



TOWN OF TIBURON
1505 Tiburon Boulevard
Tiburon, CA 94920

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

STAFF REPORT

To: Members of the Planning Commission

From: Community Development Department

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

PROJECT DATA

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

SUMMARY

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

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

PLANNING ISSUES

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

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

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

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

GENERAL PLAN AND ZONING CONSISTENCY

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

General Plan

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

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

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

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

Zoning Ordinance

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

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

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

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

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

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

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

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

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

PUBLIC COMMENT

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

ENVIRONMENTAL DETERMINATION

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

RECOMMENDATION

Staff recommends that the Planning Commission:

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

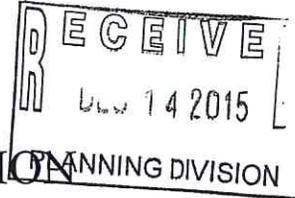
EXHIBITS

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

Prepared By: Kyra O'Malley, Associate Planner



TOWN OF TIBURON
LAND DEVELOPMENT APPLICATION 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: 2131 Paradise Dr. PROPERTY SIZE: _____
PARCEL NUMBER: 059-133-11 ZONING: R-2

* PROPERTY OWNER: Scott & Jennifer Winters
MAILING ADDRESS: _____

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

APPLICANT (Other than Property Owner): _____
MAILING ADDRESS: _____

PHONE/FAX NUMBER: _____ E-MAIL: _____

ARCHITECT/DESIGNER/ENGINEER _____
MAILING ADDRESS: _____

PHONE/FAX NUMBER: _____ E-MAIL: _____

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

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

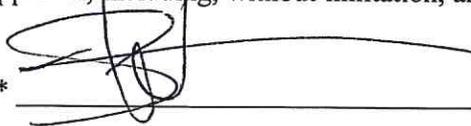
We would like to convert the zoning to single family. We would then submit building plans to start the permit process.

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

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.

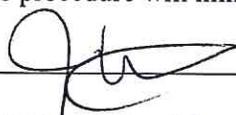
I understand that the requested approval is for my benefit (or that of my principal). Therefore, if the Town grants the approval, with or without conditions, and that action is challenged by a third party, I will be responsible for defending against this challenge. I therefore agree to accept this responsibility 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: 11.23.15

The property involving this permit request may be subject to deed restrictions called Covenants, Conditions and Restrictions (CC&Rs), which may restrict the property's use and development. These deed restrictions are private agreements and are NOT enforced by the Town of Tiburon. Consequently, development standards specified in such restrictions are NOT considered by the Town when granting permits.

You are advised to determine if the property is subject to deed restrictions and, if so, contact the appropriate homeowners association and adjacent neighbors about your project prior to proceeding with construction. Following this procedure will minimize the potential for disagreement among neighbors and possible litigation.

Signature:*  _____

Date: 11.23.15

**If other than owner, must have an authorization letter from the owner or evidence of de facto control of the property or premises for purposes of filing this application*

NOTICE TO APPLICANTS

Pursuant to California Government Code Section 65945, applicants may request to receive notice from the Town of Tiburon of any general (non-parcel-specific), proposals to adopt or amend the General Plan, Zoning Ordinance, Specific Plans, or an ordinance affecting building or grading permits.

If you wish to receive such notice, then you may make a written request to the Director of Community Development to be included on a mailing list for such purposes, and must specify which types of proposals you wish to receive notice upon. The written request must also specify the length of time you wish to receive such notices (s), and you must provide to the Town a supply of stamped, self-addressed envelopes to facilitate notification. Applicants shall be responsible for maintaining the supply of such envelopes to the Town for the duration of the time period requested for receiving such notices.

The notice will also provide the status of the proposal and the date of any public hearings thereon which have been set. The Town will determine whether a proposal is reasonably related to your pending application, and send the notice on that basis. Such notice shall be updated at least every six weeks unless there is no change to the contents of the notice that would reasonably affect your application. Requests should be mailed to:

Town of Tiburon
Community Development Department
Planning Division
1505 Tiburon Boulevard
Tiburon, CA 94920
(415) 435-7390 (Tel) (415) 435-2438(Fax)
www.townoftiburon.org

DO NOT WRITE BELOW THIS LINE

DEPARTMENTAL PROCESSING INFORMATION

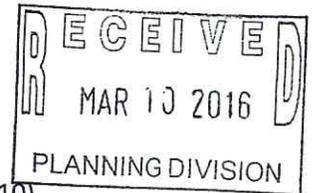
Application No.: <u>CUP2015-006</u>	GP Designation:	Fee Deposit: <u>\$1540</u>
Date Received: <u>12/14/2015</u>	Received By: <u>LS</u>	Receipt #: <u>R435</u>
Date Deemed Complete: <u>2/6/16</u>	Action:	By: <u>JW</u>
Acting Body:		Date:
Conditions of Approval or Comments: _____	Resolution or Ordinance #	EXHIBIT NO. <u>1</u>

Re: 2131 Paradise Drive, Tiburon, CA 94920

Owners: Scott and Jennifer Winters

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

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



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

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

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

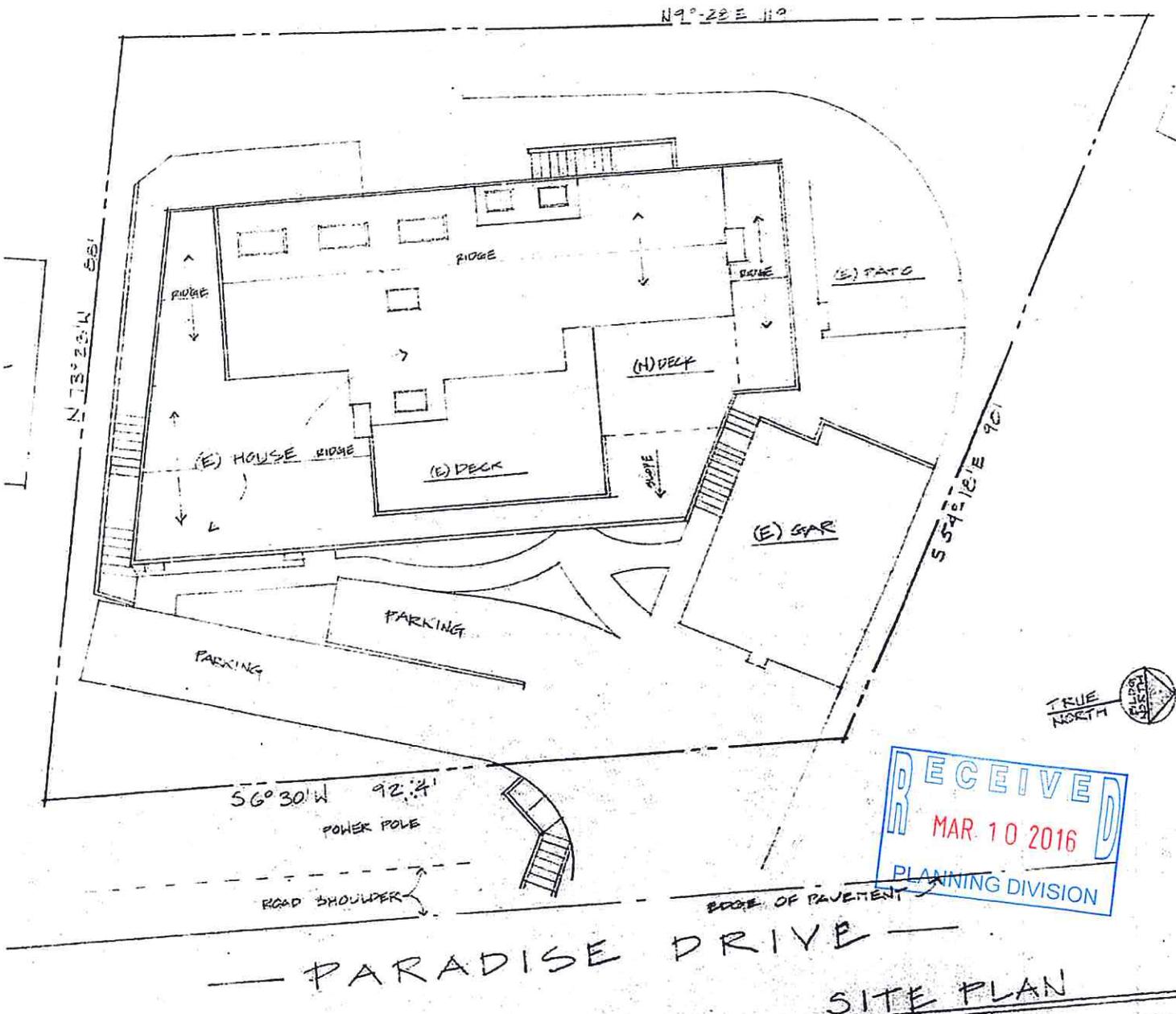
The homes above us are single family and we are asking for you to please make this change for us.

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

Thank you in advance.

EXHIBIT NO. 1
30F5

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



RECEIVED

MAR. 10 2016

PLANNING DIVISION

PARADISE DRIVE

SITE PLAN

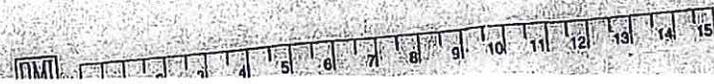
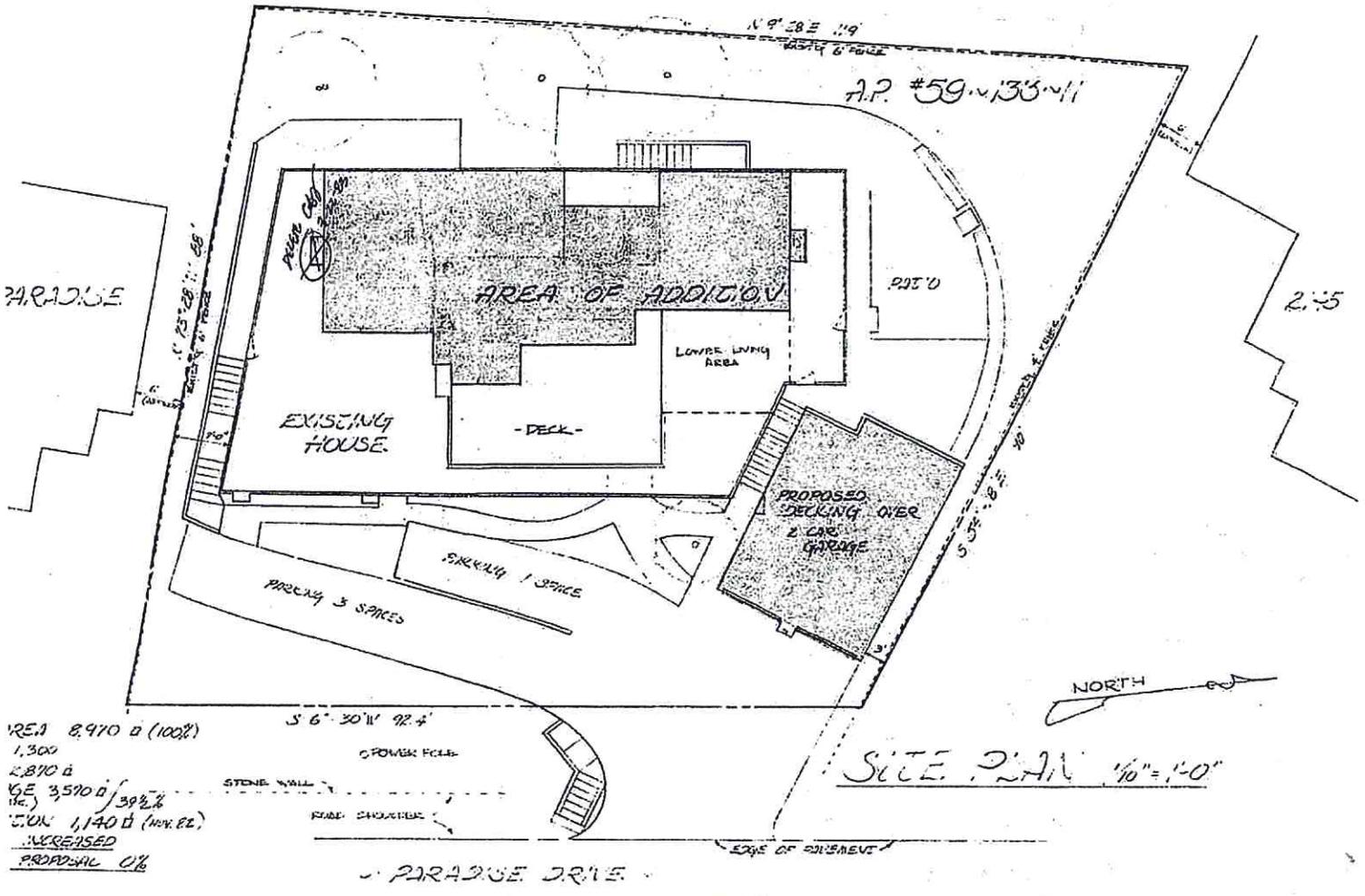


EXHIBIT NO. 1

4 of 5

RECEIVED
 MAR 10 2016
 PLANNING DIVISION



AREA 8,910 sq (100%)
 1,300
 2,810 sq
 6E 3,590 sq (39%)
 (16.5)
 5,000 1,140 sq (12.7%)
 INCREASED
 PROPOSAL 0%

CONDITIONS & RENOVATIONS
 THE RESIDENCE OF
 JACK & MARY SIVENEY
 131-33 PARADISE DRIVE S. BURBU, CA.

A.P. 59-133-11

CASALI
 Designer/Builder
 44 GREENWOOD WAY
 383-6261
 MILL VAL
 945

RESOLUTION NO. 2016-Draft

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

ASSESSOR PARCEL NO. 059-133-11

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

Section 1. Findings.

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

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

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

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

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

Section 2. Approval.

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

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

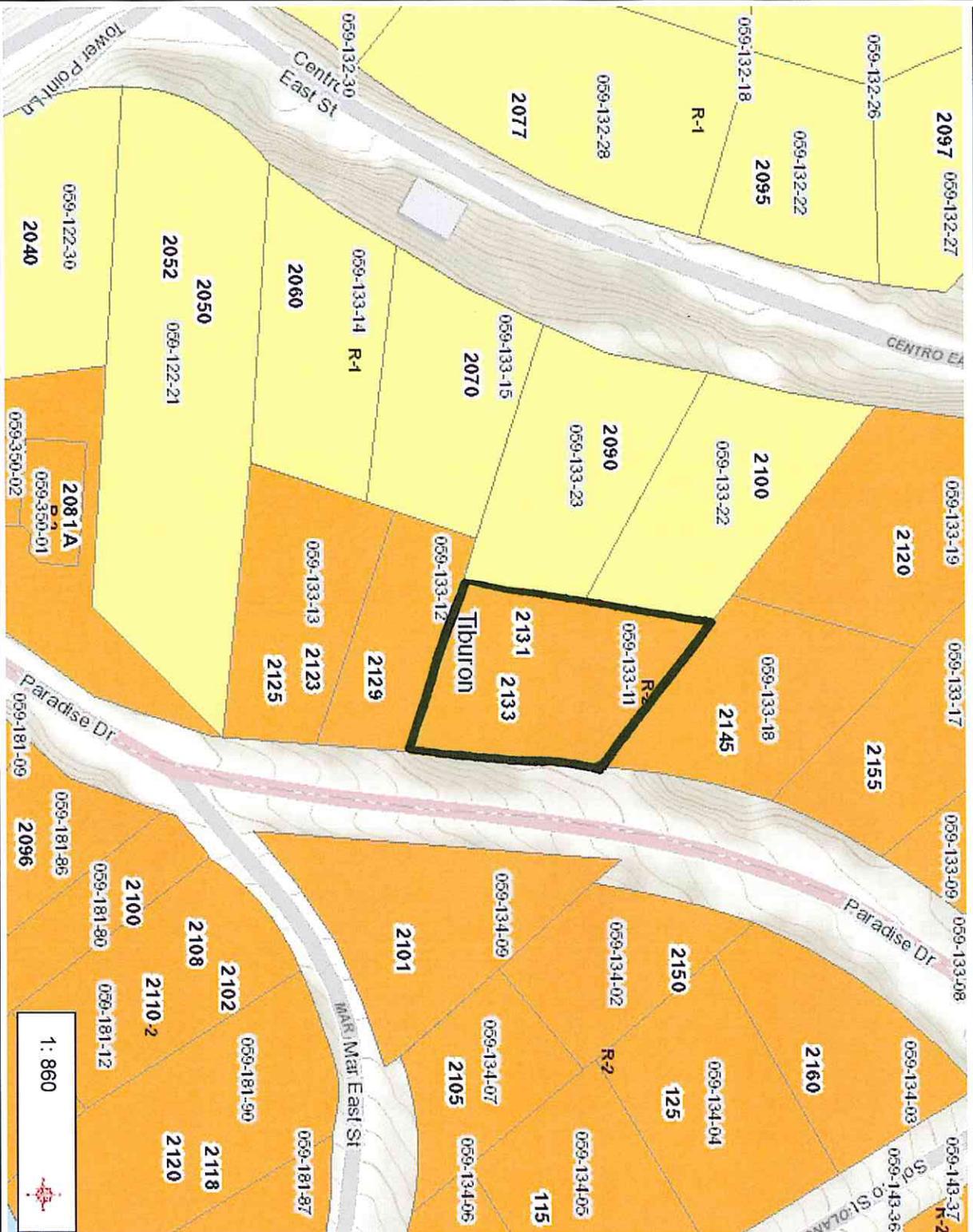
PASSED AND ADOPTED at a regular meeting of the Planning Commission on April 27, 2016, by the following vote:

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

DAVID KULIK, CHAIR
TIBURON PLANNING COMMISSION

ATTEST:

KYRA O'MALLEY, SECRETARY



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1: 860

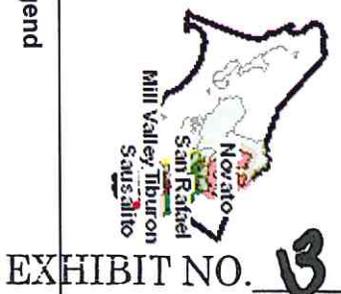


EXHIBIT NO. 13

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

Notes