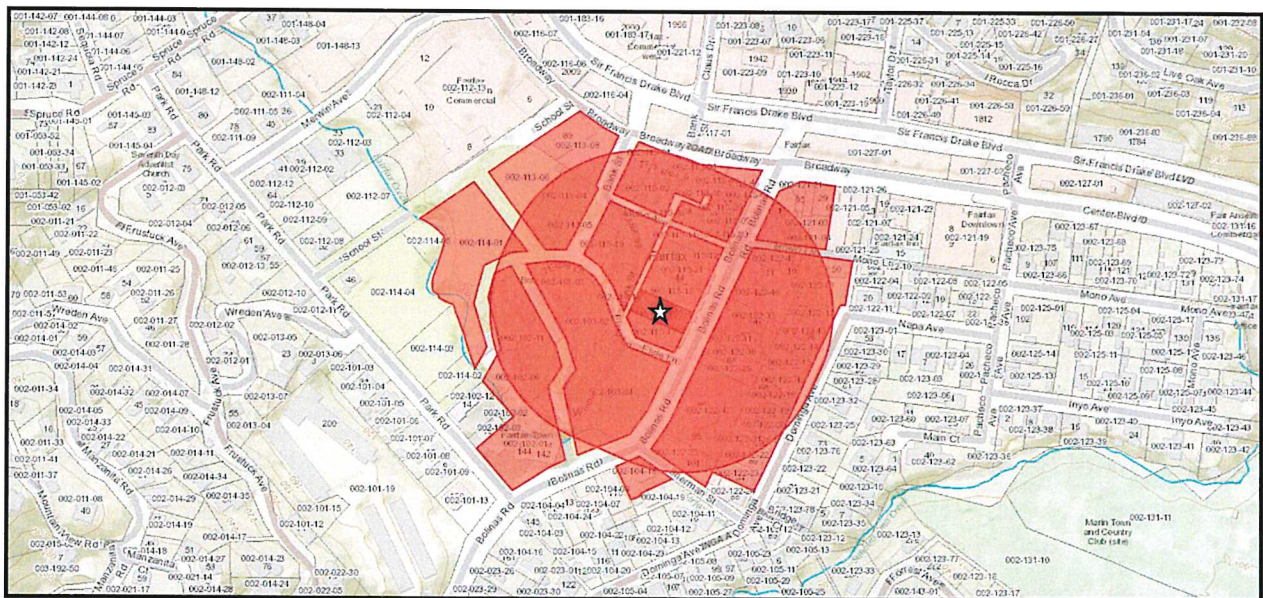


TOWN OF FAIRFAX STAFF REPORT

Department of Planning and Building Services

TO: Fairfax Planning Commission
DATE: April 28, 2022
FROM: Linda Neal, Principal Planner
LOCATION: 56 Bolinas Road: APN # 002-115-16
ZONING: Central Commercial CC Zone
PROJECT: Use of an existing commercial space as a yoga studio
ACTION: Conditional Use Permit and Sign Permit Exception
Application # 22-07
APPLICANT: Lesley Desaulniers
OWNER: Doug Wong
CEQA STATUS: Categorically exempt, 15301(a)



56 BOLINAS ROAD

RECOMMENDATION

Move to approve Application # 22-07 by adopting Resolution No. 2022-10 setting forth the findings and the conditions for the project approval.

DESCRIPTION

The yoga studio proposes to use the approximately 2,451 square-foot existing first floor area of 56 Bolinas Road, the building previously used by Dance Theater 7 and Roco

Dance. No changes are proposed to the floor plan except for dedication of a retail area separated from the yoga workout/practice area by two low partial walls at the front of the suite where two doors open onto Bolinas Road and the erection of three window signs. One sign will be painted in the window of each of the front doors and one in the window of the back entry door.

BACKGROUND

Records show that the first portion of the commercial structure, what is known as 54 Bolinas Road existed on the site in 1951. In 1953 an eighty-eight square foot storeroom was added prior to the 1957 expansion of the building to the approximately 4,263 square foot building that exists today (includes 1,156 square feet at 54 Bolinas, 2,451 square-feet at 56 Bolinas and an approximately 650 square foot second story which is 58 Bolinas Road).

The original Conditional Use Permit and parking variance allowing a dance studio use instead of a permitted commercial retail use in this location and a parking exception for a reduced number of spaces and tandem parking was approved for Dance Theater 7 in 1988. In 1994 the Conditional Use Permit was modified to allow Dance Theater 7 to expand into the space at 54 Bolinas Road allowing them to utilize the entire first and second floors of the building for additional dance studio space and an office area upstairs, and additional dance studio space on the first floor along with a second dressing room.

Both the original Conditional Use Permit and the modification in 1994 were granted subject to the following conditions:

1. A bicycle rack shall be placed near the rear entrance of the building.
2. A retail area shall be set up in the building.
3. The parking spaces at the rear of the building shall be re-stripped.

Dance Theater 7 was purchased by Roco Dance in approximately 2010 and has operated as a dance studio hosting dance classes for children and adults since then from the three commercial spaces designated 54, 56 and the upstairs 58 Bolinas Road.

The entry location for the business was switched to the rear of the property by the business owner prior to the 1988 Conditional Use Permit hearing due to the concerns of the adjacent business owners, that the parents delivering and picking up children would over burden the available on-street parking spaces on Bolinas Road and could endanger the children being dropped off for classes.

DISCUSSION

Conditional Use Permit

The proposed yoga studio requires the approval of a Conditional Use Permit because a

yoga studio is not listed as a permitted use in the Central Commercial Zone District list of permitted uses [Town Code 17.100.040(A)(1) through 67]. Town Code § 17.100.050(F) indicates that the Planning Commission can grant Conditional Use Permits for uses which combine wholesale and retail sales and/or retail and service activities when neither aspect of the business is an accessory or principal use, but both are an integral part of the business.

It is not clear from the records which conditional use category the Planning Commission relied on when they granted the Conditional Use Permit for Dance Theater 7/Roco Dance. The records show that they placed the condition that the business include a retail component. A similar approach was used by the Commission when approving conditional use permits for other non-retail businesses on Bolinas Road during the same time period (Wildwood Natural Tofu factory was granted a Conditional use permit to operate a wholesale tofu manufacturing business with a restaurant in the front). We believe the retail use which was a component of the dance studio use enabled the Commission to make the required Conditional Use Permit findings.

The purpose of the Central Commercial Zone indicates that, "Development of the Zone caters to and invites pedestrian traffic. Consequently, store frontages tend to be continuous, driveways and blank walls and other conflicts with or deterrents to foot traffic tend to be minimized".

The Commission should weigh this purpose section of the code against the post covid times we are in, with vacant storefronts from businesses forced to close during the pandemic. A rented building where yoga classes and activities are taking place will draw foot traffic to the area and those customers will visit other establishments in the area before and after their classes, contributing to the financial health of downtown Fairfax. The use is also similar to the dance school that operated from the same location since 1988. The combination retail/personal service use enables the Commission to grant a Conditional Use Permit for the proposed business.

The yoga studio proposes utilizing only 56 Bolinas Road, not the additional space at 54 and upstairs at 58 Bolinas Road.

Due to the location and size of the existing structure and the site, there is no way to provide additional on-site parking. This is a condition shared by many of the Town commercial spaces which are built property line to property line right at the edge of the sidewalk, with no space in the rear for parking or no access to undeveloped rear areas where parking can be located. Each time a new use that requires a conditional use permit applies to locate in one of these existing structures, the new use is required to either provide additional parking where it is feasible or to have the parking requirement varied by the use permit conditions in accordance with the following Town Codes:

Town Code §17.052.010(A) which reads, "Except as otherwise required by variance, every building or use hereafter created or established shall be provided with minimum off street parking and loading spaces".

Town Code § 17.100.110(C)(2), "*For conditional uses*. The requirements of division (B) of this section may be varied by the terms, provisions, or conditions of the use permit approving a conditional use in accordance with the facts, findings, and determinations governing approval of the use permit as set forth in Chapter 17.032.

Parking variances have been routinely granted by the Planning Commission for new businesses to use the existing buildings throughout Town and the Town has used these opportunities to require what parking there is to be restriped, installation of bike racks and more recently, to include a condition of approval that if the Town ever adopts a town-wide parking plan, the business shall participate in the adopted program.

Note: Per Town Code § 17.100.110(C)(1), permitted uses in the CC Zone that are unable to provide the required amount of parking must obtain a parking variance from the Planning Commission prior to locating in a commercial space with little or no parking.

Town Code Chapter 17.052, Off-Street Parking and Loading Requirements, does not include requirements for yoga studios or other gym/physical fitness facilities. When there are no set parking regulations in the parking ordinance for a use, Town Code § 17.052.030(M) refers code users to the standard parking requirements for the zone the use is located in. The standard parking requirement in the CC Zone is one space for each 200 square-feet of building square footage and one large loading space for each 20,000 square feet of space or fraction thereof. The proposed use in the 2,496 square-foot space requires the provision of seven parking spaces and one large, twelve foot by forty-five-foot loading space. The site is mostly built out so there is no space for the required parking or the large loading zone which is typical of many of the businesses in Fairfax.

The applicant has proposed providing the same parking configuration used by Roco Dance, which is to provide three 10-foot by 18-foot parking spaces and two tandem 19-foot by 18-foot spaces immediately against the rear of the building. All of these spaces, while not meeting the standard 9-foot by 19-foot size set forth in Town Code § 17.052.040(B)(1) and (2), exceed the size and length described for compact parking spaces which is 8-feet by 16-feet [Town Code § 17.052.040(C)]. The Building Official has advised that the building is not in compliance with ADA codes for parking and bathroom improvements and that the Town does not have the authority to mandate these improvements at this time because the applicant is not making any structural improvements or modifications to the space. The owner of the property is currently repainting and making minor repairs to the remainder of the building but these improvements do not elevate to level where the Town can require him to make ADA upgrades to the structure.

The Conditional Use Permit for the dance studio included a requirement that a bicycle rack be placed at the rear entrance to the building. The three bike racks installed to comply with this condition are still in place at the front of the building.

The findings suggested by staff for the approval of this proposed Conditional Use Permit can found in the Resolution No. 2022-10, which is Attachment A to this report.

Sign Exception Permit

Town Code § 17.064.050(A) allows each business to have an aggregate sign area for their business identification signs of one square foot of sign for each one foot of building frontage. Town Code § 17.064.050(B) allows each business two permanent business identification signs as long as one of the signs is a projecting sign. Town Code § 17.64.100(A) gives the Planning Commission the authority to grant exceptions to the sign ordinance regulations if it finds that the exception is not inconsistent with the purpose and intent of the Sign Ordinance and that the strict adherence to the regulation may cause unnecessary hardship if one of the following exists:

1. Exceptional or extraordinary circumstances or conditions, not resulting from any act of the owner or applicant, apply to the location under consideration and not generally to other business or properties in the vicinity.
2. The exception is the minimum necessary to serve its intended use;
3. The application submitted is extraordinary and outstanding in design; or
4. The sign is of historical significance.

The applicant is requesting a Sign Exception Permit to erect three business identification signs, one in each of the three access doors into the studio. The two front doors and the one rear access door. The signs are very unobtrusive and will not distract people driving vehicles while alerting patrons of the yoga studio of the various entry door locations once they approach the building. Each sign is only 2 square feet in size and painted in gold paint displaying the business name "Padma Studio" with the business logo above the name (Attachment C- Photo of Door Sign). The exceptions to the sign ordinance being requested are an exception to the two-sign limit per business, an exception to have all three signs in the door windows and to not have one of the signs be a projecting sign. The unique characteristic of this building is that it has two front access doors and one rear access door and the rear access door is the one immediately adjacent to the on-site parking. The sign exceptions are the minimum necessary to serve the proposed use in this building with three entrances which is different from most of the commercial buildings along Bolinas Road that only have one access door.

Other Agency/Department Comments/Conditions

Fairfax Building Department

The Building Official has commented that the building bathrooms, parking, and access path do not meet ADA regulations.

Ross Valley Fire Department/Fairfax Police Department//Fairfax Public Works Department/Marin Municipal Water District/Ross Valley Sanitary District

None of the above agencies or departments had any comments or conditions for the proposed use.

ATTACHMENTS

- Attachment A – Resolution No. 2022-10
- Attachment B – Applicant's supplemental information
- Attachment C - Statement from Roco Loco owner
- Attachment D – Photographs of entrance door signs

RESOLUTION NO. 2022-10

A Resolution of the Fairfax Planning Commission Approving a Conditional Use Permit to Allow Operation of a Yoga Studio with the Provision of Five On-site Parking Spaces at 56 Bolinas Road

WHEREAS, the Town of Fairfax received an application to utilize the existing commercial structure at 56 Bolinas Road, located in the Central Commercial CC Zone District, as a Yoga Studio on April 11, 2022 and that application was deemed complete for preliminary Planning Commission review on April 15th, 2022; and

WHEREAS, the Planning Commission held a duly noticed Public Hearing on April 28, 2022, at which time all interested parties were given a full opportunity to be heard and to present evidence; 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 Conditional Use Permit and the parking plan as described below; and

WHEREAS, in accordance with Sections 17.032.060(A) through (D) of Town Code Chapter 17.032, Use Permits, and section 17.100.110(C), Exceptions, of Chapter 17.100, CC Central Commercial Zone of the Fairfax Municipal Code, the Commission hereby makes the following findings in support of the application for a Conditional Use Permit and associated parking plan with certain conditions:

The proposal complies with Fairfax General Plan Policies as follows:

Land Use Element:

Goal LU-7: Preserve a human-centered scale, mixed use, and sense of community.

Objective LU-7.1: Preserve and enhance the community's small-town scale and sense of community

Town Center Element:

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

ATTACHMENT A

Use Permit Findings (Town Code, Chapter 17.032):

1. The approval of the use permit shall not constitute a grant of special privilege and shall not contravene the doctrines of equity and equal treatment. The yoga studio which strives to nurture and enhance individual spiritual and physical health for residents of the Town and adjacent areas will not constitute a grant of special privilege and will not contravene the doctrines of equity and equal treatment because it replaces the previous health oriented dance studio use that operated on the site for 33 years.
2. The development and use of property, as approved under the use permit, shall not create a public nuisance, 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, any or all of which effects are substantially beyond that which might occur without approval or issuance of the use permit. The site will provide five parking spaces, in an area of Town where many businesses have no on-site parking. The location is also within walking distance of the public Mono Lane , Contrati Field and the Parkade public parking lots.
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, development plan or other plan or policy, officially adopted by the town.
4. Approval of the use permit will result in equal or better development of the premises than would otherwise be the case, the parking area will be restriped which is in the public interest and for the protection or enhancement of the community.

WHEREAS, in accordance with Section 17.064.100, and 17.064.140 of the Fairfax Municipal Code, the Commission hereby recommends the following findings in connection with the application for Sign Permit Exception:

1. The proposed three window signs measure approximately one-foot eight inches by nine inches (1.25 square feet). The three proposed window signs displaying the business name, "Padma Studio" with the logo above, on the three access doors, 3.75 square feet of signage will announce the business location and the multiple entrance locations with less than the allowable thirty-two square-feet of total sign square footage (one square foot of business signage for each one linear foot of building frontage - the building frontage measures thirty-feet). The orientation of the signs with two facing Bolinas Road and one facing Elsie Lane will serve in the same capacity as the two permitted signs allowed on the building frontage (as long as one is a projecting sign) allowed by the Town Sign Ordinance, Town Code § 17.064.050(B). The design of the signs is not overbearing and will not negatively impact or conflict with the existing building architecture.

2. The three signs are modest in design and not garish, meeting the needs of the business in this building which is atypical from most businesses along this section of Bolinas Road in having three separate entrance doors. Two of the doors face Bolinas Road, and one faces Else Lane providing rear access into the building from the on-site parking area. No lighting is proposed for the new signage.

Therefore, the proposed sign program is the minimum necessary to meet the intended yoga studio use.

WHEREAS, the Commission has reviewed the project plans and the applicant's supplemental information and is granting the requested use permit and parking plan subject to the following conditions of approval:

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

action, or proceeding. The parties shall use best efforts, acting in good faith, to select mutually agreeable defense counsel. If the parties cannot reach agreement, the Town may select its own legal counsel and the applicant agrees to pay directly, or timely reimburse on a monthly basis, the Town for all such court costs, attorney fees, and time referenced herein, provided, however, that the applicant's duty in this regard shall be subject to the Town's promptly.

5. Any new/replacement exterior lighting shall be shielded and directed down, be dark sky compliant (fully shielded and emit no light above the horizontal plane with no sag or drop lenses, side light panels or uplight panels) as well as compliant with color temperature to minimize blue rich lighting. The lighting plan shall be submitted with the building permit application and be approved by the Planning Department prior to issuance of the project building permit. The lighting shall not emit direct offsite illumination and shall be the minimum necessary for safety.
6. The proposed project shall be to conform to all provisions of Chapter 8.20 Noise Control.

WHEREAS, pursuant to CEQA Guidelines Section the project is exempt per California Code of Regulations, Chapter 3, Article 19, categorical exemption number 15301(a).

NOW, THEREFORE BE IT RESOLVED, the Planning Commission of the Town of Fairfax hereby approves application # 22-07 on the basis of the above findings and conditions of the application approval.

The foregoing resolution was adopted at a regular meeting of the Planning Commission held in said Town, on the 28th day of April 2022, by the following vote:

AYES:
NOES:
ABSENT:

Chair Norma Fragoso

Attest:

Linda Neal, Principal Planner

Use Permit Applications - Additional information required.

- A written description of the proposed use, major activities, hours of operation, number of employees on the premises during the busiest shift and when the busiest shift is expected and other information pertinent to the application.
- Floor plans must include location of any special equipment.
- Designate customer, employee and living areas.
- If different uses are included in this activity, for example storage, retail, living space, etc. Indicate square footage of each proposed use.

In order to approve your project, the Planning Commission must make findings of fact which state that the project will not have a negative impact on the general public welfare, conforms with the policies of the Town, does not create excessive physical or economic impacts on adjacent property and provides for equal treatment with similar properties in Town.

In the space below, please provide any information which you feel is relevant to these issues and which further explains your project.

THE USE OF THE PROPERTY AS A YOGA STUDIO WILL PROVE BENEFICIAL TO OTHER SHOP OWNERS IN THE VICINITY BECAUSE STUDENTS WILL BE DRAWN TO FAIRFAX TO SHOP AND DINE, BEFORE AND/OR AFTER CLASSES. THE APPROVAL OF THE USE PERMIT IS NOT CONTRARY TO THE OBJECTIVE SET FORTH IN THE CENTRAL COMMERCIAL SECTION OF THE ZONING ORDINANCE BECAUSE THERE WILL BE A PORTION OF THE YOGA STUDIO DEDICATED TO RETAIL SALES. THIS RETAIL AREA WILL BE AT LEAST 10 FEET BY 4 FEET IN SIZE, AND WILL BE SET UP IN THE WINDOW AREA OF THE STRUCTURE. MOST IMPORTANTLY PADMA STUDIO WILL SUPPORT THE WELL-BEING AND OVERALL HEALTH OF OUR BELOVED COMMUNITY.

planning application.doc\ revised.5.7.20/ln

HOURS OF OPERATION: VARIES BY DAY / 4-5 ¹⁶ CLASSES
 EARLY CLASSES BEGIN: 7am / 9:30am : 2 EMPLOYEES / DAY
 LAST CLASSES OF THE DAY : 5:30pm

Mail body: Fwd: Parking at 56 Bolinas Rd

----- Forwarded message -----

From: **Annie Parr** <annie@rocodance.com>
Date: Mon, Apr 4, 2022 at 4:47 PM
Subject: Parking at 56 Bolinas Rd
To: <Ldesaulniers12@gmail.com>

Hi Lesley,

I am the owner of Roco dance and was the previous tenant at 56 Bolinas Rd in Fairfax. At Roco, we held 30 classes per week. We were open from 10am - 8pm on weekdays and 8am - 12pm on weekends. Approximately 50 students attended classes at Roco daily.

This seems very close to the number of students who will be attending the yoga classes at Padma. I don't think there will be any increased demand on the traffic or parking.

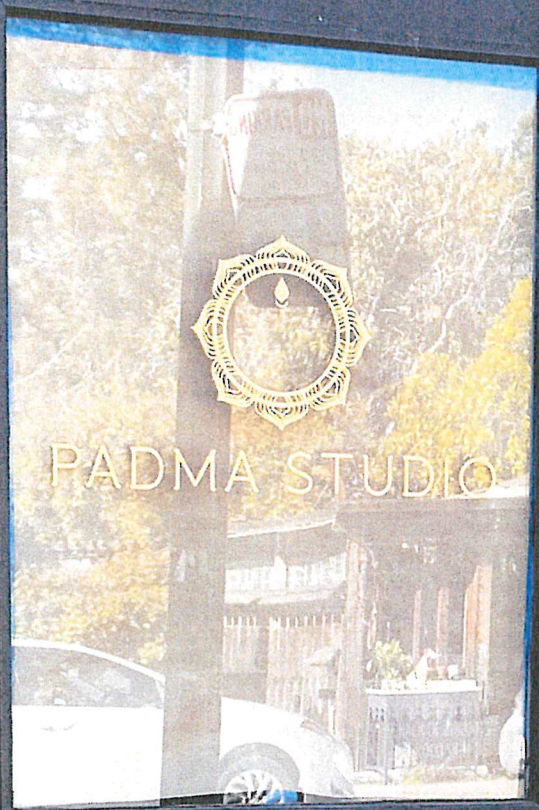
All the best, Annie

Annie Rosenthal Parr
RoCo Dance-Director
<https://www.rocodance.com>

ATTACHMENT C



ATTACHMENT D



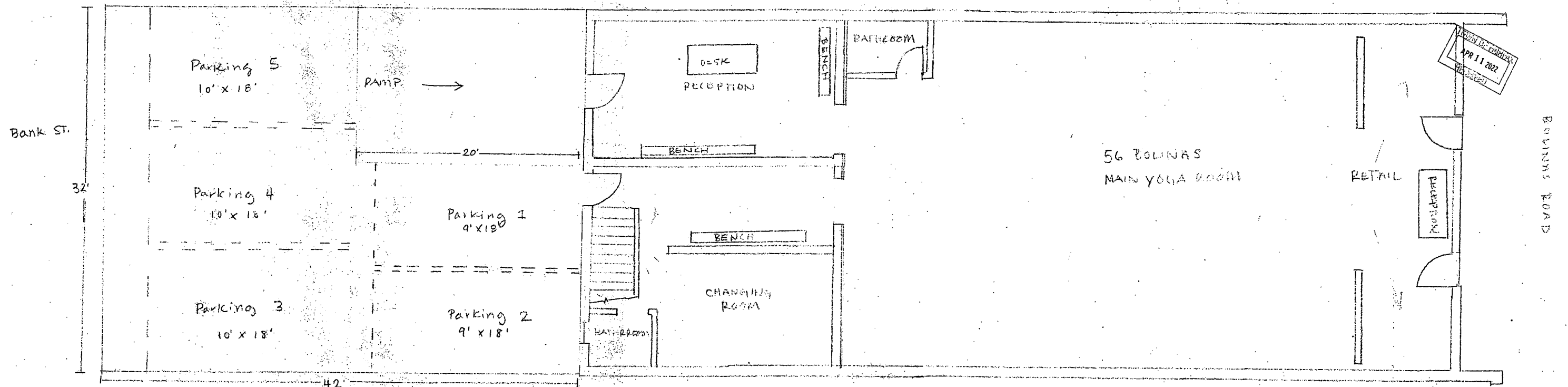
PADMA STUDIO



WARNING
PROTECTED BY
GLASS
612-5520

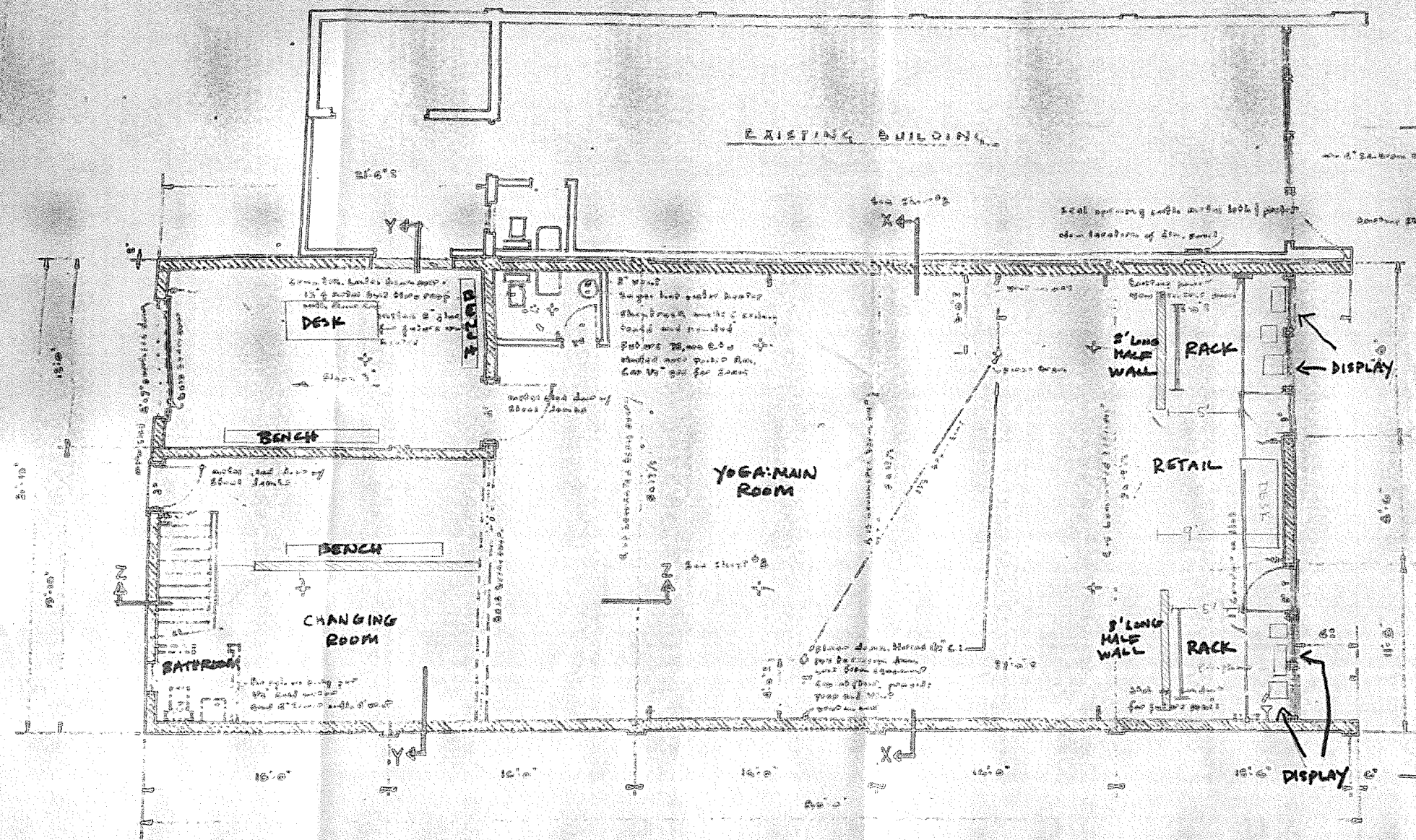


FOR ESTHER & EMMA'S

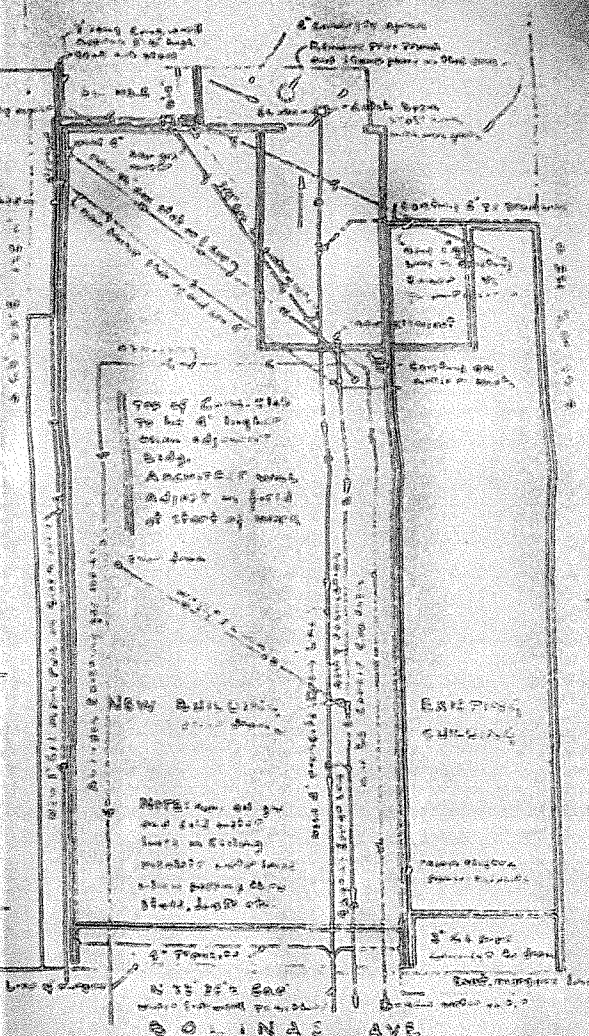


APR 11 2022

SCALE 1/4" = 1' PERUVA AUTO



FLOOR PLAN
Scale: 1/8" = 1'-0"



PLOT PLAN
Scale: 1/8" = 1'-0"

FLOOR PLAN
STORE BUILDING
MILL LESTAN QUE...
BOLINAS AVE. AIRPAD
SCALE: 1/8" = 1'-0"
DATE: 1/15/88
DRAWN BY: [Name]