

# BEFORE THE TOWN OF CORTE MADERA PLANNING COMMISSION

**In the Matter of:**

(1) Adopting findings and approval of a Final Initial Study and Mitigated Negative Declaration and Mitigation Monitoring and Reporting Plan to replace the pre-existing 718.5 sq. ft. Higgins Landing Dock with a 1,190 sq. ft. ADA-accessible dock, and (2) to recommend that the Town Council approve the Final Initial Study and Mitigated Negative Declaration for Zoning Ordinance Amendment No. 09-004 to rezone the property from R-2 to POS, at **190 Lucky Drive.**

**Resolution No. 10-001**

**Environmental Assessment No. 09-005**

**Adoption Date:** February 9, 2010

**Appeal Period Ends:** February 19, 2010

**WHEREAS**, in November 2005, the Higgins Landing Dock was removed due to deterioration that had become a safety problem; and

**WHEREAS**, on January 17, 2006, the Town Council received a petition from residents asking for the dock to be replaced; and

**WHEREAS**, on February 21, 2006, the Town Council appointed a task force to prepare a Feasibility Study for replacing the dock; and

**WHEREAS**, on November 21, 2006, the Town Council accepted the Feasibility Study and directed that the project be placed in the Capital Improvement Program as an unfunded project; and

**WHEREAS**, on January 13, 2007, a Boating and Trails Facilities grant of \$130,000 was received from the California Department of Boating and Waterways; and

**WHEREAS**, on May 1, 2007, an application for Design Review, Conditional Use Permit, Zoning Ordinance Amendment, and Environmental Assessment was submitted to replace the 718.5 sq. ft. Higgins Landing Dock with a 1,248 sq. ft. ADA-accessible dock and to rezone the property from R-2 to POS; a Biological Assessment, an Initial Study, and Mitigated Negative Declaration were prepared; and

**WHEREAS**, on May 2, 2007, the Initial Study and Mitigated Negative Declaration was sent to the State Clearinghouse; and

**WHEREAS**, on May 2, 2007, a Notice of Public Hearing for the May 22, 2007 Planning Commission hearing and a Notice of Intent to Adopt a Mitigated Negative Declaration was published in the Marin Independent Journal; and

**WHEREAS**, on May 3, 2007, a Revised Notice of Public Hearing for the May 22, 2007 Planning Commission hearing and June 5, 2007 Town Council hearing, and a Notice of Intent to Adopt a Mitigated Negative Declaration were published in the Marin Independent Journal and mailed to property owners within 600' of the property; and

**WHEREAS**, on May 22, 2007, the Planning Commission held a public hearing on the rezoning and Initial Study & Mitigated Negative Declaration for the proposed rezoning and proposed dock project. The item was continued to a date uncertain for further research; and

**WHEREAS**, on July 30, 2009, an application for Design Review, Conditional Use Permit, Zoning Ordinance Amendment, and Environmental Assessment was submitted to replace the 718.5 sq. ft. Higgins Landing Dock with a redesigned 1,190 sq. ft. ADA-accessible dock and to rezone the property from R-2 to POS; and

**WHEREAS**, on November 12, 2009, the Initial Study and Mitigated Negative Declaration were prepared and were sent to State Clearinghouse, agencies with jurisdiction over the project, and circulated to interested parties in accordance with the California Environmental Quality Act (CEQA); and

**WHEREAS**, on November 12, 2009, a Notice of Public Hearing for the January 12, 2010 Planning Commission hearing and a Notice of Intent to Adopt a Mitigated Negative Declaration was published in the Marin Independent Journal, and mailed to property owners within 600' of the property and any other party requesting notice; and

**WHEREAS**, on January 8, 2010, a Notice of Public Hearing for the revised February 9, 2010 Planning Commission hearing (cancelling the January 12, 2010 Planning Commission hearing) was mailed to property owners within 600' of the property and all parties requesting notification; and

**WHEREAS**, on February 9, 2010, the Planning Commission held a public hearing on the item, and heard testimony from the applicant and interested parties; and

**WHEREAS**, on February 9, 2010, the Planning Commission has considered the Final Initial Study and Mitigated Negative Declaration dated February 3, 2010 prepared by WRA Environmental Consultants together with any comments received during the public review process; and

**WHEREAS**, the Town Clerk is the custodian of the documents which constitute the record of proceedings upon which the decision is based, of which the documents are located at Corte Madera Town Hall, at 300 Tamalpais Drive, Corte Madera, California.

**NOW, THEREFORE, BE IT RESOLVED**, that the Planning Commission of the Town of Corte Madera does hereby make the following findings:

**MITIGATED NEGATIVE DECLARATION FINDINGS**

1. The Final Initial Study and Mitigated Negative Declaration, dated February 3, 2010 and prepared by WRA Environmental Consultants, has been considered by the Planning Commission and the Planning Commission finds that the Final Initial Study and Mitigated Negative Declaration adequately assesses the environmental impacts of the proposed rezoning from R-2 to POS and proposed construction of a 1,190 sq. ft. ADA-accessible dock at 190 Lucky Drive. Public comments have been received and reviewed, and minor modifications to the Final Initial Study and Mitigated Negative Declaration have been made in response to these comments. The comments and information that were presented only supported previous conclusions in the Draft Initial Study and Mitigated Negative Declaration. Acceptable mitigation measures have been identified and have been incorporated into the proposed project as set forth in Appendix A

of the Final Initial Study and Mitigated Negative Declaration, entitled *Mitigation Monitoring and Reporting Plan*. Revisions in the project by the incorporation of the proposed mitigation measures, which have been agreed to by the applicant, will mitigate the effects of the proposed project to a point where clearly no significant effects would occur. There is no substantial evidence in light of the record as a whole, that the project as revised and as required of the Condition of Approval will have a significant effect on the environment.

2. Pursuant to §21081 of the Public Resources Code, a Mitigating Monitoring and Reporting Plan has been prepared and is included as Appendix A in the Final Initial Study and Mitigated Negative Declaration, dated February 3, 2010 and prepared by WRA Environmental Consultants.
3. Approval of this Final Initial Study and Mitigated Negative Declaration is based on the whole record (the Final Initial Study and Mitigated Negative Declaration and any comments received) and the approval reflects the independent judgment of the approval authority of the Town of Corte Madera.

**BE IT FURTHER RESOLVED**, that the Planning Commission does hereby **approve** the Final Initial Study and Mitigated Negative Declaration (Environmental Assessment 09-005) prepared for the rezoning action and to replace the pre-existing 718.5 sq. ft. Higgins Landing Dock with a 1,190 sq. ft. ADA-accessible dock at **190 Lucky Drive** in Corte Madera, based upon the findings listed above, and hereby adopts the Mitigating Monitoring and Reporting Plan attached as Exhibit A.

**BE IT FURTHER RESOLVED**, that the Planning Commission does hereby **recommend that the Town Council approve** the Final Initial Study and Mitigated Negative Declaration (Environmental Assessment 09-005) for Zoning Ordinance Amendment No. 09-004 to rezone the property from R-2 (Low-Density Multiple Dwelling District) to POS (Parks, Open Space, and Natural Habitat) at **190 Lucky Drive** in Corte Madera, based upon the findings listed above which are equally applicable to Zoning Ordinance Amendment Application No. 09-004.

\* \* \* \* \*

**PASSED AND ADOPTED** by the Corte Madera Planning Commission on February 9, 2010, by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

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Bruce Mace, Chair

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Dan Bell, Interim Planning Director

## BEFORE THE TOWN OF CORTE MADERA PLANNING COMMISSION

**In the Matter of:**

(1) To recommend approval to the Town Council to rezone the property from R-2 (Low-Density Multiple Dwelling District) to POS (Parks, Open Space, and Natural Habitat) at **190 Lucky Drive.**

**Resolution No. 10-002**

**Zoning Ordinance Amendment No. 09-004**

**Recommendation Date:** February 9, 2010

**WHEREAS,** in November 2005, the Higgins Landing Dock was removed due to deterioration that had become a safety problem; and

**WHEREAS,** on January 17, 2006, the Town Council received a petition from residents asking for the dock to be replaced; and

**WHEREAS,** on February 21, 2006, the Town Council appointed a task force to prepare a Feasibility Study for replacing the dock; and

**WHEREAS,** on November 21, 2006, the Town Council accepted the Feasibility Study and directed that the project be placed in the Capital Improvement Program as an unfunded project; and

**WHEREAS,** on January 13, 2007, a Boating and Trails Facilities grant of \$130,000 was received from the California Department of Boating and Waterways; and

**WHEREAS,** on May 1, 2007, an application for Design Review, Conditional Use Permit, Zoning Ordinance Amendment, and Environmental Assessment was submitted to replace the 718.5 sq. ft. Higgins Landing Dock with a 1,248 sq. ft. ADA-accessible dock and to rezone the property from R-2 to POS; a Biological Assessment, an Initial Study, and Mitigated Negative Declaration were prepared; and

**WHEREAS,** on May 2, 2007, the Initial Study and Mitigated Negative Declaration was sent to the State Clearinghouse; and

**WHEREAS,** on May 2, 2007, a Notice of Public Hearing for the May 22, 2007 Planning Commission hearing and a Notice of Intent to Adopt a Mitigated Negative Declaration was published in the Marin Independent Journal; and

**WHEREAS,** on May 3, 2007, a Revised Notice of Public Hearing for the May 22, 2007 Planning Commission hearing and June 5, 2007 Town Council hearing, and a Notice of Intent to Adopt a Mitigated Negative Declaration were published in the Marin Independent Journal and mailed to property owners within 600' of the property; and

**WHEREAS,** on May 22, 2007, the Planning Commission held a public hearing on the rezoning and Initial Study & Mitigated Negative Declaration for the proposed rezoning and proposed dock project. The item was continued to a date uncertain for further research; and

**WHEREAS**, on July 30, 2009, an application for Design Review, Conditional Use Permit, Zoning Ordinance Amendment, and Environmental Assessment was submitted to replace the 718.5 sq. ft. Higgins Landing Dock with a redesigned 1,190 sq. ft. ADA-accessible dock and to rezone the property from R-2 to POS; and

**WHEREAS**, on November 12, 2009, the Initial Study and Mitigated Negative Declaration were prepared and were sent to State Clearinghouse, agencies with jurisdiction over the project, and circulated to interested parties in accordance with the California Environmental Quality Act (CEQA); and

**WHEREAS**, on November 12, 2009, a Notice of Public Hearing for the January 12, 2010 Planning Commission hearing and a Notice of Intent to Adopt a Mitigated Negative Declaration was published in the Marin Independent Journal, and mailed to property owners within 600' of the property and any other party requesting notice; and

**WHEREAS**, on January 8, 2010, a Notice of Public Hearing for the revised February 9, 2010 Planning Commission hearing (cancelling the January 12, 2010 Planning Commission hearing) was mailed to property owners within 600' of the property and all parties requesting notification; and

**WHEREAS**, on February 9, 2010, the Planning Commission adopted Resolution 10-001 approving the Environmental Assessment 09-005, including the Final Initial Study and Mitigated Negative Declaration and Mitigating Monitoring and Reporting Plan dated February 3, 2010, prepared by WRA Environmental Consultants, for the proposed rezoning from R-2 to POS and for the proposed construction of a 1,190 sq. ft. ADA-accessible dock at 190 Lucky Drive; and

**WHEREAS**, on February 9, 2010, the Planning Commission held a public hearing on the item, and heard testimony from the applicant and interested parties; and

**NOW, THEREFORE, BE IT RESOLVED**, that the Planning Commission of the Town of Corte Madera does hereby make the following findings:

Finding:

The proposed zoning ordinance amendment to rezone the subject property from R-2 (Low-Density Multiple Dwelling District) to POS (Parks, Open Space, and Natural Habitat), is consistent with the General Plan.

Facts in Support of Finding:

In the 2009 General Plan, the General Plan Land Diagram and text indicate that the two subject parcels (APNs 022-203-11 and 024-330-23) have an existing Land Use designation of "Parks" defined as "publicly owned sites intended for active and passive recreation". The existing Town Zoning District Map has designated the subject property as R-2 (Low-Density Multiple Dwelling District). Chapter 18.08 of the Town Zoning Ordinance describes the R-2 zoning district as primarily intended for residential use. Although the two parcels are owned by the Town, the General Plan "Parks" designation is more consistent with the POS zoning than R-2.

Instead of allowing housing and accessory structures, the POS zoning designation will help preserve the property for use as active and passive recreation, which will also allow for improved disabled access to Corte Madera Creek and San Francisco

Bay via the Higgins Landing Boat Dock.

**BE IT FURTHER RESOLVED**, that the Planning Commission of the Town of Corte Madera does hereby **recommends approval to the Town Council** of Zoning Ordinance Amendment No. 09-004 to rezone the property from R-2 (Low-Density Multiple Dwelling District) to POS (Parks, Open Space, and Natural Habitat) **at 190 Lucky Drive** in Corte Madera, based upon the findings listed above in accordance with California State Law.

\* \* \* \* \*

**PASSED AND ADOPTED** by the Corte Madera Planning Commission on February 9, 2010, by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

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Bruce Mace, Chair

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Dan Bell, Interim Planning Director

# BEFORE THE TOWN OF CORTE MADERA PLANNING COMMISSION

**In the Matter of:**

An approval of a Design Review and Conditional Use Permit to replace the pre-existing 718.5 sq. ft. Higgins Landing Dock with a 1,190 sq. ft. ADA-accessible dock at **190 Lucky Drive.**

**Resolution No. 10-003**

**Design Review No. 09-012**

**Conditional Use Permit No. 09-005**

**Adoption Date:** February 9, 2010

**Appeal Period Ends:** February 19, 2010

**WHEREAS,** in November 2005, the Higgins Landing Dock was removed due to deterioration that had become a safety problem; and

**WHEREAS,** on January 17, 2006, the Town Council received a petition from residents asking for the dock to be replaced; and

**WHEREAS,** on February 21, 2006, the Town Council appointed a task force to prepare a Feasibility Study for replacing the dock; and

**WHEREAS,** on November 21, 2006, the Town Council accepted the Feasibility Study and directed that the project be placed in the Capital Improvement Program as an unfunded project; and

**WHEREAS,** on January 13, 2007, a Boating and Trails Facilities grant of \$130,000 was received from the California Department of Boating and Waterways; and

**WHEREAS,** on May 1, 2007, an application for Design Review, Conditional Use Permit, Zoning Ordinance Amendment, and Environmental Assessment was submitted to replace the 718.5 sq. ft. Higgins Landing Dock with a 1,248 sq. ft. ADA-accessible dock and to rezone the property from R-2 to POS; a Biological Assessment, an Initial Study, and Mitigated Negative Declaration were prepared; and

**WHEREAS,** on May 2, 2007, the Initial Study and Mitigated Negative Declaration was sent to the State Clearinghouse; and

**WHEREAS,** on May 2, 2007, a Notice of Public Hearing for the May 22, 2007 Planning Commission hearing and a Notice of Intent to Adopt a Mitigated Negative Declaration was published in the Marin Independent Journal; and

**WHEREAS,** on May 3, 2007, a Revised Notice of Public Hearing for the May 22, 2007 Planning Commission hearing and June 5, 2007 Town Council hearing, and a Notice of Intent to Adopt a Mitigated Negative Declaration were published in the Marin Independent Journal and mailed to property owners within 600' of the property; and

**WHEREAS,** on May 22, 2007, the Planning Commission held a public hearing on the rezoning and Initial Study & Mitigated Negative Declaration for the proposed rezoning and proposed dock project. The item was continued to a date uncertain for further research; and

**WHEREAS**, on July 30, 2009, an application for Design Review, Conditional Use Permit, Zoning Ordinance Amendment, and Environmental Assessment was submitted to replace the 718.5 sq. ft. Higgins Landing Dock with a redesigned 1,190 sq. ft. ADA-accessible dock and to rezone the property from R-2 to POS; and

**WHEREAS**, on November 12, 2009, the Initial Study and Mitigated Negative Declaration were prepared and were sent to State Clearinghouse, agencies with jurisdiction over the project, and circulated to interested parties in accordance with the California Environmental Quality Act (CEQA); and

**WHEREAS**, on November 12, 2009, a Notice of Public Hearing for the January 12, 2010 Planning Commission hearing and a Notice of Intent to Adopt a Mitigated Negative Declaration was published in the Marin Independent Journal, and mailed to property owners within 600' of the property and any other party requesting notice; and

**WHEREAS**, on January 8, 2010, a Notice of Public Hearing for the revised February 9, 2010 Planning Commission hearing (cancelling the January 12, 2010 Planning Commission hearing) was mailed to property owners within 600' of the property and all parties requesting notification; and

**WHEREAS**, on February 9, 2010, the Planning Commission adopted Resolution 10-001 approving the Environmental Assessment 09-005, including the Final Initial Study and Mitigated Negative Declaration and Mitigating Monitoring and Reporting Plan dated February 3, 2010, prepared by WRA Environmental Consultants, for the proposed rezoning from R-2 to POS and for the proposed construction of a 1,190 sq. ft. ADA-accessible dock at 190 Lucky Drive; and

**WHEREAS**, on February 9, 2010, the Planning Commission adopted Resolution 10-002 recommending approval to the Town Council of Zoning Ordinance Amendment No. 09-004 to rezone the property from R-2 at 190 Lucky Drive; and

**WHEREAS**, on February 9, 2010, the Planning Commission held a public hearing on the Design Review and Conditional Use Permit applications, and heard testimony from the applicant and interested parties; and

**NOW, THEREFORE, BE IT RESOLVED**, that the Planning Commission of the Town of Corte Madera does hereby make the following findings:

**DESIGN REVIEW: REQUIRED FINDINGS**

**1. The project conforms with the General Plan, any applicable Specific Plan, and all provisions of the Zoning Ordinance.**

Facts in Support of Finding:

The project to replace the pre-existing 718.5 sq. ft. Higgins Landing Dock with a 1,190 sq. ft. ADA-accessible dock will advance and comply with the following, applicable General Plan guiding policies:

Conformance with General Plan Policy PR-1.1 —

*"Emphasize maintenance and upgrading of existing community parks and facilities."*

- Replacing the dock at Higgins Landing is a maintenance and renovation project consistent

with the above policy.

Conformance with General Plan Goal PR-4 –

*"Adequate access to open space."*

- The new dock will provide small boat access to the Bay to the general public since the pre-existing dock was demolished, and the new dock will be fully-accessible to people with disabilities.

Conformance with the Zoning Ordinance –

- If the rezoning under Zoning Ordinance Amendment No. 09-004 is approved by the Town Council, then the project will comply with all regulatory standards in the POS (Parks, Open Space, and Natural Habitat) zoning district. Condition of Approval 1 states that the Design Review Permit 09-012 is effective upon approval of Zoning Ordinance Amendment No. 09-004 by the Town Council.

Conformance with any applicable Specific Plan –

- The project location is not within an established Specific Plan area.

- 2. The project will not unnecessarily remove trees and natural vegetation, will preserve natural landforms and ridgelines, does not include excessive or unsightly grading of hillsides, and otherwise will not adversely affect the natural beauty of the Town.**

Facts in Support of Finding:

The proposed dock will not result in the unnecessary removal of any trees or natural vegetation. All vegetation and natural landforms will be preserved. The project does not include any grading of hillsides. The replacement of a pre-existing dock will not otherwise adversely affect the natural beauty of the Town.

- 3. The project will not significantly and adversely affect the views, sunlight, or privacy of nearby residences, provides adequate buffering between residential and nonresidential uses, and otherwise is in the best interests of the public health, safety and general welfare.**

Facts in Support of Finding:

The proposed 1,190 sq. ft. ADA-accessible dock will replace the pre-existing, slightly smaller, 718.5 sq. ft. that was demolished. The replacement dock will not significantly or adversely affect any nearby residences because the dock is adequately sited away from the nearest two-story residential condominium property to the east of the dock which is partially buffered with existing vegetation along the shoreline. The dock will be in the best interests of the public health, safety and general welfare because disabled access to the water will be improved, and the project supports recreational use of the site by the community.

- 4. The structure, site plan and landscaping are in scale and harmonious with existing and future development adjacent to the site and in the vicinity and with the landforms and vegetation in the vicinity of the site.**

Facts in Support of Finding:

The proposed replacement dock continues to be in scale and harmonious with the Higgins

Landing Park and existing boat house since the new dock will be in the same location as the original dock and it will be attached to the shore-side bulkhead and in-water dolphin that supported the original dock. The project will not affect any landforms and natural vegetation in the vicinity of the site. The project will improve recreation access for the community with the construction of the proposed project which includes ADA-accessible parking and an ADA-accessible dock.

**5. Development materials and techniques will result in durable high-quality structures.**

Facts in Support of Finding:

The proposed replacement dock will result in a safer, more durable dock that will be in compliance with the California Building Standards Code and the Americans with Disabilities Act (ADA). The proposed building materials include an aluminum walkway and gangway, galvanized steel abutment hinges, concrete piles, and fiberglass boarding floats. The construction work will be done by a licensed contractor with experience in marine environments.

**6. The structures, site plan, and landscaping create an internal sense of order, provide a visually pleasing setting for occupants, visitors, and the general community, are appropriate to the function of the site, and provide safe and convenient access to the property for pedestrians, cyclists and vehicles.**

Facts in Support of Finding:

The proposed dock will be visually pleasing to the general community because the dock is in scale with the park and the surrounding area. The dock will continue to be adequately sited away from the nearest two-story residential condominiums to the east. No aspect of the project will impede safe and convenient access to the property for pedestrians, cyclists and vehicles as the project is designed with the purpose of enhancing access.

**7. To the maximum extent feasible, the project includes the maintenance, rehabilitation, and improvement of existing sites, structures, and landscaping, and will correct any violations of the Zoning Ordinance, Building Code, or other municipal violations that exist on the site.**

Facts in Support of Finding:

The new dock will be constructed in compliance with the California Building Standards Code and the Americans with Disabilities Act (ADA) standards. One ADA-restricted parking space will be provided at the park site for disabled drivers parallel to Lucky Drive. In addition, an ADA-accessible 10 minute loading/unloading space will be provided. The curb, gutter, and sidewalk that form the existing bus pad adjacent to the park will also be reconfigured to create the two spaces. As part of this work, the slope of driveway to the existing boat house will also be adjusted to meet ADA standards.

**8. The design and location of signs are consistent with the character and scale of the buildings to which they are attached or which are located on the same site, the signs are visually harmonious with surrounding development and there are no illegal signs on the site.**

Facts in Support of Finding:

The Operational Conditions sign shall be submitted separately to the Planning Department and the sign shall comply with the General Provisions for Signs as indicated in Corte Madera Municipal Code §18.22.050. Pursuant to Madera Municipal Code §18.22.030(7), any sign, posting notice or other indication placed or required by a public entity in carrying out its responsibility to protect the general health, safety and welfare of the community or as required by law is exempt from Design Review.

**CONDITIONAL USE PERMIT: REQUIRED FINDINGS**

**1. The proposed location of the conditional use is in accord with the objective of this title and the purpose of the district in which the site is located.**

Facts in Support of Finding:

The proposed location of the new dock in the same approximate location of the pre-existing dock and will continue to serve as a public recreational amenity as it has for the last approximately 38 years. If the rezoning under Zoning Ordinance Amendment No. 09-004 is approved (rezoning from R-2 to POS which is included as a Condition of Approval), the project will comply with all regulatory standards in the POS zoning district which is intended for public recreation use facilities. The new dock will provide small boat access to the Bay. The new dock will be a significant improvement to public access because it will be fully-accessible to people with disabilities who wish to launch and use small boats, especially kayaks.

**2. The proposed location of the conditional use and the proposed conditions under which the use would be operated and maintained will not be detrimental the public health, safety or welfare.**

Facts in Support of Finding:

A public park or other type of public facility in the POS zoning district requires a Conditional Use Permit. The ADA-accessible dock and two ADA-accessible parking spaces are consistent with the POS zoning district which is intended for public recreation use facilities.

To ensure that the project will not be detrimental the public health, safety or welfare, the project has been conditioned to require that prior to opening the dock for public use, the Town shall install the following Operational Conditions sign on site:

1. The dock may be used by the public for fishing and non-motorized boating. Commercial uses are not allowed.
2. The dock hours of operation are from sunrise to one hour after sunset. No nighttime activity is allowed.
3. Use of life jackets is required.
4. No nighttime lighting is allowed except as required by the Twin Cities Police Department for pedestrian safety and general security.
5. Any and all uses of this facility are at your own risk. This facility is NOT supervised. The Town of Corte Madera does not assume any responsibility for injuries (California Government Code Section 831.7).
6. Do not use facility if a hazardous condition exists. Report any damage, vandalism, or hazardous condition to the Twin Cities Police Department, (415) 927-5150.

Furthermore, the Initial Study and Mitigated Negative Declaration for the dock has determined that the incorporation of mitigation measures will reduce potential impacts resulting from implementation of the proposed project to a less than significant level.

**3. That the proposed conditional use will comply with the General Plan and with each of the applicable provisions of this title.**

Facts in Support of Finding:

The proposed dock complies with the General Plan existing Land Use designation of "Parks" defined as "publicly owned sites intended for active and passive recreation". The expanded dock at the park complies with the General Plan Policy PR-1.1 which states "emphasize maintenance and upgrading of existing community parks and facilities" and General Plan Goal PR-4 which that there should be "adequate access to open space". The new dock will provide small boat access to the Bay to the general public since the pre-existing dock was demolished, and the new dock will be fully-accessible to people with disabilities.

**BE IT FURTHER RESOLVED**, that the Planning Commission does hereby conditionally **approve** Design Review No. 09-012 and Conditional Use Permit 09-005 to replace the pre-existing 718.5 sq. ft. Higgins Landing Dock with a 1,190 sq. ft. ADA-accessible dock at **190 Lucky Drive** in Corte Madera, based upon the findings listed above in accordance with Section 18.30.070 and 18.26.050 of the Municipal Code, and subject to the conditions listed herein:

**CONDITIONS OF APPROVAL**

**PLANNING DEPARTMENT**

1. Approval of Design Review 09-012 and Conditional Use Permit 09-005 shall only be in effect if Zoning Ordinance Amendment No. 09-004 is approved by the Town Council.
2. The proposed project shall be constructed substantially in accordance with the HIGGINS LANDING plans stamped "Official Exhibit" with a RECEIVED stamped of October 28, 2009 on sheet 1, and with a RECEIVED stamped of July 30, 2009 on sheet 2, except as amended by the conditions listed below:
3. No other changes shall be made to the approved site plans, sections, or profile views without written approval from the Corte Madera Planning Department. The Planning Director may refer changes to the Planning Commission.
4. All mitigation measures identified in the project's adopted Final Initial Study and Mitigated Negative Declaration dated February 3, 2010 prepared by WRA Environmental Consultants and as outlined in the Mitigation Monitoring and Report Program are hereby incorporated into the project's Conditions of Approval.
5. As set forth in the project application, equipment powered by engines powered by fuels that produce greenhouse gases (GHG) shall not idle for periods of time longer than five minutes. Prior to construction, the contractor shall inform all construction workers about this requirement and shall also post a sign as a reminder to workers in an appropriate location at the work site that states this requirement.

6. As set forth in the project application, work on the project shall immediately stop if a suspected cultural artifact is found during construction as required by law. An approved archeologist shall then be called to examine the possible artifact and make recommendations appropriate to the situation. If a cultural artifact is found, it shall be properly recorded and reported.
7. As set forth in the project application, the contractor shall carry a spill prevention kit in construction equipment that use of fuel or other lubricants, and re-fueling of land equipment shall be conducted away from areas where a spill would potentially flow into water, and re-fueling of equipment on water (e.g., boats or powered barges) shall follow requirements of the Office of Oil Spill Prevention and Response.
8. Prior to a final Building Division inspection of this project, the applicant shall contact the Planning Division to schedule an inspection of the finished project to ensure compliance with all of the required Conditions of Approval.
9. Prior to construction, the applicant shall coordinate with the Marin County Transit District to relocate the existing bus stop for Golden Gate Transit and the Twin Cities Shuttle to an appropriate nearby location.
10. Prior to opening the dock for public use, the Town shall install the following Operational Conditions sign on site to ensure that the project will not be detrimental the public health, safety or welfare:
  1. The dock may be used by the public for fishing and non-motorized boating. Commercial uses are not allowed.
  2. The dock hours of operation are from sunrise to one hour after sunset. No nighttime activity is allowed.
  3. Use of life jackets is required.
  4. No nighttime lighting is allowed except as required by the Twin Cities Police Department for pedestrian safety and general security.
  5. Any and all uses of this facility are at your own risk. This facility is NOT supervised. The Town of Corte Madera does not assume any responsibility for injuries (California Government Code Section 831.7).
  6. Do not use facility if a hazardous condition exists. Report any damage, vandalism, or hazardous condition to the Twin Cities Police Department, (415) 927-5150.

#### BUILDING DEPARTMENT

11. Because the proposed dock and gangway structure will be anchored to an existing land-based abutment and will be tethered to pilings that will stabilize the position of the dock within the lagoon, issuance of a building permit will be necessary as required by the provisions of Appendix Chapter 1 of the California Building Code (as adopted by the Town of Corte Madera.)
12. The dock and gangway must be structurally designed to comply with applicable provisions of Chapter 16 (Structural Design) of the California Building Code and applicable provisions of ASCE Standard 7. Conformance with alternative acceptable design standards (such as ASCE Manual 50, Planning and Design Guidelines for Small Craft Harbors) is also acceptable where such standards are applicable to the scope and material elements of the project. Additionally, compliance with the provisions of Section 15.5.6 of ASCE Standard 7 (Design Basis for Piers and Wharves) should also be considered where applicable.

13. Section 1132B of the California Building Code identifies when outdoor occupancies are required to be made accessible to disabled persons. Section 1132B.2, Item #4 requires that: "boat docks, fishing piers, etc., shall be accessible." Because the California Building Code contains no technical specifications for the accessible design of floating boat docks with articulating gangways, design of the dock/gangway structure should comply with an approved disabled access standard such as Section 1003 of the 2004 ADA/ABA Accessibility Guidelines, specifically Section 1003, which addresses Recreational Boating Facilities.
14. The design of the project's on-street parking and loading area does not fall within the regulatory scope of the California Building Code. Site accessibility requirements for exterior routes of travel, as stipulated in Division II of Chapter 11B, limit accessible design to elements contained "within the boundary of the site."

#### PUBLIC WORKS/ENGINEERING DEPARTMENT

##### Work In Public Right-of-Way

15. An Encroachment Permit from the Public Works Department will be required for all activities within, or use of, the public right-of-way (curbs, sidewalks, etc...) per Municipal Code Section 12.04.040. Work in the public right-of-way shall be in conformance with the Marin County Uniform Construction Standards and Specifications.

##### Permits From Other Agencies

16. Prior to issuing a Town Building Permit, all appropriate permits shall be obtained from any regulatory agency having jurisdiction over the project (such as the Bay Conservation and Development Commission, Army Corps of Engineers, California Department of Fish and Game, etc...).

##### Construction Operations

17. Per Municipal Code Section 9.33.100, best management practices (BMPs) shall be used as appropriate from the California Stormwater Best Management Practice Handbook for Construction Activity, latest edition, or from the Erosion and Sedimentation Control Field Manual published by the California Regional Water Quality Control Board, to control and prevent the discharge of sediment, debris and other construction related wastes to the storm drainage system or waterways, including, but not limited to, general construction, concrete and mortar application, heavy equipment operation, road work and paving, and earth-moving activities.

##### Public Safety Signs

18. Prior to opening the dock for public use, the Town shall install two warning signs for the safety of the public. One sign facing outboard shall warn boaters of the inlet pipes to the west of the dock which feed into the High Canal. A second sign shall warn boaters of the concrete discharge unit from the High Canal that is located below the water surface the west of the dock.

#### EXTERIOR LIGHTING

19. Prior to final building inspection, all exterior lighting shall be shielded and/or directed so that it does not glare off-site.

#### CONDITIONS DURING CONSTRUCTION

- 20. Hours of construction shall be limited to 7:30 a.m. to 5:30 p.m., Monday through Friday, and 10:00 a.m. to 5:00 p.m. on Saturday, provided that if any work-related complaints are received about construction on a weekend, no further work shall be conducted on a Saturday. No workers shall be on the site except during these hours. No work shall be performed on a legal holiday.
- 21. All equipment shall be equipped with mufflers.
- 22. Prior to final building inspection, all debris shall be removed from the site.

DESIGN REVIEW and CONDITIONAL USE PERMIT

- 23. This Design Review approval shall lapse and become null and void one year following the date on which the approval becomes final unless, prior to the expiration of said one year, a building permit is issued and construction is commenced and diligently pursued toward completion on the site which was the subject of the application, or a Certificate of Occupancy is issued for the site or structure which was the subject of the application. Design Review approval may be renewed as prescribed in Section 18.30.090 and 18.26.060 of the Town Zoning Ordinance.

STOP WORK ORDER - RED TAG ORDINANCE

- 24. Per Section 15.70.010 of the Municipal Code, whenever any construction or other work that is subject to any provision of the Code has been, or is being, done in any manner that is contrary to any of the provisions of the Code, any ordinance of the Town, or any condition of a permit, approval, or other entitlement granted by the Town, the Town Manager or his/her designee may order that all construction or work on the property be stopped immediately by notice in writing mailed to any person engaged in doing or causing such work to be done and the owner of the property, and by posting on the property where the violation has occurred, or is presently occurring, a notice to stop such construction or work. Such person shall forthwith stop such work until authorized by the Town to proceed.

APPEAL PERIOD

- 25. Unless a shorter statute of limitation applies, judicial challenges to this decision must be brought within the time period specified in California Code of Civil Procedures § 1094.6.

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**PASSED AND ADOPTED** by the Corte Madera Planning Commission on February 9, 2010, by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

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Bruce Mace, Chair

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Dan Bell, Interim Planning Director