

ATTACHMENT 1

MARIN COUNTY BOARD OF SUPERVISORS

RESOLUTION NO. _____

A RESOLUTION CERTIFYING
THE 2008 EASTON POINT RESIDENTIAL DEVELOPMENT
REZONING, MASTER PLAN, PRECISE DEVELOPMENT PLAN, TENTATIVE MAP
FINAL ENVIRONMENTAL IMPACT REPORT

SECTION I: FINDINGS

- I. **WHEREAS**, in December 2008, the project sponsors, the Martha Company, submitted a Rezoning, Master Plan, Precise Development Plan and Tentative Map (Development Applications) for their 110 acre parcel of land located at the southeastern tip of the Tiburon Peninsula. The property consists of steep slopes and flatter ridges and is vegetated with dense coast live oak woodlands on the lower elevations and grasslands on the higher elevations, both punctuated by rock outcroppings. The site is undeveloped and virtually undisturbed except for some existing "social paths" that traverse the upper and lower portions of the property. The project site is contiguous to the Town of Tiburon's corporate boundary on the south and west where it is also adjacent to the Old Tiburon and Hill Haven residential neighborhoods (south), Old St. Hilary's Open Space Preserve and Tiburon Uplands nature Preserve (west), and Paradise Drive (north and east). The project sponsor's objective is to construct a 43 single-single family residential homes on 43 residential lots and offer for dedication to the Marin County Open Space District two parcels of land (Parcel A 59.6 acres and Parcel B 0.33 acres) consistent with the November 7, 2007 *Judgment Pursuant to Stipulation* of the United States District Court for the Northern District as well as the December 29, 1976 *Judgment Pursuant to Stipulation*. Other proposed improvements include a 180,000-gallon concrete water tank on proposed Parcel C, and the construction of roads and utilities to serve each of the 43 residential properties. The project sponsor also proposes to remediate or repair some landslides on-site to accommodate the proposed development. Future owners of the residential lots would develop house plans for each lot. The subject property's address is Paradise Drive, Tiburon, and is further identified as Marin County Assessor's Parcel 059-251-05; and

2. **WHEREAS**, the existing zoning on a majority of the project site is Residential Multiple Planned, 0.2 units per acre (RMP 0.2). The permitted density in the RMP-0.2 District is one unit per five acres. Permitted uses in the district include single-family, two-family dwellings, multiple family residential development and limited commercial uses in a suburban setting. A small portion of the property is currently zoned Residential Single-Family (R-1). The R-1 zoning district is intended for single-family residential development on minimum 7,500 square foot lots. The project sponsor proposes to rezone the entire project site Residential Single Family Planned District (RSP). Under the RMP and RSP zoning districts, a Master Plan and Precise Development Plan approval are required for the ultimate development of the site. The proposed Easton Point Master Plan and Precise Development Plan (Phase 1) applications were submitted for processing pursuant to Chapter 22.45 of the Marin County Zoning Code that describes the procedures for processing master plans and precise development plans in the County. Among the purposes of the master plan procedures are to allow for phased development, provide general direction on site design and development, and land uses, as well as protect natural resources, scenic quality, and environmentally sensitive areas. The intent of the procedures is to allow a master plan to lay out the general parameters of a proposed development and it's resource protection features, and rely on a subsequent precise development plan or other improvement plans (tentative map) to define the precise details of location, design, and engineering related to construction of the development and its supporting facilities, in a manner that is consistent with the general guidance of the master plan; and

3. **WHEREAS**, in compliance with the California Environmental Quality Act (CEQA), on January 9, 2009 Marin County published and distributed a Notice of (NOP) to members of the Board of Supervisors, Planning Commission, State Clearinghouse, Federal, State and local agencies and special districts, surrounding property owners, and other interested groups and individuals. The NOP was published in a newspaper of general circulation for a 30-day comment period. A public scoping session was conducted at an evening meeting in the Tiburon Town Hall on January 29, 2009 to further identify environmental issues and concerns of the public for evaluation in the EIR. A list of those who submitted comment letters or made verbal comments at the public scoping session on the NOP is included in the appendix of the EIR. A summary of the comments received during public scoping can be found in Section 2.3 of the EIR. Responses to the NOP and scoping meeting comments are part of the public record for the project; and
4. **WHEREAS**, on January 27, 2009, the County independently selected and contracted with the environmental consulting firm, Nichols-Berman, to prepare a full scope EIR for the proposed 2008 Easton Point Residential Development Project (Rezoning, Master Plan, Precise Plan and Tentative Map); and
5. **WHEREAS**, on November 12, 2009 the Town of Tiburon and the Easton Point project applicant (the Martha Company) signed a Memorandum of Understanding (MOU) regarding a 32-Unit Lower Density Alternative (LDA) for the Easton Point project site, and a part of the MOU requested that Marin County evaluate the LDA as a project alternative in the EIR; and
6. **WHEREAS**, the MOU signed by the Town of Tiburon and Martha Company requested that if the LDA is found environmentally equal or superior to the 43-unit project submitted to Marin County that the County approve a master plan, tentative subdivision map, and precise development plan for the LDA, and enter into a Development Agreement with the Martha Company; and
7. **WHEREAS**, In order to complete a full scope environmental impact analysis of the LDA the County required the applicant (Martha Company) to submit information on the LDA at the same level of detail as that submitted for the proposed 43-unit project; and
8. **WHEREAS**, on January 21, 2010 the Martha Company submitted the requested information and the County undertook a full scope environmental analysis of the LDA within the context of the 2008 Easton Point Residential Development Project EIR; and
9. **WHEREAS**, on March 30, 2010, the County amended the scope of work of the environmental consulting firm, Nichols-Berman, to include a full scope environmental impact analysis of the LDA within the context of the 2008 Easton Point Residential Project EIR; and
10. **WHEREAS**, the Draft EIR was completed in March 2011. On March 10, 2011, copies of the Draft EIR, and a notice of the date and place of the public hearing on the adequacy of the Draft EIR were distributed to members of the Planning Commission, Board of Supervisors, State Clearinghouse, Federal, State and local agencies and special districts, surrounding property owners, and other interested groups and individuals. A Notice of Completion (NOC) was published in a newspaper of general circulation to begin an extended fifty-one (51) day public review and comment period, which concluded on April 29, 2011; and
11. **WHEREAS**, the Marin County Planning Commission held a public hearing on the Draft EIR on April 25, 2011. At that hearing, the Planning Commission received testimony from public agency representatives and members of the public on the analysis provided in the Draft EIR. In some cases, comments were also received on the merits of the project. After the hearing and after considering the comments received, the Planning Commission directed staff and the environmental consultant to prepare written responses to all the written and oral comments received on the Draft EIR; and

12. **WHEREAS**, under the provisions of the *2007 Judgment Pursuant to Stipulation* the County was restricted to holding one Planning Commission hearing on the proposed project. Subsequently, the applicant's (Martha Company) representative verbally agreed to one additional merit's hearing before the Marin County Planning Commission. Since the Planning Commission held a public hearing on the Draft EIR, there was no hearing before the Planning Commission on the Final EIR.; and
13. **WHEREAS**, the Planning public meeting of July 22, 2013, to **review** the Easton Point Final EIR was outside the provisions of the *2007 Judgment Pursuant to Stipulation* and therefore the discussion and public testimony at that meeting are not part of the formal CEQA process for the Easton Point project. The contract planner responsible for processing the Easton Point project and the environmental consultant responsible for preparing the EIR did not attend the Planning Commission meeting and therefore did not participate in the issues discussed. Accordingly, the correspondence submitted and testimony taken at the Planning Commission meeting to **review** the Final EIR are not part of the public record and is not incorporated into the Final EIR; and
14. **WHEREAS**, the Final EIR Responses to Comments was completed in June 2013. On June 28, 2013, copies of the Final EIR Responses to Comments, and a notice of the date and place of a Board of Supervisors public hearing to consider certification of the Final EIR were distributed to the Board of Supervisors, Planning Commission State Clearing house, Federal, State and local agencies and special districts, surrounding property owners, and other interested groups and individuals. All public agencies that submitted comments on the Draft EIR received written responses to their comments in the Final EIR Responses to Comments as required in Section 15088(b) of the CEQA Guidelines. A Notice of Availability (NOA) of the Final EIR Responses to Comments and the notice of date and place of the Board of Supervisors public hearing was published in a newspaper of general circulation to begin a 30-day public review and written comment period that concluded on July 29, 2013; and
15. **WHEREAS**, the County received 42 written letters and e-mail messages commenting on the 'Final EIR Responses to Comments'. In accordance with the Marin County *Environmental Impact Review Guidelines*, master written responses were prepared for the major environmental issues raised in the comment letters received on the Final EIR. The written comments received and master responses present amplifications, clarifications and / or additional information that in some cases resulted in minor and insignificant modifications to the EIR. They do not, however, raise new or substantially more severe significant impacts or new mitigation measures or alternatives not considered in the EIR and do not require recirculation for further review and comment in accordance with *State CEQA Guidelines* Section 15088.5; and
16. **WHEREAS**, a Final EIR Amendment was completed in October 2013 and the Amendment includes the 42 written letters and e-mail messages received during the Final EIR review and comment period, as well as, Marin County's master responses to major environmental issues contained in the comment letters received. The Draft EIR, Final EIR Responses to Comments and the Final EIR Amendment together with the public record constitute the Final EIR for the 2008 Easton Point Residential Development Project.
17. **WHEREAS**, on March 11, 2014 the Marin County Board of Supervisors held a duly noticed public hearing to consider certification of 2008 Easton Point Residential Development Project Final EIR. At that hearing, the Board of Supervisors received testimony from public agency representatives and members of the public on the Final EIR. In some cases, comments were also received on the merits of the project. After the hearing and after considering the comments received, the Board of Supervisors closed the public hearing; and
18. **WHEREAS**, after considering the contents of the Final EIR and all public testimony both written and oral it was the opinion of the Board of Supervisors that some mitigation measures

recommended in the Final EIR do not fully mitigate the significant impacts and that certifying the Final EIR would imply the project as proposed in the December 2008 applications was feasible; and

19. **WHEREAS**, the Board of Supervisors found that project feasibility and project compliance with mitigation measures contained in the Final EIR has not been demonstrated in the applications; citing many unknowns regarding the feasibility of the proposed water tank location, design and elevation which have a direct effect on fire-flow and residential water pressure requirements, a necessary health and safety requirement; and that the current application under consideration does not mitigate the significant environmental impacts identified to threatened and endangered species; and
20. **WHEREAS**, the Board of Supervisors decided not to consider certification of the Final EIR until a more specific proposal on actual plans that mitigate the significant environmental impacts of the project with input from the Marin Municipal Water District and the Tiburon Fire Protection District are submitted by the applicant and reviewed for merits by the County staff, Marin County Planning Commission, and the Board of Supervisors. Until then the Final EIR will be held in its current state and the Board will retain jurisdiction over the Final EIR; and
21. **WHEREAS**, the County staff on March 14, 2014 the County staff sent the applicant a letter outlining the Board of Supervisors decision and direction and proposed a preliminary schedule for complying with the Board's direction; and
22. **WHEREAS**, on April 14, 2014 the Marin County staff sent the applicant a second letter reminding them of the Board of Supervisors decision and direction and requesting information on how the applicant intended to proceed; and
23. **WHEREAS**, on December 2, 2015 Marin County Council received a letter from the Community Development Director of the Town of Tiburon informing the County that the Memorandum of Understanding between the Town of Tiburon and the Martha Company had expired of its own terms on December 31, 2014; and
24. **WHEREAS**, on June 6, 2017, the applicant submitted a Modified Master Plan and supporting documentation specifying that the purpose of the submittal is to respond to the direction given by the Board of Supervisors and to secure certification of the Final EIR, and approval of the Rezoning and Modified Master Plan in accordance with Court judgments; and
25. **WHEREAS**, the applicant requested that the Modified Master Plan be taken directly to the Board of Supervisors for consideration and decision, stating verbally that the court Judgment only allowed for one hearing before the Marin County Planning Commission and that hearing was already held on April 25, 2011.

SECTION II: ACTION

26. **WHEREAS**, the Marin County Board of Supervisors reviewed and considered the information in the Draft EIR, Final EIR Response to Comments, the Final EIR Amendment, the applicant's June 6, 2017 submittal documents, and the EIR administrative record, for adequacy, completeness and compliance with CEQA, State CEQA Guidelines, and County Environmental Review Procedures; and
27. **WHEREAS**, on September 19, 2017 and October 3, 2017, the Marin County Board of Supervisors conducted a public hearing to consider certification of the Final EIR, and to receive testimony on the adequacy of the FEIR for certification, and considered comments on the Final EIR together with staff's report recommending certification of the Final EIR.

NOW, THEREFORE, BE IT RESOLVED, that the Marin County Board of Supervisors makes the following findings:

1. The recitals above are true and accurate and reflect the independent judgment of the Board of Supervisors.
2. Notice of the Planning Commission and Board of Supervisors hearings on the 2008 Easton Point Residential Development Project environmental review documents were given as required by law and the actions were conducted in accordance with CEQA, and the State CEQA Guidelines; and
3. All individuals, groups and agencies desiring to comment were given adequate opportunity to submit oral and written comments on the Draft EIR and to submit written comments on the adequacy of the Final EIR for certification. These opportunities for comment meet or exceed the requirements of CEQA and comply with the County Environmental Review procedures; and
4. All comments submitted during the public review and comment period on the Draft EIR, the public hearing on the adequacy of the Draft EIR conducted by the Planning Commission and the public review and comment period on the Final EIR were responded to adequately; and
5. The 2008 Easton Point Residential Development Project Environmental Impact Report consists of three volumes: The Draft EIR, Final EIR Response to Comment, and Final EIR Amendment; and
6. The Board of Supervisors were presented with all of the information in the administrative record, testimony, and EIR documents for the project Final EIR; and
7. The Final EIR (a) has been completed in compliance with the intent and requirements of CEQA and the State CEQA Guidelines, and the County EIR process, (b) reflects the independent judgment and analysis of the County of Marin, and (c) has been presented to and reviewed and considered by the Board of Supervisors.

NOW, THEREFORE, BE IT FURTHER RESOLVED, that the Marin County Board of Supervisors certifies the Final Environmental Impact Report for the 2008 Easton Point Residential Development Project (Rezoning, Master Plan, Precise Development Plan and Tentative Map) as adequate and complete in compliance with CEQA, the State CEQA Guidelines and the County Environmental Review Procedures, and adequate and complete for consideration in making a decision on the merits of the project.

SECTION III: VOTE

PASSED AND ADOPTED at the regular meeting of the Board of Supervisors of the County of Marin, State of California, on the 3rd day of October 2017, by the following vote to-wit:

AYES:

NOES:

ABSENT:

JUDY ARNOLD, PRESIDENT
MARIN COUNTY BOARD OF SUPERVISORS

Attest:

Matthew H. Hymel
Clerk of the Board