



**TOWN OF TIBURON**  
Tiburon Town Hall  
1505 Tiburon Boulevard  
Tiburon, CA 94920

Regular Meeting  
Tiburon Planning Commission  
April 27, 2016  
7:30 p.m.

**AGENDA**  
**TIBURON PLANNING COMMISSION**

**CALL TO ORDER AND ROLL CALL**

**Chair Kulik, Vice Chair Williams, Commissioners Corcoran, Weller, and Welner**

**ORAL COMMUNICATIONS**

Persons wishing to address the Planning Commission on any subject not on the agenda may do so under this portion of the agenda. Please note that the Planning Commission is not able to undertake extended discussion, or take action on, items that do not appear on this agenda. Matters requiring action will be referred to Town Staff for consideration and/or placed on a future Planning Commission agenda. Please limit your comments to no more than three (3) minutes. Testimony regarding matters not on the agenda will not be considered part of the administrative record.

**COMMISSION AND STAFF BRIEFING**

Commission and Committee Report  
Director's Report

**PUBLIC HEARINGS**

**1. 2131 & 2133 PARADISE DRIVE**

Conditional Use Permit to authorize conversion of a two-family dwelling into a single-family dwelling; File #CUP2015006; Scott and Jennifer Winters, Owners; Assessor's Parcel No. 059-133 -11 [KO]

Documents:

[2131 AND 2133 PARADISE DRIVE.PDF](#)

**2. 2304 MAR EAST STREET**

Appeal of Planning Division decision to conditionally approve a Tidelands Permit to expand an existing dock and pier; File #TIDE2015003; Mark and Racia Blumenkranz, Owners/Appellants; Assessor's Parcel No. 059-400 -10 [DW]

Documents:

## **MINUTES**

### **3. Planning Commission Minutes - Meeting of April 13, 2016**

## **ADJOURNMENT**

## **GENERAL PUBLIC INFORMATION**

### **ASSISTANCE FOR PEOPLE WITH DISABILITIES**

In compliance with the Americans with Disabilities Act, if you need special assistance to participate in this meeting, please contact the Planning Division Secretary at (415) 435-7390. Notification 48 hours prior to the meeting will enable the Town to make reasonable arrangements to ensure accessibility to this meeting.

### **AVAILABILITY OF INFORMATION**

Copies of Design Review Board Agendas, Staff Reports, project files and other supporting data are available for viewing and inspection at Town Hall during business hours. Agendas and Staff Reports are also available at the Belvedere-Tiburon Public Library and on the Town of Tiburon website ([www.ci.tiburon.ca.us](http://www.ci.tiburon.ca.us)) after 5:00 PM on the Friday prior to the regularly scheduled meeting.

Any documents produced by the Town and distributed to a majority of the Design Review Board regarding any item on this agenda, including agenda-related documents produced by the Town after distribution of the agenda packet at least 72 hours in advance of the Board meeting, will be available for public inspection at Town Hall, 1505 Tiburon Boulevard, Tiburon, CA 94920.

Upon request, the Town will provide written agenda materials in appropriate alternative formats, or disability -related modification or accommodation, including auxiliary aids or services, to enable individuals with disabilities to participate in public meetings. Please deliver or cause to be delivered a written request (including your name, mailing address, phone number and brief description of the requested materials and preferred alternative format or auxiliary aid or service) at least five (5) days before the meeting to the Planning Division Secretary at the above address.

### **PUBLIC HEARING ITEMS AND BUSINESS ITEMS**

Public Hearing items and Business items provide the general public and interested parties an opportunity to speak regarding items that typically involve an action or decision made by the Board.

If you challenge any decision in court, you may be limited to raising only those issues you or someone else raised at the meeting, or in written correspondence delivered to the Board at, or prior to, the meeting.

### **GENERAL PROCEDURE ON ITEMS AND TIME LIMIT GUIDELINES FOR SPEAKERS**

The Design Review Board's general procedure on items and time limit guidelines for speakers are:

- Staff Update on Item (if any)
- Applicant Presentation – 5 to 20 minutes
- Design Review Board questions of staff and/or applicant
- Public Testimony (depending on the number of speakers) – 3 to 5 minutes for each speaker; members of the audience may not allocate their testimony time to other speakers
- Applicant may respond to public comments – 3 minutes
- Design Review Board closes the public testimony period, deliberates and votes (as warranted)
- Time limits and procedures may be modified in the reasonable discretion of the Chairman

Interested members of the public may address the Design Review Board on any item on the agenda.

### **ORDER AND TIMING OF ITEMS**

No set times are assigned to items appearing on the Design Review Board agenda. While the Design Review Board attempts to hear all items in order as stated on the agenda, it reserves the right to take items out of order without notice.

**(Adopted and Effective 11/7/2007)**

The following policy shall be used by the Town Council and its standing boards and commissions, and by staff of the Town of Tiburon, in the identification, distribution and consideration of late mail.

**DEFINITION**

"Late Mail" is defined as correspondence or other materials that are received by the Town after completion of the written staff report on an agenda item, in such a manner as to preclude such correspondence or other materials from being addressed in or attached to the staff report as an exhibit.

**IDENTIFICATION OF LATE MAIL**

All late mail received by Town Staff in advance of a meeting shall be marked "Late Mail" and shall be date-stamped or marked with the date of receipt by the Town. Late mail received at a meeting shall be marked as "Received at Meeting" with a date-stamp or handwritten note.

**POLICY**

For regular meetings of the Town Council and its standing boards and commissions:

1. All late mail that is received on an agenda item prior to distribution of the agenda packet to the reviewing authority shall be stamped or marked as "Late Mail" and shall be distributed to the reviewing authority with the agenda packet.
2. All late mail received on an agenda item before 5:00 PM on the Monday prior to the meeting shall be date-stamped and marked as "Late Mail" and distributed to the reviewing authority as soon as practicable. Such mail shall be read and considered by the reviewing authority whenever possible. If the Monday, or Monday and Tuesday, prior to the meeting are a Town-recognized holiday, the deadline shall be extended to the following day at Noon.
3. Any late mail received on an agenda item after the deadline established in paragraph (2) above shall be date-stamped, marked as "Late Mail" and distributed to the reviewing authority as soon as reasonably possible, but may not be read or considered by the reviewing authority. There should be no expectation of, nor shall the reviewing authority have any obligation to, read or consider any such late mail, and therefore such late mail may not become part of the administrative record for the item before the reviewing authority.

These provisions shall also apply to special and adjourned meetings when sufficient lead time exists to implement these provisions. If sufficient lead time does not exist, the Town Manager shall exercise discretion in establishing a reasonable cut-off time for late mail. For controversial items or at any meeting where a high volume of correspondence is anticipated, Town staff shall have the option to require an earlier late mail deadline, provided that the written public notice for any such item clearly communicates the specifics of the early late mail deadline, and the deadline corresponds appropriately to any earlier availability of the agenda packet.

Pursuant to state law, copies of all late mail shall be available in a timely fashion for public inspection at Tiburon Town Hall, 1505 Tiburon Boulevard, Tiburon.



**TOWN OF TIBURON**  
1505 Tiburon Boulevard  
Tiburon, CA 94920

Planning Commission Meeting  
April 27, 2016  
Agenda Item: **PH-1**

## **STAFF REPORT**

**To:** Members of the Planning Commission  
**From:** Community Development Department  
**Subject:** 2131 & 2133 Paradise Drive; File #CUP2015006;  
Conditional Use Permit to Authorize Conversion of a Two-Family Dwelling Into a Single-Family Dwelling; Scott and Jennifer Winters, Owners; Assessor's Parcel Nos. 059-133-11

## **PROJECT DATA**

Address: 2131 and 2133 Paradise Drive  
Assessor's Parcel Number: 059-133-11  
File Number: CUP2015006  
Lot Size: 9,328 square feet  
General Plan: H (High Density Residential)  
Zoning: R-2 (Two-Family Residential)  
Current Authorized Use: Two-Family Dwelling  
Owner/Applicant: Scott and Jennifer Winters  
Flood Zone: X – (Outside 500-year storm event)  
Date Complete: April 6, 2016

## **SUMMARY**

The applicant has submitted an application for a conditional use permit to authorize conversion of a two-family dwelling into a single-family dwelling on property located at 2131 and 2133 Paradise Drive. Section 16-21.030 (D[1]) of the Tiburon Zoning Ordinance requires a conditional use permit to convert existing two-family or multi-family dwellings in the R-2 zone into single-family dwellings or buildings containing fewer dwelling units. This section was adopted for the purpose of protecting the Town's rental housing stock from being reduced in the absence of any discretionary review process.

The residence was constructed on the subject property in 1950 as a single-family dwelling. The residence was converted into an attached two-family dwelling (duplex) with permits in 1979, likely to maximum the income generation from the property. The current owners' desire would be to revise the 1979 conversion.

## **PLANNING ISSUES**

The subject property is located within a cluster of R-1 and R-2 zoned lots in the eastern portion of the Old Tiburon neighborhood (as shown in the attached **Exhibit 3**). The lots within this portion



of Old Tiburon are developed with a mixture of single-family and two-family residences. The majority of the lots uphill along Centro East Street and to the north on Paradise Drive are developed with single-family dwellings, while lots along the water on Mar East Street are developed mostly with two-family dwellings. The existing residence has the appearance of a single-family dwelling on the exterior of the subject property and would therefore be consistent with the development pattern along this portion of the neighborhood.

The submitted plans include interior alterations which the property owners propose to make to the existing building. These improvements would require separate permit approvals that are not part of the subject conditional use permit application.

The subject duplex currently contains one dwelling unit on the lower level and another dwelling unit on the upper two levels. The existing floor plan requires residents of the upper unit to walk through the interior of the lower unit for access. The proposed conversion would eliminate this awkward access arrangement, eliminate the second kitchen, and restore the building to its original configuration as a single-family dwelling.

## **GENERAL PLAN AND ZONING CONSISTENCY**

The subject site is designated High Density Residential (H), which typically allows single-family and two-family dwellings. The following policies of the Land Use Element and Housing Element of the Tiburon General Plan are helpful to the review of this application:

### General Plan

Policy LU-H: *To protect and preserve existing neighborhood character and identity.*

Policy LU-I: *To encourage intensity of development, density, and house sizes/architectural styles that are consistent and compatible with surrounding neighborhoods.*

Policy H-C4: *Preserve "Old Tiburon" Housing. Limit the loss of housing units in "Old Tiburon" through conversion of existing two-family or multi-family dwellings into single-family dwellings or buildings containing fewer units.*

This portion of Old Tiburon consists of homes with a mixture of architectural design and housing sizes. The majority of the homes on this portion of Paradise Drive are single-family dwellings. The proposed single-family residence on the site would be consistent with the single-family residential character of this portion of Old Tiburon neighborhood.

### Zoning Ordinance

Section 16-52.040 (B) establishes the purposes of conditional permit review. These include:

1. Determining whether the location proposed for the conditional use is properly related to the development of the neighborhood or vicinity as a whole;
2. Determining whether the location proposed for the particular conditional use

would be reasonably compatible with the types of uses normally permitted in the surrounding area;

3. Evaluating whether or not adequate facilities and services required for such use exist or can be provided;
4. Stipulating such conditions and requirements as would reasonably assure that the basic purposes of this Zoning Ordinance and the objectives of the General Plan would be served; and
5. Determining whether the Town is adequately served by similar uses presently existing or recently approved by the Town.

Section 16-52.040 (D) of the Tiburon Zoning Ordinance lists the following factors to be considered in determining whether or not any conditional use should be permitted in a specific location.

1. *The relationship of the location proposed to the service or market area of the use or facility proposed; transportation, utilities, and other facilities required to serve it; and other uses of land in the vicinity.* As noted above, the existing residence on the site is consistent with the predominantly single-family residential character of this portion of the Old Tiburon neighborhood.
2. *The compatibility of the design, location, size, and operating characteristics with the existing and future land uses in the vicinity.* The existing building has been on this site since the 1950's and has been an attached duplex since 1979. The building design is generally consistent with the development pattern of other buildings in the vicinity.
3. *The probability of impairment to the architectural integrity and character of the zoning district in which it is to be located.* The requested conditional use permit would require no changes to the exterior architectural design of the existing building. Future modifications to the building would be reviewed through the design review process for consistency with the character of the surrounding neighborhood.
4. *The protection of the public interest, health, safety, convenience, or welfare of the Town, or any probability of injury to property or improvements in the vicinity and zoning district in which the real property is located.* The reconversion of an established single-family residence on this site would not be contrary to the public interest, health, safety, convenience, or welfare of the Town and would not be injurious to other property or improvements in the vicinity.
5. *The need of the community for additional numbers of such uses, paying particular heed to whether the neighborhood or vicinity is already adequately served by similar uses.* Although there is a demonstrated need for additional housing units in Tiburon, the vicinity of the subject property is adequately served by other two-



family dwellings on many of the lots towards Mar East Street and northeast on Paradise Drive.

Neither sections 16-52.040 (B) or (D) are particularly germane to the issue at hand in that a single-family dwelling is a permitted use in the R-2 zone. The salient question for the Commission is whether the loss of the currently unused second living unit in this two-family dwelling is supportable given the Town's General Plan policies regarding housing. The Conditional Use Permit process, in this case, merely offers the venue to consider that question.

Given the awkward nature of the floor plan created by the 1979 conversion and the resulting marginality of the building's second living unit, staff concludes that the Planning Commission could justify granting the conditional use permit in this particular instance. The loss of this unused unit would be de minimis.

### **PUBLIC COMMENT**

As of the date of this report, no correspondence has been received regarding this application.

### **ENVIRONMENTAL DETERMINATION**

Staff has made a preliminary determination that the subject application is categorically exempt from the requirements of the California Environmental Quality Act (CEQA) pursuant to Sections 15301 [Existing Facilities] and 15303 [Conversion of Small Structures] of the CEQA Guidelines.

### **RECOMMENDATION**

Staff recommends that the Planning Commission:

1. Hold a public hearing on this item and hear and consider all testimony, and
2. Revise as appropriate and adopt the attached resolution (**Exhibit 2**) approving the subject conditional use permit.

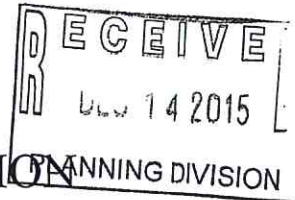
### **EXHIBITS**

1. Application form and supplemental materials
2. Draft resolution
3. Zoning map detail
4. Submitted plans

Prepared By: Kyra O'Malley, Associate Planner



**TOWN OF TIBURON**  
**LAND DEVELOPMENT APPLICATION**



**TYPE OF APPLICATION**

- |                                                         |                                                   |                                                   |
|---------------------------------------------------------|---------------------------------------------------|---------------------------------------------------|
| <input checked="" type="radio"/> Conditional Use Permit | <input type="radio"/> Design Review (DRB)         | <input type="radio"/> Tentative Subdivision Map   |
| <input type="radio"/> Precise Development Plan          | <input type="radio"/> Design Review (Staff Level) | <input type="radio"/> Final Subdivision Map       |
| <input type="radio"/> Secondary Dwelling Unit           | <input type="radio"/> Variance(s) _____ #         | <input type="radio"/> Parcel Map                  |
| <input type="radio"/> Zoning Text Amendment             | <input type="radio"/> Floor Area Exception        | <input type="radio"/> Lot Line Adjustment         |
| <input type="radio"/> Rezoning or Prezoning             | <input type="radio"/> Tideland Permit             | <input type="radio"/> Condominium Use Permit      |
| <input type="radio"/> General Plan Amendment            | <input type="radio"/> Sign Permit                 | <input type="radio"/> Seasonal Rental Unit Permit |
| <input type="radio"/> Temporary Use Permit              | <input type="radio"/> Tree Permit                 | <input type="radio"/> Other _____                 |

**APPLICANT REQUIRED INFORMATION**

**SITE ADDRESS:** 2131 Paradise Dr. **PROPERTY SIZE:** \_\_\_\_\_  
**PARCEL NUMBER:** 059-133-11 **ZONING:** R-2

**\*PROPERTY OWNER:** Scott & Jennifer Winters  
**MAILING ADDRESS:** \_\_\_\_\_

**PHONE/FAX NUMBER:** 415-448-6641 **E-MAIL:** swinters100@gmail.com

**APPLICANT (Other than Property Owner):** \_\_\_\_\_  
**MAILING ADDRESS:** \_\_\_\_\_

**PHONE/FAX NUMBER:** \_\_\_\_\_ **E-MAIL:** \_\_\_\_\_

**ARCHITECT/DESIGNER/ENGINEER** \_\_\_\_\_  
**MAILING ADDRESS:** \_\_\_\_\_

**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):**

We would like to convert the zoning to single family. We would then submit building plans to start the permit process.

We really would like to create more bedrooms to accomodate our large family of eight (six kids.)

**EXHIBIT NO.** 1

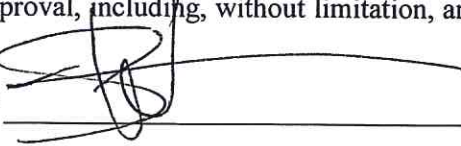
10F5



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:\*



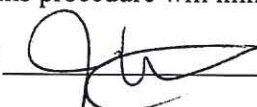
Date:

11.23.15

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:\*



Date:

11.23.15

*\*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](http://www.townoftiburon.org)

#### DO NOT WRITE BELOW THIS LINE

##### DEPARTMENTAL PROCESSING INFORMATION

Application No.: CUP2015-006

GP Designation:

Fee Deposit: \$1540

Date Received: 12/14/2015

Received By: 15

Receipt #: R435

Date Deemed Complete: 2/6/16

By: Jw

Acting Body:

Action:

Date:

Conditions of Approval or Comments:

Resolution or Ordinance #

EXHIBIT NO. 1

2 of 5

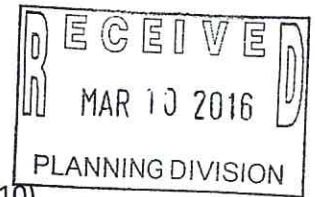


Re: 2131 Paradise Drive, Tiburon, CA 94920

Owners: Scott and Jennifer Winters

Children: Ashley (18), Kaili (17), Scott II (16), Zack (14), Samantha (12) and Drake (10)

Request: Change current duplex dwelling designation to a single family designation.



We are requesting to change the zoning classification of our home that we recently purchased. Currently it is classified as a duplex, however it not only looks like a single family home, it functions as one as well. There is an interior door in the main hallway the main level of 2131 Paradise that leads downstairs to the rental unit (2133 Paradise) and connects them together. We have already removed the door to help the home function as a single family home. These stairs are extremely wide, almost five feet wide curving down and seems to be as though it was originally built as a single family home.

We have six children, close in age, and purchased this home to hold all of us. We moved from another location in Tiburon. Our kids are already enrolled in the schools, we belong to the Corinthian Yacht Club, and we use approximately 30- 50 sleeping rooms a month at the Tiburon Lodge for our company. We also host all of those people at the restaurants in downtown Tiburon when they are in town. In other words, we are committed to and love the Town of Tiburon.

We are looking to tear out the current kitchen in the rental unit and turn it into a bedroom. Currently our son is sleeping on the other side (eating area) of the kitchen. We would like to provide him some privacy.

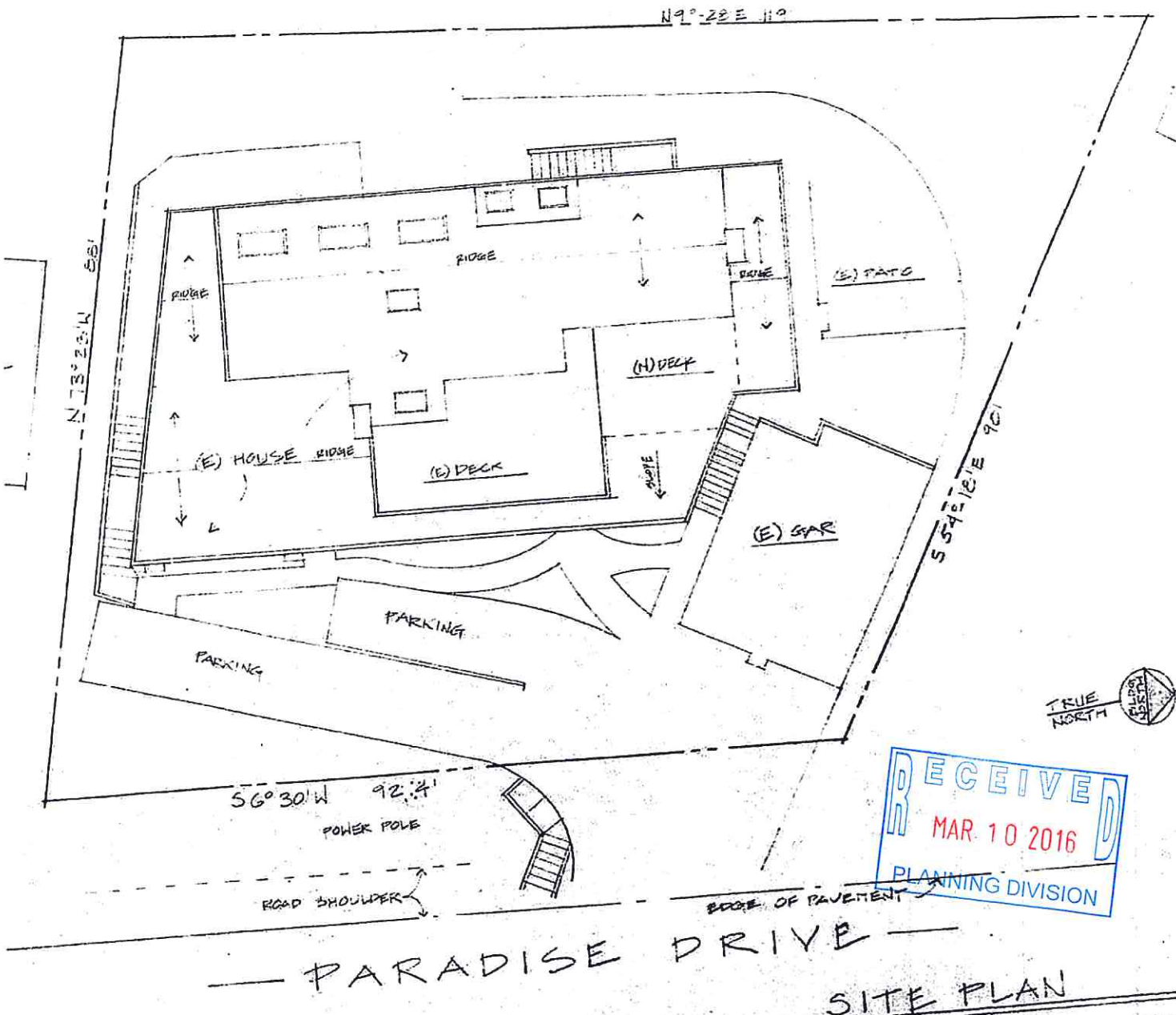
The homes above us are single family and we are asking for you to please make this change for us.

This request does not require any changes to the outside of the building or the main level or master bedroom.

Thank you in advance.

EXHIBIT NO. 1  
3055

4. 1. 3RD FL. PLAN, 1/2"
5. 2. 2ND FL. PLAN, 1/2"
6. 3. EAST 2. NORTH 2. ELEV.
7. 4. WEST 2. SOUTH 2. ELEV.
8. 5. 3RD FLOOR DIST. PA.



RECEIVED  
MAR 10 2016  
PLANNING DIVISION

— PARADISE DRIVE —  
SITE PLAN

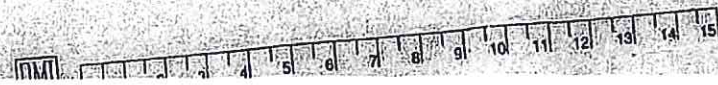
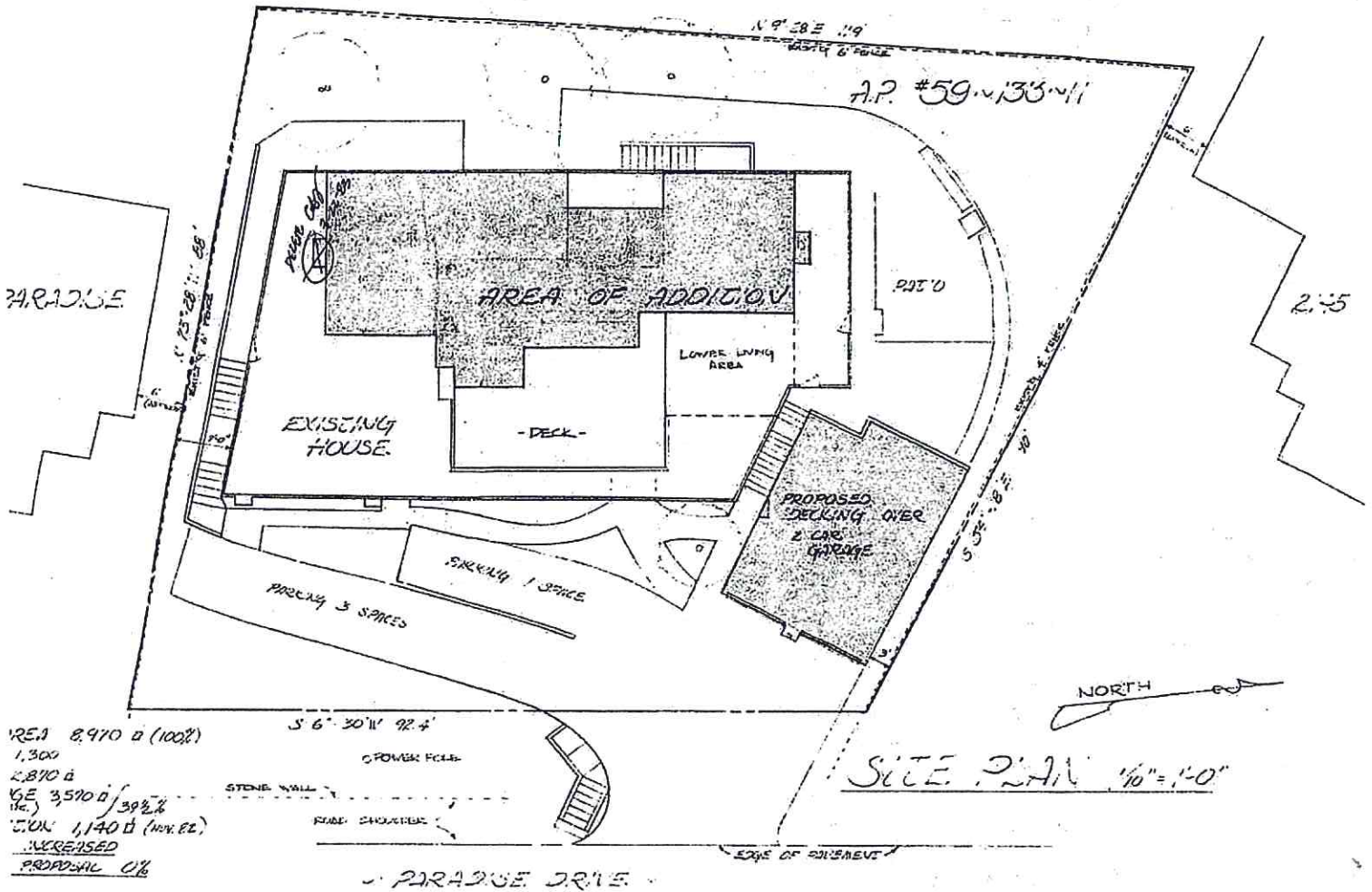


EXHIBIT NO. 1  
4 of 5



RECEIVED  
MAR 10 2016  
PLANNING DIVISION



ADDITIONS & RENOVATIONS  
THE RESIDENCE OF  
MR. & MRS. SIVEENEY  
131-33 PARADISE DRIVE, DUBUQUE, IA

A.P. #59-133-11





## RESOLUTION NO. 2016-Draft

A RESOLUTION OF THE PLANNING COMMISSION OF THE TOWN OF TIBURON  
APPROVING A CONDITIONAL USE PERMIT TO AUTHORIZE CONVERSION OF A  
TWO-FAMILY DWELLING INTO A SINGLE-FAMILY DWELLING ON PROPERTY  
LOCATED AT 2131 & 2133 PARADISE DRIVE

ASSESSOR PARCEL NO. 059-133-11

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

### **Section 1. Findings.**

- A. The Planning Commission has received and considered an application to authorize the conversion of a two-family dwelling into a single-family dwelling on property located at 2131 and 2133 Paradise Drive (File #CUP2015006). The conditional use permit is required to convert an existing two-family dwelling in the R-2 zone into a single-family dwelling pursuant to Section 16-21.030 (D[1]) of the Tiburon Municipal Code. The application consists of the following:

1. Application Form and supplemental materials received December 14, 2015
2. Project description received March 10, 2016
2. Floor Plans received April 18, 2016

The official record for this project is hereby incorporated and made part of this resolution. The record includes the Staff Reports, Minutes, Application Materials, and all comments and materials received at the public hearing.

- B. The Planning Commission held a duly-noticed public hearing on April 27, 2016, and heard and considered testimony from interested persons.
- C. The Planning Commission has found that the project is exempt from the requirements of the California Environmental Quality Act per Sections 15301 and 15303 of the CEQA Guidelines.
- D. The Planning Commission has found, based upon the application materials and analysis provided in the April 27, 2016 Staff Report, that the project, as conditioned, is consistent with the Tiburon General Plan and is in compliance with applicable sections of the Tiburon Zoning Ordinance, specifically Sections 16-21.030 (D[1]) and 16-52.040 (D), and other applicable regulations. The proposed project would be consistent with the single-family residential character of this portion of Old Tiburon, would not be injurious

to other property or improvements in the vicinity, and the loss of the unused living unit would be de minimis.

**Section 2. Approval.**

NOW, THEREFORE, BE IT RESOLVED that the Planning Commission of the Town of Tiburon does hereby approve the Conditional Use Permit (File #CUP2015006), to authorize conversion of a two-family family into a single-family dwelling on property located at 2131 & 2133 Paradise Drive, subject to the following conditions of approval:

1. This Conditional Use Permit approval shall become null and void if the approved conversion has not been completed within one (1) year of final approval of this use permit, unless a time extension is granted.
2. Site Plan & Architectural Review approval shall be required for any exterior modifications and site improvements pursuant to Chapter 16 of the Tiburon Municipal Code.
3. The applicant shall obtain all necessary permits from the Tiburon Building Division.
4. Any substantial modification of the approved project, as determined in the reasonable discretion of the Director of Community Development, shall require an amendment to this permit.
5. The Town reserves the right to amend or revoke this Conditional Use Permit for cause, in accordance with adopted regulations of the Town.
6. If this approval is challenged by a third party, the property owner/applicant will be responsible for defending against this challenge, with defense counsel subject to the Town's approval. The property owner/applicant agrees to defend, indemnify and hold the Town of Tiburon harmless from any costs, claims or liabilities arising from the approval, including, without limitations, any award of attorney's fees that might result from the third party challenge.

PASSED AND ADOPTED at a regular meeting of the Planning Commission on April 27, 2016, by the following vote:

|         |                |
|---------|----------------|
| AYES:   | COMMISSIONERS: |
| NOES:   | COMMISSIONERS: |
| ABSENT: | COMMISSIONERS: |

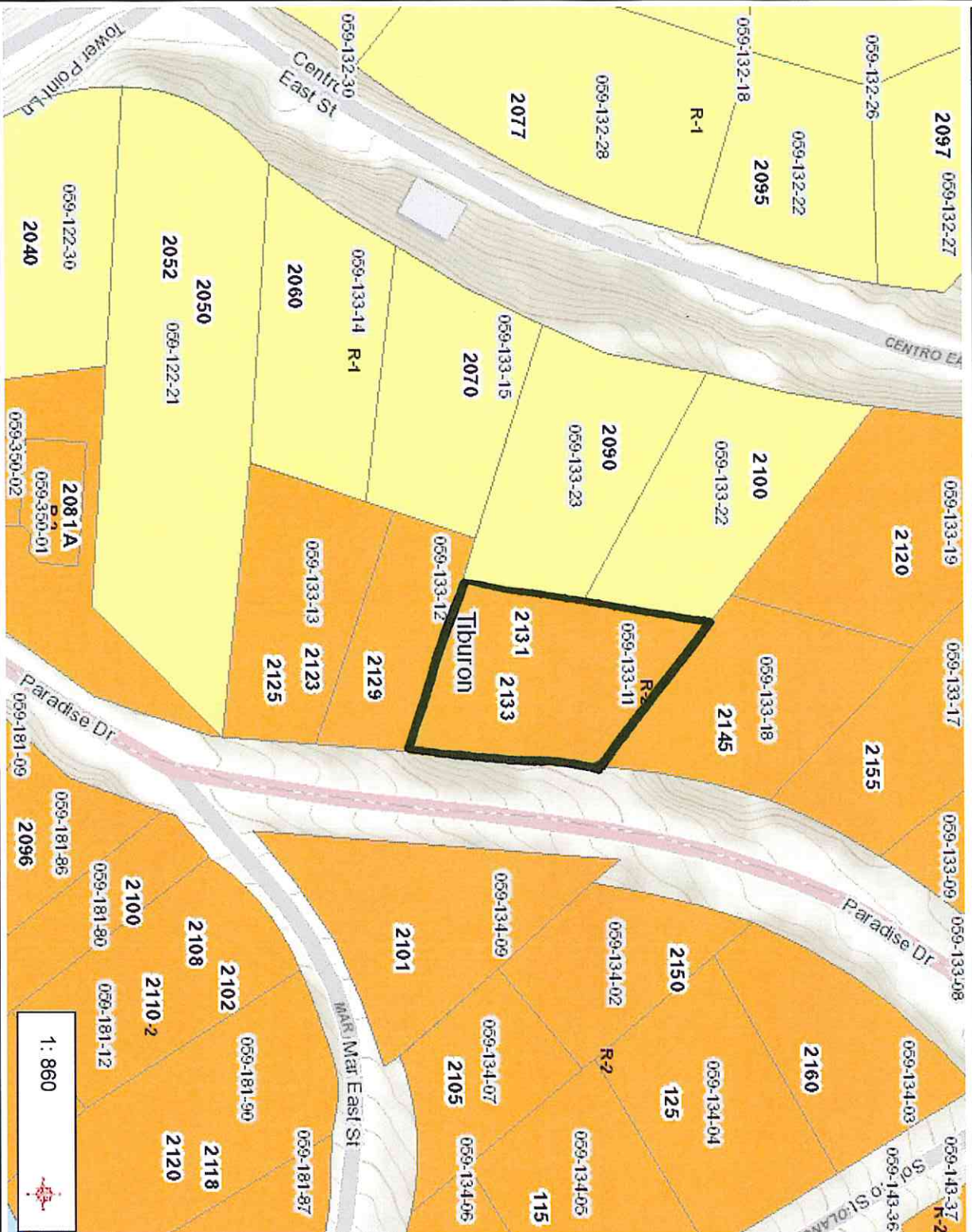


\_\_\_\_\_  
DAVID KULIK, CHAIR  
TIBURON PLANNING COMMISSION

ATTEST:

\_\_\_\_\_  
KYRA O'MALLEY, SECRETARY

## MarinMap GIS Map Report



NAD\_1983\_HARN\_StatePlane\_California\_III\_FIPS\_0403\_Feet  
© Latitude Geographics Group Ltd.

This map is a user generated static output from an Internet mapping site and is for reference only. Data layers that appear on this map may or may not be accurate, current, or otherwise reliable.  
THIS MAP IS NOT TO BE USED FOR NAVIGATION

1: 860



EXHIBIT NO. 13

### Legend

- ☐ Address
- ☐ Parcel Secured
- ☐ Condominium Common Area
- ☐ Mobile Home Pad
- ☐ City
- ☐ Community
- ☐ Marin County Legal Boundary
- ☐ Other Bay Area County
- ☐ Ocean and Bay
- ☐ Tiburon Zoning
- ☐ R-1 Single Family Residential
- ☐ R-1-B-4 Bel Aire Single Family Res
- ☐ R-1-B-2 Modified Single Family Res
- ☐ RO-1 Residential Open (40,000 Sq
- ☐ RO-2 Residential Open (20,000 Sq
- ☐ R-2 Two-Family Residential
- ☐ R-3 Multi-Family Residential
- ☐ RPD Residential Planned Developm
- ☐ RMP/PAHO Residential Multiple Plann
- ☐ RMP/PAHO Residential Multiple Plar
- ☐ Overlay
- ☐ M Marine
- ☐ O Office
- ☐ NC Neighborhood Commercial
- ☐ NCAHO Neighborhood Commercial
- ☐ VC Village Commercial
- ☐ P PublicQuasi-Public
- ☐ OS Open Space

### Notes





**TOWN OF TIBURON**  
1505 Tiburon Boulevard  
Tiburon, CA 94920

Planning Commission Meeting  
April 27, 2016  
Agenda Item: **PH-2**

## **STAFF REPORT**

**To:** Members of the Planning Commission

**From:** Community Development Department

**Subject:** 2304 Mar East Street; Files #TIDE2015003  
Appeal of Tidelands Permit to Expand and Existing Dock and Pier;  
Mark and Racia Blumenkranz, Owners/Appellants; Assessor's Parcel  
No. 059-400-10

**Reviewed By:** \_\_\_\_\_

## **PROJECT DATA**

|                           |                                         |
|---------------------------|-----------------------------------------|
| Address:                  | 2304 Mar East Street                    |
| Assessor's Parcel Number: | 059-400-10                              |
| File Number:              | TIDE2015003                             |
| Lot Size:                 | 12,277 square feet                      |
| General Plan:             | Medium High Density Residential         |
| Zoning:                   | R-2 (Two-Family Residential)/M (Marine) |
| Current Use:              | Single-family residential               |
| Owners/Appellants:        | Mark and Racia Blumenkranz              |
| Applicants:               | Peter Clark/Clausen Engineers           |
| Flood Zone:               | X/VE – Special Flood Hazard Area        |

## **SUMMARY**

The applicant has submitted an application to expand an existing dock and pier adjacent to a property developed with a single-family dwelling located at 2304 Mar East Street. The project would install a 12 foot by 6 foot kayak platform on the right (west) side of the dock and install glass guard rails on a portion of the existing dock. While the project is located in a special flood hazard zone, the work is too minimal to trigger the substantial improvement provisions of the Town Flood Ordinance.

On January 28, 2016, Planning Division staff conditionally approved the application, but required two modifications to the submitted plans:

1. The boat lift was to be redesigned so that the level of the platform at its highest point shall be at least one foot (1') below the level of the adjacent pier. Any related lift equipment was to be installed with a maximum height of two feet, six inches (2' 6") above the level of the adjacent pier.

2. The proposed guard rails were not approved.

On February 8, 2016, the applicants filed a timely appeal of this decision. The owners of the properties at 2308 & 2322 Mar East Street also filed separate appeals of this decision, but have since withdrawn their appeals. Section 16-50.020 of the Tiburon Zoning Ordinance (Authority for Land Use and Zoning Decision) requires that appeals of minor Tidelands Permits be heard by the Planning Commission, whose decision shall be final.

## REVIEW BY PLANNING DIVISION

Staff visited the site and viewed the existing dock from the adjacent homes at 2306 and 2280 Mar East Street. The property owners at 2306 Mar East Street were concerned about potential view impacts that could be caused by the height of the kayak platform and the proposed glass guard rails. The platform, as originally designed, would have lifted to a level above the existing dock, which would have placed kayaks or other craft stored on the platform in the line of sight above the dock when viewed from this neighboring residence. The glass rails had the potential to become cloudy over time and create a further visual barrier in this line of sight. Both neighboring property owners raised concerns about how the guard rails could potentially allow the currently open pier to be used as an extension of the existing exterior deck to the rear of the house and allow more outdoor activity on the pier.

Planning Division staff determined that the kayak platform, as designed, would have resulted in substantial view impacts on homes in the vicinity, but, if lowered, would not result in substantial view impacts and would provide better access for water-related uses from the existing pier. Staff also determined that the guard rails, whether utilizing glass or other materials, would have intruded into views toward the Golden Gate Bridge from the home at 2306 Mar East Street and had the potential to result in additional outdoor activities on the existing pier and increased privacy impacts on the homes at 2306 and 2280 Mar East Street.

As a result, staff conditionally approved the application, with the requirements that the kayak platform be lowered and the guard rails eliminated. The applicant subsequently filed an appeal of this decision.

## BASIS FOR THE APPEAL:

There are two grounds upon which the appeal (**Exhibit 1**) is based:

Ground #1: **The guard rails are necessary for safety purposes.**

*Staff Response:* Planning Division staff confirmed with the Tiburon Building Official that the building code does not require guard rails for safety purposes on piers. Open piers are often constructed without guard rails to provide easier access for boats, kayaks and other watercraft without having to lift or access these craft over the railings. There are many examples along the Tiburon peninsula shoreline of piers that do not have guard rails, along with others with guard rails.

The house on this site includes a deck to the rear, adjacent to the pier, which is surrounded by guard rails as required by the building code for safety purposes. In recent years, this deck has been utilized for outdoor entertaining and storage of boats and other equipment. The neighboring



residents at 2306 and 2280 Mar East Street raised concerns that guard rails would increase the potential for the pier to also be used as an outdoor entertainment space, which would increase outdoor activities in an area in the line of sight from both adjacent homes and in close proximity to the living room of the home at 2280 Mar East Street.

Staff determined that the proposed guard rails had a substantial potential to change the use of the pier from supporting boating and marine activities to an enlarged outdoor activity space. After confirming that this guard rail was not required for safety purposes by any adopted code, staff determined that the guard rails should not be approved, eliminating any potential disruptive change in the use of the pier.

**Ground #2: The view impacts of the glass guard rails can be reduced by installing cable rails instead.**

*Staff Response:* After the appeal was filed, the applicant submitted revised plans that would alter the project design. The glass guard rails would be replaced by horizontal cable steel rails, with 1.5 inch steel posts and 1/8 inch steel cables railings spaced 3 inches apart. The revised plans would also place the kayak lift in the middle of the pier, rather than attaching the platform to the side of the pier.

The proposed cable railing would not have the same potential to obscure views as the originally proposed glass guard rails, but would also not provide unfettered viewlines through the guard rails for the home at 2306 Mar East Street. In addition, the cable rails would still create the potential to change the use of the pier into an outdoor activity space.

## CONCLUSION

In reaching its decision on this project, Planning Division staff attempted to balance the applicant's stated need for safety against the potential impacts on neighboring properties that could be caused by a change in use of the pier enabled by the proposed guard rails. Staff believes that the pier can still be used for its intended purpose of providing water-oriented recreational opportunities without the requested guard rails.

## RECOMMENDATION

It is recommended that the Planning Commission:

- 1) Hold a public hearing and take testimony on the appeal in accordance with the Town's adopted procedure (see attached **Exhibit 2**), and close the public hearing.
- 2) Deliberate on the appeal and, if prepared to do so, indicate its intentions regarding the appeal.
- 3) Direct Staff to return with an appropriate resolution for consideration of adoption at the next meeting.

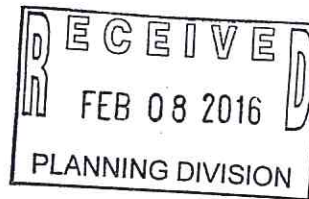
## EXHIBITS

1. Notice of appeal
2. Appeal procedures
3. Application form and supplemental materials
4. Letter from Mark and Shauna Dickinson, dated January 7, 2016
5. Letter from Mik Flynn, dated January 9, 2016
6. Letter from Peter Wilton, dated January 17, 2016
7. Letter from Mik Flynn, dated January 20, 2016
8. Letter from Magdalena Yesil and Jim Wickett, dated January 22, 2016
9. Letter from Charles and Mik Flynn, dated April 20, 2016
10. Submitted plans

Prepared By: Daniel M. Watrous, Planning Manager

\\shared\\planning\\pc\\staff reports\\2016\\April 27 meeting\\2304 Mar East Street appeal report.doc





# TOWN OF TIBURON NOTICE OF APPEAL

Town of Tiburon  
1505 Tiburon Boulevard  
Tiburon, CA 94920 Phone 415-435-7373  
[www.ci.tiburon.ca.us](http://www.ci.tiburon.ca.us)

## APPELLANT(S)

(Attach additional pages if necessary)

Name: Mark Blumenkranz

Mailing Address: 2304 Mar East

Telephone: 650-222-2207 (Work) \_\_\_\_\_ (Home) \_\_\_\_\_

FAX and/or e-mail (optional): \_\_\_\_\_

## ACTION BEING APPEALED

Review Authority Whose Decision is Being Appealed: Planning Division

Date of Action or Decision Being Appealed: January 28, 2016

Name of Applicant: Mark Blumenkranz

Type of Application or Decision: Tidelands Permit

## GROUND(S) FOR APPEAL

(Attach additional pages if necessary)

See attached letter

EXHIBIT NO. 1

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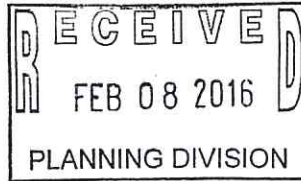
STAFF USE ONLY BELOW THIS LINE

Last Day to File Appeal: 2/8/16 Date Appeal Filed: 2/8/16

Fee Paid: \$500 Receipt No. P-6603 Date of Appeal Hearing: \_\_\_\_\_

NOTE: Current Filing Fee is \$500 initial deposit for applicant and \$300 flat fee for non-applicant  
S:\Administration\Forms\Notice of Appeal form revised 3-9-2010.doc Revised March 2010

Dan Watrous  
Town of Tiburon  
1505 Tiburon Blvd  
Tiburon, CA 94920



February 8, 2016

Dear Mr. Watrous,

We are appealing condition of approval No. 2 regarding a decision to not allow a proposed perimeter guard to be installed around a portion of our existing pier structure. As presently constructed, the existing pier does not include a perimeter guard around its outermost portion. Given the relative height of the pier deck to the surrounding waters in combination with cold water temperature and a hard packed gravel bay bottom, a fall could lead to serious bodily injury and quite potentially death. We simply cannot accept this liability and respectfully believe that any decision to disallow such a structure is shortsighted.

Our proposal to install a perimeter guard, similar to the one currently installed along the inner portion of the pier deck is a matter of safety. The security of my wife, children, grandchildren, and guests is my most paramount concern. To this end, we feel that a perimeter guard is a major priority and justified.

We understand the concerns voiced by those familiar with the project, especially in regards to potential impacts on existing view corridors. To this, we have provided an alternate design concept that aims at minimizing the amount of structure that would be visible to the naked eye from an adjacent location. Specifically, we have proposed to replace the clear glass infill panels with (2) horizontal stainless steel cables measuring 1/8" in diameter, with the vertical support members being 1-1/2" diameter stainless steel stanchions. For those familiar with sailing, this type of system is nearly identical to a "life-line" system that would surround the perimeter of a sailboat. We are hopeful that this exemplifies our motivation to work with our community in a collaborative effort as means of finding a constructive middle ground.

We shall submit drawings of the abovementioned concept at a later date prior to the appeal hearing. We will also directly present this concept to our neighbors in an attempt to garner their support.

We trust that this matter can be resolved amicably and we can enjoy our future in the Tiburon Community.

Respectfully Submitted,

Mark Blumenkranz

EXHIBIT NO. 1

P. 2 of 2



## **RESOLUTION NO. 17-2010**

### **A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF TIBURON ADOPTING AN AMENDED POLICY FOR THE PROCESSING, SCHEDULING, RECONSIDERATION, AND STORY POLE REPRESENTATION OF APPEALS, AND SUPERSEDING EXISTING POLICIES**

WHEREAS, the Town receives and hears appeals from decisions of various commissions, boards and administrative officials from time to time, and

WHEREAS, the Town Council has adopted various policies over the years with respect to appeal procedures, scheduling, and reconsideration, including Resolutions Nos. 2878 and 3218 and Town Council Policy Nos. 95-01 and 2002-01; and

WHEREAS, the Town Council has determined that it is timely and appropriate to update and consolidate these policies regarding appeals; and

WHEREAS, the Town Council has held a public meeting on this matter on March 17, 2010 and has heard and considered any public testimony and correspondence; and

NOW, THEREFORE, BE IT RESOLVED that Town Council Resolution No. 2878, Town Council Resolution No. 3218, Town Council Policy 95-01, and Town Council Policy 2002-01 are hereby superseded by this Resolution.

NOW, THEREFORE, BE IT FURTHER RESOLVED that the Town Council of the Town of Tiburon does hereby adopt the following general policy with respect to processing, scheduling, and reconsideration of appeals and for story pole installation for appeals.

#### ***APPEAL PROCEDURE***

1. The Municipal Code sets forth instances when persons may appeal a decision by a review authority (e.g. Town official, Design Review Board or Planning Commission) to the Town Council. Any person making such an appeal must file a completed Town of Tiburon Notice of Appeal form, available on the Town's web site and at Town Hall, with the Town Clerk not more than ten (10) calendar days following the date of the decision being appealed. Shorter time frames for filing an appeal apply to certain types of permits. If the final day to appeal occurs on a day when Town Hall is closed for public business, the final day to appeal shall be extended to the next day at which Town Hall is open for public business. Appeals may not be revised or amended in writing after the appeal period filing date has passed.

2. The appellant must submit filing fees with the Notice of Appeal form. Filing fees are set forth in the Town's current adopted Fee Schedule.
  - (a) If the applicant is the appellant, the remainder of the filing fee (if any) will be refunded following completion of the appeal process. Additional staff time or costs to process an applicant's appeal is the financial responsibility of the applicant and will be billed per the Town's current hourly rate schedule and/or at actual cost if outside consulting is required.
  - (b) If the appellant is not the applicant, then a fixed amount filing fee is required with no refund or additional billing required.
3. In the appeal form, the appellant shall state specifically either of the following:
  - (a) The reasons why the decision is inconsistent with the Tiburon Municipal Code or other applicable regulations; or
  - (b) The appellant's other basis for claiming that the decision was an error or abuse of discretion, including, without limitation, the claim that the decision is not supported by evidence in the record or is otherwise improper.

If the appellant is not the applicant, the Town Council need only consider on appeal issues that that the appellant or other interested party raised prior to the time that the review authority whose decision is being appealed made its decision.

4. The appellant must state all grounds on which the appeal is based in the Notice of Appeal form filed with the Town Clerk. Neither Town staff nor the Town Council need address grounds introduced at a later time that were not raised in the Notice of Appeal form.
5. The procedure for presentation of the appeal at the Town Council meeting is as described below. In cases where the applicant is the appellant, paragraphs (c) and (f) below would not apply.
  - (a) Town Staff may make a brief (approximately 10 minute) presentation of the matter and then respond to Town Council questions.
  - (b) Appellant and/or appellant's representative(s) may make a presentation of no more than twenty (20) minutes and then respond to Town Council questions. Appellant may divide up the twenty (20) minutes between various speakers or have only one speaker, provided that the time limit is observed. Time devoted to responding to Town Council questions shall not be included as part of the twenty (20) minute time limit.
  - (c) Applicant and/or applicant's representative(s) may make a presentation of no more than twenty (20) minutes and then respond to Town Council questions. Applicant may divide up the twenty (20) minutes between various speakers or have only one speaker, provided that the time limit is observed. Time devoted to responding to



Town Council questions shall not be included as part of the twenty (20) minute time limit.

- (d) Any interested member of the public may speak on the item for no more than three (3) minutes. A speaker representing multiple persons (e.g., homeowner's association, advocacy group or official organization, etc.) may speak on the item for no more than five (5) minutes, at the discretion of the Mayor.
  - (e) Appellant is entitled to an up to three (3) minute rebuttal, if desired, of any comments previously made at the hearing.
  - (f) Applicant is entitled to an up to three (3) minute rebuttal, if desired, of any comments previously made at the hearing.
7. The testimony portion of the appeal hearing is closed and the Town Council will begin deliberations on the appeal. There will be no more applicant, appellant, or public testimony accepted unless requested by the Town Council.
8. If, following deliberation, the Town Council is prepared to make a decision on the appeal, it will direct Town staff to return with a draft resolution setting forth the decision, and the findings upon which it is based, for consideration at a future Town Council meeting. The decision of the Town Council is not final until the resolution is adopted. Alternatively, if the Town Council is not prepared to make a decision on the appeal, it may:
- (a) Continue the appeal to a future date;
  - (b) Remand the item to the review authority from which it was appealed for further hearing, review and action, with a specific description of the outstanding and unresolved issues and appropriate direction thereon; or
  - (c) Refer the item to another review authority for its review and recommendations prior to further Town Council consideration.
9. Following a final decision by the Town Council, Town staff will promptly mail a Notice of Decision to the applicant and appellant.

### ***RECONSIDERATION***

If, after the Town Council has voted to direct staff to prepare a resolution of decision, significant new information comes to light, which information was previously unknown or could not have been presented at the appeal hearing due to circumstances beyond the parties' control and not due to a lack of diligence, the Town Council may entertain a motion to reconsider its direction to prepare a resolution of decision. Any such motion to reconsider must be made prior to adoption of the resolution of decision, and the motion must be made by a Councilmember who voted on the prevailing side in the vote sought to be reconsidered. Any Councilmember may second the motion. The Town Council may consider and vote on the motion to reconsider at that time, and if the motion carries, the matter shall be placed on a future agenda for further notice and hearing.

## ***SCHEDULING OF APPEALS***

1. The Town's policy is to schedule and hear appeals in an expeditious manner. Appeals will generally be heard at the first regular Town Council meeting that is at least fifteen (15) days after close of the appeal period. At the sole discretion of the Town Manager, the Town may schedule the appeal for a subsequent Town Council meeting based on the complexity of the matter, availability of key Town staff members and Councilmembers, agenda availability, or unusual circumstances. Town staff will make reasonable efforts to establish the hearing date for the appeal within three (3) working days of the close of the appeal period. The Town Clerk, in coordination with appropriate Town staff, will promptly advise all parties to the appeal of the selected hearing date.
2. The Town Manager will grant requests for continuances from the date established above in the event that all parties to the appeal agree in writing to a date specific for the continuance and that date is deemed acceptable by the Town Manager.
3. Attendance of parties to an appeal at the hearing is desired, but not required. The Town Council will consider written comments or representation by others in lieu of personal appearance.

## ***STORY POLES***

For appeals where story poles were erected for review of the original decision being appealed, a story pole representation shall be required for the Town Council's appeal review process, as follows:

1. A story pole plan showing the poles to be connected, including location and elevations of poles and connections, shall be submitted, reviewed, and accepted as adequate by Planning Division Staff prior to installation of the poles and connections.
2. Critical story poles, as determined by Staff, must be connected by means of ribbons, caution tape, rope or other similar and highly visible materials clearly discernable from a distance of at least three-hundred (300) feet in clear weather, to illustrate the dimensions and configurations of the proposed construction.
3. Story poles and connecting materials must be installed at least ten (10) days prior to the date of the appeal hearing before the Town Council.
4. Failure to install the poles and materials in a timely manner may result in continuance of the public hearing date.



5. Story poles must be removed no later than fourteen (14) days after the date of final decision by the Town Council.

***APPLICABILITY***

This policy, while primarily written for use by the Town Council, is intended to apply to the extent practicable to Town decision-making bodies, other than the Town Council, which may hear appeals from time to time. Be advised that certain types of appeals, such as appeals of staff-level design review application decisions to the Design Review Board, may have different deadlines for filing of the appeal than the ten (10) calendar days specified above.

PASSED AND ADOPTED at a regular meeting of the Town Council of the Town of Tiburon on March 17, 2010, by the following vote:

AYES: COUNCILMEMBERS: Collins, Fraser, Fredericks & O'Donnell

NOES: COUNCILMEMBERS: None

ABSENT: COUNCILMEMBERS: Slavitz

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RICHARD COLLINS, MAYOR  
TOWN OF TIBURON

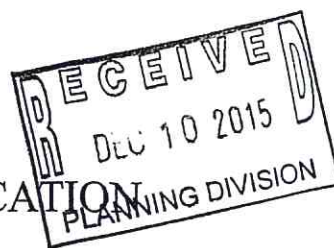
ATTEST:

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DIANE CRANE IACOPI, TOWN CLERK



**TOWN OF TIBURON  
LAND DEVELOPMENT APPLICATION**



**TYPE OF APPLICATION**

- |                                                |                                                      |                                                   |
|------------------------------------------------|------------------------------------------------------|---------------------------------------------------|
| <input type="radio"/> Conditional Use Permit   | <input type="radio"/> Design Review (DRB)            | <input type="radio"/> Tentative Subdivision Map   |
| <input type="radio"/> Precise Development Plan | <input type="radio"/> Design Review (Staff Level)    | <input type="radio"/> Final Subdivision Map       |
| <input type="radio"/> Secondary Dwelling Unit  | <input type="radio"/> Variance(s) _____ #            | <input type="radio"/> Parcel Map                  |
| <input type="radio"/> Zoning Text Amendment    | <input type="radio"/> Floor Area Exception           | <input type="radio"/> Lot Line Adjustment         |
| <input type="radio"/> Rezoning or Prezoning    | <input checked="" type="checkbox"/> Tidelands Permit | <input type="radio"/> Condominium Use Permit      |
| <input type="radio"/> General Plan Amendment   | <input type="radio"/> Sign Permit                    | <input type="radio"/> Seasonal Rental Unit Permit |
| <input type="radio"/> Temporary Use Permit     | <input type="radio"/> Tree Permit                    | <input type="radio"/> Other _____                 |

**APPLICANT REQUIRED INFORMATION**

**SITE ADDRESS:** 2304 Mar East **PROPERTY SIZE:** 0.13 AC  
**PARCEL NUMBER:** 059-400-10 **ZONING:** R-2

**PROPERTY OWNER:** Mark and Recia Blumenkrantz  
**MAILING ADDRESS:** 2304 Mar East St

**PHONE/FAX NUMBER:** 650-222-2207 **E-MAIL:** mark.s.blumenkrantz@gmail.com

**APPLICANT (Other than Property Owner):** \_\_\_\_\_  
**MAILING ADDRESS:** \_\_\_\_\_

**PHONE/FAX NUMBER:** \_\_\_\_\_ **E-MAIL:** \_\_\_\_\_

**ARCHITECT/DESIGNER/ENGINEER** Peter Clark w/ Clausen Engineers  
**MAILING ADDRESS:** 1727 64th St, Emeryville, CA 94608

**PHONE/FAX NUMBER:** 510-444-4144 **E-MAIL:** pc@clausenengineers.com

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

**BRIEF DESCRIPTION OF PROPOSED PROJECT (attach separate sheet if needed):**  
See Attached

**EXHIBIT NO.** 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: \* McGinnis Date: 12-8-15

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: \* McGinnis Date: 12-8-15

*\*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*

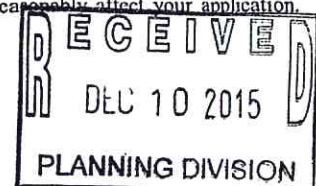
#### NOTICE TO APPLICANTS

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](http://www.townoftiburon.org)



#### DO NOT WRITE BELOW THIS LINE

| DEPARTMENTAL PROCESSING INFORMATION       |                                 |                                        |
|-------------------------------------------|---------------------------------|----------------------------------------|
| Application No.: <u>TIDE 2015-003</u>     | GP Designation:                 | Fee Deposit: <u>\$450<sup>00</sup></u> |
| Date Received: <u>12/10/15</u>            | Received By: <u>KO</u>          | Receipt #: <u>R426</u>                 |
| Date Deemed Complete: <u>1/4/16</u>       | Action: <u>APPROVED</u>         | By: <u>JC</u>                          |
| Acting Body: <u>STAFF</u>                 |                                 | Date: <u>1/28/16</u>                   |
| Conditions of Approval or Comments: _____ | Resolution or Ordinance # _____ |                                        |

EXHIBIT NO. 3



## ***Progress Report: TIB01***

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**To:** Town of Tiburon Planning

**cc:** Mark Blumenkrnz

**From:** Peter Clark

**Date:** December 7, 2015

**Project:** 2304 Mar East  
Tidelands Permit

**Job No:** 26058

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### **RE: Tideland Permit**

On behalf of the Applicants, Mark and Recia Blumenkranz, Clausen Engineers is pleased to present the attached Land Development and Tidelands permit application for proposed improvements to an existing waterfront pier.

As presently found, the Applicant's residence includes a wood pier which extends south towards Raccoon Straits. The pier is supported by a network of 12" steel piles that are driven into the bay bottom below the pier. Clausen Engineers conducted a visual inspection of the pier in January of 2015 as part of the Applicants' due diligence process and found it to be in good physical condition.

A mechanical boat lift is installed at the pier's east perimeter providing access to a small run-about style boat measuring approximately 18' in length. The lifting capacity of this lift is approximately 2,000 #.

A glass paneled guard rail extends along the perimeter to a point approximately one half the way toward the pier's terminus, thus leaving the outer portion of the pier unprotected from a potential fall hazard.

As proposed, the Applicants seek to continue the line of guardrails around the entire pier perimeter as means of improving the pier deck from a safety perspective. The proposed guard will match the existing which is constructed of glass panels supported by aluminum posts spaced at approximate 4' intervals. We believe that this type of guard will not negatively effect the view corridors of adjacent residences.

The Applicants also seek permission to install a pile supported platform lift for the purposes of launching and retrieving kayaks from the pier deck. As constructed, the pier deck is located approximately 14'-20' above the adjacent bay tidelands, thus making it difficult to safely launch small personal watercraft such as a kayak from this height. Further, the shoreline beneath the residence is strewn with large boulders and rock outcroppings which further complicate matters when attempting to launch a kayak when even the slightest surge is present. The proposed lifting mechanism would include a single aluminum H-pile driven into the bay bottom below and fixed to the pier deck above. This pile would provide support for a proposed 6'x10' aluminum framed platform which would be raised and lowered to launch and retrieve a kayak. The system would





## *Progress Report: TIB01*

operate via a 3/4 horsepower electric motor. This type of motor is relatively silent and thus would not negatively impact adjacent property owners. Lastly, the platform deck will be constructed of slotted composite panels which allows for the passage of light to the area directly below the deck. This is viewed as sustainable waterfront development in terms of protecting essential fish habitat per resources agency direction.

### Representative Photos

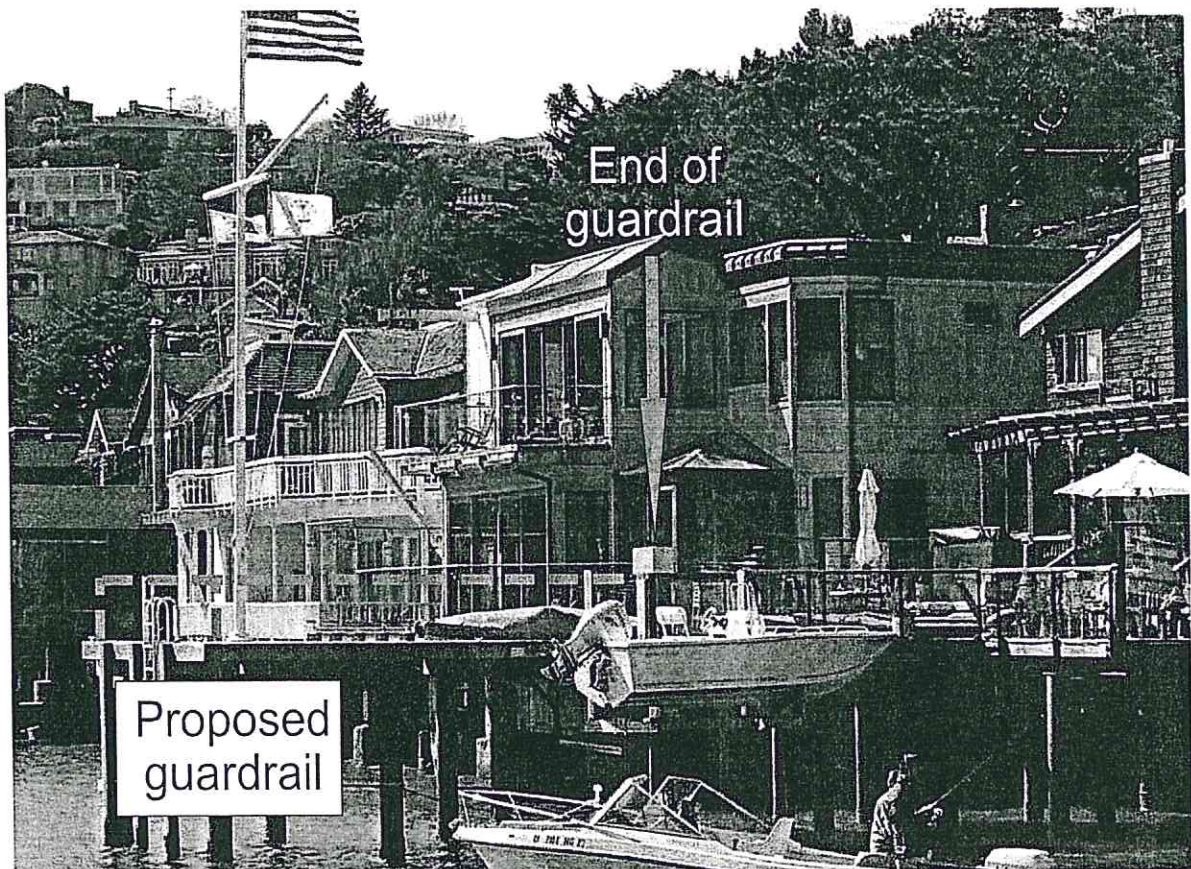
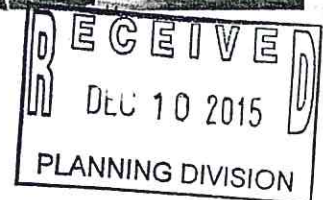


Figure 1: Existing Pier, viewed from the east







*Progress Report: TIB01*

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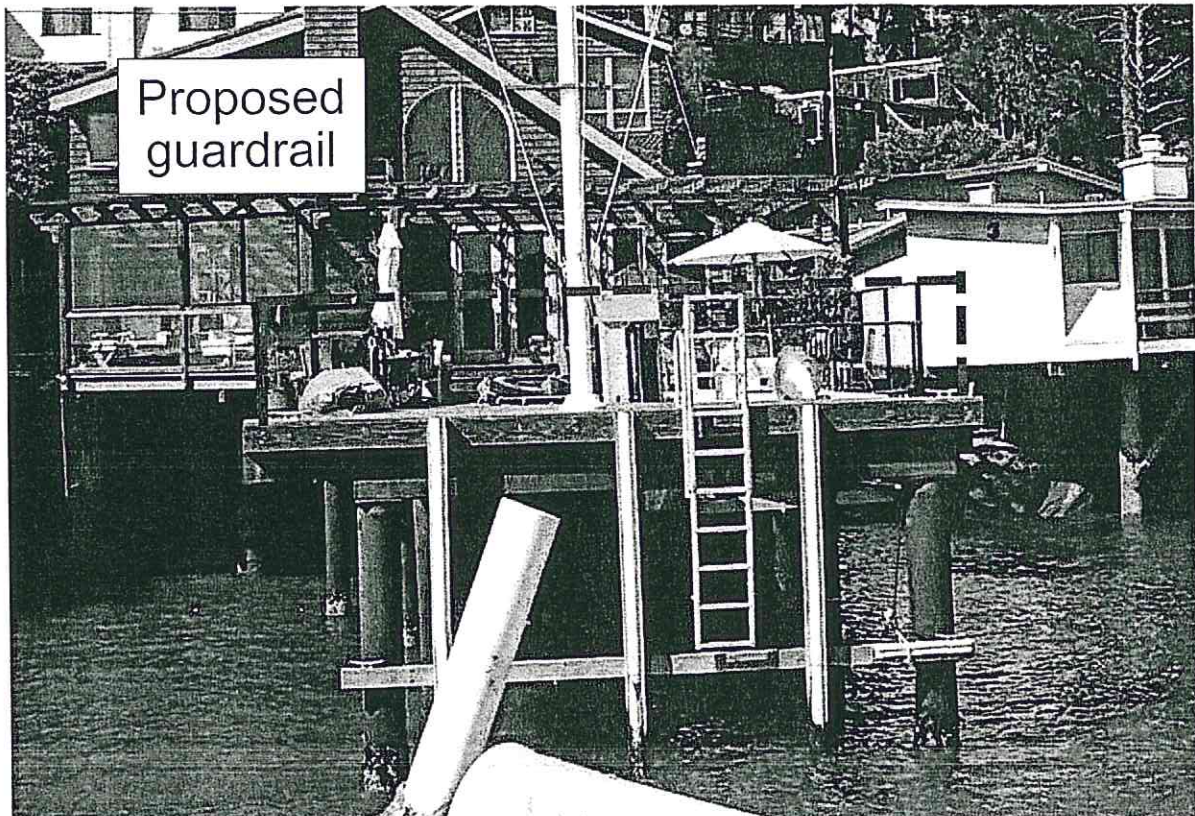
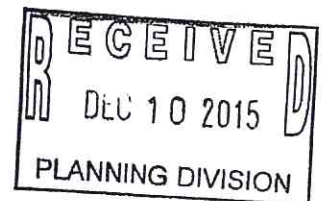


Figure 2: Existing pier, viewed from the south







*Progress Report: TIB01*

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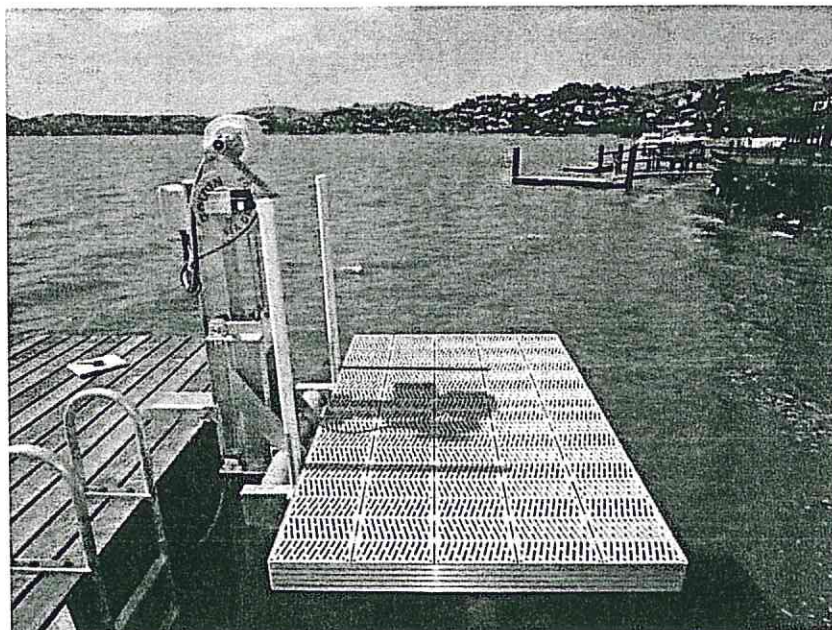


Figure 3: Platform lift installed along West Shore Rd, Belvedere

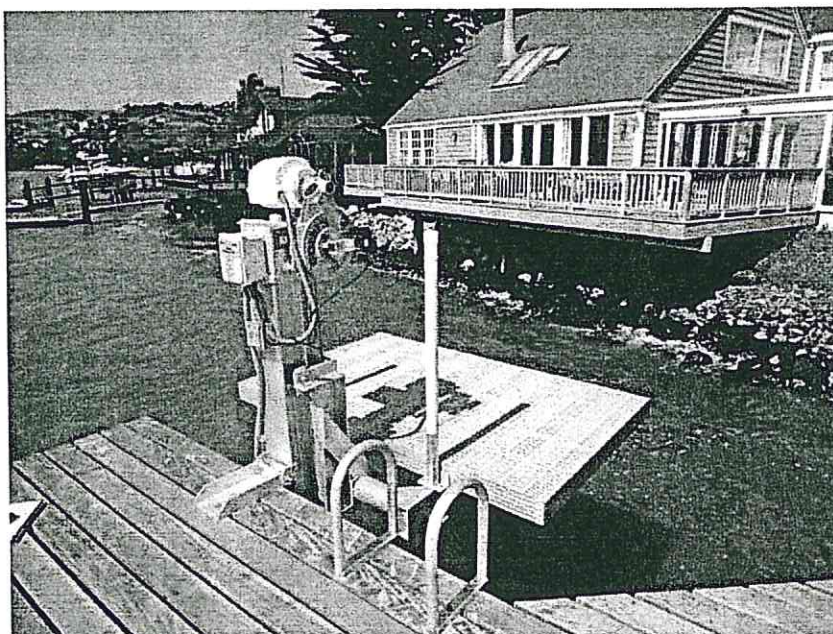
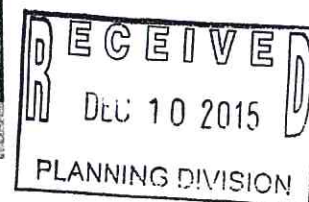


Figure 4: Platform lift installed along West Shore Rd, Belvedere



## Dan Watrous

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**From:** weflyswa [weflyswa@comcast.net]  
**Sent:** Thursday, January 07, 2016 7:27 PM  
**To:** Dan Watrous  
**Cc:** Elizabeth Brekhus  
**Subject:** Planning Decision TIDE2015003

Hi Dan,

Email #2 today.

We received notice today that the owners of 2304 Mar East have filed notice to extend the area of their dock and pier, by including a 60 sqft. kayak platform. We're fairly certain this is in response to the favorable outcome that the Kulik's received. This is exactly what we were worried about when we spoke to you about "precedence". This threatens the privacy of all residences on Mar East and changes the use of the pier in a substantial way.

Thusly, we are apposed to any area increase in the overall sq. footage of the pier in regards to application, file # TIDE2015003.

Respectfully,

Mark & Shauna Dickinson  
2322 MAR EAST ST.

EXHIBIT NO. 4



## Dan Watrous

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**From:** Mik P. Flynn [mik.flynn1@comcast.net]  
**Sent:** Saturday, January 09, 2016 4:57 PM  
**To:** Dan Watrous  
**Cc:** 'Magdalena Yesil'  
**Subject:** Request for Tuesday January 12, 2016 Meeting on Application for Proposed Changes to 2304

Dan

We received notice in the mail regarding the application by the owners of 2304 Mar East for exterior alterations to the subject property.

As neighbors to this property, you can imagine that any changes to this property will affect our homestead and view. Therefore, we want to make every effort to understand any proposed changes, determine any ramifications these changes may have, and make certain that no other properties are diminished by these proposed changes.

Since no hearing is scheduled prior to a decision being reached on this application, we are requesting a meeting with you to review and discuss this issue.

Would Tuesday January 12, 2016 work for you? If your schedule permits, Magdalena Yesil ( neighbor at 2306 Mar East to the east side of subject property) and I are available any time that day.

To give you some background on this issue, Magdalena and I met with the project architect, Eugene Dvorak, to review the proposed changes. During our, 1 ½ hour, on-site meeting on January 2, 2016, the architect never mentioned any changes to the dock. In fact, he intimated that the only changes planned were to enhance the symmetry of the house from the water. As long time residents of Mar East, his emphasis on only aesthetics caused us concern. We are both keenly aware, that the negative effect of a neighbor's property changes far outweighs any cosmetic symmetry achieved.

As our meeting progressed, we found the proposed plan deficient and misleading in several areas to include:

- Plans were not drawn to standard architectural scale
- Plans did not include proposed outdoor lighting changes
- No exterior changes to dock were included
- Plans did not clearly show proposed skylight

At this meeting, we were surprised at the architect's naiveté and lack of understanding of the unique and delicate balance between the properties on Mar East. Mr. Dvorak explained that his sole purpose for meeting with the neighbors of the 2304 property was to get all of us to initial and approve the proposed changes. We found this approach highly disappointing. As adjoining neighbors to this property, we will endure traffic delays, noise distractions and additional dirt and debris during any construction. Furthermore, a far greater concern is the lasting impact any change to the exterior of the property would cause to all adjacent properties. Mr. Dvorak did not seem concerned by the inconvenience caused by any construction on the property and was unable to give us a clear timetable for completion of this project.

Moreover, in this meeting, he explained that the neighbors above the property had already initialed and approved the changes. I was shocked by the fact that my neighbors had approved the addition of a skylight. When we remodeled our home, one major point of contention with these neighbors, was a plan that included a skylight. We were only able to make this modification after clearly showing the neighbors that the skylight would not impact their view or property in any way. It is imperative that the neighbors understand all the modifications to the 2304 property so they can make an informed decision before giving their approval.

I believe it is clear to see why we have concerns about the proposed changes to 2306 Mar East, the plans reflecting these changes, and the clarity of the explanations given on review of these plans.

It should, also, be noted that the owners of 2304, who requested the meeting, were not present at this meeting with the architect. Despite busy schedules, both Magdalena and I felt attendance at this meeting was important to show support for and respect of the other property owners interests and proposed plans.

In Tiburon, and specifically on Mar East, all residents take pride in the unique character of our area. Every resident makes a daily effort, whether it is by timely moving their recyclables can or showing extra care through our winding street, to balance their personal interests with that of the neighborhood as a whole. We must continue to make this the standard for all properties and residents to protect the unique hamlet we call home.

Please let us know about a Tuesday meeting. We, appreciate, in advance, your prompt attention to this important matter.

Kindest regards,  
Mik P. Flynn  
(415) 515-6446

EXHIBIT NO. 5



## Dan Watrous

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**From:** Peter Wilton [wilton@haas.berkeley.edu]  
**Sent:** Sunday, January 17, 2016 11:16 PM  
**To:** Dan Watrous  
**Cc:** weflyswa; Elizabeth Brekhus  
**Subject:** 2304 Mar East

Ref: File No.: TIDE2015003

Dear Dan:

Thank you for the notice of the above-referenced tide lands permit application. As indicated in a similar application filed by our neighbors at 2310 lat last year, we are very concerned about a proliferation of such applications in the immediate vicinity of our property.

We wish to object to the application on the following grounds:

1. **Failure to consult:** the applicants have not at any time consulted with us concerning this application to evaluate the impacts on our property, which are significant.
2. **Change of use:** the proposed kayak platform is a significant change in use of the existing dock, for which the dock was never intended.
3. **Expansion of dock area:** the proposed changes to the dock will increase the area of the dock by not less than 72 square feet. This expansion is entirely discretionary and is not necessary for the enjoyment of the dock. The existing dock at 2304 is substantial, and does not need to be increased further. We have objected to a similar increase at 2310, and after discussions with the neighbor, have reached an agreement that the dock size should remain the same as the pre-existing dock. We believe the same principle should apply to this application.
4. **Expansion of dock mass:** the application proposes a new boat lift. This will have the effect of increasing the effective mass of the dock, potentially considerably depending upon the type of boat to be stored on the lift, when such an increase is again entirely discretionary and not necessary for the enjoyment of the dock. The existing facilities already allow for adequate boat storage. Any increase in the mass of the dock will adversely affect our view towards the city of San Francisco, and the Golden Gate Bridge.
5. **Increased congregation and frequency of use of the dock:** the proposed changes will lead to new activities which do not currently exist, leading to increased activity on the dock, either in the form or more people using the dock, or more frequent use of the dock. This increased activity will inevitably adversely impact our right to peaceful enjoyment.
6. **Noise intrusion:** The proposed changes will add two new lifts to the dock, one for the kayak platform, one for the boat lift. These new lifts will create additional noise where none currently exists. Since our master and second bedrooms directly face the water, this noise will directly adversely impact our right to peaceful enjoyment. We have previously complained to the Town about the noise emanating from these lifts at all hours disturbing our peace. We do not wish to see this noise situation exacerbated.
7. **Proliferation of development:** this is the second such application impacting our property within the past 3 months. If the application is approved, our home will be directly surrounded by not less than 3 major dock developments, each involving a large kayak platform and a boat lift. These developments are at 2310, 2306, and 2304 Mar East. Our home is in the middle of these developments at 2308. As you are well aware, the combined impact of all these developments will far outweigh the impact of three such projects if they were developed independently and were geographically separated. The proposed application represents over-development of the area immediately surrounding our property. We will now have to deal with three immediately adjacent neighbors all using their boat lifts and kayak platforms at different times, durations and frequencies. We will have no peaceful enjoyment whatsoever.

8. **Inconsistent and unfair treatment of neighboring properties:** as you are also aware, during our own development application, the possibility of adding a dock to our property was raised with DRB and the Town. We were explicitly instructed NOT to expand beyond our existing envelope. Hence, it would be entirely inconsistent and unfair to grant permission to owners of preexisting docks the right to expand their facilities, whilst at the same time denying the right to other owners access to the same privilege, access to the outdoors, and enjoyment. This would end up creating two classes of property owners: one with pre-existing docks deemed the right to expand them, the other without a dock with no right to add one. I am sure you would agree this would be an entirely unfair outcome. Planning has previously advised us that it does not pay attention to precedent. However, this is not an excuse for behaving inconsistently. We feel Planning is obligated to act consistently, uniformly, and fairly to all residents in the same area.

Thank you in anticipation of your consideration. Naturally, as we have with the applicants at 2310, we would be happy to talk with the current applicants to see if there is a satisfactory compromise solution. However, as it stands, we respectfully request that this application be denied.

If you could confirm receipt of this objection by return e-mail, we would be very grateful.

Sincerely,

Dr. Peter C. Wilton  
2308 Mar East, Tiburon  
415-425-5151

EXHIBIT NO. 6



## Dan Watrous

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**From:** Mik P. Flynn [mik.flynn1@comcast.net]  
**Sent:** Wednesday, January 20, 2016 8:12 PM  
**To:** Dan Watrous  
**Cc:** 'Magdalena Yesil'  
**Subject:** Application for Proposed Changes to 2304 Mar East

Dan,  
Thank you for your time in meeting with us regarding the proposed changes to 2304 Mar East.  
In our meeting on January 12, 2016 we pointed out several reasons why the proposed changes should not be approved.

The proposed change that includes the addition of a glass railing should not be allowed as it changes the existing pier into an enclosed deck.

This was approved as a pier and is for boat use only.

Adding glass railing would make this a deck, and thus, additional living space.

As we all know, a deck brings, chairs, chaise lounges, and all the accoutrements a living space allows.

Hence, the addition of this unapproved living space becomes an exponential intrusion to all the adjoining properties and should not be approved.

Additionally, in an effort to preserve the aesthetics of the pier and make certain that no adjoining properties are diminished we propose

the following stipulation be included in the proposed changes to the pier at 2304 :

- Any additional boat/kayak hoist or the mechanics therefore not exceed the level of the existing pier

There are no reasons, from a mechanical, electrical, or engineering standpoint that any additional hoist exceed these existing requirements.

Please keep in mind, as you are aware, there is already a pier at 2304 Mar East.

This existing pier meets all the needs expressed by the current owners.

Any additions are concessions the Town of Tiburon will make to the current owners at the price of the adjoining residents and the Tiburon Community at large.

As you know, Tiburon has been our home for many years.

We want to make sure we preserve the unique place, those of us who live here, call home.

Again, thank you for your time and attention to this important matter.

Kindest regards,  
Mik P. Flynn  
(415) 515-6446

EXHIBIT NO. 7

## Dan Watrous

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**From:** Magdalena Yesil [magdalena.yesil@gmail.com]  
**Sent:** Friday, January 22, 2016 1:47 PM  
**To:** Dan Watrous; Jim Wickett; Mik  
**Subject:** Our comments to the Pier Project at 2304 Mar East

Good morning, Dan.

Thank you for taking the time to visit our home to view the impact of the proposed glass enclosure of the Pier and the installment of a kayak lift at 2304 Mar East.

### Enclosing the Pier:

2304's pier projects out to the water and is directly between us and our primary view of the Golden Gate Bridge. The proposed glass enclosure or any other enclosure of the pier would have a very significant negative impact to our current view of the Golden Gate Bridge, both from our primary sitting area in our living room as well as our main GG bridge picture window in our kitchen. This would devalue our home significantly, since this Golden Gate view is the primary selling point of our house. Since we are a single story home, there is no alternative spot to get a view the Golden Gate Bridge in our house.

Furthermore, an enclosure would convert the pier from its current status and function designed to serve as an embarkation area for boats/kayaks into a deck that can be used as outdoor living space. Piers are allowed to protrude into the water and are in view of other homes because they are not outdoor living spaces, and due to safety reasons, they are not conducive to people congregating on them, and nor do not allow for furniture or storage because they are in the wind. They are mainly designed for water access and people are on piers only when they load and unload from boats and kayaks.

Allowing any enclosure of the pier at 2304 would not be in keeping with its current intended use and functionality nor in keeping with how other piers are used. It would convert it to a new use as a outdoor living space. 2304 currently has a deck in addition to the pier in discussion. That deck serves as their outdoor living space. Turning the pier into additional outdoor living space by allowing any enclosure would enable furniture to be placed and stored on it, as well as for more easily allowing for people to congregate on it. This will greatly increase the negative impact on our primary view of the Golden Gate Bridge above and beyond the enclosure itself.

### Kayak Lift:

The kayak lift mechanism as well as the kayak platform as drawn in the plans both protrude above the current pier. There is no reason why the motor mechanism shown in the picture cannot be mounted below the current pier. That way, neither the motor nor the lift that sits below the motor will in our or other Easterly neighbors' view. This approach to the mounting location of the motor also ensures that the platform that is shown as designed of water draining material will sit below the current pier height along with any kayaks on the platform (that are secured to the platform by tie-downs) will be either below or right at pier height. This will eliminate the negative view impact of additional view clutter for us and the other Easterly neighbors.

The current proposed design will negatively impact our water views to the west by both the mechanism sticking out in front of us as a second vertical element to the already existing boat hoist mechanism, and also any items on the kayak platform creating additional vertical colorful clutter elements in our view of Tiburon, since kayaks are usually very brightly colored plastic.

2304 already has a kayak hoist and associated pipes at the end of the pier that have been used by the previous owner. If the Town Of Tiburon approves a revised new kayak platform design as substitute, it would make sense for the vertical pipes to be removed permanently, since they will be replaced by a new platform.

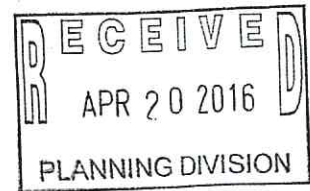
Thank you for your time and attention,

Magdalena Yesil, Jim Wickett

EXHIBIT NO. 8



Charles and Mik Flynn  
2280 Mar East  
Tiburon, CA. 94920  
(415)515-6446



April 20, 2016

Re: Proposed Changes 2304 Mar East  
Public Hearing Date 4/27/2016

To The Tiburon Planning Commission,

This letter is in reference to the proposed changes to the above referenced property. As adjoining neighbors and longtime residents, at 2280 Mar East, we are concerned about the impact these proposed changes will have on our property and those of the surrounding neighbors.

We have specific concerns with the following:

- The proposed dock wire fencing allows for unrestricted use of this area for storage. There will be no way, if this change is approved, to police or limit the amount or items that could be placed and stored in this area. (ie. deck furniture, vertical heat and light fixtures, boats, etc.)

The Planning Commission or adjoining neighbors would have no way, if this change is approved, to control or limit items placed in this area. Increased deck clutter would only, further, obstruct the views from neighboring properties. Given the nature of what has been stored and placed on the deck for the past two years, we have legitimate cause to believe that this practice will continue. If approved, the proposed wire fencing would give rise to additional clutter on the deck, unchecked additional storage and further view obstructions for neighbors.

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P. 1 of 2

Tiburon Planning Commission  
Proposed changes to 2304 Mar East/Page 2  
April, 20, 2016

- These proposed changes allow a pier to become a deck and, in reality, additional living space. The increased foot traffic and unlimited activity these changes allow would greatly impact the right of neighbors to the peaceful enjoyment of their property. When any changes to existing properties are considered the rights of all Mar East residents should be protected and preserved.
- The proposed changes to the existing pier only allow for boat storage on top of the deck. This is a dramatic change from the existing pier which allows only for boat storage below the pier.
- The plans do not specify where the existing flag pole will be relocated. No proposed changes should be approved without specifics as to the location of and any other changes to the flag pole.

As we all know, due to the close proximity of the properties on Mar East, even a slight modification to a neighboring property can have a dramatic impact on the adjoining neighbors.

We are pleased and appreciative that the owners have revised and modified their original proposal for changes to 2304 Mar East. For the reasons listed above we are concerned about, and object to, these proposed changes.

We strongly feel that the Commission should not approve any plans without modifications that address these concerns.

We appreciate your time and attention to our concerns regarding this matter. Please contact us if you have any questions or need any additional information.

Sincerely,

  
Charles and Mik Flynn  
Residents of 2280 Mar East

EXHIBIT NO. 9  
P. 2 OF 2