Koestel), and Lynn Berard (EAH) commented in support of the project as proposed, urging the Commission for its endorsement. General comments in support related to the benefits of the project with regards to the provision of affordable housing, safety, views, and parking. Mr. Haskell also asked that Condition #9f. be modified to read "The 38 designated low-income berths shall be maintained for and occupied by qualified vessels owned and occupied by low-income households, including non-Gates Cooperative members to the extent that existing Gates Cooperative Boats or members leave the marina."

Margaret Zegart, Tam Valley resident, stated that while she supported the concept of the proposed project, she was concerned regarding the provision of a safe multi-modal path since the existing path was heavily used by students. Therefore, she suggested the following modifications: 1) relocating the handicap parking spaces to the entrance of the new dock; 2) relocating the public parking area closer to the road; and 3) relocating the bicycle path to the park in front of the parking lot, not behind.

Gerald Borkehagen, former resident of Waldo Point Harbor, stated that endorsing the proposed project would only compensate those who have illegally expanded berths, docks, and boats. He asked that his comments to the Draft and Final EIRs be include into the record.

Mr. Hochstrasser stated that Ms. Zegart's suggestions regarding parking and trails would be dealt with by BCDC since their primary goal was to obtain the maximum public benefit. He concluded by noting that views have been improved by providing observation decks which will be used as view platforms, and that parking has been increased from approximately 1.4 to 1.7 spaces per houseboat.

In response to Commissioner Julin, Mr. Hochstrasser stated that providing a multi-modal path through the property as suggested by Ms. Zegart would decrease parking and landscaping areas. However, alternatives could be explored.

Mr. Roberto cautioned against modifying the project because it could jeopardize the consensus reached after an extensive review process.

Chair Herbertson thanked attendees for their hard work and informational input.

The hearing was closed to public testimony.

Commissioner Barner thanked all community members for the time and effort that went into the project. He then asked that the standard condition regarding exterior lighting be included, and that the standard condition for construction hours be further restricted to prohibit construction work on holidays. He then asked what would happen to houseboats that did not meet building and safety codes and therefore could not be relocated to an approved Gates Coop berth. Staff responded that houseboats that did not meet building and safety codes would be removed and disposed of appropriately. However, conditions related to that issue could be expanded.

Commissioner Barner asked staff to consider Ms. Zegart's comments regarding Condition 27(F) with regards to handicapped parking

Given the amount of time and effort that had gone into the planning and review process, Commissioner Buddie was inclined to recommend that the Board of Supervisors approve the project as presented, but agreed with BCDC's request for a bond to ensure that all construction debris is removed.

Recognizing that the community's consensus was reached very carefully, Commissioner Buddie suggested endorsing the project as proposed and informing other permitting agencies of the importance of approving the project as presented. However, he suggested requiring a bond to ensure compliance with conditions of approval.

Commissioner Thompson noted that it appeared that the transportation mitigation did not take into consideration potential off-site mitigations, i.e., signalization. He concluded by expressing interest in having affordable housing remain affordable in perpetuity.

Commissioners Garbarino, Julin, and Buddie concurred with the comments made by other Commissioners.

Staff responded to some of the issues raised by Commissioners in the following manner:

- Off-site traffic mitigations were considered. Condition #41 requires that the applicant contribute on a fair-share basis to the cost of construction of a second northbound through lane and a second eastbound right-turn lane to the Bridgeway Boulevard/Gate 6 Road intersection.
- A condition requiring a bond to ensure removal of construction debris could be added, however, it may be legally difficult to enforce if it is extended to apply to the Gates Cooperative boats or other boats in the marina since they are privately owned.
- Condition #8 could be modified to clarify that the project must be approved by BCDC and the Army Corps of Engineers.
- Condition #9(b) could be modified to add a phrase at the end to read "with a minimum of 20 years".
- Condition #9(e) could be modified to ensure that qualified applicants are not unreasonably rejected by rewriting language to read "Waldo Point Harbor shall not unreasonably reject qualified applicants as described herein, referred to Waldo Point Harbor for occupancy of Gates Cooperative berths. All parties of interest shall not attempt . . ."
- Condition #9(f) could be modified to clarify that the 38 designated low-income berths could be occupied by both Gates Cooperative and non-Gates Cooperative members.

Staff clarified that the BCDC letter of June 14, 2002 was included in the administrative record for these proceedings.

M/s Buddie/Julin, to adopt the attached resolution recommending that the Board of Supervisors enact an ordinance with findings pursuant to the California Environmental Quality Act and with findings for project approval and for determination of project consistency with applicable county plans that approves the Waldo Point Harbor Master Plan application based on the Findings in Exhibits 1 and 2, and subject to the conditions of approval contained in Exhibit 3, as modified above and shown with revision marks, and implementation of the Mitigation Monitoring and Reporting Program contained in Exhibit 4. Motion passed 6/0/1 (Commissioner Berland abstained).

M/s Buddie/Julin, to adopt the attached resolution recommending that the Board of Supervisors enact an ordinance with findings pursuant to the California Environmental Quality Act and with findings for project approval and for determination of project consistency with applicable county plans that approves the Waldo Point Harbor Precise Development Plan application subject to the conditions of approval contained in Exhibit 3, as modified above and shown with revision marks, and implementation of the Mitigation Monitoring and Reporting Program contained in Exhibit 4. Motion passed 6/0/1 (Commissioner Berland abstained).

Chair Herbertson informed all parties of interest that this matter would automatically go to the Board of Supervisors for final action.

MARIN COUNTY PLANNING COMMISSION

RESOLUTION NO. PC03-001

A RESOLUTION RECOMMENDING THAT THE BOARD OF SUPERVISORS ENACT AN ORDINANCE WITH FINDINGS PURSUANT TO THE CALIFORNIA ENVIRONMENTAL QUALITY ACT AND WITH FINDINGS FOR PROJECT APPROVAL AND FOR DETERMINATION OF PROJECT CONSISTENCY WITH APPLICABLE COUNTY PLANS THAT APPROVES THE WALDO POINT HARBOR MASTER PLAN (MP 93-003) APPLICATION

GATE SIX ROAD, SAUSALITO
ASSESSOR'S PARCELS 052-301-04, various

SECTION I: CALIFORNIA ENVIRONMENTAL QUALITY ACT FINDINGS

- I. WHEREAS a Final Recirculated Environmental Impact Report (hereinafter, "FREIR") was prepared for the Waldo Point Harbor project by EDAW, environmental consultant to the Marin County Community Development Agency – Planning Division, pursuant to requirements of the California Environmental Quality Act ("CEQA," Public Resource Code Sections 21000-21177), State CEQA Guidelines, and County CEQA procedures.
- II. WHEREAS on October 15, 2001, the Marin County Planning Commission adopted Resolution No PC01-122, which recommended that the Marin County Board of Supervisor's certify the FREIR for the Waldo Point Harbor project as adequate for purposes of taking an action on the project.
- III. WHEREAS the Marin County Planning Commission hereby makes findings pursuant to CEQA as contained in "Exhibit 1" attached to this resolution and incorporated herein by reference.

SECTION 2: FINDINGS RELEVANT TO MASTER PLAN AND FINDINGS FOR PROJECT APPROVAL AND FOR DETERMINATION OF PROJECT CONSISTENCY WITH APPLICABLE COUNTY PLANS

- I. WHEREAS the Marin County Planning Commission finds that Waldo Point Harbor submitted a Master Plan application for the project. Master Plan approval is required by Sections 22.45.010 and 22.47.090 of the Marin County Code for the development of a floating home marina and associated uses in the governing R-F (Floating Home Marina) zoning district.
- II. WHEREAS the Marin County Planning Commission hereby makes findings for project approval and for determination of project consistency with applicable County plans as contained in "Exhibit 2" attached to this resolution and incorporated herein by reference.

SECTION 3: RESOLUTION RECOMMENDING APPROVAL OF THE WALDO POINT HARBOR MASTER PLAN APPLICATION, SUBJECT TO CONDITIONS OF APPROVAL AND IMPLEMENTATION OF A MITIGATION MONITORING AND REPORTING PROGRAM

NOW, THEREFORE BE IT RESOLVED that the Marin County Planning Commission hereby recommends that the Marin County Board of Supervisors enact an ordinance which approves the Waldo Point Harbor Master Plan (MP 93-003), subject to the Conditions of Approval contained in "Exhibit 3" and implementation of the Mitigation Monitoring and Reporting Program contained in "Exhibit 4" of this resolution. Both Exhibit 3 and Exhibit 4 are attached to this resolution and incorporated herein by reference.

SECTION 4: VOTE

PASSED AND ADOPTED at a regular meeting of the Planning Commission of the County of Marin, State of California, on the 27th day of January 2003, by the following vote to wit:

AYES:

NOES:

ABSENT:

ROSS HERBERTSON, CHAIRPERSON
MARIN COUNTY PLANNING COMMISSION

Attest:

Alexandra Morales
Planning Commission Secretary

MARIN COUNTY PLANNING COMMISSION

RESOLUTION NO. PC03-002

A RESOLUTION RECOMMENDING THAT THE BOARD OF SUPERVISORS ADOPT A RESOLUTION WITH FINDINGS PURSUANT TO THE CALIFORNIA ENVIRONMENTAL QUALITY ACT AND WITH FINDINGS FOR PROJECT APPROVAL AND FOR DETERMINATION OF PROJECT CONSISTENCY WITH APPLICABLE COUNTY PLANS THAT APPROVES THE WALDO POINT HARBOR PRECISE DEVELOPMENT PLAN

GATE SIX ROAD, SAUSALITO
ASSESSOR'S PARCELS 052-301-04, various

SECTION I: CALIFORNIA ENVIRONMENTAL QUALITY ACT FINDINGS

- I. WHEREAS a Final Recirculated Environmental Impact Report (hereinafter, "FREIR") was prepared for the Waldo Point Harbor project by EDAW, environmental consultant to the Marin County Community Development Agency – Planning Division, pursuant to requirements of the California Environmental Quality Act ("CEQA," Public Resource Code Sections 21000-21177), State CEQA Guidelines, and County CEQA procedures.
- II. WHEREAS on October 15, 2001, the Marin County Planning Commission adopted Resolution No PC01-122, which recommended that the Marin County Board of Supervisor's certify the FREIR for the Waldo Point Harbor project as adequate for purposes of taking an action on the project.
- III. WHEREAS the Marin County Planning Commission hereby makes findings pursuant to CEQA as contained in "Exhibit 1" attached to this resolution and incorporated herein by reference.

SECTION 2: FINDINGS RELEVANT TO PRECISE DEVELOPMENT PLAN FINDINGS FOR PROJECT APPROVAL AND FOR DETERMINATION OF PROJECT CONSISTENCY WITH APPLICABLE COUNTY PLANS

- I. WHEREAS the Marin County Planning Commission finds that Waldo Point Harbor submitted a Precise Development Plan application for the project. Precise Development Plan approval is required by Sections 22.45.010 and 22.47.090 of the Marin County Code for the development of a floating home marina and associated uses in the governing R-F (Floating Home Marina) zoning district.
- II. WHEREAS the Marin County Planning Commission hereby makes findings for project approval and for determination of project consistency with applicable County plans as contained in "Exhibit 2" attached to this resolution and incorporated herein by reference.

**SECTION 3: RESOLUTION RECOMMENDING APPROVAL OF THE WALDO POINT HARBOR
PRECISE DEVELOPMENT PLAN APPLICATION, SUBJECT TO CONDITIONS OF
APPROVAL AND IMPLEMENTATION OF A MITIGATION MONITORING AND
REPORTING PROGRAM**

NOW, THEREFORE BE IT RESOLVED that the Marin County Planning Commission hereby recommends that the Marin County Board of Supervisors adopt a resolution which approves the Waldo Point Harbor Precise Development Plan (DP 93-009) application, subject to the Conditions of Approval contained in "Exhibit 3" and implementation of the Mitigation Monitoring and Reporting Program contained in "Exhibit 4" of this resolution. Both Exhibit 3 and Exhibit 4 are attached to this resolution and incorporated herein by reference.

SECTION 4: VOTE

PASSED AND ADOPTED at a regular meeting of the Planning Commission of the County of Marin, State of California, on the 27th day of January 2003, by the following vote to wit:

AYES:

NOES:

ABSENT:

ROSS HERBERTSON, CHAIRPERSON
MARIN COUNTY PLANNING COMMISSION

Attest:

Alexandra Morales
Planning Commission Secretary

“EXHIBIT 1”

FINDINGS PURSUANT TO THE CALIFORNIA ENVIRONMENTAL QUALITY ACT

Waldo Point Harbor Master Plan and Precise Development Plan

I. OVERVIEW

A. Purpose of the Findings

These findings relate to the Waldo Point Harbor Master Plan and Precise Development Plan proposal (hereinafter, “Proposed Project”) for Waldo Point Harbor. These findings are made and adopted by the Marin County Planning Commission in satisfaction of State and local requirements relative to the review, analysis, consideration, and approval of the Proposed Project, and its environmental, planning, zoning, and development documents. These findings also provide the written analysis and conclusions of the Planning Commission regarding the Proposed Project. These findings are divided into general sections. Each of these sections is further divided into subsections, each of which addresses a particular topic and/or requirement of law. At times, these findings refer to materials in the administrative record, which are either attached to these findings or are readily available for review at the County.

B. The Applicant and the Proposed Project

The applicant is Waldo Point Harbor, Inc. The Proposed Project would allow for the expansion of Waldo Point Harbor to 283 berths to accommodate 38 Gates Cooperative houseboats presently situated in areas of the marina designated as open water in the Waldo Point Harbor Use Permit. The additional berths would be accommodated both along existing docks as well as on a new, approximately 300 foot long dock which would be constructed north of the existing Main Dock, in the vicinity of the existing Gates Cooperative area. To accommodate the parking demand for the reconfigured marina, the applicant proposes to construct a new parking lot for 134 vehicles on the northeast of the Gate 6 Road/Bridge Way Boulevard junction, and make minor modifications to existing parking areas, resulting in a total of 484 private and 10 public parking spaces on the project site. Additional proposed improvements include the construction of a shoreline park and a public access pathway along the entire perimeter of the site.

The applicant submitted the application according to a “Litigation Settlement Agreement including Agreements Concerning the Exchange of Real Property in the County of Marin.” The settlement agreement was originally entered in 1992, between Marin County, the State Lands Commission (SLC), the San Francisco Bay Conservation and Development Commission (BCDC), and Waldo Point Harbor, Inc. The agreement was amended in 1993 to include the Gates Cooperative as parties to the agreement and add the Railroad property to the land exchange. In general the agreement allows for a land exchange that would provide Waldo Point Harbor with fee title subject to a public trust easement to lands under most of the existing docks and houseboats and would provide the State Lands Commission with fee title to most of the open space in the marina. Under the agreement, Waldo Point Harbor houseboats and up to 41 Gates Cooperative houseboats could be reconfigured onto land granted to Waldo Point Harbor in return for a consolidated parcel to be given to the State and made available for public trust purposes, such as park, open space, open water or retention in a natural state. The agreement does not obligate the County to approve permit applications and does not prevent the County from selecting an alternative project design from that proposed in the applications.

In 1994, Waldo Point Harbor submitted a Plan Amendment/Rezoning/Master Plan/Precise Development Plan application requesting approval for a harbor expansion to accommodate 41 Gates Cooperative houseboats primarily through the extension of B, D, and E Docks up to 130 feet eastward into Richardson Bay. However, the Draft EIR prepared for the project and released in 1997 identified a number of environmental and policy impacts associated with the project, including significant unavoidable wave run-up and visual impacts. After reviewing the public comments, Draft EIR findings, and need for additional study of certain environmental impacts, Waldo Point Harbor requested in 1998 that the County suspend review of the application with the intent of developing a revised plan.

In September of 1999, Waldo Point Harbor submitted a revised application which included a number of modifications to the proposed marina size and configuration intended to address the significant unavoidable environmental impacts associated with the previous project. The total number of vessels proposed to be incorporated into the enlarged marina was reduced from 41 to 38 houseboats. In addition, originally proposed dock extensions outboard of B, D, and E Docks (in areas designated as "Open Water" in the Richardson Bay Special Area Plan) were eliminated. Instead, additional houseboats were proposed to be accommodated along existing docks or on extensions to B and C Docks which did not extend further bayward than the existing marina. The applicant also proposed minor modifications to the parking plan and expansion of the Waldo Point Harbor office and maintenance facility. To accommodate houseboats during construction, the project proposed construction of an approximately 200 foot long temporary dock north of C Dock.

On May 16, 2000, a public scoping session was held regarding the revised project. The session was attended by approximately 100 people (mostly Waldo Point Harbor residents), who provided many comments on a number of issues. This input was used in developing the Recirculated Draft Environmental Impact Report (RDEIR) for the project, which was released for public review on February 12, 2001. Written and verbal comments subsequently received on the RDEIR were collected by the County and responded to in a Final EIR, which was published on September 17, 2001. As part of the environmental impact analysis, several alternatives to the project were evaluated, including the Community Development Plan (CDP) Alternative. This alternative was developed by members of the Floating Homes Association and Harbor Equity (representing a majority of the current residents in Waldo Point Harbor) in consultation with Gates Coop members, in response to resident concerns regarding elements of the revised project. The CDP alternative proposed the creation of 41 (rather than 38) new berths. However, this alternative eliminated the need to extend any existing Waldo Point Harbor docks or relocate existing Waldo Point Harbor residents by proposing the construction of a new permanent dock for up to 21 new berths between B and C Docks, in the vicinity of the existing Gates Cooperative area. The remaining 20 new berths were proposed at "infill" locations along existing docks or in limited areas along the existing shoreline. Given the reduced construction disturbance associated with this alternative, as well as the reduced impacts associated with elimination of dock extensions into designated open water areas, the alternatives analysis in the Final Recirculated EIR found that the CDP alternative would be environmentally superior among all the alternatives that met the project objectives. On October 15, 2001, the Marin County Planning Commission held a hearing regarding the Proposed Project's Final Recirculated EIR and unanimously recommended that the Board of Supervisors certify the Waldo Point Harbor Final Recirculated EIR (FREIR) as adequate and complete pursuant to CEQA.

Given the FREIR's findings and the widespread community support for the CDP alternative, County staff subsequently recommended that the applicant consider further modifying the project to more closely conform to the CDP Alternative. On May 17, 2002, the project sponsor submitted the current project plans for consideration during the merits phase of the application process. As previously noted, and as described in detail below, the current project proposes to expand Waldo Point Harbor by 38 berths which would be accommodated both along existing docks as well as on a single new, approximately 300 foot long dock to be constructed north of the existing Main Dock, just south of the existing Gates Cooperative area. Because the new berths would all be created within the boundaries of the existing marina, the project as currently

proposed would no longer require either Rezoning approval or an amendment to the Richardson Bay Special Area Plan.

C. Defined Terms

To provide consistency in the use of terms and to increase readability, these findings often provide short parenthetical terms for certain longer, more encompassing terms or concepts. Unless the context requires a different meaning, any term or phrase used in these findings, which has, its first letter capitalized shall have that meaning given to it by these findings. Certain such terms and phrases are referenced below, while others are defined where they appear in the text of these findings.

Applicant – Waldo Point Harbor, Inc.

CEQA – The California Environmental Quality Act: Public Resources Code §21000 et seq.

Condition – An adopted Condition of Approval for the Waldo Point Harbor Master Plan and Precise Development Plan contained in “Exhibit 3” of the approval resolution and incorporated herein by reference.

County - The County of Marin.

Countywide Plan – The *Marin Countywide Plan*, which is the County’s General Plan indicating land use designations and plan policies.

EIR – The term “EIR” (environmental impact report) is a general reference to the Final Environmental Impact Report, and other documents incorporated by reference into the Final EIR, including the Recirculated Draft EIR (Volume I), Appendices (Volume IIA and IIB), the Responses to Comments and Additional Information (Volume III), and other documents incorporated by reference into the Final EIR.

Mitigation Measures -- CEQA requires that, where feasible, significant impacts of a project be avoided or mitigated. Measures to avoid or mitigate such impacts are referred to herein as Mitigation Measures.

MMRP – The term “MMRP” (Mitigation Monitoring and Reporting Program) refers to a mitigation monitoring program that is adopted if a project is approved with an EIR that identifies significant environmental impacts pursuant to Public Resources Code §21081.6. The MMRP, derived from Appendix E of the EIR and contained in “Exhibit 4” of the approved resolutions and incorporated herein by reference, is designed to ensure project compliance with adopted Mitigation Measures during project implementation.

Project Site – Waldo Point Harbor.

Proposed Project – The Waldo Point Harbor, Inc., development proposal for the Waldo Point Harbor Master Plan and Precise Development Plan. This is the “project” pursuant to CEQA §21065 and State CEQA Guidelines §15378.

State CEQA Guidelines -- The State regulations implementing CEQA; California Code of Regulation, Title 14, Chapter 3 §15000 et seq.

D. Severability

If any term, provision, or portion of these findings or the application of same to a particular situation is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remaining provisions of these findings, or the application of the same to other situations, shall continue in full force and effect unless amended or modified by the County.

E. Project Overview

The EIR was prepared to examine the environmental impact of a specific development project pursuant to the State CEQA Guidelines §15161. It is intended to serve as the environmental documentation for the Proposed Project, consisting of all the discretionary actions necessary for project implementation. The EIR provides a complete evaluation of not only the Proposed Project, but also the cumulative impacts of the Proposed Project along with other existing and proposed uses, and alternatives to the Proposed Project. The EIR is also intended to serve as the environmental documentation for all County and other public agency actions subsequent to the actions in the resolutions to which these findings are attached, including approvals, permits, or other entitlements granted or issues in connection with the planning, approval, construction, operation, and maintenance of the development contemplated by the Proposed Project.

The planning and project review process of Marin County provides for various development permit applications, including but not limited to Master Plans, Use permits, Tentative and Final Subdivision Maps, Precise Development Plans, Improvement Plans, and grading and building permits. A project sponsor may file development applications necessary for a project concurrently or in stages at succeeding steps of the planning and development plans, rather than detailed, specific design-level plans required for a Precise Development Plan application and development applications of later stages of the planning and project review process. Often, design-level plan applications are not prepared and filed until after Master Plan approval. Waldo Point Harbor, Inc. has filed a Master Plan, and Precise Development Plan applications for the Proposed Project. The EIR was prepared to address all phases of project implementation, including planning, approval, construction, operation, and maintenance of the development contemplated by the Proposed Project, consistent with provisions of State CEQA Guidelines §15146 for degree of specificity in the EIR. Therefore, the EIR is written to serve as a project-specific EIR consistent with the provisions of State CEQA Guidelines § 15161.

II. FINDINGS ARE DETERMINATIVE

WHEREAS the Planning Commission recognizes that there may be differences in and among the different sources of information and opinions offered in the documents and testimony that make up the EIR and the administrative record; that experts can disagree; and that the Planning Commission must base its decisions and these findings on the substantial evidence in the record that it finds most compelling. Therefore, by these findings, the Planning Commission ratifies, clarifies, and/or makes insignificant modifications to the EIR and resolves that these findings and the Mitigation Monitoring and Reporting Program contained in Exhibit 4 of the approval resolutions, as implemented by the Conditions of Approval contained in Exhibit 3 of the approval resolutions, shall control and are determinative of the significant impacts of the Proposed Project and requirements imposed on the Proposed Project in response to those impacts. Both Exhibits 3 and 4 are incorporated herein by reference.

No significant new information has been added to the EIR, and no substantial changes to the EIR and/or project as approved with conditions have occurred which trigger recirculation criteria and/or require recirculation of the EIR as a Draft EIR pursuant to CEQA Guidelines §15088.5. Only minor and insignificant technical changes, clarifications or additions to the EIR and/or project as approved with conditions have been made, and the modifications and/or information added to the EIR and/or project as approved with conditions have not deprived the public of a meaningful opportunity to comment upon a substantial adverse environmental effects of the project or feasible ways to mitigate or avoid such an effect. Substantial evidence exists in the EIR and administrative

record to support a decision not to recirculate the EIR in response to project opponent letters regarding recirculation.

III. COMPLIANCE WITH CEQA

WHEREAS the administrative record of the procedural history of the Proposed Project is described above, and the Planning Commission has reviewed and considered the information therein. Therefore, the Planning Commission finds, as supported by the record, that it has complied with all requirements of CEQA.

IV. MITIGATION MEASURES AND CONDITIONS OF APPROVAL IN FULL

WHEREAS the Planning Commission has modified the Proposed Project, by the Conditions of Approval (Exhibit 3), Mitigation Monitoring and Reporting Program (Exhibit 4), and these findings, to attempt to avoid or mitigate to a less-than-significant level all Proposed Project impacts, and to otherwise consider, address and resolve all of the environmental concerns raised during public review of the EIR. The discussion which follows under the caption “Facts” for each significant impact recites some of the background environmental impact information related to the Proposed Project; the finding made by the Planning Commission is set forth under the caption “CEQA §21081(a) Finding; “and the discussion under the caption “Evidence Supporting the Finding” contains substantiating information about what mitigation is provided and how it reduces the significant impact. Therefore, the Planning Commission finds that the specific references to Mitigation Measures and Conditions of Approval provided herein are intended to indicate where the particular measure or condition can be found and not to indicate that adoption of the precise mitigation or condition is limited to the information in the findings, where instead, the referenced Mitigation Measures and Conditions of Approval are adopted in full.

V. CONCURRENCE WITH POTENTIAL IMPACTS DETERMINED TO BE LESS-THAN-SIGNIFICANT IMPACTS WITHOUT NEED FOR IMPOSITION OF MITIGATION

WHEREAS the Planning Commission has reviewed and considered the information in the EIR Chapter 4.0, called “Environmental Setting, Environmental Impacts, Cumulative Impacts, and Mitigation Measures,” and said chapter identifies certain conclusions that the Proposed Project would cause environmental impacts which are less-than-significant without imposition of mitigation. Therefore, the Planning Commission, relying on the facts and analysis in the EIR, concurs with the conclusions of the EIR regarding the less-than-significant environmental impacts of the Proposed Project identified therein, with specific reference to the following impacts: 4.2-1 Fault Ground Rupture – Geologic Factors; 4.2-3 Liquefaction – Geologic Factors; 4.2-4 Lurch Cracking – Geologic Factors; 4.2-6 Shoreline Instability – Geologic Factors; 4.2-8 Cumulative Geologic Impacts – Geologic Factors; 4.3-3 Habitat Diminishment by Contact and Shading – Benthic and Other Aquatic Biology; 4.3-5 Cumulative Habitat Diminishment Impacts – Benthic and Other Aquatic Biology; 4.4-1 Loss of Jurisdictional Wetlands – Terrestrial Biology; 4.4-2 Direct Disturbances to Tidal Mud Flats – Terrestrial Biology; 4.4-3 Disturbance of Migratory Waterfowl and Other Wildlife – Terrestrial Biology; 4.4-4 Impacts on Special-Status species – Terrestrial Biology; 4.4-5 Cumulative Terrestrial Biology Impacts – Terrestrial Biology; 4.5-1 Exposure of Houseboats to Increased Wave Action – Hydrologic Factors; 4.5-2 Alteration of Tidal Currents – Hydrologic Factors; 4.5-3 Construction-related Water Quality Degradation – Hydrologic Factors; 4.5-5 Exposure of People to 100-year Flood Events – Hydrologic Factors; 4.5-6 Cumulative Exposure of Houseboats to Wave Action – Hydrologic Factors; 4.5-7 Cumulative Alteration of Tidal Currents – Hydrologic Factors; 4.5-8 Cumulative Construction-Related Water Quality Degradation – Hydrologic Factors; 4.5-10 Cumulative Exposure of People and Property to 100-year Flood Events – Hydrologic Factors; 4.6-1 Alteration of Water Use and Onsite Land Use – Land/Water Use and Community Character; 4.6-2 Change in Community Character – Land/Water Use and Community Character; 4.6-3 Land Use Compatibility – Land/Water Use and Community Character; 4.6-4 Cumulative Land and Water Use, Community Character, and Land Use Compatibility; 4.7-1 Public Trust Doctrine – Public Trust, Plan and Policy Consistency; 4.7-2 McAteer-Petris Act – Public Trust, Plan and Policy Consistency; 4.7-3 San Francisco Bay Plan Consistency – Public Trust, Plan and Policy Consistency; 4.7-4 Consistency with the Richardson Bay Special Area Plan (RBSAP) – Public Trust, Plan and Policy Consistency; 4.7-5 Marin Countywide Plan Land Use Consistency – Public Trust

Plan and Policy Consistency; 4.7-6 Consistency with Marin Countywide Plan Policies –Public Trust, Plan and Policy Consistency; 4.7-7 Marin County Zoning Consistency – Public Trust, Plan and Policy Consistency; 4.7-8 City of Sausalito General Plan, Marinship Specific Plan, and Zoning Ordinance – Public Trust, Plan and Policy Consistency;; 4.7-9 Cumulative Public Trust, Plan and Policy Consistency – Public Trust, Plan and Policy Consistency; 4.8-1 Distant Views of the Harbor from Offsite Locations – Visual Resources and Nighttime Lighting; 4.8-2 Close Range Views of the Harbor from Offsite Locations – Visual Resources and Nighttime Lighting; 4.8-3 Onsite and Offsite Views of the Harbor and Bay – Visual Resources and Nighttime Lighting; 4.8-4 Internal Views of the Harbor – Visual Resources and Nighttime Lighting; 4.8-5 Nighttime Lighting – Visual Resources and Nighttime Lighting; 4.8-6 Cumulative Visual Impacts – Visual Resources and Nighttime Lighting; 4.9-2 Degradation of LOS and Unsignalized Intersections – Transportation; 4.9-3 Conformity with County Parking Requirements – Transportation; 4.9-4 Conformity with Settlement Agreement Parking Requirements – Transportation; 4.9-5 Increased Walking Distance to and from Parking Areas – Transportation; 4.9-6 Emergency Vehicle Access – Transportation; 4.9-7 Increased Demand for Public Transportation Service – Transportation; 4.9-8 Pedestrian Circulation – Transportation; 4.9-9 Bicycle Circulation – Transportation; 4.9-10 Consistency with Marin County CMP – Transportation; 4.9-12 Cumulative Degradation of LOS at Unsignalized Intersections – Transportation; 4.10-2 Long-Term Regional Impacts – Air Quality; 4.10-3 Local Mobile Source Air Quality Impacts – Air Quality; 4.10-4 Future Long-Term Regional Impacts – Air Quality; 4.10-5 Cumulative Local Mobile Source CO Concentrations – Air Quality; 4.10-6 Cumulative Air Quality Management Plan Consistency – Air Quality; 4.11-2 Proposed Project Stationary Source Impact on Nearby Land Uses – Noise; 4.11-3 Project Mobile Source Impact on Nearby Offsite Land Uses – Noise; 4.11-5 Cumulative Mobile Source Noise Impact on Nearby Offsite Land Uses – Noise; 4.12-1 Construction Worker Noncancer and Cancer Health Risks – Hazardous Materials; 4.12-4 Noncancer Health Risks to Residents and Recreational Users from Dust Inhalation – Hazardous Materials; 4.12-5 Noncancer and Cancer Health Risks to Residents and Recreational Users from Bay Sediment Contact and Ingestion – Hazardous Materials; 4.12-6 Cumulative Health Risks from Hazardous Materials – Hazardous Materials; 4.13-2 Historic Resources – Archaeology and History; 4.14-1 Construction Natural Resource and Energy Consumption – Natural Resources and Energy; 4.14-2 Operational Natural Resources and Energy Consumption – Natural Resources and Energy; 4.14-3 Cumulative Operational Natural Resources and Energy Consumption – Natural Resources and Energy; 4.15-2 Response Times – Fire Protection and Emergency Medical Services; 4.15-3 Fire Flow – Fire Protection and Emergency Medical Services; 4.16-1 Increase Wastewater Generation – Wastewater; 4.16-3 Cumulative Wastewater Impacts – Wastewater; 4.17-1 Increased Project Demand for Water Supply – Water Supply; 4.17-2 Water Use for Landscaped Areas – Water Supply; 4.17-3 Cumulative Water Supply Impacts – Water Supply; 4.18-1 Increased Solid Waste Generation – Solid Waste Disposal; 4.18-2 Cumulative Increase in Solid Waste Generation – Solid Waste Disposal; 4.19-1 Increased Demand for Law Enforcement Services – Law Enforcement; and 4.19-2 Cumulative Demand for Law Enforcement Services – Law Enforcement.

VI. CEQA §21081(a) FINDINGS REGARDING SIGNIFICANT IMPACTS

WHEREAS the EIR identifies certain significant environmental impacts caused by the Proposed Project and recommends specific mitigation measures to reduce these impacts to a less-than-significant level and the Planning Commission has certified the EIR as being adequate according to CEQA and has reviewed and considered the information in the EIR and in the entire record; therefore, the Planning Commission makes specific findings, as follows, for each significant impact, pursuant to CEQA §21081(a), based not only on the EIR, but on the evidence in the entire record, including written and oral testimony to the Planning Commission.

According to CEQA §21081, as amended by Chapter 1294 of the Statutes of 1994, no public agency shall approve or carry out a project for which an environmental impact report has been certified which identified one or more significant effects on the environment that would occur if the project is approved or carried out unless both of the following occur:

- A. The public agency makes one or more of the following findings with respect to each significant effect:
1. Changes or alternations have been required in, or incorporated into, the project, which mitigate or avoid the significant effects on the environment (referred to herein as: “Finding 1: The impact is mitigated to a less-than-significant level.”)
 2. Those changes or alterations are within the responsibility and jurisdiction of another public agency and have been, or can and should be, adopted by that other agency (referred to herein as “Finding 2: Another public agency can and should mitigate the impact.”)
 3. Specific economic, legal, social, technological, or other considerations, including consideration for the provision of employment opportunities for highly trained workers, make infeasible the mitigation measures or alternatives identified in the environmental impact report (referred to herein as: “Finding 3: Specific consideration make mitigation measures or alternatives infeasible.” or if the impact is partially mitigated, but not to a less-than-significant level; “ Finding 3: The impact would be mitigated, but not to a less-than-significant level. Special considerations make further mitigation measures or alternatives infeasible.”)
- B. With respect to the significant effects, which were subject to Finding 3 described above, the public agency finds that specific overriding economic, legal, social, technological, or other benefits of the project outweigh the significant effects on the environment.

The following facts, findings, and substantial evidence supporting the findings do not repeat the full analysis of impacts and description of mitigation measures contained in documents making up the administrative record. Instead, the following discussion specifically references particular locations in documents containing such information (e.g., specific pages in the EIR or specific conditions of approval). The referenced documents are either included or attached herein, or are readily available to the public for review at the Marin County Community Development Agency – Planning Division, Civic Center, Room 308, San Rafael, California. The numerical assignments used in these facts, findings, and substantial supporting evidence corresponds exactly to the numbering system used in the EIR.

IMPACT 4.2-2: EARTHQUAKE GROUND SHAKING – GEOLOGIC FACTORS

Facts

The EIR found that that the proposed project could be subject to earthquakes, which would cause strong to very strong earthquake ground shaking, which could result in substantial damage to existing and proposed improvements, and in extreme cases loss of life. This impact is discussed on page 4.2-11 of the EIR.

CEQA §21081(a) Finding

Finding 1: This impact is mitigated to a less-than-significant level.

Evidence Supporting the Finding

Based upon the EIR and the entire record, this earthquake ground shaking impact is mitigated to a less-than-significant level by the imposition of Conditions 1, 2, 3, 4, and 5, which implements mitigation measure 4.2-2(a), 4.2-2(b), 4.2-2(c), 4.2-2(d), and 4.2-2(e) found in the MMRP and on page 4.2-16 and 4.2-17 of the EIR. With these mitigation measures, this impact would be reduced to a less-than-significant level because: (1) the project applicant shall secure a California-Certified Engineering Geologist and Civil Engineer to provide the project Structural Engineer with seismic design criteria and recommendations based on State and County regulations for development

in areas exposed to moderate to severe earthquakes, which shall be approved by the County of Marin Public Works Division; (2) the Applicant would be required to use appropriate grading and design, in accordance with UBC and Marin County Code requirements; (3) fill used during construction of the project shall be properly designed with subsurface drainage and adequately compacted to significantly reduce fill settlement; (4) all structural foundations, above-ground or dock utilities, and underground utilities shall be designed to accommodate estimated settlements without failure, especially across transitions between existing and new dock extensions or improvements; and (5) prior to issuance of any grading or construction permits the applicant shall submit for review and approval by the County a design-level geotechnical investigation.

IMPACT 4.2-5: SETTLEMENT – GEOLOGIC FACTORS

Facts

The EIR found that settlement of unconsolidated deposits, such as existing fill and Bay mud, could occur due to strong ground shaking and/or increased foundations loads from proposed fill and improvements, and could result in damage to existing and proposed improvements. This impact is discussed on pages 4.2-12 and 4.2-13 of the EIR.

CEQA §21081(a) Finding

Finding 1: This impact is mitigated to a less-than-significant level.

Evidence Supporting the Finding

Based on the EIR and the entire record, this settlement impact is mitigated to a less-than-significant level by the imposition of Conditions 6 and 7, which corresponds to Mitigation Measures 4.2-5(a) and 4.2-5(b) found in the MMRP and on page 4.2-17 of the EIR. With this mitigation measure, this impact would be reduced to a less-than-significant level because: (1) the applicant shall implement the recommended seismic design measures as described in Mitigation Measure 4.2-2 (b) through (e) (Condition 2, 3, 4, and 5); and, parking and shoreline areas would be constructed with sufficient initial height to maintain elevation 7 feet after settlement and periodic monitoring of the of the shoreline and parking areas would be conducted to ensure appropriate elevations are maintained in compliance with County requirements. .

IMPACT 4.2-7: TSUNAMIS/SEICHES – GEOLOGIC FACTORS

Facts

The EIR found that houseboats and dock facilities could be exposed to tsunamis/seiches as a result of a seismic event. This impact is discussed on pages 4.2-14 and 4.2-15 of the EIR.

CEQA §21081(a) Finding

Finding 1: This impact is mitigated to a less-than-significant level.

Evidence Supporting the Finding

Based on the EIR and the entire record, this tsunami impact is mitigated to a less-than-significant level by the imposition of Condition 8, which corresponds to Mitigation Measure 4.2-7 found in the MMRP and on page 4.2-17 of the EIR. With this mitigation measure, this impact would be reduced to a less-than-significant level because detailed engineering plans, prepared by a qualified engineer, would be submitted to the County for review and approval, that demonstrate the ability of proposed improvements to withstand the effects of waves and tsunami inundation and associated currents. The design tsunami height shall be based on the maximum expected wave height considering the 100-year record, unless engineering design demonstrates that another design height is acceptable to Marin County.

IMPACT 4.3-1: INCREASED TURBIDITY IN RICHARDSON BAY – BENTHIC AND OTHER AQUATIC BIOLOGY

Facts

The EIR Found that construction of the proposed project would result in transient increases in turbidity, which could adversely affect Pacific herring and other aquatic biota. This impact is discussed on pages 4.3-6 through 4.3-8 of the EIR.

CEQA §21081(a) Finding

- Finding 1: This impact is mitigated to a less-than-significant level.
- Finding 2: Another public agency can and should mitigate the impact.

Evidence Supporting the Finding

Based on the EIR and the entire record, this increased turbidity impact is mitigated to a less-than-significant level by the imposition of Conditions 9 and 10, which corresponds to Mitigation Measures 4.3-1(a) and 4.3-1(b) found in the MMRP and on page 4.3-13 of the EIR.

Finding 1. With Mitigation Measures 4.3-1(a) and 4.3-1(b), this impact would be reduced to a less-than-significant level because: (1) Prior to construction of the new dock, the applicant would remove the top 12 inches of sediments from the area between B Dock and C Dock from the shoreline to 100 feet east of the easternmost boundary of Humboldt Avenue where contamination exists; and (2) to minimize mixing of re-suspended contaminated sediments within the water column, the applicant will install and use silt screens to minimize the suspension of any remaining contaminated sediments during project construction. The placement and design of the silt screens will be subject to review and approval by Marin County and the Regional Water Quality Control Board (RWQCB).

Finding 2: With Mitigation Measure 4.3-1 (a) and (b), the impacts would be reduced to a less-than-significant level because the proposed placement and design of the silt screens would be required to be submitted to the RWQCB for review and approval.

IMPACT 4.3-2: EFFECTS OF RE-SUSPENSION OF CONTAMINATED SEDIMENTS ON BENTHIC AND AQUATIC COMMUNITIES – BENTHIC AND OTHER AQUATIC BIOLOGY

Facts

The EIR found that construction of the proposed project would result in the re-suspension of contaminated sediments in the water column, which could cause substantial negative impacts on herring and other members of benthic and other aquatic communities. This impact is discussed on pages 4.3-8 through 4.3-10 of the EIR.

CEQA §21081(a) Finding

- Finding 1: This impact is mitigated to a less-than-significant level.

Evidence Supporting the Finding

Based on the EIR and the entire record, this impact is mitigated to a less-than-significant level by the imposition of Condition 11, which corresponds to Mitigation Measure 4.3-2(a) and (b) (Conditions 9 and 10) found in the MMRP and on page 4.3-13 of the EIR. With this mitigation measure, this impact would be reduced to a less-than-significant level because: (1) the applicant will refrain from all construction activities that result in sediment re-suspension during the Pacific herring spawning season (December 1 – March 1); (2) to ensure that the proposed project does not impact the commercial herring fishery, or the portion of the herring population which is considered to be “escapement” the applicant shall refrain from all construction activities that result in sediment re-suspension during the Pacific herring spawning season (December 1 – March 1); and (3) at all other times the project applicant shall implement Mitigation Measure 4.3-1(b) when sediment disturbing activities are occurring.

IMPACT 4.3-4: CUMULATIVE CONSTRUCTION-RELATED IMPACTS TO BENTHIC AND OTHER AQUATIC BIOLOGY – BENTHIC AND OTHER AQUATIC BIOLOGY

Facts

The EIR found that construction of the proposed project in conjunction with other past, present, and reasonably foreseeable future projects in the vicinity would have the potential for substantial adverse cumulative impacts related to increased turbidity, and the re-suspension of sediments and contaminated sediments in the water column, which could negatively affect Pacific herring and other aquatic biota. This impact is discussed on page 4.3-12 of the EIR.

CEQA §21081(a) Finding

Finding 1: This impact is mitigated to a less-than-significant level.

Evidence Supporting the Finding

Based on the EIR and the entire record, this cumulative construction-related impact to benthic and other aquatic biota is mitigated to a less-than-significant level by the imposition of Condition 12, which corresponds to Mitigation Measure 4.3-4 found in the MMRP and on page 4.3-14 of the EIR. This mitigation measure requires implementation of Mitigation Measures 4.3-1 and 4.3-2, on a project-by-project basis for those projects within the project vicinity that have potential to harm Richardson Bay biota. Implementation of this mitigation measures would reduce this impact to a less-than-significant level.

IMPACT 4.5-4: LONG-TERM WATER QUALITY DEGRADATION –HYDROLOGIC FACTORS

Facts

The EIR found that construction of the proposed project would increase the impervious surface area and landscaped areas of the project site, which could increase the number of sources for pollutants that enter Richardson Bay. This impact is discussed on pages 4.5-32 and 4.5-33 of the EIR.

CEQA §21081(a) Finding

Finding 1: This impact is mitigated to a less-than-significant level

Evidence Supporting the Finding

Based on the EIR and the entire record, this long-term water quality degradation impact is mitigated to a less-than-significant level, by the imposition of Condition 13, which corresponds to Mitigation Measure 4.5-4 found in the MMRP and on page 4.5-37 of the EIR. This mitigation measure requires the applicant to implement Best Management Practices (e.g., vegetated filter swales or strips, landscape control, litter control, etc.) to protect the water quality of runoff from parking areas and landscaped areas into Richardson Bay. The applicant will implement BMPs during project construction as recommended by the San Francisco Bay RWQCB in its *Staff Recommendations for New and Redevelopment Controls for Storm Water Programs*.

IMPACT 4.5-9: CUMULATIVE LONG-TERM WATER QUALITY DEGRADATION – HYDROLOGIC FACTORS

Facts

The EIR found that implementation of the proposed project, and other related projects, would result in an increase in the amount of impervious surfaces draining into Richardson Bay, which could deliver increased amounts of pollutants that would degrade the water quality of Richardson Bay. This impact is discussed on page 4.5-36 of the EIR.

CEQA §21081(a) Finding

Finding 1: This impact is mitigated to a less-than-significant level

Evidence Supporting the Finding

Based on the EIR and the entire record, this long-term water quality degradation impact is mitigated to a less-than-significant level, by the imposition of Condition 14, which corresponds to Mitigation Measure 4.5-9 found in the MMRP and on page 4.5-37 of the EIR. This mitigation measure requires the applicant to implement Mitigation Measure 4.5-4 (Condition 13), which requires the implementation of BMPs to protect the water quality of runoff from parking areas and landscaped areas into Richardson Bay.

IMPACT 4.9-1: DEGRADATION OF LOS AT SIGNALIZED INTERSECTION – TRANSPORTATION

Facts

The EIR found that the proposed project would generate vehicle trips that would contribute to the degradation of signalized intersections in the project vicinity. This impact is discussed on page 4.9-13 of the EIR.

CEQA §21081(a) Finding

Finding 1: This impact is mitigated to a less-than-significant level

Evidence Supporting the Finding

Based on the EIR and the entire record, this degradation of signalized intersections impact is mitigated to a less-than-significant level, by the imposition of Condition 15, which corresponds to Mitigation Measure 4.9-1 found in the MMRP and on page 4.9-21 of the EIR. This mitigation measure requires the applicant to contribute on a fair-share basis to the cost of construction of a second northbound through lane and a second eastbound right-turn lane to the Bridgeway Boulevard/Gage 6 Road intersection. The fair-share portion shall be determined by Marin County through coordination with the project applicant.

IMPACT 4.9-11: CUMULATIVE DEGRADATION OF LOS AT SIGNALIZED INTERSECTIONS – TRANSPORTATION

Facts

The EIR found that cumulative projects plus the proposed project would generate vehicle trips that would contribute to the degradation of signalized intersections in the project vicinity. This impact is discussed on pages 4.9-19 and 4.5-20 of the EIR.

CEQA §21081(a) Finding

Finding 1: This impact is mitigated to a less-than-significant level.

Evidence Supporting the Finding

Based on the EIR and the entire record, this cumulative degradation of LOS at signalized intersections impact is mitigated to a less-than-significant level, by the imposition of Condition 16, which corresponds to Mitigation Measure 4.9-11 found in the MMRP and on page 4.9-22 of the EIR. This mitigation measure requires the applicant to implement Mitigation Measure 4.9-1 (Condition 15), which requires the applicant to contribute on a fair-share basis to the cost of construction of a second northbound through lane and a second eastbound right-turn lane to the Bridgeway Boulevard/Gage 6 Road intersection. The fair-share portion shall be determined by Marin County through coordination with the project applicant.

IMPACT 4.10-1: SHORT-TERM CONSTRUCTION IMPACTS – AIR QUALITY

Facts

The EIR found that project construction would generate PM₁₀ emissions that would exceed the Bay Area Air Quality Management District significance thresholds. This impact is discussed on pages 4.10-10 through 4.10-11 of the EIR.

CEQA §21081(a) Finding

Finding 1: This impact is mitigated to a less-than-significant level.

Evidence Supporting the Finding

Based on the EIR and the entire record, this short-term construction impact is mitigated to a less-than-significant level, by the imposition of Condition 17, which corresponds to Mitigation Measures 4.10-1(a), 4.10-1(b), 4.10-1(c), 4.10-1(d), and 4.10-1(e) found in the MMRP and on page 4.10-19 of the EIR.

Finding 1. With these mitigation measures, the impacts would be reduced to a less-than-significant level because the contractor would be required to implement BAAQMD required feasible control measures. Required measures include watering all active construction areas, covering trucks hauling soil, apply water or soil stabilizers on all unpaved access roads, sweep daily all paved access roads, and sweep streets daily.

IMPACT 4.11-1: SHORT-TERM CONSTRUCTION NOISE IMPACTS – NOISE

Facts

The EIR found that noise-generating construction activities associated with the project could occur during times of the day in which such activities are prohibited under Marin County and City of Sausalito construction noise standards. This impact is discussed on pages 4.11-13 through 4.11-15 of the EIR.

CEQA §21081(a) Finding

Finding 3: This impact would be mitigated, but not to a less-than-significant level. Special considerations make further mitigation measures or alternatives infeasible.

Evidence Supporting the Finding

Based on the EIR and the entire record, this short-term construction noise impact would be mitigated, but not to a less-than-significant level, by the imposition of Condition 18, which corresponds to Mitigation Measure 4.11-1 found in the MMRP and on page 4.11-20 of the EIR. This mitigation measure requires the applicant to control the daily duration of construction-generated noise impacts by limiting the hours of construction to the times between 8 a.m. and 5 p.m. Monday through Friday and 9 a.m. and 4 p.m. on Saturday. No construction shall be allowed on Sunday. Additionally, houseboat residents of Waldo Point Harbor and adjacent marinas shall be given at least 7 days notice of the start of construction and at least 7 day separate notice of the start of pile driving. Although the above mitigation would lessen the short-term construction-related noise impacts of the project, no feasible measures are available to attenuate pile driving and non-pile driving construction noise to less-than-significant levels when construction activity is very close or adjacent to the houseboats.

IMPACT 4.11-4: PROJECT MOBILE SOURCE IMPACT ON ONSITE LAND USES – NOISE

Facts

The EIR found that the proposed project would expose residents and visitors at the proposed project's houseboats and park to long-term noise levels that exceed Marin County's 60 Ldn normally acceptable noise exposure level for these uses. This impact is discussed on pages 4.1-17 and 4.11-18 of the EIR.

CEQA §21081(a) Finding

Finding 3: This impact would not be mitigated, to a less-than-significant level. Specific considerations make mitigation measures or alternatives infeasible.

Evidence Supporting the Finding

Based on the EIR and the entire record, this project mobile source noise impact on onsite land uses is mitigated, but not to a less-than significant level by the imposition of Condition 19, which corresponds to Mitigation Measure 4.11-4 (Condition 18) found in the MMRP and on page 4.11-21 of the EIR. This mitigation measure requires the applicant to construct a barrier (i.e., wall, berm, or combination of the two) between Bridgeway Boulevard/US 101 and the project site to attenuate noise levels at the bayshore end of Issaquah Dock and at the proposed shoreline park. It is not feasible to construct an effective barrier in this area because parking lot driveways, sidewalks, and pathways would require openings in the barrier. Also, a barrier would create its own visual impacts by interrupting visual access to the bay. Consequently, a noise barrier would not be feasible in this location and no other feasible mitigation measures exist.

IMPACT 4.11-6: CUMULATIVE MOBILE SOURCE IMPACT ON ONSITE LAND USES – NOISE

Facts

The EIR found that the proposed project in conjunction with traffic generated by other developments in the surrounding area would expose Waldo Point Harbor residents and park users to long-term noise from motor vehicles that may exceed Marin County's 60 Ldn (at the property line) normally acceptable noise exposure level for these uses. This impact is discussed on pages 4.11-19 and 4.11-20 of the EIR.

CEQA §21081(a) Finding

Finding 3: This impact would not be mitigated to a less-than-significant level. Specific considerations make mitigation measures or alternatives infeasible.

Evidence Supporting the Finding

Based on the EIR and the entire record, this cumulative mobile source noise impact on onsite land uses is mitigated, but not to a less-than significant level by the imposition of Condition 20, which corresponds to Mitigation Measure 4.11-6 found in the MMRP and on page 4.11-21 of the EIR. This mitigation measure requires the applicant to construct a barrier (i.e., wall, berm, or combination of the two) between Bridgeway Boulevard/US 101 and the project site to attenuate noise levels at the bayshore end of Issaquah Dock and at the proposed shoreline park. It is not feasible to construct an effective barrier in this area because parking lot driveways, sidewalks, and pathways would require openings in the barrier. Also, a barrier would create its own visual impacts by interrupting visual access to the bay. Consequently, a noise barrier would not be feasible in this location and no other feasible mitigation measures exist.

IMPACT 4.12-2: NONCANCER AND CANCER HEALTH RISKS AND RECREATIONAL USERS FROM CONTAMINATED UPLAND SOIL CONTACT AND INGESTION – HAZARDOUS MATERIALS

Facts

The EIR found that the proposed project would involve continuation of a residential community at Waldo Point Harbor and the establishment of a shoreline park to attract recreational users where soil contamination currently exists allowing the potential for continued long-term exposure to existing onsite contaminated soils and additional cancer risks to residential and recreational users. This impact is discussed on pages 4.12-9 through 4.12-10 of the EIR.

CEQA §21081(a) Finding

Finding 1: This impact is mitigated to a less-than-significant level.

Evidence Supporting the Finding

Based on the EIR and the entire record, this cancer health risk impact is mitigated to a less-than-significant level, by the imposition of Condition 21, which corresponds to Mitigation Measure 4.12-2 found in the MMRP and on page 4.12-12 of the EIR. This mitigation measure requires the project applicant to cover existing upland soil with clean fill in the shoreline park and other unpaved portions of the project site. The depth of clean fill necessary for an adequate barrier shall comply with standards set by the RWQCB and/or DTSC. But the depth shall be no less than one foot. Landscaping of the park and bayshore fill soils shall be designed to supplement the clean fill as a barrier and to prevent erosion of the clean fill. Gardening shall be prohibited in the shoreline park and bayshore areas of the project site, because it could result in digging down to the contaminated soil layers. In paved areas, the pavement will serve as a barrier against contact with contaminated soils. The detailed construction plans and specification of the shoreline park and bayshore area will be subject to review and approval by the RWQCB and/or DTSC prior to the granting of a grading permit.

IMPACT 4.12-3: NONCANCER AND CANCER HEALTH RISKS TO RESIDENTS AND RECREATIONAL USES FROM CONTAMINATED FISH AND SHELLFISH INGESTION – HAZARDOUS MATERIALS

Facts

The EIR found that the proposed project would involve continuation of a residential community at Waldo Point Harbor and the establishment of a shoreline park to attract recreational users allowing the potential for continued exposure to contaminants through ingestion of fish and shellfish caught in and around Waldo Point Harbor. This impact is discussed on pages 4.12-9 through 4.12-10 of the EIR.

CEQA §21081(a) Finding

Finding 1: This impact is mitigated to a less-than-significant level.

Evidence Supporting the Finding

Based on the EIR and the entire record, this cancer health risk impact is mitigated to a less-than-significant level, by the imposition of Condition 22, which corresponds to Mitigation Measure 4.12-3 found in the MMRP and on page 4.12-12 of the EIR. This mitigation measure requires the project applicant to discourage the consumption of fish and shellfish caught at Waldo Point Harbor by residents and recreational uses. The project applicant shall post health advisory signs in the shoreline park, along the bayshore trail, and at the entrance to all houseboat docks in the harbor. The signs shall be posted during the first phase of construction. The design, content, and specific location of health advisory signs shall comply with standards set by the Office of Environmental Health Hazard Assessment (OEHHA) and/or DTSC as confirmed by the Marin County Environmental Health Services and County Health Officer. The detail sign designs and location plan will be subject to review and approval by the Marin County Environmental Services prior to granting of a grading permit.

IMPACT 4.13-1: PREHISTORIC RESOURCES – ARCHAEOLOGY AND HISTORY

Facts

The EIR found that the proposed project could disturb previously unidentified, buried prehistoric cultural deposits present in the west end of the project area, where some natural landform existed. This impact is discussed on page 4.13-12 of the EIR.

CEQA §21081(a) Finding

Finding 1: This impact is mitigated to a less-than-significant level.

Evidence Supporting the Finding

Based on the EIR and the entire record, this prehistoric resource impact is mitigated to a less-than-significant level, by the imposition of Condition 23, which corresponds to Mitigation Measure 4.13-1 found in the MMRP and on pages 4.13-14 and 4.13-15 of the EIR. With this mitigation measure, this impact would be reduced to a less-than-significant level because: (1) in the event that previously unknown archaeological resources are discovered during any land alteration activities, the construction crew shall immediately cease work in the immediate area (i.e., within 20 meters); and (2) a qualified archaeologist, chosen by the County and paid by the Applicant shall be consulted with to evaluate the resource in accordance with state and federal guidelines.

If prehistoric Native American remains are discovered, the State Native American Heritage Commission and affected Native American Groups shall be notified in accordance with State regulations. Mitigation measures consistent with Appendix G of the State CEQA Guidelines and Section 106 of the National Historic Preservation

Act shall be devised and a mitigation plan submitted for approval by the Community Development Agency. All archaeological excavation and monitoring activities shall be conducted in accordance with prevailing professional standards as outlined in the State CEQA Guidelines Appendix K and Section 106 of the National Historic Preservation Act. Mitigation, in accordance with a plan approved by the Marin County Community Development Agency, shall be implemented prior to recommencement of work within the area of the resource found.

IMPACT 4.13-3: CUMULATIVE PREHISTORIC AND HISTORIC RESOURCES ARCHAEOLOGY AND HISTORY

Facts

The EIR found that the proposed project could disturb previously unidentified, buried prehistoric cultural deposits present in the west end of the project area, where some natural landform existed. This impact is discussed on page 4.13-14 of the EIR.

CEQA §21081(a) Finding

Finding 1: This impact is mitigated to a less-than-significant level.

Evidence Supporting the Finding

Based on the EIR and the entire record, this prehistoric resource impact is mitigated to a less-than-significant level, by the imposition of Condition 24, which corresponds to Mitigation Measure 4.13-3 found in the MMRP and on page 4.13-15 of the EIR. With this mitigation measure, this impact would be reduced to a less-than-significant level because the applicant would be required to implement Mitigation Measure 4.13-1 (Condition 23).

IMPACT 4.15-1: INCREASED DEMAND FOR FIRE PROTECTION AND EMERGENCY MEDICAL SERVICES – FIRE PROTECTION AND EMERGENCY MEDICAL SERVICES

Facts

The EIR found that the proposed project would result in an incremental increase in the demand for fire protection and emergency medical services. This impact is discussed on page 4.15-3 of the EIR.

CEQA §21081(a) Finding

Finding 1: This impact is mitigated to a less-than-significant level.

Evidence Supporting the Finding

Based on the EIR and the entire record, this fire protection and emergency medical services impact is mitigated to a less-than-significant level, by the imposition of Conditions 25, 26, and 27, which corresponds to Mitigation Measures 4.15-1(a), 4.15-1(b), and 4.15-1(c) found in the MMRP and on pages 4.15-6 and 4.15-7 of the EIR. With this mitigation measure, this impact would be reduced to a less-than-significant level because: (1) the applicant would be required to coordinate with Gates Cooperative houseboat owners to ensure that houseboats are improved in accordance with County zoning standards, the Uniform Fire Code, and the Uniform Building Code; (2) only houseboats that comply with fire and building codes will be allowed to occupy Waldo Point Harbor berths; (3) the applicant and/or boat owner shall request the County Building Department staff and MCFD to inspect the subject houseboats to confirm that the houseboat is in compliance or brought into compliance with County zoning standards, the Uniform Fire Code, and the Uniform Building Code; and (4) the applicant will be required to obtain approval of the MCFD for a revised Waldo Point Harbor Fire Plan to ensure that efficient emergency response procedures are maintained. The revised Plan shall be submitted for approval by MCFD and shall illustrate the configuration and location of docks and berths, locations of hydrants on new dock areas, the new parking lot, emergency access changes, and other revisions necessary to maintain efficient emergency response to the project

site. On-truck fire response binders provided to all southern Marin County fire districts shall also be revised, as necessary to reflect the proposed project site improvements, to ensure efficient emergency response under the County Mutual Aid Plan.

IMPACT 4.15-4: CUMULATIVE IMPACTS TO FIRE PROTECTION SERVICES FIRE PROTECTION AND EMERGENCY MEDICAL SERVICES

Facts

The EIR found that cumulative development, including the proposed project, could increase demand for fire protection services, and the increased demand associated with the potential for substandard houseboats to be introduced to the project site could limit the Marin County Fire Department from providing adequate fire and emergency medical services to it Marin City substations' service area. This impact is discussed on page 4.15-5 of the EIR.

CEQA §21081(a) Finding

Finding 1: This impact is mitigated to a less-than-significant level.

Evidence Supporting the Finding

Based on the EIR and the entire record, this cumulative fire protection service impact is mitigated to a less-than-significant level, by the imposition of Condition 28, which corresponds to Mitigation Measure 4.15-1 (a), (b), and (c) (Conditions 25, 26, and 27) found in the MMRP and on page 4.15-7 of the EIR. With this mitigation measure, this impact would be reduced to a less-than-significant level.

IMPACT 4.16-2: CONTAMINATION OF BAY WATER FROM LEAKAGE/ OVERFLOW OF WASTEWATER FLOWS DURING DISCONNECTION AND CONSTRUCTION

Facts

The EIR found that the proposed project could potentially result in the leakage or overflow of wastewater into Bay waters, which could adversely affect the quality of Bay waters. This impact is discussed on page 4.16-3 of the EIR.

CEQA §21081(a) Finding

Finding 1: This impact is mitigated to a less-than-significant level.

Evidence Supporting the Finding

Based on the EIR and the entire record, this contamination of Bay water impact is mitigated to a less-than-significant level, by the imposition of Conditions 29 and 30, which corresponds to Mitigation Measures 4.16-2(a) and 4.16-2(b) found in the MMRP and on page 4.16-5. With this mitigation measure, this impact would be reduced to a less-than-significant level because: (1) the applicant would be required to submit plans, developed in consultation with Sausalito/Marin City Sanitary District staff, for the permanent disconnection of the Gates Cooperative main line from the District's force main; (2) these plans would be reviewed and approved by the District prior to the relocation of any houseboats from the Gates Cooperative area or the disconnection of any wastewater line associated with the proposed project; (3) actual disconnection would also be inspected by District staff; (4) the applicant would time electrical shutoffs to occur during non-peak low periods (approximately 10:00 a.m. to 4:00 p.m.) and would monitor the capacity of affected sewer lines and pump stations to ensure that systems do not overflow; and (5) for those systems that are nearing capacity, the applicant would use a pumper truck to pump wastewater from the systems.

VII. FINDINGS REGARDING PROJECT ALTERNATIVES

A. CEQA Alternatives Analysis

CEQA and the State CEQA Guidelines requires that an EIR “[d]escribe a range of reasonable alternatives to the project, or to the location of the project, which could feasibly attain the basic objectives of the project.” (State CEQA Guidelines §15126[d]). The EIR evaluates and compares several alternatives to the Proposed Project, and the Planning Commission’s findings regarding these alternatives are set forth below.

B. Definition of Feasibility of Alternatives

Public Resources Code §21081(b)(3) provides that when approving a project for which an EIR has been prepared, a public agency may find that “[s]pecific economic, legal, social, technological, or other considerations, including considerations for the provision of employment opportunities for highly trained workers, make infeasible the mitigation measures or alternatives identified in the environmental impact report.” Under Public Resources Code §21061.1, the term “feasible” means capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, social, and technological factors.

C. Environmentally Superior Alternative

On pages 6-76 through 6-78, the EIR discusses which alternative is environmentally superior, based on the alternatives analysis. The EIR concluded that the Community Development Plan (CDP) Alternative was environmentally superior compared to all alternatives and the proposed project. This alternative would implement all of the applicant’s objectives for the proposed project. As noted previously, the proposed project was revised to conform with the CDP Alternative analyzed in the EIR.

D. Findings on Feasibility of Alternatives

The EIR examined eight alternatives to the Proposed Project, including the No Project Alternative – Continued Existing Conditions; No Project Alternative – Current Entitlement; Existing Docks Alternative; New Dock Alternative; A/C Dock Extension Alternative; Reduced Size Alternative; 1997 Extended Dock Alternative; and the Community Development Plan Alternative.

WHEREAS, for these reasons and reasons set forth below and considering the entire record, the Planning Commission hereby determines that the EIR presents a reasonable range of alternatives, in accordance with CEQA, and recommends approval of the Community Development Plan Alternative rather than the previously Proposed Project and finds that the No Project Alternative-Continued Existing Conditions, No Project Alternative-Current Entitlement, Existing Docks Alternative, New Dock Alternative, A/C Dock Extension Alternative, Reduced Size Alternative, and the 1997 Extended Dock Alternative are infeasible within the meaning of these statutes. Each reason set forth below is a separate and independent ground for the Planning Commission’s determination.

1. No Project Alternative – Continued Existing Conditions

Description of the Alternative

The “No Project Alternative-Continued Existing Conditions” is discussed at pages 6-6 through 6-11 of the RDEIR. This alternative assumes that the existing conditions at Waldo Point Harbor are continued, including unauthorized uses on the project site. Thus, under this alternative, all 283 houseboats, including the 38 Gates Cooperative houseboats, would remain on the project site in their Existing Docks configuration without authorization or re-authorization. The 38 Gates Cooperative houseboats and associated fill would not be relocated under this alternative and existing houseboats would remain unchanged on A, B, C, D, and E Docks. Other improvements associated with the proposed project, such as dock extensions, additional parking spaces, public park, and bicycle/pedestrian trails, would not be implemented.

Reasons for Rejecting the Alternative

The No Project Alternative-Continued Existing Conditions would not be environmentally superior to the proposed project, because it would involve the same number of houseboats (283) as the proposed project, but would not provide benefits associated with the proposed project, such as creation of a public view corridor, a public park, and extension of bicycle/pedestrian trails through the site, and the formation of physical barriers preventing contact with onsite contamination. This alternative would also allow the continuation of land uses that are inconsistent with the public trust doctrine, and the McAteer-Petris Act. Without land exchanges, this alternative would continue private uses over public lands, and would not provide the mechanisms to provide affordable housing, as directed in Marin Countywide Plan Policy CD-2.6. Further it would result in policy inconsistencies with the San Francisco Bay Plan, and the RBSAP. It would not meet basic project objectives, such as the replacement of Waldo Point Harbor’s existing RCR use permit, the accommodation of the 38 Gate cooperative houseboats in authorized berths, and the provision of public parking spaces.

2. No Project Alternative – Current Entitlement

Description of the Alternative

The “No Project Alternative-Current Entitlement” is discussed at pages 6-11 through 6-15 of the RDEIR. This project assumes only existing uses that are currently authorized (i.e., entitled) on the project site would be retained at the harbor. None of the existing houseboats on the project site are currently entitled, given the 1992 expiration of the BCDC permit for the 245 non-Gates Cooperative houseboats in Waldo Point Harbor and the lack of authorization for the Gates Cooperative Community. Accordingly, existing houseboats, arks, and other marina uses (e.g., boat repair barge) would be removed from the project site under this alternative, except those structures that pre-date BCDC’s jurisdiction. Improvements proposed with the project, such as the public park, parking lot, and pedestrian/bicycle trail, would not be implemented under this alternative. However, existing docks could remain on the project site under this alternative to be used for purposes consistent with existing County, BCDC, and public trust requirements.

Reasons for Rejecting the Alternative

The No Project Alternative-Current Entitlement would be environmentally superior to the proposed project and to all other alternatives, because it would avoid all adverse environmental impacts associated with the proposed project and would remove unauthorized fill at the harbor. However, this alternative would not provide benefits associated with the proposed project such as a new mechanism to provide affordable housing, access to the shoreline and to bay views, bayshore improvements, bicycle/pedestrian trails, and the formation of physical barriers to contact with hazardous materials. Furthermore, this alternative would not meet any project objectives, because the site would be vacant under this alternative. Houseboats that vacate the site have no known authorized location to which they could move.

3. Existing Docks Alternative

Description of the Alternative

The “Existing Docks Alternative” is discussed at pages 6-15 through 6-20 of the RDEIR. This alternative assumes the continued presence of the 245 houseboats along A through E Docks on the project site. The houseboats along Docks A through E would be re-authorized with this alternative, in their existing configuration. All houseboats and docks that do not meet Uniform Building Code, Uniform Fire Code, or applicable Marin County zoning requirements would be removed from the project site under this alternative. Therefore, the 38 Gates Cooperative houseboats and the associated unauthorized docks and miscellaneous fill would be removed from the project site. No arks are proposed to be relocated. Similar to the proposed project, bayshore improvements, such as a public park and bicycle/pedestrian trail, would be provided with this alternative. However, because this alternative would not provide berths for the Gates Cooperative houseboats, the Railroad Property would not be available for use as a parking lot, as proposed for the project. Therefore, the Railroad Property would remain in its existing, unimproved condition under this alternative.

This alternative could require approximately 38 Gates Cooperative houseboats to vacate the project site. Typically, several of the 245 non-Gates houseboats are for sale at Waldo Point Harbor at one time (Meyers, pers. comm., 1997). Conceivably, some Gates Cooperative residents could purchase and move into a non-Gates houseboat that is for sale. Although it has been suggested during the scoping process for this EIR that the County subsidize a portion of the purchase of non-Gates houseboats for use by Gate Cooperative residents, whether to implement such an approach is a policy decision to be made by the County and is not an environmental issue for consideration in this EIR. Therefore, for the purposes of this analysis, it is assumed that up to 38 Gates Cooperative houseboats could be displaced with this alternative.

Similar to the proposed project, the transfer of property associated with the submerged streets that lie below existing or proposed houseboat berths would also occur under this alternative. However, a lesser amount of submerged land would be required to be transferred with this alternative, because no dock extensions are proposed.

Reasons for Rejecting the Alternative

The Existing Docks Alternative would be environmentally superior to the proposed project, because it reduces the project's water quality impacts related to storm water runoff from the railroad property. This alternative would provide beneficial project impacts related to the creation of a public view corridor and the park and bicycle/pedestrian trails allowing access to the views, bayshore improvements, and barriers to contact with onsite contamination. Although this alternative would meet some of the Applicant's project objectives and those objectives related to the implementation of Settlement Agreement terms, such as the replacement of Waldo Point Harbor's existing RCR use permit and the provision of public parking spaces, it would not meet a primary, basic objective - the accommodation of 38 Gates Cooperative houseboats. Moreover, it would not create an important mechanism to provide for affordable housing, as is directed by Marin Countywide Plan Policy CD-2.6.

4. New Dock Alternative

Description of the Alternative

The New Dock Alternative would allow for the re-authorization of 245 houseboats, plus the authorization of 38 Gates Cooperative houseboats (total of 283 houseboats) on the project site. Docks A through E and the 245 houseboats berthed at those docks would remain in their existing configurations with no dock extensions or modifications under this alternative. A new dock would be constructed between the existing B and C Docks to accommodate Gates Cooperative houseboats. The proposed new dock would be located in the same approximate location as the proposed project's temporary dock, but would extend approximately 340 feet from the bayshore. The new dock would be approximately 190 feet longer than the temporary dock envisioned under the proposed project and would extend beyond the submerged street of Humboldt Avenue to accommodate all 38 Gate Cooperative houseboats. No arks are proposed to be relocated under this alternative. Similar to the proposed project, bayshore improvements, such as a public park, parking lot, and bicycle/pedestrian trail, would be provided with this alternative. Similar to the proposed project, the transfer of property associated with the submerged streets that lie below existing or proposed houseboat berths and the Railroad Property would also occur with this alternative.

Reasons for Rejecting the Alternative

The New Dock Alternative would present fewer environmental impacts than the proposed project, because the total amount of construction activity is less than the proposed project's combination of dock extensions and the temporary dock. Construction related noise and air quality effects would be less than the proposed project. Long-term impacts would be similar to the proposed project. This alternative would provide beneficial project impacts related to affordable housing, bayshore improvements, public access, Bay views from the bayshore, and barriers to contact with onsite contamination. This alternative would also be consistent with San Francisco Bay Plan and RBSAP view policies, because the significant visual impacts of offsite views of the Harbor that creates policy inconsistencies with the Plans would not occur under this alternative. Furthermore, the alternative appears to be consistent with the San Francisco Bay Plan and RBSAP view policies because it would provide a view corridor between B and D Docks and, although with a narrower Bay view than the proposed project, it would still be less obstructed than under existing conditions. However, the SLC and BCDC staff have indicated that the New Dock Alternative would be less suitable than the proposed project regarding public trust uses because it would not provide the full dimensions of a public view corridor through the internal portions of the harbor and the land exchange may not return property of equal value to the State (Rodriguez, pers. comm., 1997; Cooper, pers. comm., 1997). Review of these issues will, in effect, determine the feasibility of these alternatives.

The New Dock Alternative would result in similar policy inconsistencies with the RBSAP and the Marin County Zoning Ordinance related to potentially inadequate houseboat spacing. It would meet all project objectives related to the implementation of Settlement Agreement terms and those of the project applicant, such as the replacement of Waldo Point Harbor's existing RCR use permit, the provision of public parking spaces, and the accommodation of 38 Gates Cooperative houseboats.

5. A/C Dock Extension Alternative

Description of the Alternative

Under the A/C Dock Extension Alternative, approximately 283 authorized houseboat berths would be provided on the project site to accommodate 245 previously authorized houseboats and 38 Gates Cooperative houseboats. No extensions are proposed to docks B, D, and E with this alternative. Rather, A and/or C Dock would be extended up to approximately 450 feet further into Richardson Bay. The proposed extension of C Dock under this alternative would be approximately 240 feet longer than the 210-foot extension envisioned under the proposed project. The extension of C Dock proposed under this alternative would accommodate 38 additional houseboats, resulting in a total of 283 houseboat berths on the project site, similar to the proposed project. As another approach to expand the number of berths, A Dock would be extended to a point near the current end of B Dock. It could accommodate many of the 38 Gates houseboats. This alternative could include extension of one or both A and C Docks. Unlike the proposed project, the two arks proposed for relocation under the project would instead remain in their existing locations under this alternative. Similar to the proposed project, waterfront improvements, such as a public park, new parking lot, and pedestrian/bicycle path, would be provided with this alternative. Similar to the proposed project, the transfer of property associated with the submerged streets that lie below existing or proposed houseboat berths and on related to the Railroad Property would also occur under this alternative; however, the boundaries of the transfer would need to be modified from those proposed in the Settlement Agreement.

Reasons for Rejecting the Alternative

The environmental effects of the A/C Dock Extension Alternative would be similar to the proposed project. Beneficial project impacts would occur related to affordable housing, bayshore improvements, provision of an open space view corridor, public park and trails, and barriers to contact with onsite contamination. Further, this alternative would meet all project objectives related to the implementation of Settlement Agreement terms and those of the project applicant, such as the replacement of Waldo Point Harbor's existing RCR use permit, the provision of public parking spaces, and the accommodation of 38 Gates Cooperative houseboats. However, the A/C Dock Extension Alternative would result in similar dock and bayshore construction related impacts and none of the significant and unavoidable impact of the project would be lessened or eliminated.

6. Reduced Size Alternative

Description of the Alternative

The Reduced Size Alternative assumes the authorization and establishment of a smaller, approximately 180-unit houseboat marina on the existing A through E Docks on the project site. The primary focus of this alternative is to address the potential environmental constraints associated with the submerged streets on the project site. No dock extensions or changes to the configuration of existing docks are proposed under this alternative. However, under this alternative, no houseboats would be moored in areas that overlie submerged streets. Consequently,

the transfer of property associated with the submerged streets that lie below existing or proposed houseboat berths would not be required under this alternative, because no houseboats would be permitted to berth in areas that overlie submerged streets. Similar to the proposed project, bayshore improvements, such as the public park, parking lot, and pedestrian trail, are also proposed under this alternative. However, the Railroad Property would remain unimproved under this alternative, because its availability is contingent upon the accommodation of Gates Cooperative houseboats at the harbor.

This alternative could require a total of approximately 103 houseboats, including 38 Gates Cooperative houseboats, to vacate the project site. Several of the 245 non-Gates houseboats are up for sale at Waldo Point Harbor. Conceivably, some Gates Cooperative residents could purchase and move into the non-Gates houseboats that are for sale. Although it has been suggested during the scoping process for this EIR that the County subsidize a portion of the purchase of non-Gates houseboats for use by Gate Cooperative residents, whether to implement such an approach is a policy decision to be made by the County and is not an environmental issue for consideration in this EIR. Therefore, for the purposes of this analysis, it is assumed that up to 103 houseboats could be displaced under this alternative.

Reasons for Rejecting the Alternative

The Reduced Size Alternative would be environmentally superior to the proposed project because it would reduce environmental impacts associated with the proposed project, while also providing beneficial project impacts related to some bayshore improvements, and barriers to contact with onsite contamination. Although this alternative would meet some of the project objectives related to the implementation of Settlement Agreement terms, such as the provision of the public park, it would not meet two important, basic project objectives (i.e., 245 berths) and the accommodation of all Gates Cooperative houseboats. It would displace up to 103 houseboats and would not accomplish Marin Countywide Plan Policy CD-2.6 for the provision of affordable housing. Houseboats displaced from the harbor have no known location to which they could move.

7. 1997 Extended Dock Alternative

Description of the Alternative

The 1997 Waldo Point Harbor Plan is considered as an alternative in this EIR, called herein the Extended Dock Alternative. It is the proposal submitted to the county by the project sponsor in 1994 (original proposal) to re-authorize, reconfigure, and expand Waldo Point Harbor. This alternative has been incorporated in its original form as an alternative to the proposed project because it meets the project objectives. Potential environmental impacts of the original proposal are compared to the currently proposed project.

Under the 1997 Extended Dock Alternative, approximately 286 authorized houseboat berths would be provided on the project site to accommodate the 245 previously authorized houseboats and 41 Gates Cooperative houseboats. A, B and D Docks would be extended 50, 130 and 125-feet further into Richardson Bay respectively. C Dock would be extended 35-feet further than the 210-foot extension envisioned under the proposed project but would still remain within the footprint of B and D Dock. Overall, 5 new houseboat berths would be accommodated on A Dock, 8 houseboat berths on B Dock, 9 houseboat and 5 replacement berths on C Dock, 9 houseboat berths on D Dock, and 9 houseboat berths on E Dock.

Similar to the proposed project, waterfront improvements, such as a public park, new parking lot, and pedestrian/bicycle path, would be provided with this alternative. Similar to the proposed project, the transfer of property associated with the submerged streets that lie below existing or

proposed houseboat berths and related to the Railroad Property would also occur under this alternative.

Reasons for Rejecting the Alternative

The 1997 Extended Dock Alternative would not be environmentally superior to the proposed project, because it would create significant project impacts related to offsite (distant and close-range) views of the harbor and increase houseboat exposure to wave action, which are also the cause of project inconsistencies with the San Francisco Bay Plan, the RBSAP, and the Marin Countywide Plan and Zoning Ordinance. Similar to the proposed project, this alternative would provide beneficial project impacts related to the creation of a public view corridor and park and bicycle/pedestrian trails allowing access to the views, bayshore improvements, and barriers to contact with onsite contamination. Additionally, this alternative would meet all to the Applicant's project objectives and those objective related to the implementation of Settlement Agreement terms, such as the replacement of Waldo Point Harbor's existing RCR use permit and the provision of public parking spaces, and it would create an important mechanism to provide for affordable housing, as is directed by Marin Countywide Plan Policy CD-2.6.

8. Community Development Plan

Description of the Alternative

The Community Development Plan (CDP) Alternative was submitted in September 1999 to the County of Marin (County) by the Waldo Point Harbor Residents Committee (WPHRC) as an alternative to the project proposed by Waldo Point Harbor (WPH). The CDP was first submitted to the County as an alternative to the 1999 Revised Master Plan. The WPHRC subsequently amended the CDP with additional community input during the Notice of Preparation public review period. The current version was submitted to the County in April 2000 (Roberto 2000). The CDP and its elements have received support from some residents of Waldo Point Harbor including the Harbor Equity Group and the Floating Homes Association.

Because of the support of the CDP by some members and groups representing members of the community, this alternative warrants consideration for possible County approval. The environmental analysis in Section 6.0 includes environmental impact conclusions and mitigation measures, which facilitate Marin County's review of the CDP, if it chooses to approve this alternative for the project.

As identified in the proposal submitted by the WPHRC, the CDP is intended to provide permanent authorized berths for up to 41 qualifying Gates Cooperative houseboats, rather than 38 houseboats served by the proposed project. Impacts of the CDP were analyzed based on the presence of 41 houseboats, which are three more than the proposed project objective of 38 houseboats. Project specific elements of the CDP include the construction of a permanent dock between B and C Dock, which would accommodate up to 21 qualifying Gates Cooperative houseboats; purchasing of existing, available berths or floating homes to accommodate Gates Cooperative houseboats and/or residents; and the infill of 20 new berths on existing docks. No temporary dock is needed for this alternative. The CDP would also implement park and bayshore pedestrian improvements, parking modifications, and public access improvements consistent with improvements/modifications proposed in the 1999 WPH Master Plan.

Reasons for Recommending the Alternative

The CDP Alternative would be environmentally superior compared to the alternatives that meet the project objectives. Beneficial project impacts related to affordable housing, bayshore improvements, public access, and barriers to contact with onsite contamination would be provided. The community dock would be shorter than the New Dock Alternative and would take advantage of infill opportunities. Also, bay mud disturbance would be less than other alternatives, because of the smaller dock and absence of a temporary dock (which must be removed later, causing disturbance of contaminated mud). In addition, a greater amount of open water area within the internal portion of the harbor would be provided and, similarly, a larger area of open water could be viewed from the shoreline, compared to other alternatives that meet project objectives. The SLC and BCDC staff previously commented on the New Dock Alternative that creating a permanent dock in the vicinity of the proposed project's temporary dock would be less suitable than the proposed project, because it would excessively obstruct a public view corridor through the internal portions of the harbor and the land exchange may not return property of equal values to the State (San Francisco Bay Conservation Development Commission, 1997). However, the CDP Alternative differs from the New Dock Alternative, so prior comments on the New Dock Alternative are not transferable to the CDP Alternative. The CDP community dock is shorter than the New Dock Alternative, and it would not extend over publicly owned streets. The CDP Alternative would provide a larger open water area within the internal portion of the harbor than the New Dock Alternative. As a follow up to comments on the New Dock Alternative, recent comments from BCDC and State Lands Commission staff indicate that the commission staff remain concerned that, although the CDP alternative would provide public trust benefits similar to the proposed project, the new dock alternative and the more recent CDP alternative may not meet the equal value finding, based upon land appraisals, which the State Lands Commission must make in order to enter into a settlement of land titles. Commission staff are also concerned the construction of a permanent dock from the shoreline into the central harbor may have negative impacts to the view corridor to the bay from the shoreline compared to what was envisioned in the original proposal. It is the Commission's staff position that these concerns may make these alternatives inconsistent with the BCDC open space policies and public trust doctrine (Plummer, pers. comm., 2000; Sampson, pers. comm., 2000). These issues are policy matters that SLC and BCDC will need to consider in their review of the project and its alternative. The review of these issues will, in part, determine the feasibility of the CDP Alternative.

“EXHIBIT 2”

FINDINGS FOR PROJECT APPROVAL AND FOR DETERMINATION OF PROJECT CONSISTENCY WITH APPLICABLE COUNTY PLANS

WALDO POINT HARBOR MASTER PLAN AND PRECISE DEVELOPMENT PLAN

- I. WHEREAS Waldo Point Harbor Inc. (hereinafter “applicant”), has submitted applications for Master Plan and Precise Development Plan approval for the expansion of Waldo Point Harbor to 283 berths to accommodate 38 Gates Cooperative houseboats presently situated in areas of the marina designated as open water in the Waldo Point Harbor Use Permit. The additional berths would be accommodated both along existing docks as well as on a new, approximately 300 foot long dock which would be constructed north of the existing Main Dock, in the vicinity of the existing Gates Cooperative area. To accommodate the parking demand for the reconfigured marina, the applicant proposes to construct a new parking lot for 134 vehicles on the northeast of the Gate 6 Road/Bridge way Boulevard junction, and make minor modifications to existing parking areas, resulting in a total of 484 private and 10 public parking spaces on the project site. Additional proposed improvements include the construction of a shoreline park and a public access pathway along the entire perimeter of the site.

The applicant submitted the application according to a “Litigation Settlement Agreement including Agreements Concerning the Exchange of Real Property in the County of Marin.” The settlement agreement was originally entered in 1992, between Marin County, the State Lands Commission (SLC), the San Francisco Bay Conservation and Development Commission (BCDC), and Waldo Point Harbor, Inc. The agreement was amended in 1993 to include the Gates Cooperative as parties to the agreement and add the Railroad property to the land exchange. In general the agreement allows for a land exchange that would provide Waldo Point Harbor with fee title subject to a public trust easement to lands under most of the existing docks and houseboats and would provide the State Lands Commission with fee title to most of the open space in the marina. Under the agreement, Waldo Point Harbor houseboats and up to 41 Gates Cooperative houseboats could be reconfigured onto land granted to Waldo Point Harbor in return for a consolidated parcel to be given to the State and made available for public trust purposes, such as park, open space, open water or retention in a natural state. The agreement does not obligate the County to approve permit applications and does not prevent the County from selecting an alternative project design from that proposed in the applications.

- II. WHEREAS the Marin County Planning Commission held a duly noticed public hearing on January 27, 2003 to consider the merits of the Proposed Project and hear testimony in favor of, and in opposition to, the project.
- III. WHEREAS the Marin County Planning Commission finds that the proposed project, subject to the mandatory EIR mitigation and monitoring measures and the conditions of approval contained herein, is consistent with the goals and applicable policies of the Marin Countywide Plan (CWP), for reasons including, but not limited to the following:
- A. The subject property is located in the City-Centered Corridor of the CWP, which is designated for concentrated urban development and for protection of designated environmental resources, including those associated with tideland, marshland, and shoreline areas. The project would provide additional housing opportunities in the City-Centered Corridor where infrastructure and facilities are available to serve urban development.
 - B. The CWP land use designation for the project site is FH (Floating Homes, 4 to 7 dwelling units per acre), which is intended to allow for single family floating home development at a range of lower

densities, recognizing physical hazards and development constraints, the necessity to protect natural resources, and the availability of public services and facilities. The project would maintain the existing land use designation, while providing opportunities for open space areas through the creation of a new public park on the western portion of the property. Although the proposed project would increase the houseboat density on the 45.2-acre project site from approximately 5.4 units/acre to 6.3 units/acre, the resulting density would remain within the range specified for this designation.

- C. The proposed project would maintain the existing character of the marina as a houseboat community and provide houseboat berths for low-income residents of the Gates Cooperative, consistent with policies which encourage the preservation of affordable housing. The project would also improve the County's jobs/housing balance by providing a mix of housing sizes and prices close to job centers in southern Marin County and in close proximity to public transit.
- D. The proposed project would not cause significant impacts on existing, available public services and utilities, such as water supply, police and fire protection, solid waste disposal, sewage disposal, and schools, and would not result in a significant increase in the number of vehicle trips or traffic congestion that would alter existing levels of service in the area, consistent with CWP traffic congestions standards and policies regarding public services.
- E. The project would include measures to avoid significant hazards related to differential settlement, liquefaction, ground shaking, tsunami effects, and other environmental hazards
- F. Consistent with CWP policies related to the protection of historic resources, the project would not impact any unique geological, ecological, archaeological, or historical sites in the project area.
- G. Finally, as described below, the proposed project would be consistent with specific CWP Bayfront Conservation Area policies which require the protection of bayfront resources with particular attention to: 1) protecting sensitive bayfront and aquatic habitats; 2) providing and protecting public access to shoreline areas; 3) preserving bay views; and 4) discouraging additional bay fill.

Wildlife and Aquatic Habitats

Bayfront Conservation Area policies encourage the preservation and enhancement of wildlife and aquatic habitats found in bayfront lands, including tidal and seasonal marshes, lagoons, and wetlands. The key habitat value of the project site is spawning grounds for herring, afforded by existing pilings, kelp growth, and undisturbed sediments. Implementation of required mitigation measures to control sedimentation during construction would ensure that the project does not adversely impact Pacific herring as well as other benthic and aquatic communities. Although the project would result in the fill of approximately 0.03 acres of existing wetlands, both the U.S. Army Corps of Engineers (USACE) and BCDC determined that this fill would be considered a minor impact because the wetlands are scattered on the project site, have a low percentage of vegetative cover, and therefore have little value to wildlife. In addition, the project would incorporate a Fill and Habitat Restoration Plan to preserve wetlands where feasible and restore approximately 16,000 square feet of salt marsh habitat as compensation for the unavoidable loss of wetlands. Finally, the project would not result in significant disturbance to migratory waterfowl and other wildlife and no environmentally sensitive marshland exists adjacent to the project site.

Public Access

Countywide plan policies encourage public use and enjoyment of bayfront and shoreline areas consistent with ecological and safety considerations. The proposed project would include a number of public shoreline improvements including a 1.26 acre public park and 10 associated public parking spaces, continuation of a discontinuous biking/walking path along the bayshore, the addition of public “furnishings” such as benches, lighting, and trash disposal facilities, and the creation of a public open water viewing areas. In addition, the proposed project includes an exchange of land between Marin County, the State Lands Commission, and the applicant, which would ensure permanent public access to these facilities. Consistent with Countywide Plan trail policies, the project would provide public bicycle and pedestrian trails through the property which link with existing trails in Sausalito. Overall, the project would provide substantial public access along the bayfront, consistent with Countywide Plan public access policies.

Bay Views

Countywide Plan policies strive to protect visual access to the bayfront and scenic vistas of the water by discouraging built elements which detract from the shoreline and encouraging development that permits public views of San Francisco Bay. Overall, the proposed project would improve views of the bay by replacing existing unauthorized structures with a bayfront park which includes landscape features, viewing decks, and public trails designed to enhance public views of the bay. Although the relocated Gates Cooperative houseboats would still be visible from shoreline areas, the project would create a new internal view corridor through the marina and significantly improve the appearance of the shoreline within the project site. Overall, the project would result in more organized views of the bay from Bridgeway Boulevard, would increase visual access to the Bay, and would provide opportunities for extending viewing from the public park and associated pedestrian/bicycle paths. Finally, it should be noted that, the Sausalito floating home community is a unique feature of Richardson Bay. As such, the existing Waldo Point Harbor houseboat marina attract visitors from around the Bay Area and beyond who are interested in viewing the unusual architectural designs, special aesthetic character, and unique lifestyle of houseboat communities. Accordingly, a discussion of bay views from and through the subject property should acknowledge that, for this particular project, views of the houseboat marina itself can be considered a desirable element of the project.

Bay Fill

Countywide plan policies discourage bay fill that diverts or retards currents, increases sedimentation, or causes erosion and pollution. The project would result in limited fill to enhance the stability of the shoreline, elevate the park site and parking areas to the County’s minimum acceptable level, and to construct the proposed new dock. However, the proposed project would not result in substantial increases in fill in the marina, would remove unwanted fill (submerged debris) from the site, and would relocate some existing houseboats to deeper bay locations. The proposed addition of rock rip-rap along portions of the bayshore would stabilize the portions of the marina shoreline that are unprotected, therefore minimizing an existing source of erosion and subsequent sedimentation into the bay. The project would add fill to previously filled bayshore areas to attain a minimum elevations of 7 feet NVGD, thereby providing protection to onshore areas from potential tidal overflows and localized inundation that occurs in some parking areas. In addition, the application of Best Management Practices (BMPs) would protect the bay from urban pollutant runoff from parking areas. Finally, additional pilings associated with construction of the new dock would result in minimal impacts to currents or existing sedimentation rates. Accordingly, the project would be consistent with CWP policies related to bay fill, erosion, and water pollution.

IV. WHEREAS the Marin County Planning Commission finds that the proposed project, subject to the mandatory EIR mitigation and monitoring measures and the conditions of approval contained herein, is consistent with the goals and applicable policies of the Richardson Bay Special Area Plan (RBSAP), for reasons including, but not limited to the following:

- A. RBSAP policies state that a limited number of new berths should be authorized within existing houseboat marinas to accommodate Gates Cooperative houseboats as well as anchor-out houseboats which existed in Richardson Bay on or prior to September 30, 1983. Consistent with this policy, the proposed project would accommodate 38 Gates Cooperative vessels within the existing Waldo Point Harbor marina.
- B. RBSAP policies encourage maximum feasible public access to and along the Richardson Bay shoreline. Public access areas should connect to adjacent public parks, open space areas, and rights-of-way where possible, and should be landscaped and include appropriate amenities. Consistent with these policies, the project would provide a 1.26 acre landscaped bayfront park (with ten associated public parking spaces) and a continuous pedestrian and bicycle trail along the shoreline connecting to adjoining public access areas and rights-of-way. The proposed park and shoreline areas include features such as benches and observation decks to take advantage of bay views. Shoreline access signage is proposed in several locations to indicate the existence of the park and public trails from Bridgeway Boulevard and other off-site areas. Entry monuments, interpretive signage, trash enclosures, and pathway lighting would also be provided.
- C. Bay view policies contained in the RBSAP strive to protect views of the Richardson Bay shorelines, and state that areas designated as view corridors should not be blocked by parked cars, high vegetation or other obstructions. The project would improve public viewing opportunities of Richardson Bay from the shoreline by eliminating existing unauthorized fill and providing elevated public viewing decks in the public park area and along the proposed new dock to provide views over the existing marina and to the Bay beyond. In their review of the project plans, BCDC staff have questioned whether the proposed project would provide the maximum feasible public access and conform with RBSAP policies on bay views. Specifically, Commission staff have commented that the creation of the proposed new permanent dock north of C Dock may be less suitable than previous versions of the project because it would partially obstruct a public view corridor through the internal portions of the harbor that was envisioned in the original proposal. Although the proposed new dock would be visible from the public park and portions of the existing shoreline, the current project configuration would preserve other open water areas in comparison to previous versions of the project because none of the existing docks would be extended, either laterally along the shoreline or outward into open water areas of Richardson Bay. In addition, the largest area of open water within the internal portion of the harbor would be preserved by eliminating the previously proposed 200-foot extension to C Dock.

V. WHEREAS the Marin County Planning Commission finds that the proposed project, subject to the mandatory EIR mitigation and monitoring measures and the recommended conditions of approval contained in this resolution, complies with the Standards and Criteria of the governing BFC-RF (Bayfront Conservation, Floating Home Marina District) zoning district set forth in Section 22.47.090 and 22.50 of Marin County Code, as follows:

- A. The proposed project would result in the continued use and expansion of an existing floating home marina in pleasing and harmonious surroundings, including the provision of substantial public open space and access improvements, consistent with the purpose of the governing zoning.
- B. The proposed project site is of sufficient size, character, and location and has special features, such as access to public transportation and shopping facilities, which makes it a desirable area for the development of a residential floating home community.

- C. As proposed, the configuration of the project would not adversely impact views of the area from surrounding communities, and would not be detrimental to water habitat or water quality in the area.
 - D. The proposed continuation of associated uses within the marina including the harbor management office, the water-oriented harbor maintenance facility on A Dock, and parking areas would be considered permissible as incidental and subordinate to the principle use of the site as a houseboat marina.
 - E. The proposed project would provide an open water area equivalent to 60 percent of the total project site, consistent with zoning standards which require that at least 50 percent of the total water area proposed for a floating home marina be open water.
 - F. Standards and criteria of the governing zoning require a minimum distance between adjacent floating homes of six feet for one story boats, or ten feet if either of the floating homes is in excess of one story. For fire safety reasons, each floating home must also abut a “fairway with access to open water” with a minimum width of 35 feet. To ensure that the proposed project is consistent with these development standards, recommended conditions of approval require the applicant to submit final dock and berthing plans demonstrating that all houseboats comply with Marin County Code §22.47.094 with respect to houseboat setbacks and fairway access, and/or submit and receive appropriate approval from the County for those houseboats that do not meet standards (i.e. Floating Home Exception, Variance, etc).
 - G. As described in Finding III, the proposed project would comply with zoning provisions of the Bayfront Conservation District zoning overlay by improving public access to bayfront lands, establishing a view corridor through the site, and avoiding impacts to bayfront habitat or tidal marshland.
- VI. WHEREAS the Marin County Planning Commission finds that the proposed Waldo Point Harbor Master Plan application, subject to the mandatory EIR mitigation and monitoring measures and the conditions of approval contained herein, would be consistent with the policies contained in the Marin Countywide Plan and the Richardson Bay Special Area, and the zoning standards of the governing zoning, for the reasons outlined in Findings III through V above, and would establish an overall plan for an expanded houseboat marina, including the number and location of new berths, and the size and configuration of associated improvements such as parking areas and public open spaces and trails.
- VII. WHEREAS the Marin County Planning Commission finds that the proposed Waldo Point Harbor Precise Development Plan application, subject to the mandatory EIR mitigation and monitoring measures and the conditions of approval contained herein, would be consistent with the requirements for approval of a Precise Development Plan for reasons including, but not limited to, the following:
- A. The Precise Development Plan is consistent with the proposed Master Plan.
 - B. The Precise Development Plan would be consistent with policies contained in the Marin Countywide Plan and the Richardson Bay Special Area Plan as outlined in Findings III through IV above.
 - C. The Precise Development Plan would be consistent with the standards and criteria of the governing BFC-RF (Bayfront Conservation, Floating Home Marina District) zoning district related to permitted uses, open water requirements, houseboat spacing, fairway widths, and type of units as well as the protection and enhancement of public access, views, and sensitive habitat in bayfront areas.

D. The Precise Development Plan would be consistent with the standards and criteria of the governing Marin County Code Chapter 11.20 (Moorage and Occupancy of Vessels), Chapter 11.21 (Floating Home Marinas), and Chapter 19.18 (Regulation of the Construction and Maintenance of Floating Homes).

“EXHIBIT 3”

CONDITIONS OF APPROVAL

Waldo Point Harbor Master Plan and Precise Development Plan

Marin County Community Development Agency – Planning Division

1. The Waldo Point Harbor Master Plan/Precise Development Plan is conditionally approved for the reauthorization, reconfiguration and expansion of the existing 245-berth Waldo Point Harbor houseboat marina to 283 berths to accommodate 38 Gates Cooperative houseboats and four ark replacement berths within the marina. The project site is located along Richardson Bay, off Gate Six Road in Sausalito, on Assessor’s Parcel Numbers 52-301-04 & 08, 52-304-01, 52-312-01, 52-313-01, 52-314-01, 52-331-01, 52-332-01, 52-333-01 through 04, 52-334-01, 52-335-01, 52-336-01, 52-341-01, 52-342-01, 52-344-01, 52-345-01, and 52-252-01. Portions of the following street right-of-ways are also within the property boundary: Donahue Avenue, Humboldt Avenue, Petaluma Street, Grove Street, Yuba Street, Myrtle Street, Waldo Street, and Monterey Street. The approved project would include the following elements:
 - a. Creation of 17 new authorized houseboat berths along existing Waldo Point Harbor docks.
 - b. Construction of a new approximately 300 foot long dock to accommodate 21 new authorized houseboat berths.
 - c. Construction of a new parking lot for 134 vehicles northeast of the Gate 6 Road/Bridgeway Boulevard intersection, and modifications to existing parking areas, resulting in a total of 484 private and 10 public parking spaces on the project site.
 - d. Construction of a 1.26 acre shoreline park and associated facilities including, but not limited to pedestrian/biking trails, landscaping, signage, and viewing platforms.
 - e. Construction of 1,270 square feet of additional office space and 1,134 square feet of additional basement area for the existing harbor management office building.
 - f. Implementation of a land exchange between Waldo Point Harbor and the State Lands Commission which would provide Waldo Point Harbor with fee title (subject to a public trust easement) to submerged lands within the marina under existing and proposed docks and houseboat berths, and would provide the State with fee title to most of the open space and open water areas within the marina.

This approval does not authorize any work done to existing houseboats in Waldo Point Harbor without permits, any existing non-conforming houseboats, or any unauthorized uses.

2. Except as modified herein, plans submitted for approval of Improvement Plans, Building Permits, and Grading Permits shall be in substantial conformance with plans identified as “Exhibit A,” on file in the Community Development Agency, entitled “Waldo Point Harbor, Master Plan and Development Plan, 2001 Mitigated Plan”, prepared by I.L. Schwartz Associates, consisting of 19 sheets, dated May 1, 2002, and received May 17, 2002. Minor modifications to the plans may be approved administratively by the Community Development Director provided the modifications are consistent with the Master Plan and the intent and objectives of the original condition.

3. The Waldo Point Master Plan shall remain valid and shall run in perpetuity with the subject property. The Precise Development Plan shall be vested through: 1) securing approved Grading Permits, Improvement Plans, valid Building Permits, houseboat Occupancy Permits, and any other permits related to the approval; 2) and substantially completing the improvements including construction of approved berths, parking areas, and park and public access improvements, and relocation of Gates Cooperative boats to authorized berths, in accordance with the secured Improvement Plans, Grading Permits, Building Permits and/or other permits within two (2) years from the date of approval. Upon written request by the applicant and payment of appropriate fees prior to expiration of the initial approval, the Precise Development Plan may be extended for a maximum period of four years pursuant to Sections 22.45.063 of the Marin County Code if the application is consistent with the Master Plan, the Marin Countywide Plan and the Richardson Bay Special Area Plan.
4. Use of the expanded Waldo Point Harbor office is limited to use by Waldo Point Harbor for harbor management and maintenance uses only, and may not be leased as commercial office space not related to the marina. Waldo Point Harbor shall make space within this building reasonably available for community meetings or similar community uses.
5. PRIOR TO APPROVAL OF IMPROVEMENT PLANS OR ISSUANCE OF GRADING OR BUILDING PERMITS, whichever occurs first, the following items shall be submitted to the Planning Division:
 - A. A letter of confirmation from the Marin Municipal Water District which confirms that all required legal, financial, and construction agreements have been applied for and completed to provide water extension facilities to the newly created berths.
 - B. A letter of confirmation from the local provider of sanitary service (Sausalito-Marín City Sanitary District) which confirms that all required legal, financial, contracts, and construction agreements have been applied for and completed to provide sanitary service to the newly created berths.
 - C. A letter of confirmation from the local provider of electricity (PG&E), which confirms that all required legal, financial, easements, contracts, and construction agreements have been applied for and completed to provide service to the newly created berths.
6. PRIOR TO ISSUANCE OF BUILDING PERMITS, the applicant shall submit for review and approval of the Community Development Agency and public emergency service providers a list of proposed addresses for newly created berths within the marina.
7. PRIOR TO APPROVAL OF IMPROVEMENT PLANS OR ISSUANCE OF GRADING OR BUILDING PERMITS, the applicant shall verify that the land exchange between Waldo Point Harbor and the State Lands Commission has been completed.
8. PRIOR TO APPROVAL OF IMPROVEMENT PLANS OR ISSUANCE OF GRADING OR BUILDING PERMITS, the applicant shall submit verification of project approval by the Bay Conservation and Development Commission and the U.S. Army Corps of Engineers.
9. PRIOR TO APPROVAL OF IMPROVEMENT PLANS OR ISSUANCE OF GRADING OR BUILDING PERMITS, all agreements, leases, or other legal documents required to implement housing affordability provisions pursuant to the Railroad Property Agreement shall be completed to ensure the creation and preservation of affordable houseboat and houseboat berths within Waldo Point Harbor. Where appropriate, documents shall be submitted for review and approval of the Community Development Agency prior to completion. The following general principles shall be applied to the development of all necessary agreements and documents:

- A. One of the central objectives of the project is to prevent displacement of the Gates Cooperative members and to preserve affordable houseboat berths by providing for below-market rental of houseboat berths for up to 38 households, with initial occupancy by Gates Cooperative members and with future vacancies restricted to very low and low income households.
 - B. The affordability of the existing Gates boats and approved Gates houseboat berths shall be maintained for the maximum time period feasible, with a minimum of 20 years.
 - C. Some Gates Cooperative members are expected to receive rehabilitation loans funded by the federal government or the Marin Community Foundation (MCF) to make improvements to their boats which will make their boats eligible to occupy approved berths within Waldo Point Harbor. Even those Gates Cooperative members who do not receive rehabilitation loans will still obtain berths as a result of federal and MCF funding. Therefore, those who occupy the designated low-income houseboat berths in Waldo Point Harbor should not receive windfall profits by selling or renting their boats at market rates.
 - D. To ensure that appropriate income levels are maintained, Gates Cooperative houseboats shall be owner-occupied unless otherwise approved by the Marin Housing Authority and Gates Cooperative.
 - E. Waldo Point Harbor shall not unreasonably reject qualified applicants, as described herein, referred to Waldo Point Harbor for occupancy of Gates Cooperative berths. All parties of interest shall not attempt to purchase Gates Cooperative houseboats or other date-qualified houseboats for purposes of removing them from the harbor, keeping approved low-income berths unoccupied, or replacing a low-income houseboat with a market rate houseboat.
 - F. The 38 designated low-income berths shall be maintained for and occupied by qualified vessels owned and occupied by low-income households, including both Gates Cooperative and non-Gates Cooperative members to the extent that existing Gates Cooperative boats or members leave the marina. Waldo Point Harbor may not convert any of the 38 designated low-income berths to occupancy other than low-income households.
10. PRIOR TO ISSUANCE OF A BUILDING PERMIT, the applicant shall revise the site plan or other first sheet of the office and job site copies of the Building Permit plans to list these Conditions of Approval as notes.
11. PRIOR TO APPROVAL OF IMPROVEMENT PLANS OR ISSUANCE OF GRADING OR BUILDING PERMITS, the applicant shall submit final dock and berthing plans demonstrating that all houseboats comply with Marin County Code §22.47.094 with respect to houseboat setbacks and fairway access, and/or submit and receive appropriate approval from the County for those houseboats that do not meet standards (i.e. Floating Home Exception, Variance, etc). Final dock and berthing plans shall also be designed to conform with Marin County Code Chapters 11.20 (Moorage and Occupancy of Vessels), Chapter 11.21 (Floating Home Marinas), and Chapter 19.18 (Regulation of the Construction and Maintenance of Floating Homes).
12. PRIOR TO APPROVAL OF IMPROVEMENT PLANS OR ISSUANCE OF GRADING OR BUILDING PERMITS, the applicant shall submit for review and approval of the Community Development Director the proposed Fill and Habitat Restoration Plan, prepared by a qualified biologist, intended to compensate for unavoidable loss of wetlands on the site. Prior to final inspection approvals, the biologist shall verify that proposed vegetation has been installed and any other work has been completed in accordance with the recommendations of the approved plan.
13. PRIOR TO APPROVAL OF IMPROVEMENT PLANS OR ISSUANCE OF GRADING OR BUILDING PERMITS, the applicant shall submit a final detailed landscaping plan for review and approval by the Community Development Director. The landscape plan should specify the locations of and provide details for related site elements including benches and seating areas, trash enclosures, and signage.

14. PRIOR TO ISSUANCE OF A BUILDING PERMIT, the applicant shall submit a "Statement of Conformance" prepared by a certified or licensed landscape design professional which confirms that the approved landscaping plan conforms to the design requirements contained in Chapter 23.10 (Water Efficiency in Landscaping) of the Marin County Code. Alternatively, the applicant may satisfy this requirement by submitting a letter from the Marin Municipal Water District confirming project compliance with the district's landscape water efficiency regulations.
15. PRIOR TO OCCUPANCY OF APPROVED BERTHS, the applicant shall submit a "Statement of Completion," signed by a certified or licensed landscape design professional, which confirms that the approved landscaping was installed as designed.
16. Only those trees shown for removal on approved plans shall be removed. Unless approved by the Community Development Director, no other existing trees on the subject property shall be removed except to comply with local and State fire safety regulations, to prevent the spread of disease as required by the State Food and Agriculture Department, and to reasonably prevent safety hazards to people and property.
17. PRIOR TO OCCUPANCY OF APPROVED BERTHS, the applicant shall submit a maintenance performance agreement to the Community Development Director for review and approval. The agreement shall be secured by a performance bond in the amount of one and one-half times the value of all landscaping to ensure the proper maintenance, care, and establishment of the landscaping for a period of two years following the grant of occupancy for the last approved berth. Any dead landscaping or landscaping in a state of permanent decline shall be replaced at the end of the two-year maintenance period to the satisfaction of the Community Development Director.
18. PRIOR TO APPROVAL OF IMPROVEMENT PLANS OR ISSUANCE OF GRADING OR BUILDING PERMITS, the applicant shall submit a final lighting plan to depict the location and type of all exterior lighting for review and approval of the Community Development Director. Exterior lighting shall be permitted for safety purposes only, must consist of low wattage fixtures, and must be directed downward and hooded. A cut (specification) sheet depicting all exterior lights shall be included on the Building Permit plans. Lighting of parking areas shall be consistent with Marin County Code Section 11.21.070(3), but shall be located on low standards or bollards.
19. PRIOR TO APPROVAL OF IMPROVEMENT PLANS OR ISSUANCE OF GRADING OR BUILDING PERMITS, the applicant shall submit a final parking plan for review and approval of the Community Development Director, which substantially conforms with Exhibit "A". The final parking plan shall identify which parking allocation plan will be used to allocate parking within the marina.
20. PRIOR TO APPROVAL OF BUILDING PERMITS, the applicant shall submit a plan for review and approval of the Community Development Agency for removal of the sunken barge immediately north of Main Dock to ensure that its removal does not adversely impact the stability of the pilings supporting the adjacent ark (15 Main Dock).
21. PRIOR TO ISSUANCE OF BUILDING PERMITS, the applicant shall submit a construction management and phasing plan for review and approval by the Community Development Director in consultation with the Department of Public Works. The plan shall designate the areas for construction staging activities, including the areas for parking of construction vehicles. The applicant shall be responsible for ensuring that all construction vehicles, equipment and materials are stored on site and off the street so that pedestrians and vehicles can pass safely at all times. The applicant shall be responsible for ensuring that the number of construction vehicles shall be limited to the minimum number necessary to complete the project.
22. BEFORE FINAL INSPECTION AND UPON VESTING OF THIS APPROVAL, the Notice of Decision shall be recorded against the title to the subject property.

23. Any changes or additions to the project shall be submitted to the Community Development Agency for review and approval before the contemplated modifications may be initiated.
24. PRIOR TO APPROVAL OF IMPROVEMENT PLANS OR ISSUANCE OF GRADING OR BUILDING PERMITS, the applicant shall either enter into a performance agreement with the County that is secured by a bond or other suitable security in order to guarantee removal of all construction materials and debris and unauthorized fill proposed to be removed as part of the project, consistent with approved exhibits.

Marin County Department of Public Works

25. PRIOR TO APPROVAL OF A IMPROVEMENT PLANS OR ISSUANCE OF GRADING OR BUILDING PERMITS, whichever occurs first, the applicant shall submit improvement plans as specified in Marin County Code Title 24, which shall provide for the required roadways, drainage improvements, parking improvements, and other relevant improvements in substantial conformance with Exhibit "A". The applicant shall make all arrangements required by the County to ensure that these improvements are completed in conjunction with the proposed development.
26. PRIOR TO APPROVAL OF IMPROVEMENT PLANS OR ISSUANCE OF GRADING OR BUILDING PERMITS, whichever occurs first, the applicant shall comply with the following condition. The project shall have an erosion and sediment control plan which addresses both interim (during construction) and final (post construction) control measures. The specific control measures to be utilized shall be subject to the review and approval of the Department of Public Works and shall be in general accordance with the current "Manual of Standards for Erosion and Sediment Control Measures" published by the Association of Bay Area Governments. The plan shall be implemented by October 15th or earlier if so required by the Department of Public Works. The following requirements shall be met:
 - A. All disturbed surfaces including but not limited to cut and fill slopes, building pads, driveways and areas cleared of vegetation shall be protected against erosion by measures approved by the Department of Public Works that are appropriate to the site, phase of construction and time of year.
 - B. Grading operations shall not be conducted during the rainy season (October 15th through April 15th) without prior approval from the Department of Public Works. Such approval shall only be given upon clear demonstration, to the satisfaction of the Department of Public Works, that at no stage of the work will there be any substantial risk of increased sediment discharge from the site. When grading operations are permitted during the rainy season, a phasing plan and work schedule shall be required to insure that the smallest practicable area of erodible land is exposed at any one time and the time of exposure is minimized. The phasing plan and work schedule must be approved by the Department of Public Works prior to the start of grading or prior to October 1st at the discretion of the Department of Public Works. A cash bond in an amount approved by Department of Public Works may be required to insure that control measures are implemented and maintained.
27. PRIOR TO APPROVAL OF IMPROVEMENT PLANS OR ISSUANCE OF GRADING OR BUILDING PERMITS, whichever occurs first, the applicant shall submit plans that demonstrate compliance with the following requirements:
 - A. All parking areas shall be constructed to maintain a minimum elevation of 7 feet NGVD after subsidence.
 - B. All roadways and parking lots shall be paved.
 - C. The plans shall include roadway profiles and cross-sections.

- D. Details for proposed intersections with existing roadways shall be provided. These include all proposed improvements, edge of pavement for both sides of the street, any driveways in the vicinity of both proposed intersections, and an analysis of sight distance. The project shall comply with all approved mitigations.
- E. Parking spaces shall be dimensioned on the plans.
- F. Handicap parking and access areas shall comply with applicable federal and California State regulations for disabled access.

28. All work within County or City of Sausalito rights-of-way shall require an Encroachment Permit from the Department of Public Works, or the City of Sausalito.

Marin County Fire Department

- 29. PRIOR TO APPROVAL OF IMPROVEMENT PLANS OR ISSUANCE OF GRADING OR BUILDING PERMITS, whichever occurs first, the applicant shall submit written verification from the Fire Marshal that the project complies with all requirements for fire safety, including provision of adequate water for fire protection, road access, and vegetation management.
- 30. PRIOR TO OCCUPANCY, the applicant shall submit written verification from the Fire Marshal that all fire protection requirements have been completed.

Marin Municipal Water District

- 31. PRIOR TO APPROVAL OF IMPROVEMENT PLANS OR ISSUANCE OF GRADING OR BUILDING PERMITS, the applicant shall enter into a water service facilities agreement with the District, make all necessary financial arrangements (including payment of connection fees) and construct all facilities necessary to serve the project.

Sausalito-Marin City Sanitary District

- 32. PRIOR TO APPROVAL OF IMPROVEMENT PLANS OR ISSUANCE OF GRADING OR BUILDING PERMITS, the applicant shall enter into a sanitary service facilities agreement with the District, make all necessary financial arrangements (including payment of connection fees) and construct all facilities necessary to serve the project.

Project Environmental Impact Report Mitigations

The following conditions of approval, numbers 32 through 51, have been derived from mitigations recommended in the project EIR. The sources of each condition are provided as a bracketed reference at the end of each condition. For example, *Transportation, #4.9-1*, refers to transportation mitigation measure 4.9-1.

- 33. PRIOR TO APPROVAL OF IMPROVEMENT PLANS OR ISSUANCE OF GRADING OR BUILDING PERMITS, the Applicant shall secure a California-Certified Engineering Geologist and Civil Engineer to provide the Project Structural Engineer with seismic design criteria and recommendations (examples below) based on State and County regulations for development in areas exposed to moderate to severe earthquakes. The site-specific recommendations made by the California-Certified Engineering Geologist and Civil Engineer shall be approved by the County of Marin Public Works Division prior to implementation at the site.

As an overall performance criterion, seismic design features will be adequate to ensure that the proposed dock structures withstand the maximum credible earthquake (MCE) for the San Andreas and Hayward faults. Examples of the seismic design criteria to be provided to the Project Structural Engineer include: (i) identification of the controlling fault for seismic engineering design; (ii) design earthquake magnitude; (iii)

distance to energy source (earthquake); (iv) likely duration of strong ground shaking and qualitative discussion of its intensity and frequency (e.g., high vs. low); and (v) discussion of the potential for amplified ground shaking due to local geologic conditions. Potential types of seismic design features that could be applied to the project site include piles driven to sufficient depth for adequate stability, cross-lateral supports between piles, or bracing between piles and the dock. The specific structural features appropriate for the project would be determined based on the seismic engineering design process. (*Geologic Factors, #4.2-2(a)*)

34. The applicant shall use appropriate grading and design, in accordance with the UBC and Marin County Code requirements, to reduce the secondary effects of ground shaking on manmade improvements. For example, slopes shall be no steeper than 4:1, unless approved by Marin County Public Works Department. These requirements shall be reflected in improvements plans and/or grading plans submitted to the Marin County Department of Public Works for review and approval. (*Geologic Factors #4.2-2(b)*)
35. Fill used during the construction of the project shall be properly designed with subsurface drainage and adequately compacted (i.e., minimum of 90% relative compaction as defined by the American Society for Testing and Materials (ASTM D1557) to significantly reduce fill settlement. Only lightweight aggregate fill shall be used for new fill in the vicinity of the shoreline to reduce settlement of the underlying Bay mud. These requirements shall be reflected in improvements plans and/or grading plans submitted to the Marin County Department of Public Works for review and approval. (*Geologic Factors, #4.2-2(c)*)
36. All structural (i.e., dock) foundations, aboveground or dock utilities, and underground utilities shall be designed to accommodate estimated settlements without failure, especially across transitions between existing and new dock extensions or improvements (e.g., using flexible connections that anticipate calculated settlement expectations). These requirements shall be reflected in improvements plans, grading permit plans, and/or building permit plans submitted to the Marin County Department of Public Works and Marin County Community Development Agency Building and Safety Division for review and approval. (*Geologic Factors, #4.2-2(d)*)
37. PRIOR TO APPROVAL OF IMPROVEMENT PLANS OR ISSUANCE OF GRADING OR BUILDING PERMITS, the applicant shall submit for review and approval by the County a design-level geotechnical investigation. Plan review and construction observation/testing is required by the project geotechnical engineer. Final design of the proposed improvements shall incorporate the results of the geotechnical investigation approved by Marin County. (*Geologic Factors, #4.2-2(e)*)
38. Improvement plans and/or grading permit plans submitted to the Marin County Department of Public Works shall demonstrate that parking and shoreline park grades are established with sufficient initial height to maintain elevation 7 feet after settlement. Care shall be taken to maintain adequate surface drainage. The project applicant shall perform periodic monitoring of survey monuments at an interval acceptable to the County, such as every 1 to 5 years. Monitoring results shall be submitted to the County. If required elevations are not maintained, a detailed plan shall be submitted to the County for review that details how required elevations would be achieved. This may involve the placement of additional fill, in which case the detailed plan would consist of grading and drainage plans and geotechnical recommendations as needed. (*Geologic Factors, #4.2-5(b)*)
39. PRIOR TO ISSUANCE OF IMPROVEMENT PLANS OR GRADING PERMIT PLANS, detailed engineering plans, prepared by a qualified engineer, shall be submitted to the Marin County Department of Public Works for review and approval, that demonstrate the ability of proposed improvements, including dock extensions, riprap slopes, and quay walls, to withstand the effects of waves and tsunami inundation and associated currents (e.g., ramp and float design to rise with a wave, dock structural strengthening). The design tsunami height shall be based on the maximum expected wave height considering the 100-year record, unless engineering design demonstrates that another design height is acceptable to Marin County. (*Geologic Factors, #4.2-7*)

40. PRIOR TO ISSUANCE OF A BUILDING PERMIT FOR THE NEW DOCK, the applicant shall remove the top twelve inches of sediments from the site, during low tide, in the area between B Dock and C Dock from the shoreline to 100 feet east of the easternmost boundary of Humboldt Avenue. The top twelve inches of sediments shall be removed from under existing houseboats in this area as they are removed for relocation to another berth. Removed materials will be disposed of at an authorized Class I landfill. (*Benthic and Other Aquatic Biology, #4.3-1(a)*)
41. PRIOR TO ISSUANCE OF IMPROVEMENT PLANS OR GRADING PERMITS, the applicant shall submit a water pollution control plan to the Marin County Community Development Agency and State Regional Water Quality Control Board (RWQCB) for review and approval. The plan shall demonstrate compliance with the following requirements:
- A. To minimize mixing of re-suspended contaminated sediments with the water column, the applicant shall use silt screens in sub-tidal (i.e., not exposed at low tide) areas that will be disturbed during project construction. The placement and design of the silt screens shall be subject to review and approval by Marin County and the RWQCB. (*Benthic and Other Aquatic Biology, #4.3-1(b)*)
 - B. Construction activities that would re-suspend sediments shall not be permitted during the herring spawning season (December 1 - March 1). At all other times, the applicant shall utilize construction methods that minimize mixing of disturbed sediments with the water column, as follows: (a) CDFG is responsible for setting the herring catch quotas such that enough fish "escape" and are allowed to spawn, thus providing for continuation of a viable population. To ensure that the proposed project does not impact the commercial herring fishery, or the portion of the herring population which is considered to be "escapement," the applicant shall refrain from all construction activities (e.g., pile-driving, removal of debris at any time other than low tide) that result in sediment re-suspension during the Pacific herring spawning season (December 1 – March 1), and (b) at all other times, implement Mitigation Measure 4.3-1(b) (Contaminated Sediment Removal and Use of Silt Screens) when sediment disturbing activities are occurring. (*Benthic and Other Aquatic Biology, #4.3-2(a and b)*)
 - C. The applicant shall implement, through agreement with the harbormaster, Best Management Practices to protect the water quality of runoff from parking areas and landscaped areas into Richardson Bay. Best Management Practices (BMPs), designed to protect storm water quality, are summarized in the *California Storm Water Best Management Practice Handbooks* (Storm water Quality Task Force 1993). The applicant shall implement BMPs as recommended by the San Francisco Bay Regional Water Quality Control Board in its *Staff Recommendations for New and Redevelopment Controls for Storm Water Programs* (SFB RWQCB 1994). BMPs shall be implemented during project construction.

BMPs appropriate to the site include: vegetated filter swales or strips; landscape control; education of residents about the proper use and disposal of household chemicals, motor oil, and antifreeze; litter control; street sweeping; and labeling of any proposed storm drains. A vegetated filter swale is a shallow vegetated channel that treats concentrated flow. A vegetated filter strip consists of a surface of even and relatively flat vegetated land at least 10 feet wide. Water flows across the width of the strip as sheet flow. Vegetated filter swale and/or strip sizing shall follow guidelines provided in Storm water Quality Task Force (1993). Landscape control includes use of efficient irrigation and minimization of fertilizer, herbicide, pesticide, and fungicide use. Further descriptions of the required BMPs are provided in Storm water Quality Task Force (1993) and SFB RWQCB (1994) (*Hydrologic Factors, #4.5-4*).

42. PRIOR TO APPROVAL OF IMPROVEMENT PLANS OR ISSUANCE OF GRADING OR BUILDING PERMITS, the applicant shall be required to contribute on a fair-share basis to the cost of construction of a second northbound through lane and a second eastbound right-turn lane to the Bridgeway Boulevard/Gate 6 Road intersection. The fair-share portion shall be determined by Marin County, Department of Public Works, Traffic Division staff. (*Transportation, #4.9-1*)
43. To reduce construction-generated PM₁₀ emissions, the contractor shall be required to implement the following BAAQMD required feasible control measures: (a) water all active construction areas at least twice daily; (b) cover all trucks hauling soil, sand, and other loose materials or require all trucks to maintain at least 2 feet of free board; (c) pave, apply water three times daily, or apply (non-toxic) soil stabilizers on all unpaved access roads, parking areas and staging areas at construction sites; (d) sweep daily (preferably with water sweepers) all paved access roads, parking areas and staging areas at construction sites; and, (e) sweep streets daily (preferably with water sweepers) if visible soil material is carried onto adjacent public streets (*Air Quality, #4.10-1*). These requirements shall be incorporated into improvements plans, grading permit plans, building permit plans, and construction contract documents.
44. To control the daily duration of construction-generated noise impacts, construction hours shall be limited to the times between 8 a.m. and 5 p.m. Monday through Friday and 9 a.m. and 4 p.m. on Saturday, or federal holidays. No construction shall be allowed on Sunday. The limitations on hours of construction shall be binding by their inclusion in contract documents for authorizing work of construction contractors. These requirements shall be incorporated into improvement plans, grading plans, building permit plans, and construction contract documents. In addition, houseboat residents of Waldo Point Harbor and adjacent marinas shall be given at least 7 days notice of the start of construction and at least 7 days separate notice of the start of pile driving. The notices shall specify the timing, duration, location, and types of construction noise generating activity as well as the name and telephone number of the on-site construction manager responsible for ensuring compliance with the above requirements. (*Noise, #4.11-1*)
45. To prevent contact with contaminated soil, the applicant shall cover existing upland soil with clean fill in the shoreline park and other unpaved portions of the bayshore part of the project. (This clean fill may include the soil necessary to raise the site to a minimum of 7 feet, as required for the site by the Marin County Department of Public Works to avoid flood hazards.) The depth of clean fill necessary for an adequate barrier shall comply with standards set by the RWQCB and/or State Department of Toxic Substances Control (DTSC), but the depth shall be no less than one foot. Landscaping of the park and bayshore fill soils shall be designed to supplement the clean fill as a barrier and to prevent erosion of the clean fill. Gardening shall be prohibited in the shoreline park and bayshore areas of the project site, because it could result in digging down to the contaminated soil layers. In paved areas, the pavement will serve as a barrier against contact with contaminated soils. The detailed construction plans and specifications of the shoreline park and bayshore area will be subject to review and approval by the RWQCB and/or DTSC prior to the issuance of an improvement plan or a grading permit (*Hazardous Materials, # 4.12-2*).
46. To discourage the consumption of fish and shellfish caught at Waldo Point Harbor by residents and recreational users, health advisory signs shall be posted in the shoreline park, along the bayshore trail, and at the entrance to all houseboat docks in the harbor. The signs shall be posted during the first phase of project construction. The design, content, and specific location of health advisory signs shall comply with standards set by OEHHA and/or DTSC as confirmed by the Marin County Environmental Health Services and County health Officer. The detail sign designs and location plan will be subject to review and approval by the Marin County Environmental Health Services and the Bay Conservation and Development Commission, if applicable, prior to granting a grading permit. The approved signs shall be installed prior to or concurrent with the completion of the shoreline park (*Hazardous Materials, #4.12-3*).

47. In the event that previously unknown archaeological resources are discovered during any land alteration activities, the construction crew shall immediately cease work in the immediate area (i.e., within 20 meters). A qualified archaeologist approved by Marin County Community Development Agency shall be consulted to evaluate the resource in accordance with state and federal guidelines. If prehistoric Native American remains are discovered, the State Native American Heritage Commission and affected Native American groups shall be notified in accordance with State regulations. Mitigation measures consistent with Appendix K of the State CEQA Guidelines and Section 106 of the National Historic Preservation Act shall be devised and a mitigation plan submitted for approval of the Marin County Community Development Agency. All archaeological excavation and monitoring activities shall be conducted in accordance with prevailing professional standards as outlined in the State CEQA Guidelines Appendix K and Section 106 of the National Historic Preservation Act. Mitigation, in accordance with a plan approved by the Marin County Community Development Agency, shall be implemented prior to recommencement of work within the area of the resource found (*Archaeology and History, #4.13-1*).
48. PRIOR TO THE RELOCATION OF GATES COOPERATIVE HOUSEBOATS TO AUTHORIZED BERTHS, the applicant shall coordinate with Gates Cooperative houseboat owners to ensure that houseboats are improved in accordance with County zoning standards, the Uniform Fire Code, and the Uniform Building Code. Only houseboats that comply with fire and building codes will be allowed to occupy Waldo Point Harbor. (*Fire Protection and Emergency Medical Services, # 4.15-1(a)*)
49. PRIOR TO THE RELOCATION OF ANY HOUSEBOAT TO ANY NEW BERTH, the Applicant and/or boat owner shall request the County Building Department Staff and MCFD to inspect the subject houseboats to confirm that the houseboat is in compliance or brought into compliance with County Zoning standards, the Uniform Fire Code, and the Uniform Building Code. (*Fire Protection and Emergency Medical Services, #4.15-1(b)*)
50. PRIOR TO COMPLETION OF CONSTRUCTION AND FINAL INPECTION, the applicant shall obtain approval of the MCFD for a revised Waldo Point Harbor Fire Plan to ensure that efficient emergency response procedures are maintained. The revised Plan shall be submitted for approval by MCFD and shall illustrate the configuration and location of docks and berths, locations of hydrants on new dock areas, the new parking lot, emergency access changes, and other revisions necessary to maintain efficient emergency response to the project site. On-truck fire response binders provided to all southern Marin County fire districts shall also be revised, as necessary to reflect the proposed project site improvements, to ensure efficient emergency response under the County Mutual Aid Plan. Implementation of the plan shall be completed prior to final approval of construction for occupancy. (*Fire Protection and Emergency Medical Services, #4.15-1(c)*)
51. PRIOR TO ISSUANCE OF BUILDING PERMITS, the applicant shall submit plans, developed in consultation with, and subject to approval by, Sausalito/Marin City Sanitary District, for the permanent disconnection of the Gate Cooperative main line form the District's force main. These plans shall be reviewed and approved by the District prior to the relocation of any houseboats for the Gates Cooperative area or the disconnection of any wastewater line associated with the proposed project. Actual disconnection shall also be inspected by the District staff. (*Wastewater, #4.16-2(a)*)
52. During construction, the applicant shall time electrical system shutoffs to occur during non-peak low periods (approximately 10:00 a.m. to 4:00 p.m.) and shall monitor the capacity of affected sewer lines and pump stations to ensure that systems do not overflow. If it is determined that affected systems are nearing capacity, the applicant shall use a pumper truck to pump waste from the systems (*Wastewater, #4.16-2 (b)*)

“EXHIBIT 4”

MITIGATION MONITORING AND REPORTING PROGRAM

Waldo Point Harbor Master Plan and Precise Development Plan

I. INTRODUCTION

A. Background

Assembly Bill 3180, statutes of 1988, became law in California on January 1, 1989. This bill requires all public agencies to adopt mitigation monitoring or reporting programs when they approve projects with Environmental Impact Reports or Negative Declarations that identify mitigation measures for significant environmental impacts. The reporting and monitoring program must be adopted when a public agency makes its findings under the California Environmental Quality Act §21081.6, so that the program can be made a condition of approval. The program must be designed to ensure project compliance with mitigation measures during project implementation. If certain project impacts extend beyond the project implementation phase, long-term mitigation monitoring should be provided in the monitoring program.

B. Purpose

The Waldo Point Harbor Mitigation Monitoring and Reporting Program (“MMRP”) would ensure that all required mitigation measures are completed and maintained in a satisfactory manner during project implementation. This program is designed in a table format for ease of use by the responsible parties. The table identifies the individual impacts, corresponding mitigation measures, individual/agency responsible for implementation, time frame for implementation, and assigns a party responsible to implement, monitor, and confirm the implementation of the mitigation measure. The table will be used by the County of Marin to verify that all required mitigation measures are incorporated into the project, and will provide a convenient tool to determine whether required measures have been fulfilled.

II. MITIGATION MONITORING ND REPORTING PROGRAM

A. Management

The Marin County Community Development Agency (“CDA”) will be responsible for overseeing, implementation and administration of the MMRP for the Waldo Point Harbor project.

A staff member designated by the CDA Director will manage the MMRP. If current staffing in the CDA cannot absorb the task of managing the MMRP, an independent contractor will be hired at the expense of the project applicant. The independent contractor would serve under the direction of the Environmental Coordinator. Duties of the staff member responsible for program coordination, whether a permanent County staff member or independent contractor, would include the following:

1. Conduct routine inspections, plan checking, and reporting activities.
2. Serve as a liaison between County and project applicant regarding mitigation monitoring issues.
3. Coordinate activities of consultants hired by the project applicant when such expertise and qualifications are necessary to implement and monitor mitigation measures.
4. Coordinate with agencies having mitigation monitoring responsibilities

5. Assure follow-up and response to citizen complaints.
6. Complete forms, checklists and other documentation provided by the County for reporting. Maintain reports and other records and documents generated by the monitoring program.
7. Coordinate and assure corrective actions or enforcement measures are taken, if necessary.

B. Baseline Data

The baseline data for each of the environmental impact report (“EIR”) mitigation measures to be monitored over the duration of the project is contained in the certified 2001 Waldo Point Harbor Final Recirculated EIR (SCH 95043050).

C. Dispute Resolution

The overall program goal to ensure compliance with required mitigation measures could create disputes between the County and project applicant over what constitutes compliance. Therefore, a procedure for conflict resolution needs to be established as part of the MMRP. In the event of disagreement about appropriate mitigation measure implementation, the responsible County staff member will notify the Environmental Coordinator via a brief memo and hold a meeting with the project applicant. After assessing the information, the responsible staff member will determine the appropriate method for mitigation implementation and will notify the Environmental Coordinator of the decision. The project applicant, Environmental Coordinator, or any interested member of the public may trigger Planning Commission review by timely appeal or direct referral. The decision of the Planning Commission may be appealed to the Board of Supervisors.

D. Enforcement

The MMRP will be incorporated as a condition of project approval. Therefore, all mitigation measures and monitoring requirements must be complied with in order to fulfill the requirements of the approval. A number of the mitigation measures will be implemented during the course of the development review process. These measures will be checked in plans, in reports, and in the field prior to granting of subsequent approvals and/or permits (e.g., grading, building, and occupancy permits). If compliance is not found, these approvals and permits would not be granted. The remaining mitigation measures will be implemented during the construction or project implementation phase. If work were performed in violation of mitigation measures, a stop-work order would be issued. Other mitigation measures will be monitored over time in order to ensure long-term compliance. CDA staff may provide for revisions to mitigation measures, if necessary to assure success, subject to the appeal process and compliance with CEQA requirements for subsequent or supplemental review of any significant changes to the project FREIR. Mitigation measures and monitoring actions are provided in the attached table.

E. The Program

The attached MMRP table is derived from Appendix C of the project FREIR. The table identifies the impact, mitigation measure(s), and level of significance after mitigation. Each impact and mitigation measure number (i.e., Impact 4.9-1, Mitigation Measure 4.9-1) is the same as documented in the EIR for the Waldo Point Harbor project. Each impact and mitigation measure is summarized. Detailed discussions of the impacts and mitigations can be found in the EIR. The summary format in the table was intended to avoid the creation of a cumbersome, unusable table. In addition, the table identifies the person/agency responsible for implementation and monitoring of the mitigation. The “When Implemented” column identifies at which stage during the review (or construction) process the mitigation should be implemented.

F. Funding

CEQA §21081.6 does not provide a specific funding mechanism for implementation of mitigation monitoring and reporting programs. However, public agencies have the authority to levy charges, fees or assessments to pay for the program, just as they currently do for the preparation of EIRs. For the Waldo Point Harbor project, the project applicant would be responsible for the costs of mitigation monitoring.