



**TOWN OF TIBURON**  
 1505 Tiburon Boulevard  
 Tiburon, CA 94920

Planning Commission Meeting  
 October 26, 2016

Agenda Item: **PH-1**

**STAFF REPORT**

**To:** Members of the Planning Commission

**From:** Community Development Department

**Subject:** 10 Main Street; File No. CUP2016004  
 Conditional Use Permit to Allow Bicycle Rentals in a Commercial Building; K2 Properties, LLC, Owner; Pedego Tiburon, Applicant; Assessor's Parcel Number: 059-102-17

**Reviewed By:** \_\_\_\_\_

**PROJECT DATA**

Address: 10 Main Street  
 Assessor's Parcel Number: 059-102-17  
 File Number: CUP2016004  
 General Plan: VC (Village Commercial)  
 Zoning: VC (Village Commercial)  
 Owner: K2 Properties, LLC  
 Applicant: Pedego Tiburon  
 Flood Zone: AE- Special Flood Hazard Area  
 Date Complete: October 4, 2016

**PROJECT DESCRIPTION**

The applicant operates a business that sells electric bicycles (Pedego Tiburon) within an existing commercial building located at 10 Main Street. The applicant has requested to also allow bicycle rentals as part of this business. The addition of bicycle rentals to the existing retail sales use would be a substantive intensification of the existing use, and which requires a conditional use permit (Section 16-22.030 [A{1(a)}] of the Tiburon Zoning Ordinance).

The business is open daily between 10:00 a.m. and 6:00 p.m. with 3 to 6 employees on site at any one time. The applicant expects to rent out 5 to 15 bicycles per day. All transactions and bicycles for sale would be conducted indoors, although the applicant intends to display several rental bicycles outside the store.

## ANALYSIS

### Use Issues

The proposed use would be located within a commercial building located at the corner of Main Street and Tiburon Boulevard. The building has been occupied by a variety of retail commercial uses in the past, most recently a retail kitchenware store.

A similar sporting goods sales and rental store (Demo Sports) is located near the subject property at 1690 Tiburon Boulevard. A conditional use permit (File #19809) was approved for this business in 1998. That business is located within a smaller store and has been open only seasonally at times in the past.

The property line of the subject business extends approximately 8 feet beyond the building toward Fountain Plaza. As noted above, most of the use would occur inside the building, but the applicant intends to display several bicycles outside the store on private property. Staff has informed the applicant that no sales, display or other activities may occur on Town-owned property beyond the property line, as display, bicycle returns or test rides could create congestion around Fountain Plaza. Staff recommends that limitations be established on the number of bicycles displayed outside the store and ensuring that no outside advertising is displayed. Staff also recommends that the outdoor display area be limited to the space directly adjacent to the corner entrance door to the store to avoid bicycle display along the entire Tiburon Boulevard frontage of the building.

The proposed bicycle rental use is unlikely to have the same characteristics as higher volume bicycle rental uses. The applicant intends to rent only 5 to 15 bicycles per day and is not affiliated with other rental uses in San Francisco or elsewhere that would rent to cyclists coming across the bay into Tiburon. As a result, the requested rentals would not generate the same volume of bicycle traffic that has recently overwhelmed Sausalito with bicyclists riding across the Golden Gate Bridge. The applicant has indicated that the rental use is intended as an adjunct use to the primary sales operation at this location and to encourage cyclists to explore destinations in the immediate area (Downtown Tiburon, the Old Rail Trail and Angel Island) rather than embark on longer rides to and from San Francisco.

The Tiburon Municipal Code includes limitations on riding motorized bicycles in certain locations, including Shoreline Park and the Old Rail Trail. State law specifically establishes distinctions between motorized bicycles and the type of electric bicycles being sold or proposed for rental as part of the subject business. However, the Tiburon Municipal Code section governing vehicles on Old Rail Trail was written prior to electric bicycles being commonly recognized as a type of vehicle. The Town Council will be considering amendments to the Municipal Code in November that would clarify any ambiguities regarding electric bicycles using Old Rail Trail.

### General Plan /Zoning Ordinance Consistency

The proposed bicycle rental use would be consistent with the intent of the Village Commercial zoning and General Plan land use designation, which encourages “resident-serving commercial and office uses, tourist oriented uses and mixed (commercial/residential or office/residential) uses.” The proposed bicycle rental use would serve residents wishing to try out electric bicycles

prior to purchase and tourists using these bicycles to explore destinations in Tiburon. The proposed use would also be consistent with Land Use Policy DT-3, which states that “the Town shall actively promote the economic vitality of its Downtown” by promoting additional recreational opportunities for visitors and residents alike centered in Downtown Tiburon.

### Flood Hazard Zone

According to current flood hazard maps, the subject property is located within flood hazard zone “AE,” which is an area subject to inundation within the 1% annual chance of flood. However, no improvements are proposed that would trigger compliance with the Town’s flood prevention ordinance.

### **ENVIRONMENTAL DETERMINATION**

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

### **PUBLIC COMMENT**

As of the date of this report, four letters have been received regarding this application.

### **RECOMMENDATION**

Staff recommends that the Planning Commission:

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

### **EXHIBITS**

1. Application form and supplemental materials
2. Draft resolution
3. Letter from Alex Rothenberg, dated October 18, 2016
4. Letter from Betsy Daly, dated October 18, 2016
5. Letter from Brian Wilson, dated October 19, 2016
6. Letter from Charles Roame, dated October 19, 2016
7. Submitted plans

Prepared By: Daniel M. Watrous, Planning Manager



**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:** 10 MAIN ST. TIBURON **PROPERTY SIZE:** 3500  
**PARCEL NUMBER:** 059-102-17 **ZONING:** VC

**PROPERTY OWNER:** K2 PROPERTIES, LLC  
**MAILING ADDRESS:** P.O. BOX 12705, OAKLAND, CA 94604

**PHONE/FAX NUMBER:** 510 531-6969 **E-MAIL:** DIOPHANTUS@COMCAST.NET

\* **APPLICANT (Other than Property Owner):** KEVIN WOOD. PEDEGO TIBURON  
**MAILING ADDRESS:** 10 MAIN ST. TIBURON CA 94920

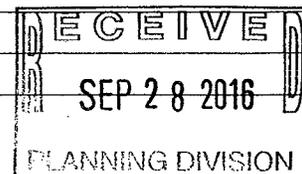
**PHONE/FAX NUMBER:** PH: (415) 900-5090 **E-MAIL:** KEVIN@PEDEGOTIBURON.COM

**ARCHITECT/DESIGNER/ENGINEER** \_\_\_\_\_  
**MAILING ADDRESS:** \_\_\_\_\_

**PHONE/FAX NUMBER:** \_\_\_\_\_ **E-MAIL:** \_\_\_\_\_

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

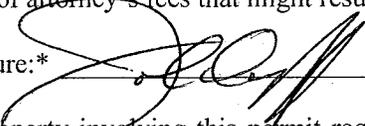
**BRIEF DESCRIPTION OF PROPOSED PROJECT (attach separate sheet if needed):**  
SALES, RENTAL AND REPAIR OF CLASS TWO ELECTRIC BICYCLES.



**EXHIBIT NO.** 1

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

I understand that the requested approval is for my benefit (or that of my principal). Therefore, if the Town grants the approval, with or without conditions, and that action is challenged by a third party, I will be responsible for defending against this challenge, with the defense counsel subject to the Town's approval. 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: Sept 28, 2016

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

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

Signature:\* \_\_\_\_\_

Date: \_\_\_\_\_

*\*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](http://www.townoftiburon.org)

RECEIVED  
SEP 28 2016

#### DO NOT WRITE BELOW THIS LINE

#### DEPARTMENTAL PROCESSING INFORMATION

Application No.: <u>CUP2016-004</u>	GP Designation:	Fee Deposit: <u>\$1240<sup>00</sup></u>
Date Received: <u>9/28/16</u>	Received By: <u>LO</u>	Receipt #: <u>R2038</u>
Date Deemed Complete:	By:	Date:
Acting Body:	Action:	Resolution or Ordinance # _____
Conditions of Approval or Comments: _____		

EXHIBIT NO. 1

P. 2084



**TIBURON**

September 27, 2016

Planning Division  
Town of Tiburon  
1505 Tiburon Blvd  
Belvedere Tiburon, CA 94920

HOURS OF OPERATION.  
10 AM to 6:00 PM Daily  
10 AM to 5 PM D.S.T

To whom it may concern,

(A) Land development application form attached

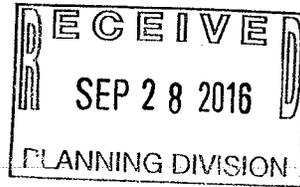
(B) Ownership, applicant and property information

(1) Ownership name and address on application. Preprinted labels for applicant and owner attached.

(2) Individuals authorized to represent the project to the town:

Kevin Wood, Store Manager  
10 Main Street  
Tiburon CA 94920

John Orndorff, Director of New Store Opening  
11310 Slater Avenue  
Fountain Valley CA 92708



(3) Owner's authorization attached.

(4) Write the map and parcel number here. The area contained within this parcel is approximately 1300 square feet of interior retail space on the ground floor.

(5) Title report not required for use in existing structure with no proposed structural changes.

(C) Use and management information:

(1) Characteristics of the proposed use:

- a. 3-6 employees will work selling, renting and servicing bicycles. 5-15 customers will rent bicycles each day.
- b. Parcel deliveries will take place 1-5 times per week. LTL truck deliveries 2-5 times per month.
- ~~c. The store will be open 11:00-7:00 Daily, except Fridays till 8:00.~~
- d. We will produce the service of renting bicycles.
- e. No outdoor activities.
- f. No odors, noise or glare.
- g. No hazardous or volatile materials or chemicals are involved.
- h. There are no other tenants in the building.

(2) The business is under professional management. Management operates in accordance with all laws governing public safety, labor and ethical business practices. Management operates in compliance



**TIBURON**

with all environmental regulations. Our mission statement is Hello fun... We strive to enhance surrounding uses in the area and to enhance the town in general.

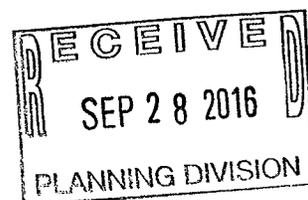
(3) The last use of 10 Main Street was a retail kitchen and housewares store.

(D) Site plan:

- (1) All use will be conducted within the interior space of 10 Main Street.
- (2) Five copies of floor plan attached.

(E) Environmental information:

- (1) Is this project exempt from Environmental Data Submission?
- (2) Is this project from Initial Study/ Negative Declaration?



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

**RESOLUTION NO. 2016-(Draft)**

A RESOLUTION OF THE PLANNING COMMISSION OF THE TOWN OF TIBURON  
APPROVING A CONDITIONAL USE PERMIT  
TO OPERATE A BICYCLE RENTAL USE AT 10 MAIN STREET

ASSESSOR PARCEL NO. 059-102-17

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

Section 1. Findings.

A. The Planning Commission has received and considered a conditional use permit application (File #CUP2016004) to allow bicycle rentals in a commercial building located at 10 Main Street. The conditional use permit is required to expand the existing retail sales use to include bicycle rentals. The application consists of the following:

1. Application form and supplemental materials received September 28, 2016
2. Floor plan received September 28, 2016

The official record for this project is hereby incorporated and made part of this resolution. The record includes, without limitation, the staff reports, minutes, application materials, and all comments and materials received at the public hearing.

- B. The Planning Commission held a duly-noticed public hearing on May 8, 2013, and heard and considered testimony from interested persons.
- C. The Planning Commission has found that the project is exempt from the requirements of the California Environmental Quality Act per Section 15301 of the CEQA Guidelines.
- D. The Planning Commission has found, based upon the application materials and analysis provided in the October 26, 2016 staff report, that the project, as conditioned, is consistent with the Tiburon General Plan and is in compliance with applicable sections of the Tiburon Zoning Ordinance, specifically Section 16-52.040, and other applicable regulations. The proposed bicycle rental use would serve residents wishing to try out

electric bicycles prior to purchase and tourists using these bicycles to explore destinations in Tiburon. The proposed use would also be consistent with Land Use Policy DT-3, which states that “the Town shall actively promote the economic vitality of its Downtown” by promoting additional recreational opportunities for visitors and residents alike centered in Downtown Tiburon.

Section 2. Approval.

NOW, THEREFORE, BE IT RESOLVED that the Planning Commission of the Town of Tiburon does hereby approve the Conditional Use Permit (File #CUP2016004), to allow bicycle rentals in a commercial building at 10 Main Street, subject to the following conditions of approval:

1. The use shall operate in substantial conformance with the Use and Management Information document (1 page), attached hereto as Exhibit “A” and incorporated herein. Any substantial modification of the approved use, as determined in the reasonable discretion of the Director of Community Development, shall require an amendment to this use permit.
2. Outdoor display of merchandise shall be limited to a maximum of five (5) bicycles in the area outside the first three (3) window panels to the west of the corner entrance door. No other outdoor storage of materials or signage is permitted. Rental transactions shall be conducted wholly within the building interior. All outdoor display and commercial activities, including bicycle test rides, shall be limited to areas on private property and shall not extend onto Town-owned property.
3. All signs shall comply with the requirements of Chapter 16A of the Tiburon Municipal Code.
4. The Town reserves the right to amend or revoke this Conditional Use Permit for cause, in accordance with adopted regulations of the Town.
5. This Conditional Use Permit approval shall become null and void if the approved use has not commenced within one (1) year of final approval, unless an extension is approved.
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.

PASSED AND ADOPTED at a regular meeting of the Planning Commission on October 26, 2016, by the following vote:

AYES: COMMISSIONERS:

NOES: COMMISSIONERS:

ABSENT: COMMISSIONERS:

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ERICA WILLIAMS, CHAIR  
TIBURON PLANNING COMMISSION

ATTEST:

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DANIEL M. WATROUS, SECRETARY

Attachment: Use and Management Information document (1 page)

## Dan Watrous

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**From:** Alex Rothenberg [aprslo@yahoo.com]  
**Sent:** Tuesday, October 18, 2016 4:11 PM  
**To:** Dan Watrous  
**Subject:** Support for Pedego to be permitted to rent bikes

Hi Dan,

I was born and raised in Tiburon and now call Belvedere home. I am going to be out of town on business on the evening of October 26th or I would attend the meeting in person. I am writing to ask the council to please allow Pedego to rent their electric bikes.

I am personally very much looking forward to renting bikes myself. I would like to try multiple bikes out for a full day rather than just a short test drive. When I have friends in town, I hope to be able to rent a few at a time and head out with a group. I have ridden a few electric bikes over the past few years and have a number of friends with them. My parents live in Tiburon are 79 and 81. They would never ride a regular bike, but I could probably at least get my mom out on a pedal assist bike. I imagine there are others in our community who would benefit from an electric bike to get outside more often, enjoy getting around town and the bike path. People with special needs deserve a chance to enjoy our bike friendly community as well. I know I would enjoy Angel Island more often if I could rent an electric bike across the street from the ferry.

I am concerned with some of the community comments I have seen on Nextdoor. People seem to think these are scooter or motorcycles. I am familiar with CA law and they are bikes. I hope residents attend the meeting so they can get the facts. Another topic of concern is speed. I believe these are all governed by law to a max of 20mph. I am a road cyclist and I see many of us ride into and around Tiburon. As you probably already know, many cyclists prize this area for riding. I can fairly say that any road cyclist with skills beyond beginner can average over 20mph on a road bike on our lovely flat bike path. Either way, everyone regardless of pedal assist or not has to obey speed limits, the electric bike doesn't change that. Everyone I know calls it the bike path. "Bike Path". There are plenty of places to walk the dog if someone is concerned over bikes zipping by. There are not as many, safe, off the street places to ride a bike.

With all that said, I do also believe that the folks at Pedego and other community members are committed to promoting bicycle safety and obeying speed limits. If Pedego is allowed to rent bikes, I imagine they will be advocates for safe biking and obeying speed limits. I don't know that visiting cyclists would otherwise look up laws about safe cycling on their own.

I am happy to be contacted further if needed.

Best Regards,

Alex Rothenberg

EXHIBIT NO. 3

## Dan Watrous

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**From:** Betsy Daly [betsy.daly@gmail.com]  
**Sent:** Tuesday, October 18, 2016 6:02 PM  
**To:** Dan Watrous  
**Cc:** Don DiCostanzo; deanna@pedego.com  
**Subject:** Pedego Rental Recommendation

Hello Mr. Watrous,

Here is a copy of a posting I just made on "NextDoor" in support of Pedego. I plan to attend the meeting, but in case I am unable, please include my comments in the record.

Thank you,  
Betsy Daly  
25 Rowley Circle

=====

Hi Deanna - As a longtime Tiburon resident (most of my life) and a longtime Pedego user (6.5 years!) I was 'over the moon' to see the "Coming Soon" sign in Tiburon! For those of you don't know of Pedego, please don't pre-judge them until you give one a try! These are not 'speed demon' bikes. The 'lycra riders' on the bikepath go WAY faster than anyone I've seen 'tooling' around on a Pedego. Pedego bikes just make a regular bike ride easier (and more fun!) with "Pedal Assist" technology (it feels like you have the wind at your back all the time!)

We live up a moderate hill and I used to really have to "think" about it before I hopped on my bike, knowing I'd have to tackle it on the way home. Once I got my Pedego it was no longer a question. I'd ride to town to grab a half gallon of milk at Woodland's, pick up the mail, head to CVS, head to lunch at the Tavern or the SFYC. These are all things I wouldn't have done nearly as often if it meant getting in the car. My Pedego helped not only the environment, but our local businesses that desperately need locals to shop and dine in town. I love my Pedego so much that I just bought a new one today (yippee - you'll see me around town on it shortly!)

As for 'too many bikes' on the bike path, Pedego's tiny rental business would add a mere trickle of bike traffic compared to the bunches of people that come on the "Bike the Bay" type bikes from SF (and over which we have zero control and many of which are electric). My guess is that most Pedego renters would either head to Angel Island or to SF, not back towards the freeway.

I believe that enforcement of existing laws (like LEASH laws for pets) and speed limits on the bike path are the answer, not restricting a responsible, family owned business like Pedego from bringing joy and the freedom of bike riding to so many Tiburon and Belvedere residents. I plan to attend the October 26th meeting and I hope any of you that feel strongly about this will visit Pedego prior to the meeting so you can make an informed decision.

Thank you,  
Betsy Daly

Pic is of me and my '1st' Pedego taken April 2010 in Tiburon!



--  
Betsy Daly

EXHIBIT NO. 4

## Dan Watrous

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**From:** Brian Wilson [bw25@me.com]  
**Sent:** Wednesday, October 19, 2016 8:45 AM  
**To:** Dan Watrous  
**Cc:** Pedego Tours  
**Subject:** Pedego

Dear Dan,

I would like to go on record being in favor of Pedego being issued a license to rent bikes. As a long time business person on Main Street I think that downtown business is at an all time low. That being said, a new innovative store selling and renting non-polluting, quiet electric bikes is great not only for downtown but all of Tiburon.

Sincerely,

Brian Wilson

Co-owner Sam's Anchor Cafe

EXHIBIT NO. 5

## Dan Watrous

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**From:** Chip Roame [croame@tiburonadvisors.com]  
**Sent:** Wednesday, October 19, 2016 3:41 PM  
**To:** Dan Watrous  
**Subject:** Pedego Bikes

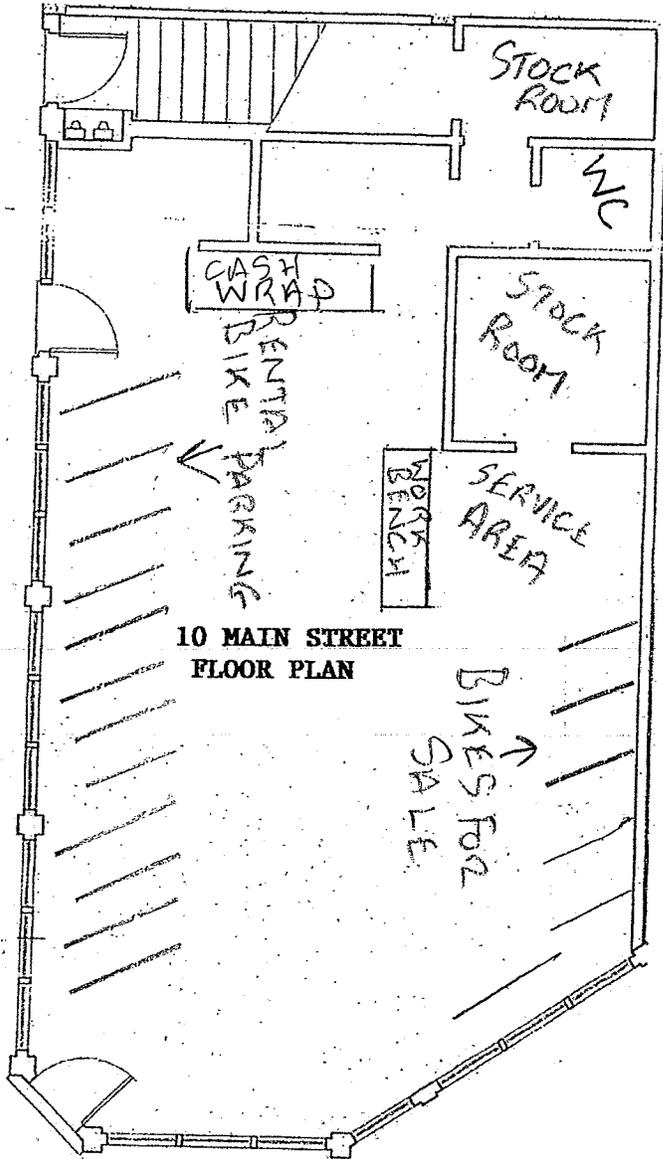
Dan:

I support Pedego's desire to rent bikes given the facts that I know. Frankly, if you ever want to discuss, I would vote for many energy lifters to our town. I have lived in Belvedere for 21 years and owned a business in Point Tiburon Plaza for eighteen years. Tiburon has increasingly become a sleepy town. Two of the businesses in Point Tiburon Plaza, where our office is located, are moving out, one retail business due to lack of business. The space Pedego rents has sat empty multiple times over recent years. I enjoy the Thursday farmer's markets but worry about the slow traffic. I would be surprised to find that renting bikes from inside a building would negatively affect Tiburon. I hope that helps. Good luck with the hearing.

Best,  
Chip

Charles ("Chip") Roame  
Managing Partner  
Tiburon Strategic Advisors  
1735 Tiburon Boulevard  
Tiburon, CA 94920  
Tel: 415-789-2541  
Email: [CRoame@TiburonAdvisors.Com](mailto:CRoame@TiburonAdvisors.Com)

EXHIBIT NO. 6



10 MAIN STREET  
FLOOR PLAN

RECEIVED  
SEP 28 2016  
PLANNING DIVISION

EXHIBIT NO. 7