

FOR IMMEDIATE RELEASE

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The Committee for Tiburon Wins Suit Against Tiburon for Violating Environmental Protection Laws

Tiburon, CA – The Committee for Tiburon, an association of over 100 residents, is pleased to announce that the California Superior Court of Marin County ruled that the Town’s adoption of a General Plan, Housing Element Plan and decision to rezone 4576 Paradise Drive (Site H) to add up to 118 residential units at 4576 Paradise Drive violated the California Environmental Quality Act (CEQA). The Court agreed 100% with the Committee’s position that the Town’s failure to conduct any site-specific analysis of the reasonably foreseeable and significant environmental impacts of such a large development before amending its Plans and zoning regulations to designate Site H for very-high-density development violated California’s policy to “take all action necessary to protect, rehabilitate, and enhance the environmental quality of the state.” The Court also noted that the Town’s concerns about possible exposure to a “Builder’s Remedy” if it did not timely designate enough sites to comply with its Housing Element obligations did not justify the violation of well-established laws requiring that primary consideration be given to preventing environmental damage and promoting “informed self-government.” (*Court Order pg.7*)

In its detailed 16-page ruling, the Court stated, “the failure to proceed in the manner required by law” is evident. It rejected the position espoused by the Town’s counsel and paid consultants that it was not feasible to identify and assess the environmental impacts of developing 93 - 118 new housing units on Site H until the Site owner Sierra Pines LLC submitted a detailed development application.

The Committee for Tiburon, along with numerous local residents, repeatedly brought to the Town’s attention the many known environmental, public safety, and health and welfare issues weighing against very-high-density-development on Site H. This property drains water from Ring Mountain through multiple, biologically important streams that flow into a sensitive marine estuarine and tideland. Further, it contains wildlife habitat for protected species, and it is subject to landslide and seismic hazards, fire hazards, poor accessibility from a dangerous section of Paradise Drive, and major utility limitations including a lack of water to fight fires and insufficient pump station capacity. Despite substantial information provided by the community and reliable experts such as CSW/ST2 and Stetson Engineering that very-high-density development of Site H would be a disaster, the Town Council chose

to rely on the “programmatic EIR” put forth by its Staff and consultant DeNovo Planning, while dismissing the unanimous recommendation of Tiburon’s Planning Commission that an alternative plan be adopted.

The Court ruled that approving and rezoning Site H for 93 - 118 housing units was an abuse of discretion, and issued a writ of mandamus:

1. Setting aside and decertifying the Final EIR with respect to Site H;
2. Setting aside the new General Plan and the Housing Element to the extent they designate Site H for very-high-density above-moderate-income residential development, as well as the decision to rezone Site H to R-3-10;
3. Requiring a focused EIR which analyzes the reasonably foreseeable impacts of developing Site H for up to 118 residential units, should Tiburon seek to move forward with Site H as a potential new housing site.

“The Committee for Tiburon had no option other than to pursue a costly lawsuit against our own Town,” said a spokesperson for the Committee. “After learning that Tiburon had designated Site H for very-high-density development to make up for a shortfall of housing units resulting from its Staff’s poor planning, we notified the Town of the many known and foreseeable adverse environmental and public welfare impacts of building so many housing units on Site H. As concerned citizens we repeatedly advised Tiburon that moving forward without a site-specific EIR would be illegal and senseless--that Tiburon could not stick its head in the sand and wait until a building application was submitted to consider the many detrimental impacts of such a plan. We exhausted every possible avenue to timely alert the Town Council to the implications of their decisions, and we explained how they were being led astray by the Town’s Staff, planning consultants and attorneys. We urged them to consider alternatives that would align with the best interests of our community, such as revitalizing downtown where new housing and economic improvement are needed most. We are relieved the Court issued its order, but take no pleasure in having had to sue our own Town to obtain compliance with the law and protect our environment and the people’s welfare in this matter.”

Our Town has unnecessarily spent hundreds of thousands of community taxpayer dollars to pursue very-high-density development on Site H, for no reason other than to make up for its Housing Element shortfall. Site H has no virtues as a site for very-high-density development. Rather than continue stubbornly to pursue this short-sighted option at the Staff’s urging, our Town Council should now adopt the “Downtown Alternative” that Tiburon’s own Planning Commission unanimously recommended on May 10, 2023. This approach would promote the much-needed and long-overdue revitalization of downtown

and survival of the small businesses that serve our community. Adopting the Planning Commission's preferred alternative would not require a new EIR, and would enable the Town promptly to satisfy its Housing Element obligations and avoid the Builder's Remedy. It would also save our community from incurring further unnecessary public expense and discord that will result from drafting a new EIR focused on Site H.

It is time for the Town Council to listen to the voice of the community, prioritize the revitalization of downtown Tiburon, and pay heed to the many Town policies and goals that very-high-density development on Site H would defeat. This Committee remains committed to working collaboratively with the Town to ensure that all future housing developments are responsible, sustainable and in keeping with our community values.

The Superior Court's September 19, 2024 Order is available at <https://briscoelaw.egnyte.com/dl/qYMwWSikcV>.

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