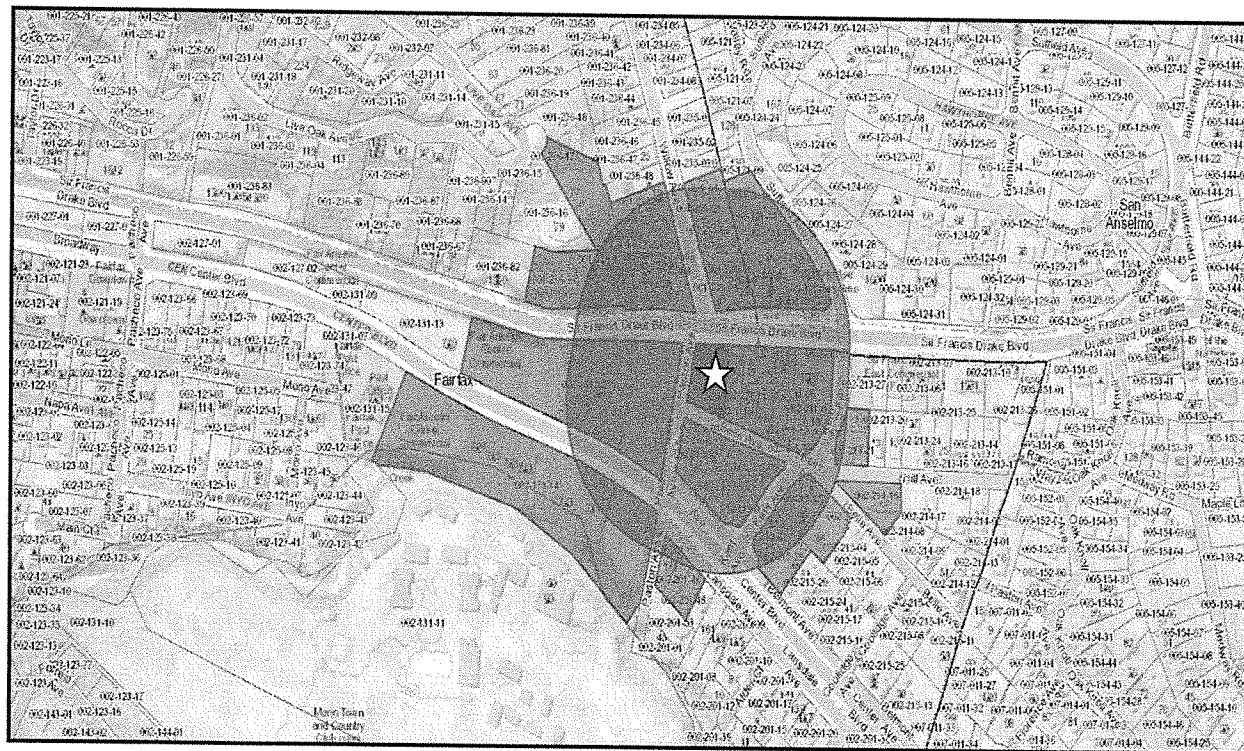


**TOWN OF FAIRFAX
STAFF REPORT
Department of Planning and Building Services**

TO: Fairfax Planning Commission
DATE: May 19, 2016
FROM: Jim Moore, Director of Planning and Building Services
Linda Neal, Principal Planner
LOCATION: 1625 Sir Francis Drake Blvd./5 Belle Ave.;
Assessor's Parcel No. 002-211-21
ZONING: Highway Commercial CH/Residential RD 5.5-7 Zone
PROJECT: Conversion of a single-family residence to a duplex with a
basement office for the adjacent restaurant
ACTION: Use Permit and Parking Variance; Application # 16-17
APPLICANT: Kelly Day-Medina
OWNER: Same
CEQA STATUS: Categorically exempt, § 15301(a) and 15303(b)



**1625 SIR FRANCIS DRAKE BLVD (PONCHOS
RESTAURANT) & 5 BELLE AVENUE
(RESIDENCE)**

BACKGROUND

Sir Francis Drake Boulevard runs along the northern property line of the site, Pastori Avenue runs along the east side and Belle Avenue is located on the south side of the site. The 10,932-square-foot site slopes down from Sir Francis Drake Boulevard at an average rate of 4%. The site is developed with a 3,136-square-foot restaurant building with a 333-square-foot rear deck and a 2,656-square-foot residential structure that was originally a single-family residence. The restaurant and the residential structure share the existing parking lot which currently provides 9 parking spaces. The site is unusual because the half of the site that fronts Sir Francis Drake Boulevard is located in the Highway Commercial (CH) Zone and the other half of the site that fronts Belle Avenue is zoned Residential RD 5.5-7 Zone.

In 1983 the Town Council approved expansion of the restaurant kitchen conditioned upon the residential structure on the property remaining a single-family residence (Attachment A). The permit was issued on May 17, 1983, and the addition was completed later that year.

In September of 2000, the Fairfax Town Council adopted Resolution No. 2154 declaring the property a nuisance because the residence had been subdivided into multiple units. The Town Attorney began to take legal steps to abate the violations.

The owner at that time worked with the Town to abate 2 of the 3 kitchens in the residential structure, reverting it back to a single-family residence.

When the current owner purchased the property in 2004, the Residential Resale Inspection Report indicated the structure was a single-family residence at the time of inspection.

On October 15, 2015, during a site inspection resulting from a complaint filed by a previous tenant, staff determined that the single-family residence had again been converted into 3 living units.

DISCUSSION

The applicant is requesting a Parking Variance and a Conditional Use Permit to legalize the residential structure as a duplex with a commercial office for the restaurant on the first floor.

Conditional Use Permit

A commercial office is not listed as a permitted, accessory or conditional use in the Residential RD 5.5-7 Zone where the residential structure and restaurant parking lot are located. Duplexes are not permitted in the RD 5.5-7 Zone unless a site is a minimum of 7,000 square feet in size [Town Code § 17.084.0209B)]. While the parcel the restaurant and residence are located on is 10,932 square feet in size, the portion of the

site zoned RD 5.5-7 is approximately 6,180 square feet. Therefore, the proposed mixed-use of the southern side of the property requires approval of a Conditional Use Permit by the Planning Commission. Town Code § 17.084.030(H) allows the Planning Commission to grant a Conditional Use Permit to allow uses which they determine to be of the same general character as the conditional uses listed in Town Code 17.084.030(A) through (J). Included in the list of conditional uses are: "living quarters for persons employed on the property, residential second units and junior second units" [Town Code §§17.084.030(G) and (J)]. The staff finds that the duplex use of the residential structure is similar in nature to those conditional residential uses allowed in the RD 5.5-7 Zone.

Importantly, the owner has indicated to staff that she rents the duplex units out to employees of the restaurant whenever possible. And that the close proximity of the units to public transportation along Sir Francis Drake Boulevard allows the tenants of the units to use public transportation instead of private vehicles whenever possible.

Most restaurants have office space available for the business owner to perform the day-to-day duties necessary to operate and maintain a business (payroll, paying bills, ordering supplies, etc.). The restaurant does not contain existing space that could be converted into a business office. The records show that the rear of the residential structure has been used by the restaurant for office purposes and/or additional restaurant storage of supplies since at least 1986.

When new uses are proposed in a commercial zone, the primary concerns of neighbors typically tend to include noise, traffic and parking.

The site has been used as a duplex intermittently over the past twelve years, therefore legalization of the duplex and office in the residential structure would not result in a significant increase in traffic traveling to and from the site from historic and current conditions. The provision of three additional resident parking spaces, along with reserving the tandem spaces on the west side of the building for resident parking, would minimize the parking impacts of the duplex on the adjacent street parking. Staff would include a "Condition of Approval" in the Resolution for the project that would require that the resident parking spaces be marked appropriately

The main parking lot for the restaurant would be reconfigured to provide an additional patron parking space.

Parking Variance

The site currently has 10 on-site parking spaces. The owner, working with her architect, proposes to reconfigure the parking lot to have a one-way drive aisle, with an entrance on Belle Avenue and exit on Pastori Avenue. This parking lot configuration would allow the main parking lot to be restriped to provide 9 parking spaces (6 compact spaces, 4 standard spaces and 1 accessible space). The plan also shows restoration of the carport for the single-family residence which is accessed from Belle Avenue, as well as

conversion of the outdoor storage area between the residential structure and the restaurant to two, resident parking spaces. The guest parking space for the duplex currently exists along the Belle Avenue frontage of the site. The new parking plan would provide a total of 14 on-site parking spaces.

Town Code § 17.052.030 requires that when a parcel is developed with 2 or more uses, the parking requirements shall be the aggregate of the requirements for the various uses (though current “best practices” in shared parking analyses suggest allowing for concessions in the total number of parking spaces required where uses are complementary in the time of day demand for the spaces).

Town Code § 17.052.030(A)(1) and (2) requires that each unit of the duplex have 2 parking spaces available for tenants and 1 guest parking space in the right-of-way along the property frontage.

Town Code § 17.052.030(H) requires that restaurants be provided with 1 parking space for each 200 square feet of gross floor area. Therefore 17 parking spaces are required for the restaurant/office.

Parking Table for 1623 Sir Francis Drake Blvd./5 Belle Avenue

	Square Footage	Required Parking	Proposed No. of Parking Spaces
Restaurant/Office	3,585 square feet	17 spaces	9 spaces
Duplex	1,638 square feet	4 spaces + 2 guest space on-site if not available in the right-of-way.	5 spaces
Total Number of Spaces		21 spaces	14 spaces

While the applicant is proposing to provide 4 additional parking spaces on the site to accommodate the additional living unit and office space, the site would contain 13 on-site spaces while the Code requires 21 spaces. Of the 14 spaces, 5 would be compact (8' x 16') spaces while the code only allows 3 of the spaces (25% of assigned commercial parking spaces) to be compact spaces [Town Code § 17.052.040(C)].

There are many commercially-zoned properties in the Town that do not provide on-site parking, therefore providing fewer spaces than the Code requires would not be unique to the project site.

Due to the atypical configuration of the proposed parking layout, staff requested that the parking proposal be reviewed by the Town Traffic Engineer. Upon review of the parking

proposal, the engineer indicated that having 3 compact spaces adjacent to each other in the southwest corner of the lot may result in the following: a) difficult vehicular maneuvers if large vehicles use these spaces; and b) vehicles backing out over the public sidewalk leading to potential conflicts with pedestrians. The report also notes that the 2 parking spaces proposed in the storage area between the residential structure and the restaurant are compact spaces and vehicles may have difficulty backing out from them into the larger restaurant parking lot.

There are many parking spaces throughout Fairfax that are difficult and/or awkward to access. Residents that use these spaces grow accustomed to making atypical maneuvers. If spaces are too difficult to access, the spaces are typically not used for parking. Therefore the space in the carport that is oriented at a 90 degree angle to Belle Avenue, the 2 tandem spaces off of Sir Francis Drake Boulevard and the two spaces between the residential structure and the restaurant may be too difficult to use and thus would remain vacant while tenants of the duplex would instead park on the street. If tenant parking on the street becomes an issue, the Conditional Use Permit can be revisited and the Commission has the authority to revoke or modify the Conditional Use Permit, should it be approved.

Street parking in the neighborhoods around Fair Anselm Shopping Center is in high demand with the relocation of the Good Earth Market to the former Albertson's site. Legalization of the existing uses at 5 Belle Avenue, would not have a significant impact on the existing parking situation throughout this neighborhood. The provision of additional parking on the site may improve the situation, slightly.

The applicant has pointed out that vehicles often back up on Pastori waiting for the light at Sir Francis Drake and Pastori, resulting in cars entering her lot from the exit on Belle Avenue. She and her architect believe that changing the entrance to Belle Avenue makes sense and would improve traffic circulation in the area.

While the Town Traffic Engineer's concerns about conflicts between pedestrians and vehicles backing out of the southwest spaces in the restaurant lot are worth noting, there are other parking lots in Fairfax with similar configurations. The Fairfax Theater parking lot is configured with one of the spaces closest to the lot entrance backing over the sidewalk when exiting the lot onto Mono Avenue. The Broadway sidewalk has more pedestrian traffic than Belle Avenue. If the Commission is concerned that the reconfiguration of the restaurant lot would result in significant safety hazards, they can continue their review of the project to the June 2016 meeting and direct staff to provide them with a Resolution approving the project with the condition that the restaurant portion of the parking lot keep its current configuration of 8 parking spaces.

Staff has included a recommended "Condition of Approval" that a professionally-created sign, reviewed and approved by the Town Public Works Director, be posted on the west wall of the restored duplex carport, advising users of the restaurant parking lot to watch for pedestrians when backing out to exit the lot.

Staff believes that the requested parking variance, including the reconfiguration of the parking lot, is warranted and that the additional findings required for a parking variance can be made.

Other Agency/Department Comments/Conditions

Ross Valley Fire Department

1. An effective fire break shall be maintained around the building by removing and clearing all flammable vegetation and/or other combustible growth within the defensible space zone of 30 to 100 feet. Ross Valley Fire protection Standard 220 Vegetation/Fuels Management plan is available on-line@Rossvalleyfire.org to assist the applicant in meeting the minimum defensible space requirements.
2. All smoke detectors in the duplex shall be provided with AC power and be interconnected for simultaneous alarm. Detectors shall be located in each sleeping room, outside of sleeping rooms centrally located in the corridor and over the center of all stairways with a minimum of one detector per story of the occupied portion of the residence. The alarm in the accessory structure can be located anywhere in the main room (not in the bathroom).
3. Carbon monoxide alarms shall be provided in both residential buildings and shall be located outside the sleeping areas in the main house and anywhere in the accessory bedroom main room.
4. Address numbers at least 4" tall must be in place adjacent to the front door. If not clearly visible from the street, additional numbers are required. Residential numbers must be internally illuminated (backlit), placed next to a light or be reflective numbers. If the project is a new house or a substantial remodel, they may only be internally illuminated or illuminated by an adjacent light controlled by a photocell and switched on only by a breaker so it will remain illuminated all night. If not currently as described, the numbers must be installed as described as part of this project.
7. Applicant may propose alternate materials or method in accordance with Section 103.3. All approved alternates requests and supporting documentation shall be included in the plans sets submitted for final approval.

Marin Municipal Water District

1. The proposed remodel will not impair the District's ability to continue service to this property.
2. The project must comply with all indoor and outdoor requirements of District Code Title 13, Water Conservation. Indoor plumbing fixtures must meet specific efficiency requirements. Landscape Plans shall be submitted and reviewed to

confirm compliance. The Code requires a landscape plan, an irrigation plan and a grading plan.

3. Should backflow protection be required, it shall be installed prior to the final inspection for the retroactive building permit for the conversion of the structure to living space.

Ross Valley Sanitary District

The project would require a connection permit from the District. The size of the sewer lateral will depend on the fixture count calculated during the permitting process. If the existing lateral meets the size requirement of the fixture count, the applicant has the option of installing a new lateral or, the old sewer lateral needs to be tested in the presence of a District Inspector and be found to meet all current District requirements.

1. Sanitary District No. 1 will place a hold on said property if a building permit is issued for the project. This hold prevents the new building from being released for occupancy until the District's permit and sewer requirements are fulfilled. It is the owner's responsibility to obtain a sewer connection permit from the District and meet all the District's requirements pertaining to the private side sewer lateral.

Fairfax Police/Public Works/Building Departments

The Police, Public Works and Building Departments had no comments or conditions for the project.

RECOMMENDATION

1. Open the public hearing and take testimony.
2. Close the public hearing.
3. Move to approve application # 16-17 by adopting Resolution No. 16-11 setting forth the findings and conditions for the project approval.

ATTACHMENTS

Attachment A – Resolution No. 16-11

Attachment B – Existing site plan

Attachment C- Town Traffic Engineer's letter dated 4/4/16

RESOLUTION NO. 16-11

A Resolution of the Fairfax Planning Commission Approving a Conditional Use Permit and Parking Variance to Legalize the Duplex and Commercial Office Space at 5 Belle Avenue Along with a Reconfiguration of the On-Site Parking

WHEREAS, the Town of Fairfax has received an application to legalize the duplex and commercial office at 5 Belle Avenue and the reconfiguration of the lot it shares with 1625 Sir Francis Drake Boulevard, a restaurant; and

WHEREAS, the Planning Commission held a duly noticed Public Hearing on May 19, 2016, 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 Conditional Use Permit and Parking Variance.

WHEREAS, the Commission has made the following findings:

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

Housing Element Goal H-3, the project will legalize a 2-bedroom residential unit within walking distance of public transportation and local stores and businesses. Residents of the unit will therefore, not be dependent on automobile travel.

Housing Element Goal H-4: Link housing and jobs in the community.

Housing Objective H-3.1: develop at least 21 units of affordable housing within a convenient distance from transit;

Land-use Policy 7.1.3, the mixed use combines commercial and residential use on this site located in the Highway Commercial Zone in an area identified to be changed to the Central Commercial Zone in the Fairfax General Plan, a zoning that is meant to promote mixed uses.

Use Permit Findings:

1. 1625 Sir Francis Drake Boulevard/5 Belle Avenue will provide more on-site parking than many other properties in downtown Fairfax. The parking lot reconfiguration will provide the required number of parking spaces for the duplex

ATTACHMENT A

and will add 1 parking space to the commercial parking lot. Therefore, 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.

2. 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.
3. 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.
4. 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.

Parking Variance Findings:

1. Neither present nor anticipated future traffic volumes generated by the use of the site or the uses of sites in the vicinity reasonably require strict or literal interpretation and enforcement of the parking regulations for this property.
2. 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.
3. Once the lot is reconfigured and posted with a "watch for pedestrians" warning sign, the granting of the variance will not create any traffic safety hazard or any other condition inconsistent with the objectives of this title.
4. Because of special circumstances applicable to the property, including its small size for a commercial site and the fact that it has frontage on three public roadways, the owner is unable to provide more than 14 on-site parking spaces. The strict application of the parking ordinance, which requires this type of mixed-use to have 21 on-site parking spaces, will deprive the applicant of the ability to legalize the duplex and office use in her building, uses that have occurred on the site intermittently over the past 30 years.
5. This site has more on-site parking than many other mixed use businesses throughout Fairfax. Therefore, granting of this parking variance allowing a reduction in the number of on-site parking spaces from 21 to 14 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.

6. The strict application of this title would result in excessive or unreasonable hardship for the property owner.
7. The granting of the variance of 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. There shall be no storage of any materials, supplies for the restaurant or long term storage for any vehicles not being used by customers of the restaurant in the main parking lot and the parking space in the carport, parallel and alongside the western wall of the restaurant, and between the duplex and the rear stairs to the restaurant shall be marked for use by tenants of the duplex only.
6. The kitchen and shower shall be removed from the office area prior and to issuance of the building permit to legalize the lower unit in the duplex. The building permit must include bringing the living into compliance with the Building Code.
7. Failure to comply with the conditions Use Permit # 16-17 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).
8. The project is limited to the development according to plans by Art Chartock, of Rushton-Chartock Architects, page A2.1 and A4.1, with the required revision to remove the shower along with the kitchen in the office space to the satisfaction of the Fairfax Building Official.
9. Prior to issuance of the building permit a warning sign created by a professional sign company and approved by the Fairfax Public Works Director, warning uses of the commercial parking lot to watch for pedestrians when backing out shall be posted on the west wall of the duplex carport.

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 and Parking 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 19th day of May, 2016, by the following vote:

AYES:

NOES:

ABSENT:

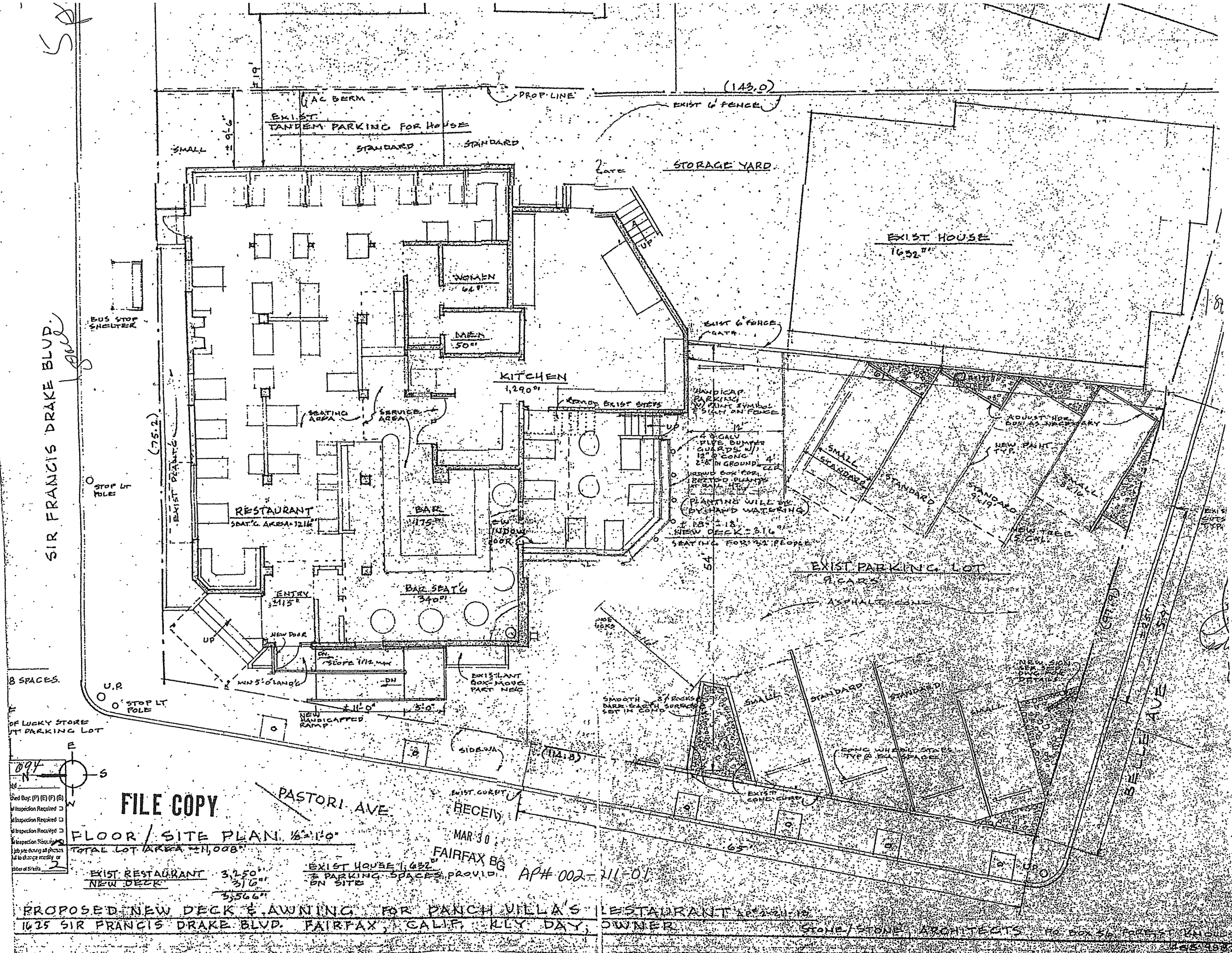
Chair, Laura Kehrlein

Attest:

Jim Moore, Director of Planning and Building Services

58

SIR FRANCIS DRAKE BLVD.



8 SPACES.
 OF LUCKY STORE
 AT PARKING LOT

FILE COPY

FLOOR / SITE PLAN 1/8" = 1'-0"

TOTAL LOT AREA = 11,008'

EXIST RESTAURANT 3,250'
 NEW DECK 310'
 3,560'

EXIST HOUSE 16,522'
 3 PARKING SPACES PROVIDED ON SITE

MAR 30
 FAIRFAX BG
 AP# 002-711-01

PROPOSED NEW DECK & AWNING FOR PANCH VILLA'S RESTAURANT
 1625 SIR FRANCIS DRAKE BLVD. FAIRFAX, CALIF. RLY DAY, OWNER
 STONE/STONE ARCHITECTS PO BOX 511 FOREST VALLEY

ATTACHMENT B

April 4, 2016

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

Subject: Review of Proposed Parking and Access Improvements Plan for 1625 Sir Francis Drake Blvd. and 5 Belle Avenue

Dear Ms. Neal:

Pursuant to your request, Parisi Transportation Consulting has reviewed the "Parking & Access Improvements" plan for 1625 Sir Francis Drake Blvd. and 5 Belle Avenue, dated February 29, 2016.

The following are our comments:

- It appears that nine parking spaces are proposed for the restaurant parking lot. Of these spaces, three are compact-sized, which equates to 33% of the total spaces being compact. This is above the allowable 25% threshold that the Town of Fairfax municipal code allows.
- The three compact parking spaces adjacent to each other in the southwest corner of the lot may cause difficult maneuvers if larger vehicles use them concurrently, e.g., minimal lateral maneuvering space when backing out from the center eight-foot space with two large vehicles on either side.
- The two angled parking spaces adjacent to and closest to Belle Avenue would need to back out into the sidewalk and into the traveled way on Belle Ave in order to maneuver out of the parking spaces. The same could potentially be said about the next two closest spaces to Belle Avenue. When backing out into the sidewalk and street, there would be a potential conflict with pedestrians and oncoming traffic. It may also encourage the motorist backing out to back out fully onto Belle Avenue and exit through the one-way lot entrance.
- It is unclear whether the ADA parking space would have an ADA-compliant path of travel to the entrance of the building. The applicant should clearly illustrate the ADA travel path.
- The two parking spaces immediately north of the apartment units are both shown as compact spaces and angled in towards each other. If regular-sized or large vehicles use these spaces, it would be tight backing out into the restaurant parking lot.

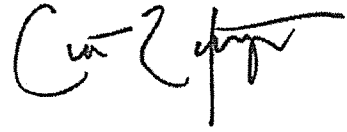
1750 Bridgeway Suite B208, Sausalito, CA 94965

www.parisi-associates.com

ATTACHMENT 

Please let me know if you have any questions.

Sincerely,

A handwritten signature in black ink, appearing to read "Curt Harrington". The signature is fluid and cursive, with the first name "Curt" being more prominent than the last name "Harrington".

Curt Harrington, E.I.T.
Associate Consultant

CC: David Parisi, PE, TE
Principal