

# TOWN OF FAIRFAX

## STAFF REPORT

### August 5, 2015

**TO:** Mayor and Town Council

**FROM:** Garrett Toy, Town Manager *GT*

**SUBJECT:** Discuss/consider resident complaint regarding truck noise at Good Earth

---

#### **RECOMMENDATION**

Discuss/consider resident complaint regarding truck noise at Good Earth.

#### **DISCUSSION**

At its July 15<sup>th</sup> meeting, the Council requested staff invite the owners of Good Earth to attend the next meeting to discuss the truck noise emanating from Good Earth in the mornings. This request was in response to issues raised by a resident, Mr. Franks, during open time at several Council meetings.

To assist the Council with its discussions, staff has attached the following information:

1. Planning Commission letter regarding conditions of approval (dated 10/18/13) and Planning Commission staff report (dated 10/17/15)  
Summary: The PC reviewed Good Earth's use permit and directed Good Earth to continue to comply with the original use permit with additional conditions: 1) maintain videos tapes of trucks for a minimum of 7 days and 2) implement the "Protocol for 5 AM Receiver Role" to help reduce the noise.
2. Letter from Good Earth to the neighborhood (dated 7/31/13)  
Summary: Letter describes the actions Good Earth has or will implement to help mitigate truck noise.
3. Planning Commission (PC) letter amending conditions of approval (dated 4/22/13)  
Summary: The PC approved minor changes to the building and clarified that the truck delivery conditions still apply: one (1) 60 ft. truck between 5:00am to 6:00am and two (2) 45 ft. trucks between 6:00am to 7:00am.
4. Original PC conditions of approval and the mitigation monitoring plan (approved 6/22/11)  
Summary: Most of the conditions address the physical improvements required at Good Earth. The mitigation monitoring plan does have some provisions to address potential noise issues.

It should also be noted that Planning Director Moore facilitated several meetings between the neighborhood representatives and the Good Earth in 2013. At the conclusion of the meetings, it appeared that the groups had come to an understanding.

#### **FISCAL IMPACT**

None

AGENDA ITEM # 22

**ATTACHMENTS:**

1. Planning Commission letter regarding conditions of approval (dated 10/18/13) and Planning Commission staff report (dated 10/17/13)
2. Letter from Good Earth to the neighborhood (dated 7/31/13)
3. Planning Commission (PC) letter amending conditions of approval (dated 4/22/13)
4. Original PC conditions of approval and the mitigation monitoring plan for Good Earth (6/22/11)



# TOWN OF FAIRFAX

142 BOLINAS ROAD, FAIRFAX, CALIFORNIA 94930  
(415) 453-1584 / FAX (415) 453-1618

October 18, 2013

Mark Squire and Al Baylacq  
Good Earth Organic and Natural Foods  
720 Center Boulevard  
Fairfax, CA. 94930

## NOTICE OF PLANNING COMMISSION ACTION

**RE: 720 Center Boulevard; Application # 13-10**

Review of Use Permit for compliance with Use Permit Conditions relating to truck delivery times; Assessor's Parcel No. 002-131-12; Central Commercial CC Zone District; Good Earth Organic and Natural Foods, Business Owners; Rich Hall, Fairfax Center Properties LLC, property owner.

Dear Mr. Squire and Mr. Baylacq,


At its meeting on October 17, 2013, the Fairfax Planning Commission directed the Good Earth to continue complying with the original Use Permit conditions of approval relating to the time and numbers of trucks that can deliver to the store prior to 7:00 AM subject to the following additional conditions:

1. The Good Earth shall retain the video tapes of the truck delivery area for a minimum of seven (7) days and shall provide copies/allow staff to review the tapes if the Town receives complaints of the business violating the condition of approval.
2. The Good Earth shall continue the efforts put in place to date to comply with the delivery truck conditions and to decrease the noise created by the deliveries prior to 7:00 AM as described in the staff report dated October 17, 2013 and the "Protocol For 5 AM Receiver Role" developed by the Good Earth and provided to the Town on July 31, 2013.

The Commission also requested that a formal sound study be included with any future application to amend or alter the delivery conditions (e.g., whether to tighten or relax them).

If you have any questions regarding the Planning Commission action please feel free to contact the Fairfax Planning Department.

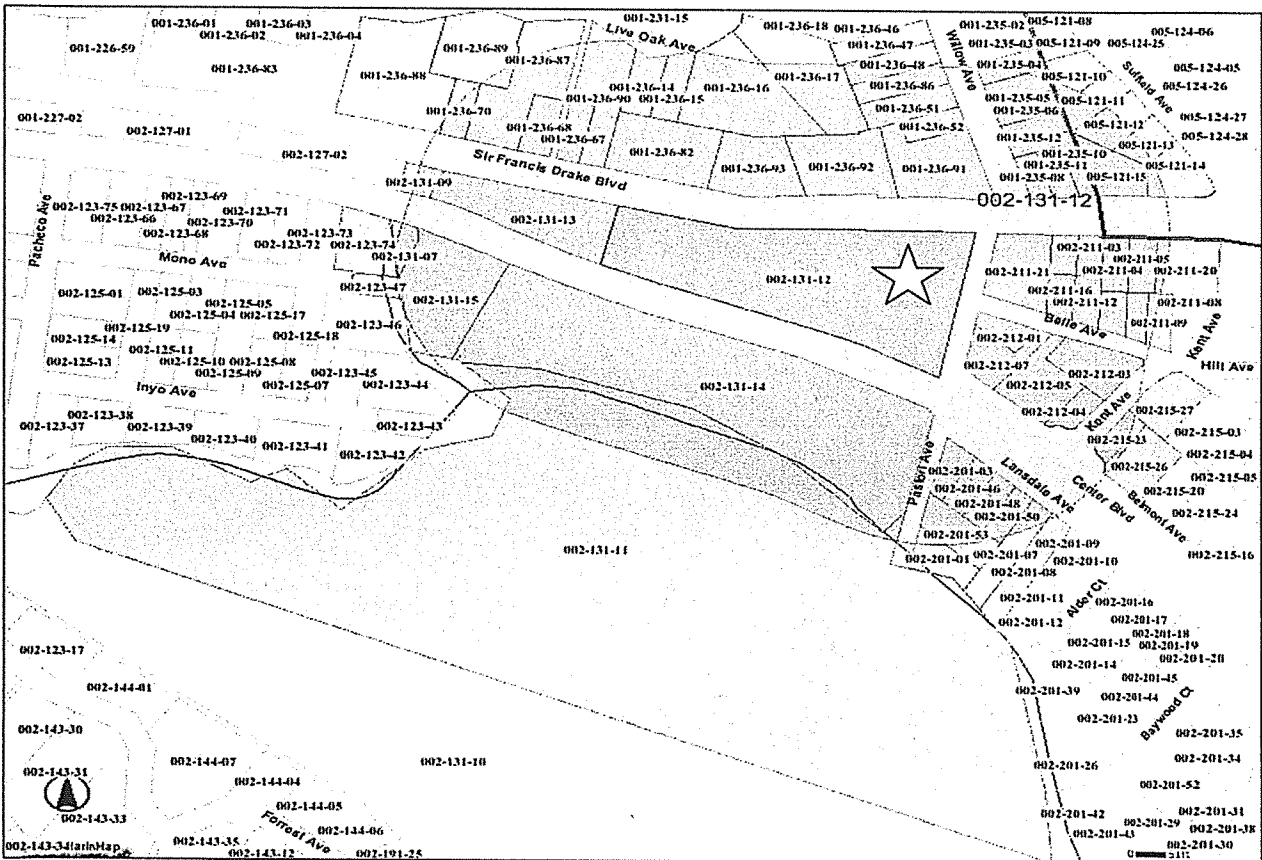
Sincerely,

  
Linda Neal  
Principal Planner

**ATTACHMENT** 1

**TOWN OF FAIRFAX  
STAFF REPORT**  
Department of Planning and Building Services

**TO:** Fairfax Planning Commission  
**DATE:** October 17, 2013  
**FROM:** Jim Moore, Director of Planning and Building Services  
**LOCATION:** 720 Center Boulevard; Assessor's Parcel No. 002-131-12  
**PROJECT:** Review Use Permit No. 13-10  
**ACTION:** Review of Use Permit for compliance with delivery vehicle conditions  
**APPLICANT:** Al Baylacq, Good Earth Natural Foods  
**OWNER:** Rich Hall, Fairfax Center Properties, LLC.  
**CEQA STATUS:** Categorically exempt section 15301(a)



**720 CENTER BOULEVARD**

## BACKGROUND

The conditions of approval for the Good Earth Market to conduct business at 720 Center Boulevard were predicated upon delivery trucks arriving to deliver goods to the store Monday through Saturday and that those delivery trucks would be processed through the loading dock area at the northeast corner of the building; and that only one 60-foot long grocery truck would arrive between 5:00 AM and 6:00 AM, Monday through Friday, and that only two 45-foot long produce trucks would arrive between 6:00 AM and 7:00 AM, Monday through Saturday; and that trash would be picked up after 8:00 AM.

On April 18, 2013, the Fairfax Planning Commission approved an application for minor modifications to the approved use permit and design review for the project and reviewed compliance issues with regards to the extra number truck deliveries before 7:00 am that had been occurring since the market opened for business: E.g., the Good Earth Market owners wanted relaxation of the number of early morning truck deliveries between 5:00 am to 7:00 am and the neighbors present wanted the elimination of truck deliveries before 6:00 am altogether - but were willing to accept unlimited trucks after 6:00 am.

The Commission continued the discussion of the number, truck size and delivery hours for six (6) months advising the applicant and the Planning Director to schedule a meeting between the Good Earth owners and the surrounding neighborhoods affected by the delivery noise to try and come up with mitigation measures to minimize the truck impacts.

*(Please note that the staff report & attachments, minutes and a video recording of April 18, 2013 meeting are available on the town's website at [townoffairfax.org](http://townoffairfax.org)).*

## DISCUSSION

On June 12, 2013 staff held a meeting at the Women's Club between the Good Earth owners and the surrounding neighbors affected by the delivery noise to try and come up with mitigation measures to minimize the truck impacts. At that meeting a three-step process was agreed to by both the neighbors and the Good Earth owners to:

1. **Compliance**; limit the early morning delivery trucks to the three allowed before 7:00 am.
2. **Improvement**; reduce or eliminate noise from the three trucks allowed before 7:00 am.
3. **Reward**; as a reward should the Good Earth owners achieve "compliance" and then succeed in reducing or eliminating noise from the three delivery trucks allowed before 7:00 am, then the neighbors would agree to allow an unlimited number of truck deliveries after 6:00 am with the one 60' truck still making deliveries between 5:00 am and 6:00 am.

Subsequent to the June 12, 2013 meeting between the parties, staff met with each side individual at two separate meetings on July 31, 2013 and on August 29, 2013 and then again with both parties together on August 29 to review progress on the three-step process.

To date, the Good Earth owners have implemented several protocols to limit the number and noise from truck deliveries before 7:00 am. These include: working with the truckers to limit or eliminate noise from back-up beepers, air brakes, loading equipment, engine idling, radios, loud talking; and have assigned a staff person to be there in the morning to manage deliveries and barricades at the driveway entrances to the eastern parking lot.

The Good Earth owners have also applied for a permit to extend the northern 8' fence next to the truck loading dock area - between the eastern parking lot and Sir Francis Drake Boulevard in order to further mitigate noise traveling towards the Willow Avenue neighborhood: please note that this application/item is also on the Planning Commission agenda tonight.

Unfortunately, there continue to be complaints from neighbors regarding the number, size of, and noise from trucks making early morning deliveries to the store prior to 7:00 am: and there have been two logged reports of complaints with the Police Department since April 18, 2013.

## RECOMMENDATION

1. Open the public hearing and take testimony.
2. Close the public hearing.
3. Move to either:
  - a) Direct the applicant to comply with the allowed number of trucks before 7:00 am,
  - b) Further restrict early morning truck deliveries before 7:00 am,
  - c) Relax early morning truck deliveries before 7:00 am,
  - d) Give staff alternative direction.

## ATTACHMENTS

Exhibit A – Police incident reports and photos

Exhibit B – e-mail to Jim Moore, Director of Planning and Building Services from Bob Mellin dated 10/10/13

Exhibit C – two (2) e-mails from Good Earth dated 10/10/13

## PROTOCOL FOR 5AM RECEIVER ROLE

The one and only approach for a large semi-trailer and truck to drop products to Good Earth BEFORE 6:00 AM.

### Drivers direction to Good Earth

Head west on Sir Francis Drake Blvd to Fairfax.

Drive PAST the store itself, DO NOT TURN LEFT ONTO Pastori Ave.

Go one block and turn left (just past the first gas station) onto Pacheco Ave.

(Pacheco Ave street sign isn't visible from SF Drake)

Your making a left turn off of SF Drake and essentially completing "the U-turn" back towards the Good Earth on Broadway.

Proceed East back towards the store.

Turn left into driveway, just past the store building itself.

Proceed toward loading dock by going thru parking lot the opposite direction of parking lot arrows (parallel to the store front), eventually putting the nose of the truck back towards the "Pastori Ave parking lot entrance- that you didn't use upon your original approach to the store.

Our receiver will help facilitate the backing up of trailer to the dock and its leveler.

You know our receiver is awaiting for you either because you arrive like clock work or you have called into the store as you went by it originally.

415-454-0123 ext. 0

### Receiving Role 5:00 AM truck role

-Arrive no later than 4:55am.

-Be equipped with flashlight.

-Be aware of the pending phone call coming from the driver himself. -Establish individually agreed upon protocol for driver communication. We must be on a first name basis with all 5 AM drivers!

-Open driveway (this will entail moving the A-Frames out of the way from entrances)

-Mandatory that the receiver is positioned on the ground in either full view of left or right side mirrors of Cab.

-Make sure no beeps are used! (follow up report required if they were used)

-No Air-brake noise is allowed. (the drivers will be told this ahead of time)

There are two sets of brakes. Trailer brakes ARE NOT required to be set if trailer is on level ground. The tractor air-brakes should be minimized greatly (they will be aware of the technique needed to accomplish this w/o causing noise, but we must enforce this and be sure to include describing in daily report if noise is caused.

-Remain with driver until he/she pulls away from dock. Help facilitate the unloading of truck completely WITHOUT making ANY NOISE!

No noise from Roll-up doors!

-No idling!

-No compressors left running!

-No radios!

-No loud voices allowed! (except in emergency-ha)

-No noise from placing of empty pallets being re-loaded back onto truck.

Did I mention that the goal is to literally cause no noise during the entire process?

### **Follow up at end of shift**

-A written report daily on any issues that caused noise is required.

-Supervisor to receive daily.

-Continue to log all trucks pulling onto the parking lot before 7:00 am.

-Be aware of the fact that rogue drivers could be waiting in the surrounding neighborhood(s) for the clock to hit 7am. Please let supervisor aware if you know this to be happening.





**GOOD EARTH**  
ORGANIC & NATURAL FOODS

RECEIVED

JUL 13 2015

Wednesday, July 31, 2013

TOWN OF FAIRFAX

Dear Bob and Neighbors,

I submit the following in an effort to bring you all into an understanding of where the Good Earth is at in terms of instituting a noise-free hour between 5:00am- 6:00am everyday of the week.

I suggest too that we agree on a meeting date between August 19th and August 30th, to follow up with how things are going for you since our instituting of new procedures as of this week. Of course we will need to coordinate with town staff too and likely will be meeting at town buildings. Please suggest a couple of days times that appear to work for you all.

Here is a list of items we have in place or they are imminent in happening:

- we continue to log all trucks that arrive before 7:00 am.
- we have met with the transportation departs of the big 3 truck companies.
- we have begun working with all the drivers for all 3 companies to abide by the new rules. (attached for your review is our template for buy-in by not only our staff but for the drivers of outside companies too)
- we have ordered new signs that will essentially "close off" both entrances to our East parking lot"
- we have started the application process for extending the redwood fence that separates the North end of the property from Sir Francis Drake (it occurred to us that this action may be the single most significant thing we can do to minimize the noise going up Willow Ave.
- we are requiring those 5:00 am trucks to avoid stopping at the intersection at Pastori and SFD; they need to continue West to the next block and come back to Good Earth on Center and then follow specifically the route into the parking lot that will result in more efficiency in getting the truck to the dock (less time positioning= less noise)

We are also curious if you and/or neighbors are going to follow thru establishing a video and audio recording system for intersection and our loading area?

I do want to re-iterate that we currently have a video camera focused on the dock area (no audio though) that could be helpful to all of us in specific situations.



**GOOD EARTH**  
ORGANIC & NATURAL FOODS

Obviously, its my sincere hope that the results of our actions will be positive for you folks specifically up Willow Ave. I welcome any feedback to this memo and in regards to how we are behaving down here for you.

In cooperation and with sincerity,

Al Baylacq

## **PROTOCOL FOR 5AM RECEIVER ROLE**

The one and only approach for a large semi-trailer and truck to drop products to Good Earth BEFORE 6:00 AM.

### **Drivers direction to Good Earth**

Head west on Sir Francis Drake Blvd to Fairfax.

Drive PAST the store itself, DO NOT TURN LEFT ONTO Pastori Ave.

Go one block and turn left (just past the first gas station) onto Pacheco Ave.

(Pacheco Ave street sign isn't visible from SF Drake)

Your making a left turn off of SF Drake and essentially completing "the U-turn" back towards the Good Earth on Broadway.

Proceed East back towards the store.

Turn left into driveway, just past the store building itself.

Proceed toward loading dock by going thru parking lot the opposite direction of parking lot arrows (parallel to the store front), eventually putting the nose of the truck back towards the "Pastori Ave parking lot entrance- that you didn't use upon your original approach to the store.

Our receiver will help facilitate the backing up of trailer to the dock and its leveler.

You know our receiver is awaiting for you either because you arrive like clock work or you have called into the store as you went by it originally.

415-454-0123 ext. 0

### **Receiving Role 5:00 AM truck role**

-Arrive no later than 4:55am.

-Be equipped with flashlight.

-Be aware of the pending phone call coming from the driver himself. -Establish individually agreed upon protocol for driver communication. We must be on a first name basis with all 5 AM drivers!

-Open driveway (this will entail moving the A-Frames out of the way from entrances)

-Mandatory that the receiver is positioned on the ground in either full view of left or right side mirrors of Cab.

-Make sure no beeps are used! (follow up report required if they were used)

-No Air-brake noise is allowed. (the drivers will be told this ahead of time)

There are two sets of brakes. Trailer brakes ARE NOT required to be set if trailer is on level ground. The tractor air-brakes should be minimized greatly (they will be aware of the technique needed to accomplish this w/o causing noise, but we must enforce this and be sure to include describing in daily report if noise is caused.

Commons, All Forms, Transportation Folder

-Remain with driver until he/she pulls away from dock. Help facilitate the unloading of truck completely WITHOUT making ANY NOISE!

No noise from Roll-up doors!

-No idling!

-No compressors left running!

-No radios!

-No loud voices allowed! (except in emergency-ha)

-No noise from placing of empty pallets being re-loaded back onto truck.

Did I mention that the goal is to literally cause no noise during the entire process?

**Follow up at end of shift**

-A written report daily on any issues that caused noise is required.

-Supervisor to receive daily.

-Continue to log all trucks pulling onto the parking lot before 7:00 am.

-Be aware of the fact that rogue drivers could be waiting in the surrounding neighborhood(s) for the clock to hit 7am. Please let supervisor aware if you know this to be happening.



# TOWN OF FAIRFAX

142 BOLINAS ROAD, FAIRFAX, CALIFORNIA 94930  
(415) 453-1584 / FAX (415) 453-1618

April 22, 2013

Certified Letter # 7010 3090 0001 9564 0616  
Copy also sent first class mail

Mark Squire and Al Baylacq  
Good Earth Organic and Natural Foods  
720 Center Boulevard  
Fairfax, CA. 94930

## NOTICE OF PLANNING COMMISSION ACTION

RE: 720 Center Boulevard; # 13-10

Request for a Fence Height Variance and Design Review applications for minor changes to the landscaping, fencing, parking lot and exterior elevations of the building and a request to ease restrictions on the number of delivery vehicles that can deliver goods prior to 6 AM; Assessor's Parcel No. 002-131-12; Central Commercial CC Zone District; Rich Hall, Fairfax Center LLC, applicant/property owner; CEQA categorically exempt, § 15301(a) and 15303(e).

Dear Mr. Squire and Mr. Baylacq,

At its meeting on April 18, 2013, the Fairfax Planning Commission approved the above referenced application subject to the following conditions of approval:

1. All the equipment on the northern most lower roof shall be screened in some manner subject to the review and approval by the Department of Planning and Building Services.
2. The location of the rolling gate at the rear loading dock area shall be subject to the review and approval of the Fairfax Police Department and the Ross Valley Fire Department prior to its installation. The gate is not a requirement.
3. Conditions 1 and 2 above shall be complied with before the project is issued a final occupancy permit.

The Commission continued the discussion of number, size of trucks and delivery hours for six (6) months, or sooner, prior to October 18<sup>th</sup>, 2013. They advised the applicants and Jim Moore, the Director of Planning and Building Services, to schedule a meeting between the Good Earth owners and the surrounding neighborhoods affected by the delivery noise to try and come up with mitigations measures to minimize the truck impacts. The Commission review of the matter will occur shortly after the community meeting.

As clarification, the existing conditions for truck delivery still apply as follows:

ATTACHMENT 3


Only one 60-foot long grocery truck will arrive between 5:00 AM and 6:00 AM, Monday through Friday, and only two 45-foot long produce trucks will arrive between 6:00 AM and 7:00 AM Monday through Saturday. Trash will be picked up after 8:00 AM.

### **RIGHT TO APPEAL**

You and/or any interested citizen have the right of appeal to the Town Council regarding any decision of the Planning Commission within ten days of the action. Contact the Planning Department staff at the Fairfax Town Hall for further information on how to appeal a Planning Commission decision and/or condition of approval.

Staff looks forward to reviewing the grocery store's proposal for screening the equipment on the rear roof. The Building Official has advised us that the solar installation across the street on a similar type roof resulted in numerous punctures into the roof so it should be possible to erect the equipment screening required by the Commission. If you have any questions regarding the Planning Commission action please do not hesitate to contact the Fairfax Department of Planning and Building Services.

Sincerely,



Linda Neal  
Senior Planner

cc. Rich Hall  
Fairfax Center Properties, LLC  
P.O. Box 633  
Ross, CA. 94957

### Conditions of Approval

1. Must comply with all mitigation measures identified in the Initial Study and Mitigated Negative Declaration.
2. Further analysis of the drywall and joint compound using the Point Count Method would be necessary to confirm that the asbestos content of the composite material is less than 1% asbestos. The alternative is to treat materials as RACM and remove it in accordance with BAAQMD requirements.
3. In accordance with Title 8, California Code of Regulations (CCR) Section 1529, the Asbestos in the Construction Industry Standard and NESHAP/BAAQMD Regulation 11, Rule 2, the drywall joint compound and texture, floor mastic and transite panels require removal and proper disposal prior to demolition/renovation activities that would impact those materials. A copy of the CAC report shall be submitted to the BAAQMD when applying for a renovation permit for the site.
4. A licensed geotechnical engineer shall review the plans and specification for the project when they are nearing completion to confirm the intent of the geotechnical recommendations provided in the MPEG report have been incorporated, and if needed, suggest supplemental recommendations. A licensed geotechnical engineer shall also be present during construction to observe and/or test site preparation and grading. The engineer shall also observe foundation excavation for the structures and associated improvements to confirm that the soils encountered during construction are consistent with the design criteria outlined in the MPEG report.
5. Site preparation and grading shall conform to the recommendations and criteria set forth for Site Grading in the MPEG report, Page 4.
6. New structures and features shall be designed in accordance with the provisions of the California Building Code (CBC). Based on the interpreted subsurface conditions of the site, the CBC Coefficients (Table C, page 5, MPEG report) shall be used to calculate the design base shear of the proposed improvements.
7. The project sponsor shall verify the structural integrity of the existing structure. If new foundations are required, they should be designed utilizing the shallow foundation design criteria given in Table D (MPEG report, page 6).
8. To improve performance of the flooring, a water sealant shall be applied to the concrete slab prior to placing water based adhesive. A consultation with a flooring manufacturer is recommended.
9. The walls of the 1,500 gallon grease interceptor shall be designed to resist the lateral soil and hydrostatic pressures as indicated in Table E (MPEG report, page 7).
10. As described in the ECS report, the proposed project will not result in operational or construction activities that would be considered significant impacts of exceed the Town of Fairfax noise planning standards. The following mitigation measures are suggested to reduce individual noise events impacts in nearby receptors areas.
11. For long term operations of the store, delivery trucks shall turn-off engines while unloading products at the loading dock.

12. During the construction phase of the project, the project sponsor shall choose construction equipment that is of quiet design, has a high-quality muffler system, and is well maintained. This includes trucks and equipment used to haul materials to and from the site.
13. All construction vehicles shall have installed superior mufflers and engine enclosure panels as needed on gas, diesel or pneumatic impact machines.
14. During construction, the project sponsor shall erect temporary plywood enclosures around stationary equipment that produce excessive noise at nearby receptors.
15. Construction hours shall be restricted to 8am to 8pm Monday thru Friday, subject to further restriction in accordance with condition 2 of the Community Agreement section below.
16. Eliminate unnecessary idling of machines when not in use.
17. The project sponsor shall employ good maintenance and lubrication procedures to reduce operating noise.
18. The project sponsor shall, if possible, locate equipment as far from sensitive receptors as possible.
19. Sign the two exits from the eastern parking lot (Pastori Avenue) as "right turn only".
20. Move the Pastori Avenue driveway as far to the south from Sir Francis Drake Blvd as is feasible (20 feet).
21. The project shall contribute its "fair share" to the cost of improving the two intersections where LOS deficiencies are projected in Year 2016 whether the project proceeds or not. The fair share should be based on the project's traffic as a percentage of the total volume occurring in the future. For example, the net new trips generated by the project are 4.2% of the total traffic through the Broadway / Center Blvd / Pacheco Avenue intersection under adjusted Year 2016 condition. If a traffic signal was selected, the Good Earth project should contribute 4.2% of the cost of signalizing the Pacheco Avenue intersections on Center Blvd and on Sir Francis Drake Blvd, which is estimated at roughly \$500,000. Thus, the project's fair share is \$21,000.  
  
Similarly, the net new trips generated by the Good Earth project are 9.1% of the total traffic through the Center Blvd / Pastori Avenue intersection under adjusted Year 2016 conditions. If a traffic signal is selected as the ultimate solution, the cost of signalizing this intersection is roughly \$250,000, making the project's share \$22,750.
22. Provide on-site bicycle parking facilities, as proposed, including racks space for 20 bikes, a Bike Rider Rest Station, air pump, and area bike trail map.

#### Planning Commission Condition

1. All agency requirements must be complied with as stated below unless an agency relaxes a requirement in writing to the Town.



#### Ross Valley Fire Department

1. Provide a 20 foot access road within 150 feet of all portions of the first floor exterior wall (CFC Section 503.1.1)
2. At least one of the required access routes shall be located within a minimum of 15 feet and a maximum of 30 feet from the building, and shall be positioned parallel to one entire side of the building.
3. Access shall be provided to within 50 feet of the required fire department connection (FDC) to the sprinkler system.
4. Revise the Site Plan to indicate the relation of the FDC to the closest hydrant.
5. Prior to the issuance of the construction permit, approval of the construction documents by the Fire Department is required.
6. Prior to the issuance of the construction permit, references to the 2010 California Fire Code (with local amendments) shall be included in the construction documents.

#### Marin Municipal Water District

1. Purchase additional water entitlement (above the current entitlement of 1.70 acre-feet).
2. Upgrade the dedicated fire line connection to current District standards.
3. Prior to obtaining water service, plans for compliance with the District's Water Conservation Ordinance 414 shall be submitted to the District for review to confirm compliance.
4. Prior to obtaining water service, an analysis of backflow protection shall be submitted to the Backflow Prevention Program Coordinator. Should backflow protection be required, said protection shall be installed as a condition of water service.

#### Marin County Environmental Health Department

1. Prior to the start of any new construction or remodeling, a complete set of plans drawn to scale shall be submitted to Environmental Health Services for review and approval.

#### Planning and Building Services

1. Collect and assess weekend traffic data.
2. Identify trip generation rates at existing Good Earth Market.
3. Participate in transportation mode survey.
4. Prepare summary memo for 1-3 above, submit to Planning and Building Services by May 2, 2011.
5. All cleaning/hosing of floor mats will be done in the designated area on the loading dock as indicated on the Construction Documents; and/or per the Sanitary District and applicable code requirements.
6. The applicants shall obtain sign permits and building permits before erecting any signs on the building.
7. The applicant shall submit to the Town a letter of credit, bond, or saving passbook in an amount of 20% of the cost of landscaping and irrigation materials and installation prior to issuance of a building permit. The amount shall be retained for an 18 month warranty period after the project has its final inspection and all the landscaping and irrigation is installed.
8. This approval is limited to the development illustrated on the plans prepared by William S. Bagnall Architects Inc. pages A-0, A-1, A-2, A2.1, A-3, A-4, A-5, A-6, A-7, A-8, A-9 and A-10, parking plan layout page C-1, by Oberkamper & Associates Civil Engineers Inc., and the Landscape Plans, pages L1.0 and L2.0 by Roth Lamotte Landscape Architecture.
9. Prior to issuance of a building permit the applicant or his assigns shall:
  - a. Submit a construction plan to the Public Works Department which may include but is not limited to the following:

Construction delivery routes approved by the Department of Public Works.  
Construction schedule (deliveries, worker hours, etc.)  
Notification to area residents  
Emergency access routes

- b. The applicant shall prepare, and file with the Public Works Director, a video of the roadway conditions on the construction delivery routes (routes must be approved by Public Works Director/ the Public Works Director can waive this requirement).
  - c. Submit a bond, Letter of Credit, or savings passbook to the Town in an amount of \$30,000 to cover the cost of grading, weatherization and repair of possible roadway damage.
  - d. Prior to submittal of the building permit plans the applicant shall secure written approval from the Ross Valley Fire Authority noting the developments conformance with their recommendations.
10. During the construction process the following shall be required:
- a. The geotechnical engineer shall be on-site during the grading process (if there is any grading to be done) and shall submit written certification to the Town staff that the grading has been completed as recommended.
  - b. All construction related vehicles including equipment delivery, cement trucks and construction materials shall be situated off the travel lane of the adjacent public right(s)-of-way at all times. This condition may be waived by the building official on a case by case basis with prior notification from the project sponsor.
  - c. Any proposed temporary closure of a public right-of-way shall require prior approval by the Fairfax Police Department and any necessary traffic control, signage or public notification shall be the responsibility of the applicant or his/her assigns. Any violation of this provision will result in a stop work order being placed on the property and issuance of a citation.
11. Prior to issuance of an occupancy permit the following shall be completed:
- a. The civil engineer shall field check the completed project and submit written certification to the Town Staff that the grading and drainage elements have been installed in conformance with the approved parking lot landscaping plans and the recommendations of the soils report.
  - b. The Planning Department shall field check the completed project to verify that all design review and planning commission conditions have been complied with including installation of landscaping and irrigation.
12. Excavation shall not occur between October 1st and April 1st. The Town Engineer has the authority to waive this condition depending upon the weather.
13. The roadways shall be kept clean and the site free of dust by watering down the site or sweeping the roadway daily, if necessary.
14. During construction developer and all employees, contractors and subcontractors must comply with all requirements set forth in Ordinance # 637 (Chapter 8.32 of the Town Code), "Urban Runoff Pollution Prevention".
15. Notwithstanding section # 17.072.050 of the Fairfax Zoning Ordinance, any changes, modifications, additions or alterations made to the approved set of plans will require a modification of application # 11-09. Any construction based on job plans that have been altered without the benefit of an approved modification of application 11-09 will result in the job being immediately stopped and

red tagged.

16. Any substantiated damages to the roadways accessing the site resulting from construction activities shall be the responsibility of the property owner.

17. The applicant or owner shall defend, indemnify, and hold harmless the Town of Fairfax or its agents, officers, and employees from any claim, action, or proceeding against the Town of Fairfax or its agents, officers, or employees to attach, set aside, void, or annul an approval of the Planning Commission, Town Council, Planning Director, Design Review Board or any other department or agency of the Town concerning a development, variance, permit or land use approval which action is brought within the time period provided for in any applicable statute; provided, however, that the applicant's or owner's duty to so defend, indemnify, and hold harmless shall be subject to the Town's promptly notifying the applicant or owner of any said claim, action, or proceeding and the Town's full cooperation in the applicant's or owner's defense of said claims, actions, or proceedings.

### Community Agreement

Please note: the conditions below were developed as a result of an agreement reached among community members, Town representative and the developer at a June 4, 2011 community meeting. These conditions have also been incorporated into the relevant sections of the Initial Study / Mitigated Negative Declaration and Mitigation Monitoring Plan.

1. The baling equipment will only be operated between the hours of 10:00AM and 5:00PM. (N-O-2)
2. In the event that complaints that construction noise exceeds applicable code or permit requirements are made to and verified by the Chief Building Official from at least three individual residences within one week, then construction will be restricted to 8 am to 5 pm.
3. The applicant will implement the use of noise mitigation materials and/or equipment standard in the building industry for the rear surfaces of the eastern back wall of the building; the vertical face of the loading dock; and the dock surface of the loading dock. (N-C-8) In the event that N-C-8 does not reasonably mitigate noise impacts to the surrounding residential neighborhood as defined by monitoring results at the most sensitive receptor locations and noise exceeds above 40dBA between 10:00PM and 7:00AM and above 50 dBA between 7:00AM and 10:00PM (per Section 8.20.050 of the Town Code), then an acoustical wall, or other reasonable mitigation measures, will be constructed that will be placed in locations that further mitigate noise impacts to less than significant levels. The acoustical noise wall, or other reasonable mitigation measure, will be implemented within 12 months and the success of the mitigation measures will be evaluated again after implementation of the contingent mitigation measures. (N-CM-8)
4. Signs will be posted on Belmont Avenue, Kent Avenue, and Belle Avenue to indicate that "residential traffic and emergency vehicles" are present. The locations of these signs will be determined prior to operation of the proposed project by the Town. The Town will develop the most stringent criteria and enforcement method to ensure compliance with the signage. This mitigation measure will be associated with a citation in the amount determined by the Town and not to exceed \$1,000. (TRAF-3)
5. The Town will explore eliminating the right turn only on red from Pastori Avenue to Sir Francis Drake Boulevard and creating one-way traffic on specific surface streets in the Belle Avenue and Kent Avenue and Belmont Avenue. These traffic circulation improvements will be implemented within twelve months of the beginning of operation of business of the Good earth. Additionally, the Town of Fairfax will evaluate the length of the left hand turning lane and traffic signal timing to improve the traffic conditions at the intersection of Sir Francis Drake Boulevard and Pastori Avenue. (TRAF-4)
6. Signs will be posted on Belmont Avenue, Kent Avenue, and Belle Avenue indicating residential

parking only. Residents will be provided parking stickers and visitor passes. Vehicles parked in the residential neighborhood without a parking pass would be cited by the Town of Fairfax. (TRAF-5)

7. A mid-block crosswalk will be placed at the intersection of Belle Avenue and Pastori Avenue to facilitate pedestrian traffic from the Belle Avenue residential area to the Good Earth store and downtown Fairfax. (TRAF-6)

**Good Earth – Mitigation Monitoring Plan**

<p><b>AIR-1:</b> Incidents of asbestos occur in the existing building materials. Regulations require that regulated friable asbestos-containing materials (RACMs) be removed and appropriately disposed prior to renovation or demolition activities that would disturb them.</p>	<p>Further analysis of the drywall and joint compound using the Point Count Method would be necessary to confirm that the asbestos content of the composite material is less than 1% asbestos. The alternative is to treat materials as RAGM and remove it in accordance with BAAQMD requirements.</p>	<p>Project Sponsor will submit detailed clean-up plan before building permits are issued</p>	<p>Prior to demolition of interior surfaces</p>	
<p><b>AIR-2:</b> Incidents of asbestos occur in the existing building materials. Regulations require that regulated friable asbestos-containing materials (RACMs) be removed and appropriately disposed prior to renovation or demolition activities that would disturb them.</p>	<p>In accordance with Title 8, California Code of Regulations (CCR) Section 1529, the Asbestos in the Construction Industry Standard and NESHAP/BAAQMD Regulation 11, Rule 2, the drywall joint compound and texture, floor mastic and transite panels require removal and proper disposal prior to demolition/renovation activities that would impact those materials. A copy of the CAC report shall be submitted to the BAAQMD when applying for a renovation permit for the site.</p>	<p>Project Sponsor will submit detailed clean-up plan before building permits are issued</p>	<p>Prior to demolition of interior surfaces</p>	

*Good Earth – Mitigation Monitoring Plan*

<b>CUL-1:</b> Cultural and historic resources may occur on the project site where trenching and digging activities are proposed.	Prior to construction activities, the project sponsor should conduct an archival research to determine the appropriate locations for archaeological resources for areas that are slated for asphalt, concrete or vegetation removal.	Project sponsor should conduct archived records search	Pre construction	
<b>CUL-2:</b> Cultural and historic resources may occur on the project site where trenching and digging activities are proposed.	Prior to trenching and digging activities on site, the project sponsor shall contract with a licensed archeologist to supervise subsurface testing of the proposed project area, including the identification methods shovel-testing, surface transects units, or geoarchaeological techniques.	Project sponsor will retain a licensed archeologist to supervise initial subsurface investigation and construction activities	During construction	
<b>CUL-3:</b> Undocumented historic structures or buildings may occur on the project site.	It is recommended that the project sponsor conduct a resources assessment of historic-period buildings or structures for the project site	Project sponsor should conduct archived records search	Pre construction	
<b>CUL-4:</b> Trenching and digging activities could uncover cultural and historic resources that occur on the project site.	In the event that archaeological resources or artifacts are discovered on site due to trenching for the proposed grease pit, further work should be monitored by an archaeologist. Artifacts or items of significance should be documented and recorded in accordance with recommendations from the archaeologist. Additionally, the project sponsor shall consult with the local Native American tribe to include or recommend monitors during all phases of investigation of archaeological resources including survey, testing, evaluation, data recovery and construction monitoring. In the event that human remains are encountered, all work must stop in the immediate vicinity of the discovery and the County Coroner and a qualified archaeologist must be	Project sponsor will retain a licensed archeologist to document and provide appropriate recommendations for any discovered archaeological resources or artifacts.  In the event that resources are discovered on site, the project sponsor will contact the local Native American Tribe	During construction  Any identified cultural resources shall be recorded on DPR 523 historic resource recordation forms.	

Good Earth – Mitigation Monitoring Plan

	notified so that an evaluation can be performed.			
<b>GEO-1:</b> The potential for strong seismic shaking at the project site is high	Site preparation and grading shall conform to the recommendations and criteria set forth for Site Grading in the MPEP report, Page 4.	Project sponsor will retain a qualified structural geotechnical engineer	During construction	
<b>GEO-2:</b> The potential for strong seismic shaking at the project site is high	New structures and features shall be designed in accordance with the provisions of the California Building Code (CBC). Based on the interpreted subsurface conditions of the site, the CBC Coefficients (Table C, page 5, MPEP report) shall be used to calculate the design base shear of the proposed improvements.	Project sponsor will retain a qualified structural geotechnical engineer	Prior to obtaining building permits	
<b>GEO-3:</b> The potential for strong seismic shaking at the project site is high	The Structural Engineer should utilize the concrete slab-on-grade design recommendation (Table D page 6, MPEP report) to verify the structural integrity of the existing structure. If new foundations are required, they should be designed utilizing the shallow foundation design criteria given in Table D (MPEP report, page 6).	Project sponsor will retain a qualified structural geotechnical engineer	Prior to obtaining building permits	
<b>GEO-4:</b> The potential for strong seismic shaking at the project site is high	To improve performance of the flooring, a water sealant shall be applied to the concrete slab prior to placing water based adhesive. A consultation with a flooring manufacturer is recommended	Project sponsor will consult with flooring manufacturer	During construction	
<b>GEO-5:</b> The potential for strong seismic shaking at the project site is high	The walls of the 1,500 gallon grease interceptor shall be designed to resist the lateral soil and hydrostatic pressures as indicated in Table E (MPEP report, page 7).	Project sponsor will retain a qualified structural geotechnical engineer	During phase/prior to obtaining building permits	
<b>N-O-1:</b> Delivery trucks will introduce local sources of noise during	Turn off delivery trucks while unloading products at the loading dock.	Ongoing	With each delivery	

Good Earth – Mitigation Monitoring Plan

business hours					
<b>N-O-2:</b>		The applicant will implement the use of noise mitigation materials and/or equipment standard in the building industry for the rear surfaces of the eastern back wall of the building; the vertical face of the loading dock; and the dock surface of the loading dock	Project sponsor will install or apply.	During construction	
<b>N-OM-2:</b>		In the event that N-O-2 does not reasonably mitigate noise impacts to the surrounding residential neighborhood as defined by monitoring results at the most sensitive receptor locations and noise in exceeds above 40dBA between 10:00 pm and 7:00 am and above 50 dBA between 7:00 am and 10:00 pm (per 8.20.050 of the Town Code), then an acoustical wall or other reasonable mitigation measures will be constructed that will be placed in locations that further mitigate noise impacts to less than significant levels. The acoustical noise wall or other reasonable mitigation measure will be implemented within 12 months and the success of the mitigation measures will be evaluated again after implementation of the contingent mitigation measures.	Project sponsor	Within 12 months after operation of market begins	
<b>N-O-3:</b>		The baling equipment will only be operated between the hours of 10am and 5pm.	Project sponsor will regulate pickup schedule.	When operation of market begins	
<b>N-C-1:</b>	Construction operations may cause noise impacts during	Choose construction equipment that is of quiet design, has a high-quality muffler system, and is well maintained. This includes trucks and equipment	Project sponsor to submit construction schedule including list of equipment	Prior to beginning of construction	



**Good Earth – Mitigation Monitoring Plan**

regular hours	construction	used to haul materials to and from the site.			
<b>N-C-2:</b>		Install superior mufflers and engine enclosure panels as needed on gas, diesel or pneumatic impact machines.	Project sponsor to obtain signed agreement with contractor	Prior to beginning construction	
<b>N-C-3:</b>		Erect temporary plywood enclosures around stationary equipment that produce excessive noise at nearby receptors.	Project contractor per agreement with project sponsor	With beginning of construction	
<b>N-C-4:</b>		Restrict construction hours to 8am to 8pm.	Project sponsor to obtain signed agreement with contractor	With beginning of construction	
<b>N-CM-4:</b>		In the event that construction noise complaints from at least three individual residences within one week are made to the Chief Building Official, then construction hours will be restricted to 8am to 5pm.	Planning and Building Services.	As needed	
<b>N-C-5:</b>		Eliminate unnecessary idling of machines when not in use.	Project sponsor to obtain signed agreement with contractor	With beginning of construction	
<b>N-C-6:</b>		Use good maintenance and lubrication procedures to reduce operating noise.	Project sponsor to obtain signed agreement with contractor	With beginning of construction	
<b>N-C-7:</b>		If possible, locate equipment as far from sensitive receptors as possible.	Project sponsor to obtain signed agreement with contractor	With beginning of construction	

Good Earth – Mitigation Monitoring Plan

TRAF-1: The proposed project could create a conflict between vehicles exiting the east parking lot and peak period queues on Pastori Avenue and on Center Blvd.	Sign the two exits from the eastern parking lot as "right turn only-24/7".	Construction / Building plans to be updated	Prior to occupancy permit		
TRAF-2: The proposed project could create a conflict between vehicles exiting the east parking lot and peak period queues on Pastori Avenue and on Center Blvd.	Move the Pastori Avenue driveway as far to the south from Sir Francis Drake Blvd as is feasible (20 feet).	Construction / Building plans to be updated	During development of parking lot		
TRAF-3: Implement the use of signage on surface streets within the vicinity of the Proposed Project to reduce the impact thru traffic in residential neighborhoods	Signs will be posted on Belmont Avenue, Kent Avenue, and Belle Avenue to indicate that "residential traffic and emergency vehicles only". These locations will be determined prior to operation of the Proposed Project by the Town. The Town will develop the most stringent criteria and enforcement method to ensure compliance with the signage. This mitigation measure will be associated with a citation in the amount determined by the Town and not to exceed \$1,000.	The Town	Upon completion of market project		

Good Earth – Mitigation Monitoring Plan

<p><b>TRAF-4:</b> Reduce the likelihood for non-residential traffic to use residential surface streets as a shortcut to Sir Francis Drake Blvd</p>	<p>The town will explore eliminating the right turn only on red from Pastori Ave to Sir Francis Drake Blvd and creating one-way traffic on specific surface streets in the Belle Avenue and Kent Avenue and Belmont Avenue. These traffic circulation improvements will be implemented within twelve months of the beginning of operation of business of the Good Earth. Additionally, the Town of Fairfax will evaluate the length of the left hand turning lane and traffic signal timing to improve the traffic conditions at the intersection of Sir Francis Drake Blvd and Pastori.</p>	The Town	Within twelve months of beginning of operation	
<p><b>TRAF-5:</b></p>	<p>Signs will be posted on Belmont Avenue, Kent Avenue, and Belle Avenue indicating residential parking only. Residents will be provided parking stickers and visitor passes. Vehicles parked in the residential neighborhood without a parking pass would be cited by the Town of Fairfax.</p>	The Town	Upon completion of market project	
<p><b>TRAF-6:</b></p>	<p>A mid-block crosswalk will be placed at the intersection of Belle Avenue and Pastori Avenue to facilitate pedestrian traffic from the Belle Avenue residential area to the Good Earth store and downtown Fairfax.</p>	The Town	Upon completion of market project	
<p><b>TRAF-7:</b> The proposed project will contribute to long-term traffic congestion in the Town of Fairfax</p>	<p>The project shall contribute its "fair share" to the cost of improving the two intersections where LOS deficiencies are projected. In Year 2016 whether the project proceeds or not. The fair share should be based on the project's traffic as a percentage of the total volume occurring in the future. For example, the net new trips generated by the project are 4.2% of the total traffic through the Broadway / Center Boulevard / Pacheco Avenue.</p>	The project sponsor shall contribute to the fund prior to issuance of building permits	TBA	

*Good Earth – Mitigation Monitoring Plan*

	<p>Intersection under adjusted Year 2016 condition..if a traffic signal was selected, the Good Earth project should contribute 4.2% of the cost of signalizing the Pacheco Avenue Intersections on Center Boulevard and on Sir Francis Drake Boulevard, which is estimated at roughly \$500,000. Thus, the project's fair share is \$21,000.</p> <p>Similarly, the net new trips generated by the Good Earth project are 9.1% of the total traffic through the Center Boulevard / Pastori Avenue Intersection under adjusted Year 2016 conditions. If a traffic signal is selected as the ultimate solution, the cost of signalizing this intersection is roughly \$250,000, making the project's share \$22,750.</p>			
<p><b>TRAF-8:</b> Development of the project will also result in the bicycle traffic to and from the site</p>	<p>Provide on-site bicycle parking facilities, as proposed, including racks space for 20 bikes, a Bike Rider Rest Station, air pump, and area bike trail map.</p>	<p>Project sponsor will develop project with required improvements</p>	<p>Prior to occupancy permit</p>	