

## MEMORANDUM

**DATE:** September 13, 2017

**TO:** Board of Supervisors, County of Marin

**FROM:** John Roberto, Contract Planner

**PROJECT:** 2008 Easton Point Residential Development Project

**RE:** Response to Town of Tiburon Letter Dated September 6, 2017

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The Board of Supervisors is in receipt of a September 6, 2017 letter from the Town of Tiburon that questions certification of the Easton Point EIR and the staff's analysis of the merits of the Easton Point project. The following is staff's response to the issues raised in the Tiburon letter.

### **EIR Certification**

#### **Tiburon Comment**

Relocation of numerous proposed lots in the project, including some (Lots 18-20), to portions of the site where development has heretofore not been proposed or analyzed in any publicly-reviewed environmental document, even as a project "alternative". The extension of Ridge Road is likewise proposed into previously undisturbed site area.

#### **Staff Response**

*The Modified Master Plan submitted by the Martha Company is most similar to Biological Alternative #4 in the Easton Point EIR. The Alternative #4 analysis evaluates the environmental relative to the detailed analysis of the original proposed Easton Point Master Plan. Therefore, the environmental impacts related to the Modified Master Plan are evaluated in the Final EIR except for the applicant's proposal to extend Ridge Road further downslope and relocate lots previously proposed at a higher elevation to the area that would be served by the extended roadway.*

*Therefore, it was necessary under CEQA to determine whether on not the proposed extension of Ridge Road and the associated lot relocation would result in any new or more significant environmental impacts beyond those already identified and discussed in the EIR.*

*The staff report presented to your Board clearly details the steps staff took to evaluate the environmental implications of the applicant's proposed modification. The staff required*

*the applicant to submit biological and geological reports that addressed the impacts of the proposed modification, and a visual simulation of the development that might occur as a result of the extension of Ridge Road. The staff then authorized peer review of the reports and visual simulation by environmental professionals. The peer reviewers concluded that the proposed extension of Ridge Road would not result in any new or more significant environmental impacts beyond those already identified in the EIR and that the proposed modifications did not require any new mitigation measures beyond those already identified in the EIR.*

#### Tiburon Comment

Removal of an existing 1,000,000 gallon water tank and its replacement by a somewhat smaller water tank at a higher elevation, also in an area where site disturbance has not been previously contemplated or analyzed in any publicly-reviewed environmental document. There appears to be no discussion of the dismantling or wide-load traffic (on-haul and off-haul of tank components) associated with the removal and replacement of this very large structure. Traffic and pedestrian safety issues along very narrow parts of Paradise Drive would be increased due to this previously unanticipated significant change in the project.

#### Staff Response

*MMWD's letter requests that the applicant remove the District's existing 1-million gallon water tank and replace it with a smaller capacity water storage tank at higher elevation site designated in the District's letter. The applicant has amended their application to demonstrate how the District's request would be accommodated. The applicant also submitted a preliminary geotechnical report that deems a water storage tank at the site identified by the District is feasible, but more detailed geotechnical analysis will be required before final tank design. The applicant's plan would eliminate their previously proposed Lot #39 and place that lot on the abandoned water storage tank site.*

*The tree removal analysis conducted for construction of the new water storage tank and the elimination of previous Lot #39 found that less Oak Woodland would be removed than that associated with the Modified Master Plan. A visual analysis was conducted and the finding presented in the staff report. The conclusion was that the relocation of the water tank as requested by the Water District would not result in any new or more severe environmental impacts than identified in the Final EIR.*

*The removal of the existing water storage tank will require the same mitigation as that required for project construction. Project Construction impacts are identified as a potentially significant impact in EIR requiring formulation of a detailed Construction Management Plan including management of construction traffic on Paradise Drive. Conditions of Project approval require submittal and county approval of a detailed Construction Management Plan before approval of the Tentative Map.*

*Since construction impacts were already deemed significant, the removal of the water storage tank would not increase the severity of the impact and the mitigation would be the same as already required in the EIR.*

Tiburon Comment

Modifications to the already safety-challenged “temporary construction road” at its upper end near the water tank site, which appear to create a very steep roadway segment in place of one previously shown to follow the contour of the hillside in that area. No information has been provided as to the grade of this road in that segment, although it appears quite steep and makes no attempt to work with the surrounding contours, potentially exacerbating safety issues involving heavy construction vehicles and their loads.

Staff Response

*The applicant’s civic engineer, Tarnoff Engineering Corporation, informed the County that the construction road remains unchanged from the original plan; the road has a maximum 25 percent grade. At the water tank at the top of the site, the construction road flattens out between Tam View Court and the water tank pad. The construction road has a grade of approximately 12 percent near the water tank pad. Peer review of the recently submitted geotechnical report submitted by applicant found the Modified Master Plan consistent with EIR mitigation measures and no new environmental impacts were identified.*

Tiburon Comment

Proposed on-site roadways have been extensively widened, most likely resulting in more grading, additional site disturbance, and increased retaining structures. Information and analysis of these increased impacts is lacking.

Staff Response

*The applicant’s civil engineer, Tarnoff Engineering Corporation, submitted estimated road earthwork quantities for the Modified Master Plan. The earthwork estimates are provided at the end of this response letter. The widening of on-site residential roads to meet Marin County Development Code standards, the cutting into the hillside to lower the water storage tank and the widening of the construction road to accommodate construction truck turning movements will result in significantly more earthwork, but will result in less export of material compared to the original 2009 earthwork summary. Although earthwork quantities are greater the environmental impact and recommended mitigation measures in the EIR remain unchanged. The slight reduction in export should reduce the number of truck trips to remove material from the site.*

### Tiburon Comment

Unfortunately, the magnitude of the project revisions are not fully appreciated in the analysis provided, and outstanding issues raised at prior opportunities remain inadequately addressed and largely unresolved, as set forth in our earlier letters on this project dated April 26, 2011, July 29, 2013, October 15, 2013, and February 27, 2014. In its role as a responsible agency under CEQA, the Town of Tiburon continues to find mitigation of certain impacts identified in the EIR as inadequate. These include underestimated construction-related traffic safety impacts on Paradise Drive and the temporary construction road and pedestrian and vehicular traffic safety-related impacts on streets in the Hill Haven and Old Tiburon neighborhoods. Mitigation measures identified in the Final EIR are likely to be ineffective and/or are unlikely to be implemented. These include MM 5.1-6, MM 5.1-7, MM 5.1-10 and MM 5.1-13. Secondary impacts of these mitigation measures, including massive elimination of on-street parking spaces, were also not adequately addressed in the EIR or project merits discussion, as had been requested in our letter of February 27, 2014.

### Staff Response

- *All the issues raised in the August 26, 2011 letter from the Town of Tiburon were addressed and responded to in the Final EIR pages 87-94.*
- *All the issues and question raised in the July 29, 2013 letter from the Town of Tiburon were addressed and responded to in the October, 2013 Amendment to the Final EIR.*
- *The issues raised in the October 15, 2013 letter from the Town of Tiburon were addressed and responded to in Nichols-Berman Memorandum dated February 13, 2014; which was included as Attachment #2 of the Board of Supervisors staff report dated March 14, 2014.*
- *The Town of Tiburon letter dated February 27, 2014 contains comments on the Nichols-Berman Memorandum dated February 13, 2014. The opinions expressed by Tiburon were provided to the Board of Supervisors at the March 14, 2014 public hearing on the Final EIR. Tiburon's disagreement with the environmental consultant's analysis is part of the administrative record on the Final EIR.*

### Tiburon Comment

As set forth in our earlier letters, the EIR continues to underestimate the adverse effects (including noise and safety) of construction traffic on two-lane portions of Tiburon Boulevard and on narrow Paradise Drive, where a single large, slow-moving construction vehicle can cause considerable back-ups even during off-peak hours on both streets. The EIR analysis continues to downplay the severity of traffic congestion impacts during construction, while dismissing the potential project impacts as insignificant. The unanalyzed million-gallon water tank replacement element of the revised project only intensifies these potential health and safety impacts.

### Staff Response

*All these issues are discussed and addressed in the Amendment to the Final EIR and the February 13, 2014 Nichols-Berman Memorandum.*

### Tiburon Comment

The staff report appears to leave unresolved the issue of Paradise Drive widening as previously recommended by the County Public Works Department, to 12 foot wide travel lanes with four foot wide paved shoulders on each side. Please note that the impacts of such widening have not been analyzed in the Easton Point EIR and would entail additional CEQA analysis should they be required as part of subsequent County entitlements.

### Staff Response

*The Marin Department of Public Works recommendation that Paradise Drive be widened to include two 12 -foot wide paved lanes, 4-foot wide paved shoulders and 4-foot wide unpaved shoulders was rejected as an EIR mitigation measures in the Final EIR. Therefore the impacts of Marin DPW's proposed road widening were not studied further in the EIR. This rejection was addressed in the written Response to Comments in the Final EIR.*

*The rejection was due to proportionality. Condition of Approval number 15 in Exhibit 3 of Attachment 3 in the September 19, 2017 staff report states that Before Design Review/Tentative Map Approval applicant shall submit to Marin DPW for review and approval an improvement plan showing offsite road improvements. DPW and the applicant's engineer identified areas of improvements along Paradise Drive that will be required. Applicant prepared preliminary improvement plans that are required to be finalized prior to Design Review/Tentative Map approval. This requirement is also expressed in Mitigation Measure 5.1-6 "...and also selective widening the shoulder pavement along the east side of the project frontage of Paradise Drive within the public right-of-way."*

### Tiburon Comment

We continue to believe that the trajectory of this project with respect to maintenance of Open Space Parcel A and numerous other responsibilities will be unsustainable for a small private homeowners association. While the mitigation measures assigning responsibility for several private streets, open space management, landslide repair, erosion control, drainage, architectural control, CC&R enforcement, and so forth on nearly 110 acres of often steep terrain are theoretically feasible, the likelihood of sustained long-term success for an association of 43 homeowners is small. Insofar as a small homeowner association is unlikely to be able to perform these complex and difficult land management tasks consistently over the life of the project, health and safety impacts remain unresolved over the long term despite the best intentions of the preparers of the EIR.

### Staff Response

*The final ownership status of Parcel A has not been definitively determined. The mitigation measures require that Parcel A remain in either public or quasi-public ownership. If this is not possible the homeowners association must assume the responsibility for managing Parcel A including: natural resource management, geologic monitoring, reporting and remediation. The conditions of project approval require this contingency be made known to all prospective buyers and that their responsibilities will be monitored and if necessary enforced by the County of Marin.*

## **Project Merits**

### Tiburon Comment

1. The apparent lack of an eventual public recreational (trail) easement connecting from Old St Hilary Open Space Preserve down to Forest Glen Court and Paradise Drive beyond would be tragic. Please condition the Master Plan approval on the retention of such an easement, potentially using the temporary construction road as a handy alignment. Please give consideration to a similar easement over an extension of the existing trail leading from Spanish Trail Road onto the property.

### Staff Response

*The Court's Stipulation for Entering of Judgment reads: "7. Upon approval of a master development plan and acceptance of a final subdivision plan. It is anticipated that a hiking trail will be developed by the County of Marin in the open space area. Plaintiff shall, in connection with the offer of dedication of open space, provide, if necessary, reasonable access to the trail which shall run through the open space portion of the Martha Co. Property to be offered for dedication to Marin County."*

*The recommended conditions of Modified Master Plan approval require Martha provide an access easement over Parcel A, regardless of future ownership, and reasonable access*

*to the easement from the development area. The Stipulation is in the singular and not the plural and therefore Marin County is not requiring any other access easement over Parcel A should it be owned in the future by the Easton Point Homeowners Association. Should Parcel A be publicly owned other trails can be provided by the public entity.*

Tiburon Comment

2. Condition No. 7 of the Master Plan ordinance (Exhibit 3, Conditions of Approval) appears to indicate that all future subdivision improvements shall comply with County standards as required by the Public Works Department (DPW). During the Draft EIR comment period, DPW recommended that Paradise Drive along the entire 1.1-mile long Easton Point frontage should be widened to 12 foot travel lanes with 4 foot wide paved shoulders. We have not seen an updated DPW memorandum containing any project merit conditions or recommendations for the modified Master Plan submittal, which silence seems surprising for such a large and impactful project. Given the above-mentioned CEQA issues associated with possible future Paradise Drive widening requirements, it seems this issue should be resolved sooner rather than later.

Staff Response

*The Department of Public Works has reviewed the Easton Point Modified Master Plan and did not request road improvements beyond the mitigation measure required in the Final EIR. The Marin County Department of Public Works previous recommendation that Paradise Drive be widened to include two 12 -foot wide paved lanes, 4-foot wide paved shoulders and 4-foot wide unpaved shoulders was rejected as an EIR mitigation measures in the Final EIR.*

Tiburon Comment

3. Condition No. 23 makes reference to “Tiburon Drive” for before and after pavement evaluation. Does this refer to Tiburon Boulevard, which is a state-maintained highway, or to some other street, since no Tiburon Drive exists on the Tiburon peninsula?

Staff Response

*This is a typo. Tiburon Drive should be Tiburon Boulevard.*

Tiburon Comment

4. There appear to be very few references to the trailing Precise Development Plan application that would logically follow a Master Plan approval. In fact, no conditions appear to specify when this application would be filed in the sequence of trailing permits. Please make this requirement more specific in the conditions of approval.



Staff Response

*The new Marin County Development Code has eliminated the Precise Development Plan process and now refers to this more detailed precise review as Design Review. The recommended conditions of approval incorporate this provision of the County's updated development code.*

Tiburon Comment

5. The Master Plan approval does not explicitly state which CEQA mitigation measures contained in the EIR are being accepted, rejected, or modified (and why).

Staff Response

*Exhibit #1 of the Master Plan approval ordinance addresses each and every mitigation measure in the Final EIR and its final disposition.*

Tiburon Comment

6. The Mitigation Monitoring and Reporting Plan (MMRP), attached as Exhibit 4 to the Master Plan ordinance, appears incomplete. While it lists mitigation measures from the EIR (some of which are outdated and do not accurately reflect the modified Master Plan), it does not list who is responsible, when a measure should be implemented, or what would comprise the monitoring or reporting action. As such, this likely does not qualify as an adequate MMRP for CEQA purposes. Its contents also appear to be internally inconsistent with numerous conditions of approval as set forth in Exhibit 3.

Staff Response

*The recommended Conditions of Project approval (Exhibit 3 of the Modified Master Plan approval ordinance (Attachment #3) specifies when each mitigation measure is required to be addressed and the public entity that will review and determine compliance. The MMRP table will be completed and compliance verified when the mitigation measure incorporated into the condition of approval has been satisfied.*



**Easton Point Modified Master Plan  
Estimated Road Earthwork Quantities**

|  |                |                 |
|--|----------------|-----------------|
| Ridge Road   |                |                 |
| 3,790 cy cut   | 1,500 cy fill  | 2,280 cy export |
| -----  |                |                 |
| Tam View Road  |                |                 |
| 2,700 cy cut   | 1,740 cy fill  | 960 cy export   |
| -----  |                |                 |
| Forest Glen Court  |                |                 |
| 2,190 cy cut   | 4,470 cy fill  | 2,280 cy import |
| -----  |                |                 |
| Construction Road  |                |                 |
| 4,780 cy cut   | 2,790 cy fill  | 1,990 cy export |
| -----  |                |                 |
| Water Tank Access Road (includes tank and MERA site grading) |                |                 |
| 4,090 cy cut   | 1,950 cy fill  | 2,140 cy export |
| -----  |                |                 |
| Driveway to Lots 33-36                                       |                |                 |
| 700 cy cut   | 570 cy fill    | 130 cy export   |
| -----  |                |                 |
| Driveway to lots 40-43                                       |                |                 |
| 1,400 cy cut   | 140 cy fill    | 1,260 cy export |
| -----  |                |                 |
| <u>Subtotal road quantities:</u>                             |                |                 |
| 19,650 cy cut  | 13,160 cy fill | 6,490 cy export |
| -----  |                |                 |

Estimated Utility Spoils:  
2,570 cy cut    -1,290 cy fill    3,860 cy export

**Total site earthwork summary:**  
**22,220 cy cut    11,870 cy fill    10,350 cy export**  
 (Note: By comparison, the original 2009 earthwork summary was as follows:  
 13,580 cy cut    2,866 cy fill    10,714 cy export)

**Mitigation Measures (MM) & Feasibility**

1. The 2009 earthwork summary (as shown on sheet C1 of the 2009 Master Plan/Precise Development Plan/Tentative Map) assumed a water tank elevation of 580, a 10-ft wide construction road, and 20-ft wide Ridge Road, Mt. Tiburon Court (now Tam View Court), and Forest Glen Court.
2. The modified plan includes widening three key roadways to accommodate Marin County DPW road standards, no exceptions are proposed (see MM5.1-11). Parallel parking was added in the modified plan (per MM5.1-12).
3. The construction road was widened to accommodate larger construction truck turning movements.
4. The water tank has been lowered to elevation 570 addressing secondary visual impacts (per MM5.7-7); TIPS Memo (MM 5.7-8(a)); and modified lot layouts provide fire flow (per MM5.7-8-a-c).

All of these changes amount to more overall earthwork movement onsite, but slightly less (364 cy) export of soil (10,350 cy in the modified site plan versus 10,714 cy in the original site plan) thereby reducing off-site truck trips.