



TOWN OF TIBURON
 1505 Tiburon Boulevard
 Tiburon, CA 94920

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

STAFF REPORT

To: Members of the Planning Commission

From: Community Development Department

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

Reviewed By: _____

PROJECT DATA

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

SUMMARY

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

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

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

2. The proposed guard rails were not approved.

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owners of the properties at 2308 & 2322 Mar East Street also filed separate appeals of this decision, but have since withdrawn their appeals.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

REVIEW BY PLANNING DIVISION

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

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

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

BASIS FOR THE APPEAL:

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

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

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

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

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

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

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

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

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

CONCLUSION

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

RECOMMENDATION

It is recommended that the Planning Commission:

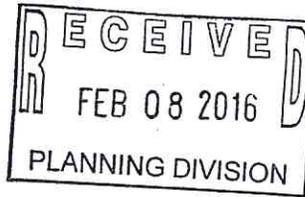
- 1) Hold a public hearing and take testimony on the appeal in accordance with the Town's adopted procedure (see attached **Exhibit 2**), and close the public hearing.
- 2) Deliberate on the appeal and, if prepared to do so, indicate its intentions regarding the appeal.
- 3) Direct Staff to return with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

EXHIBITS

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

Prepared By: Daniel M. Watrous, Planning Manager

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



TOWN OF TIBURON NOTICE OF APPEAL

Town of Tiburon
1505 Tiburon Boulevard
Tiburon, CA 94920 Phone 415-435-7373
www.ci.tiburon.ca.us

APPELLANT(S)

(Attach additional pages if necessary)

Name: Mark Blumenkranz

Mailing Address: 2304 Mar East

Telephone: 650-222-2207 (Work) _____ (Home)

FAX and/or e-mail (optional): _____

ACTION BEING APPEALED

Review Authority Whose Decision is Being Appealed: Planning Division

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

Name of Applicant: Mark Blumenkranz

Type of Application or Decision: Tidelands Permit

GROUND(S) FOR APPEAL

(Attach additional pages if necessary)

See attached letter

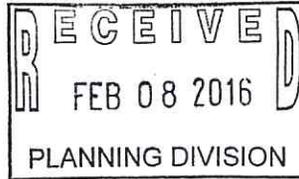
EXHIBIT NO. 1

P. 10P2

STAFF USE ONLY BELOW THIS LINE

Last Day to File Appeal: 2/18/16 Date Appeal Filed: 2/18/16

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



February 8, 2016

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

Dear Mr. Watrous,

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

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

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

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

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

Respectfully Submitted,

Mark Blumenkranz

EXHIBIT NO. 1

P. 2 OF 2

RESOLUTION NO. 17-2010

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

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

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

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

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

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

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

APPEAL PROCEDURE

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

2. The appellant must submit filing fees with the Notice of Appeal form. Filing fees are set forth in the Town's current adopted Fee Schedule.
 - (a) If the applicant is the appellant, the remainder of the filing fee (if any) will be refunded following completion of the appeal process. Additional staff time or costs to process an applicant's appeal is the financial responsibility of the applicant and will be billed per the Town's current hourly rate schedule and/or at actual cost if outside consulting is required.
 - (b) If the appellant is not the applicant, then a fixed amount filing fee is required with no refund or additional billing required.

3. In the appeal form, the appellant shall state specifically either of the following:
 - (a) The reasons why the decision is inconsistent with the Tiburon Municipal Code or other applicable regulations; or
 - (b) The appellant's other basis for claiming that the decision was an error or abuse of discretion, including, without limitation, the claim that the decision is not supported by evidence in the record or is otherwise improper.

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

4. The appellant must state all grounds on which the appeal is based in the Notice of Appeal form filed with the Town Clerk. Neither Town staff nor the Town Council need address grounds introduced at a later time that were not raised in the Notice of Appeal form.

5. The procedure for presentation of the appeal at the Town Council meeting is as described below. In cases where the applicant is the appellant, paragraphs (c) and (f) below would not apply.
 - (a) Town Staff may make a brief (approximately 10 minute) presentation of the matter and then respond to Town Council questions.
 - (b) Appellant and/or appellant's representative(s) may make a presentation of no more than twenty (20) minutes and then respond to Town Council questions. Appellant may divide up the twenty (20) minutes between various speakers or have only one speaker, provided that the time limit is observed. Time devoted to responding to Town Council questions shall not be included as part of the twenty (20) minute time limit.
 - (c) Applicant and/or applicant's representative(s) may make a presentation of no more than twenty (20) minutes and then respond to Town Council questions. Applicant may divide up the twenty (20) minutes between various speakers or have only one speaker, provided that the time limit is observed. Time devoted to responding to

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

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

RECONSIDERATION

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

SCHEDULING OF APPEALS

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

STORY POLES

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

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

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

APPLICABILITY

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

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

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

NOES: COUNCILMEMBERS: None

ABSENT: COUNCILMEMBERS: Slavitz

RICHARD COLLINS, MAYOR
TOWN OF TIBURON

ATTEST:

DIANE CRANE IACOPI, TOWN CLERK



TOWN OF TIBURON
LAND DEVELOPMENT APPLICATION



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

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

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

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

PHONE/FAX NUMBER: _____ **E-MAIL:** _____

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

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

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

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

See Attached

EXHIBIT NO. 3

I, the undersigned owner (or authorized agent) of the property herein described, hereby make application for approval of the plans submitted and made a part of this application in accordance with the provisions of the Town Municipal Code, and I hereby certify that the information given is true and correct to the best of my knowledge and belief.

I understand that the requested approval is for my benefit (or that of my principal). Therefore, if the Town grants the approval, with or without conditions, and that action is challenged by a third party, I will be responsible for defending against this challenge. I therefore agree to accept this responsibility for defense at the request of the Town and also agree to defend, indemnify and hold the Town harmless from any costs, claims or liabilities arising from the approval, including, without limitation, any award of attorney's fees that might result from the third party challenge.

Signature: * McJumary Date: 12-8-15

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

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

Signature: * McJumary Date: 12-8-15

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

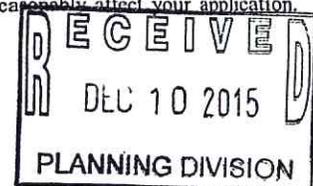
NOTICE TO APPLICANTS

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

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

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

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



DO NOT WRITE BELOW THIS LINE

DEPARTMENTAL PROCESSING INFORMATION		
Application No.: <u>TIDE2015-003</u>	GP Designation:	Fee Deposit: <u>\$450⁰⁰</u>
Date Received: <u>12/10/15</u>	Received By: <u>KO</u>	Receipt #: <u>R426</u>
Date Deemed Complete: <u>1/4/16</u>	Action: <u>APPROVED</u>	By: <u>JC</u>
Acting Body: <u>STAFF</u>		Date: <u>1/28/16</u>
Conditions of Approval or Comments: _____		Resolution or Ordinance # _____

EXHIBIT NO. 3



Progress Report: TIB01

To: Town of Tiburon Planning

cc: Mark Blumenkrnz

From: Peter Clark

Date: December 7, 2015

Project: 2304 Mar East
Tidelands Permit

Job No: 26058

RE: Tideland Permit

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

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

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

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

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

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



Progress Report: TIB01

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

Representative Photos

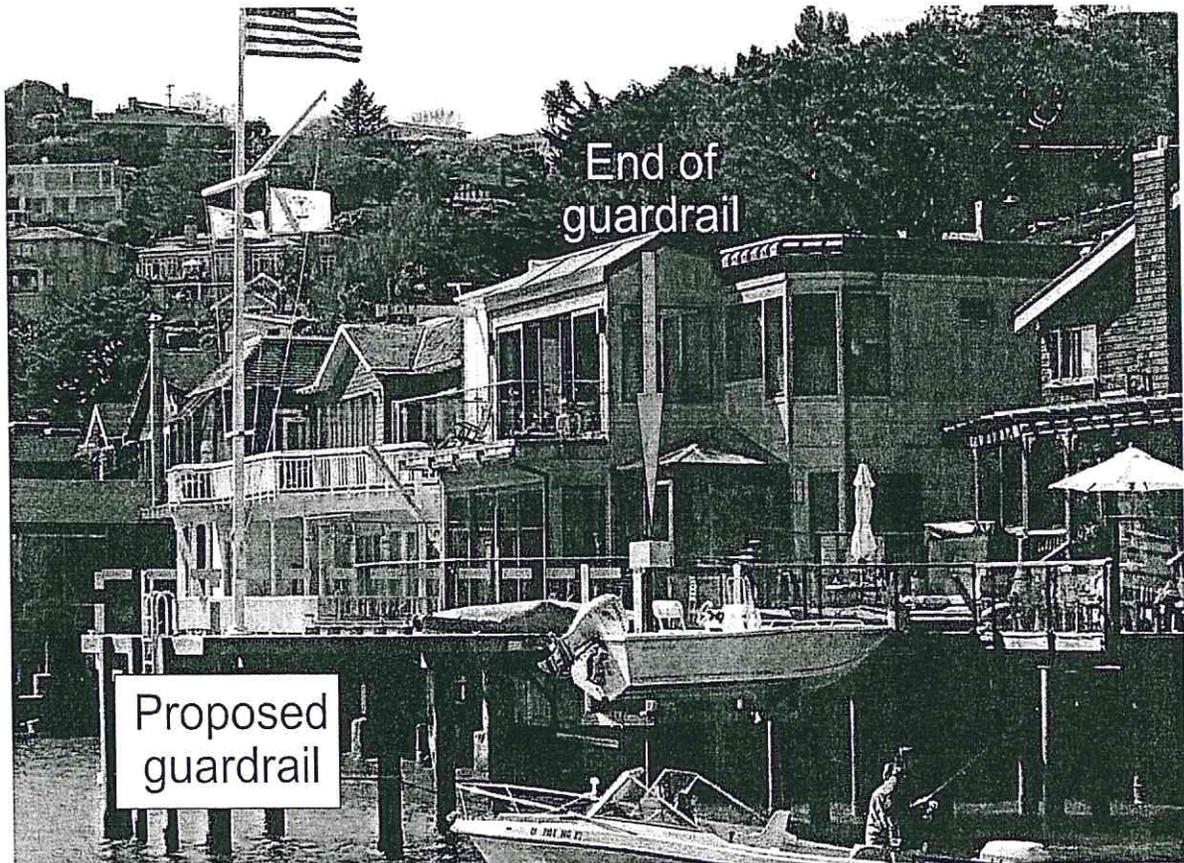
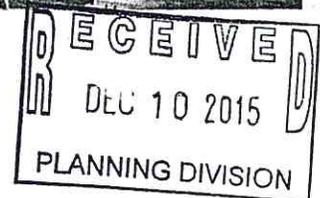


Figure 1: Existing Pier, viewed from the east





Progress Report: TIB01

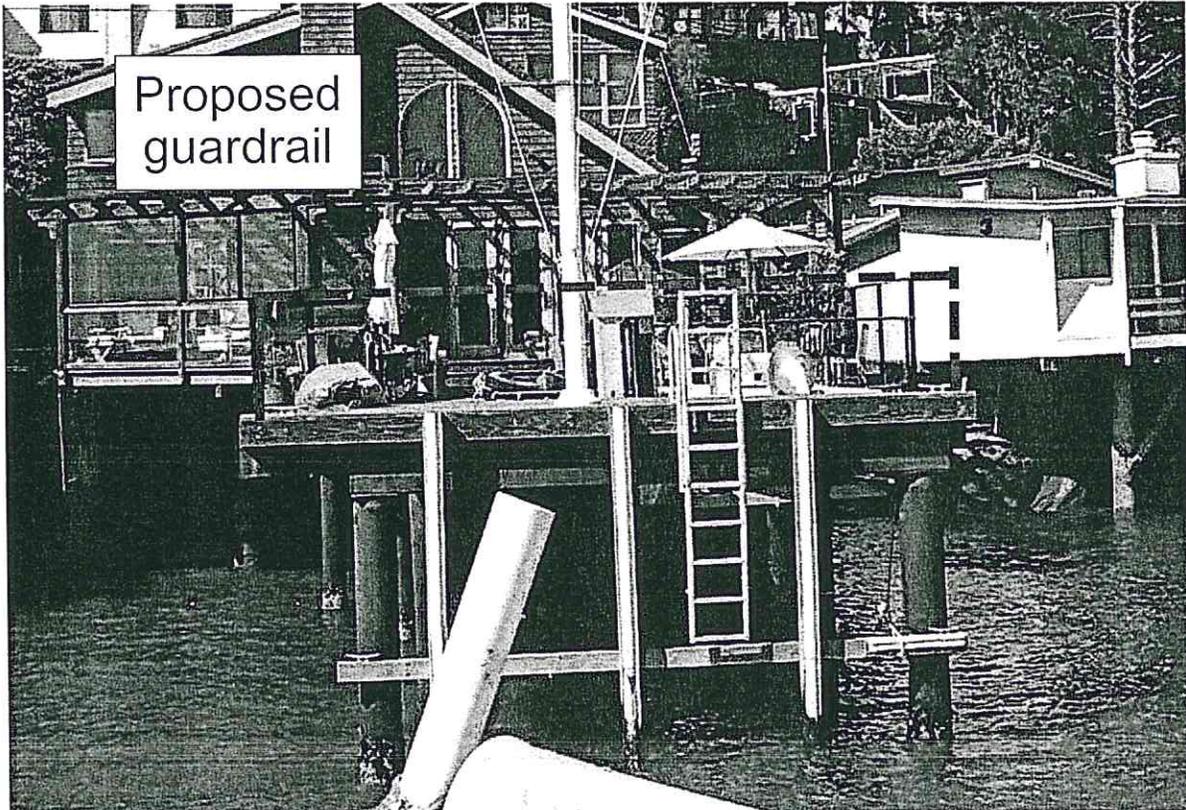
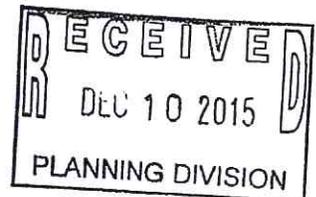


Figure 2: Existing pier, viewed from the south





Progress Report: TIB01

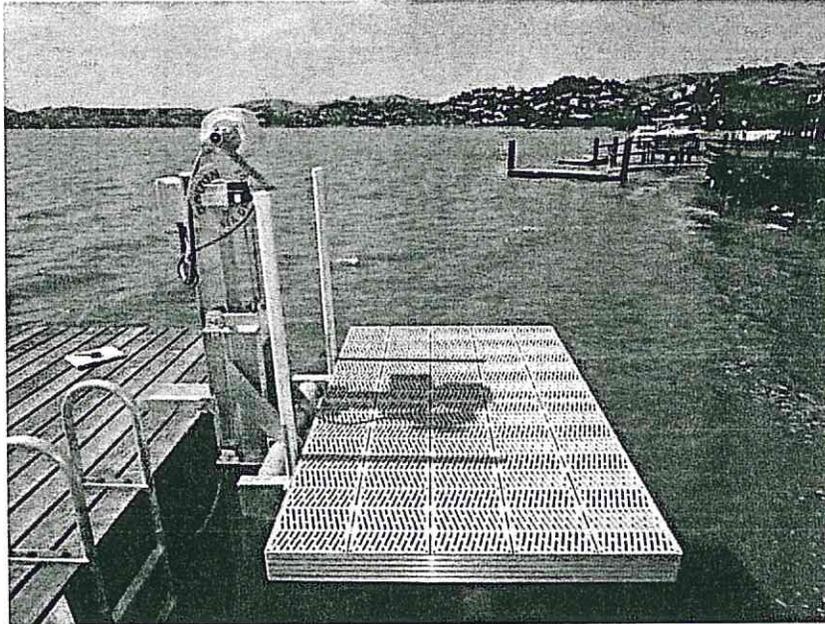


Figure 3: Platform lift installed along West Shore Rd, Belvedere

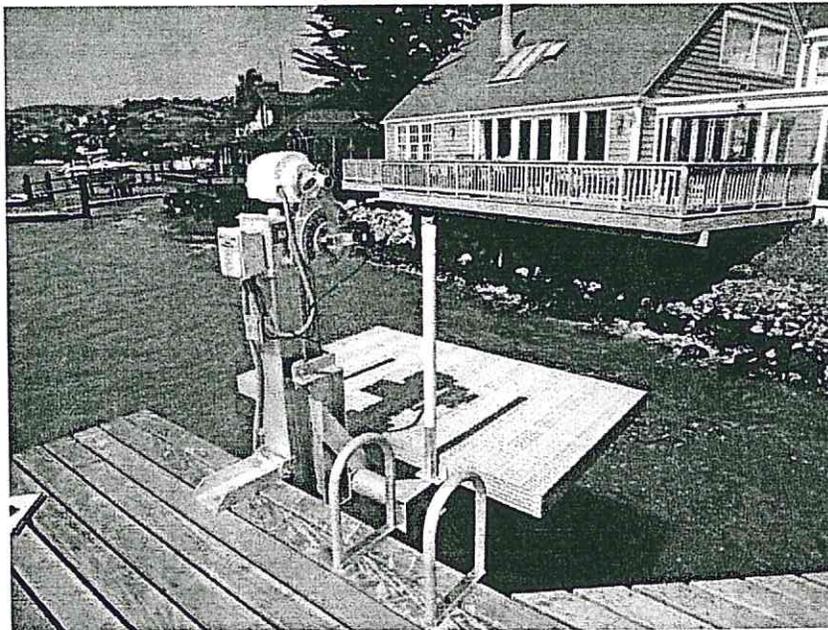
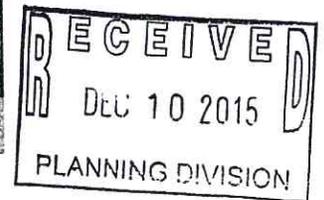


Figure 4: Platform lift installed along West Shore Rd, Belvedere



Dan Watrous

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

Hi Dan,

Email #2 today.

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

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

Respectfully,

Mark & Shauna Dickinson
2322 MAR EAST ST.

EXHIBIT NO. 4

Dan Watrous

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

Dan

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

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

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

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

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

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

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

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

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

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

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

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

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

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

EXHIBIT NO. 5

Dan Watrous

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

Ref: File No.: TIDE2015003

Dear Dan:

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

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

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

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

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

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

Sincerely,

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

EXHIBIT NO. 6

Dan Watrous

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

EXHIBIT NO. 7

Dan Watrous

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

Good morning, Dan.

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

Enclosing the Pier:

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

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

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

Kayak Lift:

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

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

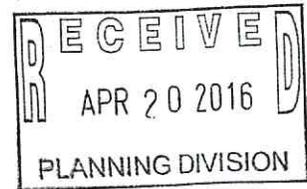
2304 already has a kayak hoist and associated pipes at the end of the pier that have been used by the previous owner. If the Town Of Tiburon approves a revised new kayak platform design as substitute, it would make sense for the vertical pipes to be removed permanently, since they will be replaced by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

Thank you for your time and attention,

Magdalena Yesil, Jim Wickett

EXHIBIT NO. 8

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



April 20, 2016

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

To The Tiburon Planning Commission,

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

We have specific concerns with the following:

- The proposed dock wire fencing allows for unrestricted use of this area for storage. There will be no way, if this change is approved, to police or limit the amount or items that could be placed and stored in this area. (ie. deck furniture, vertical heat and light fixtures, boats, etc.)
The Planning Commission or adjoining neighbors would have no way, if this change is approved, to control or limit items placed in this area. Increased deck clutter would only, further, obstruct the views from neighboring properties. Given the nature of what has been stored and placed on the deck for the past two years, we have legitimate cause to believe that this practice will continue. If approved, the proposed wire fencing would give rise to additional clutter on the deck, unchecked additional storage and further view obstructions for neighbors.

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

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

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

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

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

Sincerely,


Charles and Mik Flynn
Residents of 2280 Mar East

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