



TOWN OF TIBURON
1505 Tiburon Boulevard
Tiburon, CA 94920

Design Review Board Meeting
May 5, 2016
Agenda Item: **4**

STAFF REPORT

To: Members of the Design Review Board

From: Planning Manager Watrous

Subject: 1694-1696 Tiburon Boulevard; File Nos. DR2016011/VAR2016011; Site Plan and Architecture Review for Construction of a New Three-Story Mixed-Use Commercial and Residential Building, with a Variance for Excess Flagpole Height

Reviewed By: _____

PROJECT DATA

ADDRESS: 1694-1696 TIBURON BOULEVARD
OWNER: ACV ARGO TIBURON LP
APPLICANT: ZWICK ARCHITECTURE
ASSESSOR'S PARCEL: 059-101-12
FILE NUMBERS: DR2016011/VAR2016011
LOT SIZE: 3,676 SQUARE FEET
ZONING: NC (NEIGHBORHOOD COMMERCIAL)
GENERAL PLAN: NC (NEIGHBORHOOD COMMERCIAL)
FLOOD ZONE: AE – SPECIAL FLOOD HAZARD AREA
DATE COMPLETE: APRIL 13, 2016

PRELIMINARY ENVIRONMENTAL DETERMINATION

An Initial Study/Draft Mitigated Negative Declaration (IS/MND) was prepared for this project, released for public comment on March 3, 2015 and adopted by the Planning Commission by Resolution No. 2015-08 on August 12, 2015.

PROJECT DESCRIPTION

The applicant is requesting Design Review approval for the construction of a new three-story mixed use commercial and residential building on property located at 1694-1696 Tiburon Boulevard. The subject property is currently developed with a one-story commercial building occupied by two restaurants (New Morning Café and the Grass Shack).

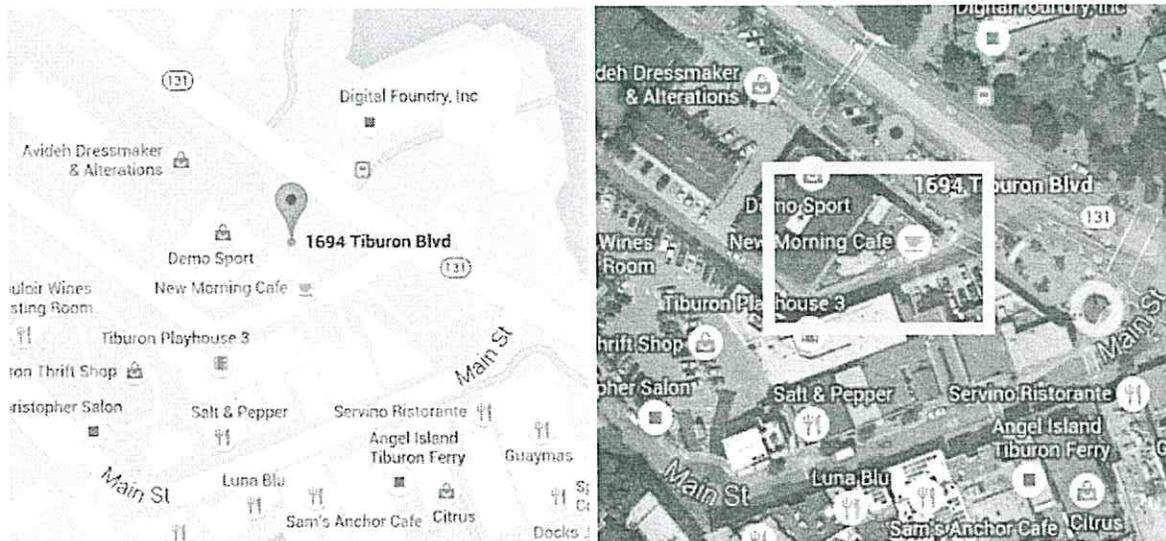
The existing building has 2,776 square feet of floor area. The first floor of the proposed building would contain 2,450 square feet of floor area. The first floor would either be an entirely new restaurant or alternately designed with 1,679 square feet of restaurant space and 771 square feet allocated for separate retail commercial space. The restaurant would have 38 to 68 interior seats (depending on the restaurant/retail mix) and seating for 30 patrons outside the building along Tiburon Boulevard and Juanita Lane.

The second floor would be divided into two condominium dwelling units. Unit 1 would contain two bedrooms and two bathrooms and 1,196 square feet of floor area and be contained entirely on the second floor. Unit 2 would contain two bedrooms and two bathrooms and 1,105 square feet of floor area on the second floor and an additional bedroom and bathroom with 504 square feet of space on a partial third floor. Both units would have small balconies on the second floor, while Unit 2 would include a larger deck on the third floor. Two (2) one-car garage spaces for the residential units would be located to the rear of the first floor. An elevator would connect all three floors of the building. The building would have a maximum height of 38 feet, which is the maximum height for buildings in the NC zone with Tiburon Boulevard frontage.

A 40 foot tall flagpole is proposed to be installed in front of the building. As the maximum height for a flagpole in Tiburon is 24 feet, a variance is requested for excess flagpole height.

A color and materials board has been submitted, and will be present at the meeting for the Board to review. The structure would be finished with off-white wood siding with grey trim. The color and materials of the flat roof have not been specified.

PROJECT SETTING



The subject property is situated at the corner of Tiburon Boulevard and Juanita Lane. The level site is almost completely covered by the existing building. Angled parking between the building and the roadway of Tiburon Boulevard is located within the right-of-way controlled by Caltrans.

BACKGROUND

The proposed mixed-use building was reviewed in 2015 by the Planning Commission under a conditional use permit application (File #11402). The original project design included three full stories of building area and three dwelling unit on the upper two floors. At the March 25, 2015 Commission meeting, several residents and the tenants and attorney for the adjacent commercial building at 1690 Tiburon Boulevard raised objections to the project design, including concerns about the proposed building height, impacts on sunlight for the neighboring building and parking. The Commission shared some of these concerns, and continued the application and directed the applicant to return with a redesigned project that lowered the height of the building and allowed more light into the east-facing windows of the building at 1690 Tiburon Boulevard.

At the May 13, 2015 meeting, the applicant presented revised plans for the project that eliminated a third residential unit and reconfigured the second dwelling unit on the second floor to include a master bedroom suite on a partial third floor. The third story area was centered on the building and pulled 9 to 10.5 feet from the side property line, and a roughly 26½ foot wide portion of the second story was pulled back to create a “light well” for the adjacent east-facing second story portion of the building at 1690 Tiburon Boulevard. Several residents, the tenants and the attorney for the building at 1690 Tiburon Boulevard objected to the revised project design, stating that the revisions did not sufficiently address their previous concerns about sunlight impacts and parking. The Commissioners voiced differing opinions about the partial third story, but the consensus was that a two-story building was more appropriate at this location and that the parking issues were resolved. The Commission continued the item and directed the applicant to return with a two-story building design that adequately addressed the provision of light to the east-facing windows of 1690 Tiburon Boulevard.

At the August 12, 2015 meeting, the applicant presented revised plans for the project. The design still included a third story element, which was moved to the rear (southern) corner of the building. The first floor of the proposed building was redesigned to include two one-car garages sited toward the rear of the building with access from Juanita Lane, with one garage space to be assigned to each of the two residential units. At the meeting, the attorney for the building at 1690 Tiburon Boulevard again objected to the revised project design, challenging the efficacy of the light well and stating that the Planning Commission could not make the required findings to approve the conditional use permit. The Commission determined that the revised project design substantially addressed the concerns raised at the previous meeting, but felt that portions of the design, including the mass of the third story elevator, mechanical space and stairways, the size of the third story deck and the design of the deck railings required additional attention through the Site Plan and Architectural Review process. A condition of approval was added to the draft resolution directing the Design Review Board to address those design features in its future review of the building design.

The Commission voted unanimously to adopt Resolution No. 2015-08 (**Exhibit 3**) conditionally approving the project. On August 24, 2015, the owners of the building at 1690 Tiburon Boulevard filed a timely appeal of this decision to the Town Council. The Town Council considered the appeal on September 16, 2015 and unanimously voted (4-0) to deny the appeal.

ANALYSIS

Design Issues

The design of the proposed building is fundamentally the same as the plans reviewed by the Planning Commission and Town Council. The elevator and mechanical room on the third story has been shortened by 5 inches, but the other exterior dimensions of the building are identical to those shown on the previous plans.

Condition of Approval No. 8 of Planning Commission Resolution No. 2015-08 reads as follows:

“As part of the review of the Site Plan and Architectural Review application for this project, the Design Review Board is directed to minimize the mass of the third story building elements, including the elevator, mechanical space and stairways, to increase light to the light well of the building. The Design Review Board is further directed to address the size of the third story deck to ensure that it is appropriate to the scale of the residential unit it serves and does not unnecessarily add to the visual mass of the building when viewed from Tiburon Boulevard. The Design Review Board shall also review the openness of the third story deck railings so that the railings do not unnecessarily add to the visual mass of the building or affect light to the building at 1690 Tiburon Boulevard.”

As noted above, the size of the elevator and mechanical room has been slightly reduced. The third story deck area is limited to the rear half of the building and does not extend all the way to the front of the structure. With the exception of a small triangular balcony on the second floor, the third level deck represents the only outdoor living area for the second dwelling unit. The deck railings would utilize stainless steel horizontal cables, which should not “unnecessarily add to the visual mass of the building or affect light to the building at 1690 Tiburon Boulevard.”

The project proposes to include outdoor seating along both sides of the building, similar to the seating that currently exists for New Morning Café. The Public Works Department has indicated that the proposed seating on the Juanita Lane side of the building may create accessibility issues for the sidewalk in the public right-of-way. The outdoor seating along the front of the building would be situated on private property and would not create similar access issues. The improvements and uses in the Town right-of-way would be reviewed and regulated by the Public Works Department through the encroachment permit process.

The proposed flagpole at the front of the building is intended to support two 3 foot by 5 foot flags. Staff believes that the flagpole does little to enhance the architecture of the building and could prove to be a visual distraction from the appearance of the building.

Downtown Tiburon Design Handbook

The Downtown Tiburon Design Handbook contains guidelines for building designs in the Downtown area. The Handbook includes the following guidelines for new buildings along Tiburon Boulevard:

Front facades should be kept close to the sidewalk in order to encourage and support pedestrian activity. Retail storefronts and active outdoor spaces and uses, such as sidewalk cafés, are strongly encouraged, in order to make strolling along Tiburon Boulevard a stimulating and enjoyable activity.

The building façade would be close to the sidewalk on both the Tiburon Boulevard and Juanita Lanes sides of the building. Sidewalk café seating is also proposed on both sides.

New buildings should be of a scale that is larger than that of Main Street, and more appropriate to a civic boulevard streetscape. The design of buildings with a simple, spacious “warehouse-loft” character, consisting of two- and three-story façades with generous openings, is particularly suited for Tiburon Boulevard.

The proposed building would have a predominantly two-story building character, with a partial third story set back from the front façade.

Façades should be planar, flat assemblies, with articulation of this approach in door and window details that show little or no recess at the wall plane. Use of terracing or vertical stepping is to be avoided. Projecting bay windows also are discouraged as a repeated design element, but could be used as individual elements in limited locations.

The proposed windows and doors would not be recessed at the wall plane and not projecting bay windows are proposed.

The main roof should be flat or include a ridge element that is parallel to the street.

The building would have a flat roof.

Use of large windows is encouraged; they should feature regular spacing and vertical alignment between stories, and use a limited number of shapes and sizes. The intent is a façade that possesses vertical articulation, wherein windows and other elements are used to create a series of vertical elements in a pleasant rhythm.

The windows would be large, regularly spaced, vertically aligned between stories and use a limited number of shapes and sizes.

Use of street-level overhangs, such as arcades, awnings and canopies is encouraged, when used to add comfort and interest and lend dimension and vitality to the façade.

Street-level awnings are proposed along the Tiburon Boulevard and Juanita Lane sides of the building.

Avoid artificial treatments that are not related to Tiburon’s heritage, such as divided light windows with small panes, and architectural details that are reminiscent of, or try to emulate, periods and styles from other times and places, e.g., the Arts and Crafts Movement.

The proposed windows do utilize numerous panes.

Avoid excessive or massive roof overhangs. Shading of windows may be achieved by using separate architectural elements, such as horizontal screens or awnings.

No roof overhangs are proposed.

Place windows and doors at the exterior face of wall assembly. Recessed openings for doors and windows are not encouraged.

The windows and doors would be placed at the exterior faces of the building walls.

Maintain a consistent use of exterior cladding material around an entire building. Minimize the mixing of materials and colors in façades.

Wood siding is proposed around the entire building exterior.

Use siding or cladding materials that have visible horizontal joints, such as wood boards or metal panels. Conversely, avoid treatments that require extra effort to create horizontal joints, such as metal reveal bands in stucco walls.

The proposed wood siding would utilize horizontal boards.

Limit the palette of materials as much as possible in order to achieve a character that reads as "direct, elegant, and functional." Avoid mixing too many different materials with incompatible colors or finishes.

Only one color and trim are proposed for the majority of the building.

Use materials that are traditionally associated with waterfronts for their attractive weathering properties and their resistance to corrosion. While painted wood siding requires regular maintenance, no material has stronger associations with waterfronts.

The building would utilize painted wood siding.

In the San Francisco Bay region, a traditional [color] palette is present in buildings across many waterfront environments (e.g., Fort Mason and the Presidio, San Francisco's Richmond District). Typically, this palette consists of a white or light body color, with one accent color for trim.

The building would utilize off-white wood siding with grey trim.

Zoning

Staff has reviewed the proposal and finds that it is in conformance with the development standards for the NC zone, with the exception of the requested variance for flagpole height.

In order to grant the requested variance, the Board must make all of the following findings required by Section 16-52.030 (E) of the Tiburon Zoning Ordinance:

1. ***Because of special circumstances applicable to the property, including size, shape, topography, location, or surroundings, the strict application of this Ordinance will deprive the applicant of privileges enjoyed by other properties in the vicinity and in the same or similar zones.***

The subject property is very small and triangular in shape, but also level, with no topographic constraints. There do not appear to be any special circumstances applicable to the property that would cause the strict application of the maximum flagpole height requirement to deprive the owners of this property of development privileges enjoyed by other properties in the vicinity.

2. ***The Variance will not constitute a grant of special privileges, inconsistent with the limitations upon other properties in the vicinity and in the same or substantially the same zone.***

Very few properties in the NC or similar zones have flagpoles, and none have received variances for excess flagpole height. Therefore the requested variance would constitute a grant of special privileges, inconsistent with the limitations upon other properties in the vicinity and in the same or substantially the same zone.

3. ***The strict application of this Zoning Ordinance would result in practical difficulty or unnecessary physical hardship. Self-created hardships may not be considered among the factors that might constitute special circumstances. A self-created hardship results from actions taken by present or prior owners of the property that consciously create the very difficulties or hardships claimed as the basis for an application for a Variance.***

The proposed flagpole could be reduced in height or eliminated from the project without substantially affecting the design of the proposed mixed use building. The height of the flagpole would therefore be a self-created hardship that consciously creates the very difficulties or hardships claimed as the basis for an application for a variance.

4. ***The granting of the variance will not be detrimental to the public welfare or injurious to other properties in the vicinity.***

As noted above, the proposed flagpole would not create substantial view or privacy impacts for other homes in the vicinity.

From the evidence provided, Staff believes that there is insufficient evidence to support the findings for the requested variance.

Public Comment

As of the date of this report, no letters have been received regarding the subject application.

RECOMMENDATION

The Design Review Board should review this project with respect to Zoning Ordinance Sections 16-52.020 (H) (Guiding Principles). If the Board agrees with staff's conclusions, it is recommended that the project be approved without the requested flagpole and variance, and that the attached conditions of approval be applied.

ATTACHMENTS

1. Conditions of approval
2. Application and supplemental materials
3. Planning Commission Resolution No. 2015-08
4. Submitted plans

Prepared By: Daniel M. Watrous, Planning Manager

CONDITIONS OF APPROVAL

1694-1696 TIBURON BOULEVARD

FILE #DR2016011/VAR2016011

1. This approval shall be used within three (3) years of the approval date, and shall become null and void unless a building permit has been issued.
2. Construction shall conform with the application dated by the Town of Tiburon on February 4, 2016, or as amended by these conditions of approval. Any modifications to the plans of March 28, 2016 must be reviewed and approved by the Design Review Board.
3. Project elements shown on construction drawings submitted to the Building Division for plan check shall be essentially identical to those project elements shown on drawings approved by the Design Review Board. The permit holder is responsible for clearly identifying on construction drawings any and all changes to project elements. Such changes must be clearly highlighted (with a “bubble” or “cloud”) on the construction drawings. A list describing in detail all such changes shall be submitted and attached to the construction drawings, with a signature block to be signed by the Planning Division Staff member indicating whether these changes have been reviewed and are approved, or will require additional Design Review approval. All such changes that have not been explicitly approved by the Town are not “deemed approved” if not highlighted and listed on construction drawings. Construction of any such unapproved project elements is in violation of permit approvals and shall be subject to Stop Work Orders and removal.
4. The applicant must meet all requirements of other agencies prior to the issuance of a building permit for this project.
5. All exterior lighting fixtures other than those approved by the Design Review Board must be down-light-type fixtures.
6. 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.
7. A construction sign shall be posted on the site during construction of the project, in a location plainly visible to the public. The sign shall be 24” x 24” in size and shall be made of durable, weather-resistant materials intended to survive the life of the construction period. The sign shall contain the following information: job street address; work hours allowed per Chapter 13 of the Tiburon Municipal Code; builder (company name, city,

state, ZIP code); project manager (name and phone number); and emergency contact (name and phone number reachable at all times). The sign shall be posted at the commencement of work and shall remain posted until the contractor has vacated the site

8. A copy of the Planning Division's "Notice of Action" including the attached "Conditions of Approval" for this project shall be copied onto a plan sheet at the beginning of the plan set(s) submitted for building permits.
9. Prior to issuing a grading or building permit the applicant shall implement measures for site design, source control, run-off reduction and stormwater treatment as found in the Bay Area Stormwater Management Agency Association (BASMAA) Post-Construction Manual available at the Planning Division or online at the Marin County Stormwater Pollution Prevention Program (MCSTOPPP) website at www.mcstoppp.org.
10. All requirements of the Town Engineer shall be met, including, but not limited to, the following, which shall be noted on building plan check plans:
 - a. The public right-of-way shall be protected from damage during construction, or repairs shall be made to the satisfaction of the Tiburon Public Works Department.
 - b. Any proposal that would encroach onto the public right-of-way is not permitted. This would include fences, retaining walls and other structures.
 - c. Typical encroachments, such as driveway approaches, walkways, drainage facilities, and short-height landscaping, need to be processed through a standard Public Works encroachment permit application with plans for review.
 - d. No lot-to-lot drainage is allowed except where easements for drainage are provided. No drainage shall discharge across sidewalks.
 - e. Post-development stormwater flows shall be limited to pre-development levels at the 2, 25 and 100 year storm. Storm water improvements shall be designed in accordance with Marin County criteria. Hydrology calculations, pipe sizing and storm drain plans shall be submitted for review and approval of the Town Engineer.
 - f. All site drains and ditches shall be privately maintained and shall be contained within private storm drain easements. A 10 foot easement width is required for any pipes outside the right-of-way. The improvement plans shall show that all concentrated site drainage shall be directed to an under-sidewalk drain or an approved onsite storm drainage system.
 - g. The site must provide Pose Construction mitigation in accordance with Section E.12 of the Town's Municipal Stormwater Permit and the

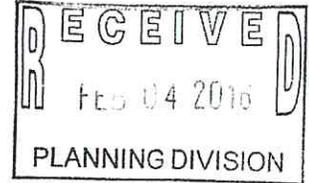
BASMAA Post-Construction Manual Design Guidance for Stormwater Treatment and Control for Projects in Marin, Sonoma, Napa and Solano Counties. The area used for this treatment shall be shown in the plans submitted for building permits.

- h. A civil engineer shall prepare a detailed site drainage plan and incorporate the erosion control notes and an erosion sediment control plan for review and approval by the Building Division and Engineering Division.
 - i. Outside seating areas shall be clearly shown on all plans and dimensions provided for sidewalks. All existing street furniture, plantings, and lights shall be shown.
- 10. The final landscape and irrigation plans must comply with the current water efficient landscape requirements of MMWD.
- 11. The project shall comply with the requirements of the California Fire Code and the Tiburon Fire Protection District, including, but not limited to, the following:
 - a. The structure shall have installed throughout an automatic fire sprinkler system. The system design, installation and final testing shall be approved by the District Fire Prevention Officer. CFC 903.2
 - b. Fire rated occupancy separations and some fire rated exterior walls shall comply with the CBC.
 - c. Approved smoke alarms shall be installed to provide protection to all sleeping areas. CFC 907.2.10
 - d. The means of egress system shall comply with Chapter 10 of the CFC and CBC.
 - e. A Type I hood shall be installed at or above all commercial cooking appliances used for commercial purposes that produce grease vapors. CFC 609.2
- 11. The project shall comply with all requirements of Sanitary District No. 5.
- 12. A construction staging plan shall be approved by the Building Official prior to issuance of a building permit for this project.



2/3/16

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
- Change of Address
- 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
- Certificate of Compliance
- Other _____

APPLICANT REQUIRED INFORMATION

SITE ADDRESS: 1694-1696 Tiburon Blvd./3 Juanita Ln. **PROPERTY SIZE:** ±3,676 gsf
PARCEL NUMBER: 059-101-12 **ZONING:** NCD

PROPERTY OWNER: ACV Argo Tiburon LP
MAILING ADDRESS: 770 Tamalpais Dr. Suite 401B, Corte Madera, CA 94925
PHONE/FAX NUMBER: _____ **E-MAIL:** _____

APPLICANT (Other than Property Owner): Marty Zwick*
MAILING ADDRESS: 326 Pine St. Sausalito, CA 94965
PHONE/FAX NUMBER: 415-289-0303/415-289-0404 **E-MAIL:** zwick@zarch.com

ARCHITECT/DESIGNER/ENGINEER Marty Zwick*
MAILING ADDRESS: 326 Pine St. Sausalito, CA 94965
PHONE/FAX NUMBER: 415-289-0303/415-289-0404 **E-MAIL:** zwick@zarch.com

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

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

The proposed project consists of a mixed-use building that includes a ground floor restaurant with an optional retail space and on the second and third floor two residential condominiums.

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.

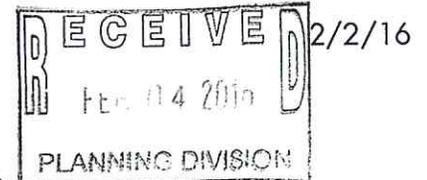
Signature: * Date: 2/3/16

**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*

DO NOT WRITE BELOW THIS LINE

DEPARTMENTAL PROCESSING INFORMATION		
Application No.: DR 2016011	GP Designation:	Fee Deposit: \$2825
Date Received: 2/14/2016	Received By: LS	Receipt #: RL52
Date Deemed Complete: 4/13/16	Action:	By: DJ
Acting Body:		Date:
Conditions of Approval or Comments:		Resolution or Ordinance # _____

DESIGN REVIEW SUPPLIMENT

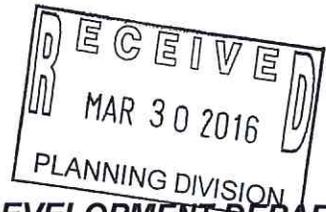


Please fill in the information requested below:

- Briefly describe the proposed project (attach separate sheet as needed):
The proposed project at 1694-1696 Tiburon Blvd/3 Juanita Ln. consists of a mixed-use building that will contain a ground floor restaurant with optional retail space and on the second and third floor two residential condominiums.
- Lot area in square feet (Section 16-100.020(L))*: 3,676 gsf per Meridian Zoning: Neighborhood Commercial
- Square footage of Landscape Area: Almost all hardscape.
- Proposed use of site (example: single family residential, commercial, etc.):
 Existing Commercial
 Proposed Commercial
- Describe any changes to parking areas including number of parking spaces, turnaround or maneuvering areas.

TO BE COMPLETED BY APPLICANT				STAFF USE ONLY	
ITEM	EXISTING	PROPOSED ADDITION AND/OR ALTERATION	PROPOSED	CAL- CULATED	PER ZONE
Yards (Setbacks from property line) (Section 16-100.020(Y))* Front (Tiburon Blvd.)	±7.5 ft.	None ft.	±7.5 ft.	ft.	ft.
Rear (Juanita Ln Corner)	±14.25 ft.	Reduced 2' ft.	±16.25 ft.	ft.	ft.
Right Side (Juanita Ln)	Over ±1.1ft.	Reduced 1.1' ft.	±0 ft.	ft.	ft.
Left Side (Interior)	±0 ft.	None ft.	±0 ft.	ft.	ft.
Maximum Height (Section 16-30.050)*	±15.09 ft.	±22.91 ft.	±38 ft.	ft.	ft.
Lot Coverage (Section 16-30.120(B))*	±2,776 sq.ft.	±116 sq.ft.	±2,892 sq.ft.	sq.ft.	sq.ft.
Lot Coverage as Percent of Lot Area	±75.5 %	±3.2 %	±78.7 %	%	%
Gross Floor Area (Section 16-100.020(F))*	±2,776 sq.ft.	±3,228 sq.ft.	±6,004 sq.ft.	sq.ft.	sq.ft.

*Section numbers refer to specific provisions or definitions in the Tiburon Municipal Code, Title IV, Chapter 16 (Zoning)



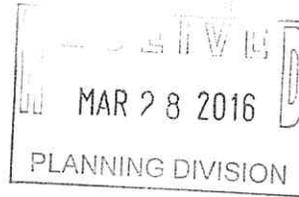
COMMUNITY DEVELOPMENT DEPARTMENT
 Planning Division (415)-435-7390
www.ci.tiburon.ca.us

APPLICATION FOR VARIANCE

A Variance is a form of regulatory relief available when a strict or literal application of zoning development standards would result in practical difficulties or unnecessary physical hardships for an applicant. These difficulties and/or hardships must be caused by physical conditions on, or in the immediate vicinity of, a site. Please refer to Section 16.52.030 of Chapter 16 (Zoning) of the Tiburon Municipal Code for additional information regarding Variances.

WHAT VARIANCE(S) ARE YOU REQUESTING?

<u>Condition</u>	<u>Zoning Requirement</u>	<u>Existing Condition</u>	<u>This Application Proposes</u>	<u>Magnitude Of Variance Requested</u>
Front Setback	_____	_____	_____	_____
Rear Setback	_____	_____	_____	_____
Left Side Setback	_____	_____	_____	_____
Right Side Setback	_____	_____	_____	_____
Lot Coverage	_____	_____	_____	_____
Height	24'	NA	40'	16'
Parcel Area Per Dwelling Unit	_____	_____	_____	_____
Usable Open Space	_____	_____	_____	_____
Parking	_____	_____	_____	_____
Expansion of Nonconformity	_____	_____	_____	_____
Other (Please describe):	_____			



TRANSMITTAL
ZWICK ARCHITECTS

DATE:	3/23/16	FROM:	Marty Zwick
TO:	Dan Watrous Tiburon Planning Department	PROJECT:	1694-1696 Tiburon Blvd.
VIA:	Hand-Delivery	CC:	File

Dan,

Below please find our responses to the required Variance findings for the flagpole for the project #DR2016011; 1694-1696 Tiburon Blvd/3 Juanita Lane. Tiburon Planning Department Municipal Code is written below in Times New Roman. Our responses are written in *Futura Standard Light italic*

REQUIRED FINDINGS

The Tiburon Municipal Code, Chapter 16 (Zoning, Section 16-52.030(E)) and California State law (Government Code Section 65906) require that specific findings be made prior to granting of a variance. These findings must be supported by evidence presented to the decision-making body prior to granting of the variance.

Please respond to the following statements and describe or attach any evidence supporting your answers. Please prepare your responses on a separate sheet.

1. Describe what special circumstances apply to the property (such as size, shape, topography, location, or surroundings) that cause a strict application of the zoning regulations to deprive you of privileges enjoyed by other properties in the vicinity and same or similar zone.

The inclusion of the flagpole on the triangular lot at 1694-1696 Tiburon Blvd./3 Juanita Lane contributes to the pedestrian scale and activity of this vibrant downtown location.

2. Explain how granting of the variance would not result in a special privilege that is inconsistent with limitations on other properties in the vicinity and in the same or similar zone.

This flagpole does not grant the project a special privilege. It helps establish a sense of place and animation in the downtown district.

3. Explain how the strict application of the zoning regulations would result in practical difficulty or unnecessary physical hardship. Self-created hardships shall not be considered.

The actual flagpole starts on a portion of the podium (column) that is 16'-0" tall. The total flagpole height can be measured as 24'-0" and the pole has a maximum diameter of 8".

4. Explain how granting of the variance would not be detrimental to the public welfare or injurious to other property in the vicinity.

Granting a variance for a static design feature attached to the front of the building at 1694-1696 Tiburon Blvd./3 Juanita Lane would not be detrimental to the public welfare or injurious to other property in the vicinity.

Please call me with questions (415) 289-0303.

Sincerely,

Marty Zwick
Zwick Architects

RESOLUTION NO. 2015-08

A RESOLUTION OF THE PLANNING COMMISSION OF
THE TOWN OF TIBURON APPROVING A CONDITIONAL USE PERMIT TO
CONSTRUCT A MIXED-USE COMMERCIAL/RESIDENTIAL BUILDING
INTENDED FOR EVENTUAL CONDOMINIUM-TYPE OWNERSHIP
LOCATED AT 1694-1696 TIBURON BOULEVARD AND TAKING RELATED ACTIONS

ASSESSOR PARCEL NO. 059-101-12

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 from ACV Argo Tiburon LP to demolish an existing building and reconstruct a new building located at 1694-1696 Tiburon Boulevard in downtown Tiburon (File No. 11402). The application consists of the following:

1. Application form and supplemental materials received April 30, 2014
2. Revised project description received August 3, 2015
3. Revised architectural drawings received August 3, 2015
4. Color/materials board received September 10, 2014

The official record for this project is hereby incorporated and made part of this resolution. The record includes, without limitation, the initial study/mitigated negative declaration, staff reports, minutes, application materials, correspondence, and all comments and materials received at any public hearings.

The project proposes the demolition of a one-story 2,776 square foot commercial building containing a restaurant and an ice cream shop with a 3-story mixed use commercial/residential building. The ground floor is proposed to contain a restaurant (and possibly a small retail space); while the second floor would have two residential units, with one of these units extending to a partial third floor. The building is proposed to be held in condominium-style ownership, subject to separate future approvals.

- B. The project was determined to be subject to environmental review and an initial study and draft mitigated negative declaration were prepared in accordance with state and local guidelines and released for public and agency review and comment on March 3, 2015. The Planning Commission has considered all comments received on the initial study/draft mitigated negative declaration. The Planning Commission finds that there has been no substantial evidence presented to support a fair argument that a significant impact under CEQA would result from the project.
- C. On March 25, 2015, May 13, 2015 and August 12, 2015, the Planning Commission held public hearings on the project. At the public hearings, the Planning Commission

heard and considered all public testimony and the written report of the Community Development Department staff. The Planning Commission finds, based upon the application materials and analysis provided in the March 25, 2015, May 13, 2015 and August 12, 2015 staff reports and in the entire record, that the project, as conditioned, is consistent with the Tiburon General Plan and is in compliance with applicable sections of the Tiburon Zoning Ordinance, including but not limited to Sections 16-52.040 and 16-52.050, and other applicable zoning and municipal regulations.

- D. The Planning Commission finds that a transfer of intensity is required for project approval and hereby finds that the project qualifies for the transfer of intensity pursuant to General Plan Policy DT-9.

Section 2. Adoption of Mitigated Negative Declaration.

NOW, THEREFORE, BE IT RESOLVED that the Planning Commission hereby adopts the Mitigated Negative Declaration for the project.

Section 3. Adoption of Mitigation Monitoring Program.

NOW, THEREFORE, BE IT RESOLVED that the Planning Commission hereby adopts the Mitigation Monitoring Program (MMP) for the project, attached hereto as **Exhibit A**, and incorporates the mitigation measures as conditions of project approval. The permit holder shall bear all costs for implementation and monitoring of said Mitigation Monitoring Program.

Section 4. Approval of Transfer of Intensity.

NOW, THEREFORE, BE IT FURTHER RESOLVED that the Planning Commission hereby approves a Transfer of Intensity of up to approximately 3,220 square feet from the property identified as Assessor Parcel No. 058-171-86, commonly known as the Beach Road Parking Lot, which is held by the same owner (ACV Argo Tiburon LP) as the subject property. The Planning Commission finds that Assessor Parcel No. 058-171-86 holds development potential of approximately 7,700 square feet under current general plan and zoning designations, and that there is adequate development potential on that site to approve the transfer.

Section 5. Approval of Conditional Use Permit.

NOW, THEREFORE, BE IT FURTHER RESOLVED that the Planning Commission hereby approves the conditional use permit application (File #11402), to demolish the existing commercial building and construct a new commercial/residential building located at 1694-1696 Tiburon Boulevard, subject to the following conditions of approval:

1. This use permit approves construction of an up to approximately 6,004 square foot, three-story commercial/residential building, as generally shown on the

project application drawings (13 sheets) prepared by Zwick Architects and received by the Town of Tiburon on August 3, 2015.

2. Any initial commercial use proposed for the building shall require a separate use permit for that specific use prior to commencement of said use.
3. Condominiumization of the building shall require a separate condominium use permit from the Town.
4. Building height is approved at up to approximately 38 feet, with exceedances allowed as set forth in Municipal Code section 16-30.050(D) for certain elements, subject to site plan and architectural review approval by the Design Review Board.
5. All mitigation measures set forth in attached **Exhibit A** (Mitigation Monitoring Program) are incorporated as conditions of approval on the project.
6. Two (2) on-site parking spaces are provided for the two residential units. Pursuant to provisions of Tiburon Municipal Code Section 16-32.030, or successor sections thereto, all other required parking for all the uses in the building may be provided off-site by recorded covenant or long-term lease. Required parking for the uses in the building shall be maintained at all times in the Beach Road Parking Lot (APN 058-171-86), which is under the same ownership as the project site. A minimum of one (1) parking space shall be permanently identified and marked in this off-site lot for the exclusive use of two residential units in the building, increasing to two (2) spaces if the units are held in condominium ownership. The project as proposed would currently require twenty-three (23) parking spaces for the non-residential component of the building (based on up to 62 indoor seats and up to 30 outdoor seats), but the precise required number of parking spaces for commercial use of the building and their method of identification (if any) shall be determined at the time of separate use permits issued for such non-residential use. Occupancy of the building shall not be permitted until such time as the provisions of Municipal Code Section 16-32.030 shall have been fulfilled. Loss of the availability of the required parking spaces at any time for purposes of the building approved herein shall be grounds for amendment or revocation of this conditional use permit. Bicycle and motorcycle parking shall be provided as set forth in Municipal Code Sections 16-32.060 and 16-32.070, and shall be finalized as part of the Site Plan & Architectural Review approval. A separate loading berth shall not be required in association with this project.
7. Site Plan & Architectural Review approval for demolition of the existing building and construction of a new building shall be secured prior to issuance of a building permit for the new building. At that time, the project shall comply with requirements of Tiburon Municipal Code Chapter 16C (Recyclable Collection Area).

8. As part of the review of the Site Plan and Architectural Review application for this project, the Design Review Board is directed to minimize the mass of the third story building elements, including the elevator, mechanical space and stairways, to increase light to the light well of the building. The Design Review Board is further directed to address the size of the third story deck to ensure that it is appropriate to the scale of the residential unit it serves and does not unnecessarily add to the visual mass of the building when viewed from Tiburon Boulevard. The Design Review Board shall also review the openness of the third story deck railings so that the railings do not unnecessarily add to the visual mass of the building or affect light to the building at 1690 Tiburon Boulevard.
9. Construction of the building shall comply with the flood regulations set forth in Tiburon Municipal Code Chapter 13D that are in effect at the time the building permit is issued.
10. Applicable traffic mitigation fees shall be paid at the time of building permit issuance.
11. Housing in-lieu fees shall be paid at the time of building permit issuance for the residential units in accordance with Chapter 16, Article VII of the Tiburon Municipal Code.
12. Applicants agree to financially contribute to a future Town project to improve the Tiburon Boulevard frontage and reduce pedestrian congestion as identified in General Plan Policy DT-30 and Program DT-r. Said contribution amount shall be finalized prior to issuance of a building permit for this project.
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 not vested within two (2) years of final approval of this conditional use permit, unless a time extension is granted.
15. If this permit 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 August 12, 2015, by the following vote:

AYES: COMMISSIONERS: KULIK, WILLIAMS, CORCORAN, WELLER
AND WELNER

NAYS: COMMISSIONERS: NONE

ABSENT: COMMISSIONERS: NONE

DAVID KULIK, CHAIRMAN
TIBURON PLANNING COMMISSION

ATTEST:

DAN WATROUS, SECRETARY

Attachments: Exhibit A: Mitigation Monitoring Program