



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

Regular Meeting
Tiburon Planning Commission

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. 1 BLACKFIELD DRIVE

Conditional Use Permit to Amend a Condition of Approval to Allow Alcoholic Beverage Tasting in a Building Occupied by a Grocery Store (Nugget Market); File # CUP2016002; Cove Shopping Center, Owner; Nugget Market, Applicant; Assessor's Parcel No. 034-212 - 18 [KO]

Documents: [1 BLACKFIELD DRIVE _ NUGGET MARKET STAFF REPORT.PDF](#)

2. 4992 RANCH ROAD

Tidelands Permit and Conditional Use Permit to construct docks and a pier; Files # TIDE2015001 & CUP2015003; Alisa and Brian Golson, Owners; Assessor's Parcel No. 038 -032 -19 [DW]

Documents: [4992 RANCH ROAD STAFF REPORT.PDF](#)

MINUTES

3. Planning Commission Minutes - Meeting of February 24, 2016

Documents: [022416 DRAFT MINUTES.PDF](#)

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) 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.

NOTE: ALL PLANNING COMMISSION MEETINGS ARE AUDIO RECORDED

TOWN OF TIBURON LATE MAIL POLICY

(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.



STAFF REPORT

To: Members of the Planning Commission

From: Community Development Department

Subject: 1 Blackfield Drive, Suite K; File No. CUP2016002;
Conditional Use Permit to Amend a Condition of Approval to Allow
Alcoholic Beverage Tasting in a Building Occupied by a Grocery Store;
Cove Shopping Center, Owner; Nugget Market, Applicants; Assessor's
Parcel Number: 034-212-18

PROJECT DATA

Address: 1 Blackfield Drive, Suite K
Assessor's Parcel Number: 034-212-18
File Number: CUP2016002
General Plan: NC (Neighborhood Commercial)
Zoning: NC (Neighborhood Commercial)
Current Use: Grocery Store
Owner: Cove Shopping Center, Inc.
Applicant: Nugget Market
Flood Zone: X
Date Complete: February 29, 2016

PROJECT DESCRIPTION

On February 13, 2013, the Planning Commission adopted Resolution No. 2013-02 (**Exhibit 3**) approving a conditional use permit to operate and expand a grocery store use (Nugget Market) on property located at 1 Blackfield Drive, Suite K (Cove Shopping Center). The applicant proposes to amend the conditional use permit to allow alcoholic beverage tasting for this grocery store.

The Cove Shopping Center is a multi-tenant commercial center that includes a bank, restaurants, coffee shops, hair salon and spa, dry cleaners, postal services shop, specialty stores, and a grocery store. The existing grocery store currently provides a deli, bakery, take-out and on-site food sales, which includes alcohol sales for off-site consumption. The applicant proposes to add alcoholic beverage tasting for on-site consumption to the existing use.

No exterior improvements are proposed to the existing business. The applicant proposes to allow consumption of wine, beer, and spirits near the existing cheese bar or on the mezzanine area. The location would depend on the number of participants expected. The proposed hours for the alcoholic beverage tasting would be 4:00 p.m. to 7:00 p.m. on Fridays and Saturdays, with the

flexibility of a few holidays during the year (i.e. St. Patrick's Day, Christmas, etc.). The applicant has indicated that two staff members from a winery or supplier would be serving and one staff member from Nugget Market would be managing the alcoholic beverage tasting during the specified hours.

Condition of approval No. 5 of Resolution No. 2013-02 currently reads as follows:

"Consumption of alcoholic beverages on the premises, including outdoor seating areas, is prohibited."

The proposed amendment would modify Condition No. 5 to allow for on-site consumption for alcoholic beverage tasting. The modified condition would read as follows:

"Consumption of alcoholic beverages inside the building is allowed exclusively for alcoholic beverage tasting purposes during the hours from 4:00 p.m. to 7:00 p.m. on Fridays and Saturdays, and also on a maximum of three (3) holidays during the year after receiving prior approval from the Planning Division. Consumption of alcoholic beverages elsewhere on the premises, including outdoor seating areas, is prohibited. Specifics of the alcoholic beverage tasting use shall conform with the application materials [submitted by the applicant]."

PLANNING ISSUES

Nugget Market is the anchor tenant for the Cove Shopping Center. The grocery store includes approximately 17,000 square feet of interior space. On-site parking for this grocery store is available in the existing Cove Shopping Center parking lot directly in the front of this building. The alcoholic beverage tasting use would be incidental to the grocery store use and have no measurable impact on parking demand.

According to the applicant, the license would be for an instructional tasting, which would be different than the standard wine tasting license. The tasting events would allow the public the opportunity to taste a small portion of certain alcoholic beverages before selecting their choice to purchase from the grocery store. The proposed hours for the alcoholic beverage tasting would not alter the currently allowable hours for alcohol sales at this location. The limitations on hours and holiday for tasting would prevent this use from taking on the characteristics of a bar or other on-sale alcoholic beverage use.

GENERAL PLAN AND ZONING CONSISTENCY

The subject site is designated Neighborhood Commercial (NC), which typically allows resident-serving commercial uses and offices in addition to mixed (commercial/residential or office/residential) uses. The following policies of the Land Use Element of the Tiburon General Plan are helpful to the review of this application:

General Plan

Policy LU-23: *The Town shall support a diversity of commercial uses to serve the shopping and service needs of the community.*

Policy LU-24: *The Town shall encourage the addition of under-represented retail and service businesses to enhance shopping and service opportunities for Tiburon.*

The proposed use would allow the grocery store to provide a wider range of services to residents in this area of Tiburon. The use would allowed for patrons to taste a small amount of alcoholic beverage and learn about the particular drink from the winery or supplier representative before buying the alcoholic beverage at the store, which would be different than the standard wine tasting option at the other businesses in Tiburon. Other businesses that serve on-site tastings are located in downtown Tiburon and at restaurants in the Cove Shopping Center, which provide patrons wine, beer, or spirits with their meals. The proposed alcoholic beverage tasting use would not alter the existing character of the shopping center nor create an overconcentration of on-site alcohol sales in the vicinity.

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 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.* Staff Finding: The alcoholic beverage tasting use would be located inside an existing grocery store, which is located in a neighborhood shopping center near a major signalized intersection along Tiburon Boulevard and Blackfield Drive, and would be adequately served by utilities and other support facilities.
2. *The compatibility of the design, location, size, and operating characteristics with the existing and future land uses in the vicinity.* Staff Finding: The alcoholic beverage tasting use would be compatible with the operating characteristics of the existing grocery store.

3. *The probability of impairment to the architectural integrity and character of the zoning district in which it is to be located.* Staff Finding: The proposed use would not modify the architectural integrity or character of the zoning district as the proposed use would be located inside an existing grocery store.
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.* Staff Finding: The alcoholic beverage tasting use located inside the existing grocery store would provide a wider range of services to residents in this area and would be compatible with surrounding uses.
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.* Staff Finding: The other grocery store is located in the upper Tiburon Boulevard area of Downtown and also provides this service. This use would provide a service that would better serve residents and visitors to this part of Tiburon.

Staff concludes that the application conforms to and would further these purposes and factors.

ENVIRONMENTAL DETERMINATION

Town Planning Division Staff has made a preliminary determination that this proposal would be exempt from the provisions of the California Environmental Quality Act (CEQA), as specified in Section 15301 of the CEQA Guidelines.

PUBLIC COMMENT

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

RECOMMENDATION

Staff recommends that the Planning Commission:

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

EXHIBITS

1. Application form and supplemental materials
2. Draft resolution
3. Planning Commission Resolution 2013-02
4. Submitted plans

Prepared By: Kyra O'Malley, Associate Planner



#1,545

TOWN OF TIBURON
LAND DEVELOPMENT APPLICATION

TYPE OF APPLICATION

APPLICANT REQUIRED INFORMATION

SITE ADDRESS: Blackfield Drive, Tiburon, CA 94922 PROPERTY SIZE: _____
PARCEL NUMBER: 034-212-18 ZONING: Neighborhood Commercial

PROPERTY

OWNER: COVE SHOPPING CENTER INC

MAILING ADDRESS:

858 MAGNOLIA AVE

LARKSPUR CA 94939

*McLaughlin Manager
Services
998 Magnolia Ave.
Larkspur CA 94939*

PHONE/FAX NUMBER: 415 461-5200 E-MAIL: _____

APPLICANT (Other than Property

Owner): Nugget Market Inc

MAILING ADDRESS:

168 Court Street

Woodland, CA 95695

*Hank Beal - Nugget Mkt
530-304-6284*

PHONE/FAX NUMBER: (530) 669-3399 E-MAIL: hankbeal@NuggetMarket.com

ARCHITECT/DESIGNER/ENGINEER

MAILING ADDRESS:

NONE

PHONE/FAX NUMBER: _____

E-MAIL: _____

EXHIBIT NO: 1

1 OF 10

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: [Signature] President Date: NOV. 24, 2015
COVE SHOPPING CENTER INC

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: [Signature] President Date: NOV 24, 2015
COVE SHOPPING CENTER INC

**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

DO NOT WRITE BELOW THIS LINE

DEPARTMENTAL PROCESSING INFORMATION

Application No.: CUP2010-002

GP Designation:

Fee Deposit: \$1540

Date Received: ~~11/16~~ 2/9/16

Received By: LS

Receipt #: R671

Date Deemed Complete: 2/29/16

By: [Signature]

EXHIBIT NO. 1
2 of 10

NUGGET MARKET INC.
168 COURT STREET
WOODLAND, CA 95695-3113



PHONE: (530) 669-3300
FAX: (530) 662-0929
WWW.NUGGETMARKET.COM

Town of Tiburon
Planning Department
Kyra O'Malley

1505 Tiburon Blvd.
Tiburon CA, 94920



We have an application with your department to allow us to obtain a Type 86 Instructional Tasting License with the State ABC.

We are a large supermarket over 17,000 square feet located at 1 Blackfield Dr. Tiburon. We are currently licensed with an Type 20 ABC license. New State regulations allow us to obtain the "Instructional Tasting License" in our store. According to the regulations the tastings can be held anywhere in the store. We will primarily be holding the tastings near our Cheese and Wine departments or in the Mezzanine area. The location will be selected for each event according the number of participants we expect.

Days and Times:

The tastings may vary but will usually be held on Fridays and Saturdays, and usually between the hours of 4PM-7PM. ABC regulations restrict them to 10AM – 9PM. This would not be a 7 day operation, but we do need flexibility to vary the days. The events are put on by wineries, suppliers, etc, with our employees overseeing them to insure compliance with All State Regulations.

These are not large events. No fees can be charged. Tasting amounts are very small per State Regulations. Wine for example is limited to 3-1oz. pours only. Although we are licensed only with beer and wine, we would like the CUP to allow Alcoholic Beverages. We will be filing for a distilled spirits beverage (type 21) license in the future.

Purpose:

The tastings are designed to allow the public to taste alcoholic beverages and become more educated about the items they are purchasing.

EXHIBIT NO. 1
3 of 10



INDUSTRY ADVISORY

Instructional Tasting License for Off-Sale Licensees

Recently enacted legislation (Assembly Bill 605, Statutes 2010, effective January 1, 2011) created sections 23396.6 and 25503.56 of the Business and Professions Code. In addition to providing for a new license, these sections include carefully crafted exceptions to California's three-tier system of alcohol regulation. As such, they are nuanced and contain many detailed provisions, not all of which are specifically addressed in this advisory.

Section 23396.6 provides for a new "instructional tasting license" to be issued to holders of certain, qualified off-sale retail licensed businesses. Off-sale premises where motor vehicle fuel is sold and those with a total of less than 5,000 square feet of interior retail space are *generally* not eligible to apply for the instructional tasting license.

Application procedures for an instructional tasting license will be similar to those currently established for other retail businesses, although some ABC Act provisions (such as those related to numbers limitations within counties and public convenience or necessity) are not applicable. The premises of the instructional tasting license will be recognized as being the same area designated and approved for the accompanying off-sale license, although areas used for instructional tasting events will need to be appropriately separated and posted while events are taking place. Eligible off-sale retailers will be able to apply for the instructional tasting license at the Department's district and branch offices beginning Monday, January 3, 2011, and applications shall be subject to a \$300 original fee and \$261 annual renewal fee. The license has been designated as "Type 86" by the Department.

An application for the Type 86 license should be prepared using forms required for an original retail license (available on the Department's website at www.abc.ca.gov) and submitted, along with all required fees, to the appropriate District Office. As the license is to be issued to an off-sale licensee

“at the premises” of the underlying off-sale license, form ABC-257 will not be required at the time of application. Forms ordinarily required for the purpose of establishing the qualification of a person or entity (ABC-208, ABC-243, ABC-256, ABC-256-LLC, ABC-140) need not be submitted at the time of application for a Type 86 license. However, in cases where such information is deemed necessary for completion of a full licensing investigation, any of the above described forms and any other supporting documents or information may be subsequently requested by District Office licensing staff.

Section 25503.56 authorizes certain, qualified suppliers (i.e.; “authorized licensees”) or their designated agents to conduct “instructional tasting events” at off-sale retail locations holding the instructional tasting licenses, and to provide tastes of alcoholic beverages to consumers under very specific conditions, restrictions and limitations. Some provisions related to supplier participation at instructional tasting events are similar to those for existing “consumer instruction” activities at on-sale premises. However, other supplier allowances and limitations are unique to the Type 86 license.

A unique aspect of the instructional tasting license is that, while it will be applied for and held by a retail licensee, its core privileges require the involvement or participation of a qualified supplier. With that in mind, suppliers and retailers alike should be fully aware of existing tied-house laws that otherwise restrict or limit business relationships between the supply and retail tiers. A supplier shall in no way, directly or indirectly, pay, reimburse, or assist a retail licensee with any efforts associated with obtaining a type 86 license, nor shall instructional tasting events be used to, in any way, circumvent existing tied-house laws. Any payment made by a supplier to or on behalf of a retailer, directly or indirectly, in connection with an instructional tasting event, except as authorized or required for alcoholic beverage products to be used during the tasting event, shall be considered a violation of tied-house laws.

Off-sale retailers interested in applying for instructional tasting licenses and suppliers interested in conducting instructional tasting events should familiarize themselves with all details of the applicable statutes, paying close attention to provisions related to licensee eligibility and operating requirements, restrictions and limitations. The Department believes that it is the responsibility of all participating parties to be fully aware of the detailed provisions set forth in Assembly Bill 605 and to conduct instructional tasting events in full compliance with the ABC Act.

The following addendum to this advisory highlights *some* of the unique aspects and restrictions associated with the Type 86 license and instructional tasting events. The full text of the chaptered bill and detailed legislative analysis is available at www.leginfo.ca.gov.

Addendum (detailing specific provisions set forth in Business and Professions Code sections 23396.6 and 25503.56):

- *Type 86 licenses shall not be issued to off-sale licensees at locations where motor vehicle fuel is sold, unless the licensee operates a fully enclosed off-sale retail area encompassing at least 10,000 square feet, nor to off-sale licensees at locations with a total of less than 5,000 square feet of interior retail space, unless the calendar quarterly gross sales of alcoholic beverages at the licensed location comprise at least 75 percent of the total gross sales of all products sold at the licensed premises. A licensee that is issued an instructional tasting license pursuant to this paragraph shall maintain records that separately reflect the gross sales of alcoholic beverages and the gross sales of all other products sold on the licensed premises.*
- *“Authorized licensee” means a winegrower, California winegrower’s agent, beer and wine importer general, beer and wine wholesaler, wine rectifier, distilled spirits manufacturer, distilled spirits manufacturer’s agent, distilled spirits importer, distilled spirits importer general, distilled spirits rectifier, distilled spirits general rectifier, out-of-state distilled spirits shipper’s certificate holder, distilled spirits wholesaler, brandy manufacturer, brandy importer, California brandy wholesaler, beer manufacturer, or an out-of-sale beer manufacturer certificate holder.*
- *“Authorized licensee” shall not include an entity that solely holds a combination of a beer and wine wholesale license and an off-sale beer and wine retail license or holds those licenses solely in combination with any license not listed in this paragraph.*
- *No charge of any sort shall be made for tastings at an instructional tasting event.*
- *A person under 21 years of age shall not serve, or be served, wine, beer, or distilled spirits at the instructional tasting event.*
- *Unless otherwise restricted, an instructional tasting event may only take place between the hours of 10 a.m. and 9 p.m.*
- *The type 86 license shall not authorize any on-sale retail sales to consumers attending the instructional tasting event.*
- *The type 86 licensee shall not permit any consumer to leave the instructional tasting area with an open container of alcohol.*

- *A type 86 licenseholder that permits a person under 21 years of age to enter and remain in the instructional tasting event area during an instructional tasting event is guilty of a misdemeanor. Any person under 21 years of age who enters and remains in the instructional tasting area during an instructional tasting event is guilty of a misdemeanor and shall be punished by a fine of not less than \$200.00, no part of which shall be suspended.*
- *At all times during an instructional tasting event, the instructional tasting event area shall be separated from the remainder of the off-sale licensed premises by a wall, rope, cable, cord, chain, fence, or other permanent or temporary barrier. The type 86 licenseholder shall prominently display signage prohibiting persons under 21 years of age from entering the instructional tasting event area.*
- *An instructional tasting event shall be limited to a single type of alcoholic beverage. "Type of alcoholic beverage" means distilled spirits, wine, or beer.*
- *A single tasting of distilled spirits shall not exceed one-fourth of one ounce and a single tasting of wine shall not exceed one ounce. No more than three tastings of distilled spirits or wine shall be provided to any person on any day. The tasting of beer is limited to eight ounces of beer per person per day. The wine, beer, or distilled spirits tasted shall be limited to the products that are authorized to be sold by the holder of the type 86 license under its requisite off-sale license.*
- *No more than one "authorized licensee" or its designated representative may conduct an instructional tasting event that includes the serving of tastes of wine, beer, or distilled spirits at any individual type 86 licensed premises per day.*
- *All tastes shall be served by an employee or the designated representative of the "authorized licensee."*
- *The "authorized licensee" or its designated representative shall either supply the wine or distilled spirits to be tasted during the instructional event or purchase the wine or distilled spirits from the holder of the type 86 at the original invoiced cost.*
- *The "authorized licensee" or its designated representative shall purchase beer to be tasted during the instructional event from the holder of the type 86 at the original invoiced cost.*
- *Any unused wine, beer, or distilled spirits remaining from the tasting shall be removed from the off-sale license licensed premises by the "authorized licensee" or its designated representative.*
- *If the instructional tasting event is conducted by a designated representative, the designated representative shall not be owned, controlled, or employed directly or indirectly by the holder of the type 86 on whose premises the instructional tasting event is held.*

- *A beer and wine wholesaler may conduct an instructional tasting event but shall not serve tastes of beer unless the beer and wine wholesaler also holds a beer manufacturer's license, an out-of-state beer manufacturer's certificate, or more than six distilled spirits wholesaler's licenses.*
- *The holder of the type 86 may conduct an instructional tasting event that includes the serving of tastings only when an "authorized licensee" or its designated representative is unable to conduct an instructional tasting event previously advertised pursuant to Section 25503.56 and scheduled by the authorized licensee or its designated representative, provided the holder of the type 86 supplies the wine, beer, or distilled spirits in the instructional tasting event and provides or pays for a person to serve the wine, beer, or distilled spirits. Instructional tasting events conducted by the holder of the type 86 pursuant to the applicable subdivision of Section 25503.56 are subject to the provisions of Sections 25503.56 and 23396.6.*
- *A holder of a type 86 license that also holds an on-sale beer and wine license, an on-sale beer and wine eating place license, or an on-sale general license shall not allow an "authorized licensee" or its designated representative, to conduct an instructional tasting event on the same day and at the same location as any instructional tasting event held pursuant to subdivision (b) of Section 23386, Section 25503.4, subdivision (c) of Section 25503.5, or Section 25503.55.*
- *A holder of a type 86 license shall not condition the allowance of an instructional tasting event upon the use of a particular designated representative of an "authorized licensee".*
- *An "authorized licensee" or its designated representative, in his or her absolute discretion and with permission of the holder of the type 86 license where the instructional tasting event will be held, may list in an advertisement to the general public the name and address of the type 86 licensee, the names of the alcoholic beverages being featured at the instructional tasting event, and the time, date, and location of, and other information about, the instructional tasting event, provided that BOTH of the following apply:*
 1. *The advertisement does not contain the retail price of the alcoholic beverages.*
 2. *The listing of the type 86 licensee's name and address is the only reference to the type 86 licensee in the advertisement.*

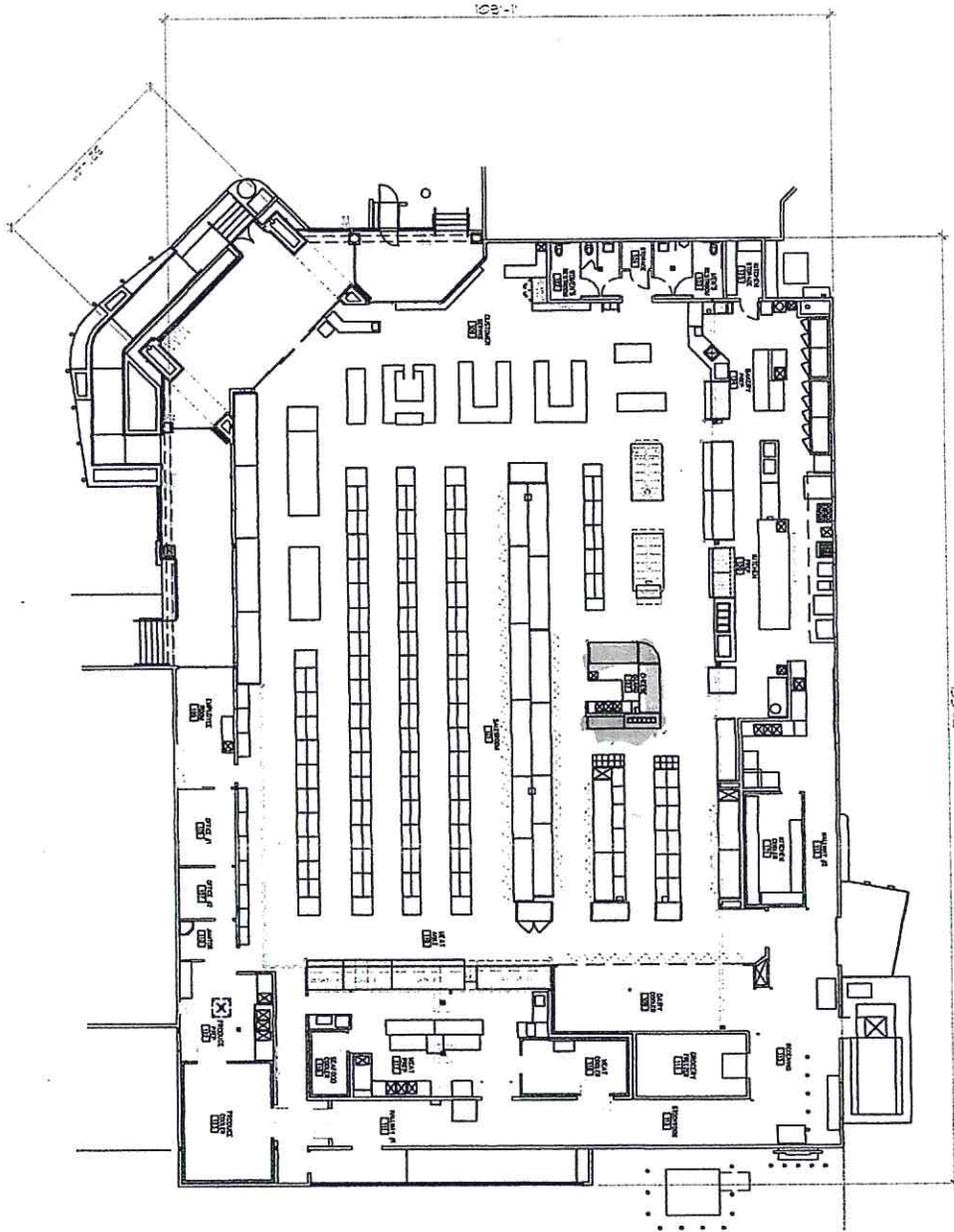
NOTE: Pictures or illustrations of the type 86's licensed premises and laudatory references to the type 86 licensee in these advertisements are not authorized. An "authorized licensee" or its designated representative cannot share in the costs, if any, of the type 86 licensee.

- *A type 86 licensee may advertise an instructional tasting event to the general public. The costs of this advertising shall be borne solely by the type 86 licensee. Permitted advertising includes flyers, newspaper ads, Internet communications, and interior signage.*

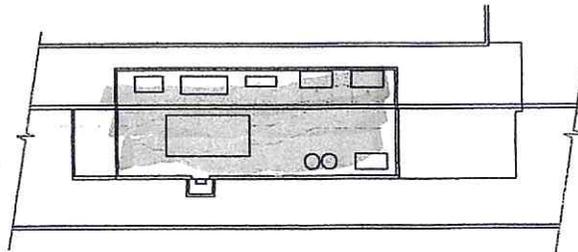
- *Except as otherwise provided in the ABC Act or rules of the department, no premium, gift, free goods, or other thing of value shall be given away by an "authorized licensee" or its designated representative in connection with an instructional tasting event that includes tastings of an alcoholic beverage.*
- *The type 86 licensee or the "authorized licensee" or its designated representative are authorized to perform set up and break down of the instructional tasting event area.*
- *The "authorized licensee" or its designated representative may provide, free of charge to the type 86 licensee, the equipment, materials, and utensils as may be required for use in connection with the instructional tasting event.*
- *The type 86 licensee shall not require, or enter into a collusive scheme with an "authorized licensee" or its designated representative to conduct one or more instructional tasting events as a condition of carrying or continuing to carry a brand or brands of the "authorized licensee" or as a condition for display or other merchandising plan which is based on an agreement to provide shelf space.*
- *An "authorized licensee" or its designated representative shall not require any preferential treatment or benefit from, or enter into a collusive scheme with, a holder of a type 86 license as a condition of conducting one or more instructional tasting events, require to carry or continue to carry a brand or brands of the "authorized licensee" as a condition of conducting one or more instructional tasting events, or condition display or other merchandising plans that are based on agreements for the provision of shelf space on the conducting of one or more instructional tasting events.*
- *Any agreement, whether written or oral, entered into by and between a type 86 licensee and an "authorized licensee" or its designated representative that precludes the conducting of instructional tasting events on the licensee's type 86 premises by any other "authorized licensee" is prohibited.*
- *A type 86 licenseholder or "authorized licensee" or its designated representative, shall not use an instructional tasting event to circumvent any other requirement in the ABC Act.*

Overall Floor Plan
1 Blackfield Drive, Thousand, CA

100-22-2015



Mezzanine Plan
Scale: 1/8\"/>



RECEIVED
FEB 19 2016
PLANNING DIVISION

EXHIBIT NO. 1

100-22-2015

RECORDING REQUESTED
WHEN RECORDED, RETURN TO:
Tiburon Planning Division
1505 Tiburon Boulevard
Tiburon, CA 94920
Record without fee per GC 27383

RESOLUTION NO. 2016-DRAFT

A RESOLUTION OF THE PLANNING COMMISSION OF THE TOWN OF TIBURON
AMENDING RESOLUTION 2013-02 TO ALLOW ON-SITE ALCOHOLIC BEVERAGE
TASTING IN A BUILDING OCCUPIED BY A GROCERY STORE (NUGGET MARKET) ON
PROPERTY LOCATED AT 1 BLACKFIELD DRIVE, SUITE K

ASSESSOR PARCEL NO. 034-212-18

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 allow on-site alcoholic beverage tasting in a building occupied by a grocery store (Nugget Market) on a commercially zoned property located at 1 Blackfield Drive, Suite K (File #CUP2016002). The application consists of the following:
1. Application Form and supplemental materials received February 9, 2016
 2. Site Plan and Floor Plan received March 10, 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 13, 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 Section 15301 of the CEQA Guidelines.
- D. The Planning Commission has found, based upon the application materials and analysis provided in the April 13, 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 16-52.040 (B) and 16-52.040 (D), and

other applicable regulations. The proposed tasting use would be consistent with the intent of the Neighborhood Commercial zoning and General Plan land use designation and the alcoholic beverage tasting will allow the grocery store to provide a wider range of services to residents in its service area.

Section 2. Approval of Amendments to Resolution 2013-02.

NOW, THEREFORE, BE IT RESOLVED that the Planning Commission of the Town of Tiburon hereby amends condition of approval No. 5 and adds condition of approval No. 16 of Planning Commission Resolution 2013-02 to read as follows:

- 5. Consumption of alcoholic beverages inside the building is allowed exclusively for alcoholic beverage tasting purposes during the hours from 4:00 p.m. to 7:00 p.m. on Fridays and Saturdays, and also on a maximum of three (3) holidays during the year after receiving prior approval from the Planning Division. Consumption of alcoholic beverages elsewhere on the premises, including outdoor seating areas, is prohibited. Specifics of the alcoholic beverage tasting use shall conform with the application materials referenced in Finding A above.

- 16. Permittee shall at all times comply with requirements of the California Department of Alcoholic Beverage Control (ABC) and maintain all proper licenses therefrom.

PASSED AND ADOPTED at a regular meeting of the Planning Commission on April 13, 2016, by the following vote:

AYES: COMMISSIONERS:
 NAYS: COMMISSIONERS:
 ABSENT: COMMISSIONERS:

DAVID KULIK, CHAIR
 TIBURON PLANNING COMMISSION

ATTEST:

KYRA O'MALLEY, SECRETARY

EXHIBIT NO. 2
2 of 2

RECORDING REQUESTED
WHEN RECORDED, RETURN TO:
Tiburon Planning Division
1505 Tiburon Boulevard
Tiburon, CA 94920
Attn: Daniel M. Watrous

RESOLUTION NO. 2013-02

A RESOLUTION OF THE PLANNING COMMISSION OF THE TOWN OF TIBURON
APPROVING A CONDITIONAL USE PERMIT TO OPERATE AND EXPAND A GROCERY
STORE USE ON PROPERTY LOCATED AT 1 BLACKFIELD DRIVE, SUITE K
ASSESSOR PARCEL NO. 034-212-18

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 operate and expand a grocery Store (Paradise Foods) within an existing commercial building located at 1 Blackfield Drive (File #11206). The conditional use permit is required for 1) the construction of minor building additions and expansion into existing retail space; 2) establishment of store and delivery hours; and 3) establishment of outdoor sales and seating areas. The application consists of the following:

1. Application Form and supplemental materials received December 5, 2012
2. Project description received January 2, 2013
2. Site Plan, Improvement Plans and Floor Plan received January 2, 2013

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 February 13, 2013, 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 Section 15303 of the CEQA Guidelines.
- D. The Planning Commission has found, based upon the application materials and analysis provided in the February 13, 2013 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 Section 16-52.040 (D), and other applicable

regulations. The grocery store would serve local residents in the same manner that other grocery stores have since the construction of this shopping center over fifty years ago and would replace the shopping opportunities that have been missing within this shopping center since the close of the previous market at this location.

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 #11206), to operate and expand a grocery store use at 1 Blackfield Drive, Suite K, subject to the following conditions of approval:

1. The use shall operate in substantial conformance with the applicant-submitted "Project Information for Conditional Use Permit" (4 pages), attached hereto as Exhibit "A" and incorporated herein, and in the location shown on drawings (4 sheets) date-stamped January 2, 2013, on file with the Tiburon Planning Division. The use includes the sale of alcoholic beverages for consumption off the premises. Any substantial modification of the approved use, as determined in the reasonable discretion of the Director of Community Development, shall require an amendment to this use permit.
2. Hours of operation for the grocery store shall be limited to 6:00 a.m. to 9:00 p.m., seven days a week.
3. Truck delivery hours shall be limited to 7:00 a.m. to 5:00 p.m., seven days a week.
4. Outdoor display of merchandise shall be limited to produce items only, and shall be maintained in a neat and orderly fashion, with minimum signage, all as determined in the reasonable discretion of the Director of Community Development.
5. Consumption of alcoholic beverages on the premises, including outdoor seating areas, is prohibited.
6. Grocery store employees shall park in remote areas of the site to "free up" parking spaces closer to the use for customer purposes. A total of 62 parking spaces shall be provided and maintained on site for this use at all times.
7. Site Plan & Architectural Review approval shall be required for any exterior modifications and site improvements, pursuant to Chapter 16 of the Tiburon Municipal Code.
8. Sign Permits shall be required pursuant to Chapter 16A of the Tiburon Municipal Code.

9. The permittee shall comply with all applicable regulations of the Marin Municipal Water District, Richardson Bay Sanitary District, Southern Marin Fire Protection District, State of California Alcoholic Beverage Commission and the Marin County Health Department.
10. Delivery trucks are prohibited from backing into the site from the northernmost driveway on Blackfield Drive. A sign shall be installed at that driveway describing this prohibition.
11. Delivery trucks are prohibited from keeping engines idling during deliveries. A sign shall be installed at each loading dock describing this prohibition.
12. This Conditional Use Permit shall be reviewed by the Planning Commission approximately six (6) months following opening of the grocery store. Said review shall entail, without limitation, conformance with conditions, noise, or any other operational aspect of the use within the regulatory land use purview of the Town. Permittee agrees to bear all reasonable costs, including outside consultants if necessary, associated with said reviews.
13. The Town reserves the right to amend or revoke this Conditional Use Permit for cause, in accordance with adopted regulations of the Town.
14. This Conditional Use Permit approval shall become null and void if the approved use has not commenced within one (1) year of final use permit approval, unless an extension is granted.
15. If this approval is challenged by a third party, the property owner/applicant will be responsible for defending against this challenge. 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 February 13, 2013, by the following vote:

AYES: COMMISSIONERS: Tollini, Corcoran, Kunzweiler, Weller, & Welner

NOES: COMMISSIONERS: NONE

ABSENT: COMMISSIONERS: NONE

ERIN TOLLINI, CHAIR
TIBURON PLANNING COMMISSION

ATTEST:

DANIEL M. WATROUS, SECRETARY

Attachments: Exhibit "A", Project Information for Conditional Use Permit (4 pages)



TOWN OF TIBURON
 1505 Tiburon Boulevard
 Tiburon, CA 94920

Planning Commission Meeting
 April 13, 2016
 Agenda Item: **2**

STAFF REPORT

To: Members of the Planning Commission
From: Community Development Department
Subject: 4992 Ranch Road; Files #TIDE2015001 & CUP2015003
 Tidelands Permit and Conditional Use Permit to Construct Docks and a Pier; Alisa and Brian Golson, Owners; Assessor's Parcel No. 038-032-19
Reviewed By: _____

PROJECT DATA

Address: 4992 Ranch Road
 Assessor's Parcel Number: 038-032-19
 File Number: TIDE2015001 & CUP2015003
 Lot Size: 2.11 acres
 General Plan: Medium Density Residential
 Zoning: RO-2 (Single-Family Residential-Open)/M (Marine)
 Current Use: Single-family residential
 Owners: Alisa and Brian Golson
 Applicants: Onju Updegrave
 Flood Zone: X/VE – Special Flood Hazard Area
 Date Complete: March 23, 2016

SUMMARY

The applicant has submitted an application to construct docks and a pier adjacent to a property developed with a single-family dwelling located at 4992 Ranch Road. The proposed project would involve the construction of a new 134 foot long, 4 foot wide gangway leading to a fixed dock which would be 18 feet long and 18 feet wide. An 8 foot wide, 12 foot long floating dock would be attached to the eastern (right) side of the dock. The docks are intended to provide boat access to the bay for the existing residence on the site.

Section 16-52.080 of the Tiburon Zoning Ordinance (Tidelands Permits) regulates the construction of docks, piers and other construction within the Marine zone. This section allows review and approval of a Tidelands Permit for minor or incidental structures, but requires a conditional use permit for larger projects. Due to the extent of the proposed dock, staff has determined that a conditional use permit is required for this project.

ANALYSIS

Design Issues

The proposed project would involve the construction of a new 134 foot long, 4 foot wide gangway with cedar decking and wire mesh guardrails, supported by four driven piles. This would connect to an 18 foot by 18 foot wide dock which would be attached to four driven piles. Benches would be installed on the fixed dock. The 8 foot by 12 foot floating dock would be supported by four pilings. The pier and dock would be at a fixed elevation of 9.4 feet above sea level. The applicant has indicated that the dock is intended for recreational purposes to support swimming and boating.

The existing house on the subject property is situated on the higher portion of the site, closer to Ranch Road and Paradise Drive, and a detached beach house is situated to the rear closer to the shoreline. The proposed pier would be accessed by a new stairway leading up to from the beach and closer to the beach house.

Several other properties in the immediate vicinity also have private docks and piers. The property directly adjacent to the north at 5000 Paradise Drive has a fixed wooden pier that is approximately 50 feet long. To the south, the homes at 4970 & 4984 Ranch Road have fixed piers approximately 80 feet and 130 feet long, respectively. Several other piers, up to 170 feet in length, are situated on other properties to the north along Paradise Drive.

The applicant has installed several small buoys marking the end of the proposed dock to serve as story poles. The proposed dock would appear to be visually consistent with other piers in the immediate vicinity and would not substantially intrude into the views from nearby residences.

General Plan Consistency and Zoning Compliance

A portion of the subject parcel extends out into San Francisco Bay. The area beyond the mean high water line is zoned M (Marine), while the landward area is zoned RO-2. Section 16-52.080 of the Zoning Ordinance states that piers and docks are permitted only with a Tidelands Permit or conditional use permit. The proposed pier, dock and floating dock therefore require such a permit.

The construction of a new gangway and floating dock also require approval from the Bay Conservation and Development Commission (BCDC). The applicant has not yet submitted an application to BCDC at this time. BCDC will not act upon any such application until the Town has completed its processing of a conditional use permit application.

Policy LU-26 of the Land Use Element of the Tiburon General Plan states that:

“The Town recognizes and wishes to preserve its bay and waterfront as significant resources and shall closely consider the sensitivity of its coastal environment through the application review process, and shall encourage maximum feasible public access to the waterfront, as called for in the San Francisco Bay Conservation and Development Commission’s (BCDC) *San Francisco Bay Plan*, and where not in conflict with other public uses or with private uses which are of public benefit.”

The presence of several other private piers and docks along these sections of Ranch Road and Paradise Drive indicates long-standing use of this area for recreational boating by residents. The proposed pier and docks would not appear to interfere with private views across the bay, and therefore would not harm the visual character of other properties in the vicinity.

PUBLIC COMMENTS

As of the date of this report, no letters have been received regarding the proposed application. The applicant submitted signatures of support from the owners of the adjacent properties at 4986 & 4988 Ranch Road and 5000 Paradise Drive.

ENVIRONMENTAL STATUS

Staff has made a preliminary determination that the subject application is Categorical Exempt from the requirements of the California Environmental Quality Act (CEQA) per Section 15303 (e) of the CEQA Guidelines (new construction of accessory structures).

RECOMMENDATION

Staff recommends that the Planning Commission:

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

EXHIBITS

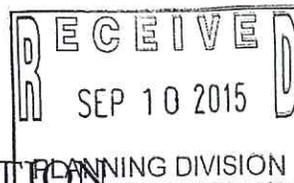
1. Application form and supplemental materials
2. Draft resolution
3. Submitted plans

Prepared By: Daniel M. Watrous, Planning Manager

\\shared\planning\pc\staff reports\2016\April 13 meeting\4992 Ranch Road report.doc



TOWN OF TIBURON
LAND DEVELOPMENT APPLICATION PLANNING DIVISION



TYPE OF APPLICATION

- Conditional Use Permit
- Precise Development Plan
- Secondary Dwelling Unit
- Zoning Text Amendment
- Rezoning or Prezoning
- General Plan Amendment
- Temporary Use Permit

- Design Review (DRB)
- Design Review (Staff Level)
- Variance(s) _____ #
- Floor Area Exception
- Tidelands Permit
- Sign Permit
- Tree Permit

- Tentative Subdivision Map
- Final Subdivision Map
- Parcel Map
- Lot Line Adjustment
- Condominium Use Permit
- Seasonal Rental Unit Permit
- Other _____

APPLICANT REQUIRED INFORMATION

SITE ADDRESS: 4492 Ranch Rd PROPERTY SIZE: 2.11 acres
 PARCEL NUMBER: 034.032.19 ZONING: Residential

PROPERTY OWNER: Alisa + Brian Golson
 MAILING ADDRESS: 4492 Ranch Rd, Tiburon, CA 94920

PHONE/FAX NUMBER: 415-435-3464 E-MAIL: alisa.golson@gmail.com

APPLICANT (Other than Property Owner): None
 MAILING ADDRESS: _____

PHONE/FAX NUMBER: _____ E-MAIL: _____

ARCHITECT/DESIGNER/ENGINEER Onju Updegrave
 MAILING ADDRESS: 110 Deer Hollow Rd, San Anselmo, 94960

PHONE/FAX NUMBER: 415-457-7766 E-MAIL: onju@onju.net

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

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

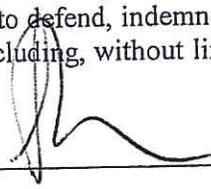
134' x 4' Pier (with 3 pilings) with 18' x 18' dock (with 4 pilings) and 8' x 12' floating dock (w/ 2 pilings)

*Note - Shelter has been removed per BCLC request.

EXHIBIT NO. 1

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.

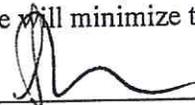
I understand that the requested approval is for my benefit (or that of my principal). Therefore, if the Town grants the approval, with or without conditions, and that action is challenged by a third party, I will be responsible for defending against this challenge. I therefore agree to accept this responsibility 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: 9/10/15

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: 9/10/15

**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*

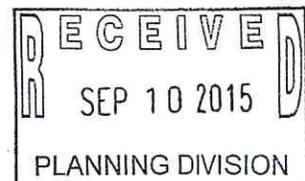
NOTICE TO APPLICANTS

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



DO NOT WRITE BELOW THIS LINE

| DEPARTMENTAL PROCESSING INFORMATION | | |
|---|---------------------------|----------------------------------|
| Application No.: <u>TIDE2015001/2245003</u> | GP Designation: | Fee Deposit: <u>\$450/\$1500</u> |
| Date Received: <u>9/10/15</u> | Received By: <u>LS</u> | Receipt #: <u>29594/29598</u> |
| Date Deemed Complete: <u>3/23/16</u> | Action: | By: <u>DD</u> |
| Acting Body: | Resolution or Ordinance # | Date: |
| Conditions of Approval or Comments: | | |

EXHIBIT NO. 1

RECORDING REQUESTED
RETURN TO:
Tiburon Planning Department
1505 Tiburon Boulevard
Tiburon, CA 94920
Attn: Daniel M. Watrous

RESOLUTION NO. 2016-(Draft)

A RESOLUTION OF THE PLANNING COMMISSION OF THE TOWN OF TIBURON
APPROVING A TIDELANDS PERMIT AND A CONDITIONAL USE PERMIT TO
CONSTRUCT DOCKS AND A PIER AT 4992 RANCH ROAD

ASSESSOR PARCEL NO. 038-032-19

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 for a Tidelands Permit and a Conditional Use Permit filed by Alisa and Brian Golson to approve construction of docks and a pier on property located at 4992 Ranch Road. The application consists of the following:

1. Application form and materials received September 10, 2015
2. Site Plan and Elevations dated March 7, 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 13, 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 Section 15303 (e) of the CEQA Guidelines.
- D. The Planning Commission has found, based upon the application materials and analysis provided in the April 13, 2016 Staff report, that the project, as conditioned, is consistent with the Tiburon General Plan, and specifically with the Land Use Element of said plan, and is in compliance with the Tiburon Zoning Ordinance and other applicable regulations.

Section 2. Approval.

NOW, THEREFORE, BE IT RESOLVED that the Planning Commission of the Town of Tiburon does hereby approve the Tidelands Permit and Conditional Use Permit application (Files # TIDE2015001 & CUP2015003), to construct docks and a pier at 4992 Ranch Road, subject to the following conditions:

1. The dimensions of the approved docks and pier shall be as shown on the plans submitted to the Town of Tiburon on March 7, 2016, said plans being in Files #TIDE2015001 & CUP20150036 at the Tiburon Planning Division and incorporated by reference into this resolution.
2. The applicant shall obtain Site Plan and Architectural Review approval for the docks, pier and associated improvements.
3. The applicant shall obtain all necessary permits from the Town Building Division.
4. The applicant shall comply with all requirements of the Bay Conservation and Development Commission and all other permitting agencies.
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. Any substantial modification of the project, as determined in the reasonable discretion of the Director of Community Development, shall require an amendment to this permit.
7. This Conditional Use Permit approval shall become null and void if the approved use has not commenced within one (1) year of final approval of the building permit for construction of docks and a pier on this property, unless an extension is granted.

PASSED AND ADOPTED at a regular meeting of the Planning Commission on April 13, 2016 by the following vote:

AYES: COMMISSIONERS:
NOES: COMMISSIONERS:
ABSENT: COMMISSIONERS:

ATTEST:

DAVID KULIK, CHAIR
TIBURON PLANNING COMMISSION

DANIEL M. WATROUS, SECRETARY

S:\Planning\Planning Commission\Resolutions\2016\4992 Ranch Road CUP.doc

DRAFT
PLANNING COMMISSION
MINUTES NO. 1061
Regular Meeting
February 24, 2016
Town of Tiburon Council Chambers
1505 Tiburon Boulevard, Tiburon, California

CALL TO ORDER AND ROLL CALL:

Chair Kulik called the meeting to order at 7:30 p.m.

Present: Chair Kulik, Vice Chair Williams and Commissioners Corcoran and Weller

Absent: Commissioner Welner

Staff Present: Director of Community Development Anderson, Planning Manager Dan Watrous and Associate Planner Kyra O'Malley

ORAL COMMUNICATIONS:

There were none.

COMMISSION AND STAFF BRIEFING

Planning Manager Watrous reported that the appeal for the Sam's Café deck was heard by the Town Council. The Council denied the appeal, but amended the cut-off hours for serving food and alcohol on any portion of the deck until 10:30 p.m. from May through October. The Planning Commission had set a cut-off of 9:30 p.m. year-round.

Mr. Watrous also stated that no items were scheduled for the March 9, 2016 Planning Commission meeting and the meeting would likely be cancelled.

PUBLIC HEARINGS

1. 1550 TIBURON BOULEVARD: Conditional Use Permit to expand an existing commercial building (the Boardwalk Shopping Center) by a café and bakery (Rustic Bakery); File # CUP2016001; Belvedere Land Company, Owner; Rustic Bakery, Applicant; Assessor's Parcel No. 060-082-57

Associate Planner Kyra O'Malley gave the staff report, stating the applicant is proposing to expand an existing commercial building located at the Boardwalk Shopping Center by 200 square feet in order to provide additional space for their business. The majority of the tenant space to be occupied by Rustic Bakery is located in Belvedere, with only a small portion located in Tiburon, including the 200 square foot expansion.

Rustic Bakery would be a small, specialized café offering a variety of small meals, drinks, pastries and breads, along with beer and wine for consumption on the premises. The proposed hours of operation would be daily from 7:00 A.M. to 6:00 P.M and the applicant indicates there will be a maximum of four employees.

The primary purpose of the proposed addition is to provide improved interior circulation, as the existing space is too narrow to provide adequate space for customers to circulate freely through the café between the service counters and the exterior walls facing the courtyard. The addition would essentially bump out the existing glass walls into a 10 foot by 20 foot unenclosed area of the courtyard, to the point where the relocated walls would reach existing support posts in the open courtyard area.

Staff concluded that the use and addition would be consistent with the Tiburon General Plan and would be in compliance with the applicable sections of the Tiburon Zoning Ordinance for Neighborhood Commercial zoning. Staff recommended that the Planning Commission hold a public hearing on the item and adopt the attached resolution approving the conditional use permit.

Carol Levalley, co-owner of Rustic Bakery, said that they were delighted to be opening in Tiburon and have many customers from this area that travel to the other Rustic Bakery locations. She said that the decision to expand the café was a difficult one because they are anxious to get it opened; however, they have signed a 10-year lease for the space and have a 5-year option. She said that in looking at the space, the corridor for travel would be tight once they build their customer counter and some customers may have trouble getting through the narrow space. She believed that adding 200 square feet would improve the flow of customers significantly through the café, and the enjoyment of their customers was well worth the delays they may incur in getting the additional space approved.

Chair Kulik opened the public hearing. As there were no speakers, he closed the public hearing.

Vice Chair Williams said that the proposed addition was consistent with the General Plan and other Town ordinances. She thought this would be a wonderful use of this area, promote Tiburon's village-like commercial area, provide an enhanced gathering spot and serve residents and other business patrons. She said that it would be consistent with other uses in the center and she supported the request.

Commissioner Weller agreed that the project was consistent with the General Plan and would be a very beneficial addition to the community. He wholeheartedly supported the application.

Commissioner Corcoran also agreed that the project was consistent with the General Plan and zoning ordinance. He said that he was excited for the owners to be able to open and thought that this would be an amazing addition. He noted that the Cove Shopping Center was completely revitalized when Peet's Coffee opened, along with the new grocery store. He believed that this project would likewise serve as an anchor to draw more people to that side of Tiburon Boulevard.

Chair Kulik lightheartedly commended the applicants on their efforts to reduce emissions from cars in Tiburon by shortening their customers' drives. He felt that the strongest policy pertinent to this use was that "Retail storefronts and active outdoor spaces for community gatherings such as sidewalk cafes which are strongly encouraged." He said that the only practical use for the existing courtyard area would be for alfresco dining or seating for the bakery, so having a little bit of both would be great.

ACTION: It was M/S (Williams/Corcoran) to adopt the Resolution approving the conditional use permit. Motion carried: 4-0.

2. 3825 PARADISE DRIVE: Vesting Tentative Map for the subdivision of a 52.2-acre site (Alta Robles) into 14 single-family residential lots; File #TM2015001; SODA LLC, Owner and Applicant; Assessor's Parcel Nos. 039-301-01 and 039-021-13

Planning Manager Dan Watrous gave the staff report, stating on February 15, 2012, the Town Council approved the Alta Robles Precise Development Plan which created the allotments for 14 homes that could be developed on this property. The applicants are now applying for the vesting tentative subdivision map approval to establish the proposed lot lines for the subdivision.

The proposal requests the subdivision of an approximately 52.2-acre parcel located at 3825 Paradise Drive, extending from Hacienda Drive on the south, up to the Tiburon Ridgeline, then downward to Paradise Drive on the north. Fourteen (14) residential lots would be created. There is currently a single family dwelling that exists on one lot and of the other 13 lots, they would range in size from 1.03 to 1.67 acres.

Private open space easements and common open space cover approximately 77% of the site. The Vesting Tentative Map application proposes no substantive changes to the project as approved in the Alta Robles Precise Development Plan. All conditions and specifications of the approved precise development plan would continue to be in effect.

Staff reviewed the application and found it to be consistent with the Alta Robles Precise Plan, the Tiburon General Plan, the zoning ordinance and the Tiburon subdivision ordinance. Staff concluded that all required findings can be made for conditional approval for this application. Staff recommended that the Commission take public testimony on this item and adopt the draft resolution recommending approval of the vesting tentative map to the Town Council.

Commissioner Weller noted that some of the comments from the public invited the Commission to revisit one aspect of the approval. He said that his impression was that the applicant was given the right by the Town Council to build the number of units that this map reflects, and that it was really not in the Commission's jurisdiction to change that. Mr. Watrous confirmed this and said that the precise development plan would need to be amended to make any substantive changes.

Chair Kulik added that some of the public comments included concerns about construction parking and staging, and he thought that Condition No. 31 of the draft resolution addressed that

issue. Mr. Watrous stated that concerns about those specific issues were covered in the mitigation measures and conditions of approval.

Daniel Rabin, applicant, thanked the Commission and said that they were excited to move forward with this project. He said that this project went through extensive planning and review when the precise development plan was reviewed in 2012 and the culmination of that process was before the Commission today. He said that his family remains committed to the unique vision of this plan and hope it will set an example for thoughtful and environmentally conscious development for generations to come.

Chair Kulik opened the public hearing and there were no speakers. He closed the public hearing.

Commissioner Weller said that he views the Commission's role as very narrow on this application and not one that involves making a decision about the precise development plan that was already debated and approved. He said that the conditions of approval seemed to accurately reflect the concerns from the public comments. To address the neighbors' concerns about construction parking, he recommended a modification to Condition No. 31 to state, "The construction management plan shall specify that no parking or staging of construction vehicles shall be permitted along or adjacent to Paradise Drive." He supported the resolution with that modification.

Commissioner Corcoran acknowledged the concerns of nearby neighbors, but stated that the Planning Commission did not have much discretion on this particular application. He thought that some of the construction concerns would be addressed when the construction management plan is submitted in the future. He supported approval of the resolution.

Vice Chair Williams agreed with her fellow Commissioners and said that this was a fairly routine process and the Commission's review was quite limited for this application. She appreciated addressing the concerns raised in the letters and said that this is an important role of the Commission. She said that the precise development plan is in full force and effect as are the conditions therein and the applicant has satisfied all conditions regarding additional studies and mitigation requirements to the satisfaction of the Planning Division. She agreed with Commissioner Weller's proposed modification to the construction management plan condition. She felt comfortable making all of the findings the Commission is required to make under the subdivision ordinance.

Chair Kulik concurred and thought the resolution addressed the concerns in the letters.

ACTION: It was M/S (Weller/Williams) that the Planning Commission make findings and adopt the draft resolution, as modified, recommending approval of the Alta Robles Vesting Tentative Map application to the Town Council, with Condition No. 31 amended to state, "The construction management plan shall specify that no parking or staging of construction vehicles shall be permitted along or adjacent to Paradise Drive." Motion carried: 4-0.

3. ZONING TEXT AMENDMENTS: Consider Recommendation to the Town Council Regarding Various Amendments to Chapter 16 (Zoning) of the Tiburon Municipal Code, Including but not Limited to Regulations Regarding Firearms, Marijuana Sales and Cultivation, Yards and Setbacks, and Use-for Use Changes; File MCA 2016-01; Town-initiated Amendments

Community Development Director Scott Anderson gave the staff report, stating that there were two sets of zoning text amendments. The first group dealt with regulations tied to firearms which are regulated by a separate chapter of the Municipal Code, but overlap somewhat in the zoning ordinance. Mr. Anderson stated that the amendment process began when the Council initiated amendments to the Town's firearms regulations, and among those more extensive amendments there are overlaps with zoning that require Commission review prior to adoption. The Council is tentatively scheduled to hear the firearms amendments in March, and these zoning amendments would dovetail with those and go to the Council at the same time. Anderson summarized the proposed firearms zoning amendments as follows: 1) a definition would be added for "firearm sales"; 2) that term would be added to the list of conditionally permitted uses in commercial zones; and 3) firearms sales would be prohibited as an allowable type of home occupation.

The second set of amendments deal with a miscellany of topics. He said that changes involving yards and setbacks would eliminate some confusion in the ordinance regarding any distinction between these two terms, essentially by removing all referenced to "yard" and replacing it with the more specific term "setback." There are also provisions regarding marijuana sale and cultivation, both of which the Town Council has already prohibited by resolution, but it has always been the Town's belief that it is better to prohibit undesirable such uses in an ordinance. He said that there was also a clarification proposed regarding use-for-use changes, aiding staff in determining when a conditional use permit would or would not be required.

Mr. Anderson recommended that the Commission hold a public hearing, take any public testimony, deliberate on the proposed amendments, and then adopt the two resolutions recommending approval to the Town Council.

Commissioner Weller asked if there were any consequences to the elimination of the term "yards." He said that a yard is an area that is designed to be incorporated into the use of a structure, whereas a setback is a definition of where improvements can start with respect to the lot lines or the public areas. He described the accompanying diagrams and asked if this would change where improvements could be placed on a property. Mr. Anderson said that there would be no change in practice or interpretation, and stated his belief that staff has always interpreted "yard" and "setback" to mean exactly the same thing.

Commissioner Corcoran referred to the marijuana restriction and asked if it would limit home deliveries of medical marijuana delivered to their house. Mr. Anderson said that the amendment would not prohibit such delivery, noting that when the Council adopted its resolution prohibiting marijuana sale and cultivation, it specifically decided not to address the delivery because they did not want the status quo to change on that particular issue. Delivery is legal in Tiburon as long as payment is not made at the point of sale, and he thought that cash on delivery was probably not a typical method of payment for marijuana sales to Tiburon residents.

Chair Kulik opened the public hearing and there were no speakers. He closed the public hearing.

Commissioner Corcoran said that he had no objections to the proposed modifications and voiced his support.

Vice Chair Williams agreed and said that the redlined version provided by staff was quite helpful. She said that the changes seemed non-controversial and she thought that it was reasonable to limit any potential firearms sales uses to commercial areas.

Commissioner Weller and Chair Kulik concurred with their fellow Commissioners.

ACTION: It was M/S (Weller/Williams) to adopt the resolution recommending to the Town Council approval of the zoning text amendments relating to firearms and ammunition. Motion carried: 4-0.

ACTION: It was M/S (Williams/Weller) to adopt the resolution recommending to the Town Council approval of the remaining zoning text amendments. Motion carried: 4-0.

NEW BUSINESS

4. **GENERAL PLAN ANNUAL STATUS REPORT:** Consider Recommendation to Town Council to Accept the Annual General Plan Implementation Status Report for Calendar Year 2015

Director of Community Development Scott Anderson gave the staff report, stating this is the 11th annual implementation status report that the Town has prepared since their current General Plan was adopted in 2005. Staff asked the Commission review the report and make any comments or changes, and then recommend it be forwarded to the Council for acceptance. He noted that the Housing Element was new for 2015 and the housing portion of the status report was based on the newly adopted element.

Chair Kulik asked if the Alta Robles project included any low-income or moderate-income units. Mr. Anderson said that the applicant will be required to comply with the Town's inclusionary housing ordinance and would pay a sizeable in-lieu fee to help fund construction of actual affordable housing in a more appropriate location than the Alta Robles project site.

Commissioner Corcoran asked for an update regarding the former Shark's Deli site referred to under Policy DT-e. Mr. Anderson said the owners have architects working on preliminary designs for that site and are looking at a mixed use project with housing and commercial uses.

Commissioner Corcoran referred to the gallows wheels relocation project referred to under Policy DT-h and asked whether the potential traffic roundabout at the intersection of Tiburon Boulevard and Mar West Street was still being considered. Mr. Anderson said that the roundabout is on the Circulation Element list of improvements and there have been some preliminary drawings created for different variations of a roundabout. He thought that this was likely to move forward, possibly in conjunction with the construction of the library expansion.

Vice Chair Williams said that one program referred to coordinating with Marin County and she asked about the process of the Town reviewing applications submitted to the County. Mr. Anderson stated that Town staff reviews quite a few referrals the County sends to the Town each year, but the smaller projects get less attention than the larger ones.

Chair Kulik opened the public comment period, and there were no speakers.

Vice Chair Williams said that it is helpful for the Commission to see how much the Town accomplishes throughout the year through this report and she commended Director Anderson and staff. She supported forwarding the report to the Town Council.

Councilmember Weller voiced his support as well and said that the report was consistent with prior reporting and provided a fair picture of what has and has not been done.

Commissioner Corcoran echoed the other Commissioners' comments and said that 2015 was a busy year with many projects completed throughout the year.

ACTION: It was M/S (Weller/Williams) to forward the Annual Report to the Town Council for acceptance. Motion carried: 4-0.

MINUTES

5. Planning Commission Minutes – Special Meeting of January 13, 2016

Vice Chair Williams explained that she recused herself from the Los Lomas Lane agenda item because she had done work on the underlying quiet title action, but she was fine with being marked absent. Director Anderson indicated that he had advised Vice Chair Williams that there was no point in attending the meeting since she would need to recuse herself from the only agenda item of substance.

ACTION: It was M/S (Weller/Corcoran) to approve the meeting minutes of January 13, 2016 as submitted. Motion carried: 4-0.

ADJOURNMENT

The Planning Commission adjourned the meeting at 8:10 p.m.

DAVID KULIK, CHAIR
Tiburon Planning Commission

ATTEST:

SCOTT ANDERSON, SECRETARY