



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 Management 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 Market
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
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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
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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-state 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.*

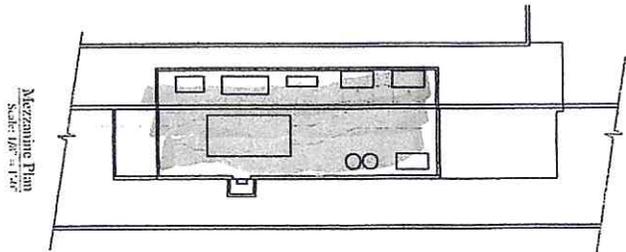
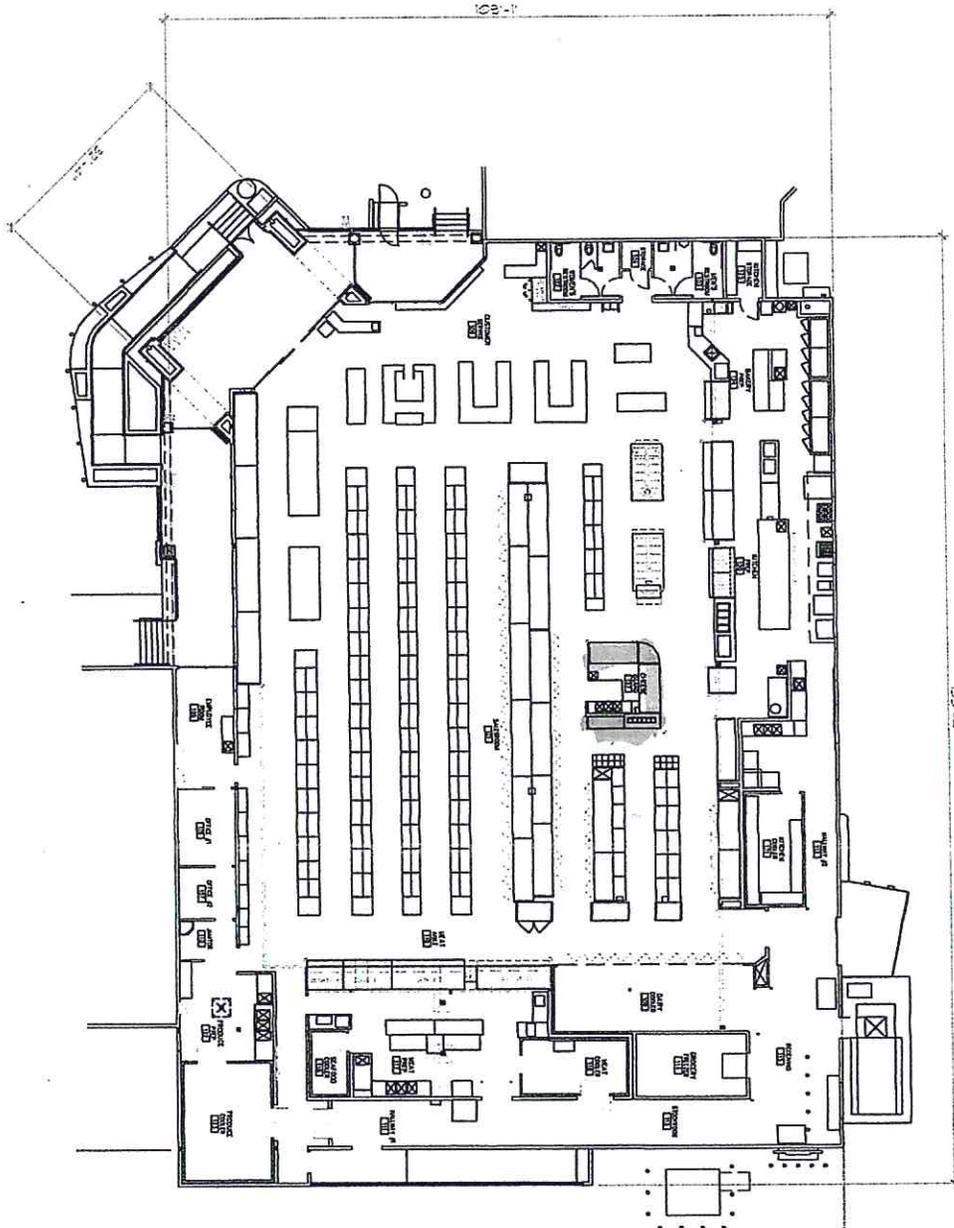
- *A type 86 licenseholder that permits a person under 21 years of age to enter and remain in the instructional tasting event area during an instructional tasting event is guilty of a misdemeanor. Any person under 21 years of age who enters and remains in the instructional tasting area during an instructional 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.*



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.

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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)