



STAFF REPORT

SAUSALITO CITY COUNCIL

AGENDA TITLE:

Marinship Specific Plan exception for additional seating at Fish restaurant, 350 Harbor Drive. DR/CUP 07-002.

RECOMMENDED MOTION:

Staff recommends that the City Council adopt the attached draft Resolution approving an exception to the Marinship Specific Plan to allow 50 additional seats at Fish restaurant for a total of 120 indoor/outdoor seats.

SUMMARY

Fish restaurant has requested approval of an exception to the Marinship Specific Plan to increase the maximum allowable indoor/outdoor seating from 70 seats to 120 seats for an existing restaurant at 350 Harbor Drive. On March 4, 2009 the Planning Commission approved Resolution 2009-17 which recommended City Council approval of the exception for seating (DR/CUP 07-002).

BACKGROUND

On February 11, 2009 and March 4, 2009 the Planning Commission conducted public hearings regarding a Design Review Permit for a gazebo to cover twenty-four outdoor seats, an amendment to Conditional Use Permit CUP 03-25 to allow 8 additional indoor seats and 42 additional outdoor seats and recommendation of City Council approval for an exception to the Marinship Specific Plan (MSP) to allow 50 additional seats for a total of 120 indoor/outdoor seats at the restaurant. On March 4, 2009 the Commission approved the Design Review Permit for the gazebo on a 5-0 vote. The Commission approved the amendment to the Conditional Use Permit and recommended approval of the exception to the MSP for 50 additional seats on a 3-2 vote (Keegin—No, Keller—No).

ISSUES

The MSP exception is requested to increase permitted onsite (indoor and outdoor) seating from 70 seats to 120 seats to serve Fish restaurant. Fifty-six of the proposed seats would be located indoors and 64 of the seats would be located outdoors. Presently 48 indoor and 22 outdoor seats are authorized (see table below). The current seating both indoors and outdoors is picnic-tables with benches, with each bench counting as two seats.

Indoor/Outdoor Seating

	Presently Allowed	Proposed Addition	Total
Indoor	48	8	56
Outdoor	22	42	64
Total	70	50	120

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The applicant has stated that due to variable weather conditions at the site, patrons frequently move the tables and benches indoors and outdoors depending on the weather conditions. The primary reason for increased seating is to allow flexibility in seating options for patrons without such frequent movement of tables and benches. The applicant has also stated that the request for increased seating is after-the-fact; Fish restaurant has been operating with 120 seats since approval for 70 seats in 2004. The applicant has declared that the request is not an effort to enlarge the restaurant or create a larger business, rather an effort to secure the appropriate permits to maintain the level of service Fish restaurant has been providing since 2004.

Exception Provision

Section 10.28.050.F of the Zoning Ordinance reads:

Minor exceptions to the development standards or definitions of use established by the Marinship Specific Plan that do not alter the general development programs of the Plan may be approved by the City Council upon recommendation by the Planning Commission.

The subject parcel is located in a Waterfront area of the Marinship Specific Plan and is subject to the development programs outlined in Section III.B.2.a (page 24) of the MSP, which defines Commercial Food Service as:

Commercial Food Service (no dining on the premises) and small-scale Eating Establishments (with limited dining on the premises, not to exceed 20 seats) will be permitted with a Conditional Use Permit on "W" Zone sites. The amount of food service square footage permitted on a parcel shall be determined after an analysis of the need for such a facility to serve the needs of employees in the Marinship. A determination shall be made that the location and signing does not encourage use by persons outside the Marinship.

The Planning Commission recommended City Council approval of an exception to the Marinship Specific Plan. The exception provision in Section 10.28.050.F states that "minor" exceptions may be approved by the City Council upon recommendation by the Planning Commission. The term "minor" is not defined. However, in 2004 the Council, based on a Planning Commission recommendation, authorized a net seating increase of 50 seats at the project site under the same "minor exception" provision in Section 10.28.050, indicating that an increase of the 50 seats is a minor exception to the Marinship Specific Plan. The current request is to increase the authorized seats from 70 to 120, which is again, a net increase of 50 seats. However, the cumulative impact from both requests would result in 120 total seats, 100 seats greater than what the Marinship Specific Plan allows with a Conditional Use Permit. The Council could consider discussing whether or not the current request should be considered a "minor" exception.

Findings

Prior to approving an exception to the MSP, the City Council must determine whether the necessary findings specified in Section 10.28.050.F.2 can be made. The required findings and the basis for making those findings are set forth in Exhibit A to the draft resolution (Attachment No. 1 to this report).

A full description of the project, including an analysis based on the required findings, is contained in the Planning Commission Staff Reports dated February 11, 2009 and March 4, 2009 provided as

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Attachments 3 and 4. Planning Commission Resolution 2009-17 is provided as **Attachment 2.**

CORRESPONDENCE

William Ziegler Letter, dated April 14, 2009


RECOMMENDATION

Staff recommends that the City Council adopt the attached draft Resolution approving an exception to the Marinship Specific Plan to allow 50 additional seats at Fish restaurant for a total of 120 indoor/outdoor seats.

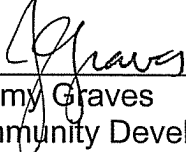
ATTACHMENTS

1. Resolution (Draft)
2. Planning Commission Resolution No. 2009-017
3. Planning Commission Staff Report, dated February 11, 2009
4. Planning Commission Memorandum, dated March 4, 2009
5. Planning Commission minutes (draft), dated February 11, 2009
6. Planning Commission minutes (draft), dated March 4, 2009
7. Correspondence
8. Project Plans, date stamped January 26, 2009

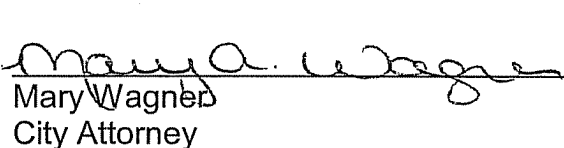
PREPARED BY:


Lilly Schinsing
Associate Planner

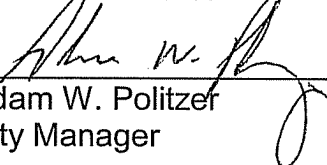
REVIEWED BY:


Jeremy Graves
Community Development Director

REVIEWED BY:


Mary Wagner
City Attorney

SUBMITTED BY:


Adam W. Politzer
City Manager

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CHICAGO, ILL. 60607

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RESOLUTION NO. X-X

RESOLUTION OF THE SAUSALITO CITY COUNCIL
APPROVING AN EXCEPTION TO THE MARINSHIP SPECIFIC PLAN
FOR ADDITIONAL SEATING AT 350 HARBOR DRIVE
(CUP 07-002)

WHEREAS, Section 10.28.050.F of the Zoning Ordinance allows for City Council approval of Minor exceptions to the development standards or definitions of use established by the Marinship Specific Plan that do not alter the general development programs of the Plan; and

WHEREAS, an application has been filed by applicant, Fish restaurant on behalf of property owners Clipper Yacht Harbor, requesting City Council approval of an exception to the Marinship Specific Plan for eight (8) additional indoor and forty-two (42) additional outdoor seats at 350 Harbor Drive (APN 063-030-01); and

WHEREAS, the Planning Commission conducted a duly-noticed public hearing on February 11, 2009 and March 4, 2009 at which time all interested persons were given an opportunity to be heard; and

WHEREAS, the Planning Commission has reviewed and considered the project plans titled "Fish" and date-stamped received on January 26, 2009; and

WHEREAS, on March 4, 2009, the Planning Commission adopted Planning Commission Resolution 2009-17 which recommended City Council approval of an exception to the Marinship Specific Plan for eight (8) additional indoor and forty-two (42) additional outdoor seats at 350 Harbor Drive (APN 063-030-01); and

WHEREAS, the City Council conducted a duly-noticed public hearing on May 5, 2009 in the manner prescribed by local ordinance, at which time all interested persons were given an opportunity to be heard; and

WHEREAS, the City Council has received and considered oral and written testimony on the subject application; and

WHEREAS, the City Council has reviewed and considered the information contained in the February 11, 2009 and March 4, 2009 Planning Commission Staff Reports regarding the proposed project and the May 5, 2009 City Council Staff Report regarding proposed project; and

WHEREAS, the City Council finds that the proposed project is categorically exempt from the requirements of the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15301; and

WHEREAS, the City Council's approval is based on a seafood/fish restaurant with an ancillary fish market that cumulatively reflects and maintains the waterfront nature of the Marinship; and

WHEREAS, the approval of the proposed exception does not set a precedent in the Marinship nor does it question the intent of the existing provisions of the Marinship Specific Plan; and

WHEREAS, the City Council finds that, as conditioned herein, the proposed project is consistent with the General Plan and Marinship Specific Plan as described in the staff report; and

WHEREAS, the City Council finds that, as conditioned herein, the proposed project complies with the requirements of the Zoning Ordinance as described in the staff report.

NOW, THEREFORE, THE CITY COUNCIL HEREBY RESOLVES AS FOLLOWS:

The City Council approves an exception to the Marinship Specific Plan in accordance with Zoning Ordinance Section 10.28.050.F to allow eight (8) additional indoor and forty-two (42) additional outdoor seats, for a total of 56 indoor seats and 64 outdoor seats

The above action is based upon the findings provided in **Exhibit A**. The project plans titled "Fish" and date-stamped received on January 26, 2009 are provided in **Exhibit b**.

RESOLUTION PASSED AND ADOPTED, at the regular meeting of the Sausalito City Council on the ___ day of _____, 20___, by the following vote:

AYES: Councilmember:
NOES: Councilmember:
ABSENT: Councilmember:
ABSTAIN: Councilmember:

Mayor Jonathan Leone

ATTEST: _____
Debbie Pagliaro, City Clerk

EXHIBITS

- A. Findings
- B. Project Plans

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EXHIBIT A
EXCEPTION TO THE MARINSHIP SPECIFIC PLAN FINDINGS

- A. The exception requested addresses an implementation measure of the Marinship Specific Plan and not a policy essential to achieving the goals of the Plan.

The seating exception addresses a land use limitation in the Waterfront Zone of the Marinship Specific Plan (MSP). The restriction of 20 seats for small-scale eating establishments is an implementation measure that addresses the Waterfront Zone General Intent of reinforcing and supporting the Marinship's maritime trade and industries (wholesale and retail fish sales). Therefore, the exception addresses an implementation measure of the Specific Plan and allowing the increased seating while maintaining the restaurant and ancillary fish market component will not threaten the character of the Marinship or the goals of the Specific Plan.

- B. The exception is needed to accommodate changed economic or operational circumstances affecting preferred uses described in the Plan which were not or could not have been foreseen when the Plan was adopted.

In order to account for changing weather conditions at the project site, the exception is needed to accommodate customer's seating preferences without requiring customers to frequently move tables and benches indoors and outdoors. In addition, rising economic costs make it difficult for the restaurant to continue operations with a limitation of 70 seats. Therefore, the exception is needed to accommodate changed operational and economic circumstances that were not foreseen when the Marinship Specific Plan was adopted nor the when an exception to the MSP was granted in 2004 for 50 additional seats.

- C. The exception furthers the intent of one or more goals of the Marinship Specific Plan and the project is in substantial compliance with both specific and general regulations of the Marinship Specific Plan and the underlying zoning designation.

The exception furthers the intent of fifteen goals of the Marinship Specific Plan as described in the Planning Commission Staff Report dated February 11, 2009 and summarized below.

The Fish restaurant works in connection with a fish market, therefore this component provides a direct service from the fishing industry to the marketplace and promotes a water dependent use. The fish market component of the restaurant use is an important means of connecting the commercial fishing industry with the local marketplace and the maritime history of Sausalito. The restaurant provides outdoor seating with a view of the waterfront and access to public waterfront areas thereby promoting the waterfront area. The restaurant serves to enhance the marine related use of the entire Clipper Yacht Harbor site and contributes to the diversity of uses on the site which encourages mixed use rather than single use development, especially on larger parcels. In addition, the restaurant primarily attracts residents of Sausalito and employees in the Marinship which serves to preserve the Marinship as an area primarily oriented to the use and service of Sausalito residents, not tourists.

Uses in the MSP Waterfront Zone should reinforce and support the Marinship's maritime trades and industries including "wholesale and retail fish sales" as a marine-oriented use. As the Fish restaurant contains a fish market component, the use supports this general intent and is in compliance with the Marinship Specific Plan. Although small scale eating

establishments are limited to 20 seats, the site has previously received approval for increased seating onsite through a Conditional Use Permit and an exception to the Marinship Specific Plan. Therefore, the seating is in compliance with the Marinship Specific Plan.

Although the MSP Waterfront Zone requirement in Section III.B.2.a states that "the proportion of food provisioning in marine supply business to other marine supply elements should remain small enough that it will qualify as 'limited accessory food provisions' and not characterize the nature of the business," the nature of the restaurant as the primary business and the fish market as the secondary business was formally characterized by the Planning Commission and City Council in 2004. Therefore, as this characterization was previously authorized, the exception is in compliance with the Marinship Specific Plan.

As the fish restaurant and fish market use requires the provision of 31 parking spaces, 39 parking spaces are assigned to Fish restaurant and therefore the site is in compliance with development standards in the Zoning Ordinance.

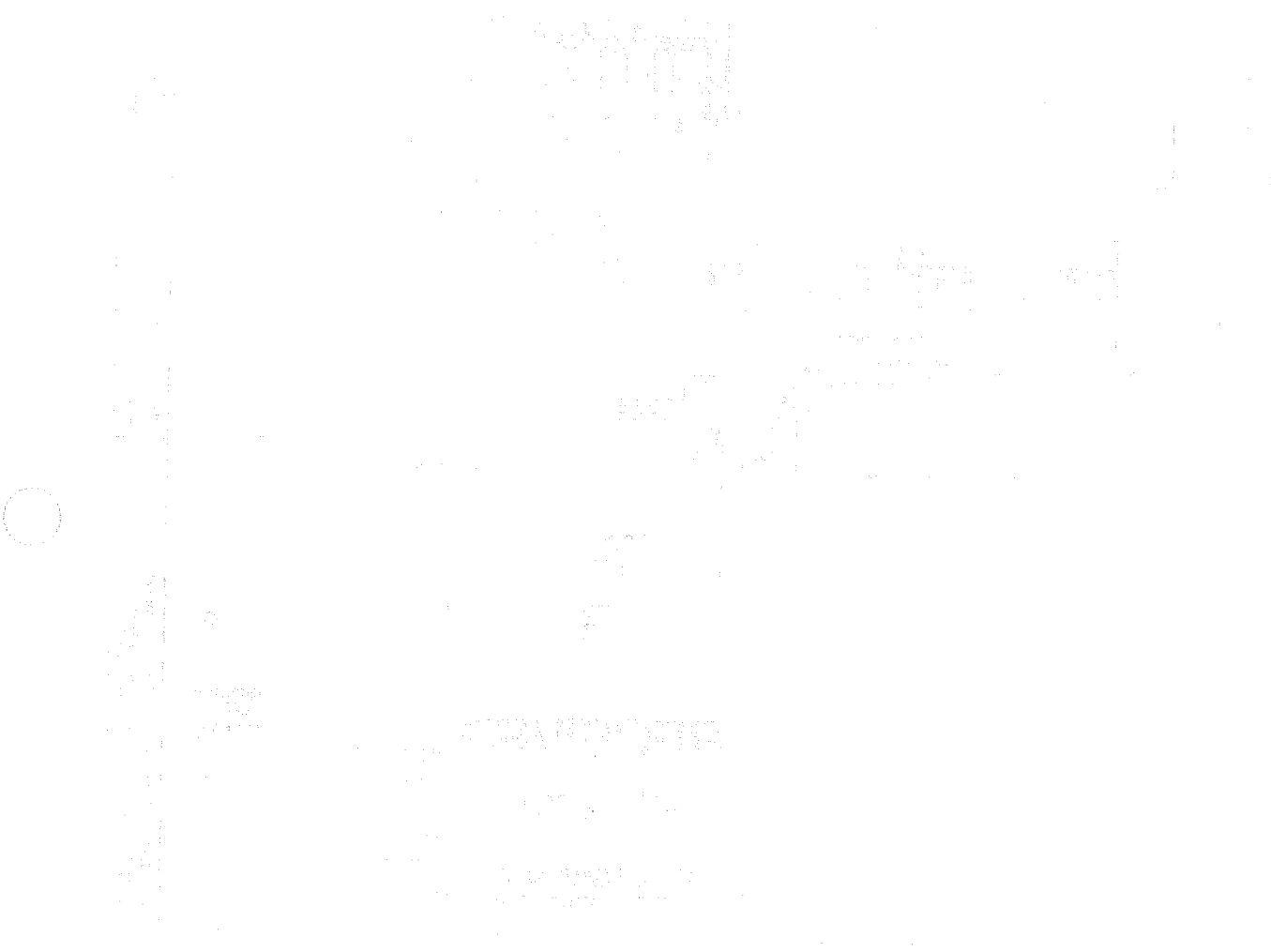
- D. The exception will not result in a significant negative impact on the traffic conditions in the Marinship or on Bridgeway.

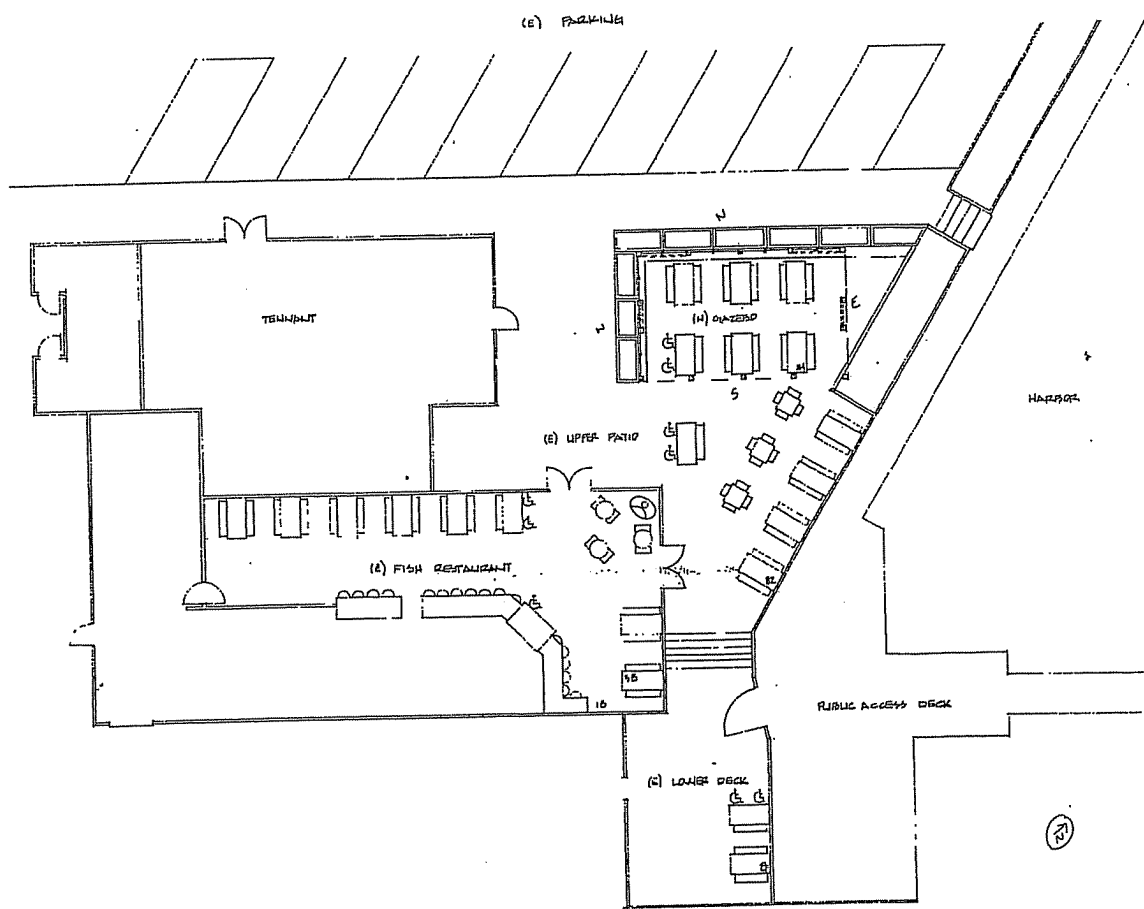
The customer survey provided by the applicant indicates that the traffic impact is light due to the proportion of patrons who use transportation modes other than private vehicles to access the restaurant. In addition, there is no evidence of any significant negative traffic conditions caused by the restaurant over the five years that the restaurant has been operating with the requested number of seats. Therefore, the exception will not result in a significant negative impact on the traffic conditions in the Marinship or on Bridgeway

- E. The exception will serve the needs of residents of Sausalito and employees in the Marinship.

The restaurant provides an important service to the employees of the Marinship and the residents of Sausalito by offering a food service location in an area where restaurants are limited. In addition, the restaurant supports the local commercial fishing industry in Sausalito and the Marinship by purchasing fish locally. Therefore, the exception will serve the needs of resident of Sausalito and employees in the Marinship.

**EXHIBIT B
PROJECT PLANS**





DATE: 14-NOV-06
 REVISION: 25-DEC-06
 2-PIKE-07

15-JAN-09
 22-DEC-08
 22-JAN-09

ARCHITECT
 WILLIAM CRAIG
 200 PINE STREET
 SAN FRANCISCO, CALIF 94104

ARCHITECT
 GREGORY GRANE
 950 HARBORE DRIVE
 SAUSALITO, CA.

PROPOSED SEATING PLAN
 1/4" = 1'-0"

SHEET NO.
 120 OF 1

RECEIVED

JAN 26 2009

CITY OF SAUSALITO
 COMMUNITY DEVELOPMENT

RECEIVED
 JAN 23 2009
 CIVIL ENGINEERING
 CONSULTING GROUP

PROPOSED SEATING		TOTAL
RESTAURANT TABLES	30	
BAR	10	50
QUAYBO	24	
UPPER PATIO	12	
LOWER DECK	0	41
		120

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**SAUSALITO PLANNING COMMISSION
RESOLUTION NO. 2009-17**

**A RESOLUTION APPROVING AN AMENDMENT OF CONDITIONAL USE PERMIT 03-25
AND RECOMMENDING CITY COUNCIL APPROVAL OF AN EXCEPTION TO THE MARINSHIP
SPECIFIC PLAN FOR ADDITIONAL SEATING AT 350 HARBOR DRIVE
(CUP 07-002)**

WHEREAS, an application has been filed by applicant, Fish restaurant on behalf of property owners Clipper Yacht Harbor, requesting Planning Commission approval of an amendment to Conditional Use Permit 03-25 for eight (8) additional indoor and forty-two (42) additional outdoor seats AND recommendation of City Council approval of an exception to the Marinship Specific Plan for eight (8) additional indoor and forty-two (42) additional outdoor seats at 350 Harbor Drive (APN 063-030-01); and

WHEREAS, the Planning Commission conducted a duly-noticed public hearing on February 11, 2009 and March 4, 2009 at which time all interested persons were given an opportunity to be heard; and

WHEREAS, the Planning Commission finds that the proposed project is categorically exempt from the requirements of the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Sections 15301; and

WHEREAS, the Planning Commission has reviewed and considered the project plans titled "Fish" and date-stamped received on January 26, 2009; and

WHEREAS, the Planning Commission has received and considered oral and written testimony on the subject application; and

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

WHEREAS, the Planning Commission is recommending approval of a maximum of 120 seats based on the seating plan submitted titled "Fish" and date-stamped received on January 26, 2009 which does not include any seating on the public access deck; and

WHEREAS, the Planning Commission's recommendation is based on a fish restaurant with an ancillary fish market that cumulatively reflects and maintains the waterfront nature of the Marinship; and

WHEREAS, the recommendation of approval for the proposed exception does not set a precedent in the Marinship nor does it question the intent of the existing provisions of the Marinship Specific Plan; and

WHEREAS, the Planning Commission finds that, as conditioned herein, the proposed project complies with the General Plan as described in the staff report; and

WHEREAS, the Planning Commission finds that, as conditioned herein, the proposed project complies with the Marinship Specific Plan as described in the staff report; and

WHEREAS, the Planning Commission finds that, as conditioned herein, the proposed project complies with the requirements of the Zoning Ordinance as described in the staff report.

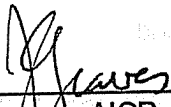
NOW, THEREFORE, THE PLANNING COMMISSION HEREBY RESOLVES AS FOLLOWS:

1. The Planning Commission approves an amendment of CUP 03-25 for eight (8) additional indoor and forty-two (42) additional outdoor seats; and
2. The Planning Commission recommends City Council approval of an exception to the Marinship Specific Plan in accordance with Zoning Ordinance Section 10.28.050.F to allow eight (8) additional indoor and forty-two (42) additional outdoor seats.

The above actions are subject to the findings provided in Attachment 1 and subject to the conditions of approval provided in Attachment 2. The project plans titled "Fish" and date-stamped received on January 26, 2009 are provided in Attachment 3:

RESOLUTION PASSED AND ADOPTED, at the regular meeting of the Sausalito Planning Commission on the 4th day of March, 2009, by the following vote:

AYES:	Commissioner:	Stout, Cox, Bair
NOES:	Commissioner:	Keegin, Keller
ABSENT:	Commissioner:	
ABSTAIN:	Commissioner:	



Jeremy Graves, AICP
Secretary to the Planning Commission

ATTACHMENTS

- 1- Findings
- 2- Conditions of Approval
- 3- Project Plans

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PLANNING COMMISSION RESOLUTION
MARCH 4, 2009
CUP 07-002
350 HARBOR DRIVE

ATTACHMENT 1: FINDINGS FOR AN APPROVAL OF AN AMENDMENT TO CONDITIONAL
USE PERMIT 03-25 AND RECOMMENDATION OF CITY COUNCIL APPROVAL OF AN
EXCEPTION TO THE MARINSHIP SPECIFIC PLAN FOR ADDITIONAL SEATING

1. CONDITIONAL USE PERMIT FINDINGS

- A. The proposed use is allowed with issuance of a Conditional Use Permit, pursuant to Chapters 10.20 through 10.28 (Zoning District Regulations), or Section 10.46.040 (Conditional Uses), Chapter 10.44 (Specific Use Requirements) or any other applicable section of this Title 10.

The expansion of the use is allowed with issuance of an amendment to CUP 03-25 with the findings made for exceptions to the Marinship Specific Plan (pursuant to Section 10.28.050.F). Restaurants in the Waterfront Marinship Zoning District are regulated in Chapter 10.44, Section 10.44.210.D and as a change in the amount of food service square footage, location, and signage is not requested the project is in compliance with these regulations.

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

An additional 50 indoor/outdoor seats at a restaurant located in the Waterfront Marinship (W-M) Zoning District is consistent with the General Development Regulations and the Specific Use Requirements sections of the Zoning Ordinance and the findings for an exception to the Marinship Specific Plan for increased seating have been made.

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

An additional 50 indoor/outdoor seats at an existing restaurant is an intensification of use to which the applicant will satisfy the off-street parking requirements by providing 39 spaces where 31 spaces are required.

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

The proposed amendment to the Conditional Use Permit involves an expansion in use of an existing restaurant. The project is adequately zoned for the use, provides the required setbacks and parking, does not exceed the development standards for the Waterfront Zoning District and the findings for an exception to the Marinship Specific Plan for increased seating have been made.

- 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 use as a fish market and café, with beer and wine service, is an established use of this site that is appropriately located within the Clipper Yacht Harbor site in particular and

Sausalito in general. The additional seating is allowed with Planning Commission recommendation of approval, and City Council approval, of an exception to the Marinship Specific Plan.

- 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 additional seating will be located in previously-established patio areas and does not involve any physical improvements.

- 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.

The site is currently served with public utilities and as the proposed use has been established for five years, it is not expected that the use will generate any additional traffic.

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

The proposed use is conditioned to comply with the seating requirements and due to the distance from other properties the expansion in seating will not adversely affect nearby properties and use.

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

Chapter 10.44 does not require findings for a restaurant located in the Waterfront Marinship (W-M) Zoning District to expand in use and as a change in the amount of food service square footage, location, and signage is not requested the project is in compliance with the regulations in 10.44.210.D.

2. EXCEPTION TO THE MARINSHIP SPECIFIC PLAN FINDINGS

- A. The exception requested addresses an implementation measure of the Marinship Specific Plan and not a policy essential to achieving the goals of the Plan.

The seating exception addresses a land use limitation in the Waterfront Zone of the Marinship Specific Plan (MSP). The restriction of 20 seats for small-scale eating establishments is an implementation measure that addresses the Waterfront Zone General Intent of reinforcing and supporting the Marinship's maritime trade and industries (wholesale and retail fish sales). Therefore, the exception addresses an implementation measure of the Specific Plan and allowing the increased seating while maintaining the restaurant and ancillary fish market component will not threaten the character of the Marinship or the goals of the Specific Plan.

- B. The exception is needed to accommodate changed economic or operational circumstances affecting preferred uses described in the Plan which were not or could not have been foreseen when the Plan was adopted.

In order to account for changing weather conditions the exception is needed to accommodate patron's seating preferences without requiring customers to continually move tables and benches indoors and outdoors. In addition, rising economic costs would make it difficult for the restaurant to continue operations with only 70 seats. Therefore, the exception is needed to accommodate changed operational and economic circumstances that were not foreseen when the Marinship Specific Plan was adopted nor the when the exception was granted in 2004 for 50 additional seats.

- C. The exception furthers the intent of one or more goals of the Marinship Specific Plan and the project is in substantial compliance with both specific and general regulations of the Marinship Specific Plan and the underlying zoning designation.

The exception furthers the intent of fifteen goals of the Marinship Specific Plan. The Fish restaurant works in connection with a fish market, therefore this component provides a direct service form the fishing industry to the marketplace and promotes a water dependent use. The fish market component of the restaurant use is an important means of connecting the commercial fishing industry with the local marketplace and the maritime history of Sausalito. The restaurant provides outdoor seating with a view of the waterfront and access to public waterfront areas thereby promoting the waterfront area. The restaurant serves to enhance the marine related use of the entire Clipper Yacht Harbor site and contributes to the diversity of uses on the site which encourages mixed use rather than single use development, especially on larger parcels. In addition, the restaurant primarily attracts residents of Sausalito and employees in the Marinship which serves to preserve the Marinship as an area primarily oriented to the use and service of Sausalito residents, not tourists.

Uses in the Waterfront Zone should reinforce and support the Marinship's maritime trades and industries including "wholesale and retail fish sales" as a marine-oriented use. As the Fish restaurant contains a fish market component, the use supports this general intent and is in compliance with the Marinship Specific Plan. Although small scale eating establishments are limited to 20 seats, the site has previously received approval for increased seating onsite through a Conditional Use Permit and an exception to the

Marinship Specific Plan. Therefore, the seating is in compliance with the Marinship Specific Plan.

Although the Waterfront Zone requirement in Section III.B.2.a states that "the proportion of food provisioning in marine supply business to other marine supply elements should remain small enough that it will qualify as 'limited accessory food provisions' and not characterize the nature of the business," the nature of the restaurant as the primary business and the fish market as the secondary business was formally characterized by the Planning Commission and City Council in 2004. Therefore, as this characterization was previously authorized, the exception is in compliance with the Marinship Specific Plan.

As the fish restaurant and fish market use requires the provision of 31 parking spaces, 39 parking spaces are assigned to Fish restaurant and therefore the site is in compliance with development standards in the Zoning Ordinance.

- D. The exception will not result in a significant negative impact on the traffic conditions in the Marinship or on Bridgeway.

The survey provided by the applicant indicates that the traffic impact is light due to the proportion of patrons who use transit modes other than vehicles to access the restaurant. In addition, the Community Development Department is not aware of any significant negative traffic conditions caused by the restaurant over the five years that the restaurant has been operating with the requested number of seats. Therefore, the exception will not result in a significant negative impact on the traffic conditions in the Marinship or on Bridgeway

- E. The exception will serve the needs of residents of Sausalito and employees in the Marinship.

The restaurant provides an important service to the employees of the Marinship and the residents of Sausalito by offering a food service location in an area where restaurants are limited. In addition, the restaurant supports the local commercial fishing industry in Sausalito and the Marinship by purchasing fish locally. Therefore, the exception will serve the needs of resident of Sausalito and employees in the Marinship.

**PLANNING COMMISSION RESOLUTION
MARCH 4, 2009
CUP 07-002
350 HARBOR DRIVE**

**ATTACHMENT 2: CONDITIONS OF APPROVAL FOR
AN AMENDMENT TO CONDITIONAL USE PERMIT 03-25**

These conditions apply to the project plans prepared by William Craig, Architect, entitled "Fish" and date-stamped received on January 26, 2009.

General

1. This amendment shall become effective upon City Council approval of an exception to the Marinship Specific Plan in accordance with Zoning Ordinance Section 10.28.050.F to allow eight (8) additional indoor and forty-two (42) additional outdoor seats at the subject project site for a total of fifty-six (56) indoor and sixty-four (64) outdoor seats.
2. Condition of Approval 1 of Conditional Use Permit 03-25 is amended to read: "This approval is limited to the operation of a seafood/fish restaurant with an ancillary fish market with 120 seats. At no time shall the restaurant seating exceed a maximum of 120 seats, including both indoor and outdoor seating."
3. Condition of Approval 3 of Conditional Use Permit 03-25 is deleted.
4. The applicant shall not provide parking for charter buses for the sole purpose of serving food to bus patrons. In addition, the applicant shall not enter into any contract with a charter bus company or any other tour company to provide meals to groups.
5. The Conditional Use permit shall be recorded at the Marin County Recorder's office at the expense of the applicant.

Advisory Notes:

Advisory notes are provided to inform the applicant of (a) Sausalito Municipal Code requirements, or (b) requirements imposed by other agencies. The advisory notes are not a part of the Conditions of Approval.

1. The approval will expire in one (1) year from the date of adoption of this resolution unless the permit is renewed or extended.
2. In accordance with the San Francisco Bay Conservation and Development Commission permit number 9-84, no food service shall occur on the public access deck.

**PLANNING COMMISSION RESOLUTION
MARCH 4, 2009
CUP 07-002
350 HARBOR DRIVE**

ATTACHMENT 3: PROJECT PLANS

DATE: 1/25/09
 DRAWN BY: J. J. JAMES
 CHECKED BY: J. J. JAMES
 SCALE: AS SHOWN
 SHEET NO. 2-106-07 (1/4)

PROJECT NO. 09-001
 SHEET NO. 2-106-07 (1/4)

WILLIAM CRAIG ARCHITECT
 2000 HIGHLAND STREET
 SAN FRANCISCO, CALIF. 94109
 (415) 774-1100

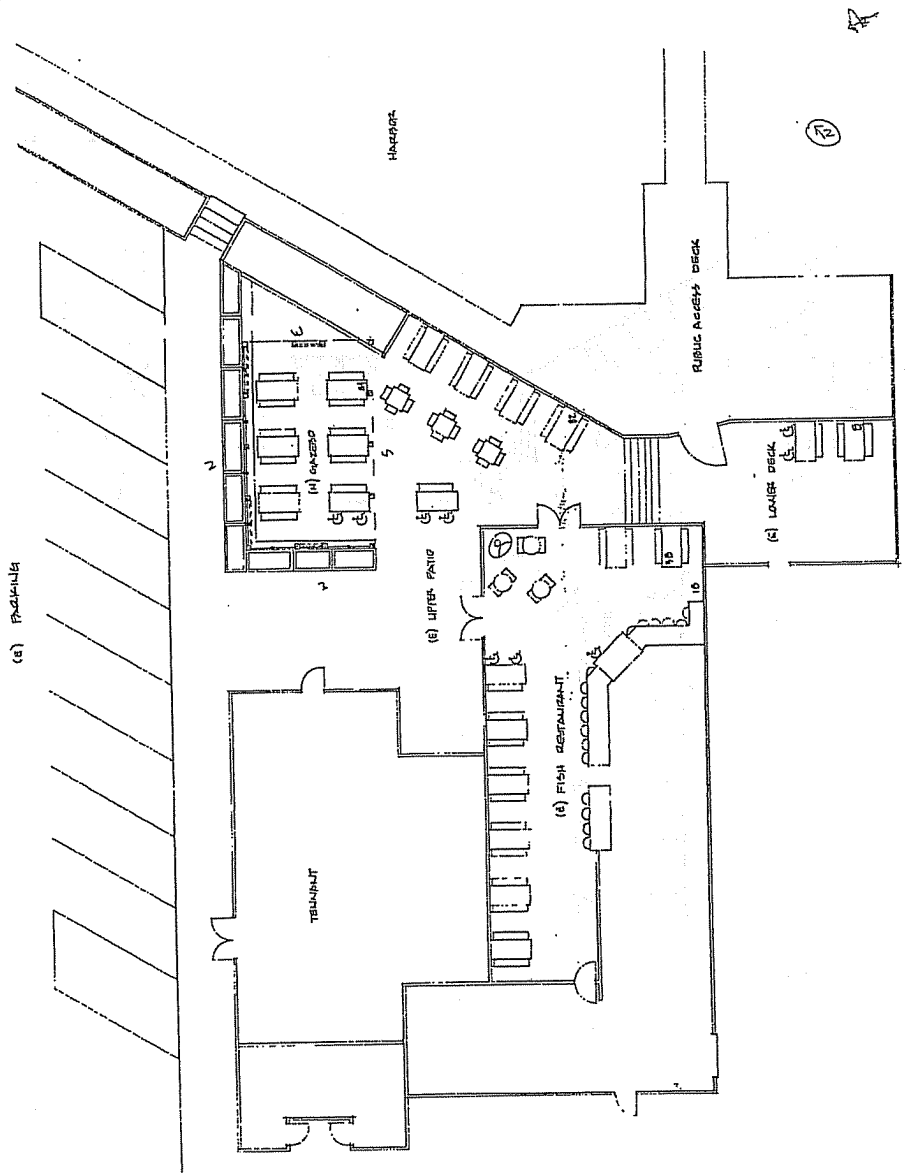
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PROPOSED SEATING

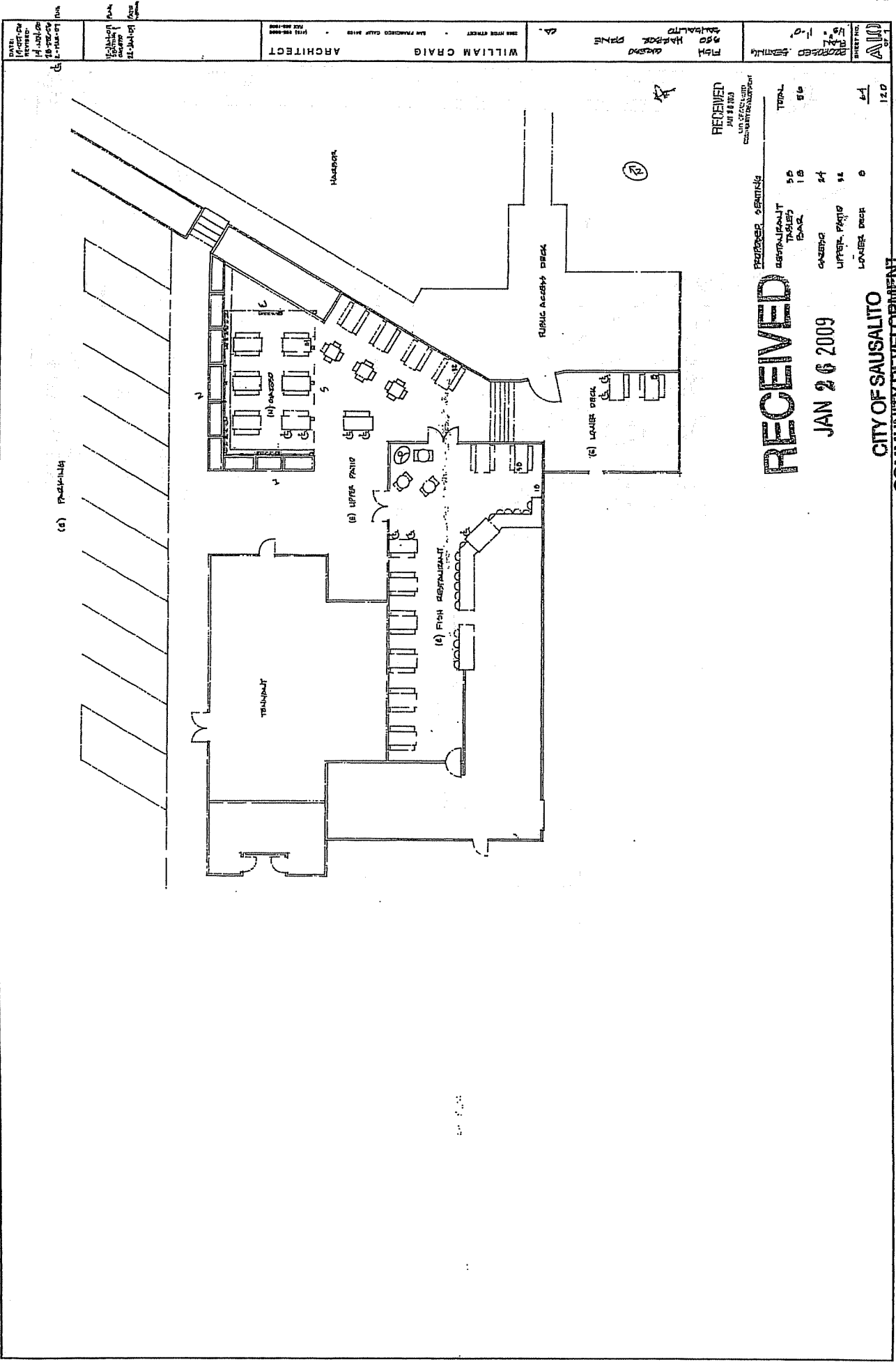
RESTAURANT	TABLES	SEAT	CANSEAT	UPPER PATIO	LOWER DECK	TOTAL
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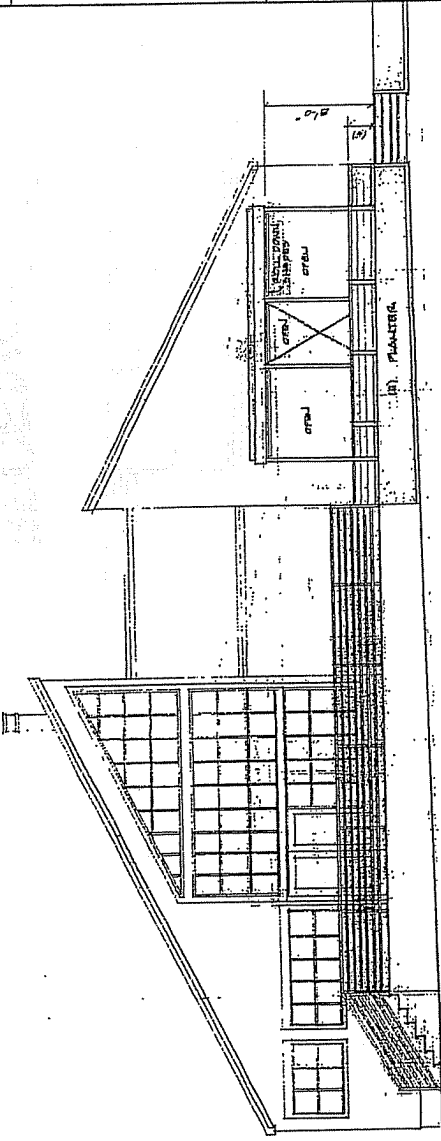
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ITEM	QUANTITY	UNIT PRICE	TOTAL
DESK	1	50	50
TABLES	1	15	15
CHAIR	24	1	24
UPPER PRATIO	11	1	11
LOWER DECK	6	1	6
TOTAL			106

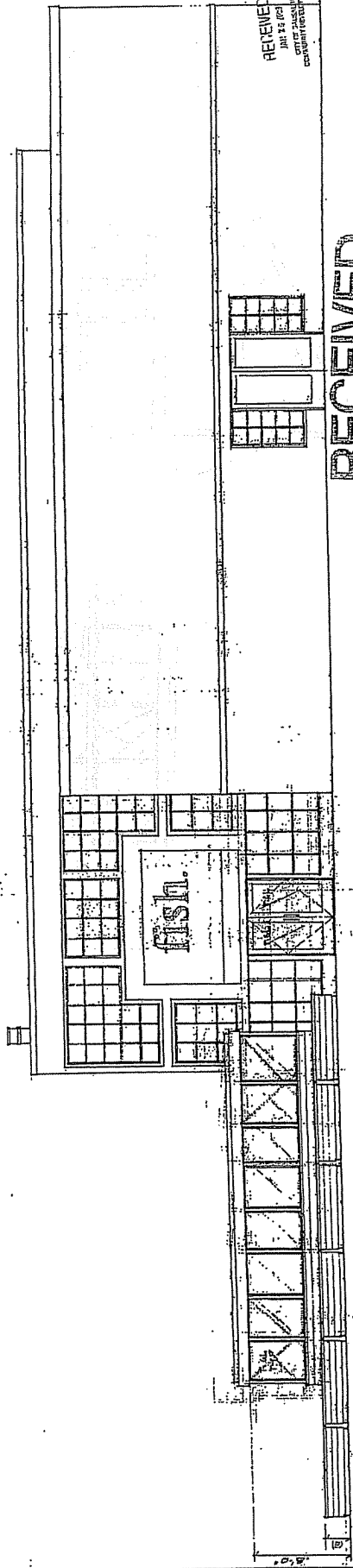
CITY OF SAUSALITO
COMMUNITY DEVELOPMENT

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300 HAYWARD BLVD
SAUSALITO, CA 94965
TEL: 415-353-1111
FAX: 415-353-1112

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REAR ELEVATION

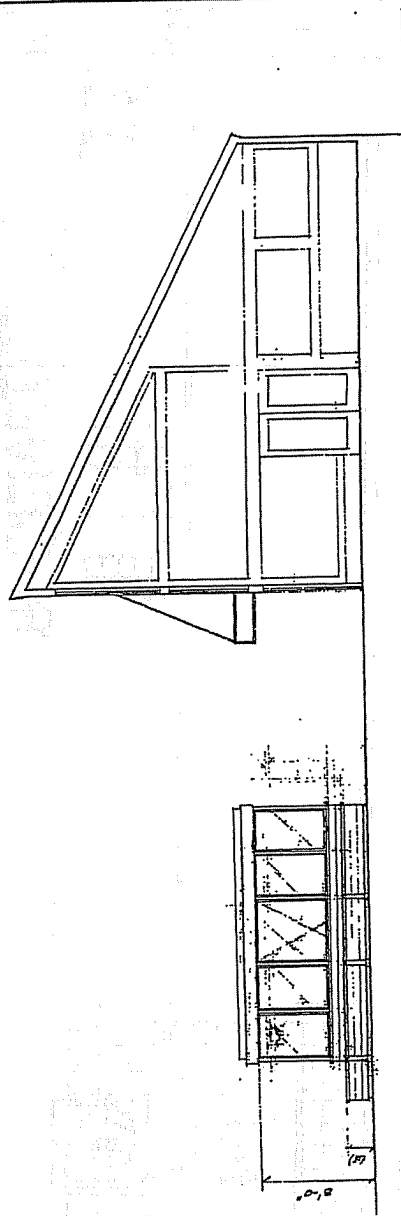


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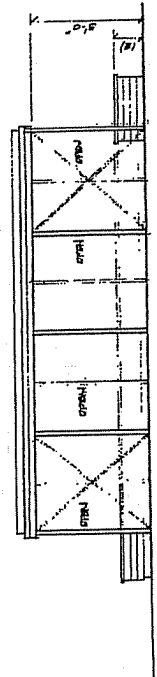
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JAN 26 2009

CITY OF SAUSALITO
 COMMUNITY DEVELOPMENT



ROOSTER JARIN



REVIEWED BY: **WILLIAM CRAIG**

SOUTH ELEVATION

RECEIVED

JAN 26 2000

CITY OF SAUSALITO
 COMMUNITY DEVELOPMENT

STAFF REPORT

SAUSALITO PLANNING COMMISSION

PROJECT: Fish/350 Harbor Drive
Design Review Permit/Conditional Use Permit
DR/CUP 07-002

MEETING DATE: February 11, 2009

STAFF: Lilly Schinsing, Associate Planner 

PROPERTY OWNER: Clipper Yacht Harbor

APPLICANT: William Ziegler

REQUEST

Approval of a Design Review Permit for a gazebo to cover twenty-four outdoor seats, approval of amendment to Conditional Use Permit CUP 03-25 to allow eight additional indoor seats and forty-two additional outdoor seats and recommendation of City Council approval for an exception to the Marinship Specific Plan to allow total of 120 indoor/outdoor seats at Fish restaurant, 350 Harbor Dr.

REGULATORY FRAMEWORK

General Plan: Marinship

Specific Plan: Waterfront (W) Zone, Zone 2 Parcel 8-A, Marinship Specific Plan

Zoning: Waterfront Marinship (W-M) Zoning District

Required Approvals: Design Review Findings (10.54.050)
Conditional Use Permit Findings (10.60.050)
Marinship Overlay District Exception Findings (10.28.050.F)

EXISTING SETTING

Subject Parcel: Fish restaurant is located within a portion of an existing building on the Clipper Yacht Harbor site, occupying approximately 2,968 square feet of Building A. The Clipper Yacht Harbor site is a parcel that consists of 3.4 acres of land and 6.8 acres of water, for a total site area of 10.2 acres (APN: 063-030-01).

Neighborhood: The existing area consists of industrial and waterfront uses as allowed by the Marinship Specific Plan and the Zoning Ordinance.

PROJECT HISTORY AND BACKGROUND

- In 1984 the Planning Commission approved a conditional use permit for limited food sales (deli) at 350 Harbor Drive. At the time the Planning Commission specified that a restaurant was not approved, tables or chairs were not allowed on site, and onsite cooking or serving of alcohol were not allowed. The food and beverage service was considered accessory to the bait and tackle sales on site and was limited to the sale of prepackaged food such as sandwiches.
- In 1989 a conditional use permit for a small restaurant was approved by the Planning Commission. The approval specified that seating would be limited to 20 seats located within a designated 300 square feet area in the northeast corner of the building. Furthermore, no outdoor seating was permitted, the hours of operation were specified, five existing parking

spaces were required to be designated as 30-minute spaces, and the conditional use permit was given a time limitation of five years. In 1995 the property owner received a two-year time extension for the conditional use permit.

- In 1995 the Planning Commission approved an amendment to the Marinship Specific Plan and Zoning Ordinance which permitted *outdoor seating* in the W Zone of the Marinship Specific Plan and the W-M Zoning District of the Zoning Ordinance but did not allow for an increase in overall site seating. In the same year, the Planning Commission also denied a request by the property owner to amend the Marinship Specific Plan and Zoning Ordinance to allow for an increase in permitted seating at restaurants in the W Zone of the Marinship Specific Plan and the W-M Zoning District of the Zoning Ordinance.
- In June of 2003 the Planning Commission approved Conditional Use Permit 03-25 for the establishment of a "fish market and food service café" at 350 Harbor Drive. The number of seats at the restaurant was limited to 20.
- In June of 2003 the City Council adopted amendments to the Zoning Ordinance that allowed for a provision for minor exceptions to the development standards or definitions of use of the Marinship Specific Plan.
- In September of 2004, the City Council approved an exception to the Marinship Specific Plan to increase the maximum allowable seats at Fish restaurant to 70. The resolution clearly noted that that the action was based on a Fish restaurant with an ancillary fish market that cumulatively reflected and maintained the waterfront nature of the Marinship. The exception was not included as an amendment to the 2003 Conditional Use Permit, but rather a stand alone approval of additional seating.
- In November of 2007 and December of 2008 the Zoning Administrator approved Minor Use Permits at 350 Harbor Drive for a temporary outdoor seasonal tent to enclose the outdoor dining area.

ENVIRONMENTAL REVIEW

The subject application is Categorically Exempt from the California Environmental Quality Act (CEQA), in accordance with Sections 15301 and 15303(e) of the CEQA Guidelines. The project involves the operation of existing facilities and the construction of accessory structures, which are Categorical Exemptions.

PROJECT DESCRIPTION

A Design Review Permit is requested to add a 522 square foot gazebo to the northeast of Fish restaurant in an existing patio area. The purpose of the structure is to provide shade in the summer months and shelter in the winter months for six outdoor tables.

The applicant is also requesting an amendment to Conditional Use Permit CUP 03-25 (see Exhibit E) for additional 50 indoor/outdoor seats. The request requires the following:

- Approval of a CUP amendment to allow 8 additional indoor seats and 42 additional outdoor seats; and

- Recommendation of approval from the Planning Commission to the City Council for an exception to the Marinship Specific Plan (MSP) as the Waterfront Zone in the Marinship only allows for a maximum of 20 seats. The exception request is subject to the requirements and findings in Zoning Ordinance Section 10.28.050.F, which outlines the process by which minor exceptions to the development standards or definitions of use established by the MSP may be granted by the City Council.

ANALYSIS

Design Review Permit for the Gazebo:

Colors and Materials

The proposed gazebo is composed of 20 eight-foot tall wooden posts flanking an existing "U" shaped configuration of wooden planters in a patio area. The gazebo would be open on the south and east sides with roll down shades; the north and west sides of the structure would be enclosed with tempered glass. The entire structure would stand 9-1/2 feet tall and include a flat wood roof with metal flashing. Pressure treated wood is proposed to match the existing planters. A colors and materials board will be available for the Commission's review during the meeting.

BCDC Review

The San Francisco Bay Conservation and Development Commission (BCDC) reviewed the project on January 23, 2009 and stated that the proposed gazebo would require an amendment to an existing BCDC permit (see **Exhibit G** for a letter from BCDC). A requirement has been added as a condition of approval that prior to issuance of building permits BCDC authorization for the gazebo has been obtained.

In a telephone conversation with Staff, BCDC staff requested the Planning Commission consider the gazebo's impact on public access to the shoreline and the public's view of the Bay. Staff has visited the site and concluded that obstructions to public views have been minimized by the location and design of the proposed gazebo. The gazebo is proposed to be located behind the public access walkway and viewing deck (see **Exhibit B** for site photographs). In addition, the proposed gazebo is designed to be open on the south and east sides with roll down shades while the north and west sides of the structure would be enclosed with tempered glass, creating minimal obstruction of view from the parking lot area. As the gazebo is also proposed to be located on private property in an existing patio area enclosed on three sides by wooden planter boxes, Staff has concluded that the proposed gazebo will not have an impact on public access to the shoreline.

BCDC Permit 9-84 stipulates that the public access deck (located adjacent to the area labeled "(E) lower deck" on sheet A1.0 of the project plans) is to remain open to the public and that no food service occur on the deck. BCDC has reported that at times the restaurant violates this restriction. An advisory note has been added to the draft resolution reminding the applicant that no food services occur on the public access deck.

Development Standards

Height. Accessory structures, such as the proposed gazebo, are regulated in Section 10.44, Specific Use Requirements. The height of an accessory structure must not exceed 15 feet

(10.44.020.C.4). As the gazebo is proposed at 9-1/2 feet, the structure complies with the height requirements.

Setbacks. Accessory structures, such as the proposed gazebo, are regulated in Section 10.44, Specific Use Requirements. The setback requirements for accessory structures are as follows:

- They may occupy up to 25% of the required rear yard area; and
- The height must not exceed 6 feet at the property line (10.44.020.C.4).

As a rear setback is not required on parcels in the Marinship Overlay District (pursuant to table 10.28-1), nor is the structure located at the property line, the structure complies with the setback requirements.

Coverage. Pursuant to Section 10.40.050 and Table 10.24-2, the maximum building coverage on a lot in the Waterfront District is 30%. As the subject parcel is 444,312 square feet the maximum building coverage is 133,293 square feet. There are three structures that occupy the property: a building in the boat storage area (2,400 square feet in coverage), a building that houses Clipper Yacht Harbor offices (5,200 square feet in coverage) and the building at 350 Harbor Drive that accommodates Fish restaurant and Salty's Bait Shop (4,950 square feet in coverage). As the three buildings total 12,550 square feet in coverage, the existing coverage is 2.82% of the lot. The gazebo addition would add 522 square feet of building coverage, bringing the total proposed site coverage to 2.94% of the lot. The proposal would comply with the coverage requirements.

Staff concludes the requisite Design Review findings, as provided in the draft resolution, can be made to approve the project. The Design Review Permit may be approved independent of the Commission's action on the requested increase of seating as 22 seats have been authorized outdoors. However, an **approval** of the gazebo and a **denial** of the amendment to the Conditional Use Permit would require a condition of approval for the Design Review Permit requiring that the seating plan shown in the attached plan be modified to show no more than 22 outdoor seats (five large table and one small table) as it currently shows 64 outdoor seats (16 large tables).

Amendments to a Conditional Use Permit to Increase Seating:

Conditional Use Permit 03-25 is requested to be amended to increase permitted onsite (indoor and outdoor) seating from 70 seats to 120 seats to serve Fish restaurant. Fifty-six of the proposed seats would be located indoors and 64 of the seats would be located outdoors and presently 48 indoor and 22 outdoor seats are authorized (see table below). The current seating both indoors and outdoors is picnic-tables with benches, with each bench counting as two seats.

<i>Indoor/Outdoor Seating</i>			
	Presently Allowed	Proposed Addition	Total
Indoor	48	8	56
Outdoor	22	42	64
Total	70	50	120

The applicant has stated that due to variable weather conditions at the site, patrons frequently move the tables and benches indoors and outdoors depending on the weather conditions. The

primary reason for the gazebo and increased seating is to allow flexibility in seating options for patrons without such frequent movement of tables and benches. The applicant has also stated that the request for increased seating is after-the-fact; Fish restaurant has been operating with 120 seats since approval for 70 seats in 2004. The applicant has declared that the request is not an effort to enlarge the restaurant or create a larger business, rather an effort to secure the appropriate permits to maintain the level of service Fish restaurant has been providing since 2004.

The subject parcel is located in a Waterfront area of the Marinship Specific Plan and is subject to the development programs outlined in III.B.2.a of the *Marinship Specific Plan (MSP)*, which defines Commercial Food Service as:

... small-scale eating establishments (with limited dining on the premise, not to exceed 20 seats) will be permitted with a conditional use permit on "W" Zone sites. The amount of food service square footage permitted on a parcel shall be determined after an analysis of the need for such a facility to serve the needs of employees in the Marinship. A determination shall be made that the location and signing does not encourage use by persons outside the Marinship.

As discussed in the project history and background, the site was granted Conditional Use Permit 03-25 for the establishment of a "fish market and food service café" with 20 seats in 2003 (see **Exhibits D, E and F** for the 2003 Staff Report, Resolution and Minutes. In 2004 the seating was increased to 70 seats with the exception provision in 10.28.050.F (see **Exhibits N and O** for the 2004 Staff Report, Resolution and Minutes). The current request is to apply the same exception provision used in 2004 and increase seating from 70 seats to 120 seats. If the Commission can make the findings for the amendment to the conditional use permit and the findings for the exception, the 2003 Conditional Use Permit could be amended to authorize this increase in seating. As an exception endorsement would be a recommendation of approval from the Planning Commission to the City Council, any approval of the CUP amendment would include a condition that the City Council approve the exception request.

Conditional Use Permit Issues

Condition of Approval 3 in Conditional Use Permit 03-25 stipulates that any expansion of change in the use will require approval of a new Conditional Use Permit: "the Conditional Use Permit approval is only granted for the location and the proposed use in this application. Any change or expansion in the proposed use shall require approval of a new Conditional Use Permit" (see **Exhibit D** for Planning Commission Conditional Use Permit 03-25).

However, in June of 2003 the Zoning Ordinance was amended and a provision added allowing the Zoning Administrator to amend existing conditional use permit approvals which do not alter the general intent of the original approval granted by the Planning Commission (see **Exhibit P for Zoning Ordinance Section 10.80.040**). Furthermore, the Zoning Administrator is authorized to transfer the original hearing jurisdiction to the Planning Commission. Therefore, the Planning Commission is authorized to amend existing conditional use permit approvals which do not alter the general intent of the original approval granted by the Planning Commission.

As the application for CUP 03-25 was submitted before the amendments were adopted in 2003 the Conditional Use Permit included language that stipulated any expansion or change of use would require a new Conditional Use Permit, pursuant to the "old" Zoning Ordinance. However, the

current Zoning allows for approval of modifications. Therefore, an amendment to CUP 03-25 may be approved without requiring approval of a new Conditional Use Permit¹.

For the current application Staff recommends the following amendments of CUP 03-25, subject to City Council approval of an exception to allow additional seating:

1. Condition of Approval 1 be revised to state that the Conditional Use Permit is limited to the operation of a fish market and food service café with 120 seats; and
2. Condition of Approval 3 be deleted as the Zoning Administrator/Planning Commission have the authority to amend existing conditional use permit approvals.

Conditional Use Permit Findings

The amendment to CUP 03-25 to increase onsite seating requires that the findings listed in Section 10.60.050 be made. Staff concludes the requisite Conditional Use Permit findings, as provided in the draft resolution, can be made to approve the project.

Exception Provision

Section 10.28.050.F of the Zoning Ordinance states:

"Minor exceptions to the development standards or definitions of use established by the Marinship Specific Plan that do not alter the general development programs of the Plan may be approved by the City Council upon recommendation by the Planning Commission."

The requested exception is for the definition of use established by the MSP (see the definition of "commercial food service" under the Amendments to a Conditional Use Permit to Increase Seating section above).

The Planning Commission's action on this request would be a recommendation of approval/denial to the City Council for an amendment to the existing Conditional Use Permit. The exception provision in Section 10.28.050.F states that "minor" exceptions may be approved by the City Council upon recommendation by the Planning Commission. The term "minor" is not defined. However, in 2004 the Council, based on a Planning Commission recommendation, authorized a net seating increase of 50 seats under the "minor" exception provision in Section 10.28.050, indicating that an increase of 50 seats is a minor exception to the Marinship Specific Plan. The current request is to increase the authorized seats from 70 to 120, which is again, a net increase of 50 seats. However, the cumulative impact from both requests would result in 120 total seats, 100 seats greater than what the Marinship Specific Plan allows with a Conditional Use Permit. The Commission should discuss whether or not the current request should be considered a "minor" exception.

Findings

Prior to recommending City Council approval of an exception to the MSP, the Planning Commission must determine whether the necessary findings specified in Section 10.28.050.F.2 can be made. The findings are listed below with staff comment.

¹ Approval of the exception for 50 additional seats in 2004 was not processed as an amendment to the 2003 Conditional Use Permit, but rather a stand alone approval of additional seating.

Finding A. The exception requested addresses an implementation measure of the Marinship Specific Plan and not a policy essential to achieving the goals of the Plan.

Staff Comment: The seating exception addresses a land use limitation in the Waterfront Zone of the MSP. The restriction of 20 seats for small-scale eating establishments is an implementation measure that addresses the "Waterfront Zone General Intent" of reinforcing and supporting the Marinship's maritime trade and industries (wholesale and retail fish sales). The 2004 seating exception approval noted that the action was based on a fish restaurant with an ancillary fish market that cumulatively reflected and maintained the waterfront nature of the Marinship. Therefore, Staff concludes that Finding A can be made that the exception addresses an implementation measure of the Specific Plan and allowing the increased seating while maintaining the restaurant and ancillary fish market component will not threaten the character of the Marinship or the goals of the Specific Plan.

Finding B. The exception is needed to accommodate changed economic or operational circumstances affecting preferred uses described in the Plan which were not or could not have been foreseen when the Plan was adopted.

Staff Comment: The applicant has stated that there are unique weather conditions that affect the restaurant. When the weather suddenly changes, patrons enjoying the outdoors quickly move indoors for shelter. Short of asking patrons to move their table each time the weather changes, the applicant is requesting ample tables indoors and outdoors in order to account for changing weather conditions. This is an operational condition that was not recognized in 2004 when an approval was granted for 70 seats.

The applicant has also stated that the restaurant has experienced changed economic circumstances that have developed both from a "continuing, more costly environment in which to do business and the need to maintain the current level of service." If the current seating restriction of 70 seats is enforced the applicant contends that rising economic costs would make it difficult for the owner to continue operations (see **Exhibit H** and **Exhibit I**). Therefore, staff concludes that Finding B can be made that the exception is needed to accommodate changed operational and economic circumstances that were not foreseen when the MSP was adopted.

Finding C. The exception furthers the intent of one or more goals of the Marinship Specific Plan and the project is in substantial compliance with both specific and general regulations of the Marinship Specific Plan and the underlying zoning designation.

Staff Comment: Staff has reviewed the goals and regulations of the MSP and the Waterfront Zone and concludes that the exception would further the intent of a number of the goals of the MSP and the project is in compliance with the regulations of the MSP and the Waterfront Zone.

Marinship Specific Plan Goals. The following is a partial list of MSP goals that are relevant to this request; Staff has provided comment for each goal. See **Exhibit J** for the applicant's discussion of how project conforms to the MSP goals.

General Intent 1: *To promote the waterfront area and promote diversified water dependent uses.* The Fish restaurant works in connection with a fish market, therefore this component provides a direct service from the fishing industry to the marketplace and promotes a water dependent use. In addition, the restaurant provides outdoor seating with a view of the waterfront and access to public waterfront areas thereby promoting the waterfront area.

Goal 1: *Preserve and enhance the maritime history and character of the Marinship. This shall include giving, to the extent determined reasonable, development preference to marine uses and maritime industries.* The current use includes a fish market, which is marine-related. The restaurant component of the use serves the customers of the fish market, boat owners and employees of nearby businesses. In addition, the owners of the restaurant and fish market purchase fish locally, thereby supporting the commercial fishing industry in Sausalito and the Marinship.

Goal 2: *Preserve and enhance the industrial character and use of the Marinship.* The project does not propose to alter the exterior of the building and will not impact the existing industrial character of the building. The restaurant serves to enhance the marine related use of the entire Clipper Yacht Harbor site.

Goal 4: *It is the intent of the plan to preserve the Marinship as an area primarily oriented to the use and service of Sausalito residents, not tourists.* The existing restaurant is tucked behind other buildings and is not visible from the street. Apart from the name of the restaurant on the awning there are no signs on the building or visible from the street to draw people to the establishment. A survey conducted over nine days in August of 2007 showed that about 31% of restaurant patrons came from the Marinship and boats, 30% came from Sausalito, and 19% arrived from somewhere outside of Sausalito (see **Exhibit M** for survey). The survey demonstrates that the restaurant and fish market primarily attract those who live and work in Sausalito.

Goal 5: *It is the intent of the plan to discourage the development of non-industrial commercial businesses that are determined by the City to displace industrial and marine businesses, or that would disproportionately contribute to traffic generation.* No change in use is being requested. The applicant is requesting applicable permits to increase the intensity of an existing use. The site has been used as a restaurant since 1990 and does not appear to have displaced industrial businesses or disproportionately contributed to traffic generation.

Goal 6: *It is the intent of the plan to encourage development that produced low levels of traffic generation.* The applicant has stated that the restaurant has been functioning at the requested intensity for five years and has not appeared to produce increased levels of traffic. A survey conducted over nine days in August of 2007 demonstrated that 42% of patrons arrived at the restaurant by foot, bike or boat, with the balance arriving by car (see **Exhibit M**). Over the 27-hour survey period an average of 6 vehicles per hour came to Fish restaurant. With 39 dedicated parking spaces to serve Fish restaurant, the survey shows that the traffic impact is light.

Goal 7: *It is the intent of the plan to encourage, to the extent possible, mixed use rather than single use development, especially on larger parcels.* The project site is a 2,968 square foot portion of an existing building within Clipper Yacht Harbor. The Clipper Yacht Harbor site is approximately 10.2 acres (land and water) and contains a Yacht Harbor, offices, a bait shop and fish market. The restaurant use contributes to the diversity of uses on the site.

Goal 8: The amount of commercial service use permitted on a site should be significantly limited in comparison to the amount of industrial use. In comparison to the entire 10.2 acre site, which is primarily occupied with water oriented and marine commercial/industrial uses, the food service area is limited.

Goal 9: The amount of restaurant and food service use in the Marinship should be linked to the local working population it would serve and be no more than the minimum size needed to serve that projected population. Fish restaurant currently operates at the requested capacity of 120 seat and the survey conducted over nine days in August of 2007 showed that about 31% of restaurant patrons came from the Marinship and boats, 30% came from Sausalito, and 19% arrived from somewhere outside of Sausalito. This demonstrates that the restaurant is linked to the local and working population. The restaurant appears to serve a full and consistent need of the waterfront working population.

Goal 11: Maintain an urban rather than a suburban character in the Marinship. The project does not propose changes to the exterior of the existing building that would impact the existing character. The industrial character of the building would be maintained.

Goal 12: Development plans should recognize the aesthetic and social value of small-scale, individual activities as a vital component in the overall composition of the Marinship. The proposal does not alter the use or create any new development plans. The existing use as a small scale fish market and restaurant makes an important contribution to the vitality of the Marinship in promoting the fishing/marine industry.

Goal 13: Uses and development plans that permit and encourage public access and use of the water and waterfront shall have preference over those that do not. The proposal does not alter the use or create any new development plans. The use of the site as a restaurant and fish market enhances the mixed-use development of this site and offers a variety of services to encourage the public to visit the site and the adjoining waterfront.

Goal 14: Waterfront parcels shall provide approved public access to and from the water, including (where determined possible) limited amounts of temporary public small boat tie-up. The proposal does not impact shoreline access.

Goal 16: An intent of the plan is to maximize the amount of real and effective open water and shoreline area. The proposal does not impact shoreline access.

Goal 18: It is the intent of the plan to preserve and enhance the viability of the commercial fishing industry in Sausalito and the Marinship. The fish market component of the restaurant use is an important means of connecting the commercial fishing industry with the local marketplace and the maritime history of Sausalito. In addition, the owners of the restaurant and fish market have stated that they buy all of the fish they cook and sell from local fisherman who deliver their catch to their dock, providing the catch is sustainable. They also buy fish direct from the boats. This includes halibut, black cod, herring, sardines, anchovies, sand dabs, rock cod, crab and salmon. This dedication to buying locally supports the commercial fishing industry in Sausalito and the Marinship (see Exhibit L).

Marinship Specific Plan Regulations. Pursuant to III.B.2 of the Marinship Specific Plan (page 22), uses in the Waterfront Zone should reinforce and support the Marinship's maritime trades and industries and includes "wholesale and retail fish sales" as a marine-oriented use. As the Fish restaurant contains a fish market component, the use supports this general intent.

Small scale eating establishments (with limited dining on the premises, not to exceed 20 seats) are permitted with a Conditional Use Permit in the Waterfront Zone (pursuant to Section III.B.2.a of the Marinship Specific Plan, page 24). As discussed previously, this site has already received a Conditional Use Permit may receive approval for additional seating through the exception provision in the Zoning Ordinance. Therefore, the proposal is compliant with this regulation.

Pursuant to Section III.B.2.b (Site Specific Exceptions in the Waterfront Zone, page 31), notes on Parcel 8A state that:

"the Clipper Yacht Harbors are the largest and among the oldest in the Marinship. The land portions of the parcel have been used for a variety of marine and commercial services for years. This parcel has the city's only fuel dock, the best boat ramp and trailer parking facilities and is home to many commercial sport-fishing boats. Furthermore, the sandy peninsula between basins #2 and #3 have been used by the public access open space, offering spectacular view of the bay and San Francisco. It is the development objective for this property to maintain and serve the marine service and public access use. . ."

The restaurant use contributes to the diversity of marine-oriented uses on the site by serving the local population and purchasing fish locally.

The Waterfront Zone requirements also state that "the proportion of food provisioning in marine supply business to other marine supply elements should remain small enough that it will qualify as 'limited accessory food provisions' and not characterize the nature of the business" (see Section III.B.2.a of the Marinship Specific Plan, page 23). In 2004 the City Council authorized an increase in seating at Fish restaurant from 20 to 70 seats. The resolution stated that the action was based on a fish restaurant with an ancillary fish market that cumulatively reflected and maintained the waterfront nature of the Marinship.

Therefore, the restaurant was considered the primary use and the fish market the secondary use. Based on this previous determination Staff concludes that, although conflicting with the Waterfront Zone requirement in Section III.B.2.a, the nature of the restaurant as the primary business and the fish market as the secondary business was *formally characterized by the Planning Commission and City Council in 2004*. Therefore, as this characterization was previously authorized, Staff concludes that the exception is in compliance with the Marinship Specific Plan.

Development Standards. The increase in seating requires that adequate parking is provided on site. Pursuant to Table 10.40-1 in the Zoning Ordinance, restaurants must provide 1 parking space for every 4 seats. As the proposal is for a total of 120 seats, the restaurant must provide 30 parking spaces. Wholesale and retail fish markets must provide 1 space per every 250 square feet. The fish market at Fish restaurant occupies about 75 square feet and is therefore required to provide 1 parking space. The total required parking for Fish restaurant is 31 spaces. Clipper Yacht Harbor

has provided a letter stating that 39 parking spaces are assigned to Fish restaurant for restaurant and fish market patrons (Exhibit L). Therefore, the proposal is in compliance with the parking regulations.

Based upon the above discussion, Staff concludes that Finding C can be made that the exception furthers the intent of one or more goals of the Marinship Specific Plan and the project is in substantial compliance with both specific and general regulations of the Marinship Specific Plan and the underlying zoning designation.

Finding D. The exception will not result in a significant negative impact on the traffic conditions in the Marinship or on Bridgeway.

Staff Comment: The applicant has candidly stated that the restaurant has been operating with the requested number of seats since receiving approval for 70 seats in 2004. In addition, the applicant asserts that the current level of intensity has never created an observable traffic condition in the Marinship or on Bridgeway. The applicant has stated that:

"We believe there are several reasons for this: (i) Harbor Drive carries a significant amount of traffic in any event, and the incremental increase derived from a small restaurant such as this would not be noticeable; (ii) the daytime patrons of the restaurant are primarily persons who are already in the area due to the location of the offices and businesses located there. In fact, daytime traffic at the Bridgeway intersection may be *reduced* because of the location of the restaurant, which enables lunchtime guests to stay in the area, rather than go out to Bridgeway to another restaurant to eat; and (iii) evening traffic is lighter in any event, probably due to fewer trips to Mollie Stone's and the Post Office, but given the regular flows to those locations, traffic to 350 Harbor Drive is not measurable" (see Exhibit I, for the application's letter, pages 2 and 3).

In addition, a survey conducted by the applicant over nine days in August of 2007 found that 42% of patrons arrived at the restaurant by foot, bike or boat, with the balance arriving by car (see Exhibit M). Over the 27-hour survey period an average of 6 vehicles per hour came to Fish restaurant. With 39 dedicated parking spaces to serve Fish restaurant, the survey shows that the traffic impact is light. Therefore, with the survey information and the knowledge that the restaurant has been operating with the requested number of seats for five years, Staff concludes that the Finding D can be made that the exception will not result in a significant negative impact on the traffic conditions in the Marinship or on Bridgeway.

Finding E. The exception will serve the needs of residents of Sausalito and employees in the Marinship.

Staff Comment: The restaurant provides an important service to the employees of the Marinship and the residents of Sausalito by offering a food service location in an area where restaurants are limited. In addition, the owners of the restaurant and fish market have stated that they purchase all of the fish they cook and sell from local fisherman who deliver their catch to their dock. They also buy fish direct from the boats thereby supporting the local commercial fishing industry in Sausalito and the Marinship (see Exhibit L for a letter from Fish Restaurant). Staff concludes that Finding E

can be made that the exception will serve the needs of resident of Sausalito and employees in the Marinship.

GENERAL PLAN CONSISTENCY

Prior to approval of a Design Review Permit for the gazebo or recommending City Council approval of an exception, the Planning Commission must determine whether the proposed project is consistent with the goals of the General Plan. Staff has concluded that the proposed gazebo and the increase in seating are consistent with the relevant goals, policies and programs of the General Plan.

STORY POLES

Story poles are required to be installed and certified where there is any change in building footprint, roof elevation or building bulk. However, the Fish restaurant secured a temporary use permit for a temporary seasonal tent from December of 2008 through May of 2009 and the tent currently stands in the same location as the proposed gazebo structure, providing seasonal wind and rain protection. If story poles were required to be erected the tent structure would need to be taken down for a minimum of 20 days. As this might cause a disruption in restaurant operation and service, Staff is requesting that the Commission consider the temporary tent as a substitute for the required story poles. The tent marks the location of the proposed gazebo, although the height and bulk are smaller than the proposed gazebo structure. The height of the tent at the exterior edges represents the height of the proposed gazebo although the roof shapes are different as the tent has a pitched roof where the gazebo has a flat roof. The temporary tent measures approximately 30-feet wide by 20-feet deep where the proposed gazebo measures 29-feet wide by 17-feet deep (see **Exhibit Q**).

The Commission may consider the temporary tent in providing information about the bulk and location of the proposed gazebo. If the Commission decides that story poles are necessary to provide a more accurate depiction of the massing of the gazebo, the Commission's consideration of the Design Review Permit should be continued to the March 4, 2009 Planning Commission meeting to provide time for the applicant to erect story poles.

PUBLIC NOTICE AND COMMENT

Notice: At least ten days prior to the public hearing, notices were mailed to property owners within a 300-foot radius of the project site. Additionally, notices were posted on the site at least ten days prior to the public hearing.

CORRESPONDENCE:

No written correspondence was received as of February 4, 2009.

RECOMMENDATION

Staff recommends the Planning Commission take the following actions:

1. Approve the attached resolution (**Exhibit A**) which approves the Design Review Permit for construction of a gazebo
2. Approve the attached resolution (**Exhibit B**) which approves an amendment of CUP 03-25 for 8 additional indoor and 42 additional outdoor seats and recommends City Council

approval of an exception to the Marinship Specific Plan and based upon the findings and Conditions of Approval listed therein.

Alternatively, the Planning Commission may:

1. Approve the Design Review Permit with modifications and/or modify a recommendation of City Council approval of the exception for additional seats and/or approve the amendment to CUP 03-25 with modifications; or
2. Continue the public hearing for additional information and/or project revisions; or
3. Deny the Design Review Permit and/or deny the recommendation of City Council approval of the exception for additional seats/amendment to CUP 03-25.

EXHIBITS

- A. Resolution approving Design Review Permit 07-002 for a 522 gazebo
- B. Resolution approving an amendment of CUP 03-25 and recommending approval of an exception to the Marinship Specific Plan
- C. Site Photos
- D. Planning Commission Staff Report, June 11, 2003
- E. Resolution 2003-33 (Conditional Use Permit 03-25)
- F. June 11, 2003 Planning Commission minutes
- G. Letter from Jamie Michaels, Coastal Analyst, BCDC, dated January 23, 2009
- H. Letter from William Ziegler, dated March 12, 2007
- I. Letter from William Ziegler, dated April 18, 2007
- J. Letter from William Ziegler, dated February 6, 2008
- K. Letter from Clipper Yacht Harbor, dated January 14, 2009
- L. Letter from Fish restaurant, date stamped-received February 3, 2009
- M. Survey Summary—Fish restaurant, date stamped-received February 6, 2008
- N. City Council Staff Report, July 7, 2004 (includes Planning Commission Staff Reports, Resolution 2004-29 and minutes)
- O. City Council minutes, July 7, 2004
- P. Zoning Ordinance Section 10.80.040
- Q. Temporary Tent Plan

1. Name
2. Address

3. City
4. State

5. Zip

6. Telephone

7. E-mail

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**SAUSALITO PLANNING COMMISSION
RESOLUTION NO. X-X**

**A RESOLUTION APPROVING A DESIGN REVIEW PERMIT
FOR A GAZEBO AT 350 HARBOR DRIVE
(DR 07-002)**

WHEREAS, an application has been filed by applicant, Fish restaurant on behalf of property owners Clipper Yacht Harbor, requesting Planning Commission approval of a Design Review Permit for construction of a gazebo at 350 Harbor Drive (APN 063-030-01); and

WHEREAS, the Planning Commission conducted a duly-noticed public hearing on February 11, 2009 at which time all interested persons were given an opportunity to be heard; and

WHEREAS, the Planning Commission finds that the proposed project is categorically exempt from the requirements of the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15303 (e); and

WHEREAS, the Planning Commission has reviewed and considered the project plans titled "Fish" and date-stamped received on January 26, 2009; and

WHEREAS, the Planning Commission has received and considered oral and written testimony on the subject application; and

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

WHEREAS, the Planning Commission is recommending approval of a maximum of 120 seats based on the seating plan submitted titled "Fish" and date-stamped received on January 26, 2009 which does not include any seating on the public access deck; and

WHEREAS, the Planning Commission finds that, as conditioned herein, the proposed project complies with the General Plan as described in the staff report; and

WHEREAS, the Planning Commission finds that, as conditioned herein, the proposed project complies with the Marinship Specific Plan as described in the staff report; and

WHEREAS, the Planning Commission finds that, as conditioned herein, the proposed project complies with the requirements of the Zoning Ordinance as described in the staff report.

NOW, THEREFORE, THE PLANNING COMMISSION HEREBY RESOLVES AS FOLLOWS:

The Design Review Permit for construction of a of a gazebo 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 titled "Fish" and date-stamped received on January 26, 2009 (Attachment 3).

RESOLUTION PASSED AND ADOPTED, at the regular meeting of the Sausalito Planning Commission on the ___ day of ____, 200__, by the following vote:

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AYES: Commissioner:
NOES: Commissioner:
ABSENT: Commissioner:
ABSTAIN: Commissioner:

Jeremy Graves, AICP
Secretary to the Planning Commission

ATTACHMENTS

- 1- Findings
- 2- Conditions of Approval
- 3- Project Plans

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PLANNING COMMISSION RESOLUTION
February 11, 2009
DR/CUP 07-002
350 HARBOR DRIVE

ATTACHMENT 1:
FINDINGS FOR APPROVAL OF A DESIGN REVIEW PERMIT

1. DESIGN REVIEW PERMIT FINDINGS

In accordance with Zoning Ordinance Section 10.54 (Design Review Procedures), the Design Review Permit is approved based on the following findings:

- A) The proposed project is consistent with the General Plan, any applicable specific plans and this chapter.

The proposed project is consistent with all applicable policies, standards, and regulations of the General Plan, Zoning Ordinance, and Marinship Specific Plan.

- B) The proposed architecture and site design complements the surrounding neighborhood and/or district by either: a) Maintaining the prevailing design character of the neighborhood and/or district or b) Introducing a distinctive and creative solution which takes advantage of the unique characteristics of the site and contributes to the design diversity of Sausalito.

The proposed gazebo complements the building at 350 Harbor Drive by mimicking the flat roof and large, open windows. The proposed materials are complementary to the site and the proposed gazebo is appropriately located in an existing patio area flopped by existing tall planters.

- C) The proposed project is consistent with the general scale of structures and buildings in the surrounding neighborhood and/or district.

Taking into account that the proposed gazebo is an accessory structure, it is in scale with the structures in the surrounding area while minimizing obstruction of public views.

- D) The proposed project has been located and designed to minimize obstruction of public views and primary views from private property.

The gazebo has been located behind the public access walkway and viewing deck. In addition, the proposed gazebo is designed to be open on the south and east sides with roll down shades while the north and west sides of the structure would be enclosed with tempered glass, creating minimal obstruction of view from the parking lot area. Therefore, any obstruction of public views has been minimized by the location and design of the proposed gazebo.

- E) The proposed project will not result in a prominent building profile (silhouette) above a ridgeline.

The subject parcel is not located along a ridgeline.

- F) The proposed landscaping provides appropriate visual relief, complements the buildings and

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structures on the site, and provides an attractive environment for the enjoyment of the public.

No new landscaping is proposed, and therefore this finding is not applicable.

- G) The design and location of buildings provide adequate light and air for the project site, adjacent properties, and the general public.

The proposed gazebo is located approximately 15 feet away from the Fish Restaurant entrance and approximately 19 feet away from Salty's Bait Shop. The proposed gazebo is also designed to be open on the south and east sides with roll down shades while the north and west sides of the structure would be enclosed with tempered glass. The distance away from other buildings combined with the open design of the structure will result in no negative impacts on light and air for the project site, adjacent properties, or the general public.

- H) Exterior lighting, mechanical equipment, and chimneys are appropriately designed and located to minimize visual, noise and air quality impacts to adjacent properties and the general public.

The project does not propose any mechanical equipment or chimneys. The proposed project is subject to the standard condition that all exterior lighting be shaded and downward facing.

- I) The project provides a reasonable level of privacy to the site and adjacent properties, taking into consideration the density of the neighborhood, by appropriate landscaping, fencing, and window deck and patio configurations.

The proposed gazebo encloses an existing patio area, creating a private eating space for Fish Restaurant patrons and therefore a reasonable level of privacy to the site is provided.

- J) Proposed entrances, exits, internal circulation, and parking spaces are configured to provide an appropriate level of traffic safety and ease of movement.

No new entrances, exits or parking spaces are proposed therefore this finding does not apply.

- K) The project site is consistent with the guidelines for heightened review for projects which exceed 80% of the maximum allowed Floor Area Ratio and/or site coverage, as specified in subsection E (Heightened [Design] Review Findings).

Heightened Review is not required for this project as it does not exceed 80% of the maximum allowed Floor Area and/or site coverage.

PLANNING COMMISSION RESOLUTION

February 11, 2009

DR 07-002

350 HARBOR DRIVE

ATTACHMENT 2: CONDITIONS OF APPROVAL FOR
APPROVAL OF A DESIGN REVIEW PERMIT

These conditions apply to the project plans prepared by William Craig, Architect, entitled "Fish" and date-stamped received on January 26, 2009.

General

1. Prior to issuance of building permits the applicant shall provide documentation to the Community Development Department that San Francisco Bay Conservation and Development Commission authorization for the gazebo has been obtained.
2. Upon building permit submittal the Conditions of Approval shall be shown on all construction drawings.
3. Upon building permit submittal the applicant shall provide a written response demonstrating compliance with each Condition of Approval.

Advisory Notes:

Advisory notes are provided to inform the applicant of (a) Sausalito Municipal Code requirements, or (b) requirements imposed by other agencies. The advisory notes are not a part of the Conditions of Approval.

1. The approval will expire in five (5) years from the date of adoption of this resolution if the property owner has not exercised the entitlements hereby granted.
2. In accordance with the San Francisco Bay Conservation and Development Commission permit number 9-84, no food service shall occur on the public access deck.
3. Construction Impact Fees shall be paid in accordance with the Construction Impact Fee Ordinance. The fee is due prior to issuance of Building Permit.
4. The Developer shall pay all applicable City fees as established by City Council resolution and City ordinances.
5. Other agencies: obtain those permits required by other agencies having jurisdiction within construction area.

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PLANNING COMMISSION RESOLUTION

February 11, 2009

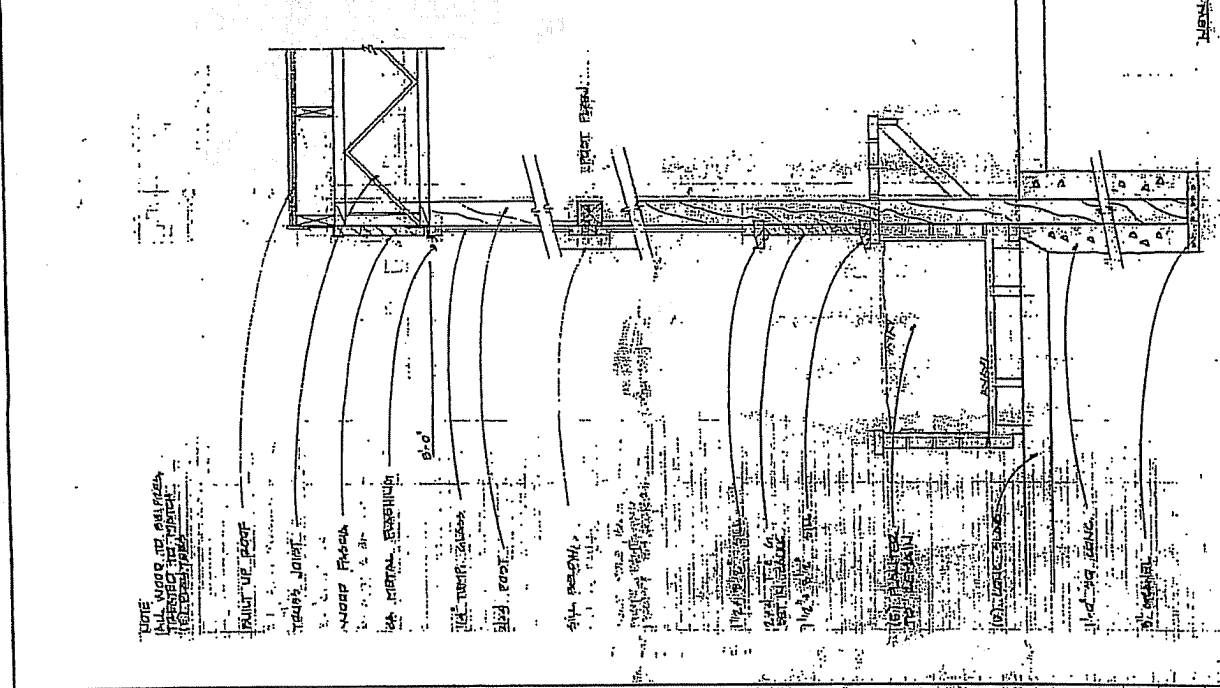
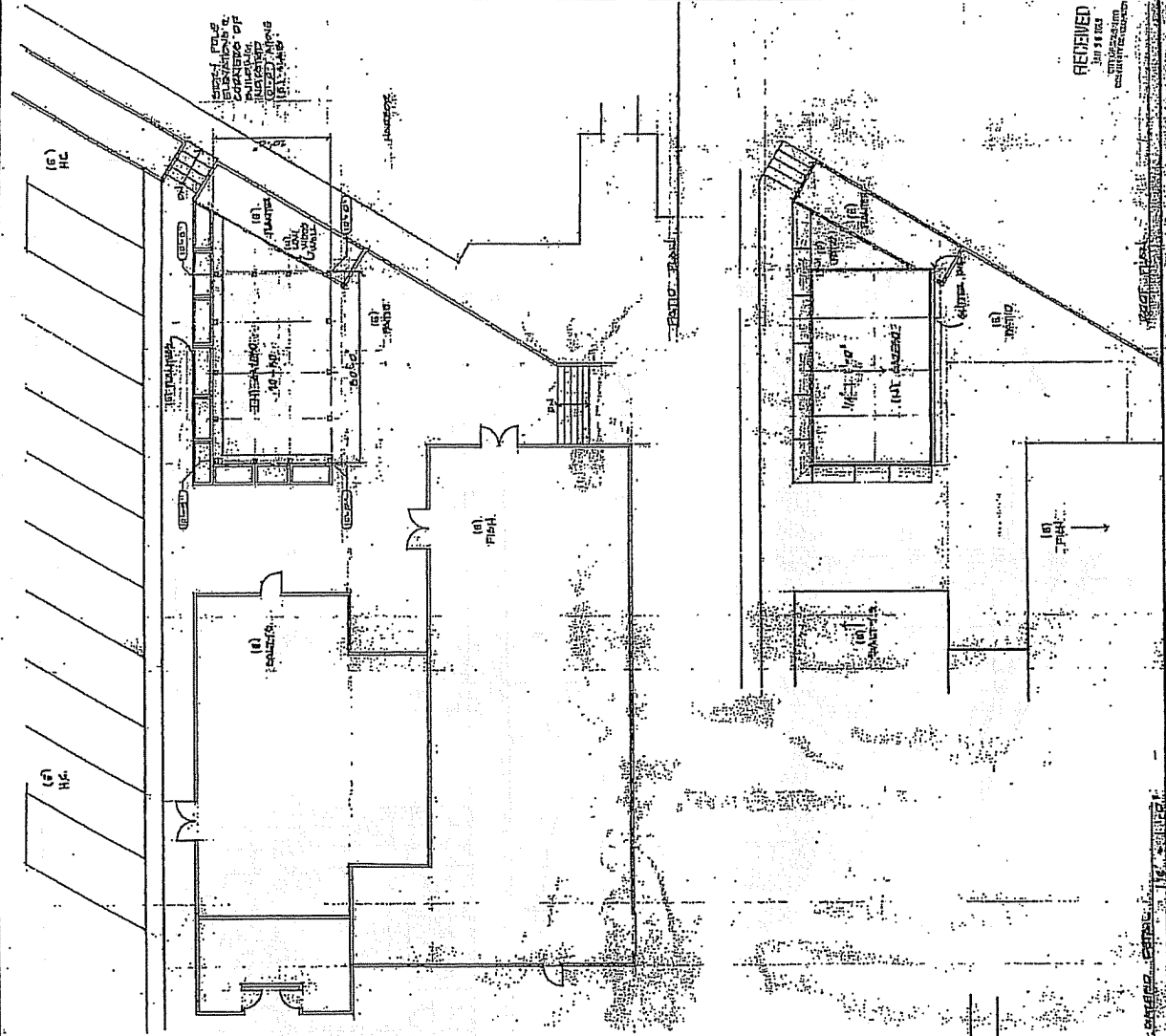
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350 HARBOR DRIVE

ATTACHMENT 3: PROJECT PLANS

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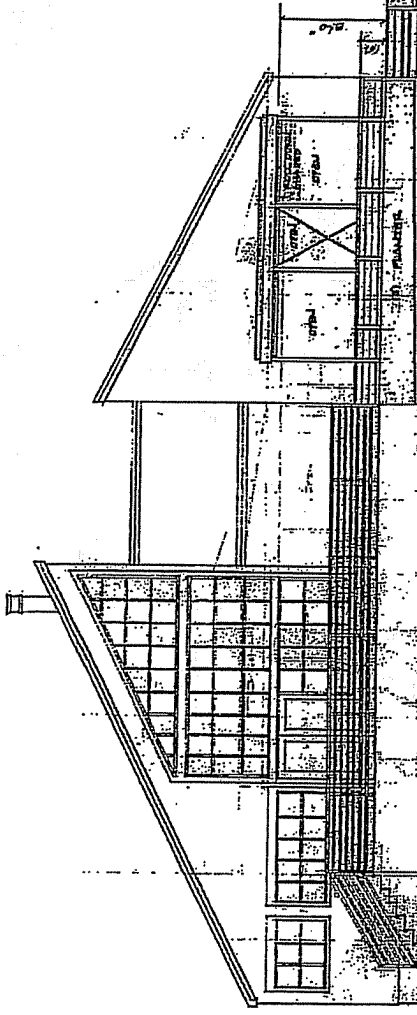
ARCHITECT

WILLIAM CRAIG

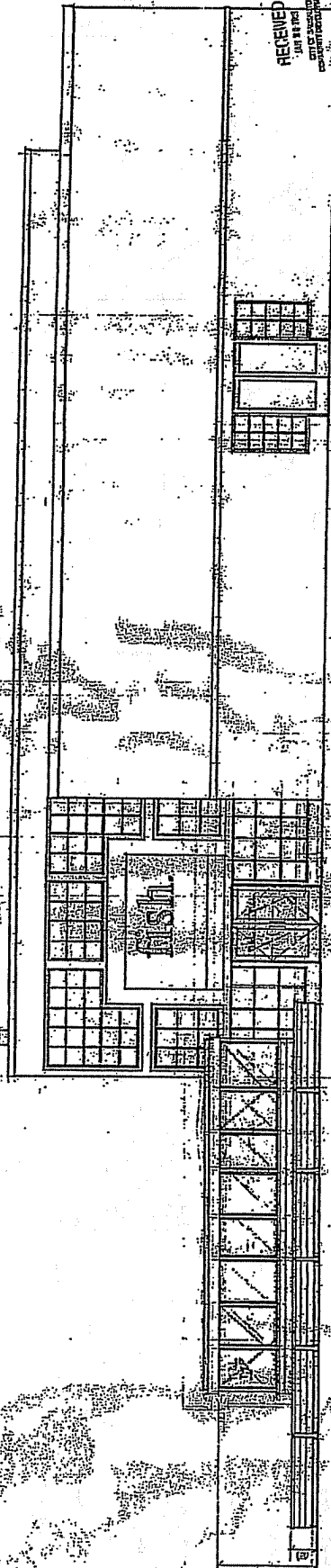
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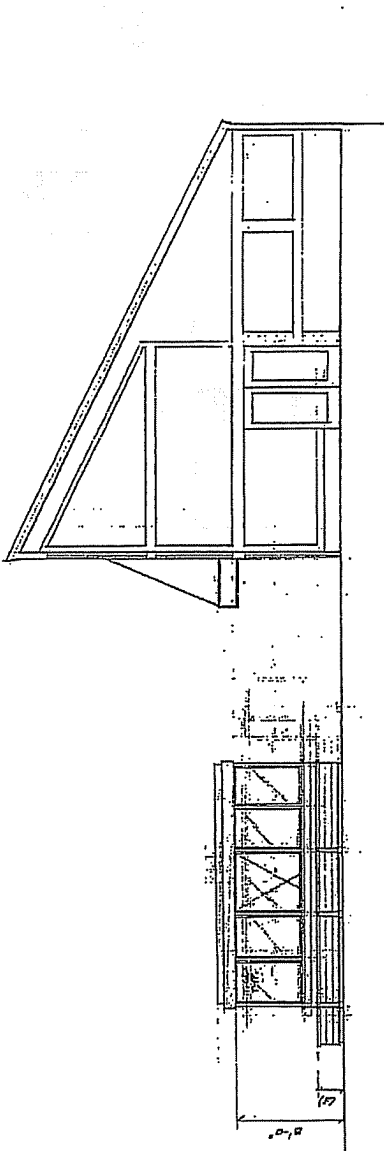
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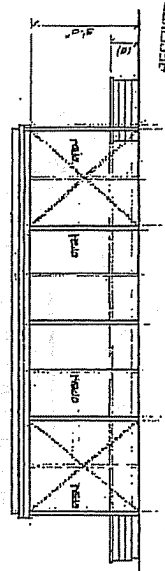
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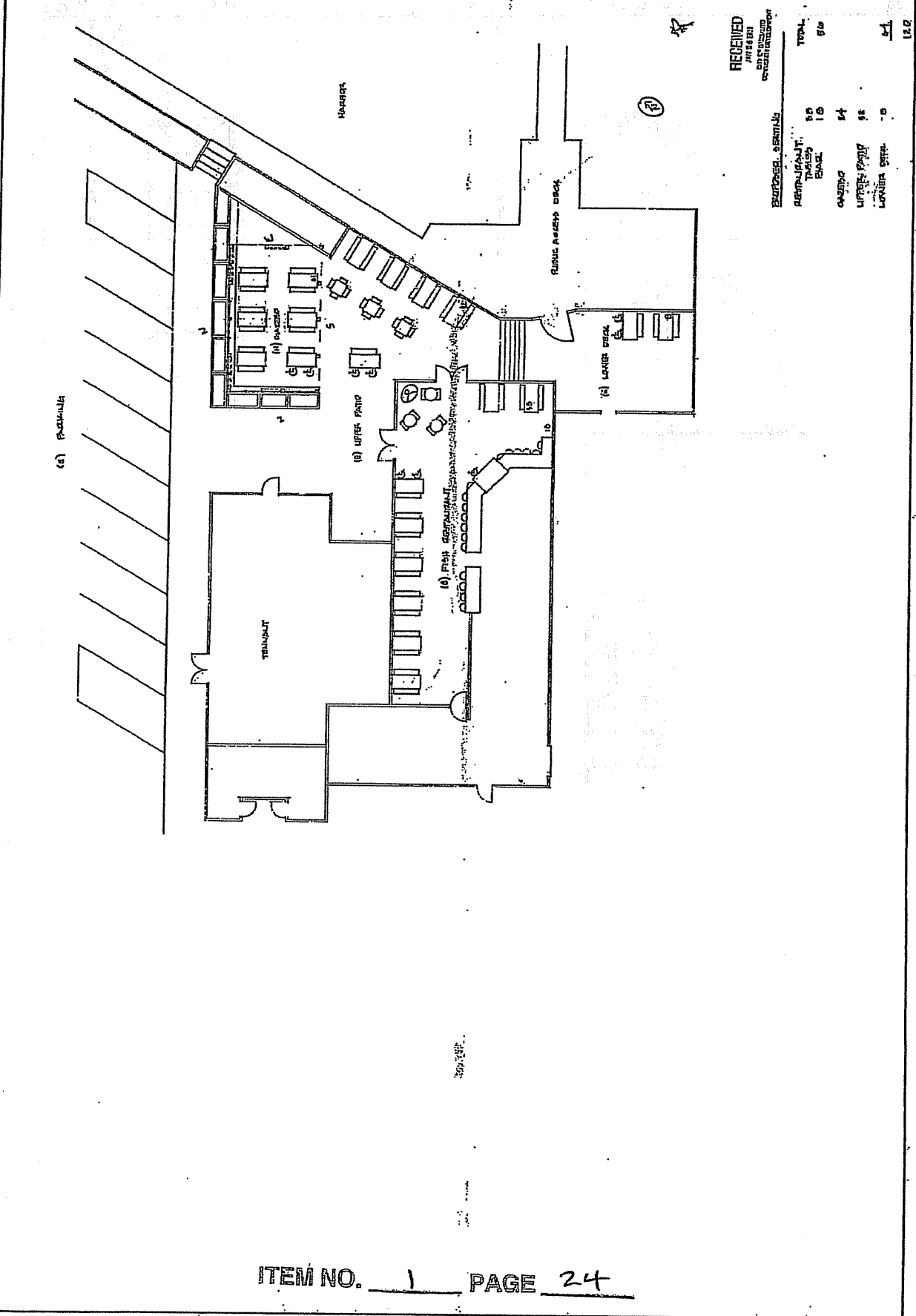


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**SAUSALITO PLANNING COMMISSION
RESOLUTION NO. X-X**

**A RESOLUTION APPROVING AN AMENDMENT OF CONDITIONAL USE PERMIT 03-25
AND RECOMMENDING CITY COUNCIL APPROVAL OF AN EXCEPTION TO THE MARINSHIP
SPECIFIC PLAN FOR ADDITIONAL SEATING AT 350 HARBOR DRIVE
(CUP 07-002)**

WHEREAS, an application has been filed by applicant, Fish restaurant on behalf of property owners Clipper Yacht Harbor, requesting Planning Commission approval of an amendment to Conditional Use Permit 03-25 for eight (8) additional indoor and forty-two (42) additional outdoor seats AND recommendation of City Council approval of an exception to the Marinship Specific Plan for eight (8) additional indoor and forty-two (42) additional outdoor seats at 350 Harbor Drive (APN 063-030-01); and

WHEREAS, the Planning Commission conducted a duly-noticed public hearing on February 11, 2009 at which time all interested persons were given an opportunity to be heard; and

WHEREAS, the Planning Commission finds that the proposed project is categorically exempt from the requirements of the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Sections 15301; and

WHEREAS, the Planning Commission has reviewed and considered the project plans titled "Fish" and date-stamped received on January 26, 2009; and

WHEREAS, the Planning Commission has received and considered oral and written testimony on the subject application; and

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

WHEREAS, the Planning Commission is recommending approval of a maximum of 120 seats based on the seating plan submitted titled "Fish" and date-stamped received on January 26, 2009 which does not include any seating on the public access deck; and

WHEREAS, the Planning Commission's recommendation is based on a fish restaurant with an ancillary fish market that cumulatively reflects and maintains the waterfront nature of the Marinship; and

WHEREAS, the recommendation of approval for the proposed exception does not set a precedent in the Marinship nor does it question the intent of the existing provisions of the Marinship Specific Plan; and

WHEREAS, the Planning Commission finds that, as conditioned herein, the proposed project complies with the General Plan as described in the staff report; and

WHEREAS, the Planning Commission finds that, as conditioned herein, the proposed project complies with the Marinship Specific Plan as described in the staff report; and

WHEREAS, the Planning Commission finds that, as conditioned herein, the proposed project complies with the requirements of the Zoning Ordinance as described in the staff report.

project complies with the requirements of the Zoning Ordinance as described in the staff report.

NOW, THEREFORE, THE PLANNING COMMISSION HEREBY RESOLVES AS FOLLOWS:

1. The Planning Commission approves an amendment of CUP 03-25 for eight (8) additional indoor and forty-two (42) additional outdoor seats; and
2. The Planning Commission recommends City Council approval of an exception to the Marinship Specific Plan in accordance with Zoning Ordinance Section 10.28.050.F to allow eight (8) additional indoor and forty-two (42) additional outdoor seats.

The above actions are subject to the findings provided in Attachment 1 and subject to the conditions of approval provided in Attachment 2. The project plans titled "Fish" and date-stamped received on January 26, 2009 are provided in Attachment 3:

RESOLUTION PASSED AND ADOPTED, at the regular meeting of the Sausalito Planning Commission on the ___ day of _____, 200___, by the following vote:

AYES: Commissioner:
NOES: Commissioner:
ABSENT: Commissioner:
ABSTAIN: Commissioner:

Jeremy Graves, AICP
Secretary to the Planning Commission

ATTACHMENTS

- 1- Findings
- 2- Conditions of Approval
- 3- Project Plans

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PLANNING COMMISSION RESOLUTION
February 11, 2009
DR/CUP 07-002
350 HARBOR DRIVE

ATTACHMENT 1: FINDINGS FOR AN APPROVAL OF AN AMENDMENT TO CONDITIONAL
USE PERMIT 03-25 AND RECOMMENDATION OF CITY COUNCIL APPROVAL OF AN
EXCEPTION TO THE MARINSHIP SPECIFIC PLAN FOR ADDITIONAL SEATING

1. CONDITIONAL USE PERMIT FINDINGS

- A. The proposed use is allowed with issuance of a Conditional Use Permit, pursuant to Chapters 10.20 through 10.28 (Zoning District Regulations), or Section 10.46.040 (Conditional Uses), Chapter 10.44 (Specific Use Requirements) or any other applicable section of this Title 10.

The expansion of the use is allowed with issuance of an amendment to CUP 03-25 with the findings made for exceptions to the Marinship Specific Plan (pursuant to Section 10.28.050.F). Restaurants in the Waterfront Marinship Zoning District are regulated in Chapter 10.44, Section 10.44.210.D and as a change in the amount of food service square footage, location, and signage is not requested the project is in compliance with these regulations.

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

An additional 50 indoor/outdoor seats at a restaurant located in the Waterfront Marinship (W-M) Zoning District is consistent with the General Development Regulations and the Specific Use Requirements sections of the Zoning Ordinance and the findings for an exception to the Marinship Specific Plan for increased seating have been made.

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

An additional 50 indoor/outdoor seats at an existing restaurant is an intensification of use to which the applicant will satisfy the off-street parking requirements by providing 39 spaces where 31 spaces are required.

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

The proposed amendment to the Conditional Use Permit involves an expansion in use of an existing restaurant. The project is adequately zoned for the use, provides the required setbacks and parking, does not exceed the development standards for the Waterfront Zoning District and the findings for an exception to the Marinship Specific Plan for increased seating have been made.

- 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 use as a fish market and café, with beer and wine service, is an established use of this site that is appropriately located within the Clipper Yacht Harbor site in particular and

Sausalito in general. The additional seating is allowed with Planning Commission recommendation of approval, and City Council approval, of an exception to the Marinship Specific Plan.

- 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 additional seating will be located in previously-established patio areas and does not involve any physical improvements.

- 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.

The site is currently served with public utilities and as the proposed use has been established for five years, it is not expected that the use will generate any additional traffic.

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

The proposed use is conditioned to comply with the seating requirements and due to the distance from other properties the expansion in seating will not adversely affect nearby properties and use.

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

Chapter 10.44 does not require findings for a restaurant located in the Waterfront Marinship (W-M) Zoning District to expand in use and as a change in the amount of food service square footage, location, and signage is not requested the project is in compliance with the regulations in 10.44.210.D.

2. EXCEPTION TO THE MARINSHIP SPECIFIC PLAN FINDINGS

- A. The exception requested addresses an implementation measure of the Marinship Specific Plan and not a policy essential to achieving the goals of the Plan.

The seating exception addresses a land use limitation in the Waterfront Zone of the Marinship Specific Plan (MSP). The restriction of 20 seats for small-scale eating establishments is an implementation measure that addresses the Waterfront Zone General Intent of reinforcing and supporting the Marinship's maritime trade and industries (wholesale and retail fish sales). Therefore, the exception addresses an implementation measure of the Specific Plan and allowing the increased seating while maintaining the restaurant and ancillary fish market component will not threaten the character of the Marinship or the goals of the Specific Plan.

- B. The exception is needed to accommodate changed economic or operational circumstances affecting preferred uses described in the Plan which were not or could not have been foreseen when the Plan was adopted.

In order to account for changing weather conditions the exception is needed to accommodate patron's seating preferences without requiring customers to continually move tables and benches indoors and outdoors. In addition, rising economic costs would make it difficult for the restaurant to continue operations with only 70 seats. Therefore, the exception is needed to accommodate changed operational and economic circumstances that were not foreseen when the Marinship Specific Plan was adopted nor the when the exception was granted in 2004 for 50 additional seats.

- C. The exception furthers the intent of one or more goals of the Marinship Specific Plan and the project is in substantial compliance with both specific and general regulations of the Marinship Specific Plan and the underlying zoning designation.

The exception furthers the intent of fifteen goals of the Marinship Specific Plan. The Fish restaurant works in connection with a fish market, therefore this component provides a direct service form the fishing industry to the marketplace and promotes a water dependent use. The fish market component of the restaurant use is an important means of connecting the commercial fishing industry with the local marketplace and the maritime history of Sausalito. The restaurant provides outdoor seating with a view of the waterfront and access to public waterfront areas thereby promoting the waterfront area. The restaurant serves to enhance the marine related use of the entire Clipper Yacht Harbor site and contributes to the diversity of uses on the site which encourages mixed use rather than single use development, especially on larger parcels. In addition, the restaurant primarily attracts residents of Sausalito and employees in the Marinship which serves to preserve the Marinship as an area primarily oriented to the use and service of Sausalito residents, not tourists.

Uses in the Waterfront Zone should reinforce and support the Marinship's maritime trades and industries including "wholesale and retail fish sales" as a marine-oriented use. As the Fish restaurant contains a fish market component, the use supports this general intent and is in compliance with the Marinship Specific Plan. Although small scale eating establishments are limited to 20 seats, the site has previously received approval for increased seating onsite through a Conditional Use Permit and an exception to the

Marinship Specific Plan. Therefore, the seating is in compliance with the Marinship Specific Plan.

Although the Waterfront Zone requirement in Section III.B.2.a states that "the proportion of food provisioning in marine supply business to other marine supply elements should remain small enough that it will qualify as 'limited accessory food provisions' and not characterize the nature of the business," the nature of the restaurant as the primary business and the fish market as the secondary business was formally characterized by the Planning Commission and City Council in 2004. Therefore, as this characterization was previously authorized, the exception is in compliance with the Marinship Specific Plan.

As the fish restaurant and fish market use requires the provision of 31 parking spaces, 39 parking spaces are assigned to Fish restaurant and therefore the site is in compliance with development standards in the Zoning Ordinance.

- D. The exception will not result in a significant negative impact on the traffic conditions in the Marinship or on Bridgeway.**

The survey provided by the applicant indicates that the traffic impact is light due to the proportion of patrons who use transit modes other than vehicles to access the restaurant. In addition, the Community Development Department is not aware of any significant negative traffic conditions caused by the restaurant over the five years that the restaurant has been operating with the requested number of seats. Therefore, the exception will not result in a significant negative impact on the traffic conditions in the Marinship or on Bridgeway

- E. The exception will serve the needs of residents of Sausalito and employees in the Marinship.**

The restaurant provides an important service to the employees of the Marinship and the residents of Sausalito by offering a food service location in an area where restaurants are limited. In addition, the restaurant supports the local commercial fishing industry in Sausalito and the Marinship by purchasing fish locally. Therefore, the exception will serve the needs of resident of Sausalito and employees in the Marinship.

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PLANNING COMMISSION RESOLUTION
February 11, 2009
DR/CUP 07-002
350 HARBOR DRIVE

ATTACHMENT 2: CONDITIONS OF APPROVAL FOR
AN AMENDMENT TO CONDITIONAL USE PERMIT 03-25

These conditions apply to the project plans prepared by William Craig, Architect, entitled "Fish" and date-stamped received on January 26, 2009.

General

1. This amendment shall become effective upon City Council approval of an exception to the Marinship Specific Plan in accordance with Zoning Ordinance Section 10.28.050.F to allow eight (8) additional indoor and forty-two (42) additional outdoor seats at the subject project site for a total of fifty-six (56) indoor and sixty-four (64) outdoor seats.
2. Condition of Approval 1 of CUP 03-25 is amended to read: "This approval is limited to the operation of a fish market and food service café with 120 seats. At no time shall the restaurant seating exceed a maximum of 120 seats, including both indoor and outdoor seating."
3. Condition of Approval 3 of CUP 03-25 is deleted.
4. The Conditional Use permit shall be recorded at the Marin County Recorder's office at the expense of the applicant.

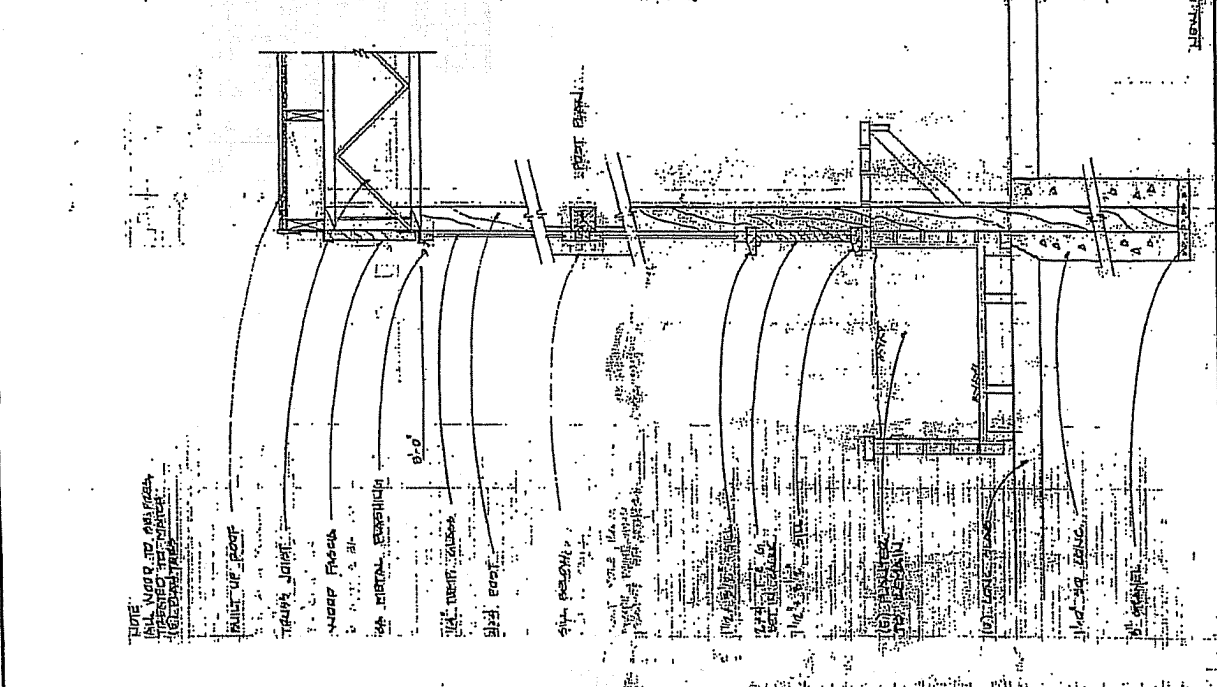
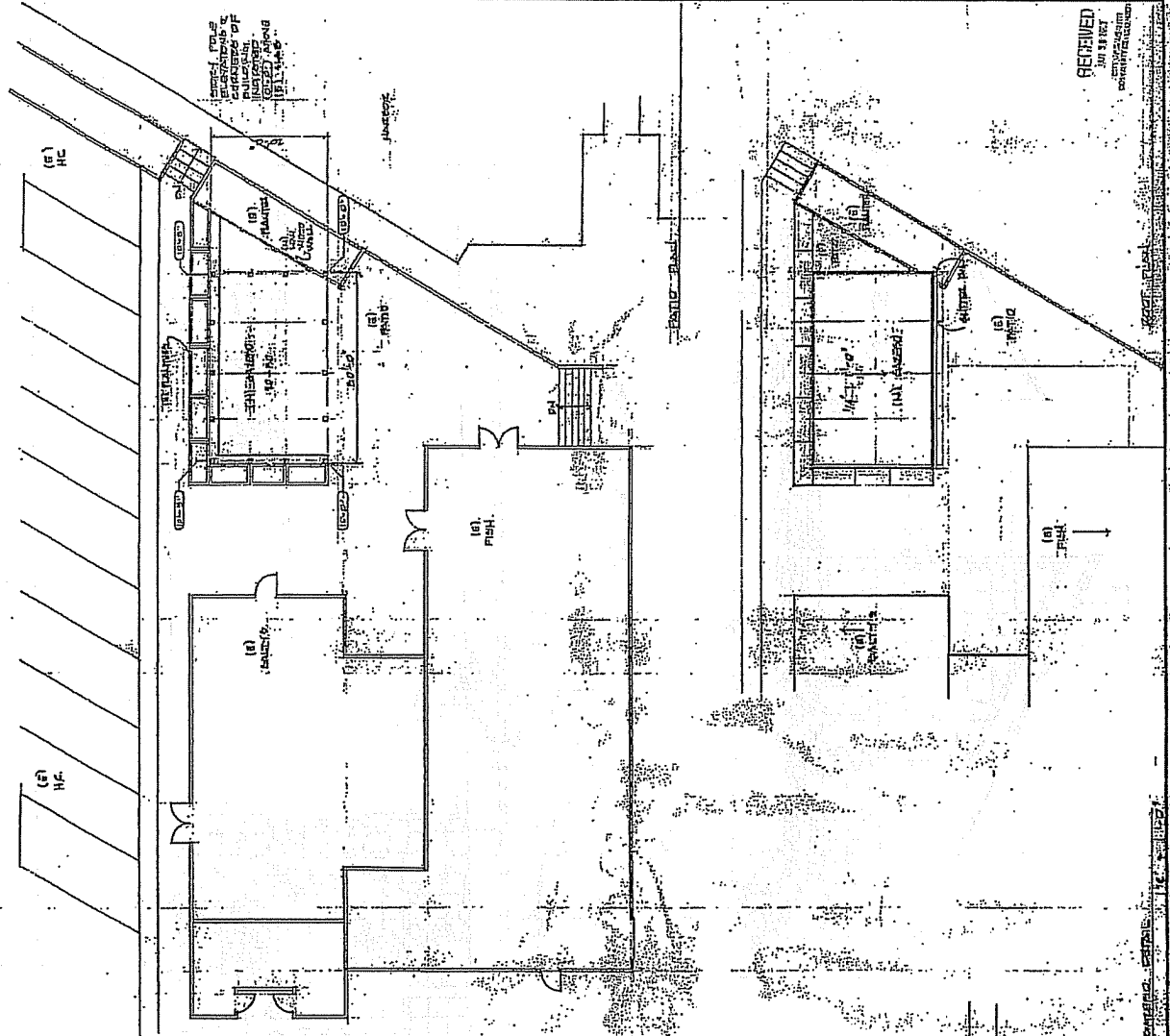
Advisory Notes:

Advisory notes are provided to inform the applicant of (a) Sausalito Municipal Code requirements, or (b) requirements imposed by other agencies. The advisory notes are not a part of the Conditions of Approval.

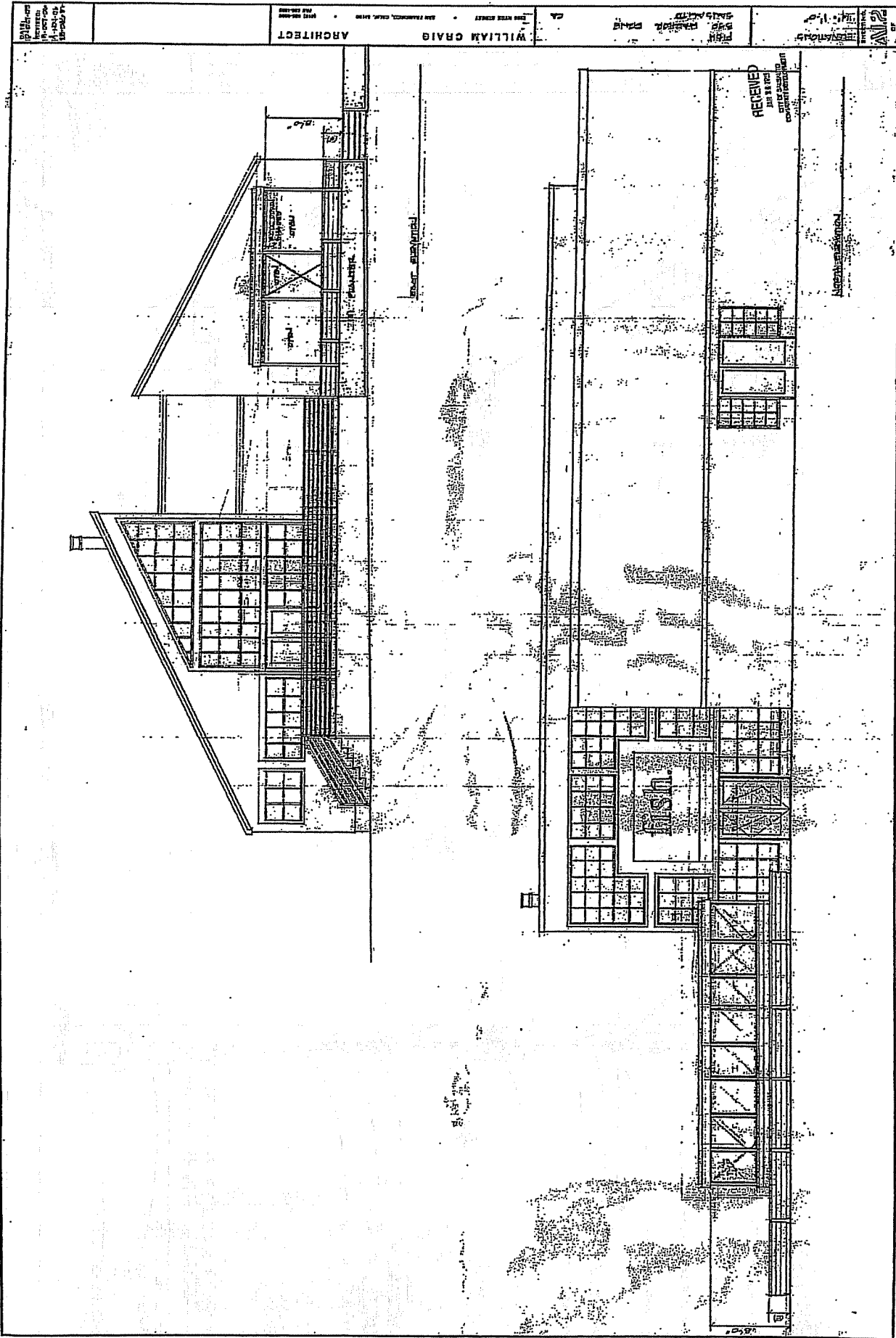
1. The approval will expire in one (1) year from the date of adoption of this resolution unless the permit is renewed or extended.
2. In accordance with the San Francisco Bay Conservation and Development Commission permit number 9-84, no food service shall occur on the public access deck.

PLANNING COMMISSION RESOLUTION
February 11, 2009
DR/CUP 07-002
350 HARBOR DRIVE

ATTACHMENT 3: PROJECT PLANS



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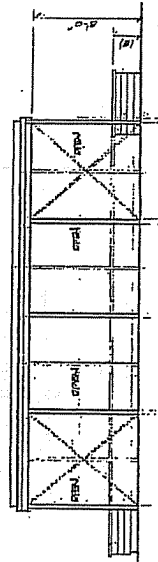
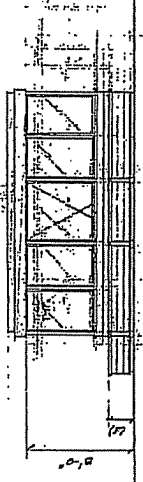
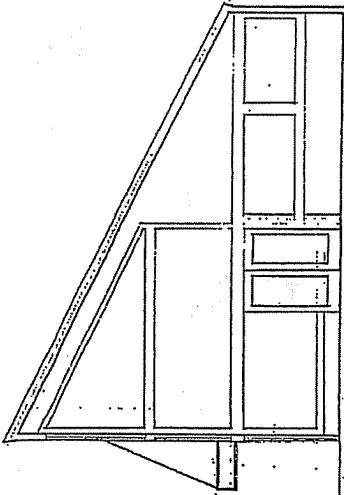
WILLIAM CRAIG ARCHITECT

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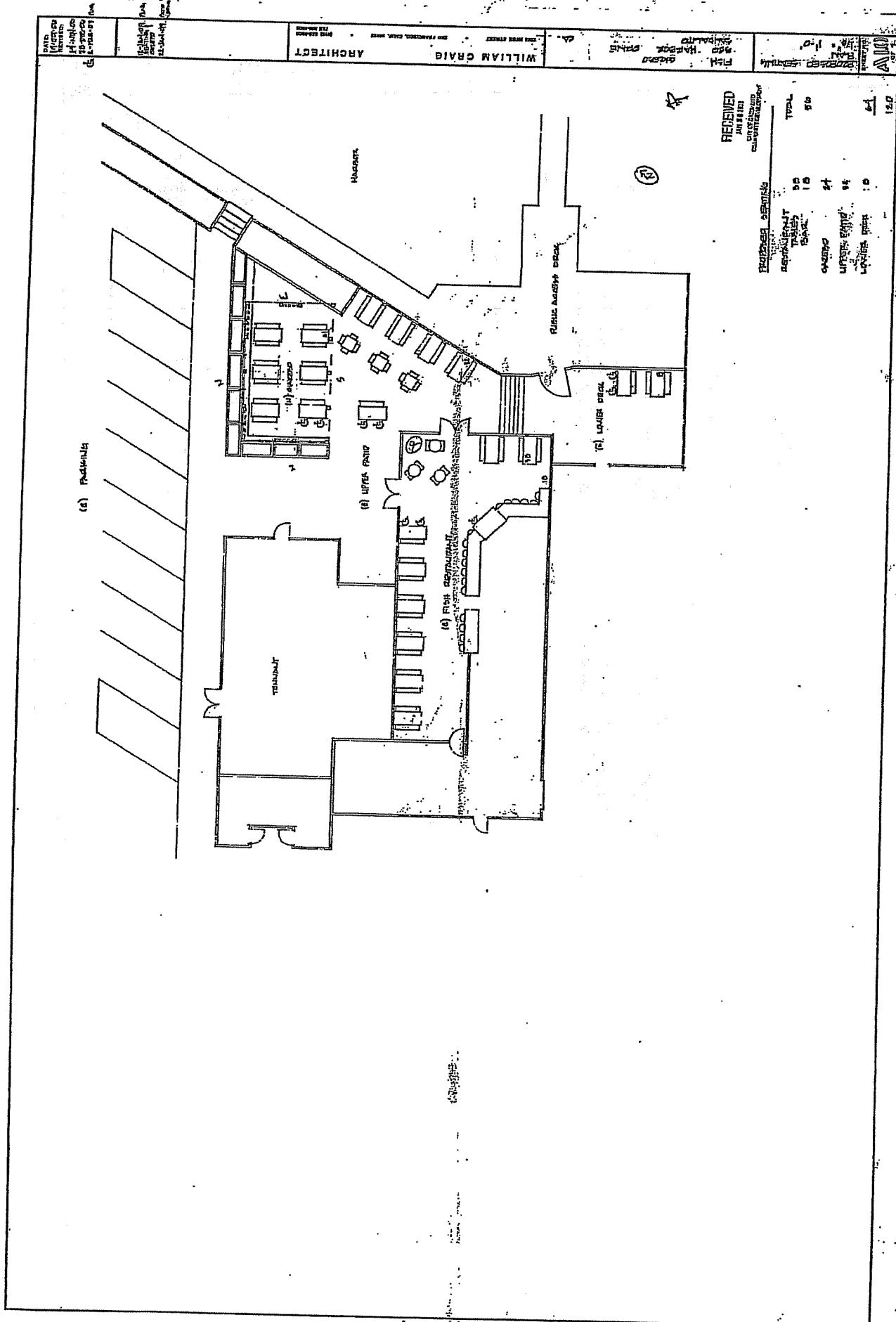
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CITY OF SAN FRANCISCO

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BY PERM
OFFICE

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WILLIAM CRAIG ARCHITECT
 1000 WEST STREET
 PHILADELPHIA, PENNSYLVANIA 19107
 PROJECT NO. 100-100000
 DRAWING NO. 100-100000-01
 DATE: 10/10/00

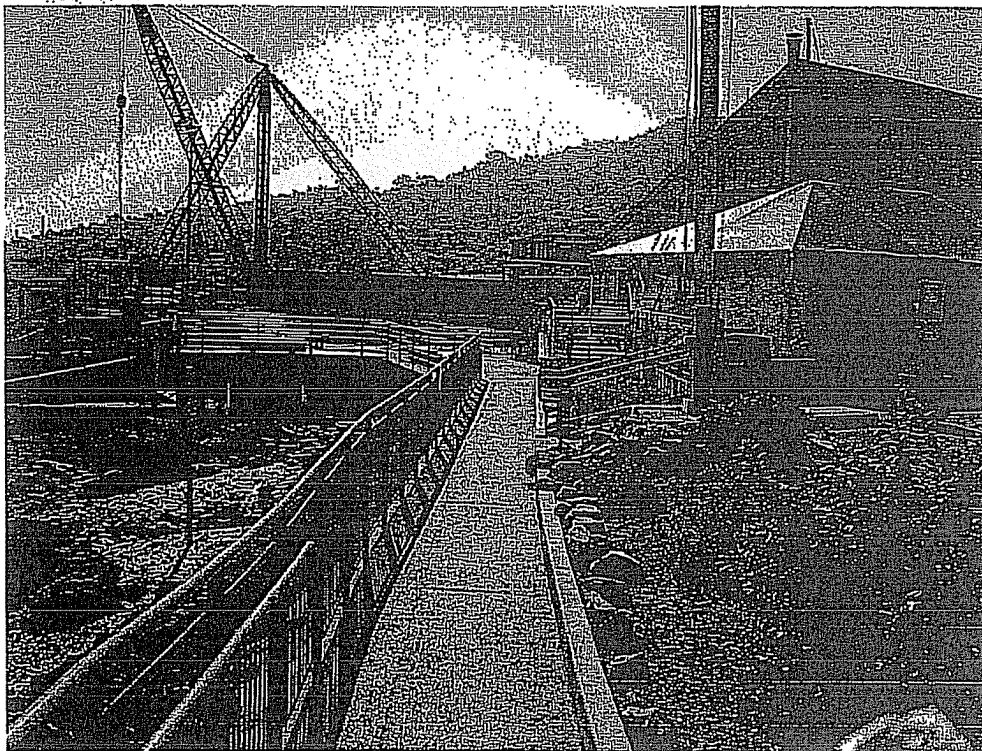
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UNIVERSITY OF PENNSYLVANIA

PROJECT	DATE	TOTAL
RECEPTION	10	10
OFFICE	10	10
CONFERENCE ROOM	10	10
RESTROOM	10	10
STAIRS	10	10
ELEVATOR	10	10
CORRIDOR	10	10
HALLWAY	10	10
TOTAL	100	100

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WALKING ALONG PUBLIC ACCESS TRAIL FROM PARKING LOT

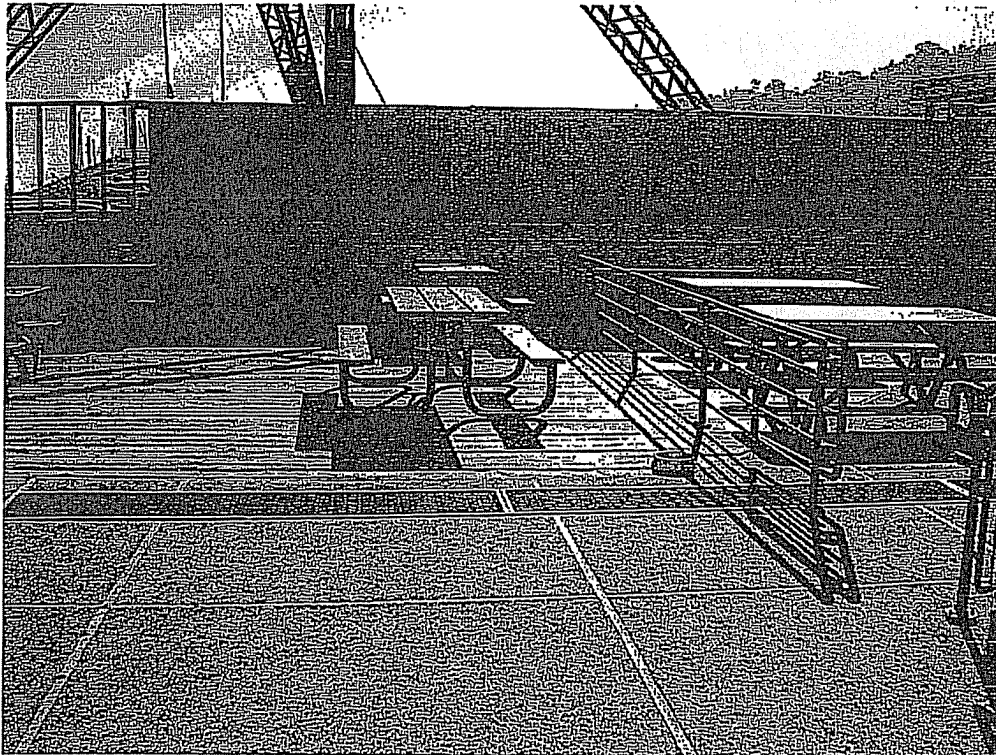


CONTINUING ALONG PUBLIC ACCESS TRAIL, TEMPORARY TENT/GAZEBO STRUCTURE TO THE RIGHT

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ARRIVING AT PUBLIC ACCESS DECK

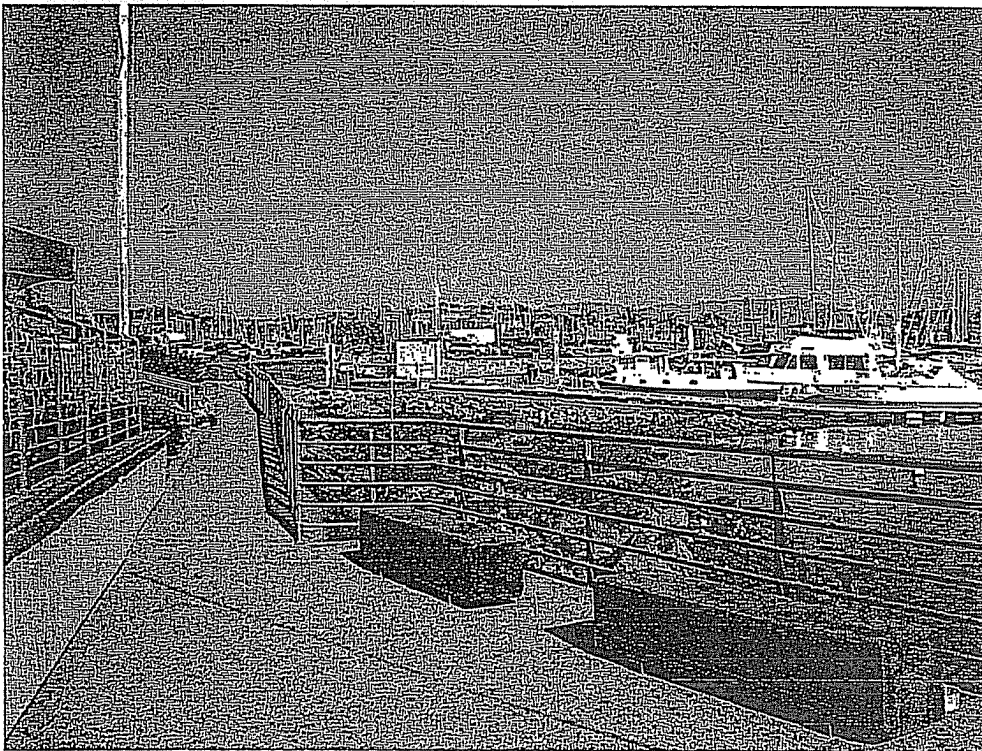


PUBLIC ACCESS DECK

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LOOKING FROM THE PRIVATE LOWER DECK AREA BACK UP TO THE TENT

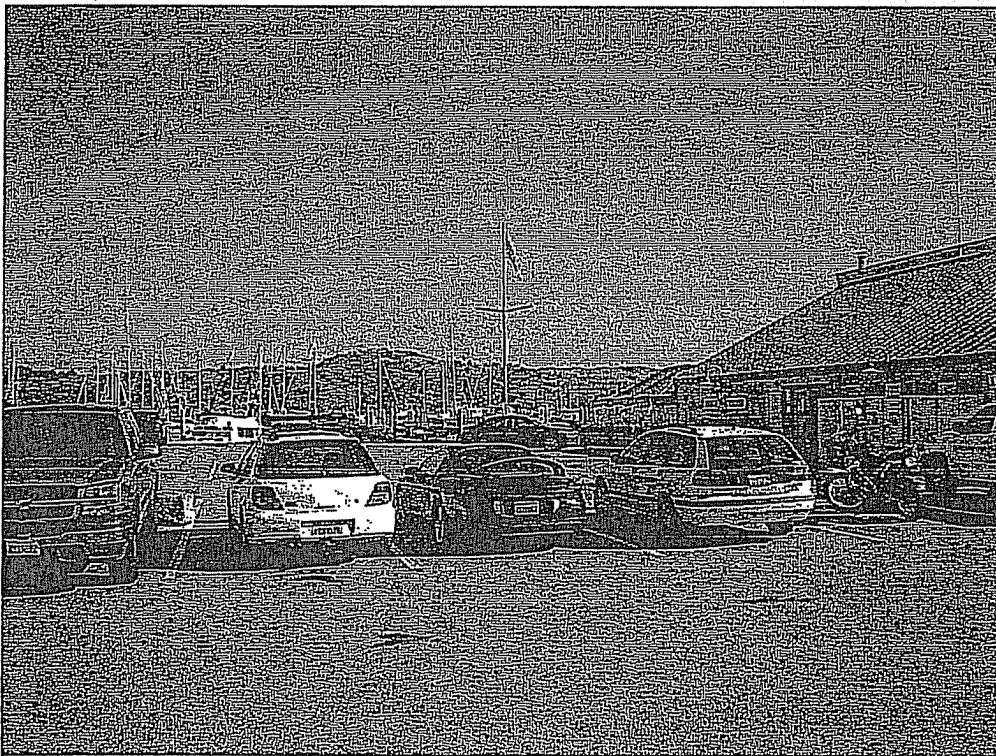


LOOKING FROM THE PUBLIC ACCESS DECK BACK ALONG PUBLIC ACCESS TRAIL

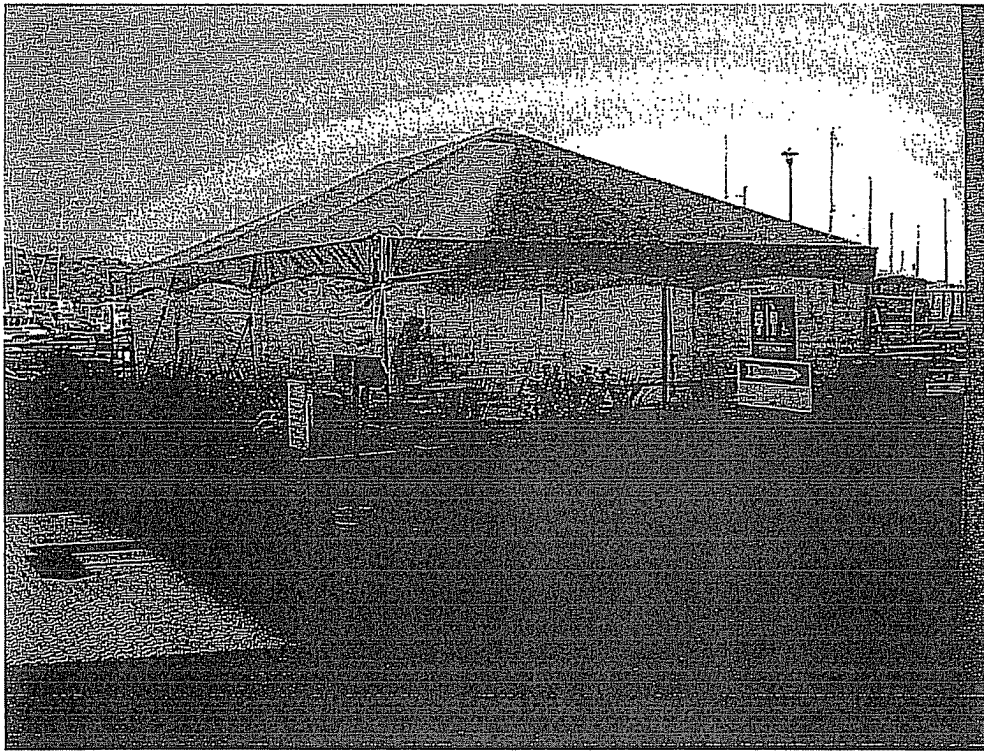
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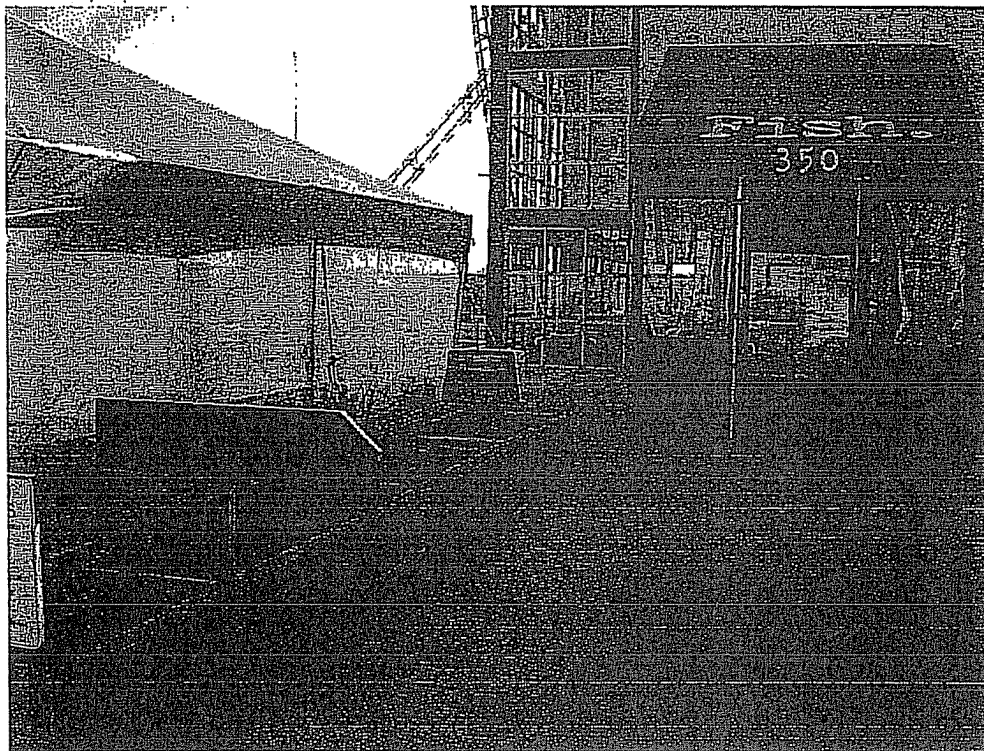
LOOKING BACK FROM THE PUBLIC ACCESS DECK AT THE TENT/FISH RESTAURANT



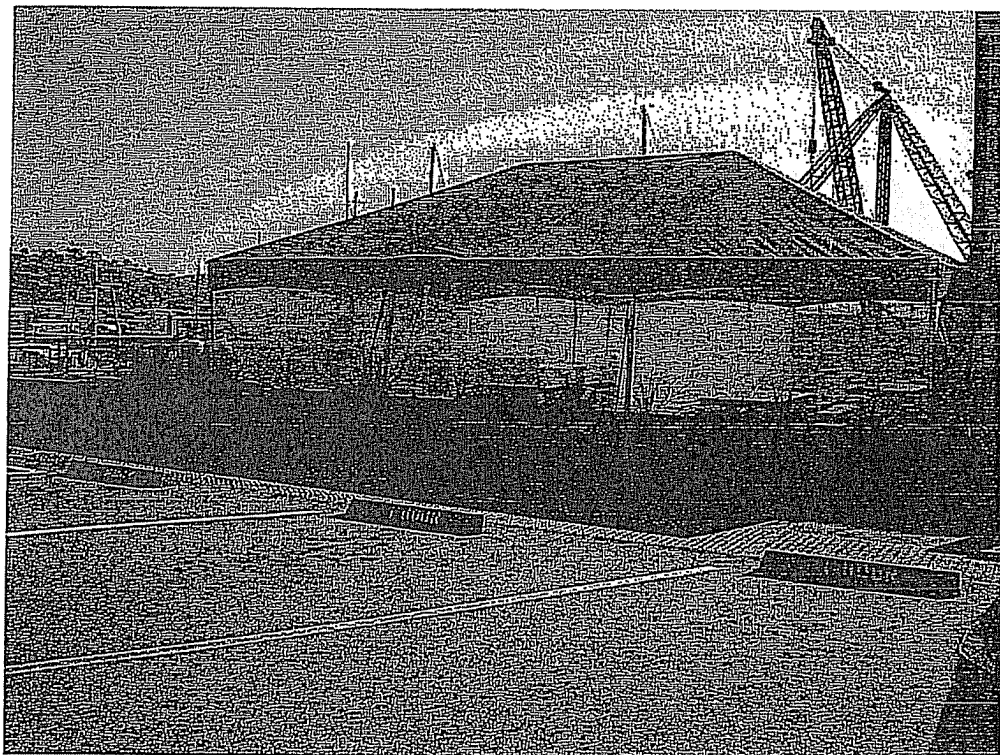
VIEW OF TEMPORARY TENT/PROPOSED GAZEBO LOCATION FROM PARKING LOT



VIEW OF TEMPORARY TENT/PROPOSED GAZEBO LOCATION FROM FISH LOOKING EAST



VIEW OF TEMPORARY TENT/PROPOSED GAZEBO LOCATION AND FISH FRONTAGE



VIEW OF TEMPORARY TENT/PROPOSED GAZEBO LOCATION FROM PARKING LOT

STAFF REPORT

SAUSALITO PLANNING COMMISSION

PROJECT: 350 Harbor / CU/DR 03-25 / APN 063-030-01

MEETING DATE: June 11, 2003

STAFF: Larissa King, Assistant Planner

APPLICANT: William Foss

PROPERTY OWNER: Clipper Yacht Harbor

REQUEST

The applicant requests Planning Commission approval of a Conditional Use Permit to allow for a proposed Fish Market and café, with beer and wine service, in the former location of Caruso's Fish Market. Commercial Food Service is a Conditionally permitted use within the Waterfront Zone. Twenty (20) seats are proposed, the maximum allowed by the Marinship Specific Plan. The application includes proposed new business identification signage.

ISSUES

Number of Seats. As required by the Marinship Specific Plan the maximum number of seats allowed for a food service use within the Waterfront Zone is twenty (20) seats. The applicant is aware of this restriction and is not requesting more than the allowable twenty. Although the floor plan shows table and bench seating that could accommodate more than 20 seats, if the Planning Commission approves the Conditional Use Permit it will be with the condition restricting the seating to 20.

The draft Zoning Ordinance contains a process by which an applicant can apply for a minor exception to the Marinship Specific Plan. The exception process was incorporated into the revised zoning ordinance at the City Council's direction in 1996, upon their review of the former request of Caruso's Fish Market (the prior occupant of this space) to expand beyond the 20 allowable seats. The exception process would allow a use that is consistent with the intent of the Marinship Specific Plan to request an exception to the development standards, which would be reviewed by the Planning Commission and approved by the City Council. Once the draft Zoning Ordinance is adopted and in effect, if the applicant would like to request additional seats the Planning Commission will review that request in terms of the Exception Findings in Section 10.28.050 of the draft Zoning Code (attached for information only).

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EXHIBIT D
(27 PAGES)

REGULATORY FRAMEWORK

Zoning: W - M (Waterfront – Marinship Overlay)

General Plan/Marinship Specific Plan: Waterfront / MarinShip Specific Plan Zone 2 Parcel 8-A

Special Regulations: Compliance with goals of Marinship Specific Plan

CEQA: Categorically exempt pursuant to Section 15301(e)

EXISTING SETTING

Neighborhood: The existing area consists of industrial and waterfront uses as allowed by zoning and the Marinship Specific Plan.

Subject Parcel: The proposed use will be located within a portion of an existing building on the Clipper Yacht Harbor site. The Clipper Yacht Harbor site is a parcel that consists of 3.4 acres of land and 6.8 acres of water, for a total site area of 10.2 acres. The proposed size of the space for the fish market/café use is approximately 2,449 sq. ft.

PROJECT DESCRIPTION

Structures: As shown on the proposed floor plan stamped received on April 1, 2003, the project proposes primarily interior structural improvements for the proposed use. The proposed exterior modifications to the existing structure include a new door along the west elevation and replacing windows along the east elevation.

Design: The project does not propose design modifications to the existing building. The proposal includes two wall signs that will be made of wood, with a white background, blue border and red wood lettering. The crab graphic is a three dimensional steel and stone mosaic.

Land Use/Density: Caruso's, a fish market and food service establishment similar to what is proposed, previously occupied the project site. From reviewing the site plan it appears as if approximately 1,500 square feet of floor area will be use for the fish storage and food preparation area, with approximately 950 square feet of the space for seating.

In 1996, on an appeal, the City Council approved a Conditional Use Permit for a twenty-seat food service establishment. Condition 11 of that approval stated that the CUP would expire in five years from the Resolution adoption (November 5, 2001). An extension of the CUP was never filed, even though Caruso's continued to operate until approximately December 2002. Since the prior CUP expired the current proposal to use the site for food service requires approval of a new CUP.

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Tree Protection: No tree removal or alteration is proposed.

New Landscaping: No modifications are proposed to the existing landscaping.

PROJECT SUMMARY TABLE

	Existing	Code	Proposed	Compliance
Floor area:	2,449 sq. ft.	N/A	No change	yes
Land Use:	Prior CUP for food service expired on 11/5/01	Marine-oriented uses	Food Service (Fish Market/café)	Requires Conditional Use Permit
Parking Spaces:	5	1 per 4 seats (5)	No change	yes

* Condition 8 of the Council's Resolution 4365 (attached) called for an additional 5 spaces to be marked and designated for 15 minute parking to be approved by the Director of Public Works.

GENERAL PLAN CONSISTENCY

To determine whether a Conditional Use Permit can be granted to allow the food service use on site, the Planning Commission must determine whether the proposed project is consistent with the goals of the General Plan and with the following policies and programs:

Objective CD-4.0 Preserve Character: Promote the uniqueness of Community sub areas and assume that their attributes are enhanced.

Industrial Policies and Programs-- Marinship (p. 2-41) The primary goal of the General Plan and the Marinship Specific Plan is to preserve the area for continued marine industrial use to mitigate concerns regarding traffic and the loss of focus on marine-related industry.

Policy LU-4.1 Waterfront Access Promote and enhance public access and enjoyment of the Sausalito waterfront.

Program LU-4.1.1 Maintain and enhance water view corridors and walking paths to and along the shoreline where compatible with private development.

Program LU 4.1.2 Study the feasibility of providing a limited number of mooring sites for visiting boats.

Policy LU-4.2 Marinship Waterfront Uses:

Promote those marine industrial oriented uses that require waterfront location and ensure the preservation of the existing general industrial uses found in the Marinship Waterfront area.

Program LU-4.2.1 Continue to apply the provisions of the Marinship Specific Plan and the zoning ordinance as they pertain to the Marinship.

Policy CD-4.2 Marinship:

Encourage the development of all industrial and commercial sites to be as visually attractive as possible consistent with functionality.

Policy EQ-3.5 Bay Waters:

Preserve and enhance the open waters of Richardson Bay and San Francisco Bays.

Waterfront (p. 2-26)

The primary waterfront area is located in the Marinship and is regulated by the Marinship Specific Plan. In the waterfront area of the Marinship, development will be limited to that which supports the marine industry.

MARINSHIP SPECIFIC PLAN

The following is a partial list of Marinship Specific Plan goals that are relevant to this request:

General Intent 1: *To promote the waterfront area and promote diversified water dependent uses.*

Project Analysis: In addition to requesting a CUP to allow food service, the proposed use includes a fish market component that will provide a direct service from the fishing industry to the marketplace. Therefore, the proposed use appears to promote water uses.

Goal 1: *Preserve and enhance the maritime history and character of the Marinship. This shall include giving, to the extent determined reasonable, development preference to marine uses and maritime industries.*

Project Analysis: The proposed use includes a fish market, which is marine-related. The food service/café component of the use will serve the customers of the fish market and people who live and work on the waterfront.

Goal 2: *Preserve and enhance the industrial character and use of the Marinship.*

Project Analysis: The project does not propose to significantly alter the exterior of the building (window replacement and a new door are proposed) and will not impact the industrial character of the building. The proposed (and previous) use as a fish market/café serves to enhance the marine related use of the entire Clipper Yacht Harbor site.

Goal 4: *It is the intent of the plan to preserve the Marinship as an area primarily oriented to the use and service of Sausalito residents, not tourists.*

Project Analysis: Caruso's, the prior occupant of this site, was a fish market and café that was used and enjoyed by Sausalito residents. With the proposed use, it is the applicant's intent to provide a similar service and atmosphere to the former Caruso's, which is anticipated to be primarily oriented to Sausalito residents.

Goal 5: *It is the intent of the plan to discourage the development of non-industrial commercial businesses that are determined by the City to displace industrial and marine businesses, or that would disproportionately contribute to traffic generation.*

Project Analysis: The proposed use would not displace an industrial use, it would occupy a portion of a building that is currently vacant. The proposed use is similar to the prior use of the site and would not disproportionately contribute to the traffic generation.

Goal 6: *It is the intent of the plan to encourage development that produced low levels of traffic generation.*

Project Analysis: The proposed use would not impact the traffic generation.

Goal 7: *It is the intent of the plan to encourage, to the extent possible, mixed use rather than single use development, especially on larger parcels.*

Project Analysis: The project site is a 2,449 square foot portion of an existing building within Clipper Yacht Harbor. The Clipper Yacht Harbor site is approximately 10.2 acres (land and water) and this proposed use contributes to the diversity of uses on the site.

Goal 8: *The amount of commercial service use permitted on a site should be significantly limited in comparison to the amount of industrial use.*

Project Analysis: In comparison to the entire 10.2 acre site, which is primarily occupied with water oriented and industrial uses, the food service area proposed is limited. In addition, the former Caruso's occupied the entire 4,672 square feet of the building that this site is proposed in. Therefore, the proposed food service within 2,449 square feet is a reduction in the previously approved area for food service.

Goal 9: *The amount of restaurant and food service use in the Marinship should be linked to the local working population it would serve and be no more than the minimum size needed to serve that projected population.*

Project Analysis: As currently proposed with 20 seats, the food service use is anticipated to serve the local working population.

Goal 11: *Maintain an urban rather than a suburban character in the Marinship.*

Project Analysis: The project does not propose changes to the exterior of the existing building that would impact the existing character.

Goal 12: *Development plans should recognize the aesthetic and social value of small-scale, individual activities as a vital component in the overall composition of the Marinship.*

Project Analysis: The proposed activity as a small scale fish market and food service, will be an important contribution to the vitality of the Marinship to promote the fishing/marine industry.

When Caruso's closed the Community Development Department staff heard numerous concerns from the public regarding the loss of the service that Caruso's provided and that many Sausalito residents enjoyed.

Goal 13: *Uses and development plans that permit and encourage public access and use of the water and waterfront shall have preference over those that do not.*

Project Analysis: The proposed use of this site will enhance the mixed-use development of this site, offering a variety of services to encourage the public to visit this site and the adjoining waterfront.

Goal 14: *Waterfront parcels shall provide approved public access to and from the water, including (where determined possible) limited amounts of temporary public small boat tie-up.*

Project Analysis: The proposal does not impact shoreline access.

Goal 16: *An intent of the plan is to maximize the amount of real and effective open water and shoreline area.*

Project Analysis: The proposal does not impact shoreline access.

Goal 18: *It is the intent of the plan to preserve and enhance the viability of the commercial fishing industry in Sausalito and the Marinship.*

Project Analysis: The fish market component of the proposed use is an important way to connect the commercial fishing industry with the local marketplace and the maritime history of Sausalito.

CONDITIONAL USE PERMIT REQUIREMENTS

Prior to approving this application, the Planning Commission must determine whether the necessary findings specified in SMC Section 10.935.10 can be made to grant a Conditional Use Permit for the proposed food service use.

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

Project Analysis: The proposed use as a fish market and café, with beer and wine service, is an established use of this site that is appropriately located within the Clipper Yacht Harbor site particular and Sausalito in general.

The previously approved CUP for Caruso's was unusual, in that the City Council established an expiration date (November 5, 2001) as a project condition. The reason for the time limit on the use was that it exceeded the maximum allowable seating permitted by the Marinship Specific Plan. The current proposal is for a 20-seat food service establishment, which complies with the Marinship Specific Plan. Once the draft zoning code is adopted and in effect, if the applicant would like to add seating, it would be required to go through the Marinship Exception procedure. That procedure requires discretionary review by the Planning Commission and approval by the City Council.

10.935.10(b) The site for the proposed use is adequate in size and shape to accommodate the proposed use and all yards, open spaces, walls and fences, parking, loading, landscaping and such features as may be required by this Title or in the opinion of the Zoning Administrator or the Commission may be needed to assure that the proposed use will be reasonably compatible with land uses normally permitted in the surrounding area.

Project Analysis: The project site is adequate in size and has adequate parking to accommodate the proposed use.

10.935.10(c) The site for the proposed use will be served by streets and highways of adequate width and pavement type to carry the quantity and kind of traffic generated by the proposed use.

Project Analysis: The project site can be accessed from Harbor Drive and Gate 5 Road. Both are of adequate width and condition to serve the proposed use.

10.935.10(d) The proposed use will not adversely affect the abutting property or the permitted use thereof.

Project Analysis: The proposed use will be the only food service and beer and wine service use on the Clipper Yacht Harbor site. The proposed use is anticipated to enhance the adjacent uses by contributing to the diversity of uses and services.

10.935.10(e) In the case of any Planned Unit Development, the proposed uses and development will conform with the requirements set forth in Section 10.111.2 of this title.

Project Analysis: Not applicable.

SIGN REVIEW CRITERIA

Prior to approving this application, the Planning Commission must determine whether the proposed project is in conformance with the design guidelines specified in Section 10.304.2 (Policies Governing the Review of Signage) and 10.304.6(d) (Review Procedures) of the Municipal Code.

10.304.2(a) Signing in or near a residential area shall be harmonious with the character of a residential neighborhood.

Project Analysis: Not applicable. The project site is located in the industrial Marinship area.

10.304.2(b) Signing throughout the City shall be restrained in character and no larger than necessary for adequate identification.

Project Analysis: The proposal is for two wall signs, one along the north elevation above the main entrance (35 square feet) and the other along the east elevation facing the water (9 square feet). The total proposed signage is 44 square feet, which appears to be no larger than necessary for identification.

10.304.2(c) The design of signs shall be consistent with the highest graphic standards.

Project Analysis: The proposed signs are to be constructed of wood, with attached wood lettering and a 3-d sculpture of a crab constructed of steel and stone. As shown in the attached photo simulations, the signs appear to be consistent with the highest graphic standard.

10.304.2(d) Signing for an establishment within a commercial or industrial center shall be in harmony with the signing of the entire center. Such signing shall be approved by the Design Review Board as a part of the plan for a commercial or industrial center.

Project Analysis: The project site is located on the same parcel as other industrial buildings. The proposed signage appears appropriate in context with other existing signage on the Clipper Yacht Harbor site.

10.304.2(e) A sign shall serve primarily to identify the business or the type of activity conducted on the same premises, or the product, service, or interest being offered for sale or lease thereon.

Project Analysis: The proposed signage serves to only identify the business on site. The crab sculpture is a graphic expression of the fish market use of the site and service the business offers.

10.304.2(f) Signs and advertising displays which are offensive to the urban design pattern of the community or which no longer serve an establishment or the premises for which such a sign was originally intended and installed shall be removed.

Project Analysis: The sign will serve to only identify the business onsite.

10.304.6(d)(1) The design of a sign or awning shall be architecturally a part of the design of any building rather than a feature independent of and in conflict with the design of any building.

Project Analysis: The proposal includes a new awning over the front entrance doors and windows for a length of approximately 24-feet. The proposed awning will replace an existing awning, in the same shade of blue, and from the photo rendering does not appear to conflict with the design of the building. The placement of the signs, particularly the proposed entrance sign, incorporates the building's existing front wood panel for the signage.

10.304.6(d)(2) The architecture of adjoining and surrounding improvements shall be equally considered, and no sign or awning shall be authorized which adversely affects the architectural character of any adjoining improvement or which diminishes, blocks, or impedes any natural view or view corridors or impedes views to and from adjoining improvements.

Project Analysis: The proposed awning and signs do not conflict with the character of the adjoining buildings and uses. The proposed crab mosaic in the signage emphasizes the surrounding marine uses and waterfront location.

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10.304.6(d)(3) Signs or awnings proposed which in the opinion of the Planning Commission are inconsistent or inappropriate with the character of the community, shall be subject to disapproval.

Project Analysis: Staff believes that the proposed sign is consistent with the character of the community.

SECTION 10.304.7 LIMITATIONS: AREA, HEIGHT, PROJECTIONS, CLEARANCES

Prior to approving this application, the Planning Commission must determine whether the proposed project is in conformance with the limitations specified in Section 10.304.7 of the Municipal Code:

(a) The size, scale and magnitude of the structure, building or use such proposed sign is to serve.

Project Analysis: The City of Sausalito's sign criteria does not specify an allowable square footage of signage for businesses. Typically, it is useful to evaluate what would be allowed in accordance with the guidelines for the Historic District, which is 0.5 square feet of signage for every 1-foot of street frontage. However, this project site does not have any direct street frontage.

The proposed sign over the main entrance is 35 square feet, and appears appropriate in size in relation to the size and scale of the building. The length of the main entrance façade, for the proposed use, is 24-feet. The length of the entire space the proposed use will occupy is 80-feet. The proposed sign along the east façade, with a length of 32-feet, is 9 square feet in area. The Planning Commission should consider the whether the proposed signage is appropriate to the scale of the building.

(b) The size, scale and magnitude of structures, buildings and uses adjoining or in the vicinity of the sign proposed.

Project Analysis: The proposed signs appear to be consistent with the scale of adjacent buildings and uses.

(c) Views and view corridors.

Project Analysis: The proposed signage will be mounted on the existing building wall and will not impact any views or view corridors. The proposed awning will be along the north façade of the existing building and will not impact any view corridors.

(d) The design of the sign in relation to the structure, building or use such sign is proposed to serve.

Project Analysis: The color and design of the proposed signs would not conflict with the building's design.

(e) The design of the sign in relation to adjoining or nearby signs.

Project Analysis: There are no other signs on the building.

(f) Policies set forth in Section 10.304.2 of this title.

Project Analysis: Refer to the above project analysis.

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June 11, 2003

PUBLIC NOTICE AND FEEDBACK

Notice: 10 days prior to the hearing date, notice of this proposal was published in the Marin Scope and was mailed to residents and property owners within 300 feet of the subject parcel.

Written feedback: As of this writing, staff has received no letters commenting on the project.

STAFF CONCLUSIONS

Conditional Use Permit Criteria: The Commission may wish to consider whether the findings to grant a Conditional Use Permit can be made for this project.

Sign Guidelines: The project appears to comply with sign guidelines identified in the code.

Overall Staff Recommendation: Staff recommends that the Commission review the merits of this project as proposed and hear public testimony. The Commission may:

1. Approve the application as submitted.
2. Approve the application subject to specific conditions and/or modifications.
3. Continue the application for additional information and/or project revisions.
4. Deny the application on the basis that the project does not comply with Sections 10.935.10 or 10.923.6.

EXHIBITS

1. Proposed floor plan and graphic rendering of business received April 1, 2003
2. Letter from applicant dated March 31, 2003
3. Graphic rendering of proposed signage received April 29, 2003
4. Photographs of building
5. Architectural plans of building dated July 13, 1995
6. City Council Resolution 4365
7. Section 10.28.050 from the draft Zoning Code
8. Draft Resolution of Approval