MARIN COUNTY DEPUTY ZONING ADMINISTRATOR

RESOLUTION NO. 22-119

A RESOLUTION APPROVING THE TOMALES BAY-FRIEND USE PERMIT AMENDMENT (P3323)
20215 State Route 1, Marshall
ASSESSOR’S PARCEL: 119-060-33

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SECTION I: FINDINGS

1. WHEREAS, The applicant requests Conditional Use Permit amendment approval to modify the existing Conditional Use Permit (88-011) to increase the days and hours of retail sales of oysters from the current Fridays, 12:00pm to 5:00pm and Saturdays–Sundays, 9:00am to 5:00pm, to Monday through Sunday, 9:00am to 5:00pm. In addition, the applicant requests clarification regarding the hours and days of farming operations to Monday through Sunday, ranging from 6:00am to 6:00pm, weather and tide dependent. The project site is further identified as APN 199-235-66.

2. WHEREAS, on October 20, 2022, the Marin County Deputy Zoning Administrator held a duly noticed public hearing to take public testimony and consider the project.

3. WHEREAS, the project is Categorically Exempt from the requirements of the California Environmental Quality Act (CEQA) pursuant to Section 15301, Class 1 of the CEQA Guidelines because it involves modifications to existing operations that would not result in impacts to special-status resources.

4. WHEREAS, the project is consistent with the goals and policies of the Marin Countywide Plan for the following reasons:

   A. No trees would be removed with the project, therefore the project is consistent with the CWP woodland preservation policy (BIO-1.3) because the project would not entail the irreplaceable removal of a substantial number of mature, native trees.

   B. The applicant provided a “Technical Memorandum-Reevaluation of 2013 Biological Resources Assessment”, prepared by Wood Biological Consulting, dated July 14, 2021, that describes the biological conditions of the project site and assesses the potential for the presence of special-status species and associated habitats.

   The memorandum states that while a search of the California Natural Diversity Database (CNDDB) indicates the existence and potential for special-status plant species to occur on the site, because the proposed project would be limited to a portion of the site that is already developed, potential effects to special status-plant species are not anticipated with the project.

   The memorandum identifies several special status wildlife species with the potential to occur on the project site; however, based on the nature of activities associated with the
proposed project, potential effects to special status species are not anticipated with the project.

Based on the findings of the technical memorandum, the project would not result in significant adverse effects to special status species and is therefore consistent with the CWP special-status species protection policy (BIO-2.2).

C. The technical memorandum states that a perennial stream is present on the site that enters at the northeastern boundary and extends west where it leaves the site and adjoins a tidal slough on the neighboring northern property. The project would be focused on the developed portions of the site and would therefore be consistent with the CWP natural transition and connection policies (BIO 2.3 and BIO 2.4) as the project would not substantially alter the margins along riparian corridors, wetlands, baylands, or woodlands.

D. As described above, a perennial stream traverses the project site and therefore the CWP Stream Conservation Area (SCA) policies apply to the project. In this area of the County, the SCA buffer is measured as either 100 feet from the top of the stream bank or 50 feet from the edge of woody riparian vegetation, whichever is most restrictive. In addition, a tidal wetland is present on the site and therefore the CWP Wetland Conservation Area (WCA) policies apply to the project. The WCA policies require a minimum of a 100-foot buffer from the edge of wetland vegetation.

In a supplemental letter prepared by Wood Consulting dated December 23, 2021, a revised site constraints map was provided that depicts the SCA and WCA buffers. The proposed project involves modifications to the existing Use Permit that would result in additional staff and the potential for additional customers to utilize the developed portions of the site outside of the WCA and SCA buffers. The supplemental letter prepared by the biological consultant concluded that no affects to the WCA and SCA are anticipated with the project due to the nature and location of project-related activities. Therefore, the project is consistent with the CWP stream and wetland conservation policies (BIO-3.1 and BIO-4.1) because the proposed project would not result in effects to Stream Conservation Areas (SCA) or Wetland Conservation Areas (WCA).

E. The County’s Environmental Health Services Department (EHS) has reviewed the proposed project and determined that the existing septic system can accommodate the increase in employees proposed with the project. EHS approved a septic operations plan for the project on August 24, 2022.

With regard to customers and sanitation needs, the facility is designated as a “PFF-Prepack” facility with the County's food and beverage licensing division. Such a designation allows for the sale of pre-packaged food items only and does not allow for the consumption of purchased food items on site. Customers will be prohibited from using on-site sanitation facilities and will be directed to other nearby facilities in the area for such needs (see special condition 2(a), below). By ensuring that the septic capacity on site is sufficient to accommodate additional employees and implementing a program to inform customers of nearby sanitation facilities, the project is consistent with CWP water quality policies (WR-2.2).

5. WHEREAS, the project is consistent with Eastshore Community Plan, as discussed below.
The project is within the Eastshore Community Plan area and is consistent with the plan’s provisions including Objective B.3 which promotes the retention of existing land uses that reflect the East Shore community’s character such as water-related commerce and industry. In addition, the project is consistent with Objective C.1 as it would generate more employment opportunities in the community.

7. WHEREAS, the project is consistent with the mandatory findings for Use Permit approval (Marin County Code Section 22.48.040).

A. The proposed use is allowed as a conditional use, within the subject zoning district and complies with all of the applicable provisions of this Chapter.

The existing retail sale operation was approved under existing Conditional Use Permit 88-011 which specified the total number of employees allowed on site as well as days and hours of operation of harvesting and retail sales. Modifications to the Conditional Use Permit require an amendment to the Use Permit pursuant to Chapter 22.48 of the Marin County Development Code.

B. The design, location, size and operating characteristics of the proposed use are compatible with the existing and future land uses in the vicinity.

The proposed project entails modification of the existing Conditional Use Permit to allow an increase in the number of employees (from 8 to 15 staff). In addition, the project would result in an increase the days and hours of retail sales of oysters from the current Fridays, 12:00pm to 5:00pm and Saturdays-Sundays, 9:00am to 5:00pm, to the proposed Monday through Sunday, 9:00am to 5:00pm. In addition, the project would clarify the hours and days of farming operations to Monday through Sunday, ranging from 6:00am to 6:00pm, weather and tide dependent.

As described above, the County’s EHS division has reviewed the septic plans for the project and determined that the septic system is sufficient to accommodate the increase in employees.

The applicant provided a transportation plan for the project prepared by W Trans and dated June 23, 2022. The plan concluded that the proposed project would generate an average of 51 vehicle trips per day, including customer and employee trips. Since this estimate is below 110 per day on average, the plan states that the project would have a less than significant effect on vehicle miles traveled (VMT) and is “screened” from a more detailed VMT analysis in accordance with guidance from the Governor’s Office of Planning and Research. The plan also evaluated the parking provided with the project and determined that the on-site parking supply would be adequate to accommodate the maximum number of employees and customer vehicles on peak weekends and holidays. The County’s Department of Public Works has reviewed the transportation plan and found it acceptable.

The increase in employees and expansion of retail hours would be accommodated in the existing developed portions of the site and would allow for mariculture operations to persist. Such operations have been identified as an important economic activity in the Marin County Coastal Zone, that draw visitors to the area and make the County’s coastal areas a more desirable place to live and visit. It is anticipated that the increase in employees and retail sale
opportunities would be compatible with the existing mariculture operations and would continue to promote this important economic activity in the County.

C. The granting the Conditional Use Permit will not be detrimental to the public interest, health, safety, convenience, or welfare of the County, or injurious to the property or improvements in the vicinity and zoning district in which the real property is location.

As discussed above, the septic capacity at the site would be sufficient to accommodate the increase in employees. However due to the nature of the food establishment, on site sanitation facilities are not required for customers. To ensure that customers are notified of available sanitation facilities in the area, Special Condition 2(a) has been included below which requires the applicant to receive approval of a customer signage and notification program to ensure that customers are aware of sanitation availability within 6 months of receiving Coastal Permit approval for the project.

The transportation plan prepared for the project states that trips associated with the project would be below state VMT screening standards and that on-site parking is sufficient to meet the anticipated demand.

By increasing the days and hours of retail sales, it is anticipated that trips to the site will be less concentrated on weekend days and spread out throughout the week, potentially relieving weekend traffic in the area.

Therefore because the project would result in the continuance of an existing, permitted use that has been found to promote visits to the coastal areas of the County, and has been designed to provide appropriate sanitation and parking, the granting of the Conditional Use Permit amendment would not be detrimental to the public interest, health, safety, convenience, or welfare of the County, or injurious to the property or improvements in the vicinity and zoning district in which the site is located.

SECTION II: ACTION

NOW THEREFORE, BE IT RESOLVED that the project described in condition of approval 1 is authorized by the Marin County Planning Commission and is subject to the conditions of project approval.

This decision certifies the proposed project’s conformance with the requirements of the Marin County Development Code and in no way affects the requirements of any other County, State, Federal, or local agency that regulates development. In addition to a Building Permit, additional permits and/or approvals may be required from the Department of Public Works, the appropriate Fire Protection Agency, the Environmental Health Services Division, water and sewer providers, Federal and State agencies.

SECTION III: CONDITIONS OF PROJECT APPROVAL

NOW, THEREFORE, BE IT RESOLVED that the Marin County Planning Commission hereby approves the Tomales Bay-Friend Conditional Use Permit Amendment subject to the conditions as specified below:
CDA-Planning Division

1. This Use Permit amendment approval authorizes modifications to Conditional Use Permit 88-011 to increase the days and hours of retail sales of oysters from the current Fridays, 12:00pm to 5:00pm and Saturdays-Sundays, 9:00am to 5:00pm, to Monday through Sunday, 9:00am to 5:00pm. In addition, this Use Permit Amendment approval clarifies the hours and days of farming operations of Monday through Sunday, ranging from 6:00am to 6:00pm, weather and tide dependent.

2. The project shall comply with the conditions listed herein:

   a. Within 6 months of Coastal Permit approval for the project, the applicant shall submit and receive approval of a customer notification program that focuses on methods of notifying (signage, website, etc) the public of the lack of sanitation facilities available on the project site and informs customers of available sanitation facilities in the area.

   b. The project shall conform to the Planning Division's "Uniformly Applied Conditions 2022" with respect to all of the standard conditions of approval.

SECTION IV: VESTING

NOW THEREFORE, BE IT RESOLVED that unless conditions of approval establish a different time limit or an extension to vest has been granted, any permit or entitlement not vested within two years of the date of the approval shall expire and become void. The permit shall not be deemed vested until the permit holder has actually obtained any required Building Permit or other construction permit and has substantially completed improvements in accordance with the approved permits, or has actually commenced the allowed use on the subject property, in compliance with the conditions of approval.

SECTION V: APPEAL RIGHTS

NOW, THEREFORE, BE IT RESOLVED that this decision is final unless appealed to the Marin County Planning Commission. A Petition for Appeal and the required fee must be mailed to the Community Development Agency, Planning Division, Room 308, Civic Center, San Rafael, and postmarked no later than eight business days from the date of this decision (November 1, 2022).

SECTION VI: ADOPTION

ADOPTED at a regular meeting of the Deputy Zoning Administrator of the County of Marin, State of California, on the 20th of October 2022.

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IMMANUEL BEREKET
DEPUTY ZONING ADMINISTRATOR

Attest:

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[Signature]
[Name]