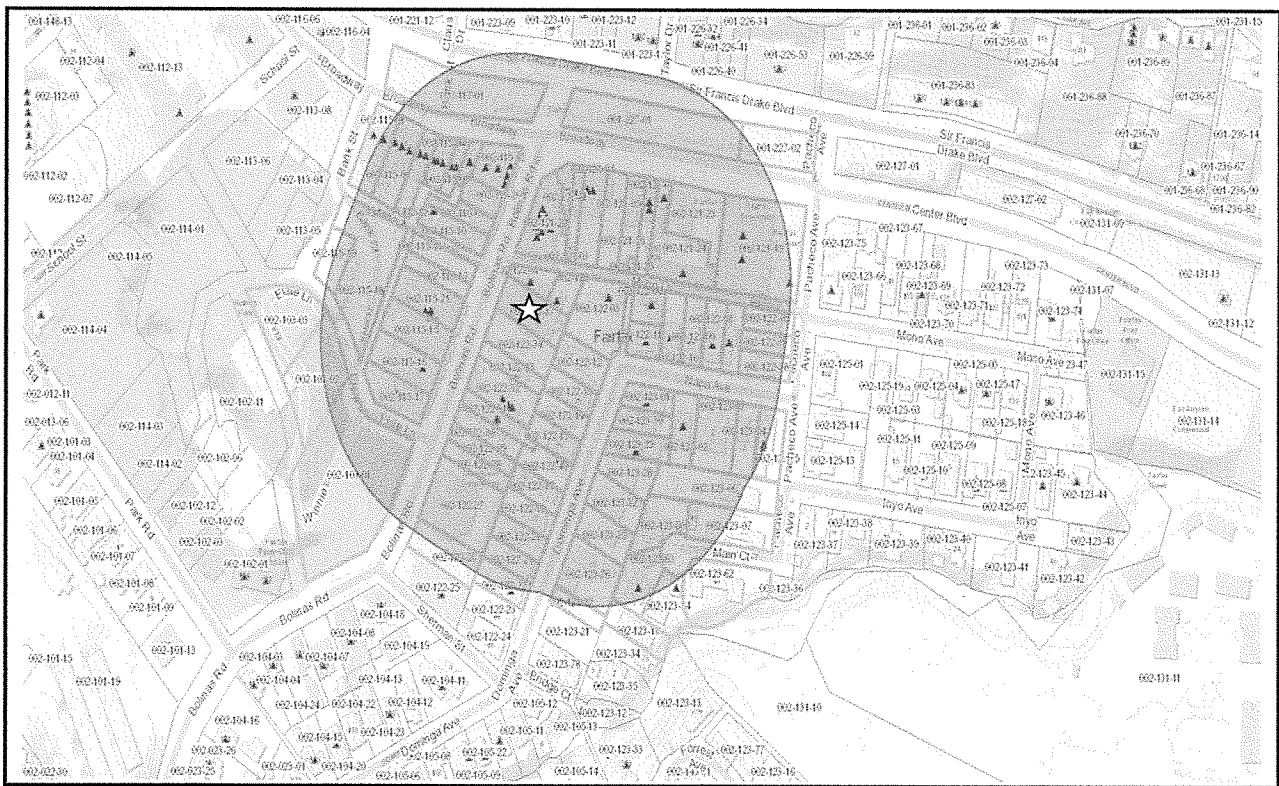


STAFF REPORT
Department of Planning and Building Services

TO: Fairfax Planning Commission
DATE: May 18, 2017
FROM: Linda Neal, Principal Planner
LOCATION: 31 Bolinas Road; Assessor's Parcel Numbers 002-122-02, 34 and 37
ZONING: Central Commercial CC Zone
PROJECT: Minor exterior changes to the approved plans and limited outdoor Uses for Suites D and E
ACTION: Use Permit, Design Review Permit modifications and a Hedge Height Variance; Application # 02-39
APPLICANT: Fred Divine, Fredric C. Divine Associates
OWNER: Brad Schwan
CEQA STATUS: Categorically exempt, § 15301(a)



31 BOLINAS ROAD

BACKGROUND

The Planning Commission granted a Use Permit to allow mixed use of this property in 2002.

The original Use Permit was modified in 2012 to allow an arbor enclosed outdoor seating space for the restaurant space located at the front of the building.

At its May 21, 2015 meeting, the Commission modified the Use Permit and Design Review Permit for the building to allow a remodel/expansion of the structure, reapproving a combination of restaurant/retail/personal service uses in the two front suites and the one middle suite with light industrial/retail/personal service in the rear suite adjacent to the parking lot, a live work space in the rear northeastern corner suite fronting on Mono Avenue and a residential apartment on the second floor. They also obtained a Design Review Permit for exterior changes and a landscaping plan.

The May 2015 Use Permit Modification was granted without the need for a traffic impact permit because the Commission determined that the 1,947-square-foot restaurant with outdoor seating for 56 and the 874-square-foot retail personal service hair salon business, the first tenants in the building, did not meet the criteria for a traffic impact permit (Town Code § 17.056.050). The Commission relied on Town Code 17.056.050(3) agreeing to assess each new use incrementally in order to aid the owner in getting a portion of the site finished and rented. The Commission stipulated at that time, that use of the Live Work space in the rear, northeastern corner of the site for any other use would/could trigger the need for a traffic impact (TIP) permit.

In November of 2015 the property owner applied to again modify the use permit for the building to use the northeastern rear suite of the building for either 'Light Industrial, Retail, Personal Service, Exercise and/or Live-Work. At that time, the property owner provided a letter from his traffic engineering indicating that the expansion of the proposed types of uses for that space in the building would not trigger the need for a Traffic Impact TIP Permit. The Town Traffic Engineer concurred with the project traffic engineer's analysis. Please see Attachment B – plans approved November 18, 2015.

On June 16, 2016, the Planning Commission approved a further modification to the Use Permit to allow acoustic music to be played outside in the eating area underneath the arbor structure.

DISCUSSION

The owner is now applying for a modification to the Design Review Permit and the Use Permit for exterior changes and to allow limited outdoor uses for Suites D and E.

The proposed changes to the project include the following:

1. A request to leave the new mechanical equipment on the roof unscreened.-

2. Legalization of a revised landscaping plan utilizing a southwestern motif instead of the approved plan that utilizes native vines, shrubs and small native trees.
3. Legalization of the curtains and a clear PVC roof on the outdoor seating arbor structure that have been installed without permits.
4. Removal of the proposed planting bed on the south side of the access driveway to enlarge the garbage enclosure.
5. Legalization of the elimination of the awning from the building façade and replacement with a small arbor over the entrance door to the hair salon.
6. Legalization of the bamboo hedges on the west side of the property that have been allowed to grow well over the permitted six-feet (6 ft.) in height.
7. A modification of the Use Permit to allow: a) the outdoor use of a 1,441-square-foot portion of the rear yard area for meditation, seating before and after classes and occasional open house events or anniversary celebrations during regular business hours in conjunction with the yoga studio; b) use of approximately a 622-square-foot portion of the rear yard by the pet store for the following: classes once or twice a week from April through October, a petting area for animals awaiting adoption, a dog washing station with an enclosure for a washer and dryer, a storage shed and a garden for growing cat grass and catnip. Animals would not be kept in the outdoor area after business hours and the long term or overnight kenneling of animals in this outdoor location is not part of the application for expanded uses (Attachment C).

REQUIRED DISCRETIONARY PERMITS

The project would require the approval of the following discretionary permits by the Planning Commission:

- A modification of the approved Use Permit
- A modification of the approved Design Review Permit
- A Hedge Height Variance

DISCUSSION

Modification of the Use Permit

Use Permit # 02-39 did not include a request to operate certain aspects of the businesses using Suites D and E outdoors. The applicant is requesting a modification of the existing Use Permit to allow patrons of Yoga Mountain yoga studio to use the

yard area for meditation, an area to sit outside before and after classes and for occasional events during regular business hours and for the various uses described above by the pet shop. The proposed exterior uses will not significantly impact the adjacent residential uses. Staff has included a condition of approval in the resolution that the modified Use Permit for the outdoor use of the rear yard by Yoga Mountain yoga studio and For Paws pet shop does not allow any outdoor performances, group classes, playing of instruments or records or music or entertainment of any kind and does not allow overnight boarding of animals. Any change in the use of the two outdoor spaces or use by businesses that might replace Yoga Mountain and For Paws will require an additional modification of a Use Permit 02-39.

Modification of the Design Review Permit

Town Code § 17.020.030(B) requires design review approval of exterior changes to structures located within the Central Commercial CC Zone where 31 Bolinas Road is located. The Design Review Permit would need to be modified to include the arbor over the hair salon front access door, the changes to the landscaping plan, the curtains and PVC roof on the arbor and the expanded garbage enclosure. The applicant is also requesting an exemption from having to screen the new equipment on the roof.

Staff believes the changes proposed for the arbor area landscaping and the structure compliment the design of the outdoor eating area. The clear PVC roof is hardly visible and the vines planted in accordance with the revised landscaping plan are growing up and will eventually provide further screening of the roof.

The replacement of the previous landscaping plan that utilized Oregon Grape and California Grape plants and 2 Holly Cherry Trees with a southwestern/tropical theme using succulents, grasses, ferns and vines will not significantly change the design of the property or the relationship between the landscaping and the building.

The enlargement of the garbage enclosure on the southern side of the parking lot entrance driveway will provide an adequately sized area for refuse from the five businesses.

In order to approve the modification to the Design Review Permit the Commission must determine that the proposed changes comply with the design review criteria listed in Town Code § 17.020.040 (A) through (N).

None of the changes described above result in the property design being out of compliance with the design review criteria. The changes create a well composed design that relates harmoniously to the site and surrounding commercial buildings.

The applicant has also requested relief from the requirement that the new equipment on the roof be screened from view citing the fact that screening the equipment will compromise the roof membrane.

There are equipment screening systems and companies that specialize in screening equipment on foam roofs. Staff does not believe that the applicant's argument that installing a screen will compromise the foam roof is valid.

Other buildings that have been remodeled have been required to screen their roof equipment. The Good Earth grocery store installed equipment on the roof of the rear of the structure at 720 Center Boulevard (on the Sir Francis Drake side of the building where the equipment was very visible). This equipment was installed on top of a foam roof, and was not shown on the plans the applicant submitted for design review. They were required to screen the equipment (Attachment G – photo).

Staff recommends that the Planning Commission retain in the proposed Resolution of Approval for the proposed modifications the condition that the equipment on the roof at 31 Bolinas Road be screened from view.

Hedge Height Variance

Town Code § 17.044.080(B)(2) limits the height of hedges located on the side and rear property lines to 6-feet in height. The bamboo hedges on the northern side property line have grown to 12 to 14-feet in height and require a Hedge Height Variance in order to be retained at those heights.

The applicant has indicated that Yoga Mountain uses the outdoor space north of their commercial suite to perform outdoor massage and need the hedges to provide privacy and to screen the area from the view of the second-floor apartments above 21 Bolinas Road across Mono Lane.

In order to approve a Height Variance the Commission must be able to make the following findings per Town Code § 16.028.070(A)(1) through (4):

1. Because of special circumstances applicable to the property, including size, shape, topography, location of surroundings, the strict application of this title will deprive the applicant of privileges enjoyed by other property owners in the vicinity and under identical zone classification;
2. The variance or adjustment will not constitute a grant of special privilege, is consistent with the limitations upon other properties in the vicinity and under identical zone classification, and is consistent with the objectives of this title;
3. The strict application of this title would result in excessive or unreasonable hardship;
4. The granting of the variance or adjustment will not be detrimental to the public welfare or injurious to other property in the vicinity in which the property is situated.

The outdoor area proposed for use by Yoga Mountain fronts on Mono Avenue with the second-floor apartments above 21 Bolinas Road located just 10-feet away across Mono Avenue, overlooking the Yoga Mountain yard. Staff inspected the site and the 14-foot high hedge is the minimum necessary to provide private outdoor space for the northern outdoor areas of the building screened from the view of the adjacent second floor apartments. The recommended conditions include a condition that the bamboo hedge be limited in height to 14-feet which is adequate to provide the requesting screening.

RECOMMENDATION

1. Conduct the public hearing.
2. Move to approve the proposed exterior modification to the Design Review Permit and the Use Permit to allow limited outdoor uses for suites D and E and the hedge Height Variance for application 02-39 by adopting Resolution No. 17-22 setting forth the findings and conditions for the modification approval.

ATTACHMENTS

- Attachment A – Resolution No. 17-22
- Attachment B – Applicant's supplemental information
- Attachment C – Description of proposed uses for outdoor areas adjacent to Suites D and E
- Attachment D – Resolution No. 15-37 (original resolution of approval)
- Attachment E – Original plan
- Attachment F – Letter from applicant requesting elimination of the roof equipment screening requirement
- Attachment G – Photo of unscreened equipment

RESOLUTION NO. 17-22

A Resolution of the Fairfax Planning Commission Approving a Modification of Use Permit 02-39 to Allow Minor Exterior Changes to the Exterior of the Building, the Arbor Over the Outdoor Seating Area and the Landscaping and Parking Lot Improvement Plans and to Allow Certain Outdoor Uses in the Rear Yard Areas Adjacent to Suite C, For Paws Pet Shop, and Suite D, Yoga Mountain Yoga Studio at 31 Bolinas Road.

WHEREAS, the Town of Fairfax has received an application to modify the Use Permit and Design Review permit approved on May 21, 2015 to make minor changes to the approved exterior of the building and to allow Suites C and D to utilize the adjacent yard spaces for limited outdoor uses in conjunction with the existing businesses; and

WHEREAS, the Planning Commission held a duly noticed Public Hearing on May 18, 2017, at which time all interested parties were given a full opportunity to be heard and to present evidence, and at which time the Planning Commission approved the Use Permit Modification; and

WHEREAS, based on the plans and supplemental information provided by the applicant as well as testimony at the public hearing, the Planning Commission has determined that the applicant has met the burden of proof required to support the findings necessary for the Project's requested discretionary Use Permit Modification and Design Review Permit modification.

WHEREAS, the Commission has made the following findings:

The proposal complies Fairfax General Plan Goals and Objectives as follows:

Town Center Element:

Policy TC-1.1.1: New and/or renewed development in the Town Center Planning Area shall preserve and enhance the village character and pedestrian scale of the downtown area. Large, highly visible parking lots characteristic of strip shopping centers are inconsistent with village character.

Policy TC-2.1.1: New and/or renewed development in the Town Center Planning Area should be compatible with the architectural character of the downtown in terms of height, design treatment, colors, textures, and materials. Future buildings constructed in the downtown area shall be within the vertical form of the existing buildings that they might replace.

The approving document for Use Permit 02-29, Resolution No. 15-37, included condition of approval number 3, requiring that any changes to the approved plans or proposed uses would require a modification of the Use Permit and Design Review Permit. This approval of the proposed modifications fulfills condition number 3 of Resolution No. 15-37.

Use Permit Findings:

Town Code Section 17.032.060 Use Permit Findings

The approval of the use permit for the limited use of 1,441-square-feet of the rear yard area by Yoga Mountain yoga studio for meditation, outdoor seating and occasional events during business hours, not including any outdoor entertainment or live music, and the outdoor use of 622-square-feet of the rear yard by For Paws pet store for classes from April through October, an outdoor dog washing station and washer dryer enclosure, a storage shed and a petting area during business hours shall not constitute a grant of special privilege and shall not contravene the doctrines of equity and equal treatment.

The development and use of property as approved under the use permit, which prohibits outdoor entertainment and pet boarding within the yard areas and which restricts use of the areas to business hours only shall not cause excessive or unreasonable detriment to adjoining properties or premises, or cause adverse physical or economic effects thereto, or create undue or excessive burdens in the use and enjoyment thereof, or any or all of which effects are substantially beyond that which might occur without approval or issuance of the use permit.

Approval of the use permit is not contrary to those objectives, goals or standards pertinent to the particular case and contained or set forth in any Master Plan, or other plan or policy, officially adopted by the City.

Approval of the use permit will result in equal or better development of the premises than would otherwise be the case, and that said approval is in the public interest and for the protection or enhancement of the general health, safety or welfare of the community.

Design Review Findings:

Section 17.020.040 Design Review Criteria

The proposed development creates a well composed design, harmoniously related to other facilities in the immediate area and to the total setting as seen from hills and other key vantage points in the community.

The proposed development is of a quality and character appropriate to, and serving to protect the value of, private and public investments in the immediate area.

Sufficient variety exists in the design of the structure and grounds to avoid monotony in external appearance.

The design modifications of the structures and revised landscaping conforms to the general character of other structures in vicinity insofar as the character can be ascertained and is found to be architecturally desirable.

WHEREAS, the Commission has approved the project subject to the applicant's compliance with the following conditions:

1. The applicants shall maintain the premises in a neat and attractive manner at all times. Such maintenance shall include, but not be limited to, exterior building materials, signage, windows, the planters, the ground and the pavement surfaces.
2. The applicant shall comply with all applicable local, county, state and federal laws and regulations. Local ordinances which must be complied with include, but are not limited to: the Noise Ordinance, Chapter 8.20, Polystyrene Foam, Degradable and Recyclable Food Packaging, Chapter 8.16, Garbage and Rubbish Disposal, Chapter 8.08, Urban Runoff Pollution Prevention, Chapter 8.32 and the Americans with Disabilities Act.
3. Any changes made to the exterior of the building, including but not limited to new lighting, new signs, planters, etc., shall comply with the design review regulations of the Town Code, Chapter 17.020, and be approved by the Fairfax Planning Commission or staff as required.
4. The applicant and its heirs, successors, and assigns shall, at its sole cost and expense, defend with counsel selected by the Town, indemnify, protect, release, and hold harmless the Town of Fairfax and any agency or instrumentality thereof, including its agents, officers, commissions, and employees (the "Indemnitees") from any and all claims, actions, or proceedings arising out of or in any way relating to the processing and/or approval of the project as described herein, the purpose of which is to attack, set aside, void, or annul the approval of the project, and/or any environmental determination that accompanies it, by the Planning Commission, Town Council, Planning Director, Design Review Board or any other department or agency of the Town. This indemnification shall include, but not be limited to, suits, damages, judgments, costs, expenses, liens, levies, attorney fees or expert witness fees that may be asserted or incurred by any person or entity, including the applicant, third parties and the Indemnitees, arising out of or in connection with the approval of this project, whether or not there is concurrent, passive, or active negligence on the part of the Indemnitees. Nothing herein shall prohibit the Town from participating in the defense of any claim, action, or proceeding. The parties shall use best efforts, acting in good faith, to select mutually agreeable defense counsel. If the parties cannot reach agreement, the Town may select its own legal counsel and the applicant agrees

to pay directly, or timely reimburse on a monthly basis, the Town for all such court costs, attorney fees, and time referenced herein, provided, however, that the applicant's duty in this regard shall be subject to the Town's promptly.

5. The applicant shall continue to comply with the original conditions of approval for the Use Permit - to sign and notarize an affidavit stating that if/when the incremental use of the commercial spaces at 31 Bolinas Road result in the number of vehicle trips accessing the site every day reaching an amount that would make the total use of the site subject to the Traffic Impact Ordinance he agrees to the following:
 - a) To allow the Town to contract with a traffic engineering to prepare a Traffic Impact Permit (TIP) study to be paid for by the applicant prior to any other use of the live-work space.
 - b) The Trip study shall provide all the information required in Town Code §17.30.070.
 - c) The methodology for the TIP study shall be subject to approval by both the Planning Commission and the Town Council in accordance with Town Code § 17.30.070(F).
 - d) If questions arrive as to whether or not the amount of traffic generated by the multiuse buildings has reached an amount that will require a Traffic Impact Permit, the burden shall be upon the applicant to demonstrate to both the Planning Commission and the Town Council that the traffic impact standards do not apply [Town Code § 17.30.050(C)].
 - e) The applicant agrees to comply with any mitigation measures recommended by a Traffic Impact Study.
6. There shall be no storage of any materials, supplies for the mixed-use development nor long term storage for any vehicles/wheeled trailers not being used actively by one of the on-site businesses.
7. Should the Town prevail in any court action brought by it to enforce the applicant's obligations in connection with modified Use Permit No. 02-39, the Town shall be entitled to an award of reasonable litigation costs, including but not limited to, attorney's fees.
8. Prior to opening any new businesses in the building the parking lot shall be restriped.
9. Failure to comply with the conditions for modified Use Permit # 02-39 as herein enumerated, may result in revocation or modification of the Use Permit by the Planning Commission, in accordance with Chapter 17.024 of the Fairfax Town Code (section 11.17.024.090, ground for revocation and 17.024.100, ground for modification).
10. All the landscaping and irrigation shall be installed prior to the project final

inspection and issuance of certificate of occupancy. Prior to issuance of the building permit the applicant shall provide evidence of a landscaping bond, letter or credit or cash deposit to cover the cost of the installation. This amount shall be held for 18 months to ensure the landscaping becomes established.

11. No light industrial uses are allowed in Unit D without a modification of this Use Permit.

12. The air conditioner units visible from Bolinas Road facing Mono Avenue must be screened from public view.

13. No outdoor entertainment, including live or recorded music, shall be allowed in the outdoor spaces adjacent to Suites C and D and outdoor use of these areas are limited to the respective businesses scheduled hours of operation.

NOW, THEREFORE BE IT RESOLVED, the Planning Commission of the Town of Fairfax hereby finds and determines as follows:

The approval of the Use Permit Modification and Design Review Modifications can occur without causing significant impacts on neighboring businesses or residences; and

The foregoing resolution was adopted at a regular meeting of the Planning Commission held in said Town, on the 18th day of May 2017, by the following vote:

AYES:

NOES:

ABSTAIN:

Chair Fragoso

Attest:

Linda Neal, Principal Planner

A R C H I T E C T S
FREDRIC C. DIVINE ASSOCIATES

February 2, 2017

Linda Neal
Principal Planner
Town of Fairfax
142 Bolinas Road
Fairfax, CA 94930

TOWN OF FAIRFAX

FEB 02 2017

RECEIVED

Re: 29 and 31 Bolinas Road
Conditional Use Permit 02-39

Dear Linda

This letter is in response to your letter of incompleteness dated December 5, 2016. A response to each of your requested additional items are listed below.

1. In reviewing the staff report for the November 18, 2015 Planning Commission meeting, the final Resolution No. 15-37, the minutes of the November 18, 2015 Planning Commission meeting, and the video of this meeting the applicant was not aware that the condition of screening the mechanical units was placed on the project. In reviewing the above documents of this meeting the screening of the mechanical units was mentioned by Jim Moore, but was not addressed by the Planning Commissioners. Furthermore the staff report did not list the screening of mechanical units as a condition, but the final resolution does. In reviewing the minutes and the video the commissioners discussed the deleting the requested light industrial use, but did not add a condition to include the rooftop mechanical units. The owner of the property adamantly opposes adding a screen that will damage the integrity of the new roof in this area. I have attached copies of the above mentioned documents for your review.
2. The existing landscape irrigation system of the patio has been included in the revised plans.
3. Cut sheets of the clear PVC roof panel and the curtains at the patio area are attached. I have a sample of the curtain material, but no material sample is available for the roof panel.
4. An application for the requested signs are included with this resubmittal. Fairfax at 31 A Bolinas Rd. is to request their own separate sign application.
5. The height and material of all of the existing fences have been added to the site plan drawing.

Please contact me if you have any questions or comments on this response.

Sincerely



Fred Divine
Senior Principal Architect

ATTACHMENT **B**

PROPOSED OUTDOOR USES 31 BOLINAS ROAD

31 Bolinas Road Space D (For Paws)

This tenant has an outdoor space of approximately 622 SF behind the main building. The requested use for this area is to be a low key outdoor space that can be enjoyed by the customers and visitors of the retail store. Classes will be held once a week using the outdoor space for one to two hours during the months of April through October. Brownie and Girl Scout troops that visit the store will use the outdoor space as a petting area for animals that are awaiting adoption such as kittens and bunnies. No animals will be kept outdoors during non-business hours. The outdoor area will also be used by customers to dry off their pets after using the inside dog wash. Other requested uses for this outdoor area include; a washer and dryer enclosure, a storage shed, an outdoor dog wash area and outdoor garden to grow cat grass and cat nip. Any other landscaping would include native planting.

31 Bolinas Road Space E (Yoga Mountain)

This tenant has an outdoor space of approximately 1,441 SF. The outdoor area for this space includes a garden space, outdoor seating and meditation space that is used by students before or after classes. The outside space is used to enrich the interior of the tenant space, by having a connection through the windows to the outdoors. On occasion the outdoor space may be used by the tenant for an open house event or a special anniversary celebration. These events would occur during normal business hours.

RESOLUTION NO. 15-37

A Resolution of the Fairfax Planning Commission Approving a Modification of the Use Permit 02-39 to Allow the Remodel and Addition of the Commercial Complex at 31 Bolinas Road to a Allow: a Combination of Restaurant/Retail/Personal Service in the Two Front and One Middle Space, Light Industrial/Retail/Personal Service in the Rear Space immediately Adjacent the Parking Lot and a Light Industrial/Retail/Personal Service/Live Work space in the Rear Northern Corner on the lot fronting Mono Lane.

WHEREAS, the Town of Fairfax has received an application to modify the Use Permit modification and Design Review permits approved on May 21, 2015 to expand the permitted types of uses and make minor changes to the approved exterior of the building including adding additional windows, skylights, a new door at the northeast corner of the new building addition and a fire sprinkler backflow preventer; and

WHEREAS, the Planning Commission held a duly noticed Public Hearing on at which time all interested parties were given a full opportunity to be heard and to present evidence, and at which time the Planning Commission approved the Use Permit Modification; and

WHEREAS, based on the plans and supplemental information provided by the applicant, a written statement provided by the other tenant of the building as well as testimony at the public hearing, the Planning Commission has determined that the applicant has met the burden of proof required to support the findings necessary for the Project's requested discretionary Use Permit Modification and Parking Variance.

WHEREAS, the Commission has made the following findings:

The proposal complies Fairfax General Plan Goals and Objectives as follows:

Town Center Element:

Policy TC-1.1.1: New and/or renewed development in the Town Center Planning Area shall preserve and enhance the village character and pedestrian scale of the downtown area. Large, highly visible parking lots characteristic of strip shopping centers are inconsistent with village character.

Policy TC-2.1.1: New and/or renewed development in the Town Center Planning Area should be compatible with the architectural character of the downtown in terms of height, design treatment, colors, textures, and materials. Future buildings constructed in the downtown area shall be within the vertical form of the existing buildings that they might replace.

Policy TC-3.1.1: Mixed-use development is allowed in the Town Center Planning Area under Central Commercial zoning. The Town Center Plan, when created, shall be consistent with this zoning.

The proposal complies with the Zoning Ordinance as follows:

The proposal complies with Town Code § 17.056.050; where a project requires a traffic study when it either (a) creates a structure that will generate more than 100 Average Daily Trips, or (b) has a floor area of 5,000 square feet or more.

The proposal substantially complies the Town Code § 17.100.110: which indicates that 1 parking space is required for every 200 square feet of gross floor area for this site and 1 large, 12 foot by 45 foot loading space; because (a) a loading space has informally, historically, occurred in the parking lot over time, and (b) a parking variance is no longer required since two of the suites previously approved for a high traffic generating restaurant are being replaced with the lower parking generating use of a power weight lifting.

The proposal seeks a Use Permit Modification per Town Code § 17.100.050(F), (G) and (H) because: (a) Mixed Use properties, under the current code, requires a Use Permit.

The proposal seeks design review approval for new construction in the Central Commercial Zone District per Town Code § 17.020.030(B).

The proposal complies with the setback requirements for commercial structures that abut residentially zoned neighborhoods per Town Code § 17.100.090

Use Permit Findings:

The approval of the use permit shall not constitute a grant of special privilege and shall not contravene the doctrines of equity and equal treatment.

The development and use of property as approved under the use permit shall not cause excessive or unreasonable detriment to adjoining properties or premises, or cause adverse physical or economic effects thereto, or create undue or excessive burdens in the use and enjoyment thereof, or any or all of which effects are substantially beyond that which might occur without approval or issuance of the use permit.

Approval of the use permit is not contrary to those objectives, goals or standards pertinent to the particular case and contained or set forth in any Master Plan, or other plan or policy, officially adopted by the City.

Approval of the use permit will result in equal or better development of the premises than would otherwise be the case, and that said approval is in the public interest and for the protection or enhancement of the general health, safety or welfare of the community.

Design Review Findings:

Section 17.020.040 Design Review Criteria

The proposed development creates a well composed design, harmoniously related to other facilities in the immediate area and to the total setting as seen from hills and other key vantage points in the community.

The proposed development is of a quality and character appropriate to, and serving to protect the value of, private and public investments in the immediate area.

The proposed development conforms with the design of parking and off-street loading areas set forth in this title.

Sufficient variety exists in the design of the structure and grounds to avoid monotony in external appearance.

The size and design of the structure is in proportion to its building site and it has a balance and unity among its external features so as to present a harmonious appearance.

The design of the structure conforms to the general character of other structures in vicinity insofar as the character can be ascertained and is found to be architecturally desirable.

The on-site parking is easily accessible and its use will not cause traffic problems on adjacent Bolinas Road.

In the case of any commercial or industrial structure, the board shall consider its proximity to any residential district and shall consider the effect of the proposed structure upon the character and value of the adjacent residential district area.

The design review board may recommend design guidelines to the planning commission and town council for adoption in order to further the objectives of this section and to illustrate design criteria.

Parking/Loading/Aisle Width Variance Findings:

Neither present nor anticipated future traffic volumes generated by the use of the site or the uses of sites in the vicinity reasonable require strict or literal interpretation and enforcement of the specified regulation.

Granting of the variance will not result in the parking or loading of vehicles on public streets in a manner as to interfere with the free flow of traffic on the streets.

Granting of the variance will not create a safety hazard or any other condition inconsistent with the objectives of this title.

Because of special circumstances applicable to the property, including size, shape, topography, location of surroundings, the strict application of this title will deprive the applicant of privileges enjoyed by other property owners in the vicinity and under identical zone classification.

The variance or adjustment will not constitute a grant of special privilege, is consistent with the limitations upon other properties in the vicinity and under identical zone classification, and is consistent with the objectives of this title.

The strict application of this title would result in excessive or unreasonable hardship.

The granting of the variance or adjustment will not be detrimental to the public welfare or injurious to other property in the vicinity in which the property is situated.

WHEREAS, the Commission has approved the project subject to the applicant's compliance with the following conditions:

1. The applicants shall maintain the premises in a neat and attractive manner at all times. Such maintenance shall include, but not be limited to, exterior building materials, signage, windows, the planters, the ground and the pavement surfaces.
2. The applicant shall comply with all applicable local, county, state and federal laws and regulations. Local ordinances which must be complied with include, but are not limited to: the Noise Ordinance, Chapter 8.20, Polystyrene Foam, Degradable and Recyclable Food Packaging, Chapter 8.16, Garbage and Rubbish Disposal, Chapter 8.08, Urban Runoff Pollution Prevention, Chapter 8.32 and the Americans with Disabilities Act.
3. Any changes made to the exterior of the building, including but not limited to new lighting, new signs, planters, etc, shall comply with the design review regulations of the Town Code, Chapter 17.020, and be approved by the Fairfax Design Review Board or staff as required.
4. The applicant and its heirs, successors, and assigns shall, at its sole cost and expense, defend with counsel selected by the Town, indemnify, protect, release, and hold harmless the Town of Fairfax and any agency or instrumentality thereof, including its agents, officers, commissions, and employees (the "Indemnitees") from any and all claims, actions, or proceedings arising out of or in any way relating to the processing and/or approval of the project as described herein, the purpose of which is to attack, set aside, void, or annul the approval of the project, and/or any environmental determination that accompanies it, by the Planning Commission, Town Council, Planning Director, Design Review Board or any other department or agency of the Town. This indemnification shall include, but

not be limited to, suits, damages, judgments, costs, expenses, liens, levies, attorney fees or expert witness fees that may be asserted or incurred by any person or entity, including the applicant, third parties and the Indemnitees, arising out of or in connection with the approval of this project, whether or not there is concurrent, passive, or active negligence on the part of the Indemnitees. Nothing herein shall prohibit the Town from participating in the defense of any claim, action, or proceeding. The parties shall use best efforts, acting in good faith, to select mutually agreeable defense counsel. If the parties cannot reach agreement, the Town may select its own legal counsel and the applicant agrees to pay directly, or timely reimburse on a monthly basis, the Town for all such court costs, attorney fees, and time referenced herein, provided, however, that the applicant's duty in this regard shall be subject to the Town's promptly.

5. The project final inspection and issuance of the occupancy permit shall not occur until all the building improvements and parking improvements and sign off's have been received from all agencies with jurisdiction over the project.
6. The applicant shall continue to comply with the original conditions of approval for the Use Permit - to sign and notarize an affidavit stating that if/when the incremental use of the commercial spaces at 31 Bolinas Road result in the number of vehicle trips accessing the site every day reaching an amount that would make the total use of the site subject to the Traffic Impact Ordinance he agrees to the following:
 - a) To allow the Town to contract with a traffic engineering to prepare a Traffic Impact Permit (TIP) study to be paid for by the applicant prior to any other use of the live-work space.
 - b) The Trip study shall provide all the information required in Town Code §17.30.070.
 - c) The methodology for the TIP study shall be subject to approval by both the Planning Commission and the Town Council in accordance with Town Code § 17.30.070(F).
 - d) If questions arrive as to whether or not the amount of traffic generated by the multiuse buildings has reached an amount that will require a Traffic Impact Permit, the burden shall be upon the applicant to demonstrate to both the Planning Commission and the Town Council that the traffic impact standards do not apply [Town Code § 17.30.050(C)].
 - e) The applicant agrees to comply with any mitigation measures recommended by a Traffic Impact Study.
7. There shall be no storage of any materials, supplies for the mixed-use development nor long term storage for any vehicles/wheeled trailers not being used actively by one of the on-site businesses.

8. Should the Town prevail in any court action brought by it to enforce the applicant's obligations in connection with modified Use Permit No. 02-39, the Town shall be entitled to an award of reasonable litigation costs, including but not limited to, attorney's fees.
9. Prior to opening any new businesses in the building the parking lot shall be restriped.
10. Failure to comply with the conditions for modified Use Permit # 02-39 as herein enumerated, may result in revocation or modification of the Use Permit by the Planning Commission, in accordance with Chapter 17.024 of the Fairfax Town Code (section 11.17.024.090, ground for revocation and 17.024.100, ground for modification).
11. All the landscaping and irrigation shall be installed prior to the project final inspection and issuance of certificate of occupancy. Prior to issuance of the building permit the applicant shall provide evidence of a landscaping bond, letter or credit or cash deposit to cover the cost of the installation. This amount shall be held for 18 months to ensure the landscaping becomes established.
12. New exterior lighting as shown on page A3 of the plans shall be replaced with fixtures that are shielded and directed down.
13. No light industrial uses are allowed in Unit D without a modification of this Use Permit.
14. The air conditioner units visible from Bolinas Road facing Mono Avenue must be screened from public view.

NOW, THEREFORE BE IT RESOLVED, the Planning Commission of the Town of Fairfax hereby finds and determines as follows:

The approval of the Use Permit Modification and Parking Aise Width Variance can occur without causing significant impacts on neighboring businesses or residences; and

The foregoing resolution was adopted at a regular meeting of the Planning Commission held in said Town, on the 18th day of November 2015, by the following vote:

AYES: Ackerman, Fragoso, Gonzalez-Parber, Hamilton, Newton, Chair Green

NOES:

ABSENT: Kehrlein



Chair, Phil Green

Attest:



Jim Moore, Director of Planning and Building Services

Oct 20 2015

RECEIVED

SCOPE OF WORK
 USE PERMIT MODIFICATION FOR EXERCISE USE IN TENANT SPACES D ADJACENT WITH EXTERIOR WINDOW AND DOOR REVISIONS.

PROJECT DATA
 ASSESSORS PARCEL NUMBER 002-122-34, 37
 COORDINATE 0
 CONSTRUCTION TYPE 0 SPRINKLERED
 SITE AREA 18,078 SF
 FLOOR AREA (1 BOLLINS) 5,644 SF
 ADJACENT BUILDING AREA (29 BOLLINS) 1,458 SF
 TOTAL BUILDING AREA 7,102 SF

FLOOR AREA

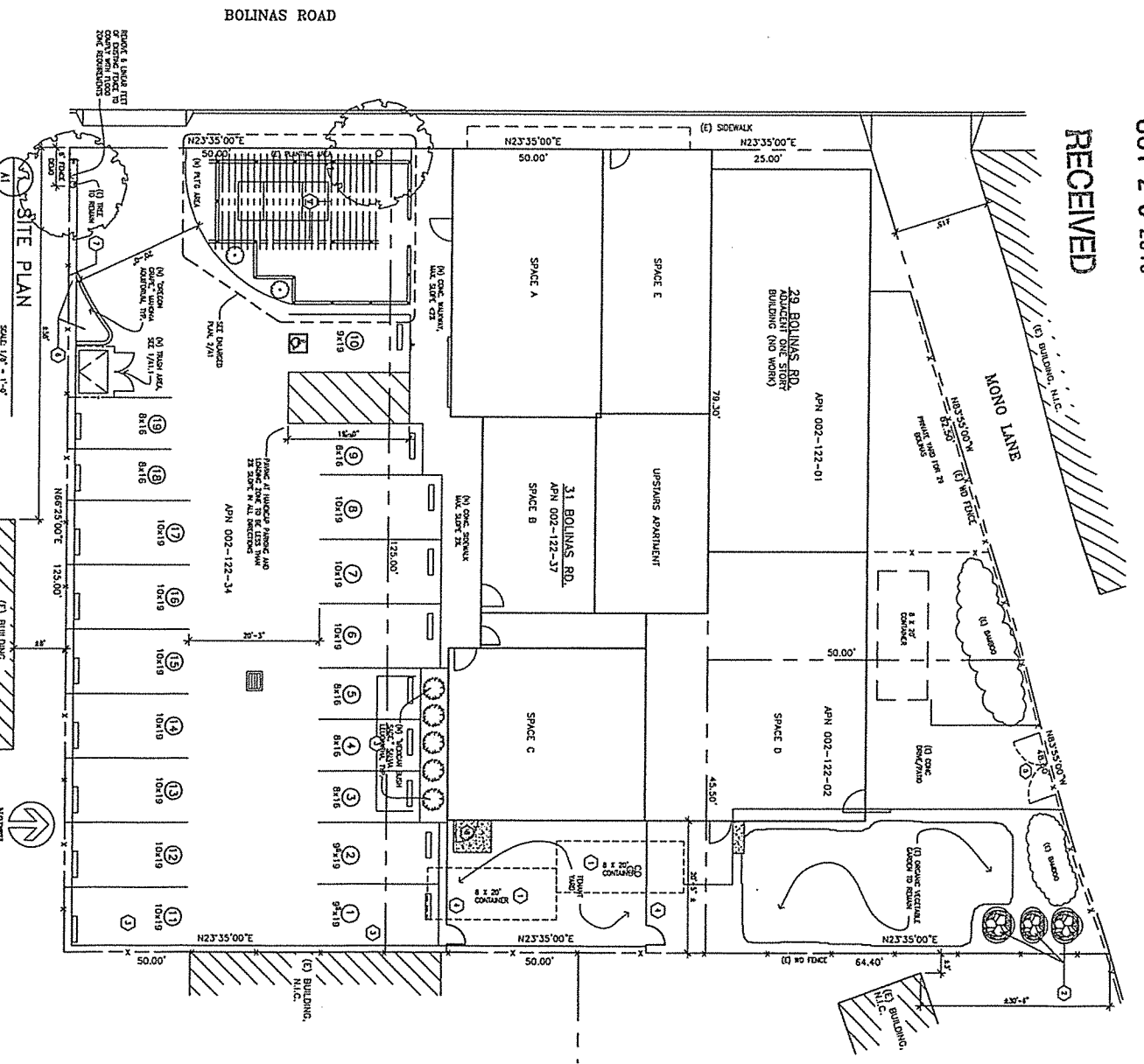
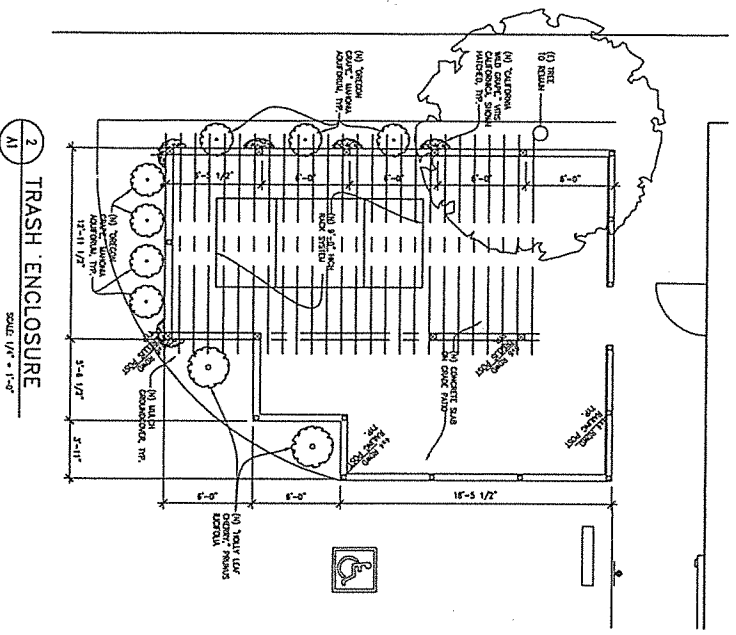
LOT COVERAGE	FLOOR AREA
FOOTPRINT AREA (1 BOLLINS)	5,095 SF
FOOTPRINT AREA (29 BOLLINS)	1,458 SF
CONCRETE (1 BOLLINS)	180 SF
TOTAL COVERAGE AREA	6,714 SF / 18,078 SF = 37.14%

FLOOR AREA

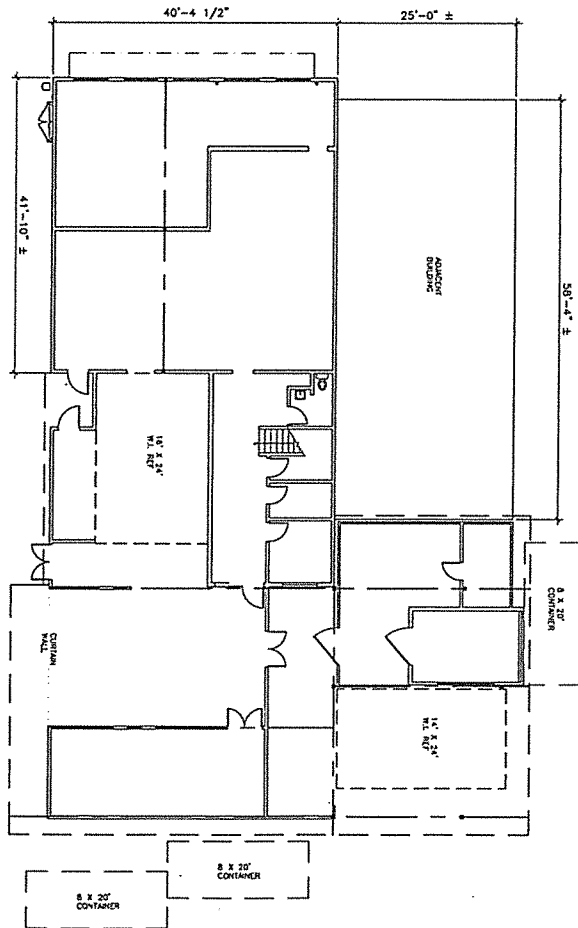
11 BOLLINS SPACES	FLOOR AREA
SPACE A	978 SF
SPACE B	531 SF
SPACE C	824 SF
SPACE D	1,382 SF
SPACE E	843 SF
APARTMENT	546 SF
CANTON AREA	531 SF
31 BOLLINS TOTAL	5,644 SF
29 BOLLINS RD	1,458 SF
TOTAL BUILDING AREA	7,102 SF

SITE PLAN KEY NOTES

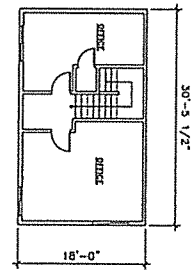
- ① EXISTING CONTAINERS TO BE REMOVED
- ② EXISTING FRUIT TREES TO REMAIN
- ③ NEW PLANNING AREA
- ④ ORIGINAL NEW FENCE AND GATE
- ⑤ EXISTING GATE
- ⑥ NEW CURB & PLANNING
- ⑦ NEW FENCE
- ⑧ NEW CONCRETE LANDING
- ⑨ OVERHEAD TRUSLS



1
EXISTING/HISTORICAL MAIN FLOOR PLAN
SCALE: 1/8" = 1'-0"



2
EXISTING/HISTORICAL UPPER FLOOR PLAN
SCALE: 1/8" = 1'-0"



A2.0	DATE	1/15/13
	SCALE	AS SHOWN
	PROJECT	103-1
	CLIENT	103-1
	DESIGNER	103-1
Revisions: ▲ PLANNING SUBMITTAL 02-12-2013 ▲ PLANNING DEPT. - RESPONSE 03-13-2013 ▲ PLANNING DEPT. - RESPONSE 03-20-2013 ▲ PLANNING DEPT. - RESPONSE 03-26-2013 ▲ REVISIONS PLANNING DEPT. 10-24-2015		

FLOOR PLAN
HISTORICAL

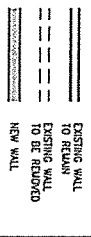
TENANT IMPROVEMENTS
31 BOLINAS ROAD,
FARMLAND, CA 94930
FOR: BRAD SCHWAN
APH: 002-122-02, 34, 37

ARCHITECTS
FREDERIC C. DIVINE ASSOCIATES
1924 FOURTH ST., SAN RAFAEL, CA 94901
Phone: (415) 457 - 0220 Fax: (415) 454 - 9581

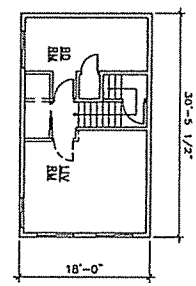
FLOOR PLAN KEY NOTES

- ① 6' x 20' STORAGE CONTAINER TO REMAIN (ATTACHED TO CONC. SLAB)
- ② 8' x 20' STORAGE CONTAINER TO BE REMOVED
- ③ REMOVE EXISTING RESTROOM
- ④ RELOCATE WINDOW
- ⑤ NEW 3/4" DOOR TO REPLACE (2) WINDOW (ALTERNATE: NEW 3/4" DUTCH DOOR)
- ⑥ RELOCATED (2) SERVICE PANEL & METERS
- ⑦ REMOVE (2) SERVICE PANEL (TO BE RELOCATED)
- ⑧ (N) CONCRETE LANDING

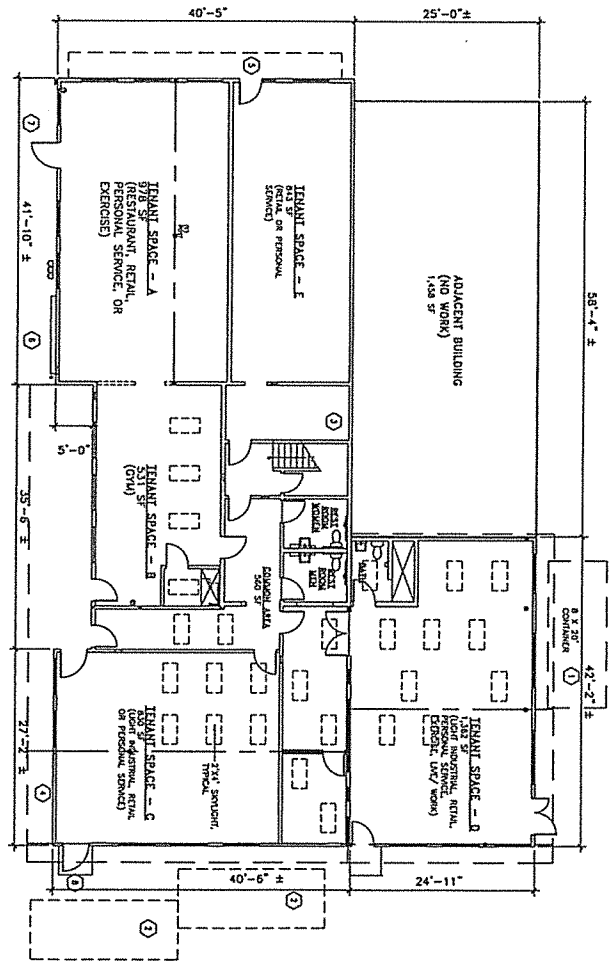
WALL LEGEND



2 UPPER FLOOR PLAN (EXISTING)
SCALE: 1/8" = 1'-0"



1 MAIN FLOOR PLAN (PROPOSED)
SCALE: 1/8" = 1'-0"



Revisions	DATE
△ PLANNING SUBMITTAL	02-12-2013
△ PLANNING DEPT. - RESPONSE	03-12-2013
△ PLANNING DEPT. - RESPONSE	04-30-2013
△ PLANNING DEPT. - RESPONSE	05-03-2013
△ REVISIONS PLANNING DEPT.	06-26-2013

FLOOR PLAN

TENANT IMPROVEMENTS

31 BOLINAS ROAD,
FAIRFAX, CA 94930
FOR: BRAD SCHWAN

ARCHITECTS

FREDRIC C. DIVINE ASSOCIATES
1924 FOURTH ST., SAN RAFAEL, CA 94901
Phone: (415) 457 - 0220 Fax: (415) 454 - 9581

A2.

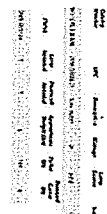
PROPOSED COLORS AND MATERIALS

STUCCO
(To Match Existing Building Color)
Benjamin Moore - AC-17, "CORPUS MOUNTAIN"
Benjamin Moore - 2106-10, "JAW"

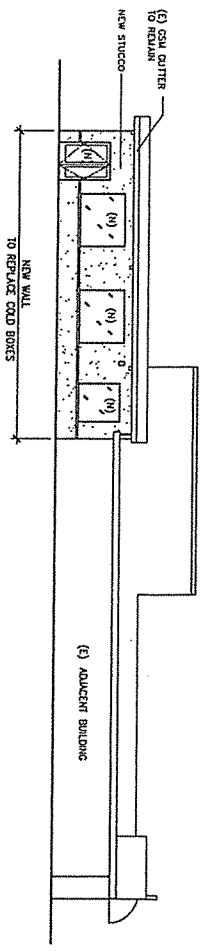
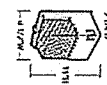
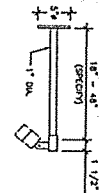
WOODS
Benjamin Moore - 2106-10, "JAW"
Benjamin Moore - 2106-10, "JAW"
Benjamin Moore - 2106-10, "JAW"

CLAVIS ANVING (Finish to be Revised)
Sintered - "SALUDON"

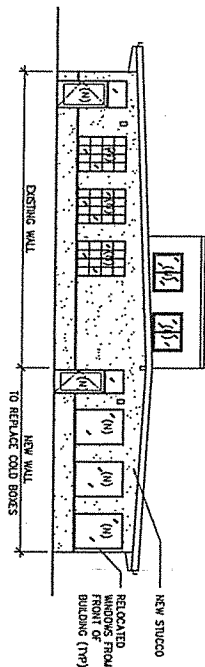
EXTERIOR LIGHT FIXTURES - WALL MOUNT
Benjamin Moore - 2106-10, "JAW"



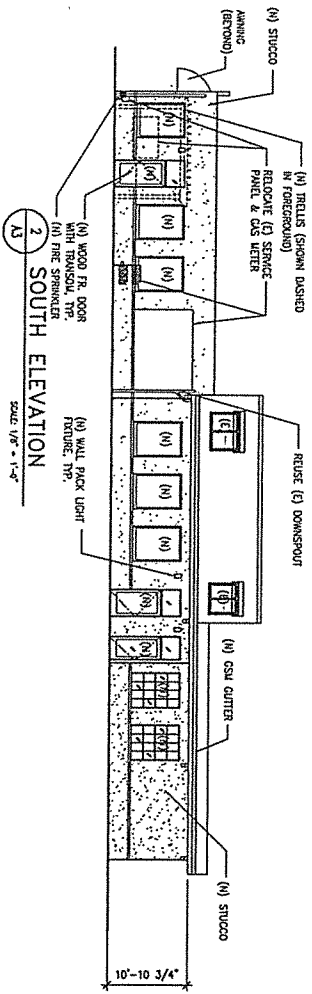
EXTERIOR LIGHT FIXTURES - SQUARE
B-X Lighting - SQUA SQUA SQUA C.
THROUZE Finish



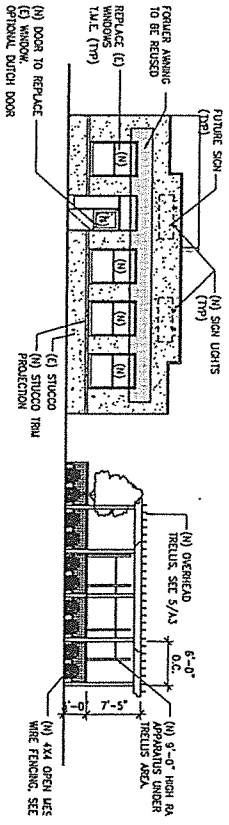
4 NORTH ELEVATION
SCALE 1/8" = 1'-0"



3 EAST ELEVATION
SCALE 1/8" = 1'-0"



2 SOUTH ELEVATION
SCALE 1/8" = 1'-0"



1 WEST ELEVATION
SCALE 1/8" = 1'-0"

ARCHITECTS
FREDRIC C. DIVINE ASSOCIATES
1924 FOURTH ST., SAN RAFAEL, CA 94901
Phone: (415) 457-0220 Fax: (415) 454-9581

TENANT IMPROVEMENTS
31 BOLINAS ROAD,
FAIRFAX, CA 94930
FOR: BRAD SCHWAB

ELEVATIONS

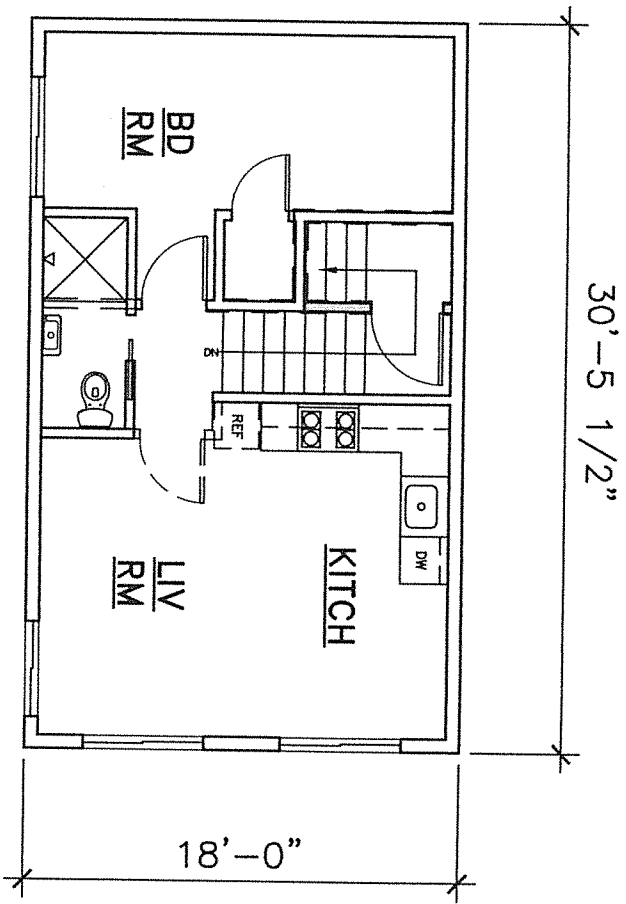
Revisions	07-11-2015
PLANNING DEPT. = RESPONSE	07-17-2015
PLANNING DEPT. = RESPONSE	07-23-2015
PLANNING DEPT. = RESPONSE	08-03-2015
PLANNING DEPT. = RESPONSE	08-10-2015
REVISIONS PLANNING DEPT.	10-26-2015

A3

2
A2.1

UPPER FLOOR PLAN (EXISTING)

SCALE: 1/8" = 1'-0"



A R C H I T E C T S
FREDRIC C. DIVINE ASSOCIATES

February 2, 2017

Linda Neal
Principal Planner
Town of Fairfax
142 Bolinas Road
Fairfax, CA 94930

TOWN OF FAIRFAX

FEB 02 2017

RECEIVED

Re: 29 and 31 Bolinas Road
Conditional Use Permit 02-39

Dear Linda

This letter is in response to your letter of incompleteness dated December 5, 2016. A response to each of your requested additional items are listed below.

1. In reviewing the staff report for the November 18, 2015 Planning Commission meeting, the final Resolution No. 15-37, the minutes of the November 18, 2015 Planning Commission meeting, and the video of this meeting the applicant was not aware that the condition of screening the mechanical units was placed on the project. In reviewing the above documents of this meeting the screening of the mechanical units was mentioned by Jim Moore, but was not addressed by the Planning Commissioners. Furthermore the staff report did not list the screening of mechanical units as a condition, but the final resolution does. In reviewing the minutes and the video the commissioners discussed the deleting the requested light industrial use, but did not add a condition to include the rooftop mechanical units. The owner of the property adamantly opposes adding a screen that will damage the integrity of the new roof in this area. I have attached copies of the above mentioned documents for your review.
2. The existing landscape irrigation system of the patio has been included in the revised plans.
3. Cut sheets of the clear PVC roof panel and the curtains at the patio area are attached. I have a sample of the curtain material, but no material sample is available for the roof panel.
4. An application for the requested signs are included with this resubmittal. Fairfax at 31 A Bolinas Rd. is to request their own separate sign application.
5. The height and material of all of the existing fences have been added to the site plan drawing.

Please contact me if you have any questions or comments on this response.

Sincerely



Fred Divine
Senior Principal Architect

ATTACHMENT **F**

A R C H I T E C T S
FREDRIC C. DIVINE ASSOCIATES

November 17, 2016

TOWN OF FAIRFAX

Linda Neal
Principal Planner
Town of Fairfax
142 Bolinas Road
Fairfax, CA 94930

NOV 17 2016

RECEIVED

Re: 29 and 31 Bolinas Road
Conditional Use Permit 02-39

Dear Linda

This letter is in response to the certified letter that was mailed to property owner of above reference address, Brad Schwan. He has retained us to respond to these items, as he is currently out of the country.

1. A landscaping plan denoting the revised planting is shown on site plan drawing as part of the new plan sets that are attached to this application.
2. The arbor that was constructed over the doorway at 31A Bolinas Road (Hairfax) has been added to the elevation drawing that is part of the new plan sets.
3. A height variance is requested for the bamboo hedge along Mono Ave. A request for a higher hedge is to provide privacy for the tenant at 29 Bolinas Road as the yard space is used for an outdoor massage area. Yoga Mountain also uses the outdoor space adjacent to their space for meditation. The extra height is needed to screen these outdoor areas from the second floor neighbors across Mono Ave.
4. The mailbox that is located along Mono Ave. is used by the property owner Brad Schwan. There is no business associated with this mailbox. Terra Virgo is a shell company and no business activities are conducted on the property.
5. An exception is requested to allow these signs for the businesses that are located at the rear of the property. These businesses have no frontage along Bolinas Road and are needed to provide visibility for customers.
6. An exception is requested to allow the roof top equipment to remain unscreened. The roof is white in this area, and the roof top equipment is also white. Adding a screen to hide these units will comprise the roof membrane.

Please contact me if you have any questions or comments on this response.

Sincerely



Fred Divine
Senior Principal Architect