



**Agenda Item No. 10.**

**Staff Report**

**Date:** October 8, 2020

**To:** Mayor McMillan and Councilmembers

**From:** Patrick Streeter, Planning and Building Director

**Subject:** 400 Upper Toyon Road, Annexation Rezoning and General Plan Amendment, and Council consideration of introduction of Ordinance No. 707 and adoption of Resolution No. 2181

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**Recommendation**

Town Council introduce Ordinance No. 707 amending the Town of Ross Zoning Map to assign Assessor's Parcel Nos. 012-121-28, -22, -05, and -04 to Single Family Residential with a Five Acre Minimum Lot Size (R-1:B-5A) and adopt Resolution No. 2181 assigning the parcels a Ross General Plan land use designation of Very Low Density (.1 – 1 unit/acre).

**Background and Discussion**

In March 2017, the owner of the property at 400 Upper Toyon Drive applied to the Marin Local Agency Formation Commission (LAFCO) to detach the property from San Rafael and annex it into Ross. The property is currently developed with a single-family home and a privately maintained road connects the property to Upper Toyon Drive. On August 8, 2019, LAFCO annexed the property, as well as three small adjacent parcels that belong to the Marin Municipal Water District, into the Town of Ross. In order to complete the annexation proceedings, the Town must assign zoning and a General Plan designation to the parcels. Staff is recommending that the parcels be zoned R-1:B-5A and designated Very Low Density to be consistent with surrounding properties. These designations would also be consistent with the Hillside Residential designation in the San Rafael General Plan 2020 document. On September 10, 2020, the Town Council, sitting as Planning Commission, adopted Resolution No. 2179, consistent with the staff recommendation. No new development is proposed as part of this project.

**Fiscal, resource and timeline impacts**

In 2019, the Town entered into a tax share agreement with the City of San Rafael to address cost impacts associated with the Town providing services to the parcel. The Town receives a share of the property tax from the area based on the approved Tax Exchange Agreement along with the Town public safety parcel tax. There would be no additional costs associated with road maintenance since the road is privately maintained.

**Alternative actions**

Town Council may select alternative assignments of zoning and General Plan designations.

**Environmental review**

As Lead Agency under the California Environmental Quality Act (CEQA) for reorganization including detachment of Assessor's Parcel 012-121-28, 012-121-04, 012-121-05, 012-121-22 from the City of San Rafael and annexation of the same territory to the Town of Ross, Marin LAFCO found, via Resolution No. 19-05, that the project is categorically exempt from the provisions of CEQA pursuant to State CEQA Guidelines Section 15319(b).

**Attachments**

- Ordinance No. 707 rezoning four parcels on Upper Toyon Road
- Resolution No. 2181 amending the General Plan designation for four parcels on Upper Toyon Road
- LAFCO recorded Certificate of Completion, September 24, 2019

# TOWN OF ROSS

## ORDINANCE NO. 707

### AN ORDINANCE OF THE TOWN OF ROSS TO PREZONE 2.5 ACRES OF LAND LOCATED ON UPPER TOYON ROAD KNOWN AS ASSESSOR'S PARCEL NOS. 012- 121-28, 012-121-22, 012-21-05, AND 012-21-04

The Town Council of the Town of Ross does ordain as follows:

#### Section 1. Findings.

- A. An application has been filed to prezone approximately 2.5 acres of property described as Marin County Assessor's Parcel NOS. 012-121-28, 012-121-22, 012-21-05, and 012-21-04.
- B. The Planning Commission held a duly noticed and advertised public hearing on September 10, 2020, and recommended pre zoning of the property to Single Family Residential with a Five Acre Minimum Lot Size (R-1:B-5A.)
- C. The Town Council has held duly noticed and advertised public hearings on October 8, 2020, and has considered all testimony in reaching its decision.
- D. This project is categorically exempt from environmental review under the California Environmental Quality Action Section 15319 Annexation of Existing Facilities and Lots for Exempt Facilities.
- G. The proposed general plan land use designation and pre zoning are consistent with surrounding designations and appropriate to physical characteristics and locations of the lots.
- H. The Town Council finds that the pre zoning is consistent with the goals and policies of the Ross General Plan and that the Very Low Density Land Use designation is appropriate for the land annexed to Ross.

#### Section 2. Approval of Pre zoning.

The Town Council of the Town of Ross does hereby prezone the subject property consisting of Assessor's Parcel NOS. 012-121-28, 012-121-22, 012-21-05, and 012-21-04 to Single Family Residential with a Five Acre Minimum Lot Size (R-1:B-5A.)

#### Section 3. Severability.

If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of this Ordinance. The Town Council hereby declares that it would have passed this and each section, subsection, phrase or clause thereof irrespective of the fact that any one or more sections, subsections, phrase or clauses be declared unconstitutional on their face or as applied.

**SECTION 6:** Effective Date. This Ordinance shall take effect thirty (30) days after its final passage and adoption and shall be posted in three public places in Town.

THE FOREGOING ORDINANCE was first read at a regular meeting of the Ross Town Council on the 8<sup>th</sup> day of October 2020, and was adopted at a regular meeting of the Ross Town Council on the \_\_\_ day of \_\_\_\_\_ 2020, by the following vote:

**AYES:**

**NOES:**

**ABSENT:**

**ABSTAIN:**

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Julie McMillan, Mayor

**ATTEST:**

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Linda Lopez, Town Clerk

# **TOWN OF ROSS**

## **RESOLUTION NO. 2181**

### **A RESOLUTION OF THE TOWN OF ROSS AMENDING THE GENERAL PLAN DESIGNATION FOR ASSESSOR'S PARCEL NOS. 012-121-28, 012-121-22, 012-21-05, AND 012-21-04 TO VERY LOW DENSITY (.1 – 1 UNIT/ACRE)**

**WHEREAS**, an application has been filed to prezone four parcels along Upper Toyon Road as part of an annexation action; and

**WHEREAS**, as Lead Agency under the California Environmental Quality Act (CEQA) for reorganization including detachment of Assessor's Parcel 012-121-28, 012-121-04, 012-121-05, 012-121-22 from the City of San Rafael and annexation of the same territory to the Town of Ross, Marin Local Agency Formation Commission (LAFCO) found, via Resolution No. 19-05, that the Project is categorically exempt from the provisions of CEQA pursuant to State CEQA Guidelines Section 15319(b); and

**WHEREAS**, on September 10, 2020, the Town Council, sitting as Planning Commission held a duly noticed public hearing to consider the project and adopted Resolution No. 2179 recommending rezoning and a General Plan amendment for the project parcels; and

**WHEREAS**, on October 8, 2020, the Town Council held a duly noticed public hearing to consider the project; and

**WHEREAS**, the Town Council has carefully reviewed and considered the staff reports, correspondence, and other information contained in the project file, and has received public comment.

**NOW, THEREFORE, BE IT RESOLVED**, the Town Council finds and determines that:

1. The proposed annexation includes land contiguous to land in Ross that is generally located on the Ross side of the ridgeline and is at the end of a roadway in which Ross provides services.
2. On August 8, 2019, Marin LAFCO adopted Resolution No. 19-05 reorganizing the subject parcels into the jurisdiction of the Town of Ross.
3. The proposed general plan land use designation is consistent with surrounding designations and appropriate to physical characteristics and locations of these lots.
4. The Ross General Plan Very Low Density Land Use designation is appropriate for the land annexed to Ross.

**BE IT FURTHER RESOLVED**, the Town Council of the Town of Ross hereby incorporates the recitals above; makes the findings above; and assigns the project parcels a General Plan land use designation of Very Low Density.

The foregoing resolution was duly and regularly adopted by the Ross Town Council at its regular meeting held on the 8<sup>th</sup> day of October 2020, by the following vote:

**AYES:**

**NOES:**

**ABSENT:**

**ABSTAIN:**

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Julie McMillan, Mayor

**ATTEST:**

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Linda Lopez, Town Clerk

5  
Fees  
A7

Recording Requested by and  
When Recorded Return to:

Record without Fee per GC27383



**Marin County**  
**Local Agency Formation Commission**  
1401 Los Gamos Drive, Suite 220  
San Rafael, California 94903  
marinlafco.org / 415-448-5877



2019-0035206

Recorded  
Official Records  
County of  
Marin  
SHELLY SCOTT  
Assessor-Recorder  
County Clerk

REC FEE 0.00

09:54AM 24-Sep-2019

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## CERTIFICATE OF COMPLETION

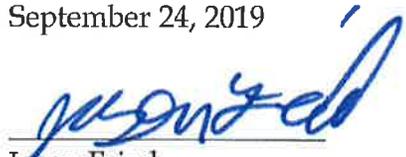
THIS CERTIFICATE INDICATES COMPLETION OF ONE OR MORE BOUNDARY CHANGES AFFECTING ONE OR MORE CITIES AND/OR SPECIAL DISTRICTS IN MARIN COUNTY. PLEASE CHANGE YOUR RECORDS ACCORDINGLY.

Pursuant to Government Code Sections 57200-57204, this Certificate of Completion is hereby issued by the Executive Officer of the Marin Local Agency Formation Commission (LAFCO) and serves as legal notice of one or more boundary changes as described.

1. Short-form designation, as designated by Marin LAFCO, is:  
Reorganization of 400 Upper Toyon Road, Including Detachment from the City of San Rafael and Annexation to the Town of Ross (LAFCo File #1335).
2. Each special district or city involved in this change of reorganization and associated action is as follows:

<u>City or District</u>	<u>Type of Change of Organization</u>
(a) City of San Rafael	Detachment
(b) Town of Ross	Annexation
3. The above-listed cities and/or districts are located within Marin County.
4. A description of the boundaries of the above-cited change of organization is described as shown on the attached map and legal description (Exhibit A and B), attached to Resolution 19-05, which was approved by the Commission at a public meeting held on August 8, 2019.
5. Conducting authority proceedings for this change of reorganization were waived under Government Code Section 56663.
6. I certify under the penalty of perjury that the foregoing is true.

Effective Date: September 24, 2019

  
\_\_\_\_\_  
Jason Fried  
Executive Officer

# MARIN LOCAL AGENCY FORMATION COMMISSION

RESOLUTION NO. 19-05

## RESOLUTION AMENDING THE SPHERE OF INFLUENCE OF THE TOWN OF ROSS AND THE CITY OF SAN RAFAEL AND MAKING DETERMINATIONS AND APPROVING REORGANIZATION WITH WAIVER OF NOTICE, HEARING AND ELECTION

“Reorganization of 400 Upper Toyon Road, Including Detachment from the City of San Rafael and Annexation to the Town of Ross (File 1335)”

**WHEREAS** a proposal for the reorganization including detachment of certain territory from the City of San Rafael and annexation of the same territory to Town of Ross in the County of Marin has been filed with the Executive Officer of this Local Agency Formation Commission pursuant to Title 5, Division 3, commencing with Section 56000 of the Government Code; and

**WHEREAS** said proposal was made in the form of a petition filed by the property owners; and

**WHEREAS** pursuant to Government Code Section 56663, when a petition is accompanied by written consent signed by all owners of land within the territory proposed to be annexed, this Commission may make determination with respect to said annexation without notice and hearing; and

**WHEREAS** pursuant to Government Code Section 56663(c), the affected territory is uninhabited; all the owners of land within the affected territory have given their written consent; and the affected local agency that will gain territory, Town of Ross, has consented in writing to a waiver of conducting authority proceedings, this Commission may make determination with respect to said application with waiver of conducting authority proceedings; and

**WHEREAS** the Executive Officer has reviewed the proposal and prepared a report, including a recommendation thereon, the proposal and report having been presented to and considered by this Commission.

**NOW THEREFORE**, the Marin Local Agency Formation **DOES HEREBY RESOLVE, DETERMINE AND ORDER** as follows:

Section 1. As Lead Agency under CEQA for reorganization including detachment of Assessor’s Parcel 012-121-28, 012-121-04, 012-121-05, 012-121-22 from the City of San Rafael and annexation of the same territory to the Town of Ross, LAFCo finds the Project is categorically exempt from the provisions of CEQA pursuant to State CEQA Guidelines Section 15319(b).

Section 2. The boundaries, as set forth in the proposal, are hereby approved as submitted and are as described in Exhibits "A" and "B" attached hereto are subject to the following condition:

A. Approved map and legal description to be provided by the applicant.

Section 3. The territory includes 2.5 acre, is found to be uninhabited, and is assigned the following distinctive short form designation: "Reorganization of 400 Upper Toyon Road, Including Detachment for the City of San Rafael and Annexation to the Town of Ross (File 1335)".

Section 4. The proposal is consistent with the adopted sphere of influence for the Town of Ross and City of San Rafael as amended.

Section 5. The Executive Officer is hereby authorized to complete the reorganization proceedings in the manner prescribed by Section 57000 of the Government Code.

**PASSED AND ADOPTED** by the Marin Local Agency Formation Commission, on August 8, 2019, by the following vote:

AYES: Commissioners McEntee, Murray, Kiros, Connolly, Loder, Arnold

NOES: None

ABSTAIN: None

ABSENT: Commissioner Bailey

Sashi McEntee

Sashi McEntee, Chair  
Marin LAFCo

ATTEST:

Jason Fried  
Jason Fried, LAFCo Executive Officer

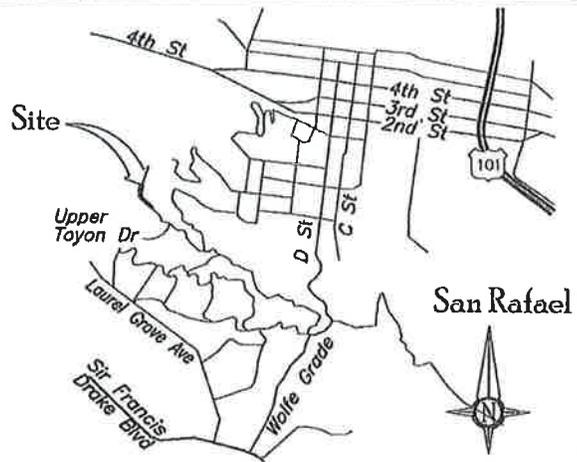
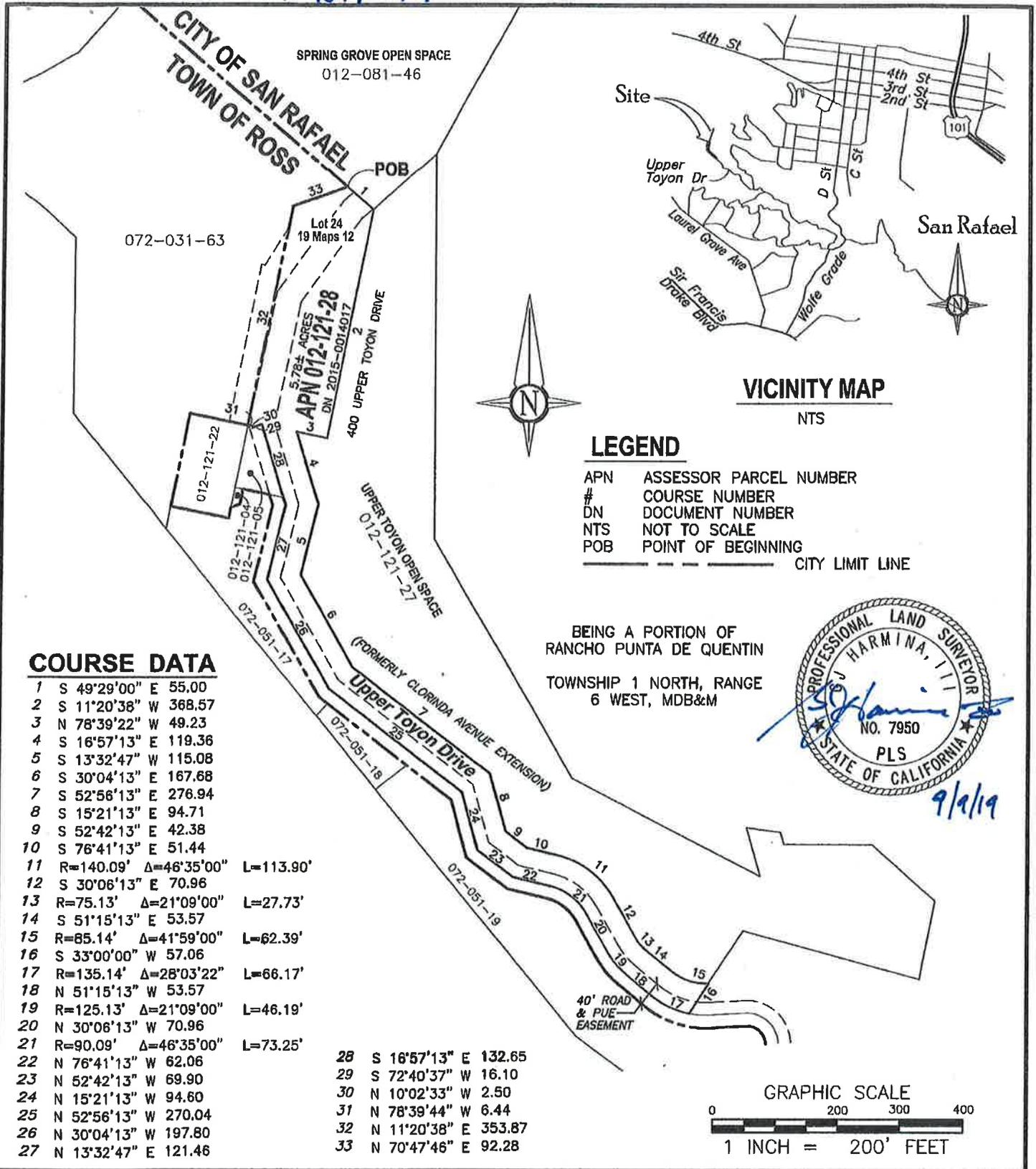
APPROVED AS TO FORM:

Malathy Subramanian  
Malathy Subramanian, LAFCo Counsel

Attachments to Resolution 19-05

1. Exhibit "A" – Legal Description
2. Exhibit "B" – Map

Exhibit A



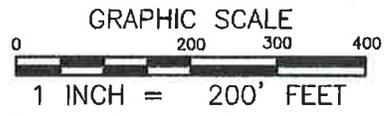
**LEGEND**

- APN ASSESSOR PARCEL NUMBER
- # COURSE NUMBER
- DN DOCUMENT NUMBER
- NTS NOT TO SCALE
- POB POINT OF BEGINNING
- CITY LIMIT LINE

**COURSE DATA**

- |    |             |             |           |
|----|-------------|-------------|-----------|
| 1  | S 49°29'00" | E 55.00     |           |
| 2  | S 11°20'38" | W 368.57    |           |
| 3  | N 78°39'22" | W 49.23     |           |
| 4  | S 16°57'13" | E 119.36    |           |
| 5  | S 13°32'47" | W 115.08    |           |
| 6  | S 30°04'13" | E 167.68    |           |
| 7  | S 52°56'13" | E 276.94    |           |
| 8  | S 15°21'13" | E 94.71     |           |
| 9  | S 52°42'13" | E 42.38     |           |
| 10 | S 76°41'13" | E 51.44     |           |
| 11 | R=140.09'   | Δ=46°35'00" | L=113.90' |
| 12 | S 30°06'13" | E 70.96     |           |
| 13 | R=75.13'    | Δ=21°09'00" | L=27.73'  |
| 14 | S 51°15'13" | E 53.57     |           |
| 15 | R=85.14'    | Δ=41°59'00" | L=62.39'  |
| 16 | S 33°00'00" | W 57.06     |           |
| 17 | R=135.14'   | Δ=28°03'22" | L=66.17'  |
| 18 | N 51°15'13" | W 53.57     |           |
| 19 | R=125.13'   | Δ=21°09'00" | L=46.19'  |
| 20 | N 30°08'13" | W 70.96     |           |
| 21 | R=90.09'    | Δ=46°35'00" | L=73.25'  |
| 22 | N 76°41'13" | W 62.06     |           |
| 23 | N 52°42'13" | W 69.90     |           |
| 24 | N 15°21'13" | W 94.60     |           |
| 25 | N 52°56'13" | W 270.04    |           |
| 26 | N 30°04'13" | W 197.80    |           |
| 27 | N 13°32'47" | E 121.46    |           |
| 28 | S 16°57'13" | E 132.65    |           |
| 29 | S 72°40'37" | W 16.10     |           |
| 30 | N 10°02'33" | W 2.50      |           |
| 31 | N 78°39'44" | W 6.44      |           |
| 32 | N 11°20'38" | E 353.87    |           |
| 33 | N 70°47'46" | E 92.28     |           |

BEING A PORTION OF  
RANCHO PUNTA DE QUENTIN  
TOWNSHIP 1 NORTH, RANGE  
6 WEST, MDB&M



<p><b>1031Survey, Inc.</b> HIGH DEFINITION SURVEYING 1857 Ralner Circle, Petaluma, California 94954 415-827-6370 www.1031survey.com</p>	<p><b>REORGANIZATION OF 400 UPPER TOYON DRIVE LAFCO#1335</b></p>	<p>JOB #: <u>19166LAFCO-EX</u> DATE: <u>2019.09.09</u> CREATED BY: _____ SHEET NO. <u>1</u> OF <u>1</u></p>
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EXHIBIT D

Reorganization of 400 Upper Toyon Drive  
LAFCO # 1335 - Legal Description

BEING A PORTION OF THE RANCHO PUNTA DE QUENTIN AS DESCRIBED BY DEED RECORDED UNDER DOCUMENT NUMBER 2015-0014017, BEING LOT 24 AS SHOWN UPON THAT CERTAIN "MAP OF OAKWOOD UNIT NO. 3" FILED IN VOLUME 19 OF MAPS, AT PAGE 12, MARIN COUNTY RECORDS, AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

**BEGINNING** AT AN ANGLE POINT IN THE SAN RAFAEL AND ROSS CITY LIMITS, DISTANT NORTH 49°29'00" WEST, 55.00 FEET FROM THE MOST SOUTHERLY CORNER OF THE SPRING GROVE OPEN SPACE, SAID CORNER ALSO BEING THE NORTHWEST CORNER OF THE UPPER TOYON OPEN SPACE, THENCE,  
COURSE 1 - SOUTH 49°29'00" EAST, 55.00 FEET; THENCE  
COURSE 2 - SOUTH 11°20'38" WEST, 368.57 FEET; THENCE  
COURSE 3 - NORTH 78°39'22." WEST, 49.23 FEET; THENCE  
COURSE 4 - SOUTH 16°57'13" EAST, 119.36 FEET; THENCE  
COURSE 5 - SOUTH 13°32'47" WEST, 115.08 FEET; THENCE  
COURSE 6 - SOUTH 30°04'13" EAST, 167.68 FEET; THENCE  
COURSE 7 - SOUTH 52°56'13" EAST, 276.94 FEET; THENCE  
COURSE 8 - SOUTH 15°21'13" EAST, 94.71 FEET; THENCE  
COURSE 9 - SOUTH 52°42'13" EAST, 42.38 FEET; THENCE  
COURSE 10 - SOUTH 76°41'13" EAST, 51.44 FEET TO THE BEGINNING OF A CURVE CONCAVE SOUTHWESERLY, HAVING A RADIUS OF 140.09 FEET; THENCE  
COURSE 11 -ALONG SAID CURVE 113.90 FEET, THROUGH A CENTRAL ANGLE OF 46°35'00"; THENCE  
COURSE 12 -SOUTH 30°06'13" EAST, 70.96 FEET TO THE BEGINNING OF A CURVE CONCAVE NORTHEASTERLY, HAVING A RADIUS OF 75.13 FEET; THENCE  
COURSE 13 -ALONG SAID CURVE 27.73 FEET, THROUGH A CENTRAL ANGLE OF 21°09'00"; THENCE  
COURSE 14 -SOUTH 51°15'13" EAST, 53.57 FEET TO THE BEINNING OF A CURVE CONCAVE NORTHERLY, HAVING A RADIUS OF 85.14 FEET; THENCE  
COURSE 15 -ALONG SAID CURVE 62.39 FEET, THROUGH A CENTRAL ANGLE OF 41°59'00"; THENCE  
COURSE 16 -SOUTH 33°00'00" WEST, 57.06 FEET TO THE BEGINNING OF A NON-TANGENT CURVE WHOSE CENTER BEARS NORTH 10°41'25" EAST, HAVING A RADIUS OF 135.14 FEET; THENCE  
COURSE 17 -ALONG SAID CURVE 66.17 FEET, THROUGH A CENTRAL ANGLE OF 28°03'22"; THENCE  
COURSE 18 -NORTH 51°15'13" WEST, 53.57 FEET TO THE BEGINNING OF A CURVE CONCAVE NORTHEASTERLY, HAVNG A RADIUS OF 125.13 FEET; THENCE  
COURSE 19 -ALONG SAID CURVE 46.19 FEET, THROUGH A CENTRAL ANGLE OF 21°09'00"; THENCE  
COURSE 20 -NORTH 30°06'13" WEST, 70.96 FEET TO THE BEGINNING OF A CURVE CONCAVE SOUTHWESTERLY, HAVING A RADIUS OF 90.09 FEET; THENCE  
COURSE 21 - ALONG SAID CURVE 73.25 FEET, THROUGH A CENTRAL ANGLE OF 46°35'00"; THENCE  
COURSE 22 - NORTH 76°41'13" WEST, 62.06 FEET; THENCE  
COURSE 23 - NORTH 52°42'13" WEST, 69.90 FEET; THENCE  
COURSE 24 - NORTH 15°21'13" WEST, 94.60 FEET; THENCE  
COURSE 25 - NORTH 52°56'13" WEST, 270.04 FEET; THENCE  
COURSE 26 - NORTH 30°04'13" WEST, 197.80 FEET; THENCE  
COURSE 27 - NORTH 13°32'47" EAST, 121.46 FEET; THENCE  
COURSE 28 - SOUTH 16°57'13" EAST, 132.65 FEET; THENCE  
COURSE 29 - SOUTH 72°40'37" WEST, 16.10 FEET; THENCE  
COURSE 30 - NORTH 10°02'33" WEST, 2.50 FEET; THENCE  
COURSE 31 - NORTH 78°39'44" WEST, 6.44 FEET; THENCE  
COURSE 32 - NORTH 11°20'38" EAST, 353.87 FEET; THENCE  
COURSE 33 - NORTH 70°47'46" EAST, 92.28 FEET TO THE **POINT OF BEGINNING**.

CONTAINING 5.78 ACRES MORE OR LESS.  
THE BASIS OF BEARING OF THIS DESCRIPTION IS THE ABOVEMENTIONED MAP.

  
GJ HARMINA, III PLS 7950

SEPT 9, 2019  
DATE

