

STAFF REPORT

SAUSALITO ZONING ADMINISTRATOR

Project Starbucks Coffee / 14/16 Princess Street
Minor Use Permit, Sidewalk Dining Encroachment Permit
MUP/EP 09-215

Date December 11, 2009 *at*

Staff Alison Thornberry, Assistant Planner

This supplements the Staff Report dated December 17, 2009

ADDITIONAL CONDITION TO BE INSERTED

After additional research into the conditions of the previous outdoor dining tables, and the size of the sidewalk, staff has determined that a more appropriate number of chairs for the site is six, two chairs per table. Additionally, the chairs shall be tethered to the tables to keep the chairs from moving into the pedestrian traffic along the sidewalk. The condition states:

- The outdoor dining area is approved for three tables and six seats, two chairs per table, in the public right-of-way. Each chair shall be tethered to a table to ensure the capability of the safe pedestrian passageway.

PUBLIC NOTICE AND CORRESPONDENCE

- A written correspondence was received on December 10, 2009 from John C. Woodhull (see **Exhibit B**).

RECOMMENDATION

Staff recommends the Zoning Administrator approve the attached draft resolution as modified (**Exhibit A**) which takes the following actions regarding the proposed outdoor dining at 14/16 Princess Street:

- Approval of a **Minor Use Permit** to allow an outdoor dining area with three tables and six seats in front of the Starbucks Coffee Shop.
- Approval of a **Sidewalk Dining Encroachment Permit** to allow the outdoor dining area to be located in the public right-of-way at 14/16 Princess Street.

Additionally, the Zoning Administrator may:

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

EXHIBITS

- A. Modified Draft Resolution
- B. Correspondence from John C. Woodhull, dated December 10, 2009.

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**SAUSALITO ZONING ADMINSTRATOR
RESOLUTION NO. 2009-xx**

**A RESOLUTION APPROVING A MINOR USE PERMIT AND SIDEWALK DINING
ENCROACHMENT PERMIT FOR AN OUTDOOR DINING AREA TO BE LOCATED IN THE
PORTION OF THE SIDEWALK ADJACENT TO STARBUCK'S COFFEE AT 14/16
PRINCESS STREET
(MUP/EP 09-215)**

WHEREAS, an application has been filed by applicant, Starbuck's Corporation, on behalf of the property owners, Paul S. Lempio and Saga Perry, requesting Zoning Administrator approval of a Minor Use Permit and Sidewalk Dining Encroachment Permit to allow an outdoor dining area in the public right-of-way, adjacent to the coffee shop, Starbuck's Coffee, located at 14/16 Princess Street (APN 065-131-10); and

WHEREAS, the Zoning Administrator conducted a duly noticed public meeting on December 17, 2009 at which time all interested persons were given an opportunity to be heard; and

WHEREAS, the Zoning Administrator 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 Zoning Administrator has reviewed and considered the project plans titled "Starbuck's Coffee – 14/16 Princess Street" date-stamped received on November 2, 2009; and

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

WHEREAS, the Zoning Administrator has considered the information contained in the staff report dated December 17, 2009; and

WHEREAS, the Zoning Administrator finds that, as conditioned herein, the proposed project complies with the requirements of the General Plan and Zoning Ordinance as described in the staff report dated December 17, 2009.

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

A Minor Use Permit and Sidewalk Dining Encroachment Permit MUP/EP 09-215 to allow an outdoor dining area with three tables and nine seats in front of the restaurant located at 14/16 Princess Street is approved based upon the findings in **Attachment 1** and subject to the conditions of approval in **Attachment 2**. The project plans are provided in **Attachment 3**.

Date

Jeremy Graves, AICP
Zoning Administrator

ATTACHMENTS

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

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ITEM NO. 14 PAGE 3

Exhibit A
[7 Pages]

ZONING ADMINISTRATOR HEARING
December 17, 2009
MUP/EP 09-215
Starbuck's Coffee – 14/16 Princess Street

ATTACHMENT 1: FINDINGS

MINOR USE PERMIT FINDINGS

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

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

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

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

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

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

The outdoor dining area provides an adequate pedestrian passageway within the sidewalk on Princess Street, eight feet at its widest point and four feet one inch at its narrowest where a tree planter is located. As such, it is not anticipated the dining area will be detrimental to the public health, safety, or general welfare of the City.

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

The proposed use complies with all applicable provisions of the Zoning Ordinance, including requirements for outdoor dining areas in sidewalks (Section 10.44.220.C), as described in the staff report dated December 17, 2009.

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

The dining area is immediately adjacent to an existing coffee shop, and is properly located in a sidewalk area that provides adequate passageway along Princess Street. The dining area will enhance the establishment in a central commercial area that supports local residents, visitors, and employees in Sausalito.

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

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

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

All public utilities and facilities are adequate for the proposed use. It is not anticipated that the use will generate additional traffic impacts to Princess Street, and will not adversely impact pedestrian traffic.

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

The outdoor dining area is confined to the adjacent sidewalk area in the public right-of-way along the storefront only, and will not extend to nearby properties. It is also located away from nearby single-family residential properties, as it is a cross street to a major thoroughfare through the City (Bridgeway). The new dining area will maintain the required safe passage area on the sidewalk for pedestrians and will not block or diminish the sidewalk passageway. As such the proposed use will not materially adversely affect nearby properties or the public right-of-way.

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

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

ZONING ADMINISTRATOR HEARING
December 17, 2009
MUP/EP 09-215
Starbuck's Coffee – 14/16 Princess Street

ATTACHMENT 2: CONDITIONS OF APPROVAL

1. Approval of this application is limited to the site plan dated stamped received November 2, 2009 and attached herein.
2. The outdoor dining area is approved for three tables and six seats, two chairs per table, in the public right-of-way. Each chair shall be tethered to a table to ensure the capability of the safe pedestrian passageway.
3. As a condition of this approval, no alternative or unrelated construction, site improvements, tree removal and/or alteration, exterior alterations and/or interior alterations and/or renovations not specified in the project plans, or alterations approved by the Community Development Director, shall be performed on the project site. In such cases, this approval shall be rendered null and void unless approved by the Community Development Department as a modification to this approval.
4. Pursuant to Section 10.44.220.C, the outdoor dining area shall conform with the following regulations:
 - a. **Safe Passage.** Safe and adequate passage of 48" width shall be provided along the sidewalk at all times. Should tree grates installed on the sidewalk reduce the passageway to less than 48", plans to provide adequate passage shall be submitted for approval to the Community Development Department.
 - b. **Location.** The permit issued is to only allow the use of the sidewalk, public right-of-way, immediately adjacent to the restaurant located at 1403 Bridgeway.
 - c. **Cleanliness.** Debris, litter or food matter shall be removed from the sidewalk, streets or surrounding property at least once each day during operating hours and at the time tables and chairs are removed from the sidewalk.
 - d. **Food Service.** The applicant shall be engaged in food service and shall provide such service at the outdoor dining area.
 - e. **Insurance.** The Applicant shall obtain liability insurance with policy limits of at least \$500,000 per incident. The City shall be named an additional insured and the policy shall remain in force at all times that the Permit is in effect.
 - f. **Hold Harmless.** The Applicant shall enter into an Encroachment Permit Agreement prepared by and satisfactory to the City Attorney. The Applicant shall agree to conform to these conditions and all applicable city ordinances. The Applicant shall also agree to indemnify the City and hold the city harmless from and against all liability arising out of the Applicant's activities under the Permit or otherwise arising out of the Applicant's placement of tables and chairs in the City sidewalk and/or from permitting the use of such tables and chairs by patrons or otherwise.
 - g. **Orderliness.** All tables and chairs shall be removed from the sidewalk whenever the restaurant is closed or when the restaurant is not serving patrons on the sidewalk. The Permit shall provide for the placement of tables and chairs for the use of diners only. No entertainment shall be permitted along the sidewalk by the restaurant. No food preparation

shall take place along the sidewalk, and no serving trays or bus stations shall be located along the sidewalk.

- h. **Preeminence.** The Applicant shall acknowledge that its use of the sidewalk under the Permit is subordinate to the public's right to use the sidewalk for passage and travel. Permit shall be revocable from time to time by order of the City to allow for a public event or other public use of the sidewalk subject to the Permit or if the use of the sidewalk for dining purposes conflicts with any public use of the sidewalk. The Applicant shall also acknowledge that the use of the sidewalk is subject to temporary suspension any time the City or any utility company or easement holder requires access to the sidewalk or any utility under the sidewalk, or requires use of the sidewalk in conjunction with any construction project.
- i. **Fee.** The Applicant shall be required to pay the City an annual permit fee, based on square footage of the permit area, as established by Resolution of the City Council.
- j. **Compliance with All Regulations.** The Applicant shall comply with all regulations of State Alcoholic Beverage Control and the County of Marin Department of Public Health, and any other agency that controls the operations of the restaurant.
- k. **Revocable.** All Sidewalk Dining Permits and Encroachment Permits shall be subject to permanent revocation by the City at any time.

Advisory Notes

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

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

ZONING ADMINISTRATOR HEARING
December 17, 2009
MUP/EP 09-215
Starbuck's Coffee – 14/16 Princess Street

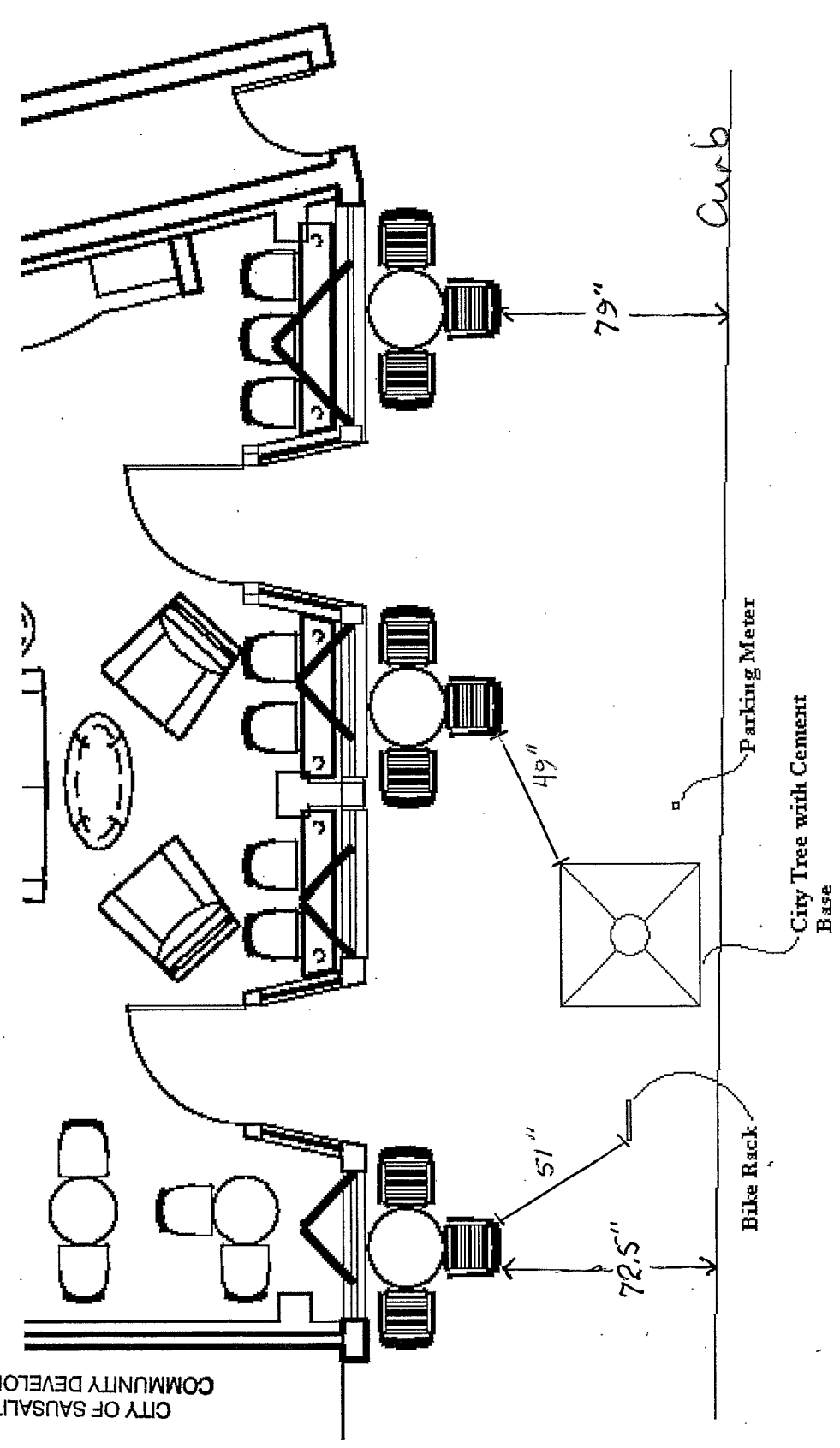
ATTACHMENT 3: SITE PLAN

CITY OF SAUSALITO
COMMUNITY DEVELOPMENT

NOV - 2 2009

ITEM NO. 1A PAGE 9

RECEIVED



Starbucks Coffee

STORE #: **606 SAUSALITO**
14-16 PRINCESS STREET
SAUSALITO, CA 94965
 COUNTY: **MARIN**

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something/ANYTHING

J E W E L R Y G A L L E R Y

RECEIVED

DEC 10 2009

To: Alison Thornberry
Assistant Planner, City of Sausalito

CITY OF SAUSALITO
COMMUNITY DEVELOPMENT

Re: APN 065-131-10
Starbucks Permit Request for 3 tables and 9 chairs

Alison,

We are against granting this permit due to the congestion that exists in front of Starbucks. This has been a problem for a long time and recently made worse with the installation of bike posts.

The size of the tables is too large. There should only be two chairs per table at most. Preferably there should be benches only. If chairs are permitted they must somehow be restrained to prevent placement in the center of the sidewalk.

Please review the attached photos. (We have many more if needed.) I am happy to discuss this with any interested party and plan to attend the meeting.

Thank you,

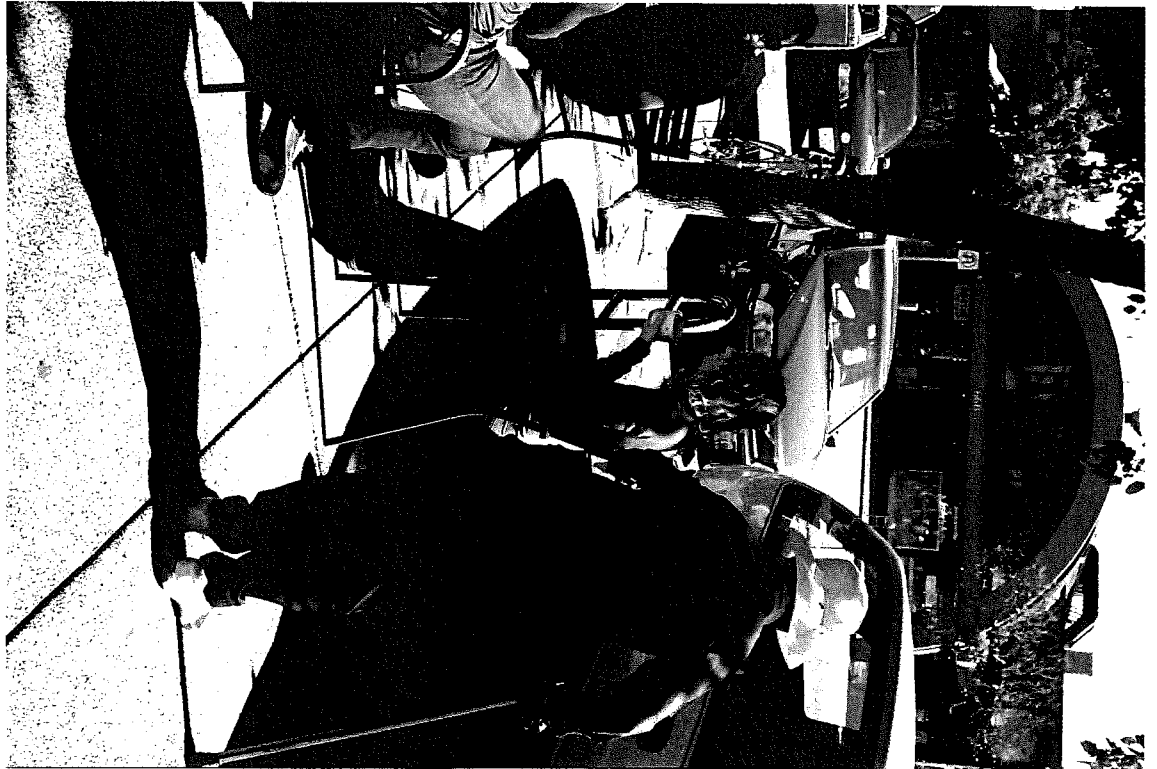
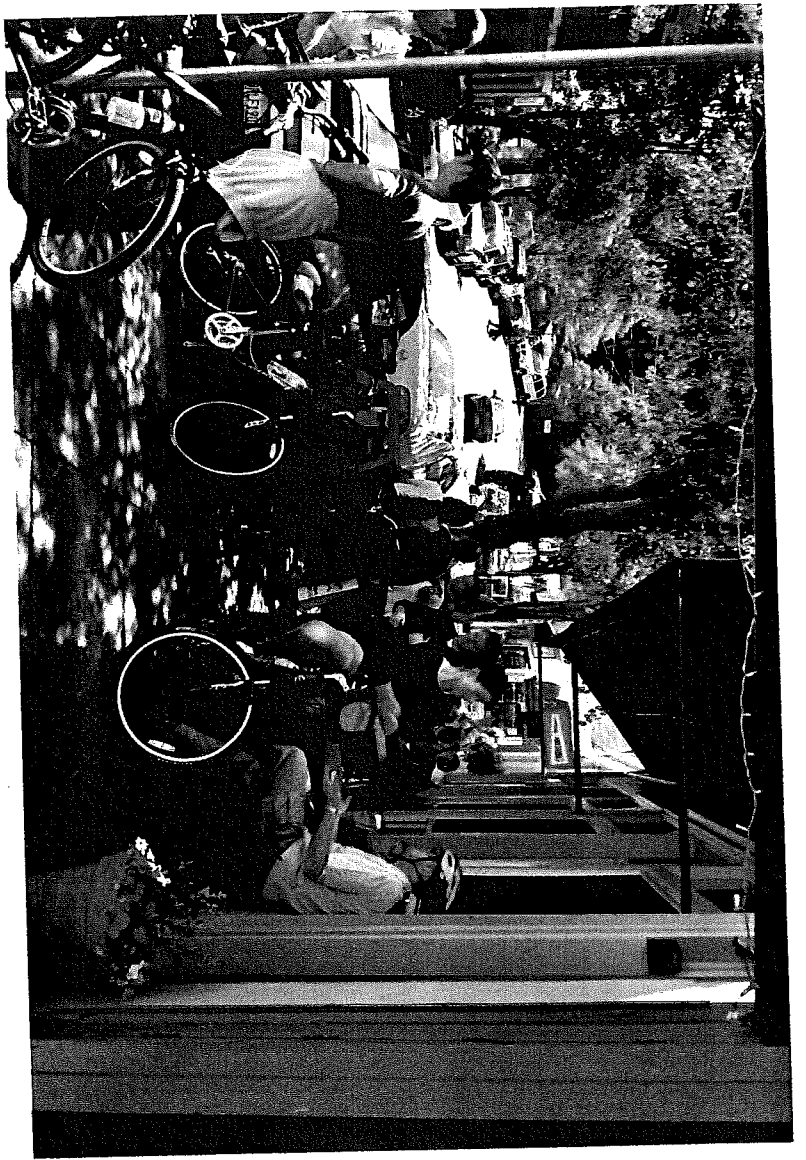
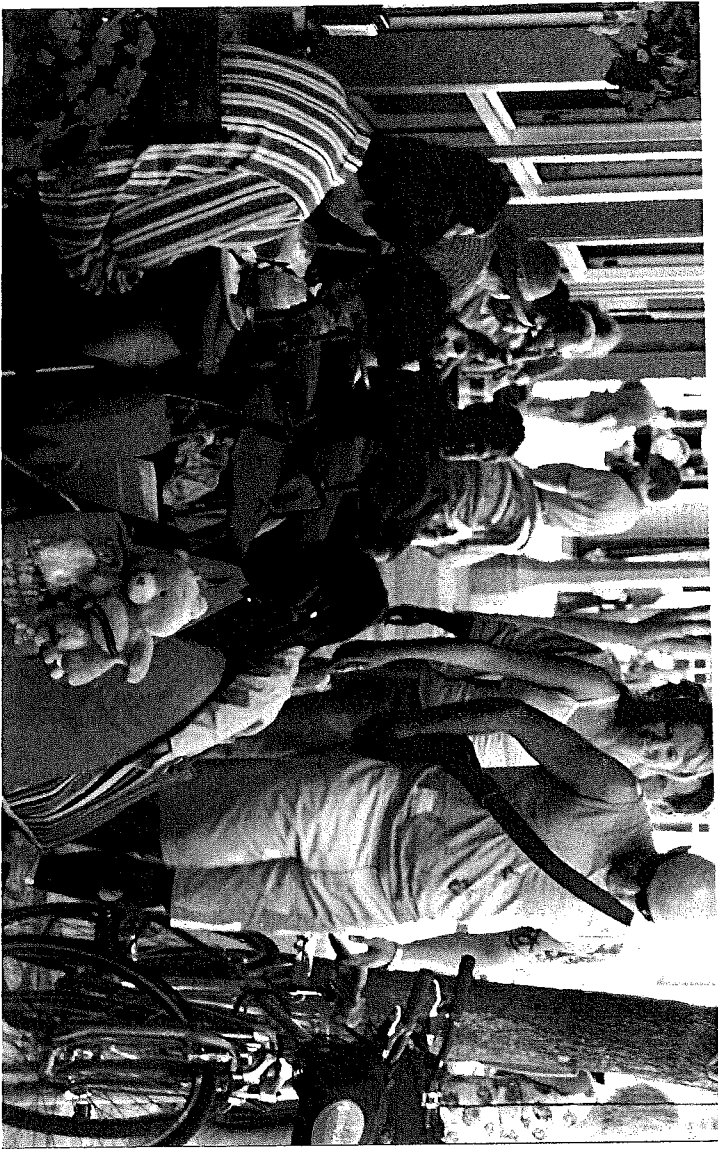


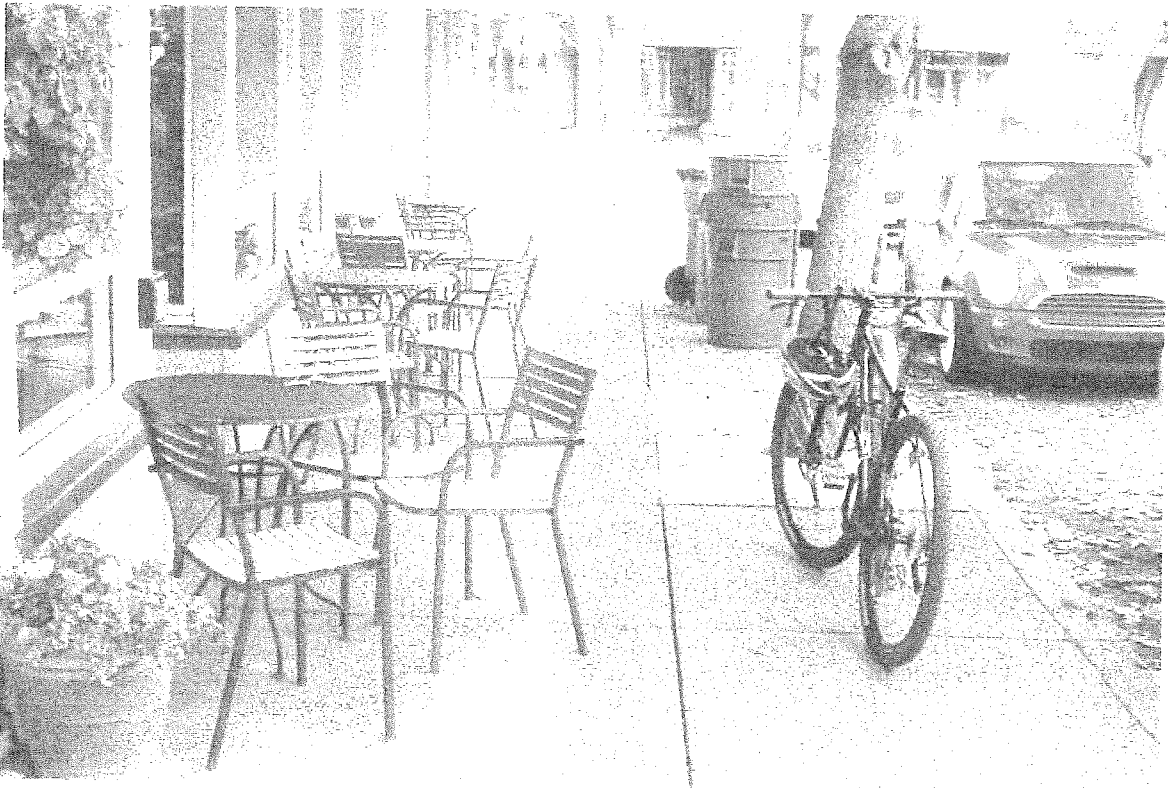
John C. Woodhull
Owner

20 PRINCESS STREET SAUSALITO, CA 94965
(415)-339-8831

ITEM NO. 1A PAGE 11

Exhibit B
[4 pages]







something/ANYTHING

J E W E L R Y G A L L E R Y

RECEIVED

DEC 10 2009

CITY OF SAUSALITO
COMMUNITY DEVELOPMENT

To: Alison Thornberry
Assistant Planner, City of Sausalito

Re: APN 065-131-10
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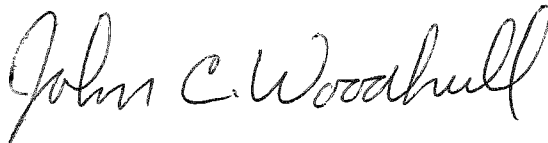
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John C. Woodhull
Owner





