

RESOLUTION NO. 13-06

A Resolution of the Fairfax Planning Commission Approving the Traffic Impact Permit, Use Permit for a Gas Station and Convenience Store, Use Permit for a Formula Business, Design Review and Sign Permit to Allow the Operation of a Chevron/ExtraMile Gas Station Convenience Store at 2001 Sir Francis Drake Boulevard

WHEREAS, the Town of Fairfax has received an application to reopen a Chevron Station and ExtraMile Convenience store at 2001 Sir Francis Drake Boulevard; and

WHEREAS, the Planning Commission held a duly noticed Public Hearing on September 19, 2013 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 Traffic Impact Permit, Use Permits, Design Review and Sign Permit; and

WHEREAS, based on the traffic study and other documentary evidence in the record, 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 permits.

WHEREAS, the Commission has made the following findings:

1. The property is designated for commercial use in the Fairfax General Plan and is located in the Central Commercial Zone District and it is located along the Town's main traffic corridor Sir Francis Drake as are the other two gas stations in Town. 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 business hours of operation are from 6:00 am to 9:00 pm Monday through Sunday and the site is not located immediately adjacent to any residential sites. Therefore, the approval of the Use Permit 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. The General Plan Land Use Policy No. LU-7.2.3 indicates that, "Traffic and parking concerns related to new and renewed development shall be addresses in a manner that does not result in undue hardship or significant negative impacts on properties and infrastructure in the vicinity. The traffic study prepared for the proposed project by W-trans verifies that the property can be developed as proposed without significantly impacting traffic in the area. The inclusion of a driveway on Broadway and the minor redesign of the onsite parking will further minimize impacts on surrounding streets and properties. Therefore, the Conditional Use Permit is consistent with those objectives, goals and standards pertinent to the particular case and contained or set forth in the

General Plan and Zoning Ordinance.

4. Approval of the use permit will result in equal or better development of the premises than would otherwise be the case, and said approval is in the public interest and for the protection or enhancement of the general health, safety or welfare of the community.
5. The proposed exterior changes comply with the Design Review Criteria set forth in Town Code § 17.020.040.
6. Neither present nor anticipated future traffic volumes generated by the use of the site for a Chevron Station/ExpressMile convenience store require strict or literal interpretation and enforcement of the parking regulations.
7. Granting of the exception to the required number of on-site parking spaces, one redesigned as conditioned below, will not result in the parking or loading of vehicles on Sir Francis Drake Boulevard in an unsafe manner or in such a manner as to interfere with the free flow of traffic.
8. This station will be the first name brand gasoline station as you travel east on Sir Francis Drake Boulevard towards the Ross Valley. Therefore, it is likely that many of the day to day customers will be local and will live in the Upper Ross Valley, San Geronimo Valley and Central West Marin Areas.
9. The proposal complies with the Design Review Criteria set forth in Town Code § 17.020.040 and the Sign Ordinance, Town Code § 17.064.050.
10. The proposed sign program, with the elimination of the internally illuminated ExtraMile sign, is the minimum necessary to alert traffic passing both east and west by the station that it sells Chevron Gas and includes an ExtraMile convenience store.

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

1. This approval is limited to the development illustrated on the plans prepared by PM Design Group dated 7/15/13, pages SP1, TP1, A1, A1.1, A2, A2.1, A2.2, A3, A3.1, A3.2, L1 and the survey prepared by Ziebatech Land Surveying.
2. 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. Submit a bond, letter of credit or cash deposit to the Town in an amount that will cover the cost of grading, weatherization and repair of possible roadway damage. The applicant shall submit contractor's estimates for any grading, site weatherization and improvement plans for approval by the Building Official. Upon approval of the contract costs, the applicant shall submit a cash deposit, bond or letter of credit equaling 100% of the estimated construction costs.

c. The applicant shall submit a bond, letter of credit, or cash deposit to the Town in an amount that will cover the cost of landscaping and irrigation materials and installation prior to issuance of a building permit. The amount shall be retained for 18 months after issuance of the Certificate of Occupancy to ensure that all new landscaping becomes established.

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.

3. During the construction process the following shall be required:

a. Prior to the concrete pour for the sidewalk, any accessibility features and for the new driveway on Broadway, the concrete forms shall be inspected and approved by the building official.

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.

d. 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.

4. Prior to issuance of an occupancy permit the following shall be completed:

a. The parking space and entry and exit arrows shall be painted and the "no left turn" signs shall be installed and shall be approved by staff. Signage shall be erected at the expense of the applicant and be installed by the Fairfax Public Works Department.

b. The new driveway on Broadway shall be completed.

c. The landscaping and irrigation shall be completed.

5. The roadways shall be kept clean and the site free of dust by watering down the site or sweeping the roadway daily, if necessary.
7. 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".
8. 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 permit # 13-32. Any construction based on job plans that have been altered without the benefit of an approved modification of per 13-32, will result in the job being immediately stopped and red tagged.
9. Any damages to the roadways accessing the site resulting from construction activities shall be the responsibility of the property owner.
10. 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.
11. The planters shall be planted with drought tolerant plants and shall be maintained in an acceptable condition.
12. 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.
13. 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.
14. 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 (when required).
15. The use permit shall be subject to a six (6) month review after opening at which time the Town Traffic Engineer and Planning Commission shall evaluate a site circulation analysis of

how the site circulation is operating prepared by the project traffic engineer for possible Use Permit modifications. The Commission review shall occur after the analysis is reviewed by the Fairfax Traffic Committee.

16. Prior to any improvements to the Bank Street easement, the applicant's traffic engineer shall review and make recommendations for any necessary modifications to the site to ensure continued use of the site does not create traffic hazards. Any proposed changes shall be subject to the approval of a Use Permit modification by the Planning Commission.

17. Direct and reflected glare and excess site brightness from the remodeled station shall be minimized.

18. Light trespass beyond the property lines shall be minimized especially from the canopy.

29. The light fixtures mounted under the canopy shall be completely recessed into the canopy with flat lenses that are translucent and completely flush with the bottom surface of the canopy. The canopy facial shall extend at least 12 inches below the lens fixtures to block the direct view of the light sources and lenses from the property line.

20. Any lighting mounted on the building shall be recessed or shielded so the light source is not directly visible from the property line and the light is directed downward.

21. The applicant shall record a revocable encroachment permit for the station improvements that are located with the public easement at the Marin County Recorder's Office prior to issuance of the building permit for the project.

22. The use of the site shall remain consistent with the Formula Business approval stipulations required for the site and contained in this resolution.

Marin Municipal Water District

1. All indoor and outdoor requirements of District Code Title 13 – Water Conservation is a condition of water service. Indoor plumbing fixtures must meet specific efficiency requirements, landscaping and irrigations plans must be reviewed and approved by MMWD prior to installation of the landscaping plan.

2. Should backflow prevention be required it shall be installed prior to the project final inspection.

Ross Valley Sanitary District

A connection permit will be required. The size of the sewer lateral will depend on the fixture count which will be calculated during the permitting process. If the existing lateral meets the size requirement of the fixture count the applicant can either install a new lateral or test the old lateral in the presence of a District Inspector and found to meet current requirements prior to the project final inspection.

Ross Valley Fire Department

The building shall be provided with a fire suppression system that complies with Fire and Building Code requirements.

Marin County Environmental Health Department

The project plans must be submitted and be approved by the Environmental Health Department prior to the start of construction.

Fairfax Building Department

The construction plans submitted to the Building Department must include details showing that the project is compliant with accessibility upgrades required by the Building Code.

Conditions placed upon the project by other agencies or departments can be waived in writing by those agencies or departments. Conditions placed upon the project by the Commission can only be modified or waived by the Commission.

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

1. The approval of the Use Permits, Design Review, Sign Permit and Traffic Impact Permit can occur without causing significant impacts on neighboring businesses or residences.
2. The Project’s average daily traffic will not cause the performance of intersection or roadway linkages to fall below the acceptable level of service or otherwise further reduce the system performance nor will it cause a significant degradation in service levels for impacted intersections at their peak traffic periods.
3. The Traffic Impact Permit required by Chapter 17.56 of the Town Code is hereby granted and the Project is approved, subject to compliance with the conditions of approval listed above and all applicable Town Code requirements.

The foregoing resolution was adopted at a regular meeting of the Planning Commission held in said Town, on the 19th day of September, by the following vote:

AYES:
NOES:
ABSENT:

Chair, Shelley Hamilton

Attest:

Jim Moore
Director of Planning and Building Services

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