

STAFF REPORT

SAUSALITO PLANNING COMMISSION

Project Driver's Market / 200 Caledonia Street
Minor Use Permit and Sidewalk Dining Encroachment Permit
MUP 13-116

Meeting Date May 30, 2013

Staff Rafael Miranda, Contract Planner

REQUESTS

- Approval of a **Minor Use Permit** to allow an outdoor dining area with three tables and six seats in the public right-of-way along the side of the market and deli; and
- Approval of a **Sidewalk Dining Encroachment Permit** to allow for an outdoor dining area in the public right-of-way along the side of the market and deli; and

PROJECT INFORMATION

Applicant Drivers Market

Property Owners Molly Sterling Trust Et Al

Location/Size 200 Caledonia Street; APN 065-051-04
5,000 square feet (see **Exhibit C** for vicinity map)

General Plan Mixed Residential and Commercial

Zoning Commercial Residential (CR) Zoning District

Authority Minor Use Permit (Zoning Ordinance Section 10.58.020)
Sidewalk Dining Encroachment Agreement (Section 10.44.220.C.2)

BACKGROUND

This location has been the home of neighborhood markets for years. Prior uses consisted of auto parts/automobile repair shops. Since the late 1970's, the proposed project site has been used as neighborhood market. Succeeding markets with different names have been located within the building. The most-recent market was Real Foods, which closed in 2011.

PROJECT DESCRIPTION

SITE LOCATION

The property is located on the east side of Caledonia Street at the northeast corner of the intersection with Turney Street. The subject parcel is 5,000 square feet in area and occupied by a single commercial building. The proposed project would allow the market to locate three tables and six chairs adjacent to the building along the Turney Street frontage.

The project site is located within the General Plan Mixed Residential and Commercial Land Use Designation and the Commercial Residential (CR) Zoning District. The CR Zoning District is located along Caledonia Street and Bridgeway, extending from Johnson Street to Napa Street.

PROJECT DESCRIPTION

On May 15, 2013 the applicant, Driver's Market, submitted an application for a Minor Use Permit and Sidewalk Dining Encroachment Permit to allow outdoor dining in the Turney Street public right-of-way in association with the existing market and deli at the subject location. The market/deli is open from 8 am to 9 pm seven days a week.

The market/deli does not intend to provide for consumption of alcohol on-site, as they currently have a license from the Department of Alcoholic Beverage Control (ABC), which they do not seek to change. The outdoor dining area would consist of three tables and six seats, located directly along the side of the market/deli along Turney Street. A Staff site visit and a review of records on file with the Community Development Department indicates that there are no specific conditions that would prohibit the location of the outdoor dining along the side of the market/deli. As such, staff concludes that the addition of the outdoor dining would not violate specific property conditions.

PROJECT ANALYSIS

GENERAL PLAN CONSISTENCY

To approve the proposed project the Planning Commission must determine that the project is consistent with all applicable General Plan policies. Staff has identified the following policy as most relevant to the proposed project:

Land Use Consistency

Policy LU-2.5 Commercial/Residential Conflicts. Encourage rebuilding and reuse of commercial space in a manner which minimizes conflict with adjacent residential uses.

The proposed outdoor dining area is in association with the existing market/deli, which is compatible with and appropriately located within existing commercial uses in the Commercial Residential (CR) Zoning District in this area of Sausalito. The subject parcel is located at the corner of Caledonia and Turney Streets and is close to mass transit, pedestrian and bicycle corridors. The proposed use is open seven days a week from 8am to 9pm, and is a single story building without 2nd floor residential tenants. The site has previously been used as a neighbor market for the past 30 plus years making the use compatible with the existing residential areas along Caledonia Street.

CONCLUSION

In summary, the market with a sidewalk dining area is consistent with important features identified in the General Plan with respect to mixed residential and commercial neighborhood compatibility with surrounding property owners and businesses.

ZONING CONSISTENCY

The following outlines the applicable Zoning Ordinance regulations for the requested sidewalk dining permit.

Minor Use Permit

Pursuant to Section 10.44.220.C of the Zoning Ordinance, outdoor dining areas located on sidewalks are subject to approval of a Minor Use Permit and a Sidewalk Dining Encroachment Permit by the Community Development Department.

In order to approve a Minor Use Permit, the Zoning Administrator must determine the proposed project is in conformance with the findings listed in Section 10.58.050 of the Zoning Ordinance.

Staff concludes the requisite findings for the Minor use Permit can be made to approve the permit, as summarized in the following analysis and in the findings listed in the attached Resolution (see **Attachment 1 of Exhibit B**).

Outdoor Dining Regulations

The following table summarizes the applicable regulations from this Section 10.44.220.C and the project's compliance. As indicated in the table below, the proposed outdoor dining area is compliant with the requirements for outdoor dining. Conditions of approval stipulated by Section 10.44.220.C of the Zoning Ordinance have been included in the attached draft resolution of approval.

Outdoor Dining Regulations (10.44.220.C.3)	Analysis
<p>i. Safe Passage. Safe and adequate passage of 48" width shall be provided both along the sidewalk and from the curb to the sidewalk (to provide for two pedestrians walking side by side or by a single wheelchair.) No tables or chairs shall be placed or allowed to remain on any sidewalk that inhibits passage.</p>	<p>The outdoor dining area provides a pedestrian passageway of nine feet at its widest point and seven feet six inches at its narrowest point, which adequately meets the safe passage requirements (see Exhibit B).</p>
<p>ii. Location. Permits shall only be issued to allow the use of sidewalk immediately adjacent to the restaurant seeking the permit.</p>	<p>The outdoor dining area is immediately adjacent to the indoor dining area of the market/deli, and thus satisfies this requirement.</p>
<p>iii. Food Service. The establishment obtaining the Permit shall be engaged in food service.</p>	<p>The outdoor dining will serve the market and deli providing food service, which satisfies this requirement.</p>
<p>iv. Capacity of outdoor eating area. An outdoor eating area on private property shall not exceed the most restrictive of the following limits, unless otherwise authorized by the Zoning Administrator in the required Minor Use Permit:</p> <ol style="list-style-type: none"> 1. 25 percent (25%) of the indoor dining area of the restaurant; or 2. 5 tables; or 3. A capacity of 20 people. 	<p>The proposed outdoor dining area is exempt from this regulation, since the outdoor dining area is located on public right-of-way and not on private property.</p>
<p>e. Parking. Eating establishments with outdoor eating areas in public rights-of-way shall be exempt from additional parking requirements.</p>	<p>The outdoor dining area is exempt from additional off-street parking requirements.</p>

CONCLUSION

In summary, staff finds merit in the outdoor dining site plan. The project promotes and enhances economic viability in the CR Zoning District, by creating a use that provides variety for residents and visitors.

PUBLIC NOTICE AND CORRESPONDENCE

- May 16, 2013 – Notices were mailed to all residents and property owners and interested persons within 300 feet of the project site.
- Correspondence received as of the writing of this staff report is provided in **Exhibit D**.

RECOMMENDATION

Staff recommends the Zoning Administrator approve the attached draft resolution (**Exhibit A**) which takes the following actions regarding the proposed Minor Use Permit and Sidewalk Dining Encroachment Permit at 200 Caledonia Street:

- Approval of a Minor Use Permit to allow an outdoor dining area with three tables and six seats in the public right-of-way along side of the market/deli along Turney Street; and
- Approval of a Sidewalk Dining Encroachment Permit to allow for an outdoor dining area in the public right-of-way along side of the market/deli along Turney Street.

Alternatively, the Zoning Administrator may:

- Approve the Minor Use Permit with modifications;
- Continue the hearing for additional information and/or project revisions; or
- Deny the modification to the Minor Use Permit and direct Staff to return with a Resolution of Denial.

EXHIBITS

- A. Draft Resolution
- B. Site Plan
- C. Vicinity Map
- D. Correspondence

**SAUSALITO ZONING ADMINISTRATOR
RESOLUTION NO. 2013-XX**

**APPROVAL OF A MINOR USE PERMIT AND SIDEWALK DINING ENCROACHMENT
PERMIT TO ALLOW AN OUTDOOR DINING AREA IN THE PUBLIC RIGHT-OF-WAY FOR
THE EXISTING MARKET AND DELI AT 200 CALEDONIA STREET
(MUP 13-116)**

WHEREAS, on May 15, 2013 an application was filed by Driver's Market, on behalf of the property owner Molly Sterling Trust Et Al, requesting Zoning Administrator approval of a Minor Use Permit and Sidewalk Dining Encroachment Permit to allow outdoor dining in the Turney Street public right-of-way for the property located at 200 Caledonia Street. (APN 065-051-04); and

WHEREAS, the Zoning Administrator conducted a duly-noticed public hearing on May 30, 2013 at which time all interested persons were given an opportunity to be heard; and

WHEREAS, the Zoning Administrator has reviewed and considered the project plans date-stamped received on May 15, 2013; and

WHEREAS, the Zoning Administrator has received and considered all oral and written testimony on the subject application; and

WHEREAS, the Zoning Administrator has reviewed and considered the information contained in the staff report for the proposed project; and

WHEREAS, the Zoning Administrator finds that, as conditioned herein, the proposed project is consistent with the General Plan and complies with the Zoning Ordinance requirements as described in the staff report; and

WHEREAS, approval of the proposed project is categorically exempt from the requirements of the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15304(e), Minor Alterations to Land.

NOW, THEREFORE, THE ZONING ADMINISTRATOR HEREBY RESOLVES AS FOLLOWS:

1. The project is exempt from the requirements of CEQA pursuant to CEQA Guidelines Section 15304(e), Minor Alterations to Land.
2. The Minor Use Permit and Sidewalk Dining Encroachment Permit to allow outdoor dining is approved based upon the attached findings (Attachment 1), subject to the attached conditions of approval (Attachment 2), and as shown in the project plans date-stamped May 15, 2013 (Attachment 3).

Date

Jeremy Graves, AICP
Zoning Administrator

ATTACHMENTS

- 1- Findings
- 2- Conditions of Approval
- 3- Project Plans date-stamped received May 15, 2013

ZONING ADMINISTRATOR RESOLUTION
MAY 30, 2013
MUP 13-116
200 CALEDONIA STREET

ATTACHMENT 1: FINDINGS

MINOR USE PERMIT FINDINGS

Pursuant to Sausalito Municipal Code Section 10.58 (Minor Use Permits), it has been found that the permit is approved based on the following findings:

- A) The proposed use is allowed with issuance of a Minor Use Permit, pursuant to Chapters 10.20 through 10.28 (Zoning District Regulations), Chapter 10.44 (Specific Use Requirements) or any other applicable section of this Title 10.

Outdoor dining areas located on sidewalks in the public right-of-way and are permitted in the Commercial Residential Zoning District with a Minor Use Permit (Zoning Ordinance Section 10.24.030) and subject to the requirements outlined in Zoning Ordinance Section 10.44.220.

- B) The proposed use is consistent with the General Plan, the purposes of the Zoning Ordinance, and the purposes of the applicable zoning district.

The outdoor dining area is consistent with General Plan policies for managing encroachments in the public right-of-way and for promoting the economic viability for commercial neighborhood uses (General Plan Policies CP 1.5 and LU 2.13). The outdoor dining area is also consistent with all applicable Zoning Ordinance regulations for outdoor dining, as conditioned.

- C) The proposed use, together with the applicable conditions, will not be detrimental to the public health, safety, or general welfare of the City

The outdoor dining area provides an adequate pedestrian passageway within the sidewalk on Turney Street, nine feet at its widest point and seven feet six inches at its narrowest. As such, the dining area will not be detrimental to the public health, safety, or general welfare of the City.

- D) The proposed use complies with all of the applicable provisions of the Zoning Ordinance.

The use complies with all applicable provisions of the Zoning Ordinance, including requirements for outdoor dining areas in sidewalks (Section 10.44.220.C), as described in the staff report dated May 30, 2013.

- E) The proposed use or facility is properly located relative to the community as a whole and to land uses and transportation and service facilities in the vicinity.

The dining area is immediately adjacent to the market/deli, and is properly located in a sidewalk area that provides adequate passageway along Turney Street. The dining area will enhance the establishment in a commercial area that supports local residents, visitors, and employees in Sausalito.

- F) The size and shape of the subject property is adequate to provide features needed to ensure reasonable compatibility with land uses normally permitted in the surrounding area. Features may include but not be limited to yards, open spaces, walls and fences, parking, loading, landscaping, and such features as may be required by this Title or the Commission.

The outdoor dining area is placed along the market/deli frontage maintaining a minimum of a four foot passageway in the public right-of-way, and thus will not limit the required pedestrian access along Turney Street. Outdoor dining is a use normally permitted in the sidewalk, subject to the requirements stipulated by Zoning Ordinance Section 10.44.220.C, and thus is deemed adequate for the subject site.

- G) Public utilities and facilities are or will be adequate to serve the proposed use, including streets and highways paved (and of adequate width) for the quantity and type of traffic it will generate.

All public utilities and facilities are adequate for the use. The use will generate additional traffic impacts to Caledonia or Turney Streets, and will not adversely impact pedestrian traffic.

- H) The proposed use will not materially adversely affect nearby properties or their permitted uses.

The outdoor dining area is confined to the adjacent sidewalk area in the public right-of-way along the market/deli frontage along Turney Street, and will not extend to nearby properties. The dining area will maintain the required safe passage area on the sidewalk for pedestrians and will not block or diminish the sidewalk passageway. As such the proposed use will not materially adversely affect nearby properties or the public right-of-way.

Staff received correspondence regarding the proposed permit application. Both raised concerns as to whether or not the outdoor dining area will be in compliance with the requirements of the Americans with Disabilities Act (ADA), as well as the overall cleanliness and maintenance of the area. The outdoor dining area is subject to the attached conditions of approval which require a safe and adequate passageway of at least 48" in width be maintained at all times, as well as a requirement that the area be clean and kept free of litter, debris and trash.

- I) Findings required by Chapter 10.44 (Specific Use Requirements) for the approval of specific uses are made.

There are no additional findings required by Chapter 10.44 for outdoor dining areas.

ZONING ADMINISTRATOR RESOLUTION
MAY 30, 2013
MUP 13-116
200 CALEDONIA STREET

ATTACHMENT 2: CONDITIONS OF APPROVAL

These conditions of approval apply to project plans prepared for Drivers Market date-stamped received on May 15, 2013:

General Conditions

1. The outdoor dining area is approved for three tables and six seats, two chairs per table, in the public right-of-way.
2. In the event that any condition imposing a fee, exaction, dedication or other mitigation measure is challenged by the project sponsors in an action filed in a court of law or threatened to be filed therein which action is brought within the time period provided by law, this approval shall be suspended pending dismissal or final resolution of such action. If any condition is invalidated by a court of law, the entire project shall be reviewed by the City and substitute conditions may be imposed.
3. The applicant shall indemnify the City for any and all costs, including without limitation attorneys' fees, in defending this project or any portion of this project and shall reimburse the City for any costs incurred by the City's defense of the approval of the project.
4. As a condition of this approval, no alternative or unrelated construction, site improvements, tree removal and/or alteration, exterior alterations and/or interior alterations and/or renovations not specified in the project plans, or alterations approved by the Community Development Director, shall be performed on the project site. In such cases, this approval shall be rendered null and void unless approved by the Community Development Department as a modification to this approval.
5. Pursuant to Section 10.44.220.C, the outdoor dining area shall conform with the following regulations:
 - a. **Safe Passage.** Safe and adequate passage of 48" width shall be provided along the sidewalk at all times. Should tree grates installed on the sidewalk reduce the passageway to less than 48", plans to provide adequate passage shall be submitted for approval to the Community Development Department.
 - b. **Location.** The permit issued is to only allow the use of the sidewalk, public right-of-way, immediately in front of and adjacent to the market/deli located at 200 Caledonia Street.
 - c. **Cleanliness.** Debris, litter or food matter shall be removed from the sidewalk, streets or surrounding property at least once each day during operating hours and at the time tables and chairs are removed from the sidewalk.
 - d. **Food Service.** The applicant shall be engaged in food service and shall provide such service at the outdoor dining area.
 - e. **Insurance.** The Applicant shall obtain liability insurance with policy limits of at least \$500,000 per incident. The City shall be named an additional insured and the policy shall remain in force at all times that the Permit is in effect.

- f. **Hold Harmless.** The Applicant shall enter into an Encroachment Permit Agreement prepared by and satisfactory to the City Attorney. The Applicant shall agree to conform to these conditions and all applicable city ordinances. The Applicant shall also agree to indemnify the City and hold the city harmless from and against all liability arising out of the Applicant's activities under the Permit or otherwise arising out of the Applicant's placement of tables and chairs in the City sidewalk and/or from permitting the use of such tables and chairs by patrons or otherwise.
- g. **Orderliness.** All tables and chairs shall be removed from the sidewalk whenever the market/deli is closed or when the market/deli is not serving patrons on the sidewalk. The Permit shall provide for the placement of tables and chairs for the use of diners only. No entertainment shall be permitted along the sidewalk by the market/deli. No food preparation shall take place along the sidewalk, and no serving trays or bus stations shall be located along the sidewalk.
- h. **Preeminence.** The Applicant shall acknowledge that its use of the sidewalk under the Permit is subordinate to the public's right to use the sidewalk for passage and travel. Permit shall be revocable from time to time by order of the City to allow for a public event or other public use of the sidewalk subject to the Permit or if the use of the sidewalk for dining purposes conflicts with any public use of the sidewalk. The Applicant shall also acknowledge that the use of the sidewalk is subject to temporary suspension any time the City or any utility company or easement holder requires access to the sidewalk or any utility under the sidewalk, or requires use of the sidewalk in conjunction with any construction project.
- i. **Fee.** The Applicant shall pay the City an annual permit fee, based on square footage of the permit area, as established by Resolution of the City Council.
- j. **Compliance with All Regulations.** The Applicant shall comply with all regulations of State Alcoholic Beverage Control and the County of Marin Department of Public Health, and any other agency that controls the operations of the restaurant.
- k. **Revocable.** All Sidewalk Dining Permits and Encroachment Permits shall be subject to permanent revocation by the City at any time.

Advisory Notes

Advisory notes are provided to inform the applicant of Sausalito Municipal Code requirements, and requirements imposed by other agencies. These requirements include, but are not limited to, the items listed below.

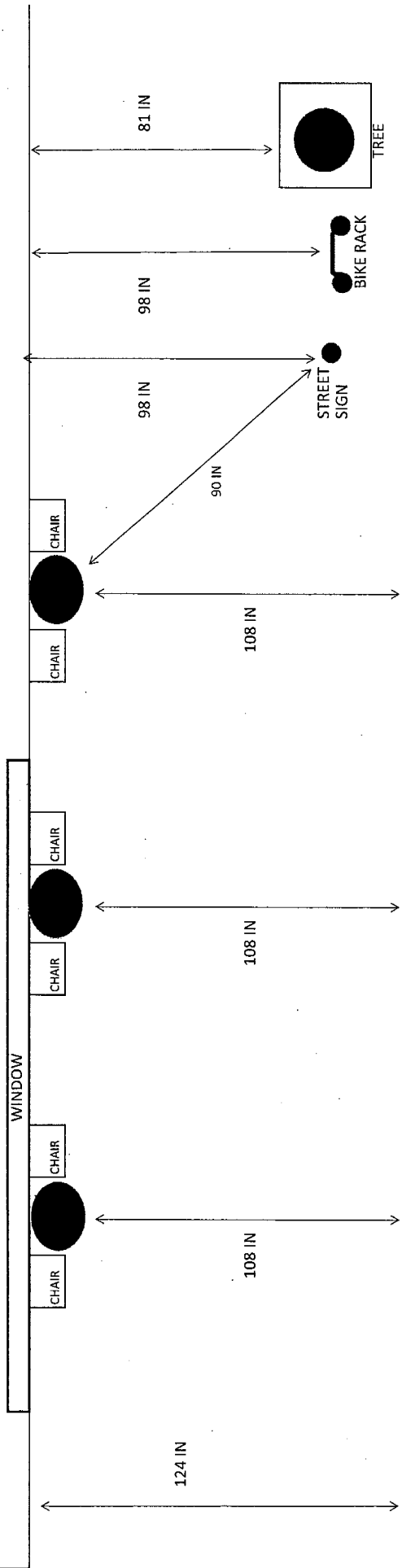
- 1. This approval will expire in one (1) year from the date of adoption of this resolution if the property owner has not exercised the entitlements hereby granted.
- 2. All applicable City fees as established by City Council resolutions and ordinances shall be paid.

**ZONING ADMINISTRATOR RESOLUTION
MAY 30, 2013
MUP 13-116
200 CALEDONIA STREET**

ATTACHMENT 3: PROJECT PLANS

Driver's Market building

C A L E D O N I A S T R E E T



The interior deli has seating for 24 people
 owned by
 Joe / Goffava owner / Driver's Market

PLANNING DEPARTMENT
 MAY 15 2013
 CITY OF CHICAGO
 COMMUNITY DEVELOPMENT

Vicinity Map – 200 Caledonia Street – MUP 13-116



Subject: Fwd: Attn: Minor Use Permit and Sidewalk Dining Encroachment Permit
From: tyrtc49t@aol.com (tyrtc49t@aol.com)
To: tc49t@yahoo.com;
Date: Thursday, May 23, 2013 9:25 AM

RECEIVED

MAY 23 2013

CITY OF SAUSALITO
COMMUNITY DEVELOPMENT

-----Original Message-----

From: Thomas Tyree <tc49t@yahoo.com>
To: tyrtc49t <tyrtc49t@aol.com>
Sent: Thu, May 23, 2013 9:20 am
Subject: RE: Attn: Minor Use Permit and Sidewalk Dining Encroachment Permit

Dear Rafael Miranda, Contact Planner:

It has come to my attention through the notice received, that the new Driver's Market has applied for permits for outside dining at 200 Caledonia St./Turney Streets. The notice has not given us residents and business people much time to acknowledge or consider the request for said permits.

As a resident for 38 years @ 201 Caledonia St.(upper) and a business owner @ 201 Caledonia St. (lower), I am opposed to the plan for the permit.

The opening of the new store has once again caused many parking problems, street noise, dogs barking, that are tied out in front of store, and numerous delivery trucks that start at 7:00 a.m. and continue all day with noisy engines and generators.

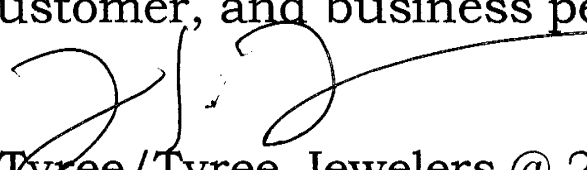
The new store is much needed and appreciated in the neighborhood. Added noise, litter, and general unsupervised control of an outside eating area, is not really in compliance with a business geared to retail selling of groceries.

Driver's Market has already established a dining area inside the store that can seat at least 20 people and a large bench in front of store for those who prefer to eat outside.

I'm totally opposed to The City of Sausalito granting that permit and hope you will realize my concern as a neighbor, customer, and business person.

Thank you.

sincerely,



Thomas S. Tyree/Tyree Jewelers @ 201 Caledonia St.,
Sausalito, CA. 94965

Sausalito, CA May 23rd 2013

RECEIVED

MAY 23 2013

CITY OF SAUSALITO
COMMUNITY DEVELOPMENT

To whom it concern:

Rafael Miranda

I am opposed to outdoor dining on 200 Caledonia St.

Handicapped right of way and City liability, litter, pollution, cigarette smoking, dogs and barking.

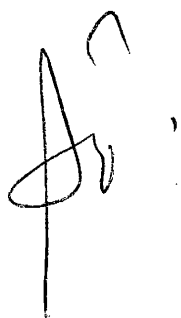
General unsupervised area and public nuisance, indoor seating already established.

You should to ask also to the residents, not only to the business with at least 1 month notice.

I am against this permit.

Shampooch

223 Caledonia St. Sausalito



BLANK