

Towns dispute math, say there's not enough land, water in appeals of housing rules

By **DEIRDRE McCROHAN**

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Tiburon and Belvedere have formally appealed a state plan that would require them to make way for more than 800 new affordable housing units, citing bad calculations, a lack of available land for urban development and an inability to increase capacity for water service.

The appeals, filed ahead of the July 9 deadline, push back against the draft Regional Housing Needs Allocation, which breaks down the allotment of new housing that must be accommodated by individual jurisdictions.

Though the allocations don't require the cities to build the housing — only to identify potential building sites and rezone to allow for development — Tiburon would be required to plan for 649 new housing units in its 2023-2031 housing cycle, about eight times higher than what was allocated in the previous eight-year cycle. Belvedere would need to plan for 160 units, up from 16, while the county was assigned 3,569 units across its unincorporated areas, such as Strawberry, up from 185 units.

Determined by the Association of Bay Area Governments, allocations for Marin communities were particularly high, as most qualified as so-called high-opportunity and high-resource areas, or those public

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CORRECTIONS

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Police chief to host 'community circles' to build trust and 'heal'

By **SHAYNE JONES**

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The Tiburon Police Department will host a series of public workshops with different segments of the community in the coming weeks to discuss policing in town and address individual concerns.

Police Chief Ryan Monaghan said the forums, called the "Living & Growing Together Series," intend to push forward his pledge to "recalibrate" the department and help Tiburon heal after a series of incidents last summer involving race and allegations of profiling. Collectively, the incidents led to the formation of Tiburon's Diversity Inclusion Task Force, which seeks to address issues of race and bias in the community.

The Police Department has partnered with San Rafael-based nonprofit Transformative Justice Institute to host

and mediate the four forums, which will take place 6-8 p.m. every other Tuesday starting Aug. 10 at Tiburon Town Hall.

The so-called "community circles" will first meet with business owners, employees and community nonprofits; with faith-based groups Aug. 24; generally with all residents Sept. 14; and with underrepresented populations, such as people of color, those with disabilities and LGBTQ+ residents, on Sept. 28.

Monaghan and Rochelle Edwards, the events' co-host and a licensed psychotherapist and executive director of the Transformative Justice Institute, introduced the series in a Zoom conference on July 13 attended by about two dozen participants.

Edwards said the goals of the forums are to continue to build trust between police and citizens, to improve skills for

officers in their communications with citizens and to ensure officers are able to do their jobs with "confidence, support, expertise and joy."

To do that, Edwards said, the series will be shaped by the concept of restorative justice, a philosophy "that works to repair harm and restore relationships" with facilitated dialogues, community circles and impact statements.

Monaghan, who took over as chief in April, told participants he entered the department "on the heels of a troubling event," referring to a heated early morning incident last August in which three officers demanded the Black owners of downtown clothing boutique Yema prove their identities and explain why they were inside the store after hours.

The exchange, which occurred amid

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SPORTS SHOUT

Little Leaguers to play for section title

Tiburon's Little League All-Stars are headed to the Section 1 championship game tonight, July 21, after squeezing out a late-inning win against Alameda on Sunday.

Tiburon opened up double-elimination tournament play July 17 by crushing the Sonoma All-Stars 13-0 in a four-inning mercy-rule game, advancing to the semifinal while sending Sonoma to the losers' bracket.

The next day, Tiburon faced Alameda in a pitchers dual, with **Chase Johnson** pitching 5 $\frac{2}{3}$ shutout innings. Noah Gersch pitched 2 $\frac{2}{3}$ more to bring

the shutout game into extra innings, with the international-rule runner — an automatic runner on second base — taking effect in the eighth.

The top of the inning, Alameda's automatic runner scored, to give them a 1-0 lead. In the bottom of the eighth, things looked grim when Tiburon's automatic runner was thrown out in a double play. But **Isaac Nikfar** singled and **Charlie Osher** reached base on a hard hit ball. **Logan Scully** then smacked a clutch walk-off single with two outs to drive in Nikfar and Osher as the tying and winning runs — and

putting Tiburon in the title game.

The win also dropped Alameda back to the loser's bracket. The winner of July 19's Petaluma National vs. Sonoma game, after The Ark's press deadline, was to advance and play Alameda on July 19. The winner of that game will play Tiburon in the championship game at 7 tonight, July 21, at Will C. Wood School in Alameda.

A win by undefeated Tiburon would make them the champion. Because it's a double-elimination tournament, if

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COMPASS

Playground, from page 1

who claim exposure to chemicals in the approved pour-in-place surface would be hazardous to children. Leading the charge is resident Bill Rothman, an environmental activist who has long rallied to raise awareness and fight the use of playground surfaces, artificial turf and herbicides that contain carcinogens — and who has threatened to force a ballot initiative to remove the rubber surface at Community Park if it's ever installed.

The council discussion did not include a vote, but Councilmember Nancy Kemnitzer was recused

because she owns property within 500 feet of the playground.

A group of local parents whose children use the park, led in part by Kemnitzer's son-in-law, Adam McNeile, began exploring options for a redesign in early 2019, working to bring a proposal to the city under the guidance of Kemnitzer's husband, member and at the time chair of the Parks and Open Space Committee Bryan Kemnitzer. After a series of hearings by the committee and City Council, the \$307,000 playground redesign was formally approved last October.

Throughout the process, Rothman and parks committee member Carolyn Lund have repeatedly

objected to using rubber matting to replace the sandbox, which was deemed unsanitary and difficult to clean, and have suggested the continued use of sand or of wood chips.

Rothman says the shock-absorbent, rubber material found on playgrounds, athletic tracks and in artificial-turf fields across the country contains butadiene, a known human carcinogen, and styrene, a genotoxin that's considered "probably" carcinogenic by the U.S. Environmental Protection Agency and the International Agency for Research on Cancer, an offshoot of the World Health Organization.

According to the American Recycling Center, a company that manufactures pour-in-place rubber, the material is typically made up of two layers: a surface layer made of colored "virgin rubber" pieces bound together by polyurethane, and a cushion layer underneath of styrene butadiene rubber, made from recycled items. Recycled tires are also used to make the rubber crumbs found between the plastic blades of grass on artificial turf fields.

Dozens of studies have attempted to quantify potential health risks associated with chemicals in rubberized surfaces and artificial turf, especially with extended exposure

and potential off-gassing on hot days. While most have found the health effects to be negligible, several studies have detected carcinogenic chemicals in rubber turf and concluded the presence alone would increase cancer risk.

Rothman's and Lund's complaints led the parks committee in November to re-evaluate the pour-in-place rubber, but earlier this year it twice reaffirmed its support, pointing to studies that say the material is benign if installed correctly — with some members of the committee and supporters asserting there was no

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transit with amenities conducive to childhood development and economic mobility, including low poverty rates, high home values, high education values and high employment rates.

Though they filed their appeals separately, Tiburon and Belvedere both appealed on essentially the same grounds:

- The governments association didn't make its allocations under its own approved methodology.
- The allocations failed to adequately consider the availability of land suitable for urban development or for conversion to residential use.
- The allocations failed to adequately consider the availability of water infrastructure constraints due to laws, regulatory actions or decisions made by a provider other than the local jurisdiction.

Much of the appeals were technical because the governments association sharply limited the types of issues that could be raised. That, too, was protested.

In its appeal, Belvedere directly challenges the narrow parameters, accusing the association of mischaracterizing the statutory grounds for appeal by making the available grounds more limited than they really are.

Local governments also have the right to appeal based on the association's failure to include pertinent information, the city argued.

Tiburon Town Councilmember Alice Fredericks, who sits on her council's housing subcommittee, said in an interview she also found the limitations frustrating, as some of the very factors that constrain development in Tiburon couldn't be brought up.

That didn't stop the town's appeal team from taking the draft allocation apart, detailing how much of the methodology was based on flawed and inconsistent data and findings.

Botched calculations?

In Tiburon's appeal, the town

notes the draft allocation projects Marin's population growth for 2015-2050 at 34 percent, and for Southern Marin at 21 percent, but that Tiburon's goal for growth should be set at 46.5 percent. In Belvedere's appeal, the city notes that draft allocation says its goal for growth should be 48 percent.

Both towns protested that the allocation provided no explanation for the disparity and argue they believe their shares were double counted in error.

They also said the government association's own land-use software shows there are zero adequate sites in Tiburon or Belvedere that are suitable for development or conversion to residential use.

The appeals note the draft plan incorporated land-use modeling software to justify the allocations but that the association wouldn't make the underlying data available to them.

To buttress their cases, Tiburon and Belvedere instead used the association's own Housing Element Site Selection Tool.

For Tiburon, that tool showed no adequate sites, 2,373 potential development sites and 1,308 highly constrained sites. But, the town notes, 98.8 percent of the potential sites are already developed, mostly with single-family homes, while the model indicated they comprised about 102 acres, when the Marin Assessor-Recorder's Office indicates they actually make up about 75 acres — meaning the model overcounted by 36 percent.

Tiburon further found that of 29 potential sites identified as vacant and able to become multifamily lower-income affordable housing, meaning they sit on more than half an acre and are not on designated open space, just 18 were actually vacant. Of those, only six met the model's multifamily housing requirement — all of which were on steep hillsides with constrained emergency and evacuation routes, while only one met the association's "transit-rich area" definition.

According to the town, none of the six parcels are suitable for high-density multifamily housing.

"The baseline for how allocations were calculated was wrong," Fredericks said. "The town did a remarkable job of finding data errors. It is appalling that communities cannot rely on (the association's) much-touted methodology, but the bottom line is the disconnect between the methodology, even with corrected data, and what is feasible in small communities."

For Belvedere, using the association's housing-element tool showed no adequate sites, 413 potential development sites and 604 highly constrained sites.

But, the city notes, 98.1 percent of the potential sites are already developed with single-family homes, and the model puts the total at about 40 acres when it's really about 26 — meaning the association's model over-counted by 54 percent.

Belvedere found that of eight potential sites identified as vacant and available for multifamily lower-income affordable housing, just six were actually vacant and only two met the half-acre minimum requirement. Both were on steep hillsides with constrained emergency and evacuation routes, and only one is in a so-called "transit-rich area."

Limited transit, limited water

Tiburon and Belvedere were also designated transit-rich areas. They share a Tiburon Boulevard shuttle, Marin Transit's Route 219, with a 219F version that travels into Tiburon neighborhoods to align with the schedule of the weekday Golden Gate Ferry commuter service to San Francisco. Golden Gate Transit's Route 8 bus also runs commute service from downtown Tiburon to San Francisco's Financial District.

But the appeals pushed back on the idea that those services mean the towns are actually transit-rich areas.

"We don't even have a ferry dock," Fredericks said in a statement echoed in Belvedere's appeal. "We have to lease it from a private

party ... and a portion of this housing in downtown Tiburon near transit is supposed to be affordable for very-low- and low-income residents. The ferry is not an affordable option for many people."

The two appeals point out that Tiburon's ferry dock doesn't qualify as a major transit stop under the state's current Public Resources Code, meaning housing projects in the area don't qualify for density bonuses for transit-oriented development.

The appeals also say a significant amount of downtown Tiburon lies within the Federal Emergency Management Agency designated 100-year flood zone, vulnerable to sea-level rise and liquefaction.

In a separate appeal by the county of Marin for its unincorporated areas, officials noted the allocation methodology did not take into account "the new era of remote work," which the county said may alter the supply and demand for housing and, potentially, transit.

Tiburon and Belvedere both say the draft allocation failed to take into account the limited availability of water supplies to serve a large increase in population, especially given worsening droughts due to climate change.

The Marin Municipal Water District's Urban Water Management Plan determined that, in 2045, the district would have an adequate supply to meet demand for a population of 211,961; that excludes Novato, which is in a separate water district with its own water sources.

However, the governments association's allocation for Marin anticipates 32 percent growth, or 218,539 residents. In its appeal, Tiburon argued its allocation shouldn't be higher than 485 housing units, compared to the 649 in the draft plan, to ensure adequate supplies.

Belvedere argued its allocation shouldn't be more than 121 units, rather than 160, based on water availability alone.

"Belvedere appealed because (the association) didn't determine

Belvedere's allocation in accordance with its own adopted methodology and in a way that furthers the association's housing objectives," Belvedere Mayor James Campbell said. "Belvedere believes in intelligent, not unrealistic, growth."

Tiburon Councilmember Jack Ryan, who sits in the housing committee with Fredericks, said the process "hijacks local land-use authority."

"It relies on very subjective model inputs while ignoring the private sector's ability to satisfy market-level demand, for example," Ryan said. "From a philosophical standpoint, (the allocation) says population will increase, so everyone should grow housing stock proportionally," he continued. "However, that is an oversimplification. ... Our ability to control growth is proportional to and consistent with our infrastructure's ability to serve the population."

Tiburon and Belvedere officials say they are trying to be optimistic about their appeals, but they want residents to take notice of the plans and contact their state senator, Mike McGuire, at senator.mcguire@sen.ca.gov.

Members of the public have until Aug. 30 to submit comment on the appeal to rhna@bayareametro.gov or RHNA Appeal Comments, c/o Assn. of Bay Area Governments, 375 Beale St., Suite 800, San Francisco, CA 94105.

Hearings are expected to take place in late September or early October, according to Association of Bay Area Governments Public Information Officer John Goodwin. Once the dates and times have been selected, that information and the appeals will be posted to abag.ca.gov.

By November or December, the association's executive board will make a final determination on each appeal and then issue final allocations reflecting adjustments and adopt the final plan.

Reach Tiburon reporter Deirdre McCrohan at 415-944-4634.