



TOWN OF TIBURON
 1505 Tiburon Boulevard
 Tiburon, CA 94920

Planning Commission Meeting
 September 14, 2016
 Agenda Item: **AI-1**

STAFF REPORT	
To:	Members of the Planning Commission
From:	Community Development Department
Subject:	Confirmation of Decision of Director of Community Development to Waive the Requirement for a Precise Development Plan to Legalize As-Built Improvements on the Pourian Property (PD#5); File # PDPA2016001; Reza Rae Pourian and Kristin Pourian Pressman, Owners; Patricia Maier and Dom Martin, Applicants; Assessor's Parcel No. 038-111-05
Reviewed By:	_____

PROJECT DATA

Address:	Adjacent to 4695 Paradise Drive
Assessor's Parcel Number:	038-111-05
File Number:	PDPA2016001
Lot Size:	1.7 acres
Zoning:	RPD (Residential Planned Development)
General Plan:	PD-R (Planned Development Residential)
Current Use:	Undeveloped
Owners:	Reza Rae Pourian and Kristin Pourian Pressman
Applicant:	Patricia Maier and Dom Martin
Flood Zone:	X (Outside 500 year flood area)

BACKGROUND

On August 31, 2016, the Director of Community Development approved a request to waive the requirement for a precise development plan for the Pourian property (PD#5) to legalize as-built improvements on an otherwise undeveloped property in connection with a request for a lot line adjustment. A portion of the existing single-family dwelling located on the adjacent property at 4695 Paradise Drive is situated across the property line onto a lot for which a precise development plan (the Pourian Precise Development Plan) has not been filed or approved. The applicants (Patricia Maier and Dom Martin, owners of the property at 4695 Paradise Drive) have requested a lot line adjustment to place the entirety of the existing structures onto their adjacent lot prior to approval of any precise development plan for the Pourian property.

Section 16-52.060 (A[1]) of the Tiburon Municipal Code states that "a Precise Development Plan is required in all RPD and RMP zones prior to subdivision, grading, or the making of

improvements of any kind.” Section 16-52.060 (J[1]) (Exemption from requirements of Precise Development Plan) states that the Director of Community Development “may waive the requirements of a Precise Development Plan, or various parts thereof, where the requirements are, in whole or in part, deemed inappropriate or inapplicable. Any such waiver shall be confirmed by the Planning Commission.” The purpose of this item is to secure confirmation from the Planning Commission of the decision made by the Director of Community Development.

PROJECT DESCRIPTION

The Pourian property is an undeveloped 5.6 acre parcel situated above Paradise Drive consisting of two lots (1.7 and 3.9 acres in size). The property is described in the Tiburon General Plan Land Use Element on Page 2-7 as follows:

PD-R-f (Pourian): This approximately 5.6 acre site has poor access, is very steep and wooded, and has limited potential for development.

Maximum allowable density: 0.5 dwelling units/acre

Approximate maximum units: 3

The owners of the Pourian property and the owners of the adjacent property at 4695 Paradise Drive have determined that portions of the house and other site improvements for the home at 4695 Paradise Drive were inadvertently constructed across the shared property line and onto the otherwise undeveloped Pourian property. To resolve this issue, the property owners have agreed to adjust the lot lines to transfer land from the Pourian parcel to the adjacent lot. Staff informed the property owners that they could request a waiver of the precise development plan requirement pursuant to Section 16-52.060 (J[1]) of the Municipal Code prior to approval of the lot line adjustment, since a precise development plan application for the Pourian property is not anticipated anytime in the near future.

ANALYSIS

The Director of Community Development approved the request for waiver after considering the following factors:

1. The existing house at 4695 Paradise Drive and other associated improvements only extend a short distance (approximately 28 feet) into the lower portion of the 5.6-acre Pourian property. The location of these improvements would not appear to substantially interfere with likely development of the Pourian property.
2. Although no CEQA analysis has been conducted for the Pourian property, the area of the lot line adjustment has been developed with the house at 4695 Paradise Drive and associated residential improvements for many years. It is therefore unlikely that any sensitive environmental resources exist in the vicinity of the lot line adjustment.
3. As noted above, the house and improvements at 4695 Paradise Drive were inadvertently constructed across the property line onto the Pourian property. This inadvertent construction by another property owner is convincing evidence that

these improvements were not an attempt to circumvent the precise development plan requirements for the Pourian property.

Based on these facts, the Director of Community Development approved the waiver from the precise development plan requirements for the requested lot line adjustment.

PUBLIC COMMENTS

As of the date of this report, no letters have been received regarding this application.

ENVIRONMENTAL STATUS

The project is categorically exempt from CEQA under Section 15305 (Minor Alterations in Land Use Limitations) of the CEQA Guidelines.

RECOMMENDATION

Staff recommends that the Planning Commission, following a public hearing, adopt the attached Resolution (**Exhibit 2**) confirming the waiver of precise development plan requirements granted by the Director of Community Development for the Pourian property (PD#5).

EXHIBITS

1. Application form and supplemental materials
2. Draft resolution
3. Grant of waiver from Director of Community Development, dated August 31, 2016
4. Submitted plans

Prepared By: Daniel M. Watrous, Planning Manager

\\shared\planning\pc\staff reports\2016\September 14 meeting\Pourian PDP waiver report.doc



TOWN OF TIBURON
LAND DEVELOPMENT APPLICATION

RECEIVED
AUG 17 2016
PLANNING DIVISION

TYPE OF APPLICATION

- Conditional Use Permit
- Precise Development Plan *Waiver*
- Secondary Dwelling Unit
- Zoning Text Amendment
- Rezoning or Prezoning
- General Plan Amendment
- Temporary Use Permit
- Design Review (DRB)
- Design Review (Staff Level)
- Variance(s) _____ #
- Floor Area Exception
- Tidelands Permit
- Sign Permit
- Tree Permit
- Tentative Subdivision Map
- Final Subdivision Map
- Parcel Map
- Lot Line Adjustment
- Condominium Use Permit
- Seasonal Rental Unit Permit
- Other _____

APPLICANT REQUIRED INFORMATION

Not assigned for Parcel 038-111-05 - 3.36 +/- acres
 SITE ADDRESS: 4695 Paradise Dr, Tiburon, CA *Parcel # 038-111-03 1 +/- acre*
 PARCEL NUMBER: 038-111-05 *zoned RPD* / 038-111-03 *zoned R01*
 PROPERTY OWNER: Reza Rae Pourian / Kristin Pourian Pressman
 MAILING ADDRESS: 25 Camphor Ct, Hillsborough, CA 94010
038-111- Owners of parcel 038-111-05, Tiburon
 PHONE/FAX NUMBER: _____ E-MAIL: rpourian@comcast.net

APPLICANT (Other than Property Owner): Patricia Maier / Dom Martin
 MAILING ADDRESS: 20 Sunnyside Ave, #A134, Mill Valley, CA 94941
Applicant and owners of 4695 Paradise Dr, Tiburon.
 PHONE/FAX NUMBER: 415-968-5040 E-MAIL: dommartin9@aol.com

ARCHITECT/DESIGNER/ENGINEER CSW/Stuber-Stroch Engineering
 MAILING ADDRESS: 45 Levean Ct, Novato, CA 94949
 PHONE/FAX NUMBER: _____ E-MAIL: _____

Please indicate with an asterisk () persons to whom Town correspondence should be sent.*

BRIEF DESCRIPTION OF PROPOSED PROJECT (attach separate sheet if needed):
Lot line adjustment to accommodate encroachment of
portion of older home on large vacant adjoining parcel.

EXHIBIT NO. 1 p. 1 of 3

I, the undersigned owner (or authorized agent) of the property herein described, hereby make application for approval of the plans submitted and made a part of this application in accordance with the provisions of the Town Municipal Code, and I hereby certify that the information given is true and correct to the best of my knowledge and belief.

I understand that the requested approval is for my benefit (or that of my principal). Therefore, if the Town grants the approval, with or without conditions, and that action is challenged by a third party, I will be responsible for defending against this challenge. I therefore agree to accept this responsibility for defense at the request of the Town and also agree to defend, indemnify and hold the Town harmless from any costs, claims or liabilities arising from the approval, including, without limitation, any award of attorney's fees that might result from the third party challenge.

Signature: * 
Patricia Maier

Date: Aug. 1, 2016

The property involving this permit request may be subject to deed restrictions called Covenants, Conditions and Restrictions (CC&Rs), which may restrict the property's use and development. These deed restrictions are private agreements and are NOT enforced by the Town of Tiburon. Consequently, development standards specified in such restrictions are NOT considered by the Town when granting permits.

You are advised to determine if the property is subject to deed restrictions and, if so, contact the appropriate homeowners association and adjacent neighbors about your project prior to proceeding with construction. Following this procedure will minimize the potential for disagreement among neighbors and possible litigation.

Signature: * 
Patricia Maier

Date: Aug. 1, 2016

**If other than owner, must have an authorization letter from the owner or evidence of de facto control of the property or premises for purposes of filing this application*

NOTICE TO APPLICANTS

Pursuant to California Government Code Section 65945, applicants may request to receive notice from the Town of Tiburon of any general (non-parcel-specific), proposals to adopt or amend the General Plan, Zoning Ordinance, Specific Plans, or an ordinance affecting building or grading permits.

If you wish to receive such notice, then you may make a written request to the Director of Community Development to be included on a mailing list for such purposes, and must specify which types of proposals you wish to receive notice upon. The written request must also specify the length of time you wish to receive such notices (s), and you must provide to the Town a supply of stamped, self-addressed envelopes to facilitate notification. Applicants shall be responsible for maintaining the supply of such envelopes to the Town for the duration of the time period requested for receiving such notices.

The notice will also provide the status of the proposal and the date of any public hearings thereon which have been set. The Town will determine whether a proposal is reasonably related to your pending application, and send the notice on that basis. Such notice shall be updated at least every six weeks unless there is no change to the contents of the notice that would reasonably affect your application. Requests should be mailed to:

Town of Tiburon
Community Development Department
Planning Division
1505 Tiburon Boulevard
Tiburon, CA 94920
(415) 435-7390 (Tel) (415) 435-2438(Fax)
www.townoftiburon.org

EXHIBIT NO. 1
P. 20F3

DO NOT WRITE BELOW THIS LINE

DEPARTMENTAL PROCESSING INFORMATION		
Application No.: <u>DDPA2016-001</u>	GP Designation:	Fee Deposit: <u>\$800</u>
Date Received: <u>8/1/16</u>	Received By: <u>LS</u>	Receipt #: <u>21709</u>
Date Deemed Complete:	Action:	By:
Acting Body:		Date:
Conditions of Approval or Comments:		Resolution or Ordinance #



Planning Division (415) 435-7390
www.ci.tiburon.ca.us

APPLICATION FOR LOT LINE ADJUSTMENT

PLEASE ANSWER THE FOLLOWING:

1. Existing area of each parcel in square feet: 038-111-03 43,560 +/-
038-111-05 146,362 +/-
2. Proposed area of each parcel in square feet: 038-111-03 45,256 +/-
038-111-05 144,666 +/-
3. Existing use of each parcel: 038-111-03 Residential
038-111-05 Vacant - zoned R
4. Proposed use of each parcel: 038-111-03 Residential
038-111-05 To be determined
5. Surrounding land use:
North: Residential
South: ~ ~ ~
East: ~ ~ ~
West: ~ ~ ~
6. Please indicate the reason for the lot line adjustment: _____
Accomodate encroachment of portion of
older home

EXHIBIT NO. 1

P. 3 OF 3

RESOLUTION NO. 2016-(Draft)

A RESOLUTION OF THE PLANNING COMMISSION OF THE TOWN OF TIBURON
CONFIRMING A WAIVER OF PRECISE DEVELOPMENT PLAN REQUIREMENTS FOR A
PORTION OF THE POURIAN PROPERTY (PD#5)

ASSESSOR'S PARCEL NO. 038-111-05

WHEREAS, the Planning Commission of the Town of Tiburon does resolve as follows:

Section 1. Findings.

- A. On August 17, 2016, Reza Rae Pourian and Kristin Pourian Pressman, and Patricia Maier and Dom Martin, filed an application requesting to waive the requirement to prepare a precise development plan to legalize as-built improvements on an otherwise undeveloped property in connection with a request for a lot line adjustment on property zoned Residential Planned Development (RPD). The parcel (A.P. #038-111-05) is commonly known as the Pourian property and is identified in the Zoning Ordinance as Planned Development #5. A portion of the existing single-family dwelling located on the adjacent property at 4695 Paradise Drive is situated across the property line onto the Pourian property.
- B. On August 31, 2016, the Director of Community Development waived the requirement to prepare a precise development plan for the lot line adjustment. In accordance with the requirements of Section 16-52.060 (J[1]) of the Tiburon Municipal Code, this decision has been forwarded to the Planning Commission for confirmation.
- C. The Planning Commission held a duly-noticed public hearing on September 14, 2016, and has heard and considered testimony from interested persons.
- D. The Planning Commission considered the following facts in confirming the request for waiver:
 - 1. The existing house at 4695 Paradise Drive and other associated improvements only extend a short distance (approximately 28 feet) into the lower portion of the 5.6-acre Pourian property. The location of these improvements would not appear to substantially interfere with likely development of the Pourian property.
 - 2. Although no CEQA analysis has been conducted for the Pourian property, the area of the lot line adjustment has been developed with the house at 4695 Paradise Drive and associated residential improvements for many years. It is therefore

unlikely that any sensitive environmental resources exist in the vicinity of the lot line adjustment.

3. As noted above, the house and improvements at 4695 Paradise Drive were inadvertently constructed across the property line onto the Pourian property. This inadvertent construction by another property owner is convincing evidence that these improvements were not an attempt to circumvent the precise development plan requirements for the Pourian property.

- E. The Planning Commission finds that the project is Categorical Exempt from the requirements of the California Environmental Quality Act (CEQA) per Section 15305 of the CEQA Guidelines.

Section 2. Approval.

NOW, THEREFORE BE IT RESOLVED that the Planning Commission of the Town of Tiburon hereby confirms the waiver of precise development plan requirements granted by the Director of Community Development on August 31, 2016 for a portion of the Pourian property, Planned Development #5.

PASSED AND ADOPTED at a regular meeting of the Planning Commission of the Town of Tiburon on _____, 2016, by the following vote:

AYES: COMMISSIONERS:

NOES: COMMISSIONERS:

ABSENT: COMMISSIONERS:

ERICA WILLIAMS, CHAIR
TIBURON PLANNING COMMISSION

ATTEST:

SCOTT ANDERSON, SECRETARY



Community Development Department

August 31, 2016

Reza Rae Pourian and Kristin Pourian Pressman
25 Camphor Court
Hillsborough, CA 94010

Erin Tollini
Mayor

Jim Fraser
Vice Mayor

Frank X. Doyle
Councilmember

Alice Fredericks
Councilmember

Emmett O'Donnell
Councilmember

Greg Chanis
Town Manager

SUBJECT: Planned Development (PD) #5; Pourian Property; APN 038-111-05

Dear Mr. Pourian and Ms. Pressman:

I am in receipt of your request to waive the requirement for a precise development plan for the above-referenced property in order to legalize as-built improvements on an otherwise undeveloped property in connection with a request for a lot line adjustment. I find that the existing improvements only marginally encroach into the Pourian property and do not substantially affect the probable pattern of development of this property. Based upon this evaluation, I have approved your request to waive the requirement for a precise development plan and to allow processing of the lot line adjustment.

Pursuant to the requirements of Section 16-52.060 (J[1]) of the Tiburon Municipal Code, this waiver must be confirmed by the Planning Commission. A hearing has been scheduled for the September 14, 2016 Planning Commission meeting for that purpose.

If you have any questions about this letter, please contact me at (415) 435-7392 or by e-mail at sanderson@townoftiburon.org.

Sincerely,

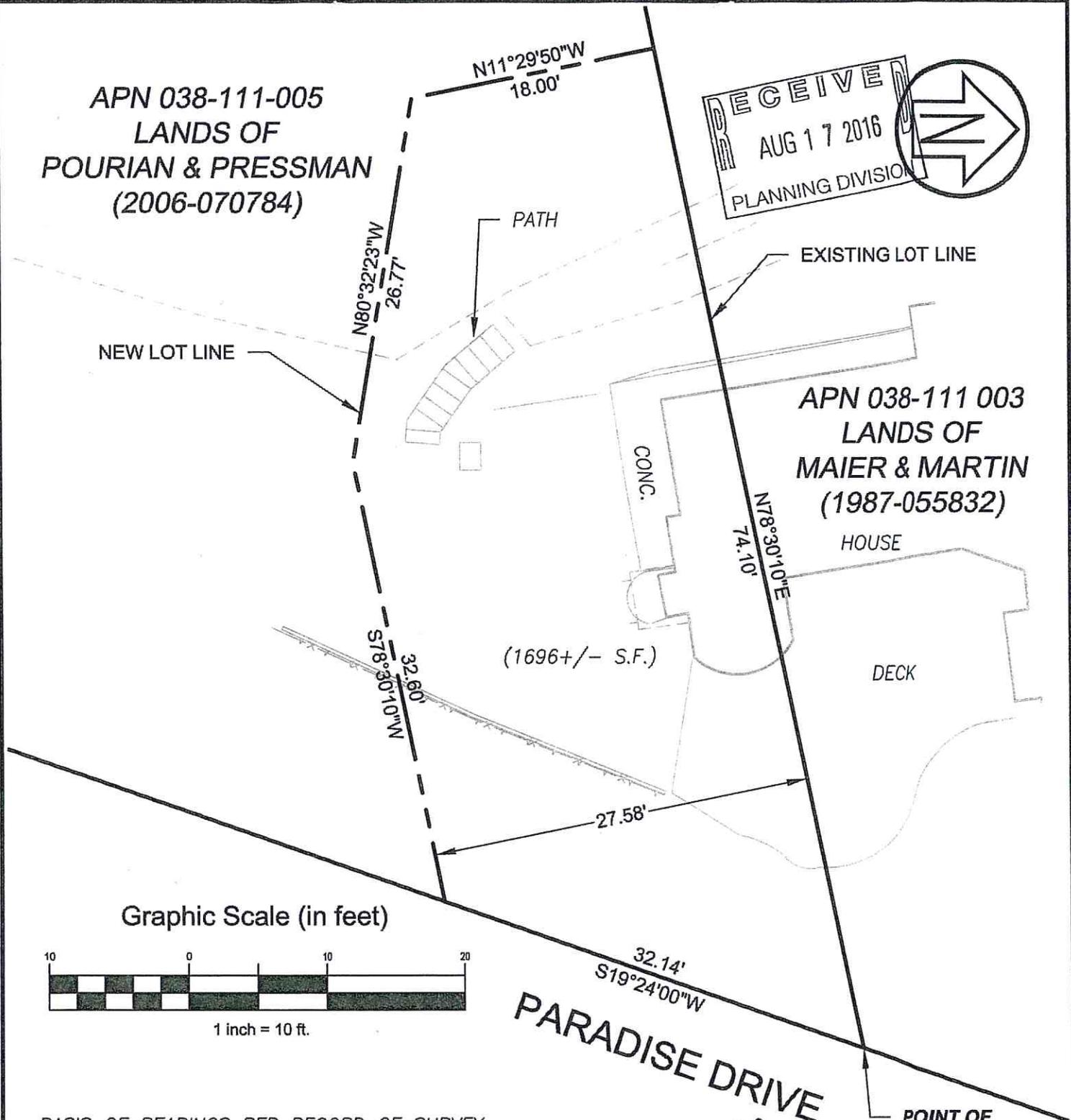
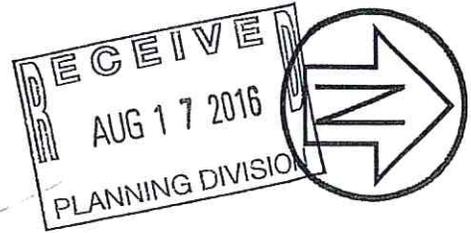
Scott Anderson
Director of Community Development

c: Patricia Maier and Dom Martin
20 Sunnyside Avenue #A134
Mill Valley, CA 94941

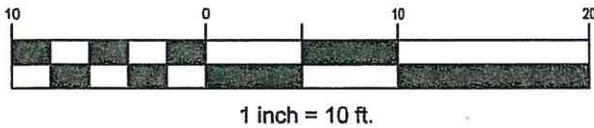
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EXHIBIT NO. 3

APN 038-111-005
 LANDS OF
 POURIAN & PRESSMAN
 (2006-070784)



Graphic Scale (in feet)



BASIS OF BEARINGS PER RECORD OF SURVEY
 FILED IN BOOK 2011 OF MAPS, PAGE 68,
 MARIN COUNTY RECORDS

EXHIBIT NO. 4

POINT OF BEGINNING

PAGE 2 OF 2

CSW ST2

CSW/Stuber-Stroeh Engineering Group, Inc.

Civil & Structural Engineers Surveying & Mapping Environmental Planning
 Land Planning Construction Management

45 Leveroni Court
 Novato, CA 94949

tel: 415.883.9850
 fax: 415.883.9835

<http://www.cswst2.com>

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Rev. X
 Job No. 5.1337.01

Date: 07/08/2016
 Scale: 1" = 10'

**MAIER-MARTIN
 EXHIBIT A**

PLAT TO ACCOMPANY LEGAL DESCRIPTION
 TIBURON MARIN COUNTY CALIFORNIA